

Ljuban Milicevic
Regulatory and Energy Economist
Ofgem
9 Millbank
London
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23 November 2011

Dear Ljuban,

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

EDF Energy is one of the UK's largest energy companies. We provide 50% of the UK's low carbon generation. Our interests include nuclear, coal and gas-fired electricity generation, renewables, combined heat and power plants, and energy supply to end users. We have over five million electricity and gas customer accounts in the UK, including both residential and business users.

We welcome the opportunity to respond to this consultation and our detailed responses to the questions raised in Ofgem's paper are set out in the attachment to this letter. We are happy for this letter to be published but request that the attachment is treated confidential.

We continue to believe that the current provisions of the gas supply licence remain appropriate. Furthermore, we are concerned that the level of complexity, risk, regulatory uncertainty and cost in implementing this change would be disproportionate and inconsistent with the better regulation principles.

Significant practical problems would arise if this change was implemented particularly in respect of the operation of the consumer protection measures set out in Section B of the Licence and how suppliers could in effect ensure compliance with such measures.

It could be argued that any form of collective purchasing arrangement is entered into with the intention of obtaining some form of bulk buying discount for the tenants. Consequently, it is unclear whether all forms of collective buying arrangements would not be classed as anything other than for commercial purposes. This uncertainty around the interpretation of the proposals would increase the regulatory and commercial risks faced by suppliers. Although this uncertainty could ultimately be determined by the courts, suppliers would also face inherent regulatory risk in that process.

If the proposal is implemented it is unclear what the impact would be on existing customers that fall within the new classification but are currently supplied under a non-domestic contract. In particular, would Suppliers be expected to retrospectively apply the new classification to existing customers whose contracts are currently still live? This brings into question the rights of the supplier to terminate such contracts particularly without the consent of the customer. We believe that retrospection is entirely inappropriate for both suppliers and customers. If implemented this proposal should only take effect for relevant customers when the existing supply contract in relation to their premises ends.

It also appears that little or no consideration has been given as to what impact other legal requirements could have on suppliers being able to implement arrangements to comply with the licence requirements resulting from this change. For example, there may be data protection issues in relation to the information flows that would be required between the supplier, the individual tenants and the management company. Particularly, if the management company is the only party contracting with the supplier and the supplier has no direct relationship with the tenants.

Should you wish to discuss any of the issues raised in our response or have any queries please contact my colleague Steven Eyre on 01452 653741, or myself.

Yours sincerely,

A handwritten signature in blue ink that reads "Paul Delamare".

Paul Delamare
Head of Regulation