

Via email

21<sup>st</sup> November 2011

Dear Mr Milicevic,

We welcome this further work by Ofgem, having raised it as an issue last year. This definitional question has vexed several blocks of flats we have been in contact with, originating with the White House development in London. We hope that their attempts for clarity from the regulator have now been satisfied.

We would firstly refer Ofgem to the Consumer Focus response to the consultation on this issue in 2010. In particular we do not understand why Ofgem is still not considering cases involving electricity supply as well as gas. In our experience the same definitional issues arise with electricity as for gas in residential blocks and similar properties, and Ofgem may be in danger of missing a chance to sort out both issues once and for all. Indeed in the blocks in question electricity is likely to be more prevalent than gas, both in individual flats and also for key communal facilities such as lighting and lifts. There are clear health and safety issues with disconnecting electricity supply on the latter that need to be resolved, and such examples are not uncommon.

We are encouraged by Ofgem's work in this area and hope that suppliers will respond positively to the new, clearer guidance. Specifically the examples given on page 4 of the document reflect perfectly the block of flats that prompted our interest in this area; thus it is good to see the White House described clearly as domestic, with all the attendant benefits that will bring the inhabitants of such blocks. The only remaining discretion for such properties will be in terms of bespoke conditions relating to the high volumes. We would however be concerned should such bespoke arrangements end up with pricing levels similar to that of non-domestic supply contracts, so some limitation should be established, and Ofgem should commit to monitoring this.

It is also worth reiterating here, regardless of Ofgem's more limited view, that the overriding principle behind domestic status is that of the end user (either in heat or fuel) rather than the purchaser of energy at meter point. This should be easy to establish should and has been our position throughout this debate; for example suppliers might ask to see evidence of whether the premises pays business rates or not, or the status of buildings held by the Land Registry or other official bodies. There should then be no doubt as to the status of the residents in said building and consequently of their right to a domestic supply contract. Guidance should therefore be produced alongside this document to make things clear to suppliers.

With regard to "heat" consumers (rather than gas per se), we believe that the question of heat regulation should be considered, because of cases such as this and the likely prevalence in the near future of widespread district heating arrangements. Whether or not Ofgem regulates heat is not as important as someone regulating it; as we have tried to

stress above, the artificial distinction between heat and the fuel source is a spurious one to the ultimate consumers and the end user principle must prevail. Ofgem guidance for managing agents in this area would be useful.

We agree with you that domestic consumers (as determined thanks to these guidelines) should not be allowed to be treated as non-domestic for any reason. Domestic status affords certain necessary protections and it will confuse or enable suppliers to obfuscate around this issue if such choice were permitted.

We look forward to discussing the answers to your specific questions when suppliers have responded.

Yours faithfully,

Andrew Hallett  
Policy Advocate