
Consultation on The Retail Market Review: Updated non-domestic proposals by
Ofgem
Submission by GDF SUEZ Energy International

21 December 2012

(I) About GDF Suez Energy International

GDF Suez Energy International (formerly International Power) is a leading independent power generation company with active interests in closely linked businesses such as LNG terminals and water desalination.

GDF Suez Energy International (GSEI) has strong positions in all of its major regional markets (Latin America, North America, the Middle East, Turkey and Africa, UK-Europe, Asia and Australia). In total, it has 66 GW gross capacity in operation and committed projects for a further 22 GW gross new capacity.

In the UK-Europe region, GSEI has 13.2 GW capacity in operation and a further 1.3 GW under construction. This includes over 7.3 GW of plant in the UK market made up of a mixed portfolio of conventional plant – coal, gas, CHP, a small diesel plant, and the UK's foremost pumped-storage facility. Several of these assets are owned and operated in partnership with Mitsui & Co. Ltd. GSEI's assets represent just under 9% of the UK's installed capacity, making IPR the country's largest independent power producer.

The company also has a significant gas and electricity supply business in the UK. GDF SUEZ Energy UK is firmly established as a specialist energy supplier to industry and commerce across the UK and has been operating in this market since 1999. The company is currently the sixth biggest electricity supplier by volume to the business market and the fifth largest gas supplier by volume to the business market. We offer an innovative range of energy supply products to meet the requirements of all types of business, from smaller industrial and commercial companies, to energy-intensive industrial plants. We are constantly developing new products and adapting our services to meet the needs of business customers.

(II) Summary key points

General Comments

- **GDF SUEZ are concerned that increased regulatory intervention in the non-domestic market segment may have a detrimental effect on competition in this sector. Traditionally the non-domestic sector has exhibited a more diverse range of suppliers, and this has produced innovation in product development and a broader range of options for customers.**
- **There is a danger that over regulation in the business sector may prove to be a deterrent to market participation for new and existing participants. Some of the policies proposed in Ofgem's Review are domestic style obligations which are largely inappropriate for the larger business market and are disproportionately onerous for companies other than those that compete across all customer**

segments. It is important that Ofgem fully consider the risks associated with the competitive outlook for the sector that may arise as a result of further changes.

Extending SLC7A

- GDF SUEZ are not in principle opposed to additional protection measures for small business, particularly in relation to automatic contract rollovers, but we remain unconvinced that the criteria suggested to identify small businesses are appropriate. Any threshold must be easy for suppliers to identify and must be limited to existing industry data otherwise the system will be confusing and complex to administer. Although Ofgem have changed to more sensible volume thresholds, which align better with industry definitions it is disappointing that the customer turnover and staff numbers have been retained in this definition.

Objections

- Publication of objections rates by supplier would be an important move forward at this stage, however the existing licence conditions remain appropriate and we can see no reason to change these immediately.

Third Party Intermediaries (TPIs)

- GDF SUEZ would support progress towards an Ofgem accredited code of conduct for TPIs coupled with an obligation on suppliers to only deal with those companies who are accredited. In our view any attempt to legislate TPIs via the supplier licence is misplaced and would be counterproductive.

Standards of Conduct

- Suppliers to the larger business market should be allowed to develop their own standards of conduct which are appropriate to their sector. For small-businesses only it may be appropriate to apply the set standards of conduct as proposed by Ofgem.

(III) Answers to Consultation Questions

CHAPTER: One - General

Question 1: Do you agree with the proposed implementation timetable set out in this chapter? If not what factors do we need to take into account in setting this timetable?

1. It is important that there is sufficient time for suppliers to build in the required changes which relate to end dates (and notice dates) on bills to allow for the changes to billing systems to be implemented. We would normally expect a 6 month (rather than the 4 months proposed) lead time from the final licence conditions for change requests which affect systems. A 6 month lead time would also be in line with the industry standard for systems change requirements.
2. Similarly, expanding the definition of SLC 7A will mean an additional category to be added to contract capture systems and would require the same lead time. We agree that if the new small business customer is to be adopted this can only apply to new contracts, and not affect existing contracts in place.

3. The timetable for the development of TPI code of conduct should be steered as appropriate by Ofgem. The appropriateness or otherwise of a new supplier licence condition should be consulted on separately once this group has concluded its work.

CHAPTER: Two – Market Overview

Question 2: Do you have any comments on our success criteria and the outcomes we expect to see?

4. No comments at this time.

CHAPTER: Three – Protections for small businesses

Question 3: Do stakeholders agree with our proposal for a revised definition for the expansion of SLC7A?

5. GDF SUEZ are not, in principle, opposed to additional protection measures for small business but we remain unconvinced that all of the criteria suggested to identify small businesses are appropriate. We welcome the more realistic volume criteria but we are disappointed that the criteria relating to customer turnover and staff numbers has been retained. It is important to re-iterate that any threshold must be easy for suppliers to identify and limited to existing industry data otherwise the system will be confusing and complex to administer.
6. The current definition of micro-business customers is difficult for suppliers to capture in that there are three potential criteria by which consumers could be classified. Under Ofgem's proposals this complex method of categorisation will be retained when determining the thresholds for Small Business Customers (SBCs). Other than consumption, suppliers would not ordinarily record information relating to the other Micro-Business Customer (MBC) criteria of turnover and staff numbers were it not for the current licence requirement. Our preference remains for a distinction based on existing industry data only (e.g. energy consumption or meter type) and not one which relates also to turnover or staff numbers.
7. Additionally some consumers within the proposed criteria may be advised by TPIs and hence are acting in an informed manner with regard to their energy contracts. It does not seem appropriate to offer domestic style protections to business customers who are either advised or informed by energy professionals.
8. There may be drawbacks to extending the SLC7A measures, where customers are wrongly classified by the definitions. Companies may wish to contract for more sophisticated products with bespoke prices and by doing so they are exhibiting a conscious decision to engage with the market and hence are not behaving with a domestic mind-set. Ofgem's approach to arbitrarily allocate sets of consumers into a particular classification may result in a decreased range of choice for consumers who have been deemed to be Small Business. The choice of products and services available to them in the market may be constrained to a narrow range of uniform products whereas more sophisticated products may be more suitable for their requirements.
9. It is important that if the revised definition of small business customer is to be adopted that there should now be a period of stability and definitions should not be changed further without very good reason. Constantly changing the definition causes costs and disturbance as the new licence requirements are reflected in contract terms between suppliers and their customers.

Question 4: Do stakeholders foresee any significant costs or difficulties to our revised definition?

10. We will submit our best view on the costs of implementing the revised definition separately in response to the Ofgem Impact Assessment (IA).
11. Additionally it will be important to account for the additional costs resulting from associated changes to the scope of services such as the ombudsman and the potential extension of the back-billing restrictions.

Question 5: Do stakeholders agree with our proposal to mandate contract end dates on bills for consumers covered by SLC7A? Are there significant cost implications?

12. We do not have any objections subject to there being sufficient time for suppliers to implement the changes (see our answer to Q1).
13. We will submit our best view on the costs of implementing the revised definition separately in response to the Ofgem Impact assessment

Question 6: Do stakeholders agree the last termination date should be included alongside the contract end date on bills?

14. We do not have any objections subject to there being sufficient time for suppliers to implement the changes (see our answer to Q1).
15. We will submit our best view on the costs of implementing this separately in response to the Ofgem Impact assessment.

Question 7: Do stakeholders agree with our proposal to require suppliers to allow small business customers to give notice to terminate their contract (as from the end of the fixed term period) from the beginning of their contract? What are the implications of this proposal including cost implications?

16. We agree it is reasonable to allow customers to give notice of termination at any point prior to the last termination date subject to the fixed term period being honoured.
17. We will submit our best view on the costs of implementing this separately in response to the Ofgem Impact assessment.

Question 8: Do stakeholders consider that it would be to the benefit of customers to allow suppliers to terminate small business contracts, signed under the terms of SLC7A, in specific circumstances where a customer's energy usage significantly increased?

18. This proposal could offer benefits to customers in so far as they may be able to access a wider range of products designed for larger businesses in such circumstances. In practice this could be difficult and more costly for suppliers to monitor usage within a particular contract period particularly in the NHH electricity sector and NDM gas sector.

Question 9: Do stakeholders have views on the proposed amendments to SLC7A set out in appendix 4?

19. It is not entirely clear whether the extension of SLC7A and the associated change to smaller business customer will replace the Micro-business customer definition in all cases or whether the MBR definition should be retained? And if it is retained, for what purpose?

CHAPTER: Four - Objections

Question 10: Do stakeholders agree that the industry processes could be improved to alleviate current issues with the objections process?

20. No comments at this time.

Question 11: Do stakeholders agree that we do not need to make further changes to the licence conditions at this stage?

21. Yes, the existing licence conditions remain appropriate and we can see no reason to change these immediately.

Question 12: Do stakeholders agree that we should collect and potentially publish information from industry sources rather than from suppliers?

22. Yes, although it may be useful for Ofgem to continue to seek further detail from suppliers periodically.

CHAPTER: Five – Standards of conduct

Question 13: Do you agree with our proposed approach to tackle issues in the non-domestic market? If not which alternative proposals do you prefer?

23. It remains a concern to us that Ofgem see that a requirement to mandate domestic style protection measures in the non-domestic market. Competition in the non-domestic market is greater, customers are alerted to their contract end date and there is a more diverse range of suppliers present in the market.

24. Given this competitive backdrop it is surprising that minimum standards of conduct should be required as customers are more able to vote with their feet. This is particularly true in respect of the elements of customer service and “fair treatment” to which the standards of conduct relate; these are key competitive drivers by which suppliers differentiate themselves.

Question 14: Does the proposed approach to enforcement mitigate stakeholders concerns about regulatory uncertainty and risk?

25. The bespoke approach to enforcement of the Standards of Conduct as suggested by Ofgem should reflect the potential difficulties faced by smaller players and particularly those who are only present in the non-domestic sector relative to those companies in both sectors.

Question 15: Do you agree the proposed binding standards should cover small businesses only?

26. Yes.

Question 16: Do you agree with the assessment that the scope of the binding requirements should focus on the relevant activities of billing, contracting and transferring customers (and matters covered by related licence conditions)?

27. Further thought should be given to the potential confusion that may be caused by including the deemed charge rates under the SOC. SLC 21 already covers this area adequately by ensuring that deemed charges are not unduly onerous and any duplication could lead to confusion as the intent becomes less definitive if it is covered in more than one place.

Question 17: Do you have any information about potential costs and benefits of the roll-out of standards of conduct?

28. We will submit our view on the costs of implementing this separately in response to the Ofgem Impact assessment.

Question 18: Do stakeholders have views on the proposed New Standard Condition 7B set out in appendix 4?

29. No comment at this time.

CHAPTER: Five – Standards of conduct

Question 19: Do stakeholders agree with the proposal for Ofgem to develop options for a single Code of Practice for non-domestic TPIs?

30. Yes and it is important that the Code should differentiate between TPIs and the sales agents of suppliers. GDF SUEZ would be happy to help develop the proposals by participating in the Ofgem working group.

Question 20: Do stakeholders consider the Code should apply to all non-domestic TPIs (including those serving small businesses and large businesses)?

31. Yes and GDF SUEZ would be happy to help develop the proposals by participating in the Ofgem working group.

Question 21: What do stakeholders consider should be the status of the Code, the framework in which it should sit, and who should be responsible for monitoring and enforcing the Code?

32. It is important that the code is administered by an independent body that are familiar with running industry code secretariat services such that there is no potential for undue influence by any particular group or trade association. GDF SUEZ would not object to a "Supplier light" obligation which required the company to only deal with TPIs who are subscribe to the Code once it has been established and accredited by Ofgem. We would support an expanded role for Ofgem in respect of the oversight of TPIs which would extend to Ofgem applying codes of conduct and accreditation scheme.

Question 22: Would you like to register your interest in attending the TPI working group?

33. Yes. GDF SUEZ have already committed to providing an industry expert to contribute to the Ofgem working group.

Question 23: What issues should Ofgem consider in the wider review of the TPI market? What are the benefits and downsides to looking across both the domestic and non-domestic market?

34. These are issues for the Ofgem workgroup to consider.

End of response to questions.

For further information please contact:

Phil Broom
Policy and Regulation Advisor
GDF SUEZ Energy International
Senator House
85 Queen Victoria Street
London, EC4V 4DP
Telephone: 0113 306 2104 or 0207 320 8728
Email address: phil.broom@gdfsuez.com

Or

Dr Chris Anastasi
Head Government Affairs, Policy and Regulation
GDF SUEZ Energy International
Senator House
85 Victoria Street
London EC4V 4DP
Telephone: 0207 320 8995
Email address: chris.anastasi@gdfsuez.com