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Email to: licensing@ofgem.gov.uk.

Supplier Licensing Review: Consultation on new application regulations and application guidance document

EDF Energy is one of the UK's largest energy companies with activities throughout the energy chain. Our interests include nuclear, coal and gas-fired electricity generation, renewables, storage, and energy supply to end users. We have around five million electricity and gas customer accounts in the UK, including residential and business users.

EDF Energy welcome Ofgem's supplier licensing review and believe it is right for Ofgem to seek change to its licensing regime in order to strengthen its approach and ensure that consumers are better protected and that risks are minimised for existing suppliers. We agree that Ofgem should be looking to strengthen requirements at entry, impose new requirements on suppliers to improve its ongoing oversight and promote higher financial and risk management standards, and ensure that there are robust supplier exit arrangements.

We have for some time been calling for Ofgem to conduct such a review and consider that the events of 2018 have demonstrated that timely change is required in order to better protect consumer's long-term interests and reduce the risks faced by operating suppliers at times of supplier failures.

Entry requirements

We are generally supportive of Ofgem's final proposals for new entry criteria requirements involving amendments to the Application Regulations and a new Ofgem application guidance document which sets out how it will assess licence applications. Of the options presented in the previous consultation paper, we believe Ofgem is right to adopt option 2 (increased information requirement with qualitative assessment criteria) which will increase the information requirements around financial resources, market understanding and capabilities and introduce a fit and proper person test. This will enable Ofgem to perform an enhanced risk based qualitative assessment of potential entrants.

We are aware that Energy UK has submitted a response to this consultation which raises a number of issues with the final proposals which we endorse. In particular, we are concerned that the requirements on applicants to provide evidence of their ability to fund their activities to only the first twelve months may risk undermining the effectiveness of these proposals and arguably is not consistent with the review principles set out by

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Ofgem. We continue to believe that it is reasonable to require such evidence that covers the initial start-up period of an applicant's business, which may be longer than the proposed 12 months. We recommend that this requirement is extended to a minimum three year period akin to the approach adopted by rating agencies when assessing the credit ratings of companies.

We note that Ofgem in responding to views expressed regarding suppliers being able to cover their liabilities on an ongoing basis, has stated that this is a matter to be further considered under the next phase of their review. However, it is currently unclear how, and to what extent, these concerns will be addressed in terms of any potential new ongoing oversight arrangements. Furthermore, it is unclear what powers Ofgem will have, as a means of protecting consumer interests, if as part of any new oversight arrangements Ofgem becomes aware of financial concerns in respect of an active supplier. Alternatively, stronger entry requirements could more appropriately provide the regulatory tools to address financial resilience concerns at the application stage, and prior to market entry, thereby reducing the risk of any customer detriment in the future.

While generally supportive of the new entry criteria requirements, it is important that any opportunities for parties to circumvent the new arrangements are removed. On this basis, we believe Ofgem should be, as a matter of priority, reviewing existing dormant licences and, in accordance with the existing terms of such licences, seek revocation where these have not been used for over 12 months. This will reduce the risk of any new entrant picking up an existing dormant licence and entering the market without being subject to the proposed increased scrutiny by Ofgem as to whether they are adequately prepared and resourced to operate in the market.

Next phase of review

While checks undertaken on market entry will have some benefits, we believe that Ofgem should have a greater, more effective, role in monitoring the financial resilience of all suppliers on an ongoing basis. We therefore look forward to Ofgem progressing to the next stage of its review and we are keen to work with Ofgem to develop an approach which is effective, targeted and proportionate with the aim of reducing the risks to consumers and suppliers.

We note that as part of this next stage, Ofgem is considering possible rules and restrictions on the use of consumer credit balances to fund working capital. We strongly support the development of such rules given the risks we see of some suppliers financing their business using advanced payments from consumers while at the same time seeking rapid growth through unsustainably low energy prices. We are also pleased to see Ofgem recognise that suppliers should "bear an appropriate share of their risk" in its guiding principles. It is essential that such an "appropriate share" is a share proportionate to the risks a supplier represents i.e. takes adequate account of the creditworthiness and the level of risk each party imposes on the system.

Should you wish to discuss any of the issues raised in our response or have any queries, please contact Steven Eyre on 0208 186 1356 or myself on 01483 489576.

I confirm that this letter may be published on Ofgem's website.

Yours sincerely,

A handwritten signature in blue ink that reads "Paul Delamare".

Paul Delamare
Head of Customers Policy and Regulation