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Sent by email to: FutureConsumers@ofgem.gov.uk

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Dear Jemma,

Re: Ofgem Consumer Outcomes Call for Input

We welcome the opportunity to respond to the above Call for Input. This response represents the views of SSE Energy Solutions, the non-domestic energy supplier operating under the supply licence SSE Energy Supply Limited.

SSE Energy Solutions shares Ofgem's ambition to improve outcomes for consumers. Enhancing innovation, retaining flexibility for suppliers and reducing regulatory burden is key to a healthy and competitive market. We are keen to support Ofgem in moving forward with proposals that improve consumer experience in the non-domestic market and we look forward to engaging with Ofgem on the next stages of this work, however, we have concerns on the timing, the approach to domestic versus non-domestic outcomes and potentially increasing costs for customers.

We have provided answers to Ofgem's specific questions in Annex 1, but our key points are:

- **Our non-domestic customers need certainty and stability.** We know that our customers thrive and are best protected where they have reliable contractual arrangements and certainty over costs and risks. Whilst we understand that Ofgem's aim is to enhance customer protections and ensure good outcomes, we do not believe this outcomes-based approach will achieve this in practice.
- **The timing of the proposed regulatory change should be considered carefully.** There is already large-scale change underway for non-domestic customers in the next few years with the go-live of Market Wide Half-Hourly Settlement. This is a significant operational change, introducing a high-level outcomes regime at this time risks adding complexity and unnecessary regulatory burden.
- **Ofgem should take a domestic-first approach as there is limited evidence that reform on this scale is needed in the non-domestic market.** We are concerned that consumer experiences in the domestic market are influencing Ofgem's approach to non-domestic regulation, which we do not consider to be proportionate. Robust evidence and a full cost-benefit analysis must be in place to support Ofgem's rationale. It would be prudent to focus first on the domestic market where data regarding consumer harm is better understood.

- **There is a significant risk of higher consumer cost for limited benefit.** The introduction of such a fundamental reform could lead to increased costs which will ultimately result in pass-through charges to customers, thus increasing bills. We believe the costs incurred would not be justifiable at this time.
- **There is risk of duplication and regulatory uncertainty.** The non-domestic market is already subject to significant regulation via supply licence conditions, competition law and contract law. It is unclear how a new Consumer Outcomes regime would align with existing requirements without significant work to streamline what currently exists. Whilst we do consider that there is an opportunity to streamline and reduce regulatory burden, this should be pursued as a separate workstream and should be carried out before any Consumer Outcomes framework is designed.
- **The framework risks the unintended consequence of harming competition in the non-domestic market.** As previously noted, the non-domestic market is fundamentally different from the domestic market. A healthy and competitive market should already incentivise suppliers to deliver good customer outcomes and a broad outcomes-focused regime such as this may instead distort competition. For example, if the regulatory approach is too subjective or broad and carries increased risk of penalisation, suppliers may be inclined to reduce diversity of contract or product offers, favour certain customer types over others and make lower-risk decisions regarding their business models. This would ultimately reduce non-domestic customer offerings and choice, resulting in competitive harm.

We would be happy to discuss our response further if helpful and look forward to collaborating with Ofgem on suitable non-domestic Consumer Outcomes.

Yours sincerely,

Christie Thomson

Regulation Manager – SSE Energy Solutions

Annex 1

Q1. In your view, what are the key factors we should consider if we are updating our regulatory framework for retail energy suppliers, keeping in mind the balance between our growth and net zero goals, and consumer interest duties?

Any change to the current regulatory framework must be realistic, proportionate, cost-effective and be based on reliable evidence that the change is necessary to prevent consumer harm. Ofgem's statutory duties must be clear with appropriate boundaries in place to ensure fairness and objectivity.

Fundamentally, Ofgem's approach should be evidence-led, only intervening where there is demonstrable customer detriment that existing mechanisms are unable to address. Ofgem should avoid a precautionary approach given that this would lead to additional costs to the supplier and consumer, discourage innovation and new entry into the non-domestic market and potentially harm competition through reduced choice for consumers.

We would expect any future framework to provide certainty and predictability for long-term investment whilst giving suppliers the flexibility to adapt their approaches and commercial models. This means the burden of regulatory compliance must not be prohibitive, too prescriptive or subjective. It would be sensible to align the future regulatory framework with Ofgem's existing duties regarding consumer interest (e.g. affordability, long-term customer benefit) which would ensure existing protections were used as the foundation and not undermined.

Finally, rigorous cost-benefit analyses must be in place to justify any change and prevent unnecessary over-spend. Without this control, we see a significant risk of diverting cost and resources away from net zero solutions and into regulatory activity.

Q2. Why do you think there is such a divergence of satisfaction rates across different consumer cohorts?

In non-domestic, we believe any divergence in satisfaction rates is likely due to the wide range of needs of different types of business customers. For example, the needs of a microbusiness or small-scale business will differ substantially from a large or multi-site customer. Non-domestic supplier portfolios are also not all created equal – the proportion of business types being supplied can vary from supplier to supplier unlike the homogenous portfolios of domestic suppliers. This means comparison of customer experiences across non-domestic suppliers is more difficult and data can be incomplete or unreliable.

Q3. The Consumer Outcomes have been developed based on what industry, charities, consumer groups and consumers have told us they need to cover. Do you agree that these outcomes cover the most important expectations consumers have of energy suppliers?

No, we do not agree that the proposed Consumer Outcomes adequately reflect the most important expectations of non-domestic energy consumers. Rather, we see themes which are aligned to domestic customers and do not reflect the realities of the competitive B2B market. It is not proportionate for Ofgem to use this research to shape its approach to non-domestic regulation if the data is grounded in domestic experiences.

Our view is that non-domestic customers are most concerned about competitive and cost-reflective charges, clear and secure contractual terms and conditions, continuity of supply, reliable billing and settlement, and suitable service and product offerings to meet their business needs. Whilst some of these areas are considered in the proposed outcomes, they are represented by subjective concepts such as "fairness" or "transparency" which are difficult to measure.

Q4. Do you think we should streamline or consolidate the Consumer Outcomes further and, if so, which should we prioritise?

As noted, we do not agree with the Consumer Outcomes proposals as stated in the Call for Input. We would not support these being introduced for non-domestic suppliers and customers.

We do, however, feel there is opportunity for Ofgem to work with suppliers to streamline the existing licence obligations. For example, rules relating to sales and contracts (SLC 7 – 7D) is one area where current rules are complex and could be reviewed. We would recommend that Ofgem engage with non-domestic suppliers separate to this Call for Input to gather views on how a streamlined set of obligations could be achieved in practice.

Q5. Do you agree with the explanations provided of the Consumer Outcomes in the appendices of this call for input? Do they help you understand the intent of the outcomes?

The explanations provided did broadly help us to understand the intent of the outcomes, although we feel they would require further clarification. We are generally opposed to the implementation of the Consumer Outcomes framework for non-domestic, but would comment that those that have been listed are at times duplicative and there are too many outcomes proposed to ensure a focused and meaningful framework.

Q6. Why do you think these outcomes are not materialising consistently for all consumer groups given that they are in line with our existing rules?

Please see our response to Question 2. We consider that this is due to the heterogeneity of non-domestic customer needs.

Q7. Do you think some outcomes are more important for consumers than others?

Please see our response to Question 3.

Q8. Do you see an opportunity for outcomes, though not necessarily the Consumer Outcomes set out in this call for input, to be applied to wider market participants? Who should they apply to and why?

If an outcomes-based framework was to be pursued in future, there may be some targeted circumstances where this could apply to wider market participants. For example, a focus on third-party intermediaries may be appropriate given their significant influence in the non-domestic contract negotiation space, although any work in this area would need to complement existing TPI reforms under DESNZ' recent decision on TPI Regulation.

It may also be appropriate to consider widening out to network companies, or industry bodies who have direct influence over growth, innovation and net zero. This could help to give control and oversight of consumer and system needs in a coordinated way.

For clarity, we do not support this approach in the non-domestic retail market at this time.

Q9. Do you have a preferred approach among those outlined below or should we retain the current framework? Do you have an alternative suggestion? Please explain your reasoning. a) What level of action/intervention do you feel would be proportionate to drive up customer service in the non-domestic sector? Does it differ from domestic?

SSE Energy Solutions' preferred approach at this time is to retain the current regulatory framework for non-domestic, rather than introduce an outcomes-based or hybrid regime. Our view is there is not a strong case that a material change is necessary.

As discussed throughout this response, domestic-type interventions are not appropriate for non-domestic customers and cannot be easily replicated to fit a B2B market – to do so would increase costs and adversely affect innovation and competition. To justify any significant intervention, we would need confidence that there is robust evidence underpinning Ofgem's proposals.

The non-domestic market is already subject to significant change in the coming years, particularly with the changes required to enable Market-Wide Half-Hourly Settlement (MHHS). We consider the operational impact on suppliers from this programme is not well-understood by Ofgem.

The MHHS Programme has recently entered a key stage of its development with some suppliers starting to migrate their portfolios into the new arrangements. This migration process is due to complete by May 2027, after which there is likely to be a period of time of stabilisation in order to fix any issues, bugs, etc., before the Programme moves towards the planned cutover to the new settlement timetable, which will see the time period for final settlement runs reduce from 14 months to 4 months. This is likely to be sometime towards the end of 2027. Following this, there will be electricity industry changes required to be made, which have been held back due to the MHHS Programme, and these will continue well into 2028, if not longer. The impacts of the MHHS Programme on suppliers are incredibly large requiring significant resources and budgets to be allocated in order to meet the industry requirements of the new MHHS arrangements.

In addition to meeting the mandatory requirements of MHHS, suppliers will be looking to introduce new and innovative time-reflective tariffs, which will be enabled under the new arrangements. Ofgem, in its final decision document on MHHS, indicated a very high level of benefit which will be realised due to the introduction of these new tariffs by suppliers.

These new tariffs will lead to even further competition between suppliers, which will improve customer satisfaction and will lead to lower costs. Suppliers must be allowed to allocate their resources to the implementation of the MHHS arrangements and to the development of new tariffs. The MHHS Programme will lead to significant improvements to customer outcomes without any increase in the regulatory burden on suppliers.

We would also draw parallels with the previous reforms in Financial Services when the FCA introduced the Consumer Duty which highlights the risks of applying broad, outcomes-based regulation. The Consumer Duty was intended to strengthen consumer protection, but it resulted in a significant increase in compliance, governance, and reporting requirements across financial firms. This led to higher costs and slower contracting processes for customers. The scale of implementation effort required by the Consumer Duty also diverted attention and investment away from innovation and growth.

Subjective concepts such as "fair value" and "acting in good faith" created regulatory uncertainty which led to firms taking less risks such as standardising products, withdrawing bespoke offerings, and reducing appetite to serve certain customer segments. For business customers, this translated into reduced choice and less access to tailored or innovative solutions. In an energy context, similar uncertainty could risk discouraging flexible contracts, innovative pricing structures, and new net zero-aligned products that non-domestic customers value. Furthermore, the Consumer Duty interfered with the boundary between consumer protection and commercial contracts. For non-domestic energy contracts, clear allocation of risk and confidence that contracts agreed at arm's length will be upheld is critical.

Q10. Do you think a voluntary approach – where suppliers make a public commitment to deliver the Consumer Outcomes without formal regulatory change could be effective? What conditions would need to be in place for this to work?

No, we do not believe a voluntary approach would be effective or appropriate for the non-domestic market. It is our experience that voluntary commitments in a regulated sector rarely remain voluntary – instead, they are likely to set standards or expectations which later inform policy decisions for new regulation. They also come with monitoring and supervisory needs and can create an unlevel playing field across suppliers based on those who do or do not sign up to the commitments.

We would be concerned that those who subscribe to voluntary commitments would face increased costs and scrutiny over those who do not. A voluntary Consumer Outcomes commitment would introduce many of the same risks as a formal framework, including ambiguity around expectations, the potential for retrospective assessment of behaviour, and pressure to standardise products and services. There is a risk this would have the same impact of undermining contractual certainty, increasing costs and impacting competition.

Q11. Could a more outcomes-based regulatory framework benefit the supply market? Do you think this kind of approach could unlock innovation and growth? Please provide examples.

Please see our response to Question 9. We do not consider this is a good time for Ofgem to make such interventions for the non-domestic market and would caution against such an approach.

Q12. Are there specific licence conditions where less prescription could benefit the retail market without compromising consumer protection? a) For suppliers: are there any areas where you find guidance helpful or unhelpful?

Yes, we do consider there is opportunity for Ofgem and suppliers to explore streamlining or consolidating existing rules. These relate mainly to areas of regulation where there is current duplication (e.g. with contract law), where a one-size-fits-all rule does not allow suppliers to be flexible in their approach to different customer cohorts, or where commercial practices are unnecessarily constrained.

For example, prescriptive requirements around communications, contract structure, and customer engagement can be burdensome for non-domestic customers who often need a bespoke approach. We would value review of areas which would afford suppliers greater flexibility to meet consumer needs.

With regards to the use of guidance, we agree this can be helpful where it provides clarity on regulatory intent and supports consistent interpretation. We do not support guidance where it goes beyond the scope of the original licence obligation or introduces any ambiguity or subjectivity.

Q13. Are there areas where prescriptive rules should remain in place? If so, why?

Yes, our view is that if there are clear risks or evidence of consumer harm and these are measurable and tangible then prescriptive rules can help mitigate poor experiences. For example, we understand obligations in areas such as accurate billing, credit and security arrangements, change of supply processes or complaints. Prescriptive rules in these cases can help to embed minimum standards and consistency across suppliers but are not damaging to innovation, commercial or contractual elements.

Q14. What factors should we consider to determine whether specific rules are best delivered through prescription, principles or outcomes?

Firstly, we would always encourage extensive engagement and the opportunity to co-design with suppliers and other industry parties when considering designing or reviewing rules. We are appreciative of Ofgem's aim to work closely with suppliers during this Consumer Outcomes programme.

The overarching approach should consider the impacts on costs and affordability, investment and growth and net zero delivery. A comprehensive assessment should be undertaken of how each type of regulation impacts ability to enforce and monitor, balanced with where supplier flexibility can deliver better outcomes for customers.

The mechanism of how specific rules should be delivered will depend on the level of risk, and how tangible this is. For example, if there is a clear and objective risk which can be easily measured (e.g. a supplier must send a bill within X days of receiving a meter reading), then prescription is likely to work well and be appropriate. If there is a possibility for rules to be open to interpretation or "grey", a prescriptive approach can reduce regulatory risk. Alternatively, where flexibility can allow for better innovation or customer offerings, then a principles or outcomes-based approach could be better (e.g. commercial flexibility to tailor and negotiate contracts to non-domestic customer needs).

Principles or outcomes can complement supplier business models while still holding suppliers accountable, but they need to be appropriate and proportionate for the market in which they are introduced.

Q15. Which of the monitoring approaches we outline below would be the most effective for monitoring supplier performance against the Consumer Outcomes? Are there alternative approaches? Please provide evidence.

At this stage, none of the proposed approaches outlined in the Call for Input have been defined with sufficient clarity to demonstrate they would be proportionate or effective for non-domestic.

Based on our experience with non-domestic customers, we know that they tend to make decisions based on price, contract terms, risk and other commercial drivers. Reputational approaches such as publishing supplier performance data or other publicly available metrics may not have the same impact as in the domestic market.

Furthermore, collection, monitoring and publication of data is likely to lead to increased regulatory compliance burden for suppliers and therefore increased customer costs. Any changes in this area should leverage existing data provided by suppliers to limit costs and avoid duplication. Ofgem should start with the existing data and approaches and decide (with supplier input) what is and is not currently effective before considering a complete re-design.

Q16. How do we best measure our success as to whether we have: a) Improved consumer outcomes and achieved our ambitions for customer service and b) Reduced regulatory burden and encouraged growth and innovation

We consider that for Ofgem to measure success effectively, there needs to be clear and objective metrics in place which are relevant to the market they intend to monitor. This means that domestic and non-domestic markets should have a distinct set of metrics based on the needs of their own customer groups. We do not think that broad, high-level metrics are useful given that they allow for subjectivity and are difficult to tangibly monitor and enforce against.

For non-domestic customers, indicators which reflect what business customers actually value (e.g. billing accuracy, complaint resolution, adherence to agreed contract terms) are likely to be most useful. Metrics that rely on subjectivity (e.g. league tables, customer satisfaction ratings) are less meaningful for non-

domestic customers and more superficial in nature. We also believe that variation in needs of different customer types would warrant tailored approaches – for example metrics for microbusinesses may be different than large I&Cs.

In measuring success, we would expect Ofgem to share evidence of reduced regulatory costs and show progress towards increased investment in innovative solutions (e.g. low-carbon and flexible energy solutions).

Ofgem must balance objective but enforceable metrics with tangible evidence (e.g. feedback gathered from suppliers and customers) to ensure that change is genuinely driving the intended improvements without increasing costs.

Q17. Is there anything Ofgem can do to improve how we work and engage with you as a stakeholder on retail energy supply policy and regulation?

SSE Energy Solutions always welcomes early engagement in regards to new policy design and we value an open and cooperative dialogue with Ofgem. We are appreciative of a dedicated non-domestic team within Ofgem and would encourage increased interactions with suppliers on all regulatory matters. We would like to see a more cohesive approach internally within Ofgem – sometimes we witness a siloed approach across different teams which can result in misunderstandings or duplication.