

Response to Ofgem Priority Services Register Review final proposals

18th February 2016

Introduction

Energy UK is the main trade association for the energy industry, with over 80 members; representing energy generators and suppliers of all sizes. Our members supply gas and electricity and provide network services to both the domestic and non-domestic market. Energy UK members own over 90% of energy generation capacity in the UK market and supply 26 million homes and 5 million businesses, contributing over £25 billion to the UK economy each year. The industry employs 619,000 people across the length and breadth of the UK, not just in the South East, contributing £83bn to the economy and paying over £6bn annually in tax.

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 final proposals of the 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 UK is supportive of moves to improve the existing Priority Services Register (PSR). Energy UK does, however, continue to caution that Ofgem's proposals would add a high degree of subjectivity to both determining whether someone is added to the PSR and the services offered.

We would also note that while the description of some of the changes proposed in the document appear reasonable, the draft Standard Licence Conditions (SLC) do not in places reflect this. In line with the principles of better regulation it is important the SLC clearly reflect Ofgem's policy intent.

Finally Energy UK attended a supplier workshop at Ofgem on 4th December where feedback was provided on plans for the changes to the PSR SLC. It is disappointing that Ofgem do not seem to have taken feedback invited and provided by industry on board. We would welcome further clarification on why this is the case and have therefore repeated relevant comments in our response below.

Energy UK has responded in detail to the questions set out in consultation document below.

Questions

1.1. **Question 1: Do you agree with our final proposals for enhancing eligibility and customer identification and the associated proposed licence conditions?**

1.2. Energy UK welcomes the retention of a set of minimum services to be provided for specific groups of non-financially vulnerable customers. This reflects the underlying purpose of the PSR

which is to ensure basic protections for those customers who most require consistent access to supply.

1.3. While we welcome the widening of the eligibility criteria to include customers in vulnerable situations with specific needs we do have some concerns with the phrase 'a vulnerable situation' used in SLC 26.1 (a). The term is vague and could lead to a definition of vulnerability that is too wide in practice. The risk here is that suppliers are required to regard a significant proportion of the population as a priority and as a result the most at-risk customers do not receive the focus they need.

1.4. We agree that energy companies should take reasonable and proportionate steps to identify vulnerable customers where they have reason to believe they may be in a vulnerable situation. We do, however, believe the drafting of SLC 26.1 is not consistent with Ofgem's policy intent as described in paragraph 1.30. of the consultation document (emphasis added):

We propose to require energy companies to take reasonable steps to identify eligible customers for their PSR customers. This entails picking up on signs and trigger points from customer interactions in addition to using relevant approaches to target promotion and awareness of services. We consider that this will ensure that the right services and support are delivered to the right people in the most cost - effective way.

1.5. The draft SLC however asks for 'all reasonable steps' to be taken. We would strongly urge the SLC to be amended to simply require 'reasonable steps' to be taken.

1.6. The phrase 'all reasonable steps' suggests an approach which would be highly subjective and an uncomfortably broad, uncertain requirement for suppliers to implement. An SLC that requires 'reasonable steps' would be sufficient to meet the desired policy intent outlined in the extract above.

1.7. Energy UK welcomes the addition of families with children aged five and under as one of the core eligible groups for services related to safety needs. There does appear to be a discrepancy however between this change and the SLC as drafted. Families with children aged under five are not included in the definition of "Personal Characteristics" in draft SLC 26.6 despite the inclusion of customers being chronically sick, or having an impairment, disability, or long term medical condition (including but not limited to a visual, auditory or mobility impairment).

2. Question 2: Do you agree with our final proposals for amending the PSR services and the associated proposed licence conditions?

2.1. We support the changes to the minimum PSR services set out in the proposals and draft SLCs. We would, however, seek clarity on certain aspects of the SLC as currently drafted.

2.2. SLC 26.5 (b) makes reference to: '*A person nominated (with their consent) by the Domestic Customer being able to receive communications relating to their account*'. It is unclear who 'their' is referring to. Is it the customer or the person who has been nominated that must provide their consent? It is important drafting is clear so as to adequately reflect the desired policy intent. As per the existing licence we assume that Ofgem's intent is that consent must be obtained from the customer.

2.3. SLC 26.5 (c) relates to the Domestic Customer's ability to read a meter but it makes no reference to members of the household who may be able to read the meter on behalf of the customer. During the meeting between suppliers and Ofgem on 4th December, Ofgem agreed to look at how this clause could be amended to take into account other members of the household who are able to read the meter on behalf of the customer in a similar fashion to the existing SLC 26.1 (c). We therefore believe this clause requires an appropriate amendment accordingly.

3. Question 3: Do you agree with our final proposals for recording and sharing information about customers in vulnerable situations and the associated proposed licence conditions?

- 3.1. The draft SLC on data sharing (26.2) contains two terms that are both broad and difficult to interpret, creating a compliance threshold that is disproportionate to the policy intent. These phrases relate to the requirement for suppliers to take 'all reasonable steps' to obtain the 'informed consent' of the customer to share their data.
- 3.2. It is unclear what constitutes 'all reasonable steps' to obtain 'informed consent'. I.e. at what stage does consent stop being informed? Energy UK would welcome guidance on what the Information Commissioner's Office (ICO) would deem as acceptable. This was a point made clearly in the 4th December meeting between suppliers and Ofgem.
- 3.3. We are also concerned that SLC 26.2 is drafted without any link to 26.1. The SLC therefore describes data sharing without being precise about what data is expected to be collected and why it is being shared.
- 3.4. Energy UK welcomes moves to improve the customer service experience by developing more consistent processes for recording and sharing data across the industry. As noted in the proposals document this is going to require significant system change by suppliers and as such it is important that timescales are sensible and realistic. Given that no changes to the existing requirements under the Master Registration Agreement (MRA) have been agreed to date, a deadline of June 2016 for all electricity suppliers to implement IT changes to allow for the use of new vulnerability categories appears unachievable. It is unreasonable to expect industry to push ahead with IT and system changes without policy certainty from Ofgem (i.e. formal SLC changes).
- 3.5. Furthermore, it is important that all parties understand their obligations as set out in the Data Protection Act and have systems and processes in place to ensure they are handling and sharing data appropriately in advance of any changes to industry systems going live.

4. Question 4: Do you agree with our final proposals for raising awareness of the priority services, including any specific suggestions for energy companies to improve awareness?

- 4.1. While energy companies have a role to play in raising awareness of the PSR they are not the only parties with a role to play. We therefore welcome the involvement of third party advice providers in providing information about PSR services.
- 4.2. Energy companies are already required to take customer needs into account when communicating details about the PSR via the Standards of Conduct (SOC) licence condition. This will include identifying innovative ways to increase customer awareness. In addition, the proposals for customer identification will, to a large extent, require companies to take new approaches to raise awareness of the PSR.
- 4.3. SLC 26.6 states that suppliers must include information on compliance with the SLC in their Treating Customers Fairly statement (TCF) under standard condition 25C.7. It is not clear why this is an appropriate channel for communication. Given that the PSR review is designed to be a test-bed for principles-based regulation these proposals appear very prescriptive in nature. Requiring suppliers to publish information about the PSR in the TCF could lead to a TCF document that is unwieldy and difficult for consumers to take in. This would both defeat the purpose of the TCF and fail to deliver against the principle of awareness-raising in the PSR SLC. We therefore believe it is more appropriate to retain the requirement to publish information as set out in the existing SLC 26.8.
- 4.4. As discussed at the meeting on 4th December suppliers would be happy to publish something to raise awareness of the PSR alongside but not within the TCF statement.

5. Question 5: Do you agree with our final proposals for the approach to monitoring energy company performance in this area?

- 5.1. We support Ofgem's proposal to adopt an approach to compliance which is similar to current SOC monitoring via the use of panel reporting. We agree that this is a preferable route for seeking assurances that suppliers are taking the necessary steps to best meet the needs of consumers and to promote best practice.

ENDS