



TotalEnergies

TotalEnergies Gas & Power Ltd

6th September 2023

Louise van Rensburg
Head of Non-Domestic Retail Policy
10 South Colonnade
Canary Wharf
London,
E14 4PU

Dear Louise,

Non-domestic market review: findings and policy consultation

Thank you for providing an opportunity to respond to the non-domestic market review, findings and policy consultation. We feel the conclusion has been proportional and positive apart from 3 areas of concern.

We believe as DESNZ set out in their recent *Delivering a better energy retail market A vision for the future and package of targeted reforms* document 'Competition in the non-domestic market has been broadly effective in driving low prices and overall good outcomes.' The changes put forward in the non-domestic market review should allow most of the market to return to a competitive state, where competition and lower prices should achieve greater customer satisfaction than regulations would create, especially where regulations would increase costs and so bills.

Below we outline our 2 areas of concern that we would like addressed:

1. Treating the largest customers in the market like micro-business

Although we are supportive of ensuring all customers are treated fairly, Major business and Industrial & Commercial markets operate very differently to the micro-business area. The contracts are more complex, engagement is via account managers, they have specialist energy resources, greater legal access and far more power to get the outcome they want from suppliers. Issues are not raised often as complaints and parties like the Ombudsman are not set up to deal with complex contracts or the legal teams they will have to start to engage. We fear the practical complexities making this change out way potential benefits and therefore would propose Ofgem select a sensible customer consumption threshold beneath which to apply the change.

2. Reporting

An ongoing concern for suppliers is increased reporting that we are seeing. The market operated well for 30 years and we are starting to see that return. Increased reporting creates more work for suppliers, adds costs to customer bills yet does not see better outcomes for customers. We are doing more reporting than we have ever done before and see very little output from Ofgem, DESNZ or Code Bodies that adds any value from it for the industry or customers.

We are supportive of Ofgem getting powers to directly regulate TPI's in future. The REC solution is a positive step, but it is far from the ideal solution.

We have one point of governance. If Ofgem are going to use guidance documents to introduce rules suppliers have to follow, can there be a register on the Ofgem website of the guidance which are still relevant.

Should you wish to discuss the matter please contact myself (andrew.e-jones@totalenergies.com).

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Yours sincerely

A handwritten signature in black ink, consisting of a large, stylized loop followed by a smaller, more complex flourish.

Andrew Jones
Regulation Manager, TotalEnergies Gas and Power

Q1. Do you agree with our proposal to agree voluntary improved pricing transparency and if so, please include comments on the particular areas you would like to see made more transparent?

We broadly support this proposal.

Q2. Do you agree with our proposed definition of 'significantly exceeds'? Please provide your reasons.

The redefining of 'significantly exceeds' is not appropriate. If Ofgem wishes to alter how deemed tariffs work then it should alter the licence condition to be fit for purpose. It will create uncertainty every time a supplier has to look at 'significantly exceeds' in a guidance document, code or licence as we would have to view it from how you would probably interpret it.

Q3. Do you agree with our proposal that suppliers should review deemed contract rates quarterly? Please provide your reasons.

We support this.

Q4. Are there any potential implications for domestic customers that the proposed guidance on deemed contract rates may impact on?

We don't have any potential new implications.

We do have a concern that if we have to split out domestic customers with a non-domestic supplier and treat them differently, many of which we have no way to identify, it will reduce incentives to support these customers. This would mean the customers don't get the benefits provided of being on a non-domestic contract.

Q5. Do you have any further comments on our proposals for the deemed contract guidance?

If Ofgem are going to use guidance documents to introduce rules suppliers have to follow, can there be a register on the Ofgem website of the guidance which are still relevant.

Q6. Do you have any other comments on the other proposals in this Pricing and contract behaviour section?

Major business and Industrial & commercial markets operate very differently to the micro-business area. The contracts are more complex, engagement is via account managers, they have specialist energy resources, greater legal access and far more power to get the outcome they want from suppliers. Issues are not raised often as complaints and parties like the Ombudsman are not set up to deal with complex contracts or the legal teams they will start to engage with.

Q7. Which documents, or combination of documents do you believe would provide a robust evidence base to demonstrate a genuine CoT/CoO?

We understand Ofgem's concern in this area and support the initiative. We don't have documentation that will add additional value compared to the rest of the market.

Q8. Are Micro Business Consumers aware they can contact Citizens Advice for support? Do we need to introduce a rule requiring suppliers to signpost them more specifically?

We have no evidence to suggest they don't. We support Micro-Business customers being able to engage with Citizens Advice and so any non-onerous rules would be acceptable. We already sign post Citizens Advice as a source of support on our website.

Q9. Is an obligation requiring efficient and timely complaints handling needed? If so what are the costs and benefits associated with introducing this?

The market has operated well for over 30 years without such a requirement, there was a spike in complaints across all suppliers during the energy crisis which would be expected given the level energy prices reached. Setting up new rules now we are returning to business as normal looks unnecessary.

For major business/I&C we do not see this as acceptable. Engagement with these customers operates totally differently to micro-business customers for example, as does raising and resolving of issues. It will be very difficult to identify an issue to a complaint in this market with so much engagement on a wider set of matters to do with complex contracts. Such an obligation in this area will result in additional costs the customer would have to pay for and increased regulatory risk for suppliers.

Q10. Is an obligation requiring recording, handling and processing of complaints in accordance with consistent rules needed? If so, what are the costs and benefits associated with introducing this?

The market has operated well for over 30 years without such a requirement, there was a spike in complaints across all suppliers during the energy crisis which would be expected given the high energy prices. Setting up new rules now we are returning to business as normal looks like unnecessary.

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The benefits of introducing it are minimal for larger customers as they already have the resources, specialists and financial power to get the outcomes they want.

The costs include if this was to be extended to major business and I&C customers:

- Significant system changes to capture complex account queries
- Increased costs of reporting
- Increased training costs for the account management teams, for something that already works
- Time consuming process changes for our account management teams to record and upload complaints to a new system for them.
- Regulatory risk, as it's not as black and white in the account management type discussions what is an issue and what is a complaint. Also causes compliance review problems.
- Time spent by Ofgem, which customers have to pay for, with no discernible benefits for customers.

Q11. Do you have any views on what (if any) threshold should apply on business size for complaints handling requirements, or views on which requirements set out in the Gas and Electricity (Consumer Complaints Handling Standards) Regulations 2008 should not be expanded to apply to all non-domestic customers?

We strongly view that there needs to be a threshold on business size for complaint handling requirements. Micro-business and SME is acceptable, major business/I&C need to be excluded. Who is covered or not covered should not be at a site level, as some large businesses will have some small sites within their portfolio.

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Q12. We are seeking stakeholder views on our suggested proposals to government around increasing access to the Energy Ombudsman. Should there be a threshold on who can access the Energy Ombudsman? If so, where should this be set?

Major business and I&C need to be excluded. The contracts are complex, the customers have internal access to energy experts and legal advice.

The Energy Ombudsman already has a backlog of work and it should concentrate on the customers who need its services the most; domestic and micro-business customers.

Given the complexity of major business/I&C contracts we would be concerned about the decisions the Ombudsman would make given they lack experience in this area. Major business/I&C customers could also take advantage of the Ombudsman putting unprecedented specialist resources forward which would tie up the Ombudsman who could be doing multiple cases for those groups who need the support instead.

In terms of threshold size there might be an answer in total customer energy consumption (1gWh might be a simple threshold to manage for all stakeholders) and not by site, Using employees or turnover is very difficult for a supplier to determine.

Q13. We are seeking stakeholder views on the proposed changes to the rules requiring suppliers work with TPIs who are members of a redress scheme. Additionally, what are your views on the costs and benefits associated with the different proposals?

Given the complexity of major business/I&C contracts we would be concerned about the decisions the redress scheme would make given they lack experience in this area. Major business/I&C customers could also take advantage of the redress scheme putting unprecedented specialist resources forward which would tie up the Ombudsman who could be doing multiple cases for those groups who need the support instead.

The new threshold could be 1gWh per customer as a simple threshold for all parties to work to.

Q14. What are views from stakeholders on how long it would take to set up and register for a wider TPI ADR scheme, one that goes beyond Micro Business Consumers?

We would look at the timescales to set up the original scheme. To get a scheme that was fit for purpose for dealing with very complex contracts then the lead time would be long.

Q15. What are your views on our proposal to expand SLC 0A (non-domestic Standards of Conduct)? Do you have any views on which consumers they should or should not apply to? Please provide any views on costs and benefits of making this change.

We mainly support this proposal. We believe all customers should be treated fairly. However, treating customers fairly differs for market segments, where expectations and products are different and the licence conditions impacting the relationship are different.

Ofgem have to be minded that larger customers have more complex contracts and arrangements with suppliers, and so the level of for example transparency would have to be looked at differently – a micro-business contract for one site and single tariff rate is going to be able to be communicated more transparently than a multi-site contract with different prices for different sites and multiple rates dependent on time of day.

Q16. Do you have any further comments on the proposals in this section on Competition in the market and customer complaints?

Major business and I&C sites operate very differently to micro-business sites. By treating larger customers more like a micro-business it will have impacts on competition and price. It could make complex areas of the market unattractive for suppliers to support.

We are supportive of Ofgem getting powers to directly regulate TPI's in future. The REC solution is a positive step, but it is far from the ideal solution.

Q17. What are the views of Distribution Network Operators (DNOs), Independent Distribution Network Operators (IDNOs), Gas Distribution Networks (GDNs), and Independent Gas Transporters (IGTs) on the potential issues of targeting support to vulnerable end users supplied through non-domestic contracts?

We support the idea.

Q18. What changes to the Maximum Resale Price direction would improve its effectiveness and what are the potential downsides to any changes?

No comments

Q19. What are the costs and benefits associated with the proposal to expand TPI commissions disclosures to all non-domestic customers? How long would it take suppliers to implement this policy?

We support the idea and we are already implementing it.

Q20. Are there views on how commissions disclosure is best presented to be understood by consumers?

The rules for micro-business should be continued with the expansion to the whole market for this proposal, except we believe in accordance with the REC it should be provided as a pence per kWh value.

Q21. Should we expand commissions disclosure to all non-domestic customers or a subset of customers, and if a sub-set do you have views on how to define this?

It should be to all customers

Q22. Do you have any further comments on the proposals in this section on focused consumer support?

No further points.