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**Supplier objections: a call for evidence**

Dear Andrew,

SmartestEnergy welcomes the opportunity to respond to Ofgem’s call for evidence on supplier objections

As you know, SmartestEnergy has been an aggregator of embedded generation since 2001 and a supplier in the electricity retail market serving large corporate and group organisations since 2008.

Please note that our response is not confidential.

**Overview**

As a supplier in the non-domestic electricity market offering fixed term contracts only we are largely indifferent to issues around next day switching (although we are of the view that it next day switching is impractical with regards to cooling off periods and could lead to greater levels of payment avoidance in the domestic market). We are, however, concerned that it is this next day switching work which has instigated the current call for evidence into objections (which we consider to be a vital part of the process to give suppliers protections in the non-domestic market.)

Whilst it is inappropriate to rely on Smart meters to deal with debt in the domestic market, it is even more so in the non-domestic market because smart meters are not (and will not be) used for larger customers and pre-payment meters (PPMs) would be impractical for all but the smallest of micro-businesses

A reform of objections would not be in the interests of consumers as a whole because those who pay would have to cover the debts of those who do not. In other words, it is true when it says in the consultation document that if customers with debts switched supplier, the costs to suppliers of collecting these debts would increase significantly; the costs of unrecovered debts and increased debt recovery activity from suppliers would ultimately be borne by the rest of the suppliers’ customers.

We also believe that a supplier should be able to object on the grounds of debt where a customer is on a deemed contract. As a supplier we have no real relationship with customers who fall onto deemed rates on a Change of Tenancy. Debt can be a problem with such customers and the only real leverage a supplier has is that the customer will continue to have to pay the deemed rates until they settle the outstanding debt and move to another supplier. Sufficient protections are in place with the obligation on the supplier to inform customers on deemed rates that other contracting options are available.

If suppliers do not have the ability to object to a transfer it could discourage customers from proactively communicating with us when they take on new estate; they may take the view that we are unlikely to chase small amounts of debt through a legal process so therefore not worry about settling with us before they move suppliers.

In reality we may not choose to exercise such a right to object; it may often be preferable for the customer to leave even if it means writing off some debt. But we believe we should have the option open to us. We are also of the view that our credit insurers would also expect us to have this right. It is possible that credit premia could increase if we do not have it.

Below we address the issues contained in the consultation document more or less in the order in which they appear.

**Section 1: Introduction**

SmartestEnergy’s objection rate in 2014 was just under 1% i.e. we objected to 1% of D0058s we received. The vast majority of these are for being in contract. We do not object for not giving sufficient notice to terminate a contract because we do not have such notice terms in our contracts.

We have no evidence which could corroborate Ofgem’s research with non-domestic consumers which highlighted concerns that suppliers do not always comply with the objection requirements (“for example, by threatening to object where they have no right to do so and by not providing clear and timely notice to customers when an objection has been made and that as a result some consumers have been wrongly moved onto more expensive out-of-contract rates at the end of their fixed term contracts.”) This is neither a practice of ours nor have we seen or heard evidence of it about other suppliers in the market segment in which we operate.

We note that pre-payment meter (PPM) customers with a debt of £500 or less may still switch using industry arrangements known as the Debt Assignment Protocol (DAP) and that under the DAP the debt moves with the customer who must repay it to the new supplier. This, however, is impractical in the non-domestic market because the monies owed would be considerably larger than in the domestic market and in the half hourly and PC5-8 markets there is no plan to install Smart Meters. Outside of PPM, there is no mechanism to ensure that monies are reallocated fairly so it would be a colossal undertaking to ensure that arrangements were put in place for all domestic and smaller non-domestic customers and for a company such as SmartestEnergy, which has a very small number of customers at the lower end, the costs would not be justifiable.

It is also important that suppliers can object to a transfer if there is a relationship between multiple MPANs and the new supplier has to apply to transfer all the related meter points. The reason for this is to correctly allocate any supply capacity charges and to adhere to the MRA. This type of objection acts more as a pause to allow an issue to be detected and resolved where customers have more than one circuit in their metering system. This type of objection is not detrimental to customers and is not a barrier to switching. The ability to object should in fact highlight the potential for customer detriment and facilitates a smoother switching process.

**Section 2: Key Issues**

The document states the following: “In particular, it is not obvious that the customers who are struggling most to pay their bills should be prevented from switching to a cheaper tariff offered by another supplier. Objections are not a typical feature of a competitive market and are rarely seen in other utility markets at home or abroad. Rather, contractual disputes are typically left to the courts or arbitration to determine. Ofgem will have to consider whether objections remain appropriate.”

Our view on this is that it is inappropriate to involve the courts in such disputes as the process would be costly. The difference with other markets is that electricity is an essential service and that disconnection should be a last resort. The only other market of this important social nature is the water industry and that is not a competitive market. Other services such as telephone, satellite television are able to disconnect and also make wide use of deposits or credit card details to ensure payment. The electricity (and gas) markets are thus unique.

The document correctly states that if suppliers cannot make objections they are likely to use other methods of managing their credit risk. We are not in the business of imposing termination fees and, as discussed above, it is not practical to use PPMs so SmartestEnergy’s likely response would be to focus on security deposits. From our perspective it is unlikely that disconnections would increase but ultimately suppliers may seek to cover the risks through higher margins and costs for consumers as a whole could increase.

The most common reasons for objections in the non-domestic market are related to customers attempting to leave mid contract. If the ability to object were removed the market may see higher and more widespread contractual penalties for breaking contract to compensate the supplier for potential losses on the wholesale market associated with being unexpectedly long in a falling market.

**Section 3: Domestic markets**

Whilst Smartest Energy is not in the domestic market, we believe that the arrangements should stay largely as is.

**Section 4: Non-domestic markets**

We are opposed to any changes in the non-domestic market with regards to objections. It is clearly advantageous to all concerned to allow objections in certain circumstances such as erroneous transfers and related MPANs. Debt related objections are also perfectly justifiable, as, coupled with the threat of disconnection, they help to ensure maximum likelihood of payment. Actual disconnections are very low, especially in the high end of the market. SmartestEnergy, for instance, has never disconnected a customer, but it is imperative that we maintain the right to do so to ensure the incentive to pay remains in place.

Extending the DAP would be inappropriate in the non-domestic sector, especially for those at the high end. Companies such as SmartestEnergy have problems of debt with relatively few customers. It would be overly burdensome for us to become involved in such a scheme.

The document makes mention of possibly adopting arrangements similar to those in Ireland where suppliers cannot object to a customer leaving them but new suppliers can refuse to take on a customer with debt above a certain level (€600 and €1200 are the respective thresholds for small and medium-sized businesses in Ireland) . It is unclear from the document how this would work in practice and the document is completely silent on such proposals for larger customers.

It is also unclear from the document what is meant by “introduce new rules for example around security deposits.” By and large we are of the view that these are commercial matters. If customers cannot prove they can pay we are less inclined to contract with them.

**Section 5: Timing of any changes to objections**

We are opposed to any changes. However, if changes are to be made it would make sense for them to be applied to new contracts only. This is particularly pertinent in the non-domestic market as it would be onerous for suppliers to reissue contracts and they are typically only two or three years in length anyway.

Because larger non-domestic customers have half hourly metering and are not expecting to go Smart, it would be inappropriate to align any changes with the roll-out of smart metering (although this may be more appropriate for domestic customers.)

Should you require further clarification on this matter, please do not hesitate to contact me.

Yours sincerely,

Colin Prestwich

**smartestenergy**

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