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Dear Nigel,

Objecting in the Domestic Market

Thank you for the opportunity to comment on the issues raised in the above consultation paper.

Contract Termination Notice

As you know, Scottish and Southern Energy joined the Termination Notice Trial in August 2001 (and therefore stopped objecting to domestic customer transfers on the grounds of insufficient termination notice). Prior to this, we were audited by Ofgem to ensure that our procedures for handling termination notices and raising objections to customer transfers were fully compliant.

However, a few suppliers have not joined the Trial and, as a consequence, continue to object to customer transfers on the grounds of insufficient termination notice. This has resulted in SSE incurring significant additional expenditure in processing termination notices for those suppliers only. More importantly, however, we believe that a number of the suppliers operating outside of the Termination Notice Trial do not have adequate systems / procedures in place to process termination notices effectively and timeously. As a consequence, these suppliers are raising a significant number of erroneous objections against our new registrations.

In addition, we are experiencing a similarly high level of objections from Powergen (East Midlands) who are officially participating in the Trial. As you know, Powergen withdrew from the Termination Notice Trial in July 2002, although this only came to light in November 2002. We wrote to Ofgem on 28th November setting out our concerns about Powergen's objections policy and, on 18th December 2002, Ofgem wrote to all suppliers stating that Powergen would be participating in the Trial for both gas and electricity customers from that date forward. We therefore stopped submitting termination notices on behalf of our customers from this date. However, we note in Chapter 4 of the consultation paper that Powergen is

listed as one of the suppliers currently operating *outside* the Trial. The apparent failure to communicate their withdrawal from the Trial (again) would confer a significant competitive advantage on Powergen and we would therefore welcome early clarification from Ofgem on Powergen's position regarding the Termination Notice Trial.

The paper also states that Powergen object on the grounds of lack of termination notice where the customer informs them that they do not want to transfer. However, the customer "does not want to transfer" is subjective and not within the existing, narrowly defined rules for raising an objection. We are therefore concerned that Powergen are using the ability to object for insufficient termination notice inappropriately.

Against this background, we support the proposal by Ofgem to remove a domestic gas supplier's right to object on the grounds of lack of contract termination notice. This will reduce the costs and bureaucracy associated with the objection process and will stop erroneous objections being raised by those suppliers who are currently operating outside (or in the case of Powergen, inside) the Trial.

Co-operative / Customer Requested Objections

We also welcome the proposals by Ofgem to allow a co-operative objection to be raised by the old supplier with the agreement of the new supplier and to allow the old supplier to object following a request from their customer. These changes will align the position regarding co-operative objections in gas with electricity and help to minimise erroneous transfers.

We do, however, have one concern about Ofgem's proposals. In the paper, Ofgem state that the objecting supplier *"should maintain an adequate audit trail, for example, by recorded telephone call or customer signed correspondence, to provide evidence of the customer's request for the objection to be raised. Ofgem proposes that this evidence should be retained for at least 12 months."*

As stated in earlier correspondence, the suggestion that the objecting supplier retains evidence of the customer contact through a taped telephone conversation or written correspondence is neither practical nor reasonable, both in terms of cost and timing. Indeed, it would result in customer requested objections not being raised due to the associated bureaucracy. Notwithstanding this, we understand the rationale behind the proposal and we would therefore support a requirement to retain a record of the customer's request for an objection for a period of 12 months. This would allow Ofgem to audit our systems and, if necessary, contact the customers to confirm that they had indeed requested such an objection to be raised. Clause 10.a of the draft licence condition should therefore be amended to refer to "a record" rather than "evidence".

Additional Rights to Object

In setting out their view on mis-selling and erroneous transfers, the DTI proposed *"the introduction of arrangements whereby consumers (or, in the case of the vulnerable, their representatives) could register with their supplier automatically to block any transfer, until such time as the customer requested the removal of that block"*. We also receive numerous requests from customers who have been erroneously transferred asking why we (as their chosen supplier) are unable to stop another supplier from taking their supply without their consent. We therefore believe that the possibility for customers to lodge "permanent objections" until they specifically agree to change supplier should not be discarded by Ofgem without proper

consideration being given to the potential benefits to customers and competition overall (through the eradication of erroneous transfers and mis-selling).

In our view, there would also be merit in considering the introduction of a right to object to customers changing supplier where they have chosen to enter into a fixed term contract covering both energy supply and the provision of energy efficiency goods and services (an ESCO contract). This would enable suppliers to offer more attractive ESCO contracts to customers thus increasing the take-up of energy efficiency measures. Clearly, such an offer would be subject to the requirement to draw the customer's attention to the principal terms of the offer (including termination provisions) and to show the charges relating to the energy supply separately from the charges for the energy efficiency goods and services. This would allow customers to compare the costs of an ESCO contract with the cost of obtaining energy supply and energy efficiency measures separately and make an informed decision.

If you would like to discuss this further, please call.

Yours sincerely,

Rob McDonald
Group Regulation Manager