Phil Slarks
Wholesale Markets
Ofgem
9 Millbank
London

08 August 2013

Dear Phil,

Re: Wholesale power market liquidity: final proposals for a 'Secure and Promote' licence condition

Please find below the response from Opus Energy, an independent supplier of electricity and gas.

Question 1: Do you agree with our updated assessment of the wholesale market?
Yes. We agree that low levels of liquidity remain a problem, particularly along the length of the curve and this prohibits the functioning of healthy trading and retail markets.

Question 2: Do you agree with our conclusion that we should intervene in the market in the form of the 'Secure and Promote' licence condition set out in this document?
Yes, but we believe that any such intervention should try to promote natural and realistic trading arrangements and not require parties to offer products below cost.

Question 3: Do you agree with our proposed legal approach to S&P?
Yes

Question 4: Do you agree with our proposals for who should face the obligations under S&P?
Yes

Question 5: Do you have any views on our final proposals for the Supplier Market Access rules, particularly those aspects listed under 'key outstanding design questions'?

We agree with the approach proposed for scope, credit and collateral, and response to trading requests.

The intervention is aimed at ensuring independent players are able to access the power generated by the UK's generating assets on fair and reasonable terms. We agree that intervention should be about *market access*, rather than creating a means to force incumbents to subsidize the growth of independents.

We believe this approach is the most likely to lead to long-term, workable, trading arrangements developing between incumbents and independent suppliers. From this, we have the following comments:

Credit
We envisage that credit will be a contentious issue. We agree with Ofgem's view that intervention must not provide credit to un-creditworthy counterparties.

Affording credit to un-creditworthy counterparties can damage the independent supply sector, and cause harm to consumers. Access to inappropriate levels of credit can cause new entrants to grow outside their means. Where this leads to supplier failure, the following can result:

(i) consumers can fall into a supplier of last resort process,
(ii) brokers can become reluctant to place business with new entrants, and
(iii) the independent supply sector is viewed as a more risky prospect by credit providers and potential trading partners. This damages independent's ability to trade without regulatory intervention.

Even in a situation where both parties agree that credit should be afforded based on creditworthiness, there can be disagreement on the value of creditworthiness and how this should be applied in a trading context.

We would recommend that obligated licensees are required to publish a document detailing their credit methodology. This could be published on the website along the named contact and the list of information required. The credit methodology document should outline:

(i) how the credit limit will be calculated,

(ii) how the credit limit will be translated into volumetric trading limits and

(iii) whether there will be any requirements to post cash to cover MTM movements.

For step 1, we would recommend that the credit limit of non-investment grade parties be established by taking the assessment of an independent credit rating agency such as Dun & Bradstreet or Experian.

Ensuring transparency in this way would reduce disagreements over whether a credit assessment is fair and whether it is being applied fairly. It should give an independent supplier the reassurance that it is not being discriminated against and that trading arrangements are not being withheld under the guise of a negative credit assessment.

Market Pricing

We think that there should be clearer guidance as to what this means in terms of bid/offer and whether premia can be applied for clip sizes which are smaller than those commonly traded in the market place.

We consider it would be reasonable for an obligated licensee to add a premium to the current exchange/OTC price if the clip size is smaller than standard.

Disagreement is likely to arise where an independent supplier sees a screen price and expects this to be the market rate. In reality this may not be a price at which the obligated licensee can trade, and it is unlikely to reflect the cost of small granularity. Where obligated licensees are being obliged to provide product which does not match their natural long position, they may have to go to market to acquire this product. It would be reasonable therefore for the price that they offer to the independent supplier to reflect this cost of transacting.

We would suggest that there needs to be a guide something along the lines that: "the market price should reflect the cost that the obligated licensee would, acting reasonably, incur to provide the requested product".

Screen prices could then be used by the independent supplier to benchmark that the price it is receiving is reasonable (taking into account a reasonable premium for creating the granularity). Where the independent supplier considers that this is not the case, then the independent should be able to present its collected evidence (ie offered prices & screen prices) to Ofgem. Ofgem would then be able to review whether, in its opinion, the obligated licensee was acting fairly or not when setting prices.

An obligated licensee could be required to publish the premia it charges for different clip sizes.

Fees

We would recommend the removal of the wording "No additional fees or charges may be added" from Clause 14 of the new Sch A.

The obligation should outline the basic product that an obligated licensee must provide and give guidance on how to determine a fair market price for the basic product. Beyond that, counterparties should be allowed to negotiate and agree additional fees for the provision of elements over and above the basic product, such as:

- *Credit*: Obligated licensees may allow an independent supplier to trade outside the volumetric limits imposed by its standard credit assessment or offer an innovative credit solution in return for a pre-agreed fee.

- *Shape*: Obligated licensees may offer an independent supplier shaped products for an additional premium.

Question 6: Are there any further areas that these rules should cover?
We believe it would be appropriate for Ofgem to ensure qualifying independent suppliers can only use the market access mechanism for hedging exposure arising from customer contracts and not for speculative trading.

Question 7: Do you have any comments on our proposed detailed design for the market making obligation, particularly those listed under 'key outstanding design questions'?
Independent suppliers often don't trade using exchanges because of the cash intensive margining requirements. If liquidity from a market maker is to be open to independents to access, it is important that it is not channelled exclusively onto trading exchanges at the expense of OTC markets.

Question 11: Do you agree that we should not intervene in near-term markets at this stage?
Yes, we agree that it is not necessary to intervene.

Please do not hesitate to contact me with any queries,

Yours sincerely,

Louise Boland
Director