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Dear Ljuban

**Classification of premises for the purpose of the standard condition of the gas supply licence**

SSE welcomes the opportunity to provide comment on the above letter dated 14 December 2010.

We consider the current drafting of the licence condition to be sufficient and disagree with Ofgem's suggestion that a not-for-profit management company purchasing energy on behalf of its tenants should be classified as a domestic property and a domestic customer. We therefore do not consider it necessary to amend the relevant gas supply licence conditions.

As the customer is not being supplied directly with gas, only heat, they should not be considered as an energy customer. A facility is available to energy suppliers whereby they can be notified that the non-domestic supply is then used for purposes that could affect domestic customers residing at, for example, hospitals or care homes. Given the Government's focus on increasing community heating schemes we are keen to explore options with Ofgem in which we can provide appropriate consumer protection for customers in these situations.

Our overarching concern relates to the burden that would be placed on suppliers should Ofgem decide to consider this group of customers as domestic. It would be near impossible to ensure compliance with section B of the supply licence. As we have no direct relationship with the end user, we will be unable to determine whether the customer may be vulnerable, provide energy efficiency advice or services such as the priority services register. This will also have a negative impact on our ability to manage disconnections effectively in ensuring we do not mistakenly disconnect a vulnerable customer.

Altering the licence condition to include a not-profit-management company with one supply point within the definition of a domestic customer will require bespoke contracts for this

group of customers. This contract will need to include the requirement for a third party to notify the supplier of possible instances of vulnerability in order to ensure this customer is not disconnected and to ensure gas safety checks are carried on a yearly basis. This is effectively passing compliance with our supply licence to an unknown third party over whom we have no control. We consider this to be an unacceptable level of risk. Suppliers will also find it more difficult to negotiate contracts with these customers should the added burden of negotiating specific pricing structures due to the third party being required to carry out the aforementioned requirements.

Ofgem should refer to their guidance released on 9 April 2002 titled “Ofgem’s interpretation of the definition of the terms ‘domestic customer’ and ‘domestic premises’ as they appear in the gas and electricity supply licences”. Within this guidance Ofgem’s view is that *“the changes in the definition of ‘domestic customer’ and ‘domestic premises’ were not intended to extend regulatory protection appropriate for domestic customers to I&C customers, whether or not they are in business to provide residential or accommodation services. Ofgem believes that the provision of such services should not be regarded as a ‘domestic purpose’. Consequently, where gas and electricity is supplied in connection with services on a commercial basis (including residential or accommodation services), Ofgem expects that I&C contract terms will continue to apply”*. This guidance is in contradiction with the Ofgem proposals within the open letter.

Changing the licence condition will lead to communal areas being classified as a domestic customers. This situation would be unacceptable as we have no direct relationship with the end user. As many consumers will benefit from the supply it is impractical to oblige suppliers to offer services such as energy efficiency advice or the priority services register. Should Ofgem decide to amend section A of the supply licence to afford protections to such not-for-profit management companies then section B of the licence should take account of situations where the supplier has no direct relationship with the end user. Suppliers could use “reasonable endeavours” to ensure that the customers are afforded the same protection as customer who has a direct contractual relationship with the supplier.

For the reasons stated in this letter we believe it is unnecessary to change the definition of a domestic customer within the supply licence due to the impracticalities of being able to ensure compliance. Should Ofgem decide to amend the definition of a domestic customer Ofgem will need to take account of section B of the licence to ensure these conditions reflect situations where a supplier has no direct contractual relationship with the end user.

Please call me if you have any questions or would like to discuss this in any more detail.

Yours sincerely

A handwritten signature in black ink, appearing to read "S Findlay", written in a cursive style.

Steven Findlay

**Regulation**