

# Ofgem consultation on non-domestic retail review proposals October 2012

## RWE npower's response

### Standard Licence Condition 7A: Protections for Small Businesses

#### **Summary**

- We endorse extending protections to small businesses.
- We do not believe that adding the contract end date and termination date/details to customer bills would provide any significant value and is too prescriptive.
- We agree that customers should be allowed to give termination notice at any point prior to the date by which notice must be received.
- Early clarification of the proposals is essential and sufficient time must be allowed to enable suppliers to make any necessary changes.
- We do not agree with an interpretation of SLC 7A.3 that does not permit moving customers onto HH metering when such a move is mandated by industry processes.

#### *A new small business definition*

We consider that extending the licence protections to cover small business consumers will both increase consumer confidence in the energy supply industry and improve the level of service to this segment. Therefore, we support such a move so long as sufficient time is allowed to make changes to our three business systems.

As intimated in the consultation document the scope of the Energy Ombudsman would need to be extended in order to avoid difficulties inherent in identifying two different groups of customers. We would support this either through a change in legislation or through a voluntary, industry-wide agreement.

Suppliers have relatively easy access to a customer's consumption but little else. For ease and simplicity therefore we advocate a definition based on consumption only, without the other qualifying legs of number of employees and turnover/annual balance sheet total. However, whether the definition covers some or all of the qualifying criteria, Ofgem should consider how it would apply in particular circumstances: for example, to single sites belonging to a much larger company, where the majority of that company's portfolio sits with another supplier. At present, a single site belonging to a very large company whose sites are supplied elsewhere could fall within the micro business definition. This doesn't seem to be appropriate. Similarly, if customers self-declare that they are not 'small businesses' this should be understood as satisfying 'all reasonable steps'? It would be helpful if Ofgem were to consider issues of this sort involved in categorising customers and produce a guidance note, which would promote both clarity and consistency across the industry.

#### **Related issues**

##### *Information on bills*

Whilst we have no objection in principle, we believe the remedy is disproportionate to the issue especially given the proposal to allow termination notice to be given at any time, before the relevant date.

There is already transparency of contract information; for example, our micro business customers at present receive (and in future small business customers would receive) that information in Statements of Renewal Terms at acquisition, prior to renewal and following renewal. All these give details of when the contract term ends and how and when it may be terminated; and interested customers may also of course pick up the phone at any point to ask for that information. The reason for them not absorbing the detail or not being proactive could well be identified in Ofgem's impact assessment, which points out that the large majority of the small businesses it surveyed (74 per cent) spend less than five per cent of their total costs on electricity. This shows that they may have more pressing matters to think about and therefore duplicating information on bills might have little effect.

In many cases customer bills are often forwarded to accounts payable departments for payment and not necessarily directed to the person responsible for the procurement and contracting of energy. For this reason the relevant persons within small businesses may still be unaware of contract end dates, even if they were to be displayed on customer bills.

Placing further information on bills risks overcomplicating them; in particular given the impending Green Deal requirements for information to be placed on electricity bills. It would be appropriate therefore to review content when the Green Deal has been launched.

Further, contracts can be extended or new contracts agreed during the term and this will be confusing for customers without the detail of the specific contract. Some customers also do not have contract end dates (for example, deemed and tariff); and so the delivery of the proposal is more complicated than at first it would seem.

Finally, as technology continues to evolve, more customers are using the internet as their primary source of reviewing many types of data. An alternative that suppliers could consider is to have contractual information displayed on the customer login page on the website; or to include information in a leaflet accompanying the bill. Prescribing contract information on bills stifles this type of development and therefore competitive difference.

We will cover the issue of costs in our response to the additional consultation information request.

#### *Contract notice from start of the contract*

Our terms and conditions have always permitted micro business customers (and indeed it is the same in all other contracts) to provide notice from the beginning of the contract to the Relevant Date. This appeared to us to be more straightforward and clearer for customers and we would therefore welcome the change being mandated across the industry.

#### *Increases in consumption*

Our own experience indicates that this happens more often than is assumed in the consultation. This may be because in our SME systems we treat all customers as micro business customers and as a result some of them may already be close to the threshold. The introduction of the new small business definition will exacerbate the issue and so it needs to be resolved.

As a principle, we believe it is unreasonable to expect the supplier (and therefore other customers) to pay for either the fines or costs associated with a change of measurement class to supply, given the customer's demand has driven the

requirement for the upgrade. Provided the terms and conditions contain the appropriate clauses and are clear we see no reason why costs could not be recovered under a micro business or small business contract whilst maintaining all the other relevant protections.

### **Customer Transfer Blocking: 'Objections'**

#### **Summary:**

- We welcome Ofgem's guidance in order to improve customer communications.
- Industry processes in some areas should be improved, but at present no change to the licence condition is necessary.
- We do not agree that data should be published but support in principle it being collected from parties other than suppliers.

#### *General*

In our experience the number of objections is largely the result of incorrect attempted gains rather than incorrect objections; in other words, objections are driven by suppliers attempting to take customers when they are still in contract.

In addition, we believe that there are cases of misuse of the 'T' marker in order to push through transfers.

Improved communications with customers may help with some issues, and in this respect we welcome the Ofgem guidance relating to correspondence and trust that Ofgem will ensure all suppliers adopt it.

However, it will not help with all and therefore we recommend that Ofgem engages with suppliers to better understand the transfer and objections process and data; and acts to make the process more efficient and equitable for all participants by reducing its misuse.

We are not in favour of publishing objections data. For the reason outlined above, as it may too easily be misunderstood; however, we are in favour of Ofgem collecting the data from industry third parties in order to monitor, provided there is a full understanding of its meaning, it is properly validated and action taken where there are seen to be anomalies.

There is no need to change the existing licence conditions at this point.

### **Standards of Conduct for non-domestic Consumers – SLC 7B**

#### **Summary:**

- npower supports the principle underpinning the proposed standards licence condition and of course we endorse the concept of treating customers fairly.
- We have some concerns about the approach to enforcement.
- We do not believe that it would be beneficial to apply the approach to cover all non-domestic consumers.
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- Please see our response to this issue in the domestic consultation which also applies to the non-domestic sector. We have the following further comments:

### *Extension of the Standards to all businesses*

Clearly the principle of fairness should apply across the board. However, large customers already have a sophisticated approach to standards – with agreement of bespoke service level agreements; and in most cases we are dealing with professional procurement executives who are well able to ensure that issues are dealt with robustly. Therefore, we do not believe that the licence conditions should cover all business customers. Ofgem itself notes that competition in energy supply is strong in this sector and that good customer service can be the basis of differentiating between companies and provide a source of competitive advantage.

### *Costs and implementation*

We will be responding on costs and benefits as part of the supplementary information request.

Ofgem recognises that it may take time to change cultures, but there is likely to be a need also to change processes. All this will take time and commitment. In spite of Ofgem's acknowledgement that suppliers will need to ramp up their work in this area, it is concerning that the relevant licence condition will be effective from day one. What reassurances can Ofgem give suppliers?

## **Third Party Intermediaries**

### **Summary:**

- We support the general proposition that TPIs should be regulated in an effort to increase quality and consumer confidence in that area.
- Our preference is for direct regulation by Ofgem under the Business Protection from Misleading Marketing Regulations
- There must be a single code of practice, applying to all TPIs, enforced by Ofgem.
- We would support a supply licence condition requiring suppliers to use only TPIs that have signed up to and adhere to the code of practice.

### *A single code of practice*

npower supports the implementation of a single code of practice for all non-domestic Third Party Intermediaries. The code should apply to all TPIs irrespective of who pays their commission. This is to avoid the possibility of TPIs evading regulation by obtaining their fees from the consumer rather than the supplier. In order to prevent TPIs from avoiding regulation a clear definition of what a TPI is should be provided by the regulator (so that a TPI cannot simply change its name / business type to remove itself from regulation). It would also help to clarify which fee paying structures would be caught by the provisions (that is, whether fees for other services such as bill validation, CRC) would be treated the same as fees for procurement of the contract.

### *Code status, monitoring and enforcement*

The arrangements should meet a number of principles:

- they should be independent of influence from suppliers and Third Party Intermediaries;

- they should be robust, transparent, provide adequate and proportionate enforcement proceedings; and
- balance the interests of customers, suppliers and Third Party Intermediaries.

The overarching requirement is that **all** suppliers should have a standard licence condition that requires them to use only Third Party Intermediaries that comply with a Code of Practice.

Ideally, Ofgem should be responsible for establishing, running and monitoring the code.

If that is not possible or feasible there are already models in the energy supply and other industries for alternative approaches; for example arrangements already exist under provisions in the supply licences for parties to operate schemes for the independent accreditation of metering agents and their contractors (such as, MAMCOP, Gas Safety Register, OAMI and MOCOPA). These schemes are inclusive, limit any individual's or group's influence in the governance or operations of the code yet provide suitable arrangements for enforcing compliance with codes of practice.

#### *Code development*

We wish to be involved in developing an industry solution to problems in this area and would like to register an interest in attending both the forthcoming TPI working group and round table events.

