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21st December 2012

Dear Andrew,

The Retail Market Review: Non-Domestic Proposals

1. British businesses continue to operate in tough economic conditions, exacerbated by the effect of rising energy prices. With both commodity and non-commodity costs forecast to rise in the coming years, it is increasingly important that the regulatory framework supports small businesses manage their energy costs.
2. British Gas has already taken important steps to support such businesses in this regard. We have already committed not to “backbill” customers beyond one year from 2014, reviewed all our customer correspondence, led the way on helping our customers access smart meters, and launched new innovative online tools to help businesses understand the energy industry and manage their usage¹.
3. There is more that can be done however, and we therefore welcome the updated Retail Market Review (RMR) proposals as an important opportunity to ensure the market works effectively for small businesses.
4. Whilst we agree with the intent behind the RMR proposals, it is important that Ofgem ensure that their proposals are appropriately targeted so as to avoid unnecessarily increasing the costs of regulation for supply to larger businesses. It is also vital that suppliers are allowed a reasonable time to implement the proposals. We have concerns that in a number of places the proposals in their current form do not meet these two requirements.
5. Our detailed views on each of the proposals are set out below. However, our key observations on the proposals are as follows:
 - Defining small businesses in terms of their consumption will inevitably mean some very large businesses are captured by the definition. Suppliers only have access to information about the energy usage of the sites they supply so, where large customers split their portfolio of (individually small) sites across a number of suppliers, a consumption based test may mean suppliers with only a share of the portfolio will classify that customer as “small” – when their overall position and, in particular, their attributes, suggests they are not. This will unnecessarily increase the costs of regulation for impacted suppliers, in a part of the market where margins are extremely tight. Ofgem should instead seek to adopt the EU definition of a small business, which is based on FTE and revenue. We are confident that this data is readily available from public sources.
 - The proposed Code of Practice for third party intermediaries must apply to all TPIs. We welcome the Ofgem proposal to introduce a single Code of Practice for all third

¹ We recently launched an online tool, allowing 70k customers to manage their energy usage online. We have also launched an award winning website – Energy Made Simple – to help our customers better understand and engage with the market. [Link](#).

party intermediaries (TPIs). If this proposal is going to deliver the expected customer benefits however, it is important that all TPIs are regulated by the Code of Practice. This could be best achieved by obliging all suppliers to only use accredited TPIs.

- If the industry is to deliver these changes effectively, suppliers must be given a reasonable length time to implement them. The package of measures Ofgem propose to implement will have a significant impact on suppliers' systems and processes. This is not reflected in the proposed implementation deadlines however, and we are concerned that compliance by the dates expected by Ofgem may not be possible. In any final decision, Ofgem must allow a reasonable period of time for suppliers to implement these changes.

6. In the following sections we set out our views on the areas considered by the RMR document. In addition, Appendix A sets out our responses to the specific questions Ofgem has posed. We also include a confidential Appendix B setting out our response to your formal request for information regarding the costs and benefits of the proposals.
7. This response is submitted on behalf of the Centrica group of companies (excluding Centrica Storage), is not confidential (aside from Appendix B), and may be placed on the Ofgem website.

Small business protection

8. We agree that targeted regulatory protection will bring benefit for small businesses. These businesses are more akin to micro-businesses in the way in which they interact with energy suppliers, and it is therefore appropriate that Ofgem seek to align the level of regulatory protection they receive. We therefore welcome the proposals to extend the protection of Licence Condition 7A to small businesses, and see this as a natural extension of the initiatives we are already delivering.
9. We are however concerned that Ofgem continues to propose a definition of small businesses based on how much energy that customer consumes rather than on the size of their organisation. Whilst we appreciate the theoretical merits of a consumption based test, the reality is that suppliers do not have access to the necessary information to apply it at an aggregate level for all the customer's sites. The result is that large customers will be classed as small where it contracts with a supplier for only some of their overall portfolio. We provided case studies to Ofgem as part of our response to the November 2011 proposals² illustrating the impact of this issue.
10. Regulatory protection comes at a cost, and if it is inefficiently targeted at customers who do not need such protection, the resulting increase in energy bills will not be offset by the benefits perceived by Ofgem. It will also fail to achieve its stated objectives if it does not protect those customers who do need protection. Furthermore, as the higher costs of the increased regulatory protection will only fall on suppliers who have a minority share of a particular customer's portfolio of sites, there is the real risk that competition will be distorted between suppliers in the medium to large end of the market. We would therefore suggest removing the consumption test from the proposed small business definition, and instead focusing purely on a business' FTE and revenue. This data is readily available from public sources.
11. Finally, we are also concerned that the implementation timescales proposed by Ofgem will not give suppliers sufficient time to deliver the system changes required to support the proposals. Whilst we broadly support them, the combined impact of delivering all the

² 15th February 2012.

proposed RMR changes together will mean we are likely to require at least eighteen months to implement them fully.

Customer Transfers

12. We welcome the encouragement Ofgem has given to industry led solutions to issues which relate to the change of supplier process. There is much room for improvement in the way many suppliers use industry acquisition processes, in particular with their use of the Change of Tenancy Flag (COT Flag).
13. The impact of the issues Ofgem cite is to place the onus on withdrawing suppliers to use the objection process to stop erroneous acquisition attempts. Not only does this inflate recorded objection levels but – when the objection is missed – also leads to suppliers losing valid contracts and incurring the high cost of stranded hedging and bad debt (increasing costs as a consequence). We have already raised an industry change proposal to address the issues around the COT Flag³, and believe it will resolve many of these issues.

Standards of Conduct

14. We welcome the proposals to introduce Standards of Conduct to licence, and believe they are an important part of the overall RMR package. We recognise the need to improve customer trust in energy suppliers, and believe that putting customer fairness at the heart of everything suppliers do is the single biggest step the industry can take towards achieving this.
15. This will be a considerable, and continuous, undertaking. It is likely to require a review of all processes, policies and procedures, a consultation exercise with our customers, a project to plan and implement changes, and new systems to measure the results and direct repeats of the process. The materiality of these proposals on supplier organisations should not be underestimated.
16. Against that background, and if Ofgem want suppliers to genuinely embrace this proposal, a reasonable time to implement the proposals must be allowed. If this does not happen, suppliers will face significant regulatory risk, potentially being found in breach of licence immediately when the relevant licence conditions are brought into effect. As well as being unreasonable, this is also inconsistent with the Better Regulation principles which say new rules must “*be implemented fairly*”⁴. Given the extent of change already underway in the industry, we believe suppliers may need at least eighteen months in which to fully implement these proposals.
17. The shift to a “principles based” regulation style system also means that Ofgem will need to take a different approach to enforcement. Subjective assessments of compliance against high level undefined principles create significant regulatory risk, effectively placing suppliers in a position where they are unable to tell whether they are compliant or not, yet face the subjective judgement of a Regulator.
18. We recognise that Ofgem may not wish to be placed in a situation where it is expected to provide guidance on how to interpret the Standards of Conduct. However, other Regulators have overcome this problem by providing processes which allow for dialogue – for example the mediation and arbitration processes allowed for by the Financial Services Authority.
19. These elements are missing from the RMR proposals and therefore create the possibility that suppliers will face a subjective assessment of their compliance against a set of

³ Master Registration Agreement Change Proposal 0198.

⁴ “Better regulation - from design to delivery (annual report) 2005”, pages 26-27.

principles, without the ability to effectively challenge the merits of the decision. This will place considerable additional regulatory risk on suppliers, and is likely to lead to higher costs (as suppliers "gold plate" processes), creating new barriers to entry as a consequence. We urge Ofgem to reflect the best practice evident in other regulatory frameworks in Final Proposals.

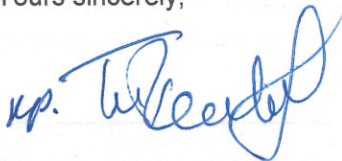
Third party intermediaries

20. We welcome the Ofgem proposal to introduce a single Code of Practice for third party intermediaries (TPIs). If this proposal is going to deliver real benefits for customers however, it is important that all TPIs sign up to any Code of Practice. We believe this could be best achieved by obligating all suppliers to only use accredited TPIs.

Conclusion

21. Ofgem's latest RMR proposals represent an improvement from the proposals set out in November 2011, and there is much to welcome. There are however aspects of the proposals which must be revisited as soon as possible, such as the definition of a small business, the implementation timetable for adding the contract end date to customers bills, and the proposed implementation timetable and approach to enforcement under the Standards of Conduct.
22. We would be very happy to work with Ofgem to develop these proposals further if that would be helpful and/or contribute to the development of a quantified impact assessment. We will be in contact shortly to arrange a suitable time to discuss these points in more detail.

Yours sincerely,



Alisdair Cameron

Managing Director, British Gas Enterprise

British Gas