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By email only

Dear Mr Barnes,

**Re: Future supply market arrangements – call for evidence**

Thank you for the opportunity to comment on the above call for evidence.

Utilita has been operating in the prepayment market since 2008 and specialises in offering smart prepayment to our customers. We believe that the current and future energy market should promote competition which protects and provides good outcomes to consumers. This market should be supported by a stable, principles-based regulatory structure which provides certainty for both energy participants and consumers.

We welcome Ofgem's call of evidence. In the move to a smarter, more flexible energy system, it is important that the regulatory framework should also flex in a timely manner to allow for innovation and competition. Notwithstanding this, the supplier-hub model has played an important role in providing a commercial interface for the consumer and we consider that this model could continue to provide benefits. For the model to continue to work, we recognise that suppliers need to become more dynamic and innovative in the changing market in order to successfully compete with new and evolving business models.

We echo elements of Energy UK's response. It is important not to dismiss the supplier-hub model, but recognise the achievements made through this model, in delivering significant and continuing benefits to consumers, and build future frameworks upon them. The future arrangements must also have due regard to ensuring there is a level playing field between market participants, including market entrants. This must include fair apportionment of the costs of core functions across all market participants and consumers, while ensuring consumer protection from the risk of failing business models. This approach may place a burden on the rest of the industry, and this must be carefully considered in terms of the impact on other market participants. It is essential that protecting the interests of consumers does not allow companies to be poorly run, assuming that the cost of failure will be met by other market participants.

Q1. What are your views on the above criteria? Are there other criteria that should guide our assessment of current and possible future market arrangements?

Utilita agrees with the criteria identified by Ofgem but we would ask that the following also be considered.

Principle one - We agree that customers should not have undue restrictions on accessing energy supply and services however, the future process by which a consumer accesses energy supply should be simple and effective. An over-complicated process or access structure could result in a high level of consumer disengagement. A process requiring a consumer to interact with multiple organisations on numerous occasions to benefit from free access to cheaper energy would cause a consumer to decide on the simplest, approach. This may lead to a sub-optimal outcome for the consumer.

Principle two - Where consumers do not actively engage in the energy market, we agree that a successful energy market should ensure that consumers continue to receive a good quality of service and pay a reasonable price for their energy. There should not be significant difference in supply prices where there is no distinguishing feature in products. However, for competition to be most effective, there must be a reasonable element of consumer incentive. Where less engaged customers do not experience an impact, this may create a barrier to switching.

Principle three - Ensuring that consumers are adequately protected no matter how they access energy services is an appropriate criterion. However, the necessary market assessment and/or monitoring may need to take different forms as new service elements and agents enter the market outside of the supplier-hub model and suppliers continue to innovate. The principles-based approach to such monitoring must be maintained, while devising a proportionate and cost-effective approach for all parties, including suppliers.

Principle four - We agree that consumer choice is paramount in deciding what happens with their data and how they can access that data to ensure they can adequately engage in the future market. The new General Data Protection Regulation will add significant support to the empowerment of consumers.

Principle five – where firms offering intermediary and additional services are able to compete on an equal basis, adequate consumer protection will be needed where the supplier does not hold a contract or other such relationship with these firms.

Principle six - It is important that the costs of operating the energy system are recovered in a cost effective and cost reflective manner, and that risks are managed effectively and proportionately. The market would continue to benefit from price controls of natural monopoly activities to prevent such monopolies in the market having a detrimental impact on consumers.

Q2 – What are the most significant barriers to disruptive new business models operating in the retail market? Please draw a distinction between regulatory barriers and commercial barriers.

The regulatory barriers that may face new business models currently include government initiatives and policies that are costly and complex to implement (such as ECO, Green Deal,

WHD and FIT). This limits a business' ability to focus resources on innovation. In addition, the overly complex nature of the Supply Licence and industry codes create a resource-intensive regulatory framework which can be challenging to manage and may also act as a barrier to entry. We also echo Energy UK's response. The concurrent and overlapping introduction of multiple, large policy or system changes, that are hastily considered and subject to rushed implementation causes significant disruption to the development plans of energy suppliers. This imposes additional costs on suppliers, leads to lost opportunity costs and may cause potentially innovative programmes to be placed on hold.

Q3 – What other supply market arrangements would provide a better default for disengaged consumers, whereby they are protected adequately and are able to access the benefits of competition?

Default arrangements should always be carefully considered. It is important to ensure vulnerable consumers or those less able to engage are protected, but this should not be in a way which makes the default arrangements more attractive than those resulting from the efficient operation of a healthy competitive market.

Suppliers are already evolving in response to the changing market and market research should be conducted to understand how this is affecting consumer engagement. The proposed opt-out collective switch, where groups of customer accounts are auctioned, would risk eliminating consumer choice. It also assumes that price is the only factor that is important when considering a consumer's next energy product and ignores other, equally important, distinguishing considerations such as trust, customer service and sustainability.

Q4 – How big an issue is it that we do not currently regulate intermediaries in the energy market? Is there a case for doing so? If so, how would we do it best? We are especially interested in frameworks that enable a wider variety and increased number of market participants to provide supply.

We strongly believe that Ofgem should both regulate and monitor the activities of intermediaries. The current framework that provides suppliers should regulate intermediaries through contractual obligations and relationships (as suppliers' agents) will not be sustainable where the supplier no longer has those arrangements. This leads to a risk of exposure for consumers, which suppliers cannot mitigate, but which may undermine consumer trust. This is an issue that cannot be addressed by suppliers, only by Ofgem, acting robustly in the interests of consumers.

Understanding what works well in other industries could help in drawing up a framework for regulating intermediaries in the energy market. The water market has a stringent process for granting licences. The granting of a Supply Licence process should request a greater understanding of a business and its plans to ensure a sustainable model. There is a strong case for more regulatory scrutiny for new entrants. In the change to principles-based regulation, it will become easier for market entrants to gain access to the industry, and with that comes the risk of unsustainable business models. Greater scrutiny should be placed on these new entrants to ensure they have the robust business plan in place to succeed in the market.

Lastly, the future activity should be driven by the needs of consumers and should offer sufficient protection to those less able to engage, instead of those who chose not to engage in the market.

If you have any questions or would like to discuss our suggestions, please feel free to contact us directly and we will be happy to discuss them.

Yours sincerely,

*By email only*

Alison Russell  
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