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23rd January 2019

WWU response to Ofgem consultation Supplier Licensing Review

Dear Lisa,

Thank you for the opportunity to respond to the consultation. Wales & West Utilities is a gas transporter serving 2.5 million supply points in Wales and south west England. We provide services to 47 Shippers that have acceded to our network code and 128 Suppliers that supply customers through those Shippers. In addition we provide Post Emergency Metering Services to approximately 60 Suppliers.

Although this consultation relates to Suppliers we believe that there is merit in Ofgem considering whether some or all of the measures should apply to Shippers. Unlike electricity where Suppliers are responsible for both retail and wholesale activities, in gas Suppliers are responsible for retail activities but Shippers are responsible for wholesale activities. Shippers do not have a direct relationship with customers; however were a Shipper cease trading there would be impacts on the Suppliers contracted to it and hence indirect impacts on customers.

Since the start of 2018 eight Suppliers have ceased trading. In one case this also resulted in the associated Shipper ceasing trading.

Impact of a Supplier ceasing to trade

If a Supplier ceases trading then there is no direct impact on WWU transportation income, other than we may need to increase our charges to reflect a Supplier of Last Resort (SoLR) claim by the Supplier appointed by Ofgem. There is, however, a significant amount of administration involved in handling a Supplier failure and this adds to Transporter operating costs.

If an Ofgem appointed SoLR makes a claim then this obviously imposes costs on the Shipper community including the Shipper that may already have incurred losses from the Supplier ceasing to trade. This Shipper may also be impacted negatively from a credit & cash flow perspective which could have implications on their ongoing viability with associated risks to the Industry.

The timing of the SoLR direction from Ofgem may also impact on supplier and GDN cashflow. For a claim to be reflected in transportation charges for the regulatory year following the year in which the Supplier ceased to trade, the direction would need to be received by GDNs at least 60

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days before the start of the regulatory year. For example, if a supplier ceases trading in December 2018, the direction must be received by Ofgem no later than the 31 January 2019 for it to be reflected in 2019/20 transportation charges. If the direction is received after this date then there is potential for a mismatch of cashflow timings for both the Supplier and the GDN. This process needs to be well defined so that all parties are clear on the implications of an SoLR direction being received after deadline for publishing the Transportation Charges notice.

WWU would be exposed to any outstanding amounts owing for Post Emergency Metering Services.

The appointment of a SOLR also has credit impacts on Transporters as this often results in a change of Shipper and increases that new Shipper's indebtedness which may then be above its available credit lines.

Impact of a Shipper ceasing to trade

If a Shipper ceases trading then WWU is exposed to unpaid transportation charges and has to rely on the credit arrangements permitted under the Uniform Network Code. If these do not cover the unpaid debt then transporters can make claims under Special Condition 1C of the GT Licence to make additional charges on the Shippers to recover the bad debt incurred, as a miscellaneous pass through item, subject to satisfying Ofgem that it has pursued all avenues open to it to recover the outstanding debt.

As described above, there are clearly direct and indirect impacts on customers of a Supplier or Shipper ceasing to trade and calling in receivers and it is clear that disorderly exit from the market imposes costs on other parties. The consultation recognises in paragraph 2.8 that market exit is a normal occurrence in a competitive market. When exit does occur there is clear benefit to the market as a whole if this is done in an orderly way such as by a trade sale rather than by companies going into receivership. We note that paragraphs 8.2 and 8.7 of the consultation state that the arrangements for managing supplier failure and market exit will be considered under a separate consultation but that Ofgem would welcome initial views which we provide below.

WWU initial views on market exit

We suggest that Ofgem should consider methods of discouraging disorderly exit perhaps by restricting the rights of directors to be directors of a licensed company for a period after a disorderly exit. To be an effective deterrent this would need to apply to directors who had been directors for a period before the disorderly exit otherwise this could lead to changes of directors immediately before market exit. Ofgem could implement this through its proposed fit and proper test for new entrants.

With regard to protecting customers' credit balances it seems sensible to have a new Guaranteed Standard on this to require outstanding balances to be returned within a set period after the customer changes Supplier. If Suppliers are prevented from using customer credit balances as part of their working capital then we assume that this will reduce the discount Suppliers offer to customers for paying by direct debit as we expect that that this is one part of the justification for a discount for customers paying by direct debit.

The Deed of Undertaking (DoU) signed by Suppliers under Supplier Licence Condition 18

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requires them to take on the liability to pay Transportation charges for their supply points following termination of shipping arrangements and to provide security to the Transporters. This obligation should be considered when a SoLR is appointed to ensure they have the capacity to provide the necessary security at short notice and that the incoming Shipper, often the same or a related entity to the Supplier, also has the required credit worthiness to accommodate the increased portfolio.

Yours sincerely,



Steve Edwards
Director of Regulation
Wales & West Utilities

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