

*(By e-mail)*

Philip Davies  
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7<sup>th</sup> September 2007

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Dear Philip

**Modifying the arrangements for the use of objections in the non-domestic market for gas and electricity supply**

ScottishPower welcome the opportunity to comment on the views of Ofgem regarding the use of objections and re-contracting in the non-domestic market. As requested we have detailed our comments in the specific areas of: Ofgem's current view that suppliers should not use the objection window to obtain and then rely on new rights to object. An objection may only be raised where the contract in place at the time the loss notification is received allows the supplier to so object; the proposed licence drafting; and whether or not the new licence conditions should apply to Deemed Contracts as well as other Contracts.

This response is non-confidential and ScottishPower are happy for this to be posted on your website.

**Ofgem's Current View**

As stated in previous responses on this subject ScottishPower had acknowledged that the MRA (now the Supply Licence) would benefit from clarification surrounding the rules of re-contracting within the objection window. We therefore welcome clarity being introduced, into both the Gas and Electricity Licences, to detail the circumstances in which a supplier can prevent a transfer and to ensure that the switching process is simple and predictable.

ScottishPower do not support the continued practise of re-contracting with customers within the objections window and we are of the view that to permit re-contracting within the objections period, would serve to weaken the robustness of the Change of Supply model. Therefore, we are pleased that Ofgem have recognised such concerns in their Open Letter. The principle that the objection window is not intended to be used for commercial negotiation to allow the outgoing Supplier to retain the customer is a sound

one, which ScottishPower fully support for the reasons outlined in our initial response to the Consultation (31<sup>st</sup> May 2007).

Furthermore, we fully support the proposal that suppliers 'can do nothing during the objection window to prevent a customer transfer, other than on the basis of contract provisions that apply at the time they receive the loss notification, or according to other rights set out in the Licence'.

### **Proposed Licence Drafting**

ScottishPower support the principle to amend SLC 14 of both the Gas and Electricity Licences. We believe it is sensible that the Licence amendments are not overly prescriptive, as, like Ofgem, we would not wish to affect innovation and commercial strategies. However, we feel the proposed draft wording is too vague and therefore more open to debate as to its meaning. As such, we would suggest it should be more precise and have attached some amendments in Appendix 1. We believe these changes are flexible enough not to be overly prescriptive, while providing the industry with appropriate clarity.

In addition, we believe the idea of supplementary guidance is essential to provide parties (particularly new market entrants) with actual examples and to avoid any differing interpretations of the rules.

### **Deemed Contracts**

We support Ofgem's position regarding Deemed Contracts. We firmly believe that where a customer is on a Deemed Contract a Supplier should not be afforded the opportunity to re-contract during the objection window and thereafter object to a change of supply by virtue of a right contained within the new contract.

### **Conclusion**

In conclusion, ScottishPower support the intention and principles of the Open Letter and welcome clarity being introduced into SLC 14 of the Supply Licences to prevent differing interpretation of the use of objections when contracting in the non-domestic market going forward. In this regard we hope you duly consider our proposed amendments to the drafting of the Licence Conditions. We believe these changes, in conjunction with supplementary guidance will result in a simple and predictable Change of Supply process, which is ultimately advantageous to competition.

If you wish to discuss the matter in more detail, please do not hesitate to contact me on the above telephone number.

Yours sincerely

Lorraine McGregor  
Energy Commercial  
ScottishPower

## Appendix 1: Proposed amendments to Ofgem's drafting to Electricity and Gas Supply Licence condition 14 dealing with Objections

### The Electricity version:

"(a) at the time the licensee receives Notice under the Master Registration Agreement that another Electricity Supplier ***has applied under the requirements of the Master Registration Agreement*** to supply the premises, the licensee's *existing* Contract with the customer for the supply of electricity to the premises includes a term which:

- (i) [as is]; and
- (ii) ***is enforceable against the customer at that time.***"

### The Gas version:

"(a) at the time the licensee receives Notice under the Network Code by way of the Relevant Gas Shipper that another Gas Supplier ***has applied under the requirements of the Network Code*** to supply the premises, the licensee's *existing* Contract with the customer for the supply of gas to the premises includes a term which:

- (i) [as is]; and
- (ii) ***is enforceable against the customer at that time.***"