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### **Priority Services Register Review – Final Proposals**

EDF Energy is one of the UK's largest energy companies with activities throughout the energy chain. Our interests include nuclear, coal and gas-fired electricity generation, renewables, and energy supply to end users. We have over five million electricity and gas customer accounts in the UK, including residential and business users.

EDF Energy welcomes Ofgem's continued engagement during their review of the Priority Services Register (PSR), and is supportive of the overall policy intent in reviewing the PSR. We share the objective of improving the services available and their uptake by vulnerable customers. Notwithstanding this, we are disappointed that following the workshop on 4 December 2015 Ofgem has made very few changes to the wording of the licence condition despite the constructive feedback provided by a number of suppliers. Therefore, we have reiterated our concerns below.

We remain concerned by the inclusion of the term "all reasonable steps" in the identification of vulnerable customers. Primarily, this concern is regarding how realistic and achievable such a broad and all encompassing term is, in relation to such a subjective area. We consider that as drafted, the requirements do not give sufficient consideration to what is reasonable and practical when dealing with potentially sensitive and emotive subjects. As stated previously, we consider that 'reasonable steps' would be more appropriate in this scenario. Suppliers could determine what steps they believe are reasonable in each instance, and still seek to design and offer services that are innovative, which would in turn allow suppliers to differentiate themselves based on these services.

EDF Energy is fully supportive, in principle, of the new proposals to record relevant information and share this with other companies in a two way process. While we share Ofgem's vision, we are mindful of ensuring that customer's data is handled in accordance with the requirements of the Data Protection Act. EDF Energy believes that Ofgem should approach the Information Commissioners Office (ICO) to request guidance before the new proposals are finalised. In particular, the introduction of a requirement for suppliers to "take all reasonable steps" to obtain "informed consent" is concerning. We believe clear guidance is needed regarding the requirement to "take all reasonable steps" in order to prevent subjectivity and inconsistencies in the level of informed consent which is obtained and the steps that are expected to be taken to obtain it.

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Furthermore, we consider that the introduction of the requirement to gain informed consent could inadvertently lead to some customers experience becoming worse rather than better. The use of the term "must" in the existing licence means that relevant information is shared where it is needed. Requiring informed consent will lead to some customers opting out of sharing their data, which in turn places them at a much greater risk during a no supply event. We therefore believe that Ofgem should reconsider removing "must share" from the new licence drafting in order to provide customers with the most effective protections. We further believe that reinstating this may facilitate data sharing with other industry parties outside of the energy industry in the future.

In regard to the delivery of the data sharing requirements, EDF Energy is concerned by the delays at an industry level. We understand the reasons for the delay and support the need to have clarity and certainty around the requirements before making changes. However, in the absence of firm industry agreement to date, it is unlikely that a June 2016 delivery date is achievable. We want to ensure that the change is delivered at the right time and with sufficient lead time to allow for an appropriate amount of planning and testing.

With this in mind, EDF Energy would like Ofgem to consider a different approach to implementation timescales. We consider that amending the delivery date to a 'deliver by' date would be more appropriate, as opposed to a number of different go live dates. EDF Energy is keen to make changes that could benefit customers as soon as possible. A 'deliver by' date would allow suppliers to progress sooner with changes to the services on offer.

Overall, EDF Energy is supportive of the move to a more principles based approach to regulation in this area, and we welcome the opportunity to understand and serve our customers in ways that are practical and appropriate to their needs. We would urge Ofgem to be considerate of this when finalising their proposals. We support the continuation of a minimum set of services and, beyond this, suppliers should be able to determine what services are appropriate. Ofgem should avoid the introduction of additional prescription via guidance or other means. We believe that if Ofgem considers a specific service to be required, it should introduce it under licence. Otherwise, suppliers should be free to innovate and differentiate to truly embrace the intent of principles based regulation.

Our detailed responses are set out in the attachment to this letter. Should you wish to discuss any of the issues raised in our response or have any queries, please contact Gavin Anderson on 0191 512 5870, or myself.

I confirm that this letter and its attachment may be published on Ofgem's website.

Yours sincerely,

A handwritten signature in blue ink that reads "Paul Delamare".

**Paul Delamare**  
**Head of Customers Policy and Regulation**

## Attachment

### Priority Services Register Review – Final Proposals

#### EDF Energy's response to your questions

##### **Q1. Do you agree with our final proposals for enhancing eligibility and customer identification and the associated proposed licence conditions?**

EDF Energy welcomes Ofgem's proposal to retain core eligible groups and agrees that suppliers have crucial role to play in ensuring that customers 'needs' are correctly identified and appropriately catered for.

We agree with Ofgem's decision to add families with children under five as a core group to ensure they receive appropriate safety related services. Furthermore, we support the decision taken not to change the definition of pensionable age and not to add pregnant women to the core group.

Whilst we understand the reason for this decision and the difficulties in identifying and maintaining information regarding pregnant women, we are concerned that the recent proposals, whilst not mandating the requirement, guides suppliers to taking the proposed action in any event. This somewhat removes suppliers ability to offer the services they feel are appropriate based on the customers need, as should be the intention of a truly principle based approach.

We support the need for suppliers to take reasonable and proportionate steps to identify vulnerable customers and their needs. However, as referenced in the letter above as well as in our previous responses, we do not feel that the use of "all reasonable steps" is proportionate in this case. We consider the phrase "all reasonable steps" to be too broad and open to vastly different interpretations. This could prompt suppliers to take actions which could be seen as overbearing or intrusive. We suggest that 'reasonable steps' would be much more appropriate and would align to the policy intent as described in paragraph 1.30 of the consultation document, which proposes "*energy companies to take reasonable steps to identify eligible customers*".

##### **Q2. Do you agree with our final proposals for amending the PSR services and the associated proposed licence conditions?**

We support the final proposals outlined by Ofgem and are pleased with the proposal to introduce flexibility in regard to identifying the most appropriate way to communicate with customers and operate the services they need.

However, we would like to note that following the meeting with Ofgem on the 4 December 2015, it was agreed that SLC26.5 would be reviewed in order to provide clear understanding of the term "their". As drafted, it is unclear if the term refers to the consent of the customer or the person agreeing to receive the information. However, the consultation document refers to "with both party's consent". We would like to see consistency between the intent outlined in the consultation and the SLC drafting.

*(b) A person nominated (with their consent) by the Domestic Customer being able to receive communications relating to their account,*

Additionally, EDF Energy would like to draw to Ofgem's attention a potential conflict between the revised drafting of SLC26 and the existing requirements of SLC41.5a. As currently drafted SLC 26.1b requires only bills or statements to be sent to any other person nominated by the customer. The proposed new drafting extends this requirement to "communications relating to their account", which could by definition mean any communications sent to the customer. The requirement of SLC41.5a requires that:

*the licensee has given Notice to the Domestic Customer at the relevant premises informing the Domestic Customer*

Under this requirement the Notice must be given to the customer at the relevant premises which would seem to prevent suppliers from redirecting this notice to a nominated person. We would urge Ofgem to consider how this conflict can be avoided.

**Q3. Do you agree with our final proposals for recording and sharing information about customers in vulnerable situations and the associated proposed licence conditions?**

EDF Energy supports the sharing of information which is relevant to those which need it, with the appropriate level of consent. We agree that parties could benefit from receiving accurate and consistent data on the needs of the customers they serve.

Notwithstanding this, EDF Energy remains concerned by the amount of sensitive personal information that is proposed to be shared and wishes to reiterate the point made at the meeting on 4 December 2015 that we feel engagement with the Information Commissioners Office( ICO) is needed prior to concluding the drafting.

Our concern remains that requiring suppliers to obtain "informed consent" from customers to sharing their data could lead to some customers electing to "opt out". We consider that this introduces an unnecessary risk and could create an unacceptable level of risk to these customers in scenarios such as an off supply event. We urge Ofgem to consider carefully mandating that suppliers "must" share this information in all circumstances in the interests of customer safety.

In regard to the timescales for implementation EDF Energy is growing increasingly concerned that there will be insufficient time to deliver changes to electricity at an industry level. As you will know, the changes to needs codes, agreed through the ENA working group, were proposed at the IREG and rejected by industry. For the proposals to progress suppliers will be required to undertake Privacy Impact Assessments and satisfy concerns around the level and relevance of data being shared and retained. It is vital that changes are delivered concurrently across all parties. The lack of an industry agreement to date suggests that the proposed June delivery is beyond what can be achieved without compromising the accuracy and effectiveness of the changes.

Furthermore, whilst EDF Energy understands the proposed later implementation of the requirements for data sharing for gas based on the roll out of Nexus, we strongly question whether a two phased approach is now appropriate. Based on the delay to electricity, whilst the data and technical concerns are resolved, as well as the added cost of making such changes at two separate times, EDF Energy would recommend that gas and electricity are delivered at the same time. This will allow for sufficient time to fully engage and understand the DPA implications.

**Q4. Do you agree with our final proposals for raising awareness of the priority services, including any specific suggestions for energy companies to improve awareness?**

EDF Energy welcomes Ofgem's proposals to raise awareness of priority services. We believe all parties have a role to play in ensuring customers are aware of and able to access the services they need.

Whilst we welcome the challenge to companies to develop more innovative ways to increase customer awareness, we consider that this challenge could be somewhat confused by the proposed introduction of a prescriptive requirement to include details of the priority services within the Treating Customers Fairly statement (TCF).

EDF Energy feels this level of prescription could stifle companies' innovation. Furthermore, we do not believe the TCF is the most appropriate vehicle for this information. The requirement to provide specific information regarding particular services features regularly throughout the licence, and we are concerned that embedding the PSR information into the TCF sets a precedent for future changes to principle based regulation. We would want to avoid the TCF becoming a catch all for customer information as this would inevitably lead to the TCF becoming unmanageable for customers.

**Q5. Do you agree with our final proposals for the approach to monitoring energy company performance in this area?**

EDF Energy agrees with the proposed approach to monitoring. We support the use of existing tools such as Social Obligations Reporting and SOC panel.

EDF Energy would welcome further engagement with Ofgem whilst reviewing the SOR requirements and establishing the requirements for monitoring the quality of suppliers services.

**EDF Energy**  
**February 2016**