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12 July 2004

Domestic Competitive Market Review Document – April 2004 (78/04)

Dear Fran,

Apologies for the slight delay but detailed below are the general thoughts of RWE Innogy in response to this comprehensive document. This is on behalf of its licensed retail energy supply operations and legal entities under the umbrella of the npower brand.

We welcome Ofgem's overall summary of a market that is competitive, but still yet to achieve full maturity. We concur with the view that emanates from the principal indicators used by Ofgem to assess the state of the market. Namely that switching levels, price movement, the savings available to customers and the access to benefits across payment methods and demographic groups, all fall into the positive category.

Such evidence supports the principle and Ofgem's principal objective that the best and most appropriate means of protecting the interests of domestic energy consumers is through competition.

Consequently in recognising that there are some anomalies within the market that Ofgem might look to address, any regulatory activity must be appropriate. It should be justified against a clear rationale, firm evidence and be transparent, targeted and proportionate. It must therefore be consistent with the principles of good regulation.

It is against this background that we provide some further comments in the attachment to this letter on matters raised and proposed further work. They are provided in the context of our overriding view that the market is delivering considerable and positive benefits to consumers and that any regulatory adjustments at the margins must ultimately be to the benefit not the detriment of competition and therefore consumer choice.

Yours sincerely,

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Attachment: Matters Raised / Future Work

General

- From the evidence available Ofgem's view is of a national market for gas and a regional one for electricity, which lines up with industry structures and which still has relevance in terms of the practical implications of competition i.e. pricing variations, costs.
- However, the principal focus of the market is dual fuel offers, a function of customer demand and characterised by the relative market positions of suppliers and benchmarking prices against the principal incumbent.
- The principles of good regulation should apply to the forthcoming review of the licence regime so as to be targeted and proportionate, particularly in not duplicating provisions already provided for, whether in formal regulation or general consumer law.
- A considerable amount of regulatory activity is already under way (the Customer Transfer Programme, Ofgem campaign on prices, others), in which npower is actively participating, to improve consumers' market experience of competition.

Such activity must be allowed to evolve before further action is undertaken so as not to unnecessarily increase the regulatory burden and cost.

Customer Issues / Experiences

- The objective of improving the information available to consumers at the point of sale (pricing), via bills (price, consumption), to ensure they make decisions on an informed basis is to be welcomed. However, any proposed minimum requirements must be practical, respond to what consumers really want and must be proportionate.
- We support Ofgem's intention to look at the effect of branding in organisations where network and retail operations operate under the same corporate structure.

There is still misunderstanding on the distinction between the commercial supply relationship and physical supply and it is important, as npower had to do when acquiring its ex-PES supply businesses, that common or similar branding is removed so as not add to that confusion.

Switching – “Fixed Effects”

- We broadly understand the concept of fixed effects, non-price related factors influencing customer switching behaviour, but any regulatory activity here must be well founded in terms of its transparency, a clear rationale and should not over rely on a perspective based on historical industry factors, structures.
- The key must be to ensure that there is no undue distortion of market forces, along with customers having the right information to make informed decisions i.e. the very real savings available from a range of dual fuel offers.
- Whilst other bodies (i.e. ASA) must continue to hold primary responsibility for regulatory oversight for messages/advertising, some Ofgem input/liaison, in the context of the above, would be helpful to ensure clarity in the information, marketing messages received by consumers.

Price and Non-price Offers

- Any plans to look at prices and underlying costs must take due account of competition.

Where there is clearly inappropriate behaviour Ofgem has appropriate powers under licences, consumer law and competition law to act. Otherwise the market should be allowed to operate freely and some degree of volatility accepted, allowing the retail market to respond to the underlying dynamics, cost movements and the wholesale market to stabilise.