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Dear Bhavika,

REVIEW OF THE PRIORITY SERVICES REGISTER – UPDATE AND NEXT STEPS

Thank you for the open letter of 26 March 2015 from Sarah Brooks setting out Ofgem's latest thinking on its review of the Priority Services Register and seeking feedback on the next steps. Our networks business, ScottishPower Energy Networks, is responding on the matters that are specific to DNO interests; this wider reply includes a particular focus on the supply licensee aspects.

We agree that it is appropriate for energy companies to provide additional support to customers with specific needs, where it is cost effective and practicable for them to do so. Ofgem's aims in this regard are positive and we support Ofgem's focus in delivering a policy approach that will deliver support for customers in more vulnerable situations. We remain very aware that the costs of additional services provided free of charge by suppliers to particular customer groups must be borne by all customers. It is important therefore that the costs of both identifying recipients and delivering the services are proportionate. We think that there is much that can be done to provide support to customers without substantial additional costs; but we would also ask Ofgem to be mindful of the need to consider cost and proportionality when designing the final obligations.

We also think that it is important that even a needs-based model includes a degree of focus. If we are to create a group of 'priority customers' that includes a large proportion of a supplier's customer base, this will inevitably mean that those customers with the greatest need will become less of a priority. We agree that it is best to focus where the need is and that supplier responses can be tailored based on the scale of need. Again, this needs to be reflected within the drafting of the final obligations.

Related to the above point, we note that Ofgem continues to suggest in the Appendix to its letter that services should be targeted at those whose need is greater than a 'typical consumer'. Taken literally this could imply that around half of all consumers would be eligible for some additional help, or even more if needs do not overlap. We do not think this is Ofgem's intention and would suggest that the obligation should be targeted at those whose need is 'significantly greater than that of the typical consumer'. We believe that this language still meets Ofgem's aims of ensuring that the PSR provides a more dynamic set of services to deliver appropriate outcomes for consumers, and it

also aligns more closely to the definition of vulnerability within the Consumer Vulnerability Strategy¹.

The aim to achieve equal outcomes for customers may be more challenging than Ofgem intends. In this regard, Ofgem's proposals (at least as reflected in the drafting of the policy document) go beyond the scope of existing legislation designed for a similar purpose. For example, the Equalities Act 2010 places a requirement on service providers to make 'reasonable adjustments' for individuals who have a disability which puts them at a 'substantial disadvantage' in comparison to other persons. The responsibility in the Act is to 'take such steps as it is reasonable to have to take to avoid the [substantial] disadvantage' – not necessarily to achieve equal outcomes in comparison to those other persons. This is quite different from a broad duty to equalise outcomes for any consumer whose need is greater than the typical consumer, which could be an unrealistic expectation.

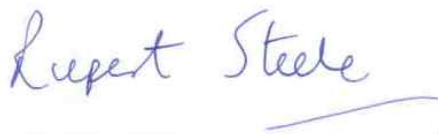
In a proportionate and reasonable approach there is a balance to be struck between proactively targeting individual customers to promote specific services (where the supplier knows that the customer requires such a service to reasonably engage with their energy supply) and publicising services more generally to customers that may benefit from them and inviting them to apply. Ofgem's framework should allow sufficient flexibility for suppliers to determine the most appropriate approach for the particular service and element of their customer base.

We agree that Ofgem should keep costs of potential services under review as the proposals develop. We provided approximate cost estimates in our response to Ofgem's previous consultation and would be pleased to provide further detail on this as required, as the draft obligations are developed.

Ofgem asks three specific questions in its open letter, which we have answered in the attached Annex. We have also provided our views on the wider issues considered within the letter within that Annex, under relevant headings.

We welcome the opportunity for ongoing dialogue with Ofgem as the proposals develop. If you wish to discuss any of these points, please do not hesitate to contact me.

Yours sincerely,



Rupert Steele
Director of Regulation

¹ Paragraph 3.4, Page 12, Consumer Vulnerability Strategy, Ofgem, 4 July 2013

**REVIEW OF THE PRIORITY SERVICES REGISTER – UPDATE AND NEXT STEPS:
SCOTTISHPOWER CONSULTATION RESPONSE**

Eligibility

We agree with the concept of offering non-financial services for customers that need them so far as is reasonably practicable and where the costs are proportionate. We think that this will work in harmony with the Standards of Conduct to ensure that customers in vulnerable situations get access to the services that they reasonably need.

We still remain uncertain from the latest drafting as to what extent Ofgem considers outcomes should be equalised for customers and whether the approach should be tailored to the individual customer or whether having suitable options (which may not be that customer's preferred choice) might be acceptable. In the absence of further clarity, we would remain concerned with the potential reach of the obligation, which could be particularly broad.

The costs of additional services provided free of charge by suppliers to particular customer groups must be borne by all customers. It is important therefore that these costs are fair and proportionate. We think that there is much that can be done to provide support to customers without substantial additional costs; but we would also ask Ofgem to be mindful of the need to consider cost and proportionality when designing the final obligations.

We also think that it is important that a needs-based model is appropriately focussed. If the scope is drawn so widely that the group of 'priority customers' includes a large proportion of the customer base, this will inevitably mean that those customers with the greatest need become less of a priority. We agree that it is best to focus where the need is and that responses can be tailored based on the scale of need. Again this needs to be reflected within the drafting of the final obligations. We think that this is Ofgem's intended approach, although this will need to be made clear in the drafting.

Related to the above point, we note that Ofgem continues to suggest that services should be targeted at those whose need is greater than a 'typical consumer'². Taken literally this could imply that around half of all consumers would be eligible for some additional help, or indeed even more if the needs did not overlap. We do not think this is Ofgem's intention and that obligation should be targeted at those whose need is 'significantly greater than the typical consumer'. This language would still meet Ofgem's aim of ensuring that the PSR provides a more dynamic set of services to deliver appropriate outcomes for consumers, and it also aligns more closely to the definition of vulnerability within the Consumer Vulnerability Strategy³.

1) Do stakeholders agree that 'families with children under 5' should be added as specified eligible core group to receive additional help during interrupted supply and for the provision of free gas appliance safety checks?

We agree that 'families with children under 5' should be added as a specified eligible core group for the provision of free gas appliance safety checks, subject to the requirement that

² For example, the Proposed Eligibility and Services Model in the Appendix to Ofgem's letter defines eligible consumers as 'More likely than a typical consumer to experience safety issues or have concerns about safety' or 'Consumers who may find it harder than the typical consumer to communicate with the licensee or access the licensee services'.

³ Paragraph 3.4, Page 12, Consumer Vulnerability Strategy, Ofgem, 4 July 2013

they be in receipt of means tested benefits and own their own home⁴. We note that the obligations within the current supply Licence already apply to customers who live with at least one individual under 5 years of age, again subject to the criteria within SLC 29.2.

More generally, we are conscious that ‘families with children under 5’ represents a very broad consumer group, which is likely to include a sizeable proportion of households⁵. We recognise that some families with children under the age of 5 may be more vulnerable, and that this may therefore provide an indication that additional help may be needed. However, a requirement to offer this service proactively to all such customers is likely to be very wide and should be tempered to allow suppliers to tailor their approaches to their customer base within the scope of the obligation. Beyond this we would be concerned about using this indicator in isolation as a general indicator of vulnerability. For example, while our response does not specifically cover network company issues, we can understand that network companies may well be concerned about the scale of the obligation that is being proposed in relation to interrupted supply situations.

Finally, we note that this is a transitional group, in the sense that households will enter it when a child is born and leave it when the youngest child reaches the age of 5. We recognise that Ofgem is proposing to require energy companies to keep information on vulnerability up to date and while it is sensible that companies should take reasonable steps to do so, we consider that transitional groups such as this will present the greatest burden in complying with such an obligation. We would encourage Ofgem to recognise this in drafting and monitoring the obligations.

2) Do stakeholders agree that the specified eligibility criteria covering elderly people for the services related to safety should be changed from ‘pensionable age’ to ‘75 and over’?

Yes, we agree. We share Ofgem’s view that not all customers within the current ‘pensionable age’ category will be vulnerable solely as a result of their age, but that at the same time, there is a certain level of additional support that will be needed for those customers who are a bit older. We think that Ofgem’s proposal in this regard is sensible.

We would be keen to consider the implications of this for customers who are currently recorded as ‘pensionable age’ on supplier Priority Service Registers (PSRs). On the one hand, we can see presentational and communications issues if suppliers were to start removing large numbers of such customers from their PSRs, but on the other hand, simply keeping these customers on the PSR on the basis of ‘pensionable age’ does not seem to mesh particularly well with the more dynamic concept of a PSR that Ofgem is seeking to achieve. We would expect that, under Ofgem’s proposal, companies would be able to take a considered approach to dealing with this, based on their own assessment of the needs of their customer base.

⁴ As required in SLC 29.2 of the gas supply Licence

⁵ Figures from the Office of National Statistics show that in 2014, 7.9m UK households had dependent children, from a total of 26.7m households. ‘Dependent children’ are those living with their parent(s) and either (a) aged under 16, or (b) aged 16 to 18 in full-time education, excluding children aged 16 to 18 who have a spouse, partner or child living in the household. Not all households with dependent children will have children under 5, however previous reports in 2012 and 2013 indicate that the number of households with young children is growing, with the 2012 report highlighting that the total number of households with children under 5 has increased between 1996 and 2012, largely attributed to the rising trend in births. As an approximation if we assume that around half of those households have at least one child under 5, this equates to around 15% of all GB households. See <http://www.ons.gov.uk/ons/rel/family-demography/families-and-households/2014/families-and-households-in-the-uk--2014.html>.

3) Do stakeholders consider that pregnant women should be added as a specified eligible 'core' group receiving free gas safety checks?

We recognise that pregnant women may be more vulnerable to the effects of carbon monoxide poisoning and would therefore benefit more from the provision of a free gas appliance safety check. Such checks involve a cost to the supplier and we therefore agree that it is proportionate to restrict eligibility to those in receipt of a means tested benefit and who own their own home. To that end, we do not object to the principle of these consumers being considered as an eligible core group for that specific service.

We are, however, cautious about suppliers' ability to identify proactively that a pregnant woman is living in a household. In the first instance, it is not a question that we think it would be appropriate for agents to simply ask of customers in general. We are also aware that pregnancy may be a particularly sensitive issue for some customers and it may be considered intrusive or insensitive for suppliers to ask directly about eligibility. We would encourage Ofgem to consider this in relation to the identification of pregnant women – and accordingly, suppliers' ability to provide services in a timely manner in some cases.

Services

We agree that Ofgem should continue to prescribe a minimum set of services for customers whose need for them is significantly greater than the typical customer. We think that this will serve the key purpose of the PSR, which is to ensure cost-effectively that customers with certain limitations will be able to access a reasonable standard of supply and service.

As before, we support the proposed list of services. Our ongoing concerns continue to be focussed on how these services will be reflected in Licence Conditions, in order to ensure that the obligations are proportionate and reasonable and do not create substantially wide requirements on suppliers, at the same time as suitably capturing the 'dynamic vulnerability' concept that Ofgem is aiming for. We would welcome the opportunity to work with Ofgem on how we implement these services within that framework.

We would be concerned about the potential scale of activity that may be needed in order to meet Ofgem's intended level of proactivity in offering services. In a proportionate and reasonable approach there is a balance to be struck between proactively targeting individual customers to promote specific services (where the supplier knows that the customer requires such a service to engage reasonably with their energy supply) and publicising services more generally to customers that may benefit from them and inviting them to apply. Ofgem's framework should allow sufficient flexibility for suppliers to determine the most appropriate approach for the particular service and element of their customer base.

For services for customers with communication needs, we consider that the proposed new services are reasonable if the definition of eligible customers is not widened substantially. As we have noted above, the proposed policy drafting of customers 'who may find it harder than the typical customer to communicate' with their energy company is, at face value, very broad, creating a risk of substantial costs to fulfil the obligation. For example, a consumer who speaks English as their second language may be able to communicate with their supplier to a reasonable standard, but it is likely that this would not be to the same standard as communicating in their first language. In this situation (where customers have sufficient English to communicate adequately although this may be more difficult than communicating in another language), we do not consider that it would be proportionate or reasonable for suppliers to have to offer communications in that customer's first language. We acknowledge that different considerations may apply in relation to Welsh, where specific language commitments have been made.

Customer Identification and Data Sharing

We agree that the immediate focus of the PSR review should be on improved data sharing between energy companies. We believe that all companies, including GDNs, need to have a mechanism to record and share data, especially considering the different types of interactions that different companies will have with consumers. We would be concerned if the full benefits for consumers would not be realised if some energy companies were not included within the scope of this activity. Indeed, some key opportunities for identifying vulnerability or offering support services to customers who need it may be missed. That being said, we recognise that it may be appropriate to adopt a different solution for the gas networks that may be more cost effective, recognising that the number (and possibly scale) of gas 'off supply' incidents is likely to be much lower than electricity 'off supply' incidents. This may mean that alternative solutions could be considered which would reduce (or mitigate) the potential scale of change that could be necessary for GDNs to implement the same technical solution as other energy companies. We understand that Ofgem is considering how best this can be done.

We continue to support the development of consistent 'needs codes' for sharing vulnerable customer information and are pleased to support the Customer Safeguarding Working Group (CSWG) in doing so. We agree that it is important that this group does not work in isolation from the wider industry and from consumer groups. We do still have questions about how a defined set of needs codes will work in practice, in relation to wider categories of vulnerability, which may become diverse across energy companies depending on how each interprets the wider 'needs based' obligation. It will be important to keep this under review as proposals develop, so that the current experience (which is a general vulnerability flag with supporting information) can be improved upon.

We consider that implementation of needs code sharing will involve significant change to industry IT systems, which may run in parallel with other wide-scale industry change programmes such as the delivery of Project Nexus, the move to a centralised registration service and faster switching and changing the industry mechanisms to support smart metering. We recognise the importance of delivering this change as soon as practicable but where possible would encourage Ofgem to consider with affected suppliers how best to mitigate the systems impacts of multiple changes.

We think that much more detail needs to be worked out before we can introduce data sharing with other utilities; however are happy to signpost relevant PSR-style schemes in other sectors.

Improving the take up of services

We support the proposal for single branding and agree that 'Priority Services Register' remains the appropriate name for this single register. We know from historical research that many vulnerable customers would not necessarily identify themselves as 'vulnerable', and may in fact be sensitive to such terminology. We therefore think that the name 'Priority Services Register' strikes the balance between i) using a name that will aid customers in recognising (and accessing) the additional help that may be available to them and ii) the sensitivities that some customers may have in being called vulnerable.

We think that there is much that can be done as an industry to work towards a clear and consistent brand that will improve consumer awareness of the services and support available and are happy to be involved in that work. We see two main challenges which we think will need to be addressed within that work. First, we are aware of the markedly different relationships that supply companies and network/distribution businesses will have with their customers (and work hard to maintain) and the potential confusion that can arise

as a result. This will need to be considered within plans to promote the PSR, in particular to ensure that consumers understand the different nature of each type of energy company and who to contact in different circumstances (recognising that some energy companies will already make great efforts in communicating this message). Secondly, given the subjective nature of the obligation, it is likely that the approach taken by different suppliers to providing services under the banner of the PSR will differ, which may present a greater challenge to communicate consistently than a defined set of services. Consumers will need to be able to reconcile the messages used to promote the PSR, with what this means for them in practice.

We do not think that these challenges are insurmountable, but do believe that it is important that they are captured and considered when taking forward further work in promoting consumer awareness and uptake of PSR services.

We continue to believe that a guidance document is likely to be of value to advice providers and help raise awareness of priority services. This would fit well with the concept of a common industry brand and approach. We support the proposal for Ofgem to take the lead on producing this information.

Compliance and Monitoring

We support Ofgem's updated view on monitoring and compliance of the new PSR obligations and think that this is a proportionate, effective and better value approach than that originally proposed. We would be particularly keen to understand the proposed process for updating the Social Obligations Reporting, once determined.

We note that Ofgem is proposing to align its approach to the PSR obligations with other forms of principles-based regulation (PBR) such as the Standards of Conduct licence condition. This approach could have the potential to deliver more effective, proportionate and targeted regulation and drive better outcomes for consumers. At the same time, however, we are mindful that Ofgem is considering the framework that needs to be in place before a more significant move is made towards PBR⁶, which we agree is essential, particularly with regard to monitoring, compliance and enforcement activities. With that in mind, while we support Ofgem's proposed approach, we would urge Ofgem to be cautious about any significant shift to principles based regulation within the PSR obligations before an appropriate PBR framework is in place to support it.

ScottishPower
May 2015

⁶ As referenced in Dermot Nolan's December 2014 letter to Angela Knight, Energy UK, entitled 'Principles-based Regulation and Compliance'