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23 November 2011

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Dear Ljuban,

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

This is the British Gas response to the above consultation dated 12 October 2011.

As set out in our response to your open letter dated 14 December 2010, we strongly believe that suppliers should be permitted to enter into Non-Domestic Contracts with legal entities who purchase gas on behalf of a number of individual residents without a mark up, notwithstanding that the gas maybe taken wholly or mainly for domestic purposes.

We have relied on Ofgem's guidance (issued in 2002) in developing our approach to classification of customers. We consider that the current licensing regime and this guidance allows for such legal entities to be treated in this way. Furthermore, we believe the legal entity, despite purchasing gas without a mark-up, is still providing commercial services by purchasing gas on behalf of a number of individual residents. Charities, due to their purchasing and organisational structure, would also be considered to be Non-Domestic.

We therefore do not believe that Ofgem's minded to position would lead to premises being classified appropriately.

Implementation of Ofgem's minded-to position would also result in a number of further potential anomalies, caused by using mark up as the indicator of whether or not collective purchasing entities are acting for a commercial purpose. These include:

- collective purchasing entities acting for a commercial purpose (e.g. care homes or similar care providers) who choose to pass on the gas without a mark-up (recovering their costs and margin through other charges);

- non-commercial collective purchasing entities recovering basic administration costs from the end-users, which under Ofgem's proposals would incorrectly be treated as Non-Domestic Customers due to these charges being considered as being a mark-up

Neither of these scenarios result in the classification of the intermediary entity that Ofgem intends as outlined in the proposals. It is also illogical to make "mark up" the distinguishing factor in customer classification as it would lead to a fragmented and differentiated experience for the residents of otherwise identical arrangements simply due to the charging structure employed by the relevant intermediary.

"Not for profit" entities can still legitimately charge a mark up and make a margin without being considered to be operating for a commercial purpose. As such we consider that the distinction Ofgem are seeking to draw is arbitrary and will lead to increased confusion for customers and suppliers alike. Under Ofgem's proposal, affected customers would also no longer be able to benefit from materially better I&C contract terms which will be a significant disadvantage to them and is may result in both dissatisfaction and mistrust.

We therefore believe that no change is required to the existing licensing regime, which already adequately defines the classification and status of collective purchasing entities as Non-Domestic Customers. Based on this, our current approach to customer classification would allow us to treat multiple tenancy sites with single gas boilers serving a small number of Domestic Customers or a single meter point serving a large number of multiple tenancy sites with a single meter point serving a large number of Domestic Customers whose combined consumption is significantly above that of a traditional single domestic residence as Non-Domestic.

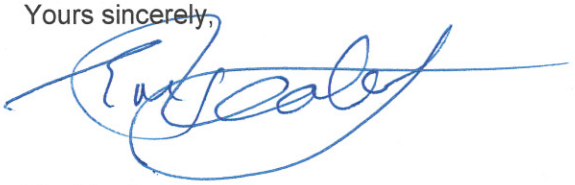
The impacts of not being permitted to do so would be significant. We have major concerns with suppliers being forced to enter into Domestic Contracts under SLC 22.2 (bespoke or otherwise) with large multiple tenancy sites when there is no direct relationship between the supplier and the end user. Given the specific demands of Section B of the Standard Condition, the SLCs rightly envisage that a Domestic Customer (and in turn a supply to Domestic Premises) will be a supply to an individual within Domestic Premises. It would be unduly onerous for suppliers to fulfil these obligations when the entity is representing many, perhaps many hundreds, of individual residents. The costs (e.g. resources, contract administration and systems changes) in attempting to do so would be prohibitive - and ultimately result in an increase in customer bills.

Suppliers have no relationship, or ability to interact, with the end users and have limited control over the actions of the intermediary. Despite this there is still a dependency on the full co-operation of the intermediary to comply with Section B of the SLCs. To a limited extent this can be addressed through the inclusion of specific provisions within the contract via a "bespoke domestic contract" envisaged by Ofgem. However, the existence of contractual terms does not guarantee that the intermediary will comply with those terms, which could put the supplier in breach of licence conditions.

To summarise, we agree with Ofgem's decision not to amend the existing definition of "Domestic Customer" and/or "Domestic Premises" within the standard conditions of the gas supply licence. However, we still believe that the existing licensing regime already adequately defines the classification and status of collective purchasing entities as Non-Domestic Customers. We urge Ofgem to reconsider its position on this.

Please feel free to contact me in relation to any element of our response.

Yours sincerely,



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