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Dear Paul,

Supporting effective switching for domestic customers with smart meters: further statutory consultation and notice.

Thank you for providing SSE with the opportunity to comment on the above statutory consultation. We welcome the ongoing engagement with Ofgem with regard to its proposals for commercial interoperability.

Prior to commenting on the proposals within the consultation documents, SSE along with the Information Commissioners Office (ICO) has identified a scenario whereby a consumer could access a previous consumer's consumption information. The potential for this exists under a Change of Tenancy (COT) scenario where neither the outgoing nor the incoming tenant advise the energy supplier, leaving the supplier unable to place a COT marker within the ADM system.

Furthermore, the supplier would be considered as the Data Controller for the data stored on the ADM, in accordance with the provisions of the Data Protection Act 1998 and consequently, if a new tenant accesses the previous tenant's consumption data, this would result in a breach of Data Protection.

We cannot currently provide a solution to this situation but are concerned that a failure on the tenant's part will leave us in breach of the DPA. We recognise that this is a particular challenge to the Foundation Stage and SSE aim continue work with the Smart Metering Implementation Programme, the ICO and our commercial partners to address this matter and would welcome the opportunity for further dialogue with Ofgem.

Setting the threshold for the service obligation

In our response to Ofgem's document issued in December 2011, SSE reiterated its opposition to the proposed threshold. We highlighted concerns in relation to suppliers not competing on an even playing field, which is at odds with the fundamentals of a competitive market. We also highlighted the potential risk if Government were to allow an exemption from the rollout for smaller suppliers exacerbating the problem relating to commercial interoperability,

however Government has decided against such exemptions¹. Ofgem's most recent open letter suggests that views from SSE have not been taken into account in producing final drafting of the licence condition.

SSE believes it to be unacceptable that Ofgem will oblige suppliers to offer ADM and Prepayment ADM services having only breaching either threshold (i.e. more than 25,000 ADMs or 5,000 Prepayment ADMs). The obligation to provide services to an incoming supplier should sit independently of one or the other in order to ensure that suppliers are only obliged to offer either ADM services or Prepayment ADM services depending on which threshold the supplier has breached. If Ofgem require that a supplier must offer Prepayment ADM services as a result of breaching the ADM threshold, this will significantly stifle innovation and development for prepayment smart metering solutions due to the added cost of providing such services.

We strongly recommend that licence condition 25B.9 is altered to reflect the concerns highlighted above in relation to breaching the thresholds for providing ADM or Prepayment ADM services. The current drafting of the licence condition only makes reference to, *"all of the services related to the functionality of the existing Advanced Domestic Meter"*. Our current interpretation of the licence condition would not oblige a supplier to offer Prepayment ADM functionality as the current definition of an ADM would not encompass this service.

SSE believes that Ofgem should provide clarity within licence condition 25B.9 to determine that suppliers are only obliged to offer services in relation to whichever threshold (i.e. Prepayment ADM or ADM) they breach under condition 25B.10, as we believe this is the intention of the licence condition.

We have provided further comment on the licence condition below.

SSE considers the licence condition does not reflect Ofgem's stated policy position. Ofgem state the following within the consultation paper²:

"We have therefore reworded the text to make it clear that the installing supplier is only required to provide advanced meter services where they have 250,000 domestic customers or more and have installed or arranged to have installed either 25,000 (or more) ADMs **or** 5,000 (or more) prepayment ADMs."

25B.10 The Installation Licensee is not required to comply with paragraph 9 where it-

- (a) supplies electricity to fewer than 250,000 Domestic Customers; or
- (b) has installed or arranged to have installed fewer than-
 - (i) 25,000 Advanced Domestic Meters; and
 - (ii) 5,000 Prepayment Advanced Domestic Meters.

SSE considers that both of these thresholds should be independent of each other in relation to compliance with paragraph nine. Our interpretation of the current licence drafting would require a supplier, who has installed over 25,000 ADMs, to offer the incoming supplier prepayment ADM services regardless of the number of prepayment ADMs number installed.

¹ Page 6, paragraph 4.6 - <http://www.decc.gov.uk/assets/decc/11/consultation/smart-metering-imp-prog/4938-smart-metering-imp-prog-update-apr2012.pdf>

² Page 2 -

http://www.ofgem.gov.uk/Markets/sm/metering/sm/Documents1/Con%20letter_%20Supporting%20switching%20for%20for%20early%20smart.pdf

As highlighted above, we do not believe that a supplier who has undertaken prepayment trials on a small basis should be required to provide Prepayment ADM services. Furthermore, in our response to Ofgem's December 2011 consultation, we expressed concern that this has the potential to significantly stifle innovation during the development of prepayment smart metering as the added cost of being obliged to provide this service would make it extremely difficult to justify undertaking small scale trials of Prepayment ADMs.

We recommend that Ofgem redraft the licence condition to state the following in order to reflect Ofgem's stated policy intent:

25B.10.1 The Installation Licensee is **only** required to comply with paragraph 9 in respect of Advanced Domestic Meters where it-

- (a) supplies electricity to **more** than 250,000 Domestic Customers; and
- (b) has installed or arranged to have installed **more** than 25,000 Advanced Domestic Meters ;

25B.10.2 the Installation Licensee is **only** required to comply with paragraph 9 in respect of Prepayment Advanced Domestic Meters where it

- (a) supplies electricity to **more** than 250,000 Domestic Customers; and
- (b) has installed or arranged to have installed **more** than 5,000 **Prepayment Advanced Domestic Meters**.

We also believe that licence condition 25B.9, should be redrafted to reflect the above, as follows:

25B.9 Where the Installation Licensee receives a request from a Proposed New Electricity Supplier, after 31st December 2012, the Installation Licensee must:

- (a) offer to provide the Proposed New Electricity Supplier with all such services as are reasonably required for the Proposed New Electricity Supplier to maintain all of the services related to the functionality of the existing Advanced Domestic Meter or **Prepayment Advanced Domestic Meter** at particular Domestic Premises (hereafter referred to as "the relevant services•"); and
- (b) if the offer referred to in sub-paragraph (a) is accepted, provide the Proposed New Electricity Supplier with the relevant services in accordance with that offer.

Implementation date for the service obligation

SSE is supportive of Ofgem providing suppliers with a longer timescale in which to comply with licence condition 25.9B. We highlighted issues associated with timescales given that no centrally coordinated industry programme was being undertaken to prepare for the implementation of these licence conditions.

However, SSE remains concerned that Ofgem has yet to provide suppliers with an indication of what it would consider as acceptable process under licence condition 25B. Does Ofgem expect suppliers to provide details of the relevant agent in order for the incoming supplier to come to an agreement with the communications provider? Or does Ofgem expect suppliers to provide the incoming supplier with specific information relating to the metering security keys and technical specification? Both of these solutions will not necessarily ensure that the



incoming supplier has enough information or technical ability to ensure the customer's ADM can remain in 'smart' mode. SSE would appreciate clarification from Ofgem in this area.

We also remain unclear as to how the gaining supplier is expected to determine whether the losing supplier is obliged by the proposed licence drafting under condition 25B.9. The gaining supplier will be unable to determine whether it has the right to request such services from the outgoing supplier as it will be unable to determine whether it has over 250,000 domestic customers or has breached either of the thresholds under condition 25B.10.

As a result of the above, SSE considers that licence conditions 25B.6, 25B.7 and 25B.8 should have the same derogation as licence condition 25B.9 as this could prove difficult to define or report upon, without prior guidance from Ofgem, in its current undefined state.

Conclusion

In conclusion, we strongly recommend that Ofgem takes on board the comments made above. As we have consistently stated, we do not consider the proposed licence drafting to reflect Ofgem's stated policy position. We do not believe the licence drafting in its current format is sufficiently clear enough in order to provide market participants with certainty in terms of what is required to secure compliance.

Please call me if you have any questions.

Yours sincerely

Steven Findlay

Regulation, Markets