



## Ofgem consultation – non-domestic market review statutory consultation

### Response by ENGIE Power Limited

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#### ENGIE Response

Thank you for the opportunity to respond to the consultation, please find our summary comments and our response to the questions set out below.

*Q1. Alongside this consultation document we have published a draft impact assessment. Do you have any comments on the draft impact assessment published alongside this document, including the costs and benefits, competition impacts, and unintended consequences?*

In respect of the likely unintended consequences of extending consumer protections more widely we expect that the proposals will add additional operating costs to suppliers. This is because, by extending consumer protections, even though they are well meant, this is likely to extend the trend we already see for claims companies to target energy suppliers with speculative claims. There is little disincentive for this type of activity and the costs to suppliers to investigate and respond is significant, particularly within the time constraints allowed under the complaint handling regulations.

*Q2. Is there anything that has not been included in the impact assessment that you believe should be included?*

Yes, it is likely that Ofgem's cost of implementation (table 3) have been understated because whilst they estimate the cost of TPI redress scheme membership there is no estimate for the associated supplier costs which arise from handling associated queries related to the supplier contracts. Our recent experience, since the inception of the TPI redress scheme for micro-business, suggests that these issues can be complex and time-consuming.

*Q3. Do you agree with our proposal to expand the Standards of Conduct to all Non-Domestic Consumers? Please provide a reason for your view.*

Service standards to consumers should form an important part of the competitive framework by which energy suppliers compete in the market and these should form an important differentiator by which customers choose their energy partners. There is not necessarily a role for regulation in this area and for suppliers who already operate to high standards the impact of regulation simply adds costs without providing benefit to consumers. Additionally, increasing the regulations sends the message to consumers, whether intentionally or unintentionally, that all suppliers are the same. It becomes more difficult for suppliers to then effectively differentiate their offer on service.

*Q4. Do you have any comments on our proposed draft licence text for SLC 0A?*

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The definitions table in 0A retains the micro-business customer definition which now seems to be irrelevant to the expanded condition itself. This would be better be replaced with a reference to the non-domestic customer definition instead.

*Q5. Do you agree with our proposal to implement the SoC as soon as the updated licence condition takes effect? Please provide a reason for your view.*

Yes, given that the application of SoC is whole market and the understanding that “suppliers should apply appropriate standards relative to the type of customer”. Noting that in many cases the service standards are agreed bi-laterally between the supplier and customer and agreed either via the contract terms or a side agreement/schedule.

In terms of the implementation timeline for SoC it would be sensible to align this with the date at which other changes to consumer protections take effect e.g. changes for the small business segment, otherwise it is confusing.

*Q6. Do you have any views on the updated draft Standards of Conduct Guidance?*

Some of the SoC references examples which are extension of obligations in other areas have been deemed not applicable to larger non-domestic customers, for example the complaints handling regulations. We believe that the guidance needs to be clarified to avoid any unintended policy creep.

*Q7. Do you agree with our proposal to align with government proposals and expand the Gas and Electricity (Consumer Complaints Handling Standards) Regulations 2008 (CHS) to apply to Small Business Consumers? Please provide a reason for your view.*

We agree that the whole process for small businesses if it is introduced, should be inclusive of these measures. However, it should be noted that the responsibility for classifying customers should not solely rest with energy suppliers, any obligation here should be reasonable and assessed at point of sale, relative to the information readily available at that point and that this status should stay in place for the duration of the contract.

*Q8. Do you have any further comments on the proposed drafting of the CHS Statutory Instrument text?*

Financial indicators are far less readily accessible for energy suppliers than for financial institutions and hence it would be far more efficient to solely use a relevant volume threshold in the energy regulations. An energy usage threshold is a far more practicable measure and the process could be digitalized more easily as the data is more readily accessible via existing energy industry flows. The identification of the additional financial information is a costly and time-consuming process which is unnecessary.

We have found, from our experience with the micro-business definition that these multi-factored elements of the definition are very difficult to administer in practice. Suppliers can only reasonably be expected to classify at point of sale, and even then it is difficult to classify, particularly on financial indicators. We are largely reliant on customers and their representatives to disclose via a tick-box approach once we set out the relevant criteria.

That said, any categorization should be consistent across definitions i.e. consistent with the current micro-business definitions. These would ideally be on a usage only basis for energy and exclude the complexities of staff numbers and financial indicators for both segments, hence this is a good opportunity to refine the micro-business definition at the same time.

Adding an additional category over and above (and mutually exclusive to) micro-business will take a while to implement into systems and processes and we would suggest an implementation lead-time of six months minimum.

*Q9. Do you have any comments on the proposed implementation timeline of 3 months from the date of decision?*

A three month implementation timeline would be challenging for the consumer protection aspects related to adopting the new small business definition but would be achievable. However we would recommend a minimum six months' notice realistically to implement the market wide TPI fee disclosure in order to enable process and system changes.

*Q10. Do you agree with our proposal to require suppliers to inform their Micro and Small Business Consumers (if this is applied) that they can access, and how to contact, Citizens Advice and Citizens Advice Scotland? Please provide a reason for your view.*

Yes, because of the difficulties we face to accurately categorize micro-businesses we already signpost all of our smaller business customers in this way.

*Q11. What measures would suppliers intend to take to meet the obligation to signpost Small Business Consumers to Citizens Advice, and how would this impact costs?*

None, see above.

*Q12. Do you have any comments on our proposed **draft** licence text for SLC 20.5A and 20.4A in the gas and electricity supply licences respectively? This proposed definition of Small Business Consumer includes Micro Business Consumers. However, do you think it would be preferable to explicitly set out in the licence condition that suppliers should signpost Micro Business Consumers and Small Business Consumers to Citizens Advice for the avoidance of doubt?*

For clarity we would prefer the Licence condition to explicitly set out the obligation for both micro-businesses and small businesses separately.

*Q13. Do you agree with our proposed implementation timeframe of 3 months from the date of our final decision?*

See our answer to Q9 above.

*Q14. Do you agree with our proposed change? Please provide comments to support your answer.*

We agree that if customer protections are being extended to small business customers then a redress scheme for TPIs should form part of this package. It should be noted that (as per our response to Q2) we expect our costs to increase because of the impact of handling associated queries related to the supplier contracts. Our recent experience, since the inception of the TPI redress scheme for micro-business, suggests that these issues can be complex and time-consuming.

*Q15. Do you agree with the wording of the proposed licence condition changes outlined in Appendix 1?*

See our answer to Q8 above in relation to the small business definition.

*Q16. Do you have any comments on the suggested implementation timescale of 8 months?*

This timescale should be achievable.

*Q17. Do you agree with our proposed expansion of Third Party Cost transparency to all Non-Domestic customers? Please explain your answer.*

We agree that customers should be able to request the fees relating to contracts agreed after the implementation date (ref para 6.28). We would be grateful if Ofgem could reflect this approach formally in the revised Licence drafting.

*Q18. Do you agree with our proposed methodology of displaying Third Party Costs?*

*Please explain your answer.*

We would prefer that the existing requirement for micro-business is retained as a monetary value as this has already been recently implemented into our processes. We propose that the way in which suppliers display the fees should be optional and hence suppliers should be able to choose whether to present using either the monetary value **or** the p/kWh approach. This approach should not be additional as this simply adds to implementation costs, without adding any real consumer value.

We agree that to display fees in p/kWh for both the smaller and larger business segments is reasonable.

*Q19. Do you agree that our proposed timescale for implementation is achievable? Please explain your answer.*

Implementation target of six months after the decision date should be achievable.

*Q20. Do you have any views on whether to retain the presentation of a lump sum for Micro Business Consumers and to have only a cost per unit for all Non-Domestic consumers?*

We would prefer that the existing requirement for micro-business is retained as a monetary value as this has already been recently implemented into our processes. We propose that the way in which suppliers display the fees should be optional and hence suppliers should be able to choose whether to present using either the monetary value **or** the p/kWh approach. This approach should not be additional as this simply adds to implementation costs, without adding any real consumer value.

We agree that to display fees in p/kWh for both the smaller and larger business segments is reasonable.

*Q21. Do you have any views on the proposed wording of the supply licence conditions, in relation to this policy? Note that is SLC20.6 in the electricity supply licence and SLC20.7 in the gas supply licence.*

For SLC20.6B(a) and SLC 20.7B(a) we would suggest that the drafting is amended to allow supplier choice on fee presentation:

*(a)for Micro Business Consumers is disclosed as monies, whether actual amounts or (if that is not possible) estimated amounts ~~and or~~ as a cost per unit of energy or a cost per day (month) where it forms part of a daily (monthly) standing charge;*

*Q22. Do you have any other comments on our proposals not asked specifically elsewhere in this document?*

No.

End of response.

If you have any questions or would like to discuss, please contact me as below.

*P. Broom*

Best regards

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