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20 August 2020

FAO Licensing Frameworks Team,

**Gazprom Energy Response to the Ofgem Statutory Consultation – Supplier Licencing Review:  
Ongoing requirements and exit arrangements**

Thank you for providing the opportunity to comment on the statutory consultation into the ongoing requirements and exit arrangements of the Supplier Licencing Review. We have set out our responses to the specific proposals following this letter. We are **happy for this response to be shared with interested parties.**

We will explore the proposals raised in the Statutory Consultation more specifically following this cover letter, however we would first like to make some general comments and observations.

In recent years where we have seen weakness in the supply market it has been concentrated almost exclusively within the domestic sector. We, therefore, agree that additional controls should be introduced to specifically address these current weaknesses in the domestic energy market.

For the past two years the financial disruption from mutualisation has been borne across all remaining suppliers, including the non-domestic market. The impact of these disorderly exits in the domestic market have been unduly felt in the non-domestic market, where supplier exits have not carried this same mutualisation risk, e.g. protected credit balances. We, therefore, believe Ofgem should target cost recovery to the market sector in which they originate.

In light of the recent and ongoing impacts resulting from the COVID-19 pandemic we believe it would be beneficial for Ofgem to review their Impact Assessment and re-engage with relevant stakeholders in light of these unprecedented developments.

We appreciate the opportunity to respond and input into this statutory consultation and explore the proposals raised. Should you have any questions relating to the information provided in our response, please do not hesitate to contact Alex Mann, our Senior Regulatory Advisor, in the first instance: [alexander.mann@gazprom-energy.com](mailto:alexander.mann@gazprom-energy.com).

Kind regards,

Steve Mulinganie  
Regulatory Manager  
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## Financial Responsibility Principle

We strongly support the principle that additional requirements need to be introduced to ensure the mutualisation risk resulting from disorderly domestic supplier exits are appropriately managed.

We do, however, retain some reservations on the effectiveness that this broad principle will have on deterring the poor financial risk management we have historically seen from some suppliers in the domestic market. These failures in the domestic market across the previous three years has resulted in substantial cost mutualisation.

We therefore welcome the inclusion of a provision for Guidance documentation as set out in draft Licence Condition 4B.3. We believe the Guidance document will be incredibly beneficial in supporting this Principle. We would expect the Guidance document to clearly set out the levels of intervention that the Authority could undertake, alongside the penalties for any non-compliance. We would also expect to see a proportionate level of monitoring based on sector risk, given the differences across the domestic and non-domestic market.

We would also like to highlight the unprecedented challenges that have emerged as a result of the COVID-19 pandemic. This has highlighted the effects that extraordinary external impacts can have on financial and operating capabilities, which should be taken into account alongside the internal impacts that are the focus of this Consultation.

## Operational Capability Principle

We agree with the Operational Capability Principle as responsible suppliers should already have the system and process capabilities in place in effectively serve their customers and meet the required legislative and regulatory capabilities.

We note that supplier models come in a multitude of different operational set-ups and structures. As such we believe that robust guidance, such as that set-out in the Financial Responsibility Principle under draft SLC 4B.3, should be issued by Ofgem to support this Principle. This guidance should provide the necessary flexibility to reflect the different supplier sizes and set-ups mentioned previously.

The guidance should also reflect the difference between the domestic and non-domestic market, given that certain regulatory obligations are only applicable to a specific sector.

This Principle and the supporting guidance should also seek to avoid replicating the regulatory oversight that already accompanies these individual regulatory obligations.

## Milestone Assessments

As a non-domestic supplier, we do not have a specific view or response to the Milestone Assessment proposal, given it is a domestic only requirement. However, we welcome any proposal that seeks to alleviate the costs non-domestic customers incur as a result of failures in the domestic market.

## Ongoing Fit and Proper Requirement

During Ofgem's industry engagement in 2019 for the Policy Consultation we expressed reservations on this proposal for being unclear on how this will exist alongside current employment and commercial law. The draft Licence Condition also duplicates other regulations already enforced under UK law.

We also note that in the draft Licence Condition 4C.4 you provide a new definition within Licence for what constitutes a Significant Managerial Responsibility or Influence but in the draft SLC 19AA.3 under the Monitoring and Reporting Requirements proposal the definition of a Person with Significant Control uses the definition that currently exists under the Companies Act 2006.

## Open and Co-operative Principle

We support the principle of this proposal and have no specific comments to make on the requirement to ensure suppliers co-operate with the Authority in an open and transparent manner.

We would note, however, that the draft Licence Condition specifically references domestic customers in SLC 5A.2 and request clarity on which area of the market this will affect. We welcome any principle that adds additional requirements to the domestic market that seeks to alleviate the direct impact of cost mutualisation.

## Independent Audits

The draft Licence Conditions in the Statutory Consultation do not specify when and in what circumstances the Authority would request an Independent Audit.

Responsible suppliers will already undertake independent audit assessments on their financial stability, and it is not clear how the proposed audits under draft Licence Condition 5B would align with these existing assessments.

## Monitoring and Reporting Requirements

We have no detailed points to raise against the Monitoring and Reporting Requirements proposal but would direct you towards our response to the Customer Book Sales proposal, which addresses the specific element on trade sales.

## Customer Supply Continuity Plans

In our feedback during the Policy Consultation we expressed reservations over the effectiveness of Supply Continuity Plans where a supplier finds themselves in significant financial distress.

Our view has not changed, and we still consider Customer Supply Continuity Plans will prove ineffective at the point of collapse of any supplier. We believe targeted advice for at-risk suppliers and bilateral communication with the Authority would be more beneficial.

## Customer Interactions with Administrators

As a non-domestic supplier, we do not have a specific view or response to the Customer Interactions with Administrators proposal, given it is a domestic only requirement.

We do, however, welcome any proposal that seeks to alleviate the costs non-domestic customers have to incur as a result of failures in the domestic market.

## Customer Book Sales

The draft Licence Conditions on Customer Book Sales are not clear on how Ofgem will engage and determine suppliers negotiating any trade sales, and how it will consider if a trade sale will increase the risk of cost mutualisation.

Trade sales can offer an effective way of protecting consumers against what otherwise could be a disorderly market exit. Therefore, we need a clear, robust process in place if the Authority has powers to intervene in these transactions. Delays to book sales and not having a transparent process in place could unintentionally undermine and damage the value of positive market transactions.

## Other Improvements to Exit Arrangements

We have no specific comments to make on the requirement to ensure suppliers uphold any commitments made to the Authority during the Supplier of Last Resort process.