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22 September 2014

Consultation on the Review of the Priority Services Register

Dear Rebecca,

I am pleased to attach Energy UK's response to Ofgem's Review of the Priority Services Register. It is not confidential.

If you have any questions, please do not hesitate to contact me on 020 7747 2965 or daniel.alchin@energy-uk.org.uk.

Yours sincerely

Daniel Alchin
Policy and External Relations Manager

Review of the Priority Services Register

Energy UK response

22 September 2014

Introduction

Energy UK is the trade association for the energy industry. We represent over 80 members made up of generators and gas and electricity suppliers of all kinds and sizes as well as other businesses operating in the energy industry. Together our members generate more than 90 per cent of the UK's total electricity output, supplying more than 26 million homes and investing in 2012 more than £11 billion in the British economy.

Energy UK strongly believes in promoting competitive energy markets that produce good outcomes for consumers. In this context, we are committed to working with Government, regulators, consumer groups and our members to develop reforms which enhance consumer trust and effective engagement. At the same time, Energy UK believes in a stable and predictable regulatory regime that fosters innovation, market entry and growth, bringing benefits to consumers and helping provide the certainty that is needed to encourage investment and enhance the competitiveness of the UK economy.

These high-level principles underpin Energy UK's response to Ofgem's review of the Priority Services Register (PSR). This is a high-level industry view; Energy UK's members may hold different views on particular issues. We would be happy to discuss any of the points made in further detail with Ofgem or any other interested party if this is considered to be beneficial.

Executive summary

Energy suppliers take their responsibilities towards assisting their vulnerable customers very seriously. Our members each have their own policies and processes in place to identify and help vulnerable customers, providing them with the appropriate support to manage their energy use, often going above and beyond their regulated obligations.

Energy UK has long stated that vulnerability should be assessed on a case-by-case basis. Each customer has their own needs and to offer the most appropriate support, each customer's individual circumstances must be taken into account. This must, however, be done in a proportionate manner.

Ofgem's PSR proposals would add a high degree of subjectivity to both determining whether someone is added to the PSR and the services offered. Such an approach does not fit well with regulatory compliance requirements and would promote a lack of consistency in application.

The underlying purpose of the PSR is to ensure basic protections for those customers who most require consistent access to supply. The PSR is and should, therefore, remain a common, tightly defined, minimum set of services offered by all suppliers to support those customers most in need of a supply (e.g. Pensionable Age, disabled or suffering from a long term sickness).

In Energy UK's view the PSR is not the correct vehicle through which Ofgem should be seeking to implement its transitory understanding of consumer vulnerability. There are more appropriate methods for Ofgem to incentivise suppliers to adopt the principles set out in its 2013 Consumer Vulnerability Strategy than amending the PSR. The commonality and uniformity of the PSR across suppliers and networks is its unique selling point. One potential option is set out in our response to Questions 1, 2 and 4 below. We would welcome to opportunity discuss alternative approaches with Ofgem in greater detail.

This is, however, not to say, that there is not scope for improving the existing PSR by introducing additional services or considering prioritisation (e.g. reconnections following a power outage) where appropriate. More can also be done to raise public awareness of the PSR and to improve the exchange of PSR data between suppliers, DNOs and GDNs. As you will be aware, the ENA Safeguarding Customers Working Group is already looking at how the data flows between energy companies can be improved.

Energy UK's detailed responses to the questions posed in the consultation document are set out below.

Consultation questions

Question 1: Do you agree that energy companies should be required to offer non-financial services with the aim of equalising outcomes for customers?

AND

Question 2: Do you agree that we should continue to prescribe a minimum set of services? Do you support the proposed list of services? What additional services, if any, do you think energy companies should be required to provide?

AND

Question 4: Do you agree that we should move away from requiring energy companies to provide services to disabled, chronically sick and pensionable age customers to an approach which requires energy companies to take reasonable steps to identify and provide appropriate services to any customer with safety, access or communication needs?

Energy UK does not support Ofgem's proposals to amend and expand the PSR by introducing new licence conditions requiring energy companies to equalise outcomes for customers and to identify and provide appropriate services to any customer with safety, access or communication needs.

The underlying purpose of the PSR is to ensure basic protections for those customers who most require consistent access to supply. The PSR is and should, therefore, remain a common, tightly defined, minimum set of services offered by all suppliers to support those customers most in need of a supply (e.g. Pensionable Age, disabled or suffering from a long term sickness). Above and beyond these requirements, suppliers should be free to compete for customers by differentiating themselves through the products and services they offer. This includes offering the services associated with the PSR to a wider group of customers where this is deemed appropriate, as in fact many suppliers already do.

Ofgem's proposals would add a high degree of subjectivity to both determining whether someone is added to the PSR and the services offered. Ofgem's proposed tests – "*any customer with safety, access or communication needs*" and "*equalising outcomes for customers*" – represent a very broad approach to identifying and supporting customers through the PSR. Such an approach does not fit well with regulatory compliance requirements and promotes a lack of consistency in application.

Assessments over who is and who is not on the PSR and the services provided would inevitably be more subjective based on suppliers' understanding of their customers' needs. This in turn will make Ofgem decisions about when to pursue enforcement action far less clear cut. This creates challenges for suppliers and Ofgem as they look to define, implement and target policy to tackle those consumers who do genuinely need assistance.

The uncertainty created by Ofgem's proposals is likely to result in increasingly large numbers of consumers being placed on the PSR. Large increases in the number of PSR consumers will result in the dilution of the services available to those who are most in need of support, as a result of suppliers' having to spread their resources thinly, or suppliers passing extra costs onto consumers via the bill.

Increased subjectivity and inconsistency also risk confusion. The commonality and uniformity of the PSR across suppliers and networks is its unique selling point. The existing PSR and Gas Safety Check licence conditions provide a common minimum standard which all supply/network companies must offer. Even if a minimum set of services continues to be prescribed in licence, Ofgem's broader subjective approach to eligibility based on customers who "*typically find it harder than the average consumer*" can reasonably be expected to result in suppliers identifying different consumers on their PSR and offering different levels of service according to their understanding of their customers' needs. This also potentially makes the PSR a much more complex proposition to communicate with customers, especially if combined with Ofgem's plans to pursue common branding (see response to Question 11). For the same reasons, Ofgem's broader subjective approach has the potential to also undermine and conflict with its aims to improve the quality and quantity of data sharing amongst energy companies and with other utilities (see response to Questions 6 and 10).

In addition, Ofgem must remember that suppliers' frontline agents are energy experts, not care professionals. Energy suppliers already have to strike a fine, and sensitive, balance where vulnerability is identified and make important but often difficult decisions on whether to take further steps into the lives of customers. We know from experience customers are often uncomfortable and reluctant to disclose even limited personal information to energy suppliers. The additional questioning likely required to operationalise Ofgem's proposals could act as a further deterrent to customers making contact. Such questioning may not be confined to one-off assessments either. In line with the dynamic nature of a transitory approach, suppliers would (presumably) be required to regularly check that vulnerability remained. Linked to this is how such issues relate to the appropriate acquisition and use of customer data in line with the Data Protection Act (DPA). The evidential, resource and cost implications of collecting and recording sensitive customer data and keeping it up to date should also not be underestimated.

This is all not to say, however, that there is not scope for considering expanding the PSR to include additional services and/or defined consumer groups as appropriate, or considering how the delivery of services (e.g. reconnection following a power outage) is prioritised. Ofgem's suggestion of including the provision of 'knock and wait' services is, for example, worth further consideration.

Rather it is to say, in Energy UK's view the PSR is not the correct vehicle through which Ofgem should be seeking to implement in licence its transitory understanding of consumer vulnerability. If Ofgem are seeking to incentivise suppliers to adopt the principles set out in its Consumer Vulnerability Strategy, there are more appropriate methods for achieving this policy intent than amending the PSR. One potential option is set out below.

Alternative option

Energy UK supports the following principles with regards to the treatment of vulnerable customers:

- *The support and services provided by energy companies should be targeted at those most in need.*
- *Customers should be treated as individuals; no two individuals' circumstances are the same and their situations must be addressed on a case-by-case basis.*
- *Energy suppliers' must be able to compete for customers by differentiating themselves in the services they offer.*
- *Suppliers must only be given obligations they have the ability to deliver.*
- *Any identification, targeting and assistance should be provided at proportionate cost.*

In line with the principles above and building upon existing industry-led best practice, Ofgem could incentivise suppliers to adopt the principles set out in its Consumer Vulnerability Strategy by working with suppliers to understand their policies and processes, in addition to the PSR, to:

- 1) *Define what communication, safety and/or supply needs might be for their consumers*
- 2) *Develop services appropriate to those communication, safety and/or supply needs.*
- 3) *Train staff to identify customers with those communication, safety and/or supply needs.*
- 4) *Provide those services once relevant customers are identified.*

Focusing on supplier inputs would minimise the risks and challenges for both Ofgem and suppliers associated with the subjective outcomes based approach proposed by Ofgem. Policies and processes could also, for example, be published by suppliers as vulnerability strategies to promote best practice, encouraging competition and incentivising suppliers to raise standards and improve consumer awareness. Suppliers would, therefore, be responsible for providing their own base line against which their performance could be measured by consumers and leveraged to differentiate themselves and compete for new customers.

Such an approach could, ultimately, enable suppliers' to effectively manage their compliance and offer the tangible prospect of making improvements in the recognition and treatment of vulnerable customers – a goal shared by both Ofgem and industry.

Finally, it is important that any policy decisions taken by Ofgem are based on robust evidence. All proposals, especially those that may ultimately require material or licence changes, should be backed up by empirical evidence that they are necessary and proportionate, together with a comprehensive impact assessment which is also subject to a formalised and impartial consultation process.

Question 3: If applicable, what services do you currently provide and what are the current costs of providing services (please break down by service). What financial impact do you think widening eligibility in the way we have proposed will have? Please provide evidence to support your answer.

Energy UK has no comment. We expect our members to respond individually to this question.

Question 5: Do you agree that energy companies should be required to maintain a wider register of consumers that they have identified as being in a vulnerable situation?

Please see answer to questions 1, 2 and 4 above. We do not think that such wider lists should be part of the core PSR service.

Larger suppliers will already hold wider lists of customers that they have identified as being in a vulnerable situation as part of their existing PSRs and to support the delivery of voluntary agreements (such as the Energy UK Safety Net for Vulnerable Customers) and Government policies (namely the Energy Companies Obligation (ECO) and Warm Home Discount (WHD)).

It is important to note that energy suppliers do not adopt what might be called a 'tick-box' approach to driving the classification of customers as vulnerable using set criteria. Nonetheless, definitions based on physical, health and financial criteria are both easy to use and useful in effectively and efficiently targeting and recording the services offered to consumers most in need.

Question 6: Do you agree that suppliers, DNOs and GDNs should share information about customers' needs with: a) each other? b) other utilities?

a) Data sharing with DNOs and GDNs

In principle, suppliers, DNOs and GDNs should share information with each other about customers' needs. Electricity and gas suppliers already have licence conditions to share information regarding customers on their PSR with the relevant electricity distributor and gas transporters. Suppliers share

this information via industry data flows. The ENA Customer Safeguarding Working Group, which Ofgem attends, is currently looking at how the existing data flows could be amended to improve the quality of data shared between suppliers and networks.

As previously discussed at this Working Group, for data sharing to be effective, consistency is, however, required from all parties in relation to the data items shared and the markers used to identify potential vulnerabilities. Under the DPA, it is also vital parties are confident data is correct, up to date and relevant for purposes of the intended recipient. Information about a customer's personal circumstances must, therefore, be based on facts, not assumptions or subjective decisions. Expanding the data shared between suppliers and networks is, as such, in tension with Ofgem proposals for a PSR with a broad, subjective scope (which ultimately is left to suppliers to define according to their understanding of their customers' needs). Retaining a common, tightly defined PSR would be beneficial in helping to ensure all energy companies are able to accurately share data with regards to those customers most in need.

It is also important that Ofgem remain aware that implementing changes to facilitate improved data sharing will require changes to multiple industry systems. This is especially the case in gas, where the systems and process for PSR data sharing are not as advanced. It is, therefore, important that Ofgem remain mindful of industry change processes/timetables and changes already in development which could impact on progress, particularly as industry code parties can only manage a certain number of changes at a time.

b) Other utilities

As a point of principle, Ofgem should only place obligations on energy companies that they have the ability to deliver. In this instance, the feasibility of any arrangements is dependent on the co-operation of other utilities. Without similar obligations on both sides to act, Ofgem would create unbalanced incentives and drivers for change, undermining industries ability to negotiate and secure fair proposals for their customers, both in terms of any data sharing arrangements and how any costs are apportioned. Energy customers should not be asked to fund services on behalf of other industries.

Brand new cross and inter industry agreements and systems would also likely be required to facilitate data sharing between utilities. This is likely to be expensive and technically challenging, requiring unprecedented levels of inter industry co-operation. Any further proposals must therefore be subject to detailed public consultation, including comprehensive impact assessment.

In the first instance, energy companies' priority should be improving the exchange of data between suppliers, DNOs and GDNs.

Question 7: Should energy companies be required to share information about customers' needs with other fuel providers such as LPG, heating oil distributors. How could the transfer of this information work? What are the benefits and risks of sharing the information?

Ofgem is right to be considering the needs of off-grid consumers. LPG and heating oil customers do not currently benefit from the same support and protections as gas customers in relation to their heating and cooking needs.

As noted above, Ofgem should, however, only place obligations on energy companies that they have the ability to deliver. Ofgem should not be seeking to require energy companies and, therefore, their customers to establish and fund services on behalf of other industries.

Furthermore, as noted in the consultation document, it is unclear as to why such companies need PSR data, how data would be used and/or how the data would be managed. LPG and heating oil distributors are potentially already better placed than energy suppliers or networks to identify customers in vulnerable situations by virtue of business models which require them to regularly visit customers' homes.

Question 8: Do you agree that we should stipulate the minimum details that we expect energy companies to share, for example that names and phone numbers must be shared where they are available? Is there any other information that should be shared and for what purposes?

Energy UK supports the idea of an agreed minimum set of customer details to be shared between energy companies. The details of any data sharing requirements should, however, be agreed amongst data parties (Suppliers, DNOs and GDNs) and not stipulated by Ofgem. This workstream is appropriately taken forwards by industry under the relevant industry codes and the ENA Customer Safeguarding Working Group.

Question 9: Do you agree that energy companies should agree common minimum 'needs codes' to facilitate the sharing of information? Should we require energy companies to agree these codes? How might this work and what mechanisms are already in place to facilitate this? What role would Ofgem need to have in this process?

The current PSR data flows sent by suppliers to DNOs and Gas Transporters already use a number of agreed common 'codes' to indicate customer circumstances. Industry has identified that these codes could be improved to ensure consistent use by all parties. The ENA Safeguarding Customers Working Group was established to take this work forwards and has a sub group looking at the issue.

We would again highlight that, in order to address Ofgem's concerns that these codes remain fit for purpose, the scope of the PSR should be retained 'as is' and not expanded to a broader, subjective obligation. Such a broader obligation will make it difficult to agree, and work with, such common minimum 'needs codes' as energy companies are likely to have a diverse range of views as to the codes that apply to their customers. The two obligations (to have a broad, fluid register and a common set of 'needs codes') would therefore conflict.

Question 10: Should information about a customers' needs be shared with their new supplier when they switch? What is the best way to facilitate the sharing of this information?

In principle Energy UK supports the concept of sharing PSR information on change of supplier. Sharing information upon a change of supplier will, however, require extensive changes to existing industry agreements and systems in both electricity and gas. Under current arrangements, for example, no information about the customer, not even a name, is exchanged between suppliers on a switch. A switch relates only to a meter point.

Any proposal is likely to have a significant impact on a number of critical change programmes already being taken forwards by industry on behalf of Ofgem, including quicker switching, DCC centralisation and Project Nexus. There should, therefore, be no new requirement placed on energy companies at this time. There are, and will no doubt continue to be, a number of competing priorities involving supplier and industry change. By imposing a licence condition in respect of one, then this may oblige suppliers to prioritise that one to the detriment of others, even if it was not in the interests of consumers to do so.

Proposals are best further explored via Ofgem's Change of Supplier Expert Group (COSEG). It is important to ensure that proposals do not have any unintended consequences, especially where they could have a detrimental effect on the reliability and speed of switching. Specific proposals must also be subject to a detailed public consultation and impact assessment.

Finally, as noted above, there is again a tension with Ofgem's proposals for energy companies to move away from using specific groups for the PSR, in favour of identifying any customer with safety, access or communication needs. To ensure a good customer experience on a change of supplier, consistency is required from all parties in relation to the data items shared and how suppliers act on the receipt of such data (i.e. the services they offer). Under the DPA, it is also vital that parties are confident data is correct, up to date and relevant for purposes of the intended recipient. Retaining a common, tightly defined PSR would, therefore, be beneficial in helping to ensure all energy companies are able to accurately share data and manage customer expectations.

Question 11: Do you agree that a single cross-industry brand will raise awareness of priority services?

In principle, if a common name (e.g. Priority Services) and description of the PSR services raises the profile of the PSR, it is worthwhile.

Any common branding should not, however, prevent suppliers and networks developing other services that are linked to the PSR. Common branding must not stifle innovation, nor impact upon suppliers' ability to make commercial decisions in this area. Energy companies must retain the ability to differentiate themselves and the services they offer in order to compete for customers, including those customers who may need particular support.

For any common branding to be effective it is also important to ensure that there is consistency within and between suppliers in regards to the PSR services available and the groups of customers who are eligible. A PSR with a broad, subjective scope (which ultimately is left to suppliers to define according to their understanding of their customers' needs) is not harmonious with a common name and description. The latter naturally infers a single list of tightly defined services. A lack of consistency in the services provided by suppliers, especially if presented under a common brand, is likely to be a source of customer confusion, undermining one of the key benefits that common branding could deliver. In Energy UK's view awareness will be best served by providing consumers certainty over what they are eligible for under the PSR.

Question 12: Do you agree that a guidance document would help advice providers and raise awareness? Who should produce this document?

Yes. Energy UK believes Ofgem are best placed to produce such a document.

Question 13: What more can be done to raise awareness of priority services?

Ofgem's 2013 research on the PSR clearly demonstrates that more needs to be done to raise public awareness of the PSR and its associated services.

We know from experience that vulnerable customers are often not aware of the assistance available from energy suppliers, and where they are, many may be reluctant to approach their energy supplier for help for a variety of reasons.

While energy companies, therefore, have a role in addressing this awareness deficit, they are not the only parties with a role to play. A combined and sustained effort to educate consumers and stimulate interest in energy market is required, especially amongst vulnerable consumers. Effective third party campaigns to educate consumers convincingly about the availability of support, like Citizens Advice's Energy Best Deal, DECC's Big Energy Saving Network and Ofgem's Go Energy Shopping campaign are key to this.

With this in mind, we believe there may be a specific role for Ofgem, as an independent voice, to work with third parties to ensure greater consistency in energy advice across the UK. As the regulator, Ofgem is in a unique and valuable position to help rebuild trust in the industry and increase awareness and demand for the support already on offer, including the PSR.

Question 14: Do you agree that supplier independent audits are the best way of monitoring companies' compliance with our proposed obligations? Do you have views on the approach the audit should take and what it should cover?

No. Energy UK and its members do not agree that supplier funded independent audits are the best way of monitoring companies' compliance.

It is important that Ofgem's approach to monitoring and enforcement is proportionate. No justification has been provided to why an external audit is appropriate or proportionate. Ofgem already has a wide range of tools at its disposal to monitor companies' compliance with their PSR licence conditions, including Social Obligations Reporting, information requests and regular bilaterals meetings. A number of suppliers have suggested that Ofgem should be seeking to make better use of these existing tools and powers. For example, using the existing bilateral meetings with suppliers to conduct site visits and see suppliers' processes and procedures in action first hand.

External audits are also inconsistent with Ofgem's proposals to introduce new subjective licence conditions. Against what benchmark would auditors' monitor and assess compliance? Suppliers' compliance with their licence conditions should not be based on a subjective decision made by an auditor and/or in comparison to the activities undertaken by one of its competitors.

Finally, it unclear why Ofgem has proposed supplier funded audits. Ofgem is already funded via a levy on energy companies to monitor and ensure companies' compliance with their licence conditions. If Ofgem believe that external audits are necessary to gain sufficient assurances over the controls suppliers' have in place, it is their responsibility to pay for this activity, as is the case with Ofgem's audit activity to monitor suppliers' delivery of ECO and WHD.