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Dear Jonathan,

Priority Services Register Review: Statutory Consultation

Thank you for providing SSE with the opportunity to comment on the statutory consultation and new draft licence conditions for the Priority Services Register (PSR).

We are supportive of Ofgem's PSR review and welcome updates to the licence which would enhance the PSR. However, we continue to have some concerns over certain aspects. These concerns are summarised below, with further information being provided in the enclosed annex.

Draft licence conditions

Broadly we are supportive of the changes to the licence drafting and are pleased to see that Ofgem has made some amendments in line with suggestions from industry. We do have some small proposed amendments which we feel would further strengthen the drafting, these are detailed in the attached annex.

Proposals

Many of Ofgem's proposals are in line with how we operate at present; for example, we take a broad approach to identifying vulnerability and we endeavour to deliver new and innovative services to meet our customers' needs. We are in agreement with the intent behind Ofgem's proposals and are committed to delivering on them.

Timescales for implementation

Whilst we are supportive of the data recording and sharing proposals, we do have serious concerns over the timescales for implementation. It is in the best interests of customers that the implementation is robust, well-tested and secure. It would not be appropriate to prioritise speed over reliability and overall customer experience.

We recognise that Ofgem has delayed the deadline for delivery of data sharing for electricity to June 2017, to align with the deadline for delivery of data sharing for gas customers. We maintain that aligning delivery of the gas and electricity solutions provides the best outcome for customers. We are not confident that industry will be able to deliver in June 2017.

SSE has been instrumental in driving forward the industry solution and the Privacy Impact Assessment (PIA) and we are keen to deliver a robust, enduring and secure data sharing solution which works well for customers. However, uncertainties still exist and it is not possible to begin the design and implementation stage until industry discussions have concluded.

It is imperative, and in the best interests of consumers, that industry arrives at the optimal solutions for how best to protect and share customer data. In addition, industry requires certainty on the content of the licence conditions in order to define the industry codes in alignment with, and in consideration of, the licence. To this end, we are concerned that the implementation date of June 2017 is inappropriate, unachievable and could put customer data security at risk.

Further to this, delays to the implementation of Nexus (we note that Ofgem is 'minded to' delay the go live date to spring 2017, but that this is subject to detailed planning) mean that in June 2017 we will still be in the early post-implementation stage of Nexus. This means that there could be further changes and corrections of any possible defects. We consider that this will be an uncertain and unstable time to go live with the PSR data sharing requirements.

We note that Ofgem recommends that suppliers develop 'contingency plans' in the event that related change programmes are delayed (paragraph 4.21). Given all the uncertainties, we do not feel that individual companies are in a position to create alternative data sharing plans. Additionally, we do not consider that anything other than the optimal and enduring solution is appropriate when sharing customers' sensitive personal data.

Due to the importance of the PSR data sharing requirements and the direct impact on customers, it is imperative that the implementation is not hindered by any uncertainties so that the potential benefits for customers can be realised. Furthermore, it is vitally important that industry discussions arrive at robust solutions which ensure that customers' personal data will be kept secure and only retained and shared where necessary. Due to the aforementioned uncertainties, we do not feel that it is possible – at this stage – to determine a definite implementation deadline.

This cover letter and the attached response are non-confidential.



Please get in contact with me if you would like to discuss this response further.

Yours sincerely,

Fiona Casey
Regulation, Markets

Annex 1: Further comments on proposals

Eligibility and customer identification

We do remain concerned over the use of the wording “all reasonable steps” as this implies a very high threshold for compliance. We do recognise that the text in 26.1(c) (“which are appropriate in the circumstances, having regard to the interests of the Domestic Customer”), along with the example given in paragraph 2.21 of the consultation document, provides comfort that suppliers should not undertake actions or processes which customers might find unduly onerous or unnecessarily intrusive.

Customer identification is complicated by the fact that some customers choose not to engage with their supplier at all. In these instances, potential vulnerability may be identified through a route other than speaking to the customer (for example a meter reader may notice something about the property which suggests vulnerability, i.e. a wheelchair ramp leading to the front door). In this scenario, a supplier could make multiple proactive attempts to engage with the customer but ultimately the customer chooses not to have any contact with the supplier. We seek clarity that an inability to engage with the customer would not be viewed as non-compliance with the licence condition.

Overall, the licence drafting is generally in line with SSE’s existing practices (we take a very broad approach to vulnerability and seek to identify vulnerability in all customer interactions) ergo we are comfortable with delivering this requirement.

Priority services

We agree with the amendments to the licence drafting, which include reinstating the text which negates the need for suppliers to offer a meter reading service where a member of the household is able to read the meter. We currently offer services over and above the present licence requirements (such as the recently launched SignVideo service¹) and will continue to innovate to provide a range of services to meet our customers’ needs.

Data recording and sharing

Proposals

We are supportive of the data recording and sharing proposals and have been a strong driving force behind industry discussions and the development of the PIA. We are keen that any potential customer benefits from these proposals are realised. We do, however, have significant concerns over the proposed delivery deadline of June 2017 and consider that – due to ongoing industry discussions and the impact of the delays to Nexus – the delivery date must be revised to allow time for development of the optimal solution. A delay is

¹ <http://sse.com/newsandviews/allarticles/2016/05/another-first-for-sse-in-customer-service/>

necessary to ensure that customers' sensitive personal data will be handled in a consistent and secure manner.

We note that Ofgem recommends that suppliers develop 'contingency plans' in the event that related change programmes are delayed (paragraph 4.21). Given all the uncertainties, we do not feel that individual companies are in a position to create alternative data sharing plans. Additionally, we do not consider that anything other than the optimal and enduring solution is appropriate when sharing customers' sensitive personal data.

Implementing data sharing

As noted in SSE's response to the Final Proposals consultation (18th February 2016), it is vitally important that companies comply with the principles of the Data Protection Act (DPA) and hold only accurate, up-to-date data and only for as long as necessary. To this end, it is crucial that industry agrees data cleansing and date stamping standards to ensure that any data sharing will not result in a supplier inadvertently contravening these principles.

Minimum security standards are also essential to ensure that customers' data is safe and handled with care. It is imperative, and in the best interests of consumers, that industry arrives at the optimal solutions for how best to protect and share customer data. In addition, industry requires certainty on the content of the licence conditions in order to define the industry codes in alignment with, and in consideration of, the licence. The conclusion of industry discussions on these topics and the finalising of the Privacy Impact Assessment document are essential before any further progress can be made towards delivering the new data sharing requirements.

Minimum details

We have a slight concern over the definition of Minimum Details in relation to data sharing. Paragraph 26.3 requires that suppliers share Minimum Details, which is defined as including any Personal Characteristics and/or vulnerable situation.

In line with the definition of Personal Characteristics, a supplier might record a specific characteristic which is not defined in the licence (for example, they might record 'lives alone') and provide a service in relation to this characteristic, as per 26.5(f). Since other companies might not record this characteristic and would have no need to know this information about the customer, it would be inappropriate and against Principle 3 of the DPA for this information to be shared.

To this end, we feel that it is more appropriate if suppliers are required only to share details in line with the industry defined "needs codes". This could be achieved by making the following small alteration to the definition of Minimum Details:

“**Minimum Details**” means the Domestic Customer’s name, ~~details of any relevant Personal Characteristics and/or vulnerable situation relevant~~ “needs code(s)”, and such other details which are relevant to the subject matter of standard condition 26 as the Authority may from time to time specify by publishing a statement in Writing (following public consultation and giving at least two months’ prior notice).”

Supplier-to-supplier data sharing

We note the references to supplier-to-supplier data sharing in the consultation document. Implementing supplier-to-supplier data sharing will be incredibly complex and will require separate, thorough industry discussions on the unique complexities of sharing this data when a customer switches supplier.

Awareness of priority services

We understand and broadly support Ofgem’s proposals for increasing customer awareness of the PSR, although do still have concerns that the single cross-industry brand may lead to customer confusion due to PSR service offerings varying between suppliers. We will continue to make our customers aware of the existence of the PSR and the range of priority services we offer.

Compliance and performance monitoring

As discussed during our call of 1st July 2016, we are keen to engage further with Ofgem on its plans for monitoring compliance and performance in relation to this licence condition. We look forward to responding to any upcoming consultations which Ofgem publishes on this matter.

In terms of compliance and enforcement, as discussed in SSE’s response to Ofgem’s Future of Retail Regulation consultation (11th March 2016), for principles-based licence conditions SSE advocates a ‘two stage’ regime. This involves structured dialogue between Ofgem and suppliers, enabling a “without prejudice” exchange of views on what behaviours constitute compliance. An open, transparent and co-operative approach will empower suppliers to determine the best approach to meeting a principle or outcome in the interests of customers; whilst allowing any perceived issues to be dealt with through open dialogue.