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Ofgem
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E14 4PU

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Dear Anna,

Response paper #4: Reviewing smart metering costs in the default tariff cap – disclosure arrangements

Thank you for the opportunity to comment on Ofgem's fourth 'response paper' (RP4) setting out arrangements for disclosing the new Smart Metering Net Cost Change (SMNCC) model.

Virtual Disclosure Room and Authorised Attendees

We are pleased to see that Ofgem aims to provide access to Disclosed Material by means of a Virtual Disclosure Room (VDR) and that Ofgem is currently in the process of procuring a VDR. It is a positive development in light of challenges faced by representatives attempting to gain access to the physical Disclosure Room in London last autumn.

We also welcome the proposal to allow up to a maximum of six Authorised Attendees (AAs) per Relevant Party (RP) and that AAs can be employees of, or third party advisers to, the RP.

Permitted Purpose

Ofgem proposes to limit the 'Permitted Purpose' to 'the sole purpose of preparing submissions and representations to the Consultation'¹. We are concerned that Ofgem is drawing the 'Permitted Purpose' provision² too narrowly. For example, we think it should also be possible for suppliers to use the disclosed material:

- to raise disputes with the Authority in connection with the consultation (in line with CMA practice);

¹ RP4 paragraph 21.

² Defined in paragraph (5) of the draft undertakings as 'to review and understand the Disclosed Material in order to prepare submissions and representations to the Consultation'.

- in making related submissions to the Authority (for example in respect of future consultations related to the default tariff cap);³
- to make representations to BEIS (for example, in relation to the Annual Supplier Returns or other smart-related policy issues).

In none of the above examples would the use of the data cause a risk of market distortion, assuming any submissions to Ofgem or BEIS that make use of the disclosed material are appropriately redacted before publication.

Disclosed Material

We note Ofgem's view that the 'non-confidential' SMNCC model⁴ cannot be made public as average or aggregate data could distort competition if a 'reference point' becomes known to market participants. Ofgem gives the example that disclosing cost assumptions could influence the rates that Meter Asset Providers offer to suppliers. Whilst we cannot rule out that competitive outcomes in the meter rental market could be affected by disclosure, we think the meter rental market is probably exceptional in this respect. We can think of no other markets relating to smart metering where disclosure of aggregate cost information would run the risk of materially distorting outcomes. We therefore think it would be disproportionate for Ofgem to adopt a presumption that aggregate or average data is confidential. On the contrary, in the interests of transparency Ofgem should treat such data as non confidential unless there is evidence to suggest otherwise (such as in the meter rental market).

Where Ofgem has made adjustments to individual supplier data in the new SMNCC model we believe it is incumbent on Ofgem to establish a process whereby relevant suppliers are given visibility of the adjustments made to their own data and how that data is used (as was the case in 2018 when the default tariff cap was being formulated).

In summary, although we welcome some of the key changes that Ofgem is proposing compared to the previous disclosure room, we remain very concerned that the confidentiality provisions are disproportionate, notably the narrowness of Permitted Purpose and the breadth of information categorised as confidential. We would reiterate our previous request that Ofgem provides full transparency over the breakdown of non-pass-through SMNCC costs and benefits in its forthcoming review.

Please do not hesitate to contact me or James Soundraraju (tel 0141 614 2421, jsoundraraju@scottishpower.com) if you have any questions arising from this response.

Yours sincerely,



Richard Sweet
Head of Regulatory Policy

³ Currently prohibited by paragraph (11) of the draft undertakings

⁴ Described in RP4 as a version of the SMNCC model without individual data included as it contains no information that is commercially sensitive *from the perspective of suppliers*.