

24 February 2012

Philip Cooper  
Ofgem  
9 Millbank  
London  
SW1P 3GE

Dear Philip,

**Forward Work Programme 2012-13 (your reference 177/11)**

We are happy to respond to your consultation on your Forward Work Programme for 2012-13. This submission is entirely non-confidential and may be published on your website.

We consider that the four broad themes<sup>1</sup> of the workplan are reasonable, but suggest a range of additional areas where work could be progressed within these themes.

We would like to see Ofgem develop a methodological framework for assessing the distributional impact of major policy proposals on different types of consumers. This could be usefully broken down by income, region, and energy consumption. We feel that this would be a useful tool to help inform policy development. In particular, we think you should commit to carry out a distributional analysis of the impact of smart metering and demand response tariffs; paying special focus to understanding the impact on vulnerable and fuel poor customers.

We would like to see you conduct a study on the consequences and costs/benefits of applying social or environmental levies on a per unit rather than a per household basis.

The need to get fresh blood in to the supply market is pressing, and we would encourage you to identify ways to achieve this. You could usefully look at the credit requirements facing parties to identify if they are finding the right balance between mitigating risk and facilitating

---

<sup>1</sup> 1) Contributing to the achievement of a low carbon energy sector, 2) Helping to maintain the security of Britain's energy supplies, 3) Promoting quality and value for all consumers, 4) Ensuring the timely and efficient delivery of Government programmes for a sustainable energy sector.

open markets; we suspect the market is over-collateralised and that this is protecting market incumbents rather than protecting consumers<sup>2</sup>.

There is major uncertainty on the knock-on effect that Electricity Market Reform (EMR) will have on the market and we recognise that you will need to apply significant resources in this area. The Government's technical update on the EMR suggests that the assessment of generation need and of the terms of (large scale) Feed-in Tariffs with Contracts for Difference (CfD FITs) will both be informed at least in part by Ofgem. The materiality of both will be highly significant and we would therefore expect to see you consult and set out in some detail how these arrangements will work, and how you will ensure that they are transparent and accountable.

We welcome the increase in enforcement activity we have seen in recent months and would expect this to continue unless supplier behaviour dramatically improves. We regard enforcement as crucial to provide a credible deterrent to misbehaviour. We note that the Government is considering giving Ofgem the ability to require licensees to compensate consumers who have suffered loss as a result of non-compliance rather than simply fine them. This is a welcome step, but we encourage you to think creatively about whether there are steps you can take in this direction in advance of such legislation. For example, the Financial Services Authority considers the extent to which an investigated firm has made good a failing as a mitigating factor when setting the levels of fines in its sector – creating an implicit incentive on firms to provide direct compensation to customers without needing an explicit power to require them to do so. Something similar may be possible in energy.

At the time of writing the Retail Market Review remains ongoing, so we recognise that it is difficult to be prescriptive on follow-up steps. We would however expect to see you actively monitoring and reporting on the effectiveness of the remedies. In particular, we would expect to see you conducting rigorous analysis of the distributional effect of migrating the majority of consumers on to the new standardised tariffs in order to ensure that this is not used as cover for price rises, or otherwise to the detriment of consumers. We would also like to see you further develop your consumer research on the RMR, in particular to consider the impact of smart tariffs and demand response.

We welcome your recent announcement that you will publish weekly updates on the links between wholesale and retail prices. We note that industry continues to refute their accuracy and would encourage you to consider whether European transparency powers can be used to force the companies to disclose their actual costs in order to resolve this.

We think there would be value in our conducting a joint review on non-domestic debt and disconnection issues with you, as we are aware of consumer concerns in this area. We also consider that it would be worthwhile looking at barriers to non-domestic switching given the introduction of advanced meters.

The plan contains relatively little detail on the work Ofgem will be carrying out at an EU level. We would welcome clarity as to how Ofgem plan to represent the interests of customers at an EU level especially given the implications of the draft EU Energy Efficiency and Privacy Directives to GB energy customers.

---

<sup>2</sup> For example, ELEXON's Trading Operations Report typically shows ~£400m in excess credit cover lodged, while daily (aggregate) market indebtedness rarely exceeds the single digit £millions. Consumers pay to finance this collateral and its opportunity cost.

We would welcome a more proactive approach to monitoring the customer experience and compliance with regulation, especially given changes in the introduction of the RMR, Green Deal and smart metering which have the potential to radically change the energy retail market and customers experience of it.

In areas such as Green Deal, smart metering, energy services – we would like to see a clearer definition of Ofgem's role in relation to DECC and other regulators and step up engagement in the process. This includes around data access and control. More broadly, we think there would be value in carrying out an investigation into the customer experience of complaint handling and redress in the energy services market. Customers are increasingly likely to be offered bundled services that may straddle the remit of multiple regulators – we would like to be certain that this does not leave any gaps or grey areas should things go wrong.

We trust this is clear, but if you have any comments or questions please do not hesitate to get in contact.

Yours faithfully,

A handwritten signature in black ink that reads "Rich Hall". The signature is written in a cursive, slightly slanted style.

Richard Hall  
Head of Energy Regulation