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Dear Graham

**Wholesale power market liquidity: statutory consultation on the 'Secure and Promote' licence condition**

Thank you for providing SSE with the opportunity to respond to Ofgem's consultation on its final policy design for the 'Secure and Promote' licence condition.

SSE supports Ofgem's objectives to improve liquidity in the wholesale power market. SSE suggested a number of changes to the proposed S&P licence condition when Ofgem consulted in June 2013 and welcomes the changes Ofgem has made within the final policy design of the licence requirement.

Supplier Market Access (SMA)

We recognise Ofgem's concern about the accessibility of the market for small suppliers and that for any small supplier it is important that they can access the wholesale market to obtain the right volumes of electricity to meet their needs. As Ofgem will be aware, in April 2012 SSE introduced its own voluntary commitment to give smaller suppliers with less than 250,000 customers, access the wholesale market to obtain electricity in bespoke volumes of electricity over appropriate time periods and at fair prices and credit terms. This commitment provides smaller suppliers with the opportunity to contract for a secure forward market electricity product with a transparent market price and shape by making available forward contracts in any standard traded product in any volume and with no minimum contract.

The SMA rules share many features with SSE's small supplier trading commitment therefore SSE supports the wider introduction of this type of measure. Whilst SSE welcomes the proposal to make two large generators subject to this obligation, in addition to the large vertically integrated players, we would question why this obligation does not apply to all market participants.

We do, however, continue to believe that an upper threshold of 5TWh for eligible suppliers is too high. A supplier would require 1.25M – 1.5M domestic customers to reach this higher threshold which is a significant change to existing processes which treat suppliers as 'small' up to a limit of 250,000 customers. Ofgem's rationale for maintaining the 5TWh threshold is to allow eligible suppliers to negotiate multiple trading arrangements as they grow, however no robust reasoning has been provided to support the rationale that suppliers meeting this upper 5TWh threshold should be classed as 'small'. We continue to believe that Ofgem should amend the eligibility criteria for small suppliers to a maximum annual supply volume of 1TWh as this would be better aligned with the existing small supplier definition used

elsewhere (250,000 domestic customers). We are concerned that maintaining an artificially high threshold will increase the burden on obligated parties.

SSE supports the amendments Ofgem has made to the specific requirements under the SMA rules, particularly the requirement to fully review and respond to a supplier's request to trade within 2 working days. The new requirement to acknowledge receipt of the request within 2 working days, with an additional 20 working days to respond to the request will be much more practical. We would like to seek some clarity regarding the obligation to provide a "named contact" for the purpose of the trading request and whether Ofgem would consider a title such as 'SMA Trading Officer' and a dedicated email address and postal address for trading requests would be considered an appropriate "named contact". We think this would be a more robust means for receiving and responding to requests as it will remove the risk of missing requests when individuals are, for example, on holiday or not available due to illness.

### Market Making

SSE is very supportive of the Market Making proposals and the increased liquidity we believe it is likely to bring. We are however, disappointed that Ofgem has continued to focus the obligation on the six large vertically integrated companies when two of the key factors Ofgem has used to determine whether a licensee should be obligated are, their generation market share or generation output, and the ability of the licensee to meet the costs and risks of the obligation. SSE has long argued that large generators are equally as capable of providing this service without facing any disproportionate risks or costs.

In its current format, Ofgem's supporting guidance does not present a clear and measurable definition of the terms under which this obligation applies. We think it is important that this definition is made available as it will be necessary to ensure that the market making obligation is future-proofed and remains fit for purpose as the market evolves. Improved clarity may be required to maintain investor confidence in the market making obligation and to properly inform investors of the effect of potential investment and divestment decisions.

SSE supports the requirement to market make during two hour-long windows each day but would request that the first window be moved from 10.30am to 9am. This is due to the NWE Market Coupling project which will see the current N2EX day-ahead auction gate closure move from 9.30am to 11am from February 2014, to align with the European auctions markets which form part of the NWE. Holding the first market making window at 10.30am would cause an overlap with the auction and we are concerned that there may be resource and subsequent compliance implications with such a concentrated period of activity.

Ofgem's decision to amend the platform rule requirements will allow licensees to trade on a wide range of platforms which can be accessed by smaller independent generators and suppliers. The requirement for licensees to report to Ofgem the platforms they have chosen to market make on each quarter will enable Ofgem to monitor licensee activity and identify whether further action needs to be taken if it finds licensees are choosing platforms with very limited accessibility.

We also welcome the introduction of a per-product volume cap in each window and the assurance this will bring individual licensees, without limiting the products being made available.

SSE has previously raised concern that Ofgem's market making proposals are not future-proofed against any of the adverse consequences of MiFID II, and that a sunset clause should be included in the S&P licence condition. We support Ofgem's intention to carry out a review of the S&P proposals before MiFID II is implemented in GB and that licensees will be able to request a review of the market making obligations if they consider that any amendment of MiFID II will materially and adversely affect their ability to comply with the licence requirement. We think it would be useful, however, for Ofgem to clarify its position



with regards to accepting a request to review the obligation, for example, whether this will be triggered after just one licensee's request or multiple requests. This information could be incorporated into the guidance document.

### S&P reporting requirements

SSE supports Ofgem's intention to publish an anonymised annual liquidity update to inform the market on the progress of S&P and in particular Ofgem's assessment of the progress against the three liquidity objectives.

Whilst we are confident that we are able to comply with the trading elements of S&P obligation, currently we are not set up to provide the entirety of the information being requested through the S&P reporting requirements. The hardest element will be to demonstrate compliance in terms of availability of bids and offers which do not lead to a trade. It will be extremely challenging to implement an IT solution to deliver this. As a result, we will be highly reliant on third party reporting solutions from trading platforms. We are optimistic that third parties will be able to provide the data we need in order to meet our reporting obligation.

### Conclusions

SSE supports Ofgem's final proposals for its Secure and Promote licence condition, subject to the following amendments being made to the Market Making obligation:

- Move first market making window from 10.30am to 9am to prevent overlap with N2EX day-ahead auction which is due to move to 11am in February 2014 as part of the NWE Market Coupling project
- Implementation of MiFID II - include information in the guidance document to clarify Ofgem's position with regards to accepting a request to review the market making obligation

If you would like to discuss any aspects of SSE's response in more details then please contact me.

Yours sincerely

Lois Wares  
**Regulation**