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13 November 2017

Dear Jemma

Statutory consultation for a vulnerable safeguard tariff – E.ON response

Thank you for the opportunity to comment on the above statutory consultation.

We do not accept Ofgem's assertion that the energy market is not working. There are now some 60 suppliers in the market and the market share of small suppliers has more than trebled over the last three years. In each of the past two months, over 600,000 customers have changed supplier; in October, almost a third of those switches were to small and medium sized suppliers. Switching in the energy market is greater than in comparable markets (e.g. mobile phones, broadband, current accounts).

Following the Competition and Markets Authority ("**CMA**") investigation into the energy market, we have been working with Ofgem to implement some of its consumer engagement remedies¹, and these will need time to work through. In particular we have been working to make it easier for vulnerable customers to switch, and this has had a positive response. In addition, we made an announcement on 21 September 2017 about our intention to prompt greater engagement in the market through removing the evergreen Standard Variable default tariff for our customers, particularly as we encourage them to move on to smart meters.

We agree that vulnerable consumers should not have to apply for the safeguard tariff, and that, in order to put measures in place for this winter, the Warm Home Discount ("**WHD**") provides a quick and easy way to ensure that a significant proportion of vulnerable customers can be helped. We are concerned, however, both that customers of smaller suppliers will miss out and that non-obligated suppliers will receive a further market advantage through not having to provide a tariff which, in some cases, looks likely to be loss-making for suppliers. Any longer term solution should include all suppliers and ensure that all vulnerable customers can benefit.

¹ **Energy market investigation, final report**, Competition and Markets Authority, 24 June 2016

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We would like to point out that the very short timescales allowed to implement the safeguard tariff may mean that suppliers' solutions are imperfect. Work to put a safeguard tariff in place and ensure it can be correctly applied involves planning, building and testing. The lack of a policy consultation phase means that Ofgem has not had an opportunity to understand some of the issues the proposals present, and therefore it is likely that changes will need to be made before Ofgem can make its final decision. Therefore while we are able to make a start on the work necessary to meet the deadline now, there remain uncertainties which will delay progress. Final solutions will have to be delivered within very tight timescales, and the early days after implementation are likely to be a continuation of testing of system and process capabilities. We would appreciate Ofgem's understanding and patience in the first few months after go-live.

We would like to draw particular attention to the following: these issues were discussed with you at our meeting on 6 November 2017.

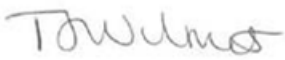
- We have concerns about the legal drafting of the definition "Relevant 28AA Customer" which states that a Broader Group customer should be switched to the safeguard tariff when they have been "*identified ... as meeting at least one of the descriptions of persons in the Obligated Licensee's eligibility criteria*". This goes above and beyond what is suggested in the statutory consultation and the Technical Document and is likely to create additional administrative burdens for suppliers.
- We do not believe it is appropriate to use the same methodology as for the prepayment price cap. There are existing issues with the methodology underlying the PPM cap, where the costs of delivering Government policy have been considerably underestimated by the CMA in the cap it has set, meaning that the allowance for them is, in our view, around 16% lower than it should be. This issue is replicated in the Vulnerable price cap, but is also exacerbated in the application of the cost to serve allowance, given that, as accepted by Ofgem, costs to serve standard credit customers are greater than costs to serve prepayment customers. For most larger suppliers, a significant proportion of customers pay on demand (standard credit). This could result in customers being unprofitable and having to be subsidised by customers on other tariffs. We propose a simple adjustment to the uplift figure included in the methodology to ensure this does not happen.
- We believe there are unintended consequences relating to contractual changes on fixed term contracts and provision of unilateral contract variations. These relate to SLC 22C.9 and requirements to notify customers in writing if there is a disadvantageous unilateral variation (SLC 23.3). Where a customer becomes eligible for the safeguard tariff whilst on a default fixed term contract, they will be switched from prices that are fixed until the end date to a tariff where prices may go up or down (both on a standard variable tariff and on a default safeguard fixed term tariff, which is effectively an indexed tariff (SLC 23.11), which may be argued to be a disadvantageous unilateral variation. In addition, an SLC 23.3 notice is required to be given 30 days in advance: it will therefore be impossible to switch a customer to the safeguard tariff within 30 days, as required by the proposed SLC 28AA.15.

- We are concerned that informed choice is potentially being removed for WHD customers. It is important that, providing they have been given the relevant information, customers who are eligible for the safeguard tariff can choose any alternative tariff that is offered to them.

These issues are discussed further in our detailed response, along with other comments we wish to raise. They are listed in the order they appear in the statutory consultation, Technical Document and legal drafting respectively.

Please contact me or Craig Booth, 07525 704 024 craig.booth@eonenergy.com, if you would like to discuss any of the above issues in more detail. Please copy in our mailbox regcomms-external@eonenergy.com as this is regularly monitored.

Yours sincerely



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