

31/01/2024

Dear Non-Domestic Retail Policy Team,

Good Energy's response to the non-domestic market review: findings and statutory consultation

Thank you for the invitation to respond to this consultation. Good Energy is a supplier of 100% renewable power to homes and businesses across the UK, an innovator in energy services, and an installer of heat pumps. We are working towards a cleaner, greener future by making it simple to generate, share, store, use and travel by clean power. Our ambition is to support one million homes and businesses to cut carbon from their energy and transport used by 2025.

Summary

- **Good Energy supports the proposals to provide third-party intermediary (TPI) cost transparency to all non-domestic consumers, as well as the proposal to signpost support to small business customers.**
- **However, we do not support the introduction of the government's new small business definition in its current form. We are happy to share our wider feedback provided to DESNZ with Ofgem.**
- **Notwithstanding changes to the small business definition, in principle we support expanding complaint handling rules to smaller business rather than all non-domestic consumers.**
- **Good Energy remains supportive of Ofgem being given a mandate to regulate TPIs directly, rather than changes to supplier licence conditions as means to deliver consumer protection from TPIs.**
- **We welcome some of the clarifications on the scope for the standards of conduct expansion. However, a minimum of three months is required for implementation.**
- **A pragmatic approach is required for wider implementation. Ofgem should consider aligning timescales to prevent consumer fatigue and confusion.**
- **We are unable to identify any reasonable rationale, nor interest from consumers, to revisit the proposal to introduce a cooling-off period.**



Opening reflections

Good Energy welcomes this consultation, as well as the opportunities to engage with the relevant Ofgem teams over the last few months.

Our response will shortly set out some lasting concerns and considerations with some of the proposals from the consultation. Nevertheless, we will first reflect on the proposals and areas we do support.

Third-party cost transparency for all non-domestic consumers

We are supportive of the proposal of expanding TPI cost transparency to all non-domestic consumers. We also appreciate and support the clarification that this will be effective for contracts signed on or after the implementation date specified in Ofgem's decision.

Good Energy would be able to implement the proposed change to the presentation of third-party costs from a lump sum to a cost per unit or cost per day. However, it is perhaps worth further reflection on the consumer benefits from this change – which may not be as easily understood compared to the lump sum format.

Retaining both formats for microbusiness customers also presents unnecessary complexity and duplication. We can appreciate the rationale to gain more insight from these customers about what the preferred format is, yet this should be done before a decision is taken, not afterwards. Ofgem should either mandate one format or the other for microbusiness customers, preferably aligning with the proposed format for all other non-domestic customers.

Signposting support to small business customers

We support the proposal to signpost consumers to Citizens Advice. However, as we will outline shortly, we do not support the current thresholds for the government's new small business definition. Notwithstanding, we still support the overall principle to signpost support to consumers to Citizens advice.

As part of this proposal, we assume that Ofgem has the necessary assurances from Citizens Advice that they will have the increased capacity to take on this expansion.



Concerns and clarifications

There are some policy areas which we currently do not support or either require further clarifications.

Small business definition

Good Energy have responded separately to the government's consultation on proposals to introduce a new small business definition. We are happy to share our response should Ofgem wish to obtain further information.

Good Energy does not support the introduction of the new small business definition in its current form. We oppose the consumption thresholds of 500,000 kWh for both electricity and gas. These thresholds are set too high, with limited justification as to how they have been determined.

The consumption thresholds are also inconsistent with the existing microbusiness definition, whereby the gas consumption threshold is significantly higher than that of electricity. Any new small business definition should maintain a similar ratio unless there is evidence to suggest this would not be appropriate.

Finally, from an operational and practical perspective, we are very concerned about the significant pressures this will place on suppliers. The limited nature of accurate financial and employee headcount information found on Companies House, plus complexities with some organisations having group accounts spread across different suppliers and organisations potentially moving between the different definitions all place substantial administrative challenges on suppliers.

Our recommendation is for the government to bring in a requirement for each organisation to 'self-declare' whether they are a small business or microbusiness to their energy supplier. As part of this form, organisations could declare the necessary information on financials, employee headcount and energy consumption up front – which will simplify an already cumbersome process.

Complaints handling

In principle, Good Energy supports the expansion of the complaint handling standards to smaller businesses, rather than all non-domestic consumers. However, as referenced above, we do not support the current drafting of the small business definition.

We believe further consideration must be given to the threshold levels, with particular focus on determining a more appropriate consumption threshold. There is also a need to change the declaration process, whereby organisations should be required to self-certify their status to their energy supplier.

In our response to the government's consultation, we also outlined some concerns regarding the knowledge base located within the Ombudsman. It is not clear as to whether the Ombudsman has the necessary skills and expertise to handle not only a potential increase in complaints, but also complaints that may be more complex in nature.



We feel that it is very important that there is a sufficient stress-testing assessment completed prior to a decision or at the very least government is provided with the assurances from the Ombudsman directly.

Third Party Intermediaries (TPIs)

Good Energy continues to strongly support Ofgem being given a mandate to regulate TPIs directly. We recognise that at present, the only way for Ofgem to deliver consumer protection from TPIs is through suppliers. However, we consider this to be a highly inappropriate state of affairs.

In our view, whilst achievable, the proposal to widen the rules on suppliers to require that any TPI they are working with for a small business consumer must be registered with a qualifying dispute settlement scheme (QDSS) will not deliver meaningful or impactful change for all market participants.

The government should swiftly progress the work started with their 2021 Call for Input on Third Party Intermediaries in the Retail Energy Market and give Ofgem the powers to regulate TPIs directly. Only this way can genuine, lasting change be delivered.

Standards of Conduct expansion

Bespoke contracting with some of the larger non-domestic consumers in the market can be complex, and often involves a degree of negotiation. We appreciate Ofgem's revision of the draft standards of conduct guidance as part of this statutory consultation, in particular the clarification that the amount of any charge or fee is out of scope of the standards, apart from matters relating to deemed contracts.

In regard to the proposed implementation timeframes, we would like to see a minimum of three months from decision for implementation, as opposed to 57 days indicated in the consultation.

Implementation timelines

Good Energy supports a pragmatic approach to implementation. We appreciate the indicative implementation timelines presented, which has been useful in early planning considerations.

One concern with a phased implementation is that this could bring additional complexity and confusion for consumers. With multiple different implementation deadlines, there is a risk that consumers become fatigued with new changes and unclear about what is changing and when.

We would ask Ofgem to reflect on this and consider longer implementation timeframes where appropriate and look to align implementation dates for the different policies as much as possible. Given the scale of change and intervention in the market in recent times, we feel it is reasonable to ask for a pragmatic approach to the introduction of yet more new requirements.



Some of these changes, not least the introduction of the new small business definition, poses significant operational and system change, at a time when there is already a significant amount of transformation in the sector.

Cooling off period

The signal from Ofgem that they may revisit the prospect of a 14-day cooling off period, as previously proposed during the microbusiness strategic review, is a deep concern.

We identified several risks and challenges when this proposal was last consulted on and in our view these issues still remain. We do not see a reasonable rationale for re-opening this question.

There are significant differences between the domestic and non-domestic market, not least large swathes of the domestic market now under the price cap. From a purely hedging and risk mitigation perspective, this renders a cooling-off period unsuitable for the non-domestic market, with suppliers operating different hedging strategies.

A cooling-off period for the non-domestic market could lead to the detriment of consumers. Suppliers will need to factor in additional levels of risk due to market participant behaviour uncertainty. We remain concerned that some TPIs for example could utilise the cooling off period as a purely commercial opportunity – betting on swings in the wholesale market.

I hope you have found our response helpful. If you would like more information, or have any questions about our views, please do not hesitate to let me know.

Kind regards,

Simon Shaw
Regulatory Affairs Lead