Non-Domestic Retail Policy Team
Ofgem
10 South Colonnade
Canary Wharf
London
E14 4PU

Via email: NonDomesticRetailPolicy@ofgem.gov.uk

16 July 2026

Dear Non-Domestic Retail Policy Team,

Consultation on Changes to Guidance on Deemed Contracts

Thank you for the opportunity to respond to your consultation. This response is on behalf of Marble Power Limited, a licensed electricity and gas supplier focused on the non-domestic electricity supply market.

Summary views

Our concerns with the proposed changes to Ofgem's guidance on deemed contracts are twofold. First, the proposed changes are a move away from principles and outcomes based regulation to prescription. This is at odds with Ofgem's clearly expressed sentiments in its open consultation on outcomes based regulation:

"Outcomes-based regulation focuses on the outcomes we want for consumers, ***rather than setting detailed requirements on how firms must behave. It gives suppliers flexibility in how they operate, while holding them accountable*** *for delivering good outcomes."*

Our second concern is the effect of Ofgem's proposed changes (whether intended or not) would be to increase credit risk on suppliers and restrict the means available to them to mitigate the risk. This would likely mean higher deemed contract rates in the first instance, a transfer of costs from consumers who don't pay their bills to those who do (unrecovered debt is a cost of doing business and must be recovered somewhere) or a combination of the two.

In our view, the proposed changes to Ofgem's guidance are unnecessary as it is already a requirement on suppliers not to impose unduly onerous deemed contract terms. Broadly, suppliers should be afforded the opportunity to demonstrate that their deemed contract terms are *not unduly onerous in all the circumstances*. It is unhelpful for Ofgem to propose guidance that undermines this principle by suggesting that risk mitigation tools such as

security deposits may conflict with SLC7. This is a clear case of prescription overriding principle. Similarly, in circumstances where a consumer has wilfully accrued a debt under a deemed contract and then seeks to move supplier without settling, Ofgem should not be amending its guidance in a way that emboldens and encourages this sort of behaviour, to the ultimate detriment of consumers who pay.

We recommend that Ofgem removes proposed A1.87 to A.104 from its guidance and applies a principles based regulatory standard to SLC7, giving suppliers the ability to take and justify action under a deemed contract provided it is *not unduly onerous in all the circumstances*.

Our responses to your specific questions are in Annex 1 below. Please contact me if you wish to discuss.

Yours faithfully,

Tim Collins
Head of Regulation
Marble Power Limited
M: 07718 490977

Annex – responses to specific Ofgem questions

1. **Do you agree with our proposals on situations when we will generally view a deemed contract to exist depending on a customer's ability to consume energy? Please provide your reasons**

-

2. **Do you agree with our proposal around the reasonable recovery of bad debt? Please provide your reasons.**

Ofgem's current guidance highlights several of the reasons why deemed contract rates will be higher, including provisions for bad debt. The proposed change from "bad debt" to "reasonable levels of bad debt recovery" is not a major change but neither does it add a great deal of clarity.

3. **Do you agree with our proposed text that reminds suppliers of their obligations around customer transfer blocking and delayed switching? Please provide your reasons.**

Our first concern is the proposed text is a clear case of prescription overriding principle and restricts a supplier's ability to act under a deemed contract, provided it is *not unduly onerous in all the circumstances*. Our second concern is the proposed text increases moral hazard. In circumstances where a consumer has wilfully accrued a debt under a deemed contract and then seeks to move supplier without settling, Ofgem should not be amending its guidance in a way that emboldens and encourages this sort of behaviour. This will be to the ultimate detriment of consumers who pay.

Within the non-domestic energy market, a substantial proportion of bad debt arises following a Change of Tenancy (COT). In normal circumstances, suppliers make a conscious decision on whether to contract with a customer based on their own credit policies and risk appetite. In a deemed contract scenario arising from a COT, suppliers can be compelled into a contractual relationship with an entity they have not chosen to supply and have had no opportunity to assess. Unfortunately for suppliers and consumers who do pay, some parties (e.g. overseas landlords, managing agents or others with knowledge of the system) utilise repeated COTs once debt recovery action reaches an advanced stage but before the action completes, leaving suppliers with unrecoverable (or unlikely to recover) debt. Suppliers need reasonable means to protect themselves – and ultimately consumers who do pay – against credit risk, provided these are *not unduly onerous in all the circumstances.*

4. **Do you agree with our proposal around the circumstances in which suppliers should ask for security deposits? Please provide your reasons.**

Our concerns with the proposed text on security deposits are similar to our concerns with the proposed text on objections to switching. First, the proposed text on security deposits is a clear case of prescription overriding principle. Second, the proposed text increases moral hazard.

Suppliers need reasonable means to protect themselves – and ultimately consumers who do pay – against credit risk, provided the means are *not unduly onerous in all the circumstances.* Ofgem's proposed text suggests that security deposits *per se* are an example of bad behaviour, when their use may be justified and proportionate, particularly as it protects consumers who pay against the risk of bad debt from a non-paying consumer being transferred to them. The suggestion by Ofgem in A1.103 that a supplier concerned about credit risk should encourage a customer to move to another supplier does nothing to reduce industry-wide credit risk. Indeed, the proposed text discouraging both the use of security deposits and objections to switching on the basis of a deemed contract debt will increase industry wide credit risk rather than mitigate it.

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

-

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

Ofgem's proposed changes to the deemed contract guidance increase moral hazard and represent a move away from principles and outcomes based regulation to prescription. This is at odds with Ofgem's clearly expressed sentiments in its open consultation on outcomes based regulation**.** We recommend that Ofgem removes A1.87 to A.104 from its guidance and applies a principles based regulatory standard to SLC7, giving suppliers the ability to take and justify action under a deemed contract provided it is *not unduly onerous in all the circumstances*.