



BY E-MAIL

Lisa Charlesworth
Senior Manager, Industry Codes and Licensing
Ofgem
10 South Colonnade, Canary Wharf
London, E14 4PU

21 January 2019

Dear Ms Charlesworth

SUPPLIER LICENSING REVIEW – CONSULTATION

I am writing in response to the public consultation over Ofgem’s proposed changes to the award and maintenance of public supply licences for electricity and gas in the domestic and business consumer markets.

IBECCS is a small consultancy working with individuals and organisations towards a more sustainable energy future, through encouraging more accurate estimates of energy (and carbon) savings from actions such as the implementation of better energy management systems, energy efficiency improvement actions and the incorporation of small-scale renewable energy. IBECCS does not currently work with any energy suppliers, so can offer an impartial view with no conflicts of interest. IBECCS’s principal, Ian Byrne, acted as the programme manager for the Green Energy Supply Certification Scheme that implemented Ofgem’s green supply guidelines from 2009-2015, and retains an interest in encouraging innovative and responsible initiatives in green energy supply, while protecting consumer interests.

IBECCS broadly welcomes Ofgem’s proposals, as it is neither in the interests of consumers nor innovation in the market to have a high failure rate among suppliers. We set out below some detailed points, but they do not cause us to object to the proposals as a package. We draw particular attention to ensuring that suppliers that propose to offer a green electricity supply (environmental tariff) are aware of their obligations under standard licence condition 21D.

IBECCS would be willing for these comments to be added to the public record.

Please contact the undersigned if you need any clarifications on any of the points made.

Yours sincerely

IAN W BYRNE
Principal



Answers to Consultation questions and detailed comments on proposals

Do you agree with the principles we have set out to guide our reforms?

Yes. We take particular note of the fourth principle, namely that Ofgem’s “licensing regime facilitates effective competition and enables innovation”. We have been concerned in the past that Ofgem has sometimes been too keen to promote competition and lower unit prices, at the expense of encouraging lower energy consumption (for example by improving customer energy efficiency) and trust that the changes to the regime will not exacerbate this effect. Indeed, if stronger licensing discourages “suicide pricing” and enhanced customer service, then this should help shift the balance back to improving energy efficiency as a way of customers minimising their fuel bills.

Do you agree with our proposal to introduce new tougher entry requirements and increase scrutiny of supply licence applicants? Do you agree this can be achieved with increased information requirements and qualitative assessment criteria?

Yes. We also feel that option 2 strikes about the right balance.

Do you agree that our proposed assessment criteria for supply licences applications are appropriate?

Again yes, including the subsidiary questions, with minor reservations.

We have some doubts about the value of a declaration of adequacy, even if reviewed by external auditors, as almost any company seeking to move into the retail supply market will believe that it has enough funds. Declarations may help new entrants take a clearer view, or they may just be seen as another formality.

The information set out in Appendix 1 seems to be pitched at the right level. We have some doubts about a monthly cash flow adding value, as it is the availability of working capital that is the problem. Start-up cash-flows tend to be speculative at best, and the recent spate of failures has not necessarily been during the first 12 months of operations for the companies concerned. Even with the licensing process taking place after the entry assessment protocol, there is likely to be significant uncertainty in this area.

We agree also with the need to provide robust evidence of arrangements being in place to meet their customer-related obligations under the licence. (5.24) Noting that several of the newer suppliers have pitched themselves primarily as “green suppliers”, we believe that the statement of intent under criteria 2 (Appendix 1) should make explicit reference to how suppliers that intend to market a green offering will do this in accordance with Article 21D of electricity suppliers licence standard conditions. This is important as a matter of customer trust and expectations.

We agree that there should be a duty on applicants to notify Ofgem of certain matters relating to being “fit and proper”, and that this should not just be at the start of application process, but at any stage both before and after the licence being issued (the latter being covered by the Chapter 7 question).

Do you agree that Ofgem’s licensing process should be undertaken closer to proposed market entry? Do you identify any barriers to this approach or any adverse impacts of this change?

In general we support this, but wonder if it would be administratively possible to run the two processes in parallel, perhaps with Ofgem’s licensing process starting 60 days before the proposed market entry. At this stage, most suppliers should have a reasonable understanding of whether they will pass the systems testing.



An alternative approach might be to offer two routes to licensing: one through the existing route (with upfront licensing) and one in the new proposal. The existing route would only be sanctioned when the supplier was able to give a commitment that there would be no change of control during the process (and so would prevent its use by those using the “off the shelf” model). Should there be a change of ownership, the process would have to start afresh and the prospective supplier should be liable for Ofgem’s costs to date. This more flexible approach recognises that at any one time there are not large numbers of suppliers going through the process, and that it may be possible to design a more bespoke approach based on the model being used.

Do you consider that suppliers should report on their financial and operational resilience on an ongoing basis? If so, do you have any initial views on the content of these reports/statements?

Yes, though they should be kept to a fairly light touch.

Do you have any initial views on the potential introduction of targeted or strategic monitoring/requirements on active suppliers?

One of the problems that appears to have arisen with suppliers is that growth has been too rapid. Simply setting thresholds to trigger an additional review may not address this – for example, a company that grows from 10,000 to 24,000 customers in a year is likely to be under greater risk of failure than one that grows from 90,000 to 110,000 in the same year, although the latter may have a higher absolute growth and cross an obvious threshold. Any absolute threshold value would also need to have some safeguards built in for companies that were hovering around it in number, and may cross the threshold several times in a relatively short time period. It may be difficult to design, but if a trigger was based on a combination of percentage growth and absolute numbers, then this would be more likely to pick up suppliers at risk of over-trading. Any approach based on numbers must assume that the suppliers’ records can at least maintain this figure reasonably accurately. Again, if a sensible metric could be designed (and suppliers could monitor it) a trigger based on churn rate might also be of value.

Do you have any initial views on the potential introduction of prudential/financial requirements on active suppliers?

We have nothing to add to the metrics suggested in 7.19.

Do you consider that Ofgem should introduce a new ongoing requirement on suppliers to be ‘fit and proper’ to hold a licence?

Yes

We have no comments on Chapter 8 (exit arrangements).