



By email only

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Priority Services Register – Final Proposals

Dear Bhavika,

Please find npower's response to the above consultation. We are happy for this to be placed in the public domain.

If you wish to discuss any element of the response, please do not hesitate to contact me.

Yours sincerely

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Priority Services Register Review – Final Proposals – npower response

Background

We are generally supportive of Ofgem's review of the PSR and the proposals put forward in the consultation. It is important this area is subject to review as it had remained essentially untouched for several years. We welcomed the process by which Ofgem has consulted and engaged with suppliers about this, particularly in the context of letting them have sight of the draft licence condition before it went out for consultation and the ability to engage to discuss the various elements of the licence and to understand the intent behind them. The workshop on 4 December 2015 was very helpful in this regard.

At that meeting there was constructive dialogue and we were left with the impression that some of the comments and suggestions that were made would at least be reflected in the subsequent draft licence that is, in part, the subject of this response. It is disappointing, therefore, to find that there was one small change from the draft discussed in December to that which accompanied the consultation document (about information in respect of the licence condition's compliance being able to be shown alongside as opposed to just as part of its Treating Customers Fairly Statement).

It is hoped that on the basis of this comments sent in this consultation round, Ofgem will reconsider its position regarding certain elements of the licence condition (the details of which are dealt with below).

Regarding the data-sharing element of the proposals – again we are supportive in principle of this. The practicalities of implementing these are, however, complex; the suggestion of introducing changes to electricity before gas, will be resource intensive and inefficient and would not give customers the best experience. Doing so by June this year for electricity is unachievable. We would therefore press for both sets of changes to be implemented at the same time. For this, although a larger project, there is precedent under the Theft Risk Assessment Scheme (TRAS).

Below we deal with answers to the specific questions asked in the consultation

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

The draft licence condition as presented at the 4 December Workshop and accompanying the consultation is essentially a hybrid containing principles of ensuring similar outcomes for eligible consumers while setting out a list of prescribed services. However, the target audience, so to speak, at whom these services and others are aimed isn't entirely clear.

Firstly, does the phrase 'Domestic Customer' apply only to the person with whom a supplier has a contract to supply, or does it cover other members of the household? The implication is that it is the latter circumstances that pertain. This seems a sensible interpretation. See also our comments on SLC 26.4, below.

Vulnerable customers who are meant to benefit fall into two groups: (i) those with certain defined characteristics, (being '...of pensionable age...' and '...chronically sick or having an impairment, disability, or long term medical condition (including but not limited to a visual auditory or mobility impairment),...') which is essentially an analogue of the existing customer groupings covered in the current PSR supply licence – pensioners, disabled and long-term sick; and (ii) those whose circumstances may make them vulnerable.

Interestingly, in the draft licence conditions for gas transporters and electricity distributors, PSR customers with defined personal characteristics are those who are '...of Pensionable Age,

disabled, chronically sick... Why are these characteristics although similar to, different from those in the draft supply licence condition?

At the December workshop Ofgem indicated the phrase *'...being in a vulnerable situation...'* that appears in the draft licence condition was the means by which Ofgem was seeking to translate (into the condition) its definition of vulnerability as set out in its Consumer Vulnerability Strategy (CVS). In doing so, this raises several points:

- There is no direct link to the CVS definition in the licence.
- If the implication is that the CVS is seen as a 'universal' definition of vulnerability and a customer *'...being in a vulnerable situation...'* is posited as the practical exposition of that definition, why is it necessary for there to be made explicit an additional group of customers who are vulnerable because of their *'Personal Characteristics'*? (as an aside the attempt to introduce CVS definition into the Smart Metering Code of Practice by Citizens Advice was recently rejected by Ofgem, because, in essence, it found there was no link back to the relevant supply licence conditions' definition which referred to the traditionally defined groups comprising customers: of pensionable age; who are disabled; or who are chronically ill. Furthermore, Ofgem said that the CVS definition *'...did not give the certainty that the SMICoP would cover these particular groups of customers.'*¹ The scope of the CVS definition is therefore uncertain and open to debate).
- That Ofgem has to define a set of characteristics to identify certain vulnerabilities highlights the difficulty of what the term *'...being in a vulnerable situation...'* means in practice.
- If the Personal Characteristics definition is considered additional to rather than a subset of those circumstances applying if the customer is *'...in a vulnerable situation'*, this is important on a practical level as, suppliers would like as few definitions of vulnerability as possible, while having the certainty of what they mean. Having several causes difficulty both operationally and from a training perspective. Defined characteristics do have the simplicity of being, in the main, objectively identifiable (cf the needs codes).
- Linked to the above, the definition of *'...being in a vulnerable situation...'* could be interpreted widely by suppliers, meaning that customers deemed vulnerable by one supplier (and who may therefore receive services from it) may not be considered so by another and treated differently.

Turning now to the requirement for suppliers to identify vulnerable customers, this places the obligation on them to take *'...all reasonable steps...'* to do so.

We are pleased to see that the element of proactivity to identify eligible customers has not been taken forward; this would have placed a considerable burden on suppliers and may have led to poor outcomes in relation to customer service because of the level of intrusiveness required to meet this requirement. Notwithstanding, we still have concerns about the inclusion of the phrase *'...all reasonable steps...'*

This phrase appears many times throughout the supply licence and in each context in which it is used the expectation of where the bar for compliance is set is high. However, there is not, as far as we know, an objective test as to what taking all reasonable steps means in practice and is hence difficult to operationalise.

Helpfully, Ofgem in paragraph 1.30 of the consultation document goes a little way in articulating what it expects suppliers to do in taking *'...reasonable steps...'* (sic). This is done by *'...picking up*

¹Ofgem decision letter - CR031 - definition of vulnerability in SMICoP – 10 Feb 2016

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.' Suppliers will have different approaches and processes; there will, therefore, be different levels of effectiveness in the identification of vulnerable customers

In being required to take '*...all reasonable steps...*', suppliers do not want to engender a level of contact or intrusiveness that is outwith that normally expected for a well-run company offering a requisite level of good customer service. To that end, we would welcome some guidance or clarification from Ofgem in this regard. Perhaps Ofgem could seek the advice of interested third parties such as, for example, Citizens Advice (CA) or social services as to what they would expect.

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

Yes. We agree that there should be a core set of services offered as listed in the draft licence condition; not least as this is necessary for a common-branded industry-wide PSR. We do, however, have some comments on their applicability and coverage. We have invested in our own-branded PSR, Warm Response, but we see the benefit in common-branded service.

SLC 26.4 is the preamble to the services section of the licence in which the phrase '*...may reasonably require...*' is used about the provision of those services to a vulnerable customer. From a practical perspective, who decides whether a service is reasonably required or not – the supplier or customer, or Ofgem? For example, a Domestic Customer (in the narrow sense of the phrase) may be unable to read his or her meter; prima facie, therefore, they are in a vulnerable situation and so and would meet the criterion to render the service applicable under SLC 26.5(c). However, if a member of the customer's household is able to read the meter, then it is moot whether or not the aforementioned service is reasonably required by the customer. We believe that the need is to capture vulnerability within the household; we cannot assume that non-vulnerable members will look after vulnerable customers' interests. Again, some guidance or clarification in this regard would be helpful.

SLC 26.5 (c) mentions meter readings at appropriate intervals. We agree that these should be appropriate to the needs of the customer. This also complements one of the requirements of SLC 21.B (which brought into force the obligations under of Energy Efficiency Directive (colloquially known as the Third Package)), where a customer can request a quarterly bill (obligatory if the customer has opted for an online account), if they wish.

SLC 26.5 (d). Does the phrase '*...safe and practicable access..*' to a prepayment meter's functionality apply solely to a vulnerable Domestic Customer (whose vulnerability is, for example, physically based as opposed to being in a vulnerable situation) or does it include other members of the customer's household, who may easily be able to access said meter?

SLC 26.5 (e). Communications in an accessible format appropriate to a customer's needs. It is not clear if this is meant to cover, for example, the provision of information where the customer's first language isn't English. Most suppliers already offer communications in the major non-English languages (and can provide translation services in other less-common ones); therefore to, effectively, mandate this (if this is the case) may be unnecessary. In addition, if there is someone else in the a customer's house who can deal with matters without the need for translation (accepting of course that there will be privacy issues; for example, a customer may not wish other members of their household to be privy to the former's dealings with their energy supplier; as well as not assuming that other members with a household will help out (see above)), and the potential impact of the Equality Act, then it would be helpful for clarification as to this provision's application to foreign language communication.

Question 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?

Yes. We believe that greater sharing of data will enhance vulnerable customers' experience when having dealings with and being offered relevant services by industry parties. Important information can be exchanged without this having to be provided repeatedly, and that customers will have a degree of certainty about what is being shared because it is in a standardised form.

We are pleased that Ofgem has said that a systematised process of supplier-to-supplier data sharing should be considered as part of the next-day switching initiative. As part of the latter process, rather than it being introduced piecemeal, will reduce the complexity of making several changes to suppliers' systems in relatively short order.

In terms of making changes to specific elements of the PSR, below we set out what we believe will impact on and be impacted by the proposed changes to the data-sharing element of the PSR initiatives. Also we set out the other matters that will need to be considered when introducing enhanced data sharing.

Electricity

It seems sensible for the initial focus, at least, to be on those processes which are extant for exchanging information between supplier and network provider (and vice versa) and for which changes to suppliers' systems may be relatively more straightforward to undertake. Notwithstanding, and as we have said all along, the practical implications of doing this will still not be easy, nor can changes be done quickly. Specifically in relation to the PSR changes, this is because:

- (a) the changes put forward to November IREG were rejected and there have been no subsequent changes raised;
- (b) the need to go through the formal governance process to ensure industry consistency and alignment;
- (c) consideration of any lead-in time on the back of required MRA changes;
- (d) the needs codes which are the subject of the change request, while finalised, have not yet been formally signed off (Appendix 4 of the consultation refers to them as the 'latest' version); and
- (e) any changes have to be fully 'locked down' and not subject to further amendment. This is not yet the case in terms of the data requirements.

There are also industry-wide initiatives that affect the timetable for making the above changes quickly.

P302

P302 proposes amendments to the change of supplier process to make use of the enhanced functionality that smart meters will provide and improve the passing of timely and accurate consumption data into Settlement. This will require changes to certain data flows and is due to be implemented at the end of June this year.

Data Communications Company (DCC)

The DCC's much-delayed go-live will be split across two releases of functionality, with the first live release due to take place in the summer of 2016. The second release will follow in the autumn (of 2016) and deliver the remaining functionality.

Both P302 and DCC go-live involve concurrent changes to suppliers' systems; these are taking considerable resource which cannot be diverted at this crucial time.

Gas

Project Nexus is a long-running workstream that looks to replace Xoserve's ageing UK Link system, and to meet a number of wider customer requirements over the medium and long term. As Ofgem recognises, Nexus given its size and complexity, continues to tie up a considerable amount of supplier IT and system resource. Even when it goes live in October, post-Nexus we may expect to see a relatively large number of regulatory changes over the following six to nine months.

Internal changes

From an npower perspective, the PSR proposals will typically impact the minimum lead-in time for any change to be effected

In making a change for one fuel, and then to be required to make the change for the other subsequently means both duplication and possible inefficiency, while increasing the cost of doing so. For example, in having a two-stage delivery, we will need to establish and manage two distinct sets of needs codes as there are fuel-specific elements to both. Even though they are separate, dealing with both together does create some synergy and reduces the risk of mistakes occurring.

We must also ensure that the various channels (online, phone, handheld devices, for example) we use to acquire, receive or send information about, or through which we have contact with, customers are consistent so that each is capable of accurately reflecting a customer's vulnerability with, at least, reference to the needs codes. This is also separate from ensuring that we apply the wider definition of vulnerability in seeking to record individual circumstances and offer the right service. For all data captured and/or updated, because of the increased dynamic nature of their acquisition and exchange, at each point of contact the requirement to validate and record the accuracy and continued applicability of information takes on greater importance than is the case now. It would also seem odd that in holding gas and electricity vulnerability data, but being only able to share electricity information would not provide the best customer experience.

Data Protection and informed consent

One of the most difficult items to deal with is that of '*...informed consent...*' (SLC 26.2). This is not a defined term in the draft licence nor is it clear what taking '*...all reasonable steps..*' means in practice. At the December meeting, Ofgem indicated that it could mean asking the customer once and if permission is refused, the requirement would have been met.

In exchanging information with network providers using the needs codes, parties will, by definition, be dealing with sensitive data pertaining to customers' health. For this, under the Data Protection Act 1998, customers will need to be told how their information is going to be shared. The need to be more explicit about what and why data are being shared could have a detrimental effect on the number of customers signing up" to the PSR is also something to be considered. Any process must also allow for the withdrawal of consent (and for this to be relayed to all other parties); this will add to complexity and cost.

Privacy Impact Assessment

Under the proposals, we believe that each party handling customer data will have to complete a Privacy Impact Assessment (PIA). Colleagues from the industry Customer Safeguarding Working Group (CSWG) have met officials from the Information Commissioner's Office (ICO) to discuss the need for a PIA, the main aim of which is to satisfy any privacy concerns that may arise. The CSWG agreed that a joint industry-wide PIA would be produced as a baseline for parties to use; this would then allow them to tailor to their own needs as necessary. We understand, too, that a PIA is considered necessary before any changes to the MRA are formally raised and will, we believe, lengthen the process approving such changes.

General Data Protection Regulation (GDPR)

Going forward, the European Union-wide GDPR that is due to come into force in 2018 will impose further obligations on handling personal data, including, for example, the right to be forgotten and explicit consent being required before an individual's data is shared. It seems sensible for the PSR arrangements to be future-proofed to take account of the requirements of the GDPR. However, we understand the ICO is still assessing the likely impact of the GDPR on its own work, so is not yet in a position to advise third parties accordingly

For the reasons set out above, we believe that June 2016 is unfeasible for any changes to be made to accommodate data sharing in electricity. June 2017 at the earliest is a more realistic date for both the gas and electricity data sharing proposals to take effect, but we would recommend this should be subject to regular review. There is a precedent in that the gas and electricity elements of the TRAS were originally proposed to be introduced separately. On review, however, Ofgem determined it was more efficient to bring in both together.

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?

Yes. We agree that there is scope for raising awareness of the PSR. Table 1 of Appendix 2 of Ofgem's consultation document states that in December 2013, less than 10% of gas and electricity customers were registered on suppliers' PSRs. According to Ofgem's Social Obligations Report 2014 annual report², this had increased to roughly 11% (2.9m electricity and 2.3m gas customers). Research carried out for Ofgem in 2013³ indicated that around a quarter (24%) of GB energy customers surveyed said that they were aware of any non-financial support provided by energy companies for customers who might be considered vulnerable. Meanwhile, a third (32%) of GB energy customers identified themselves as having characteristics which would make them eligible for PSR services and/or free Gas Safety Checks from energy companies. Clearly, then, there is scope for better publicising and hence increasing the number of customers recorded on suppliers' PSRs.

Suppliers have invested in, and branded their own PSRs differently (as stated above, npower's PSR is known as 'Warm Response'). Each, while providing core services, may have additional ones unique to them and so want to differentiate these offerings. We agree that a common branding should reduce confusion and enhance recognition. The only reservation is that some confusion may still remain where suppliers have additional services to those listed in the licence and which are different from each other's, but all are offered as part of the PSR 'umbrella'.

Eligible consumers may find when they switch that an additional service provided by their old supplier isn't available from their new energy provider. However, it is unlikely that a customer would consider or eschew changing supplier solely on the basis of a different or poorer set of PSR services; consideration of these may, though, affect decisions taken on the margin. In any event, the service a consumer receives could be inferior but still meet the licence requirements. Notwithstanding the above, the main aim of establishing and for promoting an industry-wide PSR brand is to maximise the number of eligible customers who take up the services on offer.

If suppliers retain their own-branded PSR services, then it could be necessary to ring-fence those core services that are common to all suppliers from those which are additional to these requirements. Whether this can be done by some common wording is open for debate.

² Ofgem - Domestic Suppliers' Social Obligations: 2014 annual report -Table 12, pp51

³ Ipsos Mori - Research into the Priority Services Register and non-financial support for vulnerable energy consumers

Ofgem, CA and other agencies are central to promoting an industry-wide PSR. Ofgem and CA, being high-profile nationally based organisations, can deliver and promote a consistent message about the PSR. Local authorities and third-sector organisations are perhaps better able than suppliers and networks to identify the needs of their localities and particular consumer groups that they deal with. This is an untapped resource that should be better utilised. For example, Islington Borough Council operates an initiative that identifies (and obtains the permission of) eligible resident consumers and then forwards the information to their suppliers for inclusion on the latter's PSRs. While this is small-scale, it could be replicated elsewhere (although in so doing, as described in the answer to question 3, above, this would likely mean changes to suppliers' systems to handle such arrangements on a larger scale, with the attendant costs involved).

In npower's case our relationship with certain food banks to offer our Fuel Bank™ initiative is an example of means by which the PSR can be and is promoted.

Through the industry CSWG, some of the work taken forward there has included outreach to other relevant organisations such as local authorities and the some of the emergency services (for example the national body supporting local fire services). They will significant contact with vulnerable customers and should be engaged in a systematic way in order to promote the PSR. Ofgem would be best placed to engage initially with these bodies to take matters forward. We therefore agree with Ofgem's proposals for it to develop materials with third parties to promote the PSR.

In relation to network service providers' PSR services, while these are aimed primarily at loss-of-supply and safety situations, there should be the necessary dovetailing with suppliers' PSRs as customers may not fully appreciate the distinction. We agree, therefore, that gas and electricity distributors should continue to be required to promote and provide information to domestic customers on an annual basis and prepare statements to be made available on their websites.

Treating Customers Fairly

It is not clear the rationale behind using the Treating Customers Fairly (TCF) statement as means of promoting the PSR. The TCF statement serves a particular purpose of highlighting the generality of how suppliers are applying the Standards of Conduct (SOCs). To use this as vehicle for individual licence condition compliance: (a) changes the nature of the TCF document from being a high-level report on SOCs; and (b) may subsume specific (in this case, PSR-related) information into a more general form and so would defeat the object of the exercise of promoting or monitoring the PSR. We would ask Ofgem to think again about this proposal.

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

Yes. We agree that a supplier-paid-for-audit-based approach is not the way to monitor compliance with any changes to or the operation of the PSR. Given the nature of vulnerability, in assessing supplier performance, particularly with non-core additional services there will be a large degree of subjectivity involved that will make comparisons difficult.

As suppliers already report annually on PSR-related services as part of the Social Obligations Reporting (SOR), this would seem a more logical means by which any changes to this area should be reflected. In making any changes to SOR, however, Ofgem should recognise that these will undoubtedly require IT changes and so could not be introduced without due consultation, agreement and requisite notice.

Ofgem should continue the use of establishing and improving suppliers' performance by ad-hoc information requests and extolling best practice.

Ofgem also mentions undertaking a wider set of monitoring. It would be helpful to know what its thinking is in regard to how this would work in practice. There may be monitoring suppliers already undertake that could meet Ofgem's objective and which would provide the necessary insight into the efficacy of any changes to the PSR without the need to introduce any centrally based monitoring.

Finally, in terms of using a SOC-related panel, our comments, above, on TCF apply equally here.