

# TOTAL GAS & POWER

Vlada Petuchaite / James Proudfoot

Ofgem

10 South Colonnade

Canary Wharf

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Email:licensing@ofgem.gov.uk

**06th December**

Dear Vlada and James,

## **Supplier Licencing Review: Ongoing requirements and exit arrangements**

TGP is the largest non-domestic gas and electricity supplier in the UK and we welcome the opportunity to respond to Ofgem's Supplier Licensing Review consultation.

TGP and our customers have exposure to costs associated with supplier failures such as Supplier of Last Resort (SOLR) claims, the honouring of domestic credit balances and other industry liabilities including the Renewables Obligation (RO) when suppliers fail and exit the market. This is unfair where costs associated with failures in the domestic market are mutualised into the non-domestic market. There have been over sixteen domestic suppliers failing and exiting the market in the last two years resulting in significant charges through mutualisation to financially prudent suppliers that operate in the market. These mutualised costs will ultimately be passed through to end customers through their energy bills. TGP were therefore very supportive of Ofgem's action to tighten rules for market entry that were introduced earlier this year



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and we are advocates of the proposed increased financial and operational scrutiny of existing suppliers in the market under this current licencing review.

## **Cost mutualisation protections**

Ofgem is proposing that domestic suppliers put in place arrangements to protect a minimum of 50% of their customer credit balances in the event of their failure. TGP strongly supports the principle that domestic credit balances should be protected with credit cover from active suppliers but that this protection should not be applicable to the non-domestic market where supplier failure is not a feature of the market. We support the concept that there should be a range of options to cover liabilities and believe that parent company guarantees, and letters of credit should be permitted for companies with secure financial backing and therefore Ofgem's approach should be proportionate to the circumstances of the supplier in question. We support an initial credit cover level of 50% credit balance but this should then rise incrementally to cover 100% of credit balances in stages over a 3 to 5-year period. (for the domestic market only)

## **Operational Capability and "Fit and Proper" Requirements.**

TGP generally support the proposals to introduce a series of new high-level obligations regarding the management of the supply business operational capability principle.

Suppliers should have sufficient processes and resources to serve its customers and discharge its legal obligations.

- Ongoing 'fit and proper' requirement. Any individual with "Significant Managerial Experience or Influence", so anyone who directly or indirectly manages or organises all or a large part of the business, must have good character and not have a history of serious misconduct. To



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assess this, suppliers must look at past criminal convictions, court judgements, etc.

- There are explicit requirements to provide on demand records of the supplier undertaking the above.

TGP support these proposals.

## **Ofgem oversight**

Ofgem is also proposing to strengthen its oversight of supplier businesses.

- Principle to be open and cooperative with the regulator.
- Requirement to conduct independent audits when requested by the Authority.
- Requirement to report on change of control of any supply business.

TGP support earlier intervention when there are signs of poor service or financial stability of a supplier. An independent audit would achieve this, but this obligation should be applicable to the domestic sector only where supplier failure has become common

## **Living wills**

Suppliers will be obliged to develop living wills, which would be intended to be handed over to any incoming supplier. Ofgem states it could include:

- An assessment of any barriers the supplier may face to an orderly market exit.
- Plans to mitigate the risk of excessive mutualisation of debts (including obligations under government environmental schemes such as the RO).



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- Arrangements that would ensure continuity of services by key service providers.
- Sensible plans for the sale of assets (such as those tradable under the ECO scheme for licenced suppliers).
- Plans for engaging with Ofgem and industry central bodies during the wind down process.
- A methodology for the efficient handover of information to the relevant party.

TGP believes that a “Living Will” is unlikely to achieve anything as the service and performance of the failed supplier would have collapsed several months before any SOLR event. We do however strongly support the principle of credit cover to mitigate the risk of excessive mutualisation of debts for environmental subsidies such as RO and associated mutualisation. The RO scheme should have similar credit cover obligations to the Capacity Market and CFDs to prevent unnecessary and unacceptable mutualisation of costs to prudent suppliers and customers.

### **Clarification of SoLR commitments.**

We support a new principle where suppliers should take all reasonable steps to honour the commitments made in any winning bid held under the SoLR process.

TGP also strongly advocates that customer portfolios of failing suppliers with both Domestic and Non-Domestic customers should be separated under the SOLR process and tendered for separately. Non-domestic consumers are likely to be better served by specialists in the non-domestic market and this may ultimately benefit the end consumer in terms of service and cost. Costs from domestic supplier failures are mutualised into the non-domestic market and therefore the non-domestic sector of a mixed portfolio should be



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available for non-domestic only suppliers to enter into the SOLR competition. TGP therefore support the splitting of domestic and non-domestic sectors of a portfolio in an SOLR process.

Please do not hesitate to contact me should you wish to discuss in more detail,

Yours Sincerely

Andrew Green  
Head of Regulation, Total Gas & Power



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