



Atlantic Electric and Gas

Nigel Nash
Head of Market Infrastructure
Ofgem
9 Millbank
LONDON
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17 November 2003

Dear Nigel,

Energy Services Contracts.

As I shall not be attending the Objections Working Group meeting on 24 November, I thought I would put in writing Atlantic's views on the proposals set out in your recent paper. Atlantic has a number of concerns about the proposals and, whilst not wanting to stop the proposed pilot, we would like to make a few points that we think you should consider when further refining its terms.

Firstly, we wonder whether the proposals will result in an increased number of complaints (both to suppliers themselves and energywatch) about mis-selling. We have already seen this in the commercial market where customers either forget that they have entered into a fixed term contract with a supplier, do not fully understand the terms of the contract they have signed or simply claim that they have been mis-sold to when they wish to terminate a contract early. As you are aware, the energy industry has spent a lot of time and money in trying to reduce the number of sales complaints so as to restore consumer confidence in the competitive market. We believe that anything that could reverse this downward trend must be very carefully thought out before it is implemented.

We also have serious reservations about the objection process being used to underpin this new proposal. As usual, we are concerned about the potential for abuse of this new objection by incumbent suppliers. Atlantic sees no reason why the objection process should be used under these circumstances. In fact, the introduction of a new objection reason is inconsistent with Ofgem's current policy of removing objection reasons wherever possible – e.g. lack of termination notice and ppm debt. This apparent inconsistency will serve only to increase regulatory uncertainty and further deter new entrants.

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There is no logical explanation as to why customers who take up an energy services contract need to be linked to the energy supplier via their energy contract until the payment is complete. Customers who default on their energy services contract should be dealt with through the normal legal channels, not by using industry processes.

If, however, the objection process is to be used, the reason for the objection must be transparent to the gaining supplier and, through them, the customer. It must also be mandatory to report the number of any such objections to Ofgem for monitoring purposes. These safeguards are essential if the potential for abuse is to be minimised. However, the downside of this will be increased costs for the gaining supplier who has to deal with the exceptions caused by the objection, including writing to the customer and then dealing with any response from them. This is a further reason why the objection process should not be used as any costs associated with policing the energy services contract should lie solely with the supplier that holds the contract with the customer.

Finally, we would like to comment on the potential for assignment of the energy services contract. We believe that the contract terms should be drafted so as to allow the customer to switch their energy supplier if they decide to pay any outstanding debt in full before the term of the contract has expired – without penalty. This would also facilitate innovative solutions by the gaining supplier who may decide to pay some, or all, of the outstanding balance as an incentive to switch. Once again, the objection process would need to play no role in this arrangement and it should be carried out on a purely contractual basis.

I trust that you will find these comments useful. If you wish to discuss further, please contact me.

Yours sincerely,

Siobhan O'Loughlin
Regulation Officer

CC: Iain Osborne.