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Sent by e-mail

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Dear Lesley,

Consultation on Ofgem's Financial Responsibility Principle Guidance

SSE Business Energy welcomes the opportunity to provide our views on Ofgem's Financial Responsibility Principle Guidance.

As highlighted in our response to the Supplier Licensing Review Statutory Consultation, SSE Business Energy support Ofgem's aims to reduce the impact of cost mutualisation resulting from supplier failure. As a responsible supplier, we consider that it is imperative Ofgem take early action where risk of supplier financial distress is identified to ensure that customers do not suffer detriment and other market participants are not adversely affected.

Implementation

We note that Ofgem intend to explore ways to gather data for an initial assessment of the market post-implementation of the Financial Responsibility Principle in January 2021. Whilst we welcome Ofgem doing so, we wish to reiterate the importance of ensuring Ofgem use data from existing regulatory returns (e.g. Covid-19 RFI, Marketing Monitoring Returns etc.) and that any additional Request for Information is proportionate to the risk of supplier failure. This will avoid any unnecessary burden being placed on responsible suppliers. We consider that it would be helpful if Ofgem could communicate its intentions around requests for additional data in a timely and transparent manner to allow suppliers to adequately resource these activities.

Additionally, we agree that monitoring should be 'risk-based and proportionate' with less focus on non-domestic suppliers. Where Ofgem does intend to undertake monitoring, we would expect this to relate to only those costs that could be mutualised in line with the licence condition drafting – this, as Ofgem notes, would exclude monitoring on non-domestic credit balances.

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Expectation of Suppliers

SSE Business Energy are encouraged that Ofgem will seek to intervene where it sees “poor practice and potential risk”, however, timeliness is key if this is to be effective. We would ask Ofgem to ensure that appropriate compliance and enforcement action is taken at the earliest opportunity to reduce the likelihood of issues progressing to a point where it is too late for Ofgem to take any meaningful action. We also consider that it is important for Ofgem to communicate as openly and transparently as possible with suppliers around defaults (acknowledging any commercial sensitivities), to allow remaining suppliers to plan for potential mutualised costs which may arise from a supplier failure, and to deter further instances of non-compliance. In addition to the proposed guidance, we would welcome publication of a handful of scenario-based examples which may show how Ofgem intend to enforce the Financial Responsibility Principle in practice and how this would complement Ofgem’s existing powers.

We note that Ofgem would “as a minimum expect that suppliers could provide evidence that they have plans in place to meet their financial obligations under government schemes by relevant dates”. Whilst it is positive that Ofgem intend to seek proof of suppliers being able to meet such commitments, we would highlight that Ofgem must ensure any plans or methods put in place by a supplier must be capable of being called upon in the event of a default scenario. We would expect that any assurances provided to Ofgem of this nature should be able to withstand challenge to ensure they are robust and fit for purpose.

Cost Mutualisation Phase Two

SSE Business Energy remain of the view that the Financial Responsibility Principle will not go far enough in isolation to address the ongoing supplier failure issues, whilst the proposal by Government to increase the mutualisation threshold will not resolve the underlying problem giving rise to the risk of non-payment, and we therefore urge Ofgem to proceed as quickly as possible to consulting on more prescriptive measures to ensure the retail market functions in a healthy and sustainable way. We have become increasingly concerned regarding the extent of default that has occurred over the last 3 years, and the risk of further mutualisation of Renewables Obligation costs in 2021 is now high given outstanding amounts owed by suppliers who exited the market during the last 10 months. Any delay in taking further action will undoubtedly put additional pressure on those continuing to operate. We understand that Ofgem intend to work with BEIS to agree next steps. We welcome this collaborative effort and would request that this is progressed as a matter of priority.

SSE Business Energy appreciate Ofgem’s continued focus on driving improvements in this area. As always, we are happy to discuss our response in more detail on a bi-lateral basis with Ofgem should this be helpful.

Yours sincerely,

Christie Thomson

Senior Regulation Analyst

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