



Ms Rachel Fletcher
Consumer Markets
Ofgem
9 Millbank
London SW1P 3GE

E.ON UK plc

Griffin Court
Colliers Way
Nottingham
NG8 6AT
eon-uk.com

Pauline Lawson
0870 4191480
Pauline.Lawson@powergen.co.uk

Friday, 13th January 2006

Dear Rachel,

Thank you for the opportunity to respond to your consultation on the non-domestic supply markets.

We consider that there is no justification for a review of the non-domestic (B2B) gas and electricity supply markets. The supply market is continuing to develop – we describe below a number of positive developments which seek to answer the concerns raised – and if concerns remain we believe these are most efficiently and effectively addressed by targeted initiatives.

The Oxera report – “Energy market competition in the EU and G7: preliminary 2004 rankings”, finds the UK electricity and gas markets to rank as the most competitive in the EU and the G7.

The Range of Energy Supply Products is Increasing

Customers are able to choose from a wide range of products, with many directed at the key concerns of managing the rise in wholesale costs and improving energy efficiency. E.ON’s products include:

- Firm, fixed price, delivered to customer’s site
- Supplier interruptible, fixed price, delivered to customer’s site
- National Grid interruptible, fixed price delivered to customer’s site
- Market tracking or indexation products for gas and power
- Climate Change Levy (CCL) exempt product where customers can purchase green energy
- Mid-term review products where a customer can review their contract price half way into a contract
- We deliver to National Balancing Point (NBP), or customer trades wholesale gas at the NBP

E.ON UK plc

Registered in
England and Wales
No 2366970

Registered Office:
Westwood Way
Westwood Business Park
Coventry CV4 8LG

- Evergreen, where customers can leave us at anytime
- Innovative tariff structures for different usage types

As an example of response to market conditions, we have recently introduced a “Supplier Interruption Product” for large gas customers. This product offers the customer the opportunity to nominate a price at which they would turn down or turn off their demand. Commercial sell back allows customers to nominate the period for which the Demand Side Management applies. Emergency sell back is expressly for periods of high gas system risk. Under a gas supply emergency National Grid can contact large gas customers and instruct them to immediately but safely turn off any equipment or appliance that uses gas. This product provides a commercial solution to demand-side response, whereby companies can set their sell back price according to their business cost to switch off, or switch to an alternative fuel.

All of this demonstrates innovation and significant response to specific customer requirements and the level of competition.

Increasing Use of Third Party Intermediaries (TPIs)

In addition to the variety of products there is a variety of sales channels, including agents (TPIs) who can assist business consumers in making well-informed choices.

This is a valuable service, particularly where the TPI has expertise which the customer does not have in-house, such as data preparation and getting quotes suited to their needs. For example, group SME, multi-site user groups and public sector groups might utilise TPIs as part of their tender process.

Ofgem’s consultation paper states that there is concern about the practices of some marketing agents. Acquiring customers through poor sales or even having products mis-sold, leaves us with unsatisfied customers and does not encourage loyalty. We therefore have a dedicated business channel to work with brokers and monitor their performance, to raise standards, investigate complaints and, where appropriate, cease working with the offending marketing agents.

We are fully supportive of the initiative, which came out of the recent DTI/energywatch energy purchasing seminar, of providing a standard for reputable TPIs to sign up to through a common code of practice.

Focussing on Customer Service

Innovation and good customer service are fundamental to our B2B business strategy, which is driven at senior management level, as would be expected in a competitive market.

We have structured our business, separating consumer and B2B, to enable us to tailor products and customer service to specific business sectors, whilst also facilitating knowledge transfer between business streams.

Our approach is informed by various business customer surveys including focus groups with SME consumers and we are developing even more extensive surveys across our B2B consumers.

In addition, we initiate discussions with trade bodies to discuss specific issues and understand what business customers value.

We subscribe to Datamonitor, who carry out comprehensive surveys. We have asked to have the data split by our definition of customer segments so that we can take most value from the survey by analysing the results in a way which will inform our service and product development.

The information we have leads us to conclude that customer satisfaction for business customers is improving across the industry and business customers are engaging more proactively with suppliers.

It is apparent that some business customers and trade bodies are not clear on the role of energy suppliers, often confusing the service they receive from suppliers to the quality of service from distributors. Furthermore, there is a lack of understanding of the technicalities of the industry.

We consider that it would be helpful to business customers if, as part of their dedicated Business Services, energywatch provided a clear description of how the industry works. We would be willing to assist in composing an information leaflet, which could be distributed to trade association members via their usual communication channels.

Increases in Price

Ofgem's consultation describes concerns from some consumers that the scale of retail price rises may reflect inadequate supply competition.

The wholesale cost of gas and electricity has increased significantly, driving increases in retail prices.

Suppliers have energy purchasing strategies based on managing risk.

The cost increases are fully reflected in prices to larger business customers subject to variation for load shape, since energy for these customers is bought off the forward curve.

In contrast, price rises to domestic consumers have been less than the rise in the forward curve, as purchases are typically hedged over a few years and so average costs are below the forward curve.

Some of the energy for SME consumers will be bought using such a hedging policy, but some will be bought off the forward curve. Prices for SME consumers have typically increased faster than in the domestic market, but less than for larger business customers. However, price increases seen by each customer will depend on their individual changes in contracting strategies and positions. For example, business customers coming to the end of a fixed price fixed term contract may see a larger than expected increase at that point, which is simply because they have been protected from price rises for the term of their contract.

Responding to Customers' Specific Needs

Ofgem's consultation states that there are concerns regarding inadequate market response to specific customer needs, especially as regards billing and the provision of energy consumption data.

E.ON Energy offers market leading energy management services:

- The basic service consists of access online for half-hourly metered electricity and daily metered gas customers as an integral part of their supply contract and provides online access to detailed information about energy usage.
- This can be enhanced by accessing analysts support, having our experienced energy analysts work with the customer to enable them to make more informed decisions about the way energy is managed in their business, or providing specialist energy management services including support in developing investment cases.

- We also provide consumption information for non-half-hourly customers and will be introducing this service for non daily metered gas in 2006. This service is typically purchased by multi-site customers.
- We have installed half-hourly capable meters on customers' request, where the initial business requirement was for improved billing accuracy and then the customers moved on to using the information for energy and cost management.

All of this demonstrates significant market response to the specific needs of business customers.

Market Structure and Barriers to Entry

Professor Littlechild's report referenced in the consultation paper makes recommendations directed at enabling smaller suppliers to better compete against larger companies in the domestic electricity supply market. The key recommendations are being addressed by current work streams, see table in the attached appendix.

New entry by smaller suppliers is not a definitive measure of the level of competition. The entry of a few larger players, such as Gaz de France and Elf, is likely to have more impact.

The OFT, in their decision on the acquisition of Economy Power Limited by E.ON UK plc given on 9th June 2005, noted the "absence of concerns" regarding barriers to entry, leading to their view that it was "not necessary to conclude definitively on the issue of barriers to entry".

Addressing Concerns

The concerns expressed in the consultation paper and the key concerns and recommendations in both the reports referenced are being addressed by the initiatives listed and the Supply Licence Review, see tables in the attached appendix. In addition, the recent DTI/energywatch energy purchasing seminar, where the output will inform energywatch's 2006-07 Work Plan, is a good example of initiatives that can be used to drive improvements.

The attached appendix also considers the concerns expressed in the energywatch and FSB "Make the connection campaign" press releases and briefing paper.

A competitive market works when consumers are able to make well-informed choices between competing alternatives. What may be missing in the non-domestic energy supply market is consumer understanding of what they need to make an informed choice, whether their needs would be best served by using TPIs or by contacting suppliers direct to seek the products most suited to their business. Clearly we will promote best practice ourselves, but it must be the role of consumer and trade bodies to increase the general level of consumer awareness.

Conclusion

To conclude, we do not consider that there is sufficient justification for Ofgem to conduct a review of the non-domestic gas and electricity supply markets.

There is, however, a lack of independent, accurate and appropriate information available for SME consumers. Energywatch and trade bodies should work to remedy this and encourage consumers to engage with the market and seek out best practice.

Yours sincerely

Dr. Pauline Lawson
Regulatory Affairs Manager

Professor Stephen Littlechild - Smaller Suppliers in the UK Domestic Electricity Market: Experience Concerns and Policy Recommendations, 29 June 2005

Recommendation	Initiative / Work stream / Comment
The industry should work to reduce the complexity of the present entry qualification process	Ofgem consultation paragraph 9 – “the industry is working to streamline supply market entry processes”
Network operators should implement provisions for unsecured credit that are no less onerous than Ofgem’s proposals presently envisage	Ofgem’s “Best Practice Guidelines for Gas and Electric Network Operator Credit Cover”, February 2005
To alleviate problems with data quality, market participants should continue to work on the customer transfer programme	We are actively working on the customer transfer programme and implementing solutions for February. MPAS online (ECOES) is due to be implemented in 2006.
Steps should be taken to facilitate more competition in metering services	Ofgem’s investigation into competition in metering services
Metering service providers that have a dominant position in any regional area should continue to offer terms to all suppliers in that area, and should not exploit their dominance to promote their own company at the expense of other suppliers	Currently, under Distribution Licence Condition 36B, DNOs must offer terms for the provision of a meter. DNOs have obligations for provision of a meter asset and for meter operator services within their distribution services area. Distribution Licence Condition 39 - Business Separation.
Ofgem should consider how best to improve the purchasing and liquidity situation faced by smaller suppliers, and consider the need for action in the wholesale market	Whilst we support measures to enhance market liquidity, the Oxera report – Energy market competition in the EU and G7: preliminary 2004 rankings, states that “The UK’s wholesale market for electricity has developed a high degree of liquidity” and the gas wholesale market in the UK “has a high degree of liquidity”. Ofgem have called for the European Commission to investigate the European wholesale gas market

Ofgem should consider a modification proposal to revise the calculation of the reverse direction cash out price so as to reduce or remove the spread between System buy Price and System Sell Price in each half hour	The current cash out regime has not been shown to be sufficiently defective to warrant a change.
Ofgem's Supply Licence Review should consider removing Standard Licence Condition 43	Supply Licence Review ongoing
Ofgem's Supply Licence Review should consider removing Standard Licence Condition 46	Supply Licence Review ongoing
Ofgem should explore the possibility of a regular Forum for exchanging views	Ofgem's consultation process

Cornwall Consulting – Business Energy Markets 2004, November 2004

Recommendation	Initiative / Work stream / Comment
Energywatch should establish a readily accessible information service	Energywatch are collecting information via questionnaires to suppliers
Energywatch should encourage suppliers to include basic contract information on each bill	Part of the “Make the connection campaign”
Energywatch should work with Ofgem, DTI, suppliers and customers to agree quantifiable measures of the level of competition in business energy markets	This is not straight-forward, see NERA: Observations on the multiple Dimensions of Market Power in Antitrust Insights, Fall 2005, and the OFT and Competition Commission guides on their websites. The DTI currently commission reports on energy market competition in the EU and the G7.
Energywatch should investigate further default and out of contract pricing policies	Energywatch are collecting information via questionnaires to suppliers
Energywatch should oppose any regulatory changes which might serve to inhibit customer switching	Customers' ability to switch is determined by their choice of product. Regulatory changes should not impact on Contract Law which governs business to business relationships.

Energywatch should press the DTI to provide an up-to-date assessment of its performance against target 4 of its Public Service Agreement. If this assessment finds that the UK no longer ranks in the Top 3 of the most competitive energy markets in the EU and the G7, energywatch should seek immediate actions from the DTI	The Oxera report – Energy market competition in the EU and G7: preliminary 2004 rankings, finds the UK electricity and gas markets to rank as the most competitive in the EU and the G7
Energywatch should seek appropriate changes to rules which will improve customer confidence in wholesale energy markets	Lobbying role
Energywatch should consider sponsoring the establishment of a non-price comparison of the service provided by energy suppliers	Information provision role
Energywatch should investigate further, and confirm the issues experienced by multi-site customers that are restricting their access to the competitive market	Consumer champion role. We are not aware of any restrictions on access to the competitive market.
Energywatch should work to encourage demand-side participation through the active promotion and development of current initiatives	Lobbying, information provision and consumer champion role
Energywatch should ensure that its customer advice service recognises the business market as distinct from the household sector	Agree. Energywatch launched their dedicated Business Services Team in May 2004.
Energywatch should monitor industry codes and agreements, and table improvements with regard for consumer benefit	Lobbying and Consumer champion role
Energywatch should encourage wherever possible the simplification of market entry standards and procedures with particular focus on appropriateness for those intending to service businesses	Lobbying role
Energywatch should actively engage with business consumers and represent their views on the wholesale gas market to key bodies	Lobbying and consumer champion role

Energywatch should investigate whether it should sponsor a voluntary code of practice for energy brokers	One of the initiatives, which came out of the recent DTI/energywatch energy purchasing seminar.
Energywatch should seek legal advice on the financial services implications of independent brokers advising end users to commit to financial products as part of their energy procurement	Agree

Energywatch and FSB – Make the Connection Campaign

Recommendation	Initiative/Comment
Fair and clear energy contracts, and terms and conditions of contracts to be made clear at the point of sale	<p>E.ON offer fair and clear energy contracts, and terms and conditions of contracts are transparent at the point of sale. We believe we offer best practice in our contract renewals process and have sought the views of our SME consumers on our process. We use such survey results to drive improvement. The majority of our customers find this process appropriate, clear, and easy to understand.</p> <p>At the point of sale and time of renewal, customers are informed of prices and have the opportunity to negotiate within our product offerings, or may choose to move onto our evergreen product and leave us at anytime.</p>

Better standards of customer service	Comparing the complaints data published in the Cornwall Consulting report for the period November 2003 to May 2004 with that we have from energywatch for the same period a year later, the number of complaints has fallen by more than a third. Furthermore, with the launch of the energywatch Business Services Team, we would expect awareness of the role of energywatch and total contacts from business consumers to have increased, which suggest that service to business consumers is improving.
Accurate clear and timely energy bills	Accurate, clear and timely billing is in the interest of supply companies as well as customers. We recognise that this is the most common cause for complaint and have publicly acknowledged that we need to improve. We are well advanced in a programme to improve performance.

SME consumers to have the same protection as domestic consumers	<p>Though the “Make the connection” leaflet shows similarity between small businesses and domestic consumers, we strongly caution against seeking to apply domestic consumer protection to the SME market, for three principal reasons:</p> <ul style="list-style-type: none"> • there is no reason to single energy out amongst all the purchases made by business customers (whereas energy is, for instance, more vital to domestic customers than, say, telephony or transport); • business customers cannot practicably be segmented into quasi-domestic and those who want to be treated as business customers (for instance to negotiate prices); • all business customers are reasonably well informed, observant and circumspect (for their business to succeed); there is no ‘vulnerable’ segment
Cooling off period	We incorporate a 14 day cooling off period for SME customers
Published price comparisons	This would stifle innovation and restrict SME consumers’ ability to negotiate on their specific energy requirements. SME consumers can seek quotes from all energy suppliers, as with insurance products.
Switch by giving one month’s notice	SME customers can choose our evergreen product and switch at any time
Suppliers obliged to provide a quote and a supply	We would only refuse to supply a small business where they are a credit risk / bad debtor. Energy supply is no more critical to running a business than other supplies, where there is no obligation to offer terms e.g. insurance, wholesalers, security, and banking.

Selling code of practice	Our sales practices are ISO9001 accredited. The number of complaints on sales is just over a quarter of that for the same period in the previous year, which suggests that mis-selling is not a significant issue in the business market. Cornwall consulting came to the same conclusion in their report based on the higher figure.
Disconnection code of practice	Within the contract. Energywatch could promote best practice. The Electricity and Gas Acts provide for protection from disconnection where outstanding charges are in dispute.
Guidelines on the management of debt	Within the contract. Energywatch could promote best practice.
Billing code of practice	See above - Accurate, clear and timely energy bills