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5 December 2014

Dear Kate

‘Licence Lite’: proposed updates to the SLC 11.3 operating guidance

Thank you for the opportunity to respond to your consultation on the “Licence Lite” operating guidance. We broadly welcome the proposed clarifications and amendments to the Licence Lite framework. We recognise that it may be inappropriate for Ofgem to propose major changes to the existing regulatory framework while the CMA is undertaking their market investigation and, with that in mind, support Ofgem’s approach of updating the existing operating guidance.

While we believe that the proposed changes may lead to an incremental increase in the attractiveness of the Licence Lite regime, we note that Licence Lite is one of many routes to market. In recent years, we have also seen new market entry through both full licensing and white labelling. For prospective new entrants, including those interested in Distributed Energy, we think that the white label model may prove compelling.

We particularly would like to highlight the following:

- 1) **We believe that the changes proposed by Ofgem will incrementally increase the attractiveness of the Licence Lite regime.** The package of changes amount to a relatively minor amendment to the core concept of Licence Lite, i.e. granting derogation for Licence Lite providers to contract out their participation in industry codes such as the Balancing and Settlement Code (BSC). However, since the 2009 guidance was introduced, the energy retail market has undergone significant change. New regulatory obligations have been placed on suppliers through the Probe, the Retail Market Review (RMR) and various smart metering obligations. Potential new entrants to the market in 2014 are likely to find the licence conditions more daunting than in 2009 and the Licence Lite framework is not designed to address this. A number of small suppliers made a similar point in their submissions to the CMA.
- 2) **The Licence Lite regime is one of many routes to market and the development of white label arrangements may offer a more effective mechanism to introduce new suppliers to the market.** We believe that white label arrangements offer a simpler and more effective route for prospective new entrants to the supply market, a view that appears to be backed up by the available evidence. Since 2009, the Licence Lite framework has attracted interest from a number of parties, with the application from the GLA the most progressed. By comparison, as many as five white label providers are now established in the market and offer innovative products and greater choice to customers. While an enduring white label framework may exist alongside the revised Licence Lite regime, Ofgem may wish to consider whether the benefits of white label providers outweigh the costs of maintaining a parallel Licence Lite framework.

- 3) **We support Ofgem's intention to treat Licence Lite providers in the same way as fully licensed suppliers.** We agree that Licence Lite suppliers should be held responsible for compliance with the licence conditions, including the new RMR rules and existing social obligations. These suppliers should also be required to report customer numbers and adhere to the various reporting requirements. As we noted in our recent response to Ofgem's white label consultation, we believe it is important for innovative new entrants, whether Licence Lite or white label provider, to be treated separately to the main supplier.

Our answers to the specific consultations questions are provided in Appendix A below. If you have any questions about this response, please contact me on 07769 548 906.

Yours sincerely

Thomas Lowe

Regulator Manager
British Gas

Appendix A

Question 1: Are further clarifications regarding the functioning of a Licence Lite arrangement required from the regulator, and if so, in what areas?

It is clear from the consultation that Licence Lite arrangements will continue to be available to new entrants and allow Licence Lite providers to avoid direct participation in some of the industry codes.

Ofgem note that, while a Licence Lite provider will be expected to comply with the Smart Energy Code (SEC), providers may be granted a derogation. It would be helpful if Ofgem could clarify the following:

- a) The circumstances or criteria in which it would be considered appropriate to provide a derogation to a Licence Lite provider.
- b) To what extent Ofgem considers that the Licence Lite provider should be required to comply with the Smart Metering Installation Code of Practice (SMICoP) as per Standard Licence Conditions 41 and 42.

Question 2: Do you agree that our position over the balance of responsibilities and regulatory obligations is: a) sufficiently clear to allow parties confidence to enter into commercial agreements, and b) a proportionate approach?

We believe the balance of responsibilities and regulatory obligations is clear and the approach is proportionate. Our understanding is that the Licence Lite provider will be expected to comply with all regulatory obligations imposed by licence and legislation, including all of the new RMR obligations, with the exception of:

- The Master Registration Agreement (MRA);
- The Distribution Connection and Use of System Agreement;
- The Connection and Use of System Code; and
- The Balancing and Settlements Code (BSC)

The Licence Lite provider will be able to contract out administration of the above codes to a Third Party Licensed Supplier (TPLS), who will be responsible for compliance.

Question 3: Do the Licence Lite arrangements relating to the Smart Energy Code – as set out in this consultation and in paragraphs 1.39-1.41 of the proposed guidance – provide sufficient clarity over roles and compliance obligations between parties?

As noted in our response to Question 1, we believe that Ofgem should provide more information about the situations and criteria in which a Licence Lite provider may receive derogation from the SEC.

Question 4: Do the Licence Lite arrangements relating to the Electricity Market Reform – as set out in this consultation and in paragraphs 1.42-1.46 of the proposed guidance – provide sufficient clarity over roles and compliance obligations between parties?

Yes, we believe the guidance makes clear that the Licence Lite provider will be held responsible for compliance with the EMR.

Question 5: Do the Licence Lite arrangements relating to the government's social and environmental programmes – as set out in this consultation and in paragraphs 1.42-1.46 of the proposed guidance – provide sufficient clarity over roles and compliance obligations between parties?

Yes, we believe the guidance makes clear that the Licence Lite provider will be held responsible for compliance with the following:

- The Energy Company Obligation (ECO)
- The Renewables Obligation (RO)
- The Climate Change Levy (CCL)
- The Warm Home Discount (WHD)
- Feed-in Tariffs (FiTs)

- The Government Electricity Rebate
- The Green Deal

Where a customer number threshold exists for any of the above, e.g. the 250,000 threshold for participation in ECO, we agree with Ofgem that the Licence Lite provider should incur responsibility based on its customer numbers, rather than the customer numbers of the TPLS.

Question 6: Does the potential impact of the MPID restriction warrant a modification to the Balancing and Settlement Code?

Yes, we believe that Ofgem's approach of seeking a modification to the BSC is reasonable.

Question 7: Are there any complications (not identified in the consultation) to uniquely identifying a Licence Lite supplier's customers on central systems?

No, we are not aware of any additional complications.

Question 8: Are the risks to Licence Lite suppliers inherent in the current operation of supplier of last resort arrangements in the event of TPLS failure sufficient to justify backstop measures, and if so, what measures would be appropriate and why?

We believe that the current guidance sets out an appropriate approach to TPLS failure, namely that a Supplier of Last Resort (SoLR) be appointed and deemed contracts arise between the customer and the SoLR. The failure of the TPLS is part of the risk in operating in the market and we do not believe further measures are required at this point.

Question 9: Is the information required for a Licence Lite application appropriate for all potential applicants?

We have no comment on this question.

Question 10: Are there any relevant milestones which are omitted from the proposed guidance?

We have no comment on this question.

