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31 January 2011

Dear Ljuban,

Classification of premises for the purposes of the standard conditions of the gas supply licence

Thank you for your open letter dated 14 December, in which you seek comments on whether it is necessary to (a) amend the definition of "Domestic Customer" and or "Domestic Premises" within the standard conditions of the gas supply licence; and (b) amend some of the conditions within Part B of those conditions, which apply to suppliers supplying gas to domestic customers.

We agree that the Standard Conditions of the Gas Supply Licence currently envisage that a Domestic Customer (and in turn a supply to domestic premises) will be a supply to an individual within a domestic premises, and that there will be a direct contractual relationship between the energy supplier and that individual.

We also note (and continue to agree with) Ofgem's guidance issued in 2002, which advised that the definition of domestic customer was not intended to extend regulatory protections appropriate for domestic customers to Industrial and Commercial (I&C) customers, whether or not such customers are in business to provide residential or accommodation services. Consequently, where gas and electricity is supplied in connection with services on a commercial basis (including residential or accommodation services), I&C contract terms will continue to apply.

We acknowledge that in certain specific circumstances, a not for profit legal entity acting on behalf of domestic consumers could itself be defined as a domestic customer. However, we believe that significant practical problems would arise; particularly in respect of the operation of the consumer protection measures set out in Section B of the Licence (we provide examples of these in the attachment).

As a minimum, these licence conditions would need to be reviewed and amended in order to make the proposed change workable. However, we would ask whether there is a case for doing this, given the relatively small number of legal entities involved compared with the number of "normal" domestic customers. Indeed, it would be useful for Ofgem to test the degree of change required to extend protections to these entities in the light of its 'better regulation' duties, including that of proportionality.

Should you wish to discuss any of the issues raised in our response or have any queries please contact my colleague Paul Delamare on 929 7752 2187, or myself.

Yours sincerely,

A handwritten signature in black ink, appearing to read "D. Linford".

Denis Linford
Corporate Policy and Regulation Director

Appendix

Detailed issues arising from the proposed change

SLC 22

Suppliers are required to enter into a domestic supply contract upon request by a domestic customer and send copies of the principal terms within a reasonable period of time. In cases where there is more than one dwelling within the premises, it is not clear whether the requirement would cover sending a copy to all individual dwellings or solely to the legal entity.

SLC 26

Suppliers are required to offer specific services to those customers who are of Pensionable Age, disabled or chronically sick; to establish and maintain a Priority Services Register listing all of the relevant domestic customers; and to send information relating to those customers to the Relevant Gas Transporter.

In cases where a legal entity is acting on behalf of a number of tenants via a single metering point, we foresee a number of difficulties in delivering this obligation. We would not have a direct relationship with the occupants of these dwellings and therefore would have little opportunity to identify and offer appropriate services. Accepting that the definition applies to legal entities would place an obligation on suppliers to identify whether any of the customers of the legal entity are vulnerable. We do not believe this is a workable scenario.

The obligation to provide relevant information to the Distributor is currently delivered using standard industry dataflows based on MPRN's. In cases where there is more than one dwelling supplied by one MPRN, we do not believe the current industry process could support sending multiple customer information attached to a single MPRN, and would create significant issues around identification of the correct customer should a hazardous situation arise (e.g. loss of supply).

SLC 27

Suppliers are required to offer a wide choice of payment methods; to take all reasonable steps to ascertain the Domestic Customers ability to pay when calculating instalments; and must not disconnect, in Winter, a Domestic Premises at which a person of Pensionable Age, disabled or chronically sick resides.

We are unclear how this obligation would apply to legal entities acting on behalf of a number of dwellings, and whether the requirement would extend to arranging individual payment methods and arrangements with each dwelling should they encounter difficulties in paying. We do not have a direct relationship with the customer of each dwelling, and would therefore experience difficulties in delivering our obligation to ascertain and take into account individual customers circumstances.

EDF Energy already provides the protection of the ERA Safety Net to this type of dwelling. For example, if the legal entity had failed to pay for charges and the case had progressed

through the debt path to the warrant stage for potential disconnection, we continue to send an agent to conduct a pre-disconnection visit. Once on site, and the agent had identified that it is a residential dwelling, we would treat the premises as domestic and not disconnect the meter.

SLC 29

Suppliers are required to provide a free gas safety check where the Domestic Customer meets the given criteria (lives with others, at least one of whom is under 5 years old; or is of Pensionable Age, disabled or chronically sick and either: lives alone; or lives with others who are all of Pensionable Age, disabled, chronically sick or under 18).

The above criterion does not apply if the customer occupies a premise in relation to which a landlord is responsible for arranging a gas safety check. We believe that the legal entity is acting as a landlord in these cases, and therefore the gas safety check obligation would not apply. However, if this is changed and they are to be considered a Domestic Customer, then suppliers would be responsible for providing this obligation.

We do not believe that this obligation is workable in cases where a legal entity is representing a number of dwellings. Firstly, suppliers would have difficulty in identifying the criteria of each individual dwelling as no direct relationship exists between the supplier and the resident. Secondly, we are not clear whether the obligation would apply to all dwellings if one of the residents meets the criteria, for example, if one of the dwellings contains a child under 5, would suppliers be required to perform a gas safety check on all dwellings within the premises?

Further, we are concerned that a change to the definition would place an undue obligation on suppliers to identify whether the organisation is profit making or non-profit making.

EDF Energy
January 2011