

Supply Licence Review Steering Group meeting 29 March 2006

Update on progress of working Groups

Vulnerable customers

The workgroup has not met since the last Steering Group. On 7 March Ofgem published a consultation on the implications for vulnerable customers of the supply licence review. The deadline for responses is 28 April.

Ofgem intends to hold 2 seminars with vulnerable customer groups that have not been directly involved in the working group to date. The next meeting of the workgroup will be held on 21 April. The purpose of this meeting is to give initial consideration to the Steering Group report and take stock of the messages coming out of the 2 seminars with vulnerable customer groups. A further meeting to consider the responses to the consultation and the final report to the Steering Group has been rescheduled from 8 May to 16 May.

Duty to supply

The workgroup met on 8 March.

The main business of the day was to review the obligations in the licence to provide customers with information and other assorted obligations. The information issues covered were:

SLC 15 - (Security and) Safety of Supplies. The obligations require customers to be provided with information to allow them to; contact NG to report concerns about safety in the gas market, and network operators about safety and security in the electricity market. In the gas market the focus is more directly on safety due to the immediacy and higher risk profile. The group considered that the substance of the obligations should be retained although there was some scope for redrafting.

SLC 21 – Publication of information to customers. It was the view of the group that the principle of SLC 21 to provide customers with Supply Number and MPRN information on bills and statement or annually where these are not sent, should be retained. Customers require access to these reference numbers to help identify their metering point. This will assist in problem resolution and in facilitating the change of supplier process. Obligations to provide the name and address of the gas transport should be replaced with an obligation on supplier to provide this information on request.

SLC 25 – Efficient use of Electricity / Gas. The group considered that the requirement to provide energy efficiency advice in line with an approved code of practice as set out in SLC 25 should be retained for domestic customers only and removed for non-domestic customers. The nature of this requirement should be considered for simplification and revision in line with the work of the Vulnerable Customer workgroup on codes of practice

SLC 30A – Fuel Mix disclosure. This condition is in effect in the electricity supply licence only and was inserted through regulations under the European Communities Act by the DTI in order for the UK to comply with the fuel mix disclosure provisions of IMED (Directive 2003/54/EC). The group considered that the substance of SLC 30A, setting out the requirements to inform customers of

the energy source of electricity and its environmental impact should be retained subject to any minor redrafting.

SLC 40 – Information given to domestic customers. This condition has two main components. The first relates to the provision to customers of consumption and meter read data. The group agreed that this required further discussion in light of developments on the billing code of practice, the alternative disputes resolution mechanism and the Energy Services Directive. The second part of the condition relates to the provision to customers of information about energywatch and the group agreed that this should be retained.

In addition several other standard licence conditions were reviewed at the meeting:

SLC 22 – Domestic premises. This condition sets out transitory arrangements following the Utilities Act that have now expired and can be removed. There are further arrangements for dealing with customers whose consumption use changes from when they initially entered in to contract which the group are minded to recommend for removal. Finally, there are arrangements for including domestic sites in multi-site non-domestic contracts and the group considers that this principle should be retained.

SLC 23 – Payments received in relation to Standards of Performance. The group agreed that the provisions set out in SLC 23 should be retained so that suppliers are required to pass on to customers any standards of performance payments received from distributors (or shippers in gas) in a reasonable timeframe.

SLC 49 – Assignment of Outstanding Charges. This SLC provides for a debt to be assigned to the new supplier if a domestic customer has failed to pay a final bill or a bill received following notification to the old supplier that the customer is intending to transfer. This condition therefore covers the assignment of debt where a supplier is not able to object to the customer's transfer due to the timing of the bill (not outstanding for more than 28 days). There was some support from suppliers for removing this condition although others wanted to first understand the outcome of the debate on debt objections.

SLC 50 – Modification of Provisions under Standard Conditions 46 and 49. This condition allows the Authority to designate that SLC 49 ceases to have effect and is therefore linked to the discussion above. It also allows the Authority to remove the right of the supplier to refuse to accept a termination notice from a domestic customer that had an outstanding bill for greater than 28 days. The group considered that the Authority's power should be removed in this respect.

The group again reviewed the duty to supply issues. Centrica and SSE did not consider that obligations to offer terms and provide supply if these were accepted should be framed in the licence. Ofgem are still waiting for the views of the DTI on their interpretation of the IMED and IMGD EU Directive requirements for a "wide choice of payments". There was broad agreement on the other Duty to Supply issues.

On contractual issues there was agreement on most parts of the draft report to the Steering Group. However, several issues require further consideration.

- Ofgem and energywatch were keen that; individual customers were provided with information following price rises, termination fees should not be applicable and customers should be able to switch without incurring the revised terms. Suppliers opposed customers being able to switch and avoid price rises noting the cost implications for operating customers on differing

tariffs and unpicking price changes where a customer switched after the change had been introduced. Suppliers also considered that they should be able to charge termination fees in this instance.

- There was an inconclusive debate over whether rolling contracts should be terminable on 28 days notice and whether they should be able attract termination fees.

ILEX has been commissioned by Ofgem to prepare a report on domestic debt objections. A workshop was held on 13 March with energywatch, Ofgem, ERA and suppliers. The purpose of the workshop was for ILEX to provide some initial feedback and get the views of the group on the evaluation criteria for debt objections and alternative arrangements.

The next meeting of the group is on 13 April and will consider a series of draft reports to the Steering Group.

Metering

The Metering workgroup had not met since the last Steering Group meeting and is due to meet again on 12 April.

A meeting has been arranged between HSE, ERA and Ofgem for 31 March.

Industry codes

The group met on 23 March

Ofgem presented their view that the issues raised by the workgroup required Ofgem to undertake a far wider consideration of the role that Ofgem plays with regards to compliance and industry codes. Ofgem therefore proposed to undertake a review on code enforcement across all licence groups. This project would be separate to the SLR timetable.

For the SLR, the group agreed to report back at the Steering Group whether they supported the proposals:

- To retain the current obligations, to be revisited once Ofgem had completed their wider review project.
- That the drafting of the obligations to become a party to and comply with codes should be condensed to a single licence condition.
- That Ofgem would work with the group to develop guidance on when Ofgem would consider taking licence enforcement action in respect of a breach of a Code.

Section B (inc SoLR) issues

The group met on 13 March.

The group discussed the draft report to the Steering Group on SoLR issues. There was broad agreement apart from on the information that the appointed SoLR should be expected to provide to the customer. Ofgem and energywatch contended that the letter from the SoLR (to be approved by the Authority) should inform customers of their rights to switch to an alternative supplier. This currently forms part of the guidance note. Some suppliers said that customers were

already aware of their ability to switch, that suppliers should not be required to encourage their customers to do so and that this would increase the costs of the SoLR if it increased the number of customers who subsequently transferred. EDF Energy have provided a paper for further discussion by the Steering Group on this issue.

The group also reviewed a number of other licence conditions in section B of the licence.

SLC 12A (electricity only) - Prohibition of Discrimination in Selling Electricity. This condition seeks to prevent a supplier from selling or offer to sell electricity to any one purchaser or person seeking to become a purchaser on terms as to price which are materially more or less favourable than those on which it sells or offers to sell electricity to comparable purchasers. The group considered that SLC 12A should be removed from the electricity supply licence. Concerns about discrimination in the selling of electricity should be tackled under Competition Act powers.

SLC 12B (electricity only) - Prohibition of Cross-Subsidies. Under this condition a supplier is required to procure that their supply business does not give any cross-subsidy to, or receive any cross-subsidy from, any other business of the licensee or an affiliate or related undertaking of the licensee. The group considered that this condition should be removed from the electricity supply licence. The impact of cross-subsidies should be considered under Competition Act powers. The Group further considers that equivalent prohibitions on cross-subsidies be considered from removal from the generation and distribution standard licence conditions.

SLC 13 – Change Co-ordination for the Utilities Act 2000. Should be removed from the electricity supply licence. The condition is no longer in operation as it contains a sunset date which has now passed.

SLC 14 - Security Arrangements. The group considered that under the electricity supply licence, SLC 14 should be revised to extend the requirement to comply with the Fuel Security Code within England and Wales to make it GB-wide. This is in line with the aspiration of the DTI who are currently amending the Fuel Security Code. The reference to separate arrangements in Scotland should be removed. In the gas supply licence suppliers are required to take certain arrangements in relation to pipeline security and safety. At the request of the group Ofgem has contacted National Grid to review the requirement for these obligations to be set out in the licence as opposed to, for example, the Network Code or Gas Safety Management Regulations.

SLC 16 – Exchange of Information between Licensee and Relevant Transporter or Shipper for Operation, Development or Maintenance of Pipe-Line System and Detection and Prevention of Theft. This condition sets a wide range of obligations on suppliers to provide information to shippers and GTs on consumption, meter inspections, connections and disconnections. Typically this is information that a GT may need to conduct its business. SLC 16 also allows the Authority to restrict the use by suppliers of the MRPN data supplied by GTs. At the request of the group Ofgem has contacted National Grid to review the requirement for these obligations to be set out in the licence as opposed to, for example, the Network Code.

SLC 19 - Provision of Information to the Authority. Under this condition suppliers are required to provide the Authority with information it may reasonably require or as may be necessary for the purpose of performing the functions conferred on it under the Gas and Electricity Acts and the Utilities Act. There is a specified exclusion which relates to information collected for the purpose of keeping the market under review as there are information collection powers elsewhere in the Gas and Electricity Acts. It is

the view of the group that the substance of SLC 19 should be retained but there is scope for some redrafting.

SLC 22A – Restriction or Revocation: Securing Continuity of Supply. There are different requirements on suppliers under the gas and electricity licences when they were seeking to have their licences restricted or revoked. In electricity there were requirements covering contract and deemed contract customers. In the gas market there were only provisions for deemed contracts. The group considered that both contract and deemed contract customers needed to be adequately protected in this area and that the electricity arrangements should be replicated in the gas licence.

SLC 30B (electricity only) – Assistance for areas with high distribution costs scheme: payment to system operator. This condition was inserted into the electricity supply licence by the DTI in April 2005 and seeks to facilitate the payment of charges by suppliers to the system operator in relation to providing assistance with the high costs of distributing electricity in specified areas. The condition is being further revised by the DTI. It is proposed that this condition, and any subsequent change introduced by the DTI, is retained subject to minor drafting amendments.

SLC 48A – (gas only) Transfer of Domestic Customers of a Supply Business. Not strictly a Section B issue but discussed by the group anyway. It was originally put in place in circumstances where suppliers had significantly different conditions in their individual licences and sought to prevent suppliers from seeking to avoid certain licence conditions by moving customers to other licence holders. Notably, BGT had conditions which related to price control arrangements. Now that supply price controls have been lifted it is not clear that customers would risk a reduction in protection from their transfer to another licence holder and the group recommended that this obligation be removed.

Next meeting of the group is scheduled for 10 April.

Section D issues

The first meeting of the workgroup was held on 2 March. Section D is only currently in effect in the licences of the ex-monopoly suppliers and in each case only for their ex-monopoly areas. It includes a requirement on gas and electricity suppliers with section active in their licences to provide Regulatory Accounts. For these electricity suppliers there are also obligations to provide top-up, standby and exempt supply services as well as PPMIP services.

The group agreed that the provisions relating to Regulatory Accounts should be removed subject to confirmation from the DTI that this would not impact the UK's compliance with EU Directives.

In relation to top-up, standby and exempt supply services, the group considered that there was not a need to oblige the ex-PES supplier to provide these functions but that, where needed, they would be offered on a commercial basis. Ofgem agreed to specifically ask for views on the impact on distributed generation in the SLR consultation document.

On PPMIPs Ofgem contended that this obligation should be moved to section B and amended so that it requires all suppliers, when contracting and providing PPMIP services to do so in a manner that does not distort, restrict or prevent competition. Some suppliers considered that there should be no obligations with regard to PPMIPs.

The next meeting of the group will be on 30 March.