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Dear Liz

Review of protection for vulnerable customers from disconnection – Response to consultation

Thank you for this report which is a realistic assessment of the difficulties that energy suppliers have when facing complex debt issues. We support Ofgem's view that further undertakings and learnings can enhance protection for customers at risk of disconnection. We welcome Ofgem's inclusion of a variety of examples of best practice.

We are fully committed to the ERA Safety Net and to an ongoing programme of assessment to ensure that we meet best practice.

The report seeks view on three potential licence changes:

1. A requirement to take all reasonable steps to identify the status of a customer and the occupants of a property before exercising a right to disconnect. We agree this is best practice; the issue is whether better regulation principles justify it being a licence condition.
2. Whether to consolidate licence conditions SLC27.10 and SLC27.11. We discuss this proposal before reconnection as these conditions would apply first in the debt management process. Our conclusion is that there are differences between customers which justify there being different licence conditions, but we would also like to take the opportunity to confirm that we have a similar understanding to Ofgem as to what are

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"all reasonable steps" in seeking to avoid disconnection.

3. A requirement to reconnect before the Winter. This proposal raises additional questions over the balance between the rights of all customers (who bear the costs of debt management and bad debt), the obligations on customers to help themselves and protection for those who are unable to. We do not believe that this balance can be struck in a single consultation.

Proposed SLC27.11(A)

Ofgem's report states that the current self regulatory processes are largely satisfactory and that suppliers can demonstrate a great deal of best practice, including how to identify vulnerability. The proposed licence change therefore neither adds to effective customer protection, nor materially to the regulatory burden on suppliers (there is some cost from having to document each decision as a precaution against subsequent review). We leave it for Ofgem to make the case for a further licence condition.

Consolidation of SLC27.10 and SLC27.11

E.ON does not knowingly disconnect vulnerable customers, applying the industry definition: "a customer is vulnerable if, for reasons of age, health, disability or severe financial insecurity, they are unable to safeguard their personal welfare or the personal welfare of other members of the household".

SLC27.10 and SLC27.11 therefore only provide additional protection where the account holder could in fact safeguard the household's welfare. For instance, if all a customer needs to do to have a PPM fitted is to be at home (to allow for safety checks over the connection) then most householders could ensure that any loss of supply is sufficiently short-lived not to put the household at risk. However, most is not all, and however easy the reconnection there would be a risk in winter in some situations, such as a pensioner coming out of hospital or not responding to a suppliers' follow-up process. We do not consider it appropriate for the protection offered by SLC27.10 to be reduced, by consolidation into SLC27.11.

However, delaying action could also disadvantage a household, by leading to up to six months additional debt building up, or other customers from the risk of debt write off. Where there is an adult of working age in the household (as there must be in SLC27.11), they could be present, if needed to fit a PPM. The industry safety net provides the necessary protection for cases, where there is some doubt over the household's ability to arrange to get back on supply.

If neither a PPM nor Fuel Direct is available, the requirement for "all reasonable steps" to be followed is very stringent. Although all households must expect to pay for what they use, suppliers must give fair consideration to householder's ability to budget, as well as provide help to reduce energy usage and to find an

appropriate level of debt repayment. Moreover, the steps required by SLC27.11 are less than that of the industry Safety Net, which will only allow a household with a vulnerable occupant to ever be disconnected in winter if there was virtual certainty that they were wilfully refusing to pay for their usage. To remove any risk of disconnection from such households would be unfair to all other customers.

We recommend that SLC27.10 and SLC27.11 are not consolidated.

Proposed SLC27.11 (B)

We do not agree with the assertion in Paragraph 3.32 that protection from disconnection in winter implies a reciprocal requirement to reconnect by winter. As discussed above, the rationale for restricting disconnection in winter is to protect customers from being off-supply for the time required to arrange to fit a PPM or to adjust to a more limited budget. In winter even a day or two without lighting or heating could be unacceptable.

Reconnection involves a quite different balance of risk, which is much more within the households' control. Customers who have been disconnected will have had sustained, detailed and tailored debt management activity including visits, letters and calls. Post disconnection we will have a full and complete programme of follow up aimed at encouraging the customer to engage with us so that we can reconnect the supply whilst also being confident that the customer will pay for their usage.

Moreover it is not possible to guarantee to reconnect a customer, as proposed in SLC27.11(B)(i). Our experience is that the courts will not give a warrant for reconnection. Nor is it reasonable that a customer can frustrate fitting a prepayment meter by refusing to be present (so that reconnection has to be to a credit meter).

Further consideration is required of what might constitute "all reasonable steps" to reconnect a household, if required by a modified SLC27.11(B)(ii). The core principle must be that the customer is willing to pay for their usage.

If a prepayment meter can be fitted the required steps are therefore simple. The supplier must offer a reasonable appointment (potentially with an advance payment to cover the costs if there have been previous broken appointments). The supplier must offer advice to help the household reduce their usage and must not seek debt repayment beyond the households' ability to pay.

If Fuel Direct is available, the required step is also simple (and should be much easier by October 2010) – the supplier must use it, with the costs of reconnection rolled in to the outstanding debt and recovered at the standard rate of £3.25/week.

We also believe the required steps are fairly simple if the means of payment is by regular cash. The supplier must make the running in seeking to find a payment level the customer can stick to, and help the customer to stick to it. Ultimately however the customer has responsibility: a supplier is not obliged to provide a supply which there is no likelihood of being paid for. Note, a supplier will have made several attempts at agreeing a payment plan before coming to this conclusion, and will always reconnect a customer not previously identified as vulnerable.

The consequences of guaranteeing a supply in winter without requiring reasonable expectation of payment are far reaching. Customers who do pay would be subsidising other customers, potentially indefinitely.

Our own view is that no change is required, but if Ofgem are minded to propose a new licence condition there should be a more extensive debate. There is time for this, and to gather evidence, as no proposal would take effect until October 2010.

Please do not hesitate to contact me on 02476 181 358 if you would like to discuss these issues in more depth.

Yours sincerely

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