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Louise van Rensburg

15th February 2012

Dear Louise,

Ref: The Retail Market Review: Non-domestic Proposals

Due: 15th February 2012

Gazprom Marketing & Trading Retail (GMT&R) trading as Gazprom Energy (GE) would like to thank you for the opportunity to respond to your consultation on the Non-domestic Proposals. We are happy for our comments to be shared with interested parties

Gazprom Energy operates in the UK Non Domestic market as a Gas Supplier and a Gas Shipper and in the Power market as a Supplier. We welcome the review of existing arrangements and note Ofgem's proactive engagement with the market to develop the proposals as well as its implementation of a quarterly meeting with market participants.

However we believe the Non-domestic sector is competitive and that our customers benefit directly from this liquidity in terms of the wide variety of products available to them.

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These products vary in complexity thus supporting customers in terms of the level of interaction with the market which they may wish to undertake.

We believe that there are three kinds of customer types: -

1. Domestic & Micro-business that contract direct with the Big 6 via a tariff
2. Micro-business and Small Business that contract via an energy broker
3. Large business that use a broker, agent or dedicated buyer

Customers are also able to access independent expert advice through the use of TPI's who in many cases act as the customer's agent in procuring products.

The competitive pricing of these products depends to an extent on a stable, transparent and predictable regulatory environment. This minimizes the risk premiums arising from regulatory intervention into the competitive markets. We therefore believe regulatory intervention in commercial undertakings should only occur where there is a clear and material case to answer.

Our specific responses to your questions are set out in the attached appendix. I think this information meets your requirements however if you have any queries please do not hesitate to contact me directly.

Yours Sincerely

Steve Mulinganie
Regulation & Compliance Manager



Appendix 1 – Ofgem Questions

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

None identified at present.

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

The current Website is difficult to navigate and interrogate and we welcome Ofgem's proposals to revamp the Website. Once updated it may be useful to publish the Objection Performance Data on the website (see question 10)

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?

Gazprom Energy believe it is important to distinguish between Domestic consumers for whom energy is of critical importance for heating and lighting and were loss of these services could expose consumers to significant personal risk to Non Domestic customers who are undertaking commercial activities and whose use of energy is for the purpose of running a business for profit. These customers are choosing to operate in a commercial environment for the purpose of commercial gain and in undertaking that activity should be capable of entering into and understanding the appropriate contractual undertakings.

We welcome the review of the scope of SLC 7A and believe this affords an opportunity to align the definition with existing industry standards which has the benefit of both extending the reach of the existing arrangements to all smaller consuming non domestic customers while also making the administration of the obligations more straightforward and cost effective for Suppliers. It also provides a simple test which relates to the sites Annual Consumption which is a standard industry data item easily understood by Suppliers and Consumers.

Gazprom would therefore prefer the alignment of SLC 7A **solely** with the existing industry volume standards.



We would note that such an alignment would need to take into account Group customers with large portfolio's which may contain smaller individual sites as we believe these Group customers are fully engaged in the market and do not require additional protection e.g. Local Authority buying groups, large multi site businesses.

It is important to also recognise that a limited number of customers which currently fall under the existing definition may no longer fall under the new test and would therefore propose that customers currently supplied under the existing definition would be allowed to continue to be treated accordingly until contract renewal.

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

Gazprom believes that alignment with existing industry standards would minimise costs and ensure the timely implementation of the proposals. Whereas alignment with the other proposals would require changes to systems and processes and would create significant additional costs and require an appropriate lead time for build and implementation.

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

We believe alignment with the existing industry thresholds would ensure businesses whose energy usage is relatively small, and who therefore may be less engaged in the market, would be appropriately protected

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

The highly competitive nature of the Non Domestic market means that Suppliers have to offer excellent customer service and competitive rates to ensure customer retention.



Customers who have switched to Gazprom Energy are by their very nature actively engaged in the market and are familiar with the commercial offering available to them. These customers are market savvy and do not need to be artificially prompted to seek the most competitive deal.

Automatic rollover allows customers who are comfortable with existing services from their Supplier to avoid the unnecessary time and expense of being artificially forced to seek alternate arrangements.

On this basis we **do not** see a compelling case for undertaking a further investigation

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

We believe that the existing timeframes around the renewal process could limit the Supplier from offering the consumer the most competitive deal. The requirement to provide Principal Terms in advance means that the Supplier must introduce a risk premium into any quoted price in order to hedge the risk associated with leaving the offer open until the date of renewal. If the expanded definition is adopted, this issue will have an impact on a broader group of potential consumers.

Question 8: Do stakeholders agree with the conclusions we have drawn in this chapter?

We believe it is important for Suppliers to be able to object in certain circumstances as the protection an industry objection process provides allows Suppliers to avoid having to price in transfer risk to all contracts. It also avoids the need for parties, in the first instance, to revert to the courts to ensure legal contracts are upheld.

We believe the existing protections within the licence remain appropriate and that if Ofgem have sufficient evidence of inappropriate behaviour by market participants they should take the appropriate action



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?

Yes. We believe the existing SLC14 and Ofgem's powers to investigate should be adequate.

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

Yes

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?

No

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?

We are comfortable with the monthly reporting framework

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?

We believe it is important to understand how the current TPI / Broker market currently operates to ensure any action addresses the issues raised and are proportionate and do not create perverse incentives. The current market is split into 2 distinct relationships:

1. Brokers acting as Agents for the Consumer
2. Brokers acting as Agents for the Supplier



Brokers acting as Agents for the Consumer

It is our experience that in the majority of cases the Broker is acting as an Agent of the Consumer and that any contact with the relevant Supplier only occurs towards the end of the selection process i.e. the Broker will search the market to meet the Consumers requirements and a Supplier will be selected which, in the opinion of the Agent and the Consumer, fits the Consumers requirements.

It is only at this late stage that the relevant Supplier will be contacted and start to interact with the Consumer. In these scenarios the Supplier does not have any control or unnecessary influence over the Broker. If the Supplier pays the Broker a commission it is again only at the end of the process and by making such a payment the relevant Supplier offsets some of the costs the Broker has incurred in providing the service to the Customer.

Brokers acting as Agents for the Supplier

When a Broker is acting as an Agent for the Supplier they will be operating under a contract and be subject to specific contractual obligations in respect of how they operate.

We believe it is important that Brokers are subject to an appropriate level of control and believe that the Brokers themselves have welcomed the TPI Association voluntary Codes of Practice which look to ensure consistent and fair behaviour when operating in the market. We note this is open to non members.

However we do not believe that a Licence obligation placed on Suppliers is a suitable mechanism for regulating Brokers and believes that this would likely mean that Brokers will default to acting as Agents for Consumers thus avoiding any oversight. Suppliers cannot dictate the terms a Customer may choose to freely enter into with a party acting as their Agent.

Gazprom Energy believes that the market should be afforded the opportunity to deliver effective self regulation, via the voluntary CoP, before any need for a Licence Condition is considered further.



Gazprom also believes Ofgem should seek the relevant powers to deal with Brokers directly as this would ensure a consistent approach irrelevant as to whether the Broker is acting as an Agent of the Consumer or the Supplier and provide appropriate sanctions perhaps related to breaches of the voluntary codes of practice.

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

No

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?

We believe that the Broker market has taken active steps towards self regulation and that these should be given a suitable opportunity to succeed before utilising Licence changes.

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

We would suggest dialogue is undertaken with the market in light of recent voluntary codes of practice being developed

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 believe the clarity that the customer is paying a fee for their services should be sufficient



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

Unlike the Domestic market which is dominated by the Big 6 Suppliers (who control in excess of 99% of the market) the non domestic market is far more competitive with Suppliers offering a wide range of products. Customers in this market are able to engage directly with Suppliers or utilise TPI's to assist with finding the right product for that customers needs.

We do not see the need for formally incorporating a high level set of principles into the licence. These sit better as a Suppliers normal Standards of Service. In the non domestic sector the failure to meet a customers' reasonable expectations will likely lead to material breach and thus enable termination of the contract.

In our market you don't stay in business if you don't as a matter of course provide what the customer wants

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

No

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

No

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

Depending on the scope of any implementation it would potentially involve changes to existing contracts and processes and procedures



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?

We do not support the introduction into any part of the non domestic sector

Question 23: Given your answers to the questions above, do we still need the licence changes proposed elsewhere in this document?

The only change we see as necessary is to align the definition to the industry standards