

## **Supply Licence Review Steering Group meeting 25 January 2006**

### **Update on progress of working Groups**

#### **Vulnerable customers**

The main issue discussed concerned the structure of protection provided to vulnerable customers in the licence. Ofgem's discussion paper suggested one option was to move to a regime where there was a limited number of core obligations on the face of the licence, but suppliers would be required to sign up to a standard Ofgem approved code containing further requirements. A paper by Graham Kirby on behalf of suppliers suggested an alternative approach whereby there would be absolute minimum standards in the licence, but a recognition that there would be further highly desirable services which the major suppliers would provide on a transparent, but voluntary basis. This would allow for greater flexibility and innovation. Transparency would be achieved through ongoing review of best practice, with support from the ERA.

There was long debate about the merits of these approaches, but there was no consensus on which provided the best means of protection to customers. Consumer representatives were concerned whether suppliers could be trusted to provide services satisfactorily outside the licence, and favoured the certainty of a regulated approach. Ofgem emphasised the need to comply with its statutory duties. It would give consideration to the points raised and would be drafting a consultation document for discussion at the next meeting on 13 February.

#### **Duty to supply**

The Group met on 12<sup>th</sup> January. An impact assessment relating to the duty to supply obligations is being prepared and will form part of the final report to the Steering Group.

At this meeting the Group began to consider the contract obligations relating to domestic supply contracts. There was broad consensus on removal of obligations relating to SLC 41, some of the termination requirements (including the 28 day rule) and the requirement for contracts to be in a standard form. The provision for customers to be informed of the principle terms of the contract before entering into the contract should be retained as should contract termination arrangements dealing with change of tenancy. There is clear scope to simplify and reduce related provisions that may be needed for similar 'technical' reasons.

There was considerable discussion on the question of objections – both the circumstances in which they may be made and where they should be regulated.

Ofgem stated that the removal of the 28 day rule should not infer that suppliers would be able to use the objection mechanism to enforce term contracts. A number of suppliers considered this unhelpful

Ofgem also indicated that it remained uneasy about the use of objections to enforce debt. This has been a long-running contentious point, but Ofgem remained of the view that it was a finely balanced as to whether debt objections were to the benefit of customers or not. Ofgem said that it was to commission an independent report on the effect of debt objections. An ITT was to be issued and the ToR would be circulated to the working group.

Suppliers were of the view that the regulation of objections should be dealt with through self-governance arrangements (MRA and SPAA). Ofgem considered that preventing a customer from switching to an alternative supplier denied that customer the protection afforded by the competitive market. Objections are a somewhat unique aspect of energy market and have a direct impact on customers – as such the licence offered a more direct level of protection.

The next meeting of the group will consider deemed contracts.

## **Metering**

The SLR (Metering) work group met for the second time on 17 January 2006. The key topic of discussion was the provisions of SLC 17 of the gas and electricity supply licence which requires a 2 yearly visit for every meter. This is a controversial subject with HSE and energywatch taking the view that such a provision is required for safety and accurate billing purposes. Most suppliers would prefer a relaxation, or removal, of this provision on the basis that the vast majority of safety issues are not identified on such visits – indeed they are more likely to be identified by the consumer themselves in circumstances where they smell gas. They also add there is no explicit link between billing accuracy and the 2 yearly read as there is no requirement to actually bill the consumer as a result of that read – particularly if the date of the read is not compatible with their billing cycles. Finally all attendees recognised that innovative metering could address such issues.

There is also need to initiate dialogue with HSE as soon as possible as, at the moment, they simply wish to maintain the status quo. Indeed a recent letter suggest they wish to introduce further provisions such as requiring the supplier to maintain consumer owned meters.

It is not going to be easy to reach consensus on these issues over the next few months. In this regard Metering has agreed to pull together, in one document, a description of the relevant provisions, a range of the options available (and associated issues) and, more importantly, evidence on how this provision actually operates at the moment. In the first instance Transco are going to provide analysis of the type of calls made to their emergency help line and the related follow up action. This will help illustrate the number of safety issues

resulting from a leaky meter. A similar exercise will probably need to be undertaken with the DNOs.

### **Industry codes**

At the third meeting of the Industry Codes workgroup on 19 January, the group considered three straw man proposals for alternative licence enforcement of the relevant codes. They considered at length a proposal put forward by npower and EDF which would limit Ofgem's powers of enforcement of code compliance to circumstances where a code's self-governance panel invited regulatory intervention. It was considered that this could have the effect of removing the 'double jeopardy' of enforcement that may currently exist, provide greater clarity of Ofgem's enforcement role and encourage the industry to implement effective self-governance arrangements. A second part of the proposal would have the effect of limiting this enforcement-by-invitation role to specific sections of the various codes that were considered to be of particular significance to Ofgem.

The group considered this proposal and some initial thoughts from Ofgem. It noted Ofgem's concerns about the difficulties associated with identifying the predetermined areas for Ofgem involvement. It was suggested that an alternative proposal could be to have Ofgem enforcement by invitation only but not limited to predetermined areas. The group is to consider the issue of predetermined areas for discussion at the next group.

The group also noted the issues set out by Ofgem in relation to the features that effective self-governance arrangements should have. Group members are to develop the enforcement-by-invitation proposal further for the next meeting, taking account of the points raised by Ofgem and during the discussion.

The second straw man proposal would adopt an approach similar to that used in the shipper licence in relation to compliance with the Network Code. Such an obligation would require suppliers not to pursue action which significantly disrupted the operation of the relevant codes and achievement of their objectives, rather than comply with every provision. The group considered that this option had some merit and should be developed further. It was felt that it may be simpler to implement than the npower/EDF proposal and provide an interim step towards effective industry self-governance. Group members, with input from Ofgem, are going to work up this proposal with more detail and some indicative drafting for consideration at the next meeting.

The third straw man proposal would reformat the current obligations into a single licence condition. This would not change the effect of the licence obligations but would hopefully improve their clarity. The group considered that the other two options would achieve the same effect and that clearer formatting should be a feature of whatever option is developed.

The next meeting of the workgroup on 17 February will continue to develop the two remaining options further.

