first:utility

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Retail Markets
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23 April 2013

Dear Sir/Madam,

The Retail Market Review – Final Domestic Proposals

Please find First Utility's response to the above consultation below.

First Utility appreciates the opportunity to comment on the recent Final Domestic Proposals of the Retail Market Review. As the largest independent domestic supplier in the UK, we are committed to ensuring a customer-centric approach to encourage our growth and believe that the RMR goes some way to facilitate this. Although we believe that the intended spirit of the RMR is positive, we have concerns regarding both the detail of certain proposals and the clarity of some of the explanations of the changes that have been provided in the latest consultation and believe that the implemented licence conditions could be clearer and more transparent.

We have listed some concerns below and requested clarity on each point both to highlight them to you and to ensure that we have interpreted the intention of each new condition/criteria correctly.

In addition, although we appreciate that this response is not as detailed as we would have hoped due to complications interpreting the proposed SLCs, we have been participating in a review of the licence conditions with Energy UK, the results of which we will not duplicate in this response.

White Labels

2.125

First Utility is of the view that a 12 month grace period for white labels provides an unfair advantage to licence holders who sell under white labels. We note that several of the big 6 have very large white labels, which will provide those companies with significant advantages during the grace period from a "number of tariffs" point of view, disproportionately disadvantaging the smaller suppliers.

If one of the key aims of RMR is to reduce the number of tariffs and their complexity, we feel that the grace period on white labels lends no support to this cause. For example, white labels could take advantage of the extra tariffs available under their white label during the grace period to offer long fixed price deals to 'lock out' a significant number of customers from the switching market. This would undermine retail competition.

We would recommend removing the grace period to ensure that all suppliers are treated equally. If, despite our concerns, Ofgem intend to move forward with this grace period, we note that one way to mitigate the risk that RMR gives some suppliers a competitive advantage is to prohibit white labels from launching extra tariffs during the grace period over and above current tariffs they have. Monitoring the tariff activity of such players would be important to ensure fair competition can proceed during any grace period.

Payment/Billing Method

2.25

Any differences in the cost of providing different payment methods are made through adjustments either to the standing charge or unit rate.

As this condition requires that a supplier reflects payment type continuously (either the daily standing charge or the unit rate of energy), a customer's charge for paper billing would vary month to month. Therefore, could Ofgem please explain how a supplier can justify to their customers that the cost of a paper bill or payment by cash would be more expensive for a customer's March bill than it would for their February bill?

Derogation

2.27

A supplier may also apply to Ofgem for a derogation to test and trial new innovative tariffs without being deemed to have introduced a tariff, if certain conditions are met.

Could Ofgem please provide further information as to what the criteria for being successful in such an application would be?

Greening up Tariffs

2.43

Suppliers also are not permitted to use bundles to "green up" their tariff when the bundle includes elements that relate to energy supply

If suppliers are not allowed to offer bundles within core tariffs to green up their tariffs, does this also mean that customers can't purchase carbon offsets as a bundle on all tariffs? We are not sure what benefit this restriction provides to consumers.

Discounts & Bundles

2.64

"A discount cannot vary by region"

First Utility would appreciate clarity on this point as this could be measured on several metrics: (i) on a percentage basis; (ii) a £ total discount basis; (iii) a £/year basis; or (iv) £/kWh basis, and all have very different implications to competition and tariff design in general.

2.67

In addition:

- The guidance states that “A bundle exists where another product or service is provided as part of the electricity or gas supply contract”. Could Ofgem please clarify that an offering whereby the price of a different product will be reduced for so long as a customer is signed up to any of a supplier’s core tariffs will not be considered to be a Bundle as it is provided pursuant to its own contract rather than the electricity or gas supply contract.

- Could Ofgem please provide clarity on which bundles/discounts are allowed or not allowed?

- *"Bundled products or services must be expressed either in £/year or p/kWh*" - How can bundles be expressed in p/kWh when the bundled service may be non-energy?

- Could Ofgem please explain why upfront cash payments are not allowed but concert tickets, or any other bundle with a monetary value are allowed? In addition, we would appreciate clarity on how a concert ticket can be 'applied continuously' as we do not understand what is intended here.

- *Goodwill gestures - from time to time suppliers may make goodwill gestures to reflect goodwill if service has not been at the level the customer might reasonably expect*. How do such gestures fit in with RMR rules?

2.79

- We note Ofgem's concerns regarding how timing of monetary payments drives consumer behaviour.

- We note that Fixed Direct Debit (FDD) reconciliations can drive sub-optimal consumer decisions or increase loyalty and reduce churn. For example, if a supplier reduces an FDD but not the tariff, some customers think they are on a better deal even though they have just changed their debt or credit position and are paying exactly the same price per unit/per day. In this way, all an FDD reassessment does is adjust cashflow timing.

- We have seen examples where potential new customers have been offered a reduction on their FDD by their current supplier as a way to retain them when they have sought to move to another supplier on a lower priced tariff. We suspect that, while the cashflow timing might appeal on a temporary basis for the customer, it does not address their underlying issue of being on a more expensive tariff.

2.83

"If a customer chooses to switch tariffs with the same supplier or to another supplier, the supplier must apply the same charges and terms and conditions (other than a termination fee) to that customer until the switch is completed"

Could Ofgem please provide clarity as to which "same charges" must be applied? The same charges could be (i) the charges on the old tariff, or (ii) the charges on the new tariff the customers is switching to. We note that if it was (ii) and the new rates are with a new supplier, the outgoing supplier would have to launch a new tariff to fulfil this, which might breach the tariff cap under RMR. We believe that this kind of approach would in any event be untenable for suppliers to manage.

We note that the new rules on fixed price tariff end periods increases hedging risks on suppliers at the end of Fixed deals, meaning that Fixed rates will be higher than they would have been as a result of this RMR change.

3.48
"suppliers (and their representatives) will be required to present the personal projections to potential new customers in the context of any sales method. Suppliers will also be required to include the personal projection for the customer's current tariff on regular supplier communications."

Where a supplier is obligated to offer a personal projection to a potential new customer in situations where they have no consumption history for that customer, should they assume that the customer uses Ofgem's average 3,300 kWh electricity and 16,500 kWh gas?

Narrow and Wide cheapest tariff comparisons

3.67

Is it Ofgem's intention that these comparisons are to be calculated assuming "average weather"?

How will Ofgem monitor that all suppliers normalise back to average weather on the same basis to ensure comparisons are on a "like for like" basis between tariffs and suppliers?

3.91 – 3.93 Clearer Information

The requirement to include prescribed information on each bill about personal projection, TCR and signposts of where to go if you are considering switching, acts as a 'nudge to switch'. While this is a good thing to increase consumer engagement this will work to the detriment of those suppliers who bill their customers more frequently, as (i) such suppliers will take on extra costs in generating that information more frequently for the customer and (ii) the information will likely increase the number of customers that leave that supplier as a direct result of the information provided, disadvantaging it relative to a supplier who bills less frequently. For example a supplier who bills their customers monthly will nudge their customers twelve times in a year, versus only two nudges for a supplier who bills their customers only semi-annually. As an unintended consequence it is far more likely that suppliers who bill frequently might move to less frequent billing (rather than suppliers who bill less frequently moving to higher frequency billing), which is not in the best interests of the consumer. First Utility recommends that, to avoid this unintended detrimental impact on consumers, the requirement relating to paragraphs 3.91 to 3.93 of the consultation should be for suppliers to provide that information on a quarterly basis rather than on a 'per bill' basis. This is a simple way to ensure consumers benefit and billing best practice is not impacted.

Although the aforementioned points are of concern for First Utility, our largest concern is that the drafting of the proposed licence conditions appear to be without clarity creating unnecessary risk for suppliers. As the RMR is the largest change to the energy market since liberalisation, we are of the view that the licence conditions should be drafted again in line with the RMR policy intent to allow stakeholders the opportunity to comment confidently on the proposed changes and how they might affect the market.

Please do not hesitate to contact me should you have any questions or require any further information.

Yours sincerely,

Darren Braham

Chief Financial Officer