

February 15th, 2012

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Retail Markets  
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## **Retail Market Review: Non Domestic Consultation**

Dear Louise,

Please find First Utility's answers to the above consultation below.

### **Chapter One**

*Question 1: Are there other key issues that we should be looking into in the non domestic sector?*

We have no further issues to add beyond those already identified by Ofgem.

*Question 2: What would stakeholders like to see on our website to help business customers and support a competitive supply market?*

As per the research undertaken by Harris Interactive, the common concerns from small businesses surround the transparency and lack of information regarding their contract end date coupled with the resulting rising costs due to out-of-contract rates and roll overs. As information regarding this is already on Ofgem's website and is easy to find, we can offer no other significant suggestions at this time. However, we would suggest an explanation of terms used within the energy industry being made available to all consumers on the Ofgem website to better educate those not familiar with these.

### **Chapter Two**

*Question 3: Do stakeholders agree with our proposals to extend the scope of SLC 7A to include a wider small business definition, and do you agree with our proposed definition?*

The proposals to extend the scope of SLC 7A to include smaller businesses are appropriate as is the definition used for these. There is little difference between the two categories and we do not believe that the adoption of the new definition will be likely to lead to any significant increase in costs, particularly as many suppliers already treat all SME customers as if they were microbusinesses. However, we agree with Ofgem that businesses larger than those covered under the new definition should already be of a sufficient size to be able to deal with the energy purchasing aspect of their business and are unlikely to require enhanced protections of this nature. Indeed, at the larger end of the I&C market, some of these businesses are larger than the energy companies supplying them.

*Question 4: Do stakeholders foresee significant costs or complications if we were to introduce our proposals? If so, please provide details and cost estimates.*

We do not believe that this will lead to significant costs or complications as many suppliers already treat all SME customers as if they were microbusinesses.

*Question 5: Do stakeholders agree with our estimates on the number of extra businesses covered by our proposed definition?*

The estimates seem reasonable and we agree with Ofgem's conclusion that providing additional protections to smaller businesses will only result in a relatively small overall increase in businesses affected given that roughly ninety per cent of the meters in the non domestic electricity profile classes are already considered to be microbusiness.

*Question 6: Do stakeholders agree that we should review termination procedures and our current position that allows automatic rollovers?*

We would support the banning of automatic rollovers for those businesses covered by SLC 7A as we feel this will encourage competition in this sector. We also agree that concerns that customers may end up paying out of contract rates without being aware of it are particularly valid in relation to micro businesses and smaller businesses. We therefore feel it is appropriate that Ofgem review termination procedures for customers covered by the licence condition in order to reduce the likelihood that this will happen.

*Question 7: Are there other clauses that stakeholders believe we should be reviewing, in light of our expanded definition proposal?*

We have no suggestions at this time.

## **Chapter Three**

*Question 8: Do stakeholders agree with the conclusions we have drawn?*

The analysis provided appears to confirm that it may be appropriate for Ofgem to review termination procedures for customers covered by SLC 7A as mentioned in our answer to Question 6.

*Question 9: Do stakeholders agree that we do not need to make changes to SLC 14 governing objections to supply transfer for non-domestic suppliers?*

SLC 14 as it stands would seem to be sufficient to achieve the required outcome. However, we agree that it may be appropriate for Ofgem to monitor compliance with this licence condition more closely.

*Question 10: Do stakeholders believe that we should publish our data relating to supplier objections on a regular basis?*

We believe that regular publication of this information should provide a greater incentive to full compliance with the licence condition.

*Question 11: Are there other issues with the objections procedure, other than the obligations of the licence condition, which stakeholders consider need to be addressed?*

We do not believe so.

*Question 12: Do suppliers who have voluntarily sent data have views on whether the data we currently ask for on a monthly basis needs to change and why?*

Not applicable.

## **Chapter Four**

*Question 13: Do stakeholders agree that the introduction of a new supply licence condition focussed on sales activities is a suitable method to prevent harmful sales and marketing activities in the non-domestic sector?*

This would seem an appropriate solution to the issue as suppliers will be incentivised to ensure that Third Party Intermediaries acting on their behalf engage with customers in the manner expected by Ofgem. However, we still hold the view that there should be a requirement in the licence condition for suppliers to disclose to a customer the level of commission that the supplier pays to a TPI in the case that this is paid for by the customer as part of the price that they are quoted. This would help bring TPIs in the energy industry in line with good practice in other markets – including mortgage brokers and other financial product brokers who must disclose the size of the commission they are taking. Full transparency would identify where excessive commissions are taken and would help stimulate further competition between TPIs and suppliers, which would likely drive down commissions to the benefit of non-domestic consumers. We envisage that the requirement contained within the proposed Standard Licence Condition 7B will be backed off by means of a separate contract between the supplier and each TPI employed by it as the obligation sits with the supplier rather than the TPI itself.

*Question 14: Do stakeholders agree that this licence condition is necessary if Ofgem decides not to proceed with its Standards of Conduct proposal?*

Yes, if Ofgem does not proceed with its Standards of Conduct proposal then we feel that the proposed licence condition represents a minimum requirement.

*Question 15: Do stakeholders consider the introduction of an accreditation scheme for TPI Codes of Practice will reduce harmful TPI activities across the whole market?*

The creation of an Ofgem approved accreditation scheme should incentivise those TPIs willing to meet the requirements to sign up as it is likely that consumers will be more attracted to these than those who are not members. However, we feel that the existence of this accreditation scheme needs to be publicised as widely as possible for it to be fully effective.

*Question 16: What do stakeholders consider to be key criteria for an accreditation scheme for TPI Codes of Practice?*

We agree with Ofgem that any accredited codes should contain a requirement for signatories to have the proper policies in place to comply with that code and also a requirement for monitoring of this. It is also imperative that any accredited code should contain mechanisms for enforcement and

penalties to be applied should any signatory be proved not to be acting in accordance with that code.

*Question 17: Do stakeholders believe it is necessary for TPIs to disclose their actual fee, or would making clear the fact that the customer is paying a fee for their services be sufficient?*

We feel that the fee should be disclosed either as a figure or as a percentage of the overall charge where this fee is being paid by the customer as part of their quoted price. This will then enable non domestic customers to shop around and receive the best possible deal and will also encourage competition in the TPI market.

## **Chapter Five**

*Question 18: Do you feel the revised SOC's will help to achieve our objectives?*

Yes, we believe that this will go some way to address the lack of trust businesses have in their suppliers and promote engagement in a historically low switching sector.

*Question 19: Do you agree that the SOC's should be in a licence condition and enforceable?*

We agree that the Standards of Conduct should form part of the licence and be enforceable for them to be fully effective.

*Question 20: Do you agree the revised SOC's should apply to all interactions between suppliers and consumers?*

Yes.

*Question 21: Do you have information regarding potential costs this may impose on suppliers?*

We do not believe that any significant additional costs are likely to derive from the proposed Standards of Conduct becoming a licence requirement; we would expect that suppliers are attempting to behave in this manner already.

*Question 22: Do you think these proposals should apply to the whole non domestic market, or only a sub set of it, eg small businesses?*

These should apply to the whole non domestic market.

Please do not hesitate to contact me if you have any questions or would like any further information.

Best regards,

Chris Hill

Regulation Manager

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