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19<sup>th</sup> February 2014

**Response to Consultation on extending the existing smart meter framework for data access and privacy to Smart-Type Meters and Advanced Meters**

Dear Sirs,

First Utility is a leading UK independent utilities supplier, offering electricity and gas services to a range of consumer and business customers. We have been actively engaged in the smart metering programme since its inception and recognise the need to protect consumers' energy consumption data as part of the introduction of smart meters.

Question 1: Please provide views on the different approaches to extending the data access and privacy framework discussed in this chapter. In particular, which is your preferred approach and why?

We believe that Ofgem's proposal to extend suppliers' obligations to domestic customers with smart - type meters, installed from the point that the revised Licence conditions come in to force is consistent with the principle that, other than in extreme circumstances, regulation should not effectively apply retrospectively. In addition, it strikes the right balance between giving customers flexibility and limiting the costs associated with the smart metering programme. We would note that the overwhelming majority of smart - type meters would have been installed at the specific request of the relevant customer and hence concerns regarding a lack of customer consent apply to a much lesser degree to these meters than to smart meters installed as part of a mandated mass roll out.

Question 4: If we fully extended the Privacy Requirements, what would the impact on consumers be in terms of loss of services?

Suppliers will be unwilling to invest in the systems that support smart - type meters or the meters themselves as they have been stranded by the smart metering programme. Therefore if the Licence Conditions apply to smart - type meters installed prior to the point that the revised Licence conditions come in to force we would anticipate that suppliers will simply avoid the costs of visits to individual meters or IT development that may be required to ensure compliance with the revised licence conditions by switching off the smart functionality to the detriment of the customers concerned.

Question 5: If we introduce a flexible framework, what level of consent (ie opt-in or opt-out) should suppliers be required to obtain from domestic consumers before using any data for Marketing purposes?

An opt-in consent is likely to be appropriate for this use of the data which we agree is likely to be the key area of concern for customers.

Question 6: If we introduce a flexible framework, do you consider there should be a grace period, after which suppliers would be required to get opt-in consent for Detailed Data? What would be an appropriate amount of time? Please provide reasons for your answers.

No evidence has been presented, in terms of customer complaints, to support the need for suppliers to meet the extended obligations in very short timescales. Therefore, we believe that a grace period of 36 months as suggested in the draft licence conditions would offer a reasonable compromise.

If you would like to discuss any part of our response, I would be very happy to meet with you in person.

Yours sincerely,

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Head of Legal and Regulation

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