



Steve Smith
The Office of Gas and Electricity Markets
9 Millbank
London
SW1P 3GE

E.ON UK plc
Westwood Way
Westwood Business Park
Coventry
West Midlands
United Kingdom
CV4 8LG

www.eon-uk.com

Tuesday, 30th May 2007

Modifying the Arrangements for the Use of Objections in the Non-Domestic Market

Dear Steve,

Thank you for your letter of 17th April regarding the potential to modify the arrangements for the use of objections in the non-domestic market.

We understand the reasons for Ofgem's decision regarding the related British Gas appeal against the MRA Executive Committee (MEC) breach determination. From the publicity that this generated it appears that the decision may not have been widely understood. Our response to the original appeal set out many of the issues that have been highlighted including the potential impact upon customers and the market for the supply of electricity to business customers.

We consider the market to supply business customers with gas and electricity to be a mature market. This view was the driving force behind the recent review of the Supplier Licence.

The ability of a customer to enter into negotiations with multiple new Suppliers, including the existing Supplier via a re-contracting process, drives down prices via competitive pressures and raises overall service levels from Suppliers. Introducing a barrier to the existing Supplier to re-contract would not therefore be in the customer's best interests.

The nature of the competitive gas and electricity market differs from other commodity markets in that there can only ever be one Supplier to a customer. This unique situation has led to the development of the objection process which helps to facilitate the market.

E.ON UK plc
Registered in
England and Wales
No 2366970
Registered Office:
Westwood Way
Westwood Business Park
Coventry CV4 8LG

The contract objection functionality of the business market reduces risk for Suppliers. The removal or restriction of this right would affect the nature and range of contracts on offer and would increase prices for all business customers.

Business customers must be reasonably circumspect and therefore appreciate the ramifications of signing multiple energy supply contracts with differing companies during the procurement process.

In the scenario described in the British Gas appeal the reason for the objections was stated as being for contract. The contracts in question that were used as the justification for the objection were not the existing contracts but new contracts that were due to come into force at some point in the near future.

This could be considered inappropriate under the proposed rules shortly to be introduced into the Electricity Supply Licence and may explain why the practice is not seen in the gas market where similar Licence Conditions already exist.

Moving the rules regarding objections into the Electricity Supply Licence and away from an Industry Code should allow more flexible and robust investigations of alleged abuses to take place. The MRA works very well as a governance mechanism to determine industry processes and interactions. It was not designed and is not suitable to be used as a mechanism to determine whether contractual activities of parties are in the best interests of consumers.

The potential for incumbent suppliers to undermine the competitive market by the inappropriate use of the objection process necessitates its inclusion within the Supply Licence. This is the only robust mechanism to ensure an objective enforcement policy can exist that can apply appropriate and timely sanctions by a publically answerable body.

The wording currently proposed for the revised Electricity Supply Licence is, we believe, sufficient to ensure that inappropriate activity does not take place. The revision of these requirements to explicitly restrict objections for re-contracting is not necessary and could, if the wording was inappropriate, have unforeseen and unintentional ramifications on the working of the existing market.

Yours sincerely

Alex Travell
Retail Regulation
E.ON UK