

## **Supply Licence Review Steering Group meeting 26 April 2006**

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

#### **Vulnerable customers**

The Vulnerable Customers and Codes Workgroup held a further meeting on 21 April. The main purpose was to review the output of the seminars held for consumer groups on 31 March and 3 April, together with several related issues arising from Ofgem's consultation document on Implications for Vulnerable Customers. The seminars were designed to reach smaller consumer groups, who had not had the opportunity to participate in the Working Group. Ofgem said the seminars had been useful in highlighting certain issues. These included the need for new licence arrangements to be clear and to empower customers, given possible changes in arrangements for representation following DTI's consultation on consumer bodies. Other issues included the role of the Priority Service Register (PSR) and issues of eligibility for the register, and gas safety, including the Gas Safety Check. The Working Group noted these issues. There were a range of views, including the danger that innovation could be hindered by the adoption of too rigid an approach to regulation, potential differences between the functions of a PSR and specific services for vulnerable customers, and the possibility of doing some work on risk assessment in relation to gas safety. It was noted that the views of HSE, who were not present at the meeting, would be very important. Other topics discussed included the Disability Discrimination Act, calibration of PPMs, and the principles of Better Regulation. There was also a presentation on issues overlapping with other Working Groups. Consumer groups raised some concerns about proposed removal of the two year meter inspection obligation. They wanted more information in relation to self regulation through a billing code and ADR schemes. Ofgem explained that as the closing date for responses to the consultation document on Implications for vulnerable Customers was 28 April, priority would need to be given to considering views before producing the draft Steering Group report which considered at the Group's next meeting on 16 May.

#### **Duty to supply**

The workgroup met on 13 April.

The main business of the day was to review 4 draft reports to the Steering Group on the Duty to Supply Issues, Contracts, Deemed Contracts and Customer Information and Other Issues.

Two of the reports were formally agreed by the workgroup. These were the Duty to Supply Issues paper and the Deemed Contract paper.

On the Contracts paper the group is to give further consideration to the unilateral variation of contract terms (SLC 44(6)) and the role of termination notice and termination fees in SLC 46. These two issues are discussed in more detail below. The group is also awaiting the report on domestic debt objections from ILEX before determining the views of the group on these issues.

SLC 44(6) places obligations on suppliers when they unilaterally increase charges or alter terms to the material detriment of customers. Suppliers have expressed concern about the practical problems of notifying customers. They also consider that customers who transfer should still incur the price rise and be liable for

termination fees. Ofgem and energywatch have argued that suppliers should provide individual notification to customers who should not be charged a termination notice if they switch away having provided termination notice. They also consider that customer should, in certain circumstances, be also to transfer away without incurring the change in charges or terms.

The group debated the role of termination notice and termination fees in domestic supply contracts. For fixed term contracts there was a view that this was sufficiently covered by the common law and the UTCCRs. If this could not be fully relied upon then the licence could contain a test of reasonableness in these two areas. For rolling contracts the legal picture was much less certain. In recognition of this it was Ofgem's initial view that clarification was required in the licence that termination notice on rolling contracts should be reasonable and that termination fees should not be permitted. Some suppliers disagreed and considered that these areas should be considered outside of the licence.

For the Customer Information and Other Issues paper the group was broadly content with views set out in the report however, some suppliers has asked for some more time to provide comments prior to it being submitted to the Steering Group. On customer billing and SLC 40 Ofgem's current view was that provision of consumption data and, on request, the last meter to customers does not meet their requirements for billing purposes. ERA suppliers are making progress towards putting in place back billing arrangement, billing codes of practice and develop an ombudsman (the Alternative Dispute Resolution (ADR) scheme). These measures are seeking to set minimum standards for billing services and provide suppliers with an incentive to meet consumers' billing requirements. This is a good example of self regulation and, in following 'better regulation' principles, In light of this it was not thought necessary to include further billing arrangements in the licence at this stage. However, Ofgem will monitor suppliers' progress and will introduce licence conditions if suppliers do not deliver in these key areas.

The next meeting of the group is on 11 May. The aim of the meeting is for the workgroup to finalise its report to the Steering Group taking.

## **Metering**

The Metering workgroup met on 12 April.

An overview of the metering innovation debate and the Energy services Directive was presented to the group. Both these issues will have a bearing on the policy position that can be adopted with regards to the metering-related obligations.

The main discussion centred on the remaining metering related obligations (excluding SLC 17). A discussion paper outlining the way forward is to be produced for the next meeting on 8 May.

Representations were made by United Utilities (UU) for the retention of the two-yearly inspection obligations. As a DNO, UU was concerned that without the two-yearly inspection then under-recording of consumption may lead to revenue losses and a reduction in safety standards. UU's concerns will be considered in the next discussion paper.

## **Industry codes**

The group met on 5 April and discussed guidance previously published by Ofgem in a consultation document entitled 'Making markets work for consumers:

Ofgem's approach to securing compliance with supply licence obligations and consumer protection legislation' (July 2003).

Using this as a starting point, the group considered the nature of enforcement guidance and the forms that it might take. The group generally felt that they would like more detail than that provided in this document, although it was noted that enforcement guidance was unlikely to be prescriptive in nature. The group agreed to provide comments by e-mail on the subject of guidance to assist Ofgem putting together revised text for the next meeting.

The group also discussed proposed legal drafting for an amalgamated licence condition encompassing all the industry-code-related obligations. Particular consideration was given to whether any guidance published by Ofgem should be referred to in the licence condition and the extent to which this would give it a more formal status. Further consideration of the details of the proposed drafting will be given at the next meeting.

Ofgem also presented an update on its Industry Codes Compliance Review project, highlighting that Ofgem was currently scoping out this piece of work. This process was expected to take around 6 weeks.

### **Section B (inc SoLR) issues**

The group met on 10 April.

The group agreed the draft report to the Steering Group on SoLR issues. The group was unable to resolve its differences over the information that the appointed SoLR should be expected to provide to the customer. As such this difference of opinion was included in the report which now included an appendix setting out the views of the ERA suppliers and an appendix setting out the views of energywatch. Ofgem and energywatch consider 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. ERA 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. This issue was also discussed in detail at the last Steering Group meeting.

The group also reviewed a number of other licence conditions in section B of the licence. Good progress was made and there was broad agreement on the majority of issues. Ofgem was tasked to review the conclusions of the group on SLC 14 (Security and Emergency Arrangements) and 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).

Next meeting of the group is scheduled for 15 May although the group may be able to agree the final reports to the Steering Group by correspondence.

### **Section D issues**

The second meeting of the workgroup was held on 30 March. The group agreed that obligations on Regulatory Accounts (in both the gas and electricity licences) and Top-up, Standby and Exempt Supply Services (from the electricity licence) should be removed from the licence.

On PPMIPs there was a general view that the current obligations should be removed from Section D of the licence. In its place an obligation on all suppliers, when contracting and providing PPMIP services to do so in a manner that does not distort, restrict or prevent competition should be added to Section B.

Centrica and Powergen did not agree this position at the workgroup and were actioned to give further consideration on whether to put forward alternative arguments for inclusion in the report to the Steering Group.

The next meeting of the group is scheduled for 28 April. A decision on whether it is required will be taken once the views of Centrica and Powergen are known.