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Consumers and Competition  
Ofgem  
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Dear Jemma,

## **STATUTORY CONSULTATION FOR A VULNERABLE CUSTOMER SAFEGUARD TARIFF**

Thank you for the opportunity to provide comments on Ofgem's proposals for a temporary safeguard tariff for vulnerable customers on Standard Variable Tariffs (SVTs) and other default tariffs.

We recognise the need to make the energy market work better for customers on SVTs. However, a key cause of the problems identified by the CMA is the enduring nature of SVT contracts and the absence of any compelling prompt to engage. We believe that phasing out SVTs in favour of default fixed term tariffs with annual renewals, in combination with the other pro-competitive remedies recommended by the CMA, is the best long term solution. We have been proactive in engaging with our customers on SVT resulting in a significant proportion of our customers proactively choosing fixed term tariffs (c.60% of our non-prepayment customers at end September 2017) and we are supportive of the recent commitment from Ofgem to consider how it can better highlight actions undertaken by suppliers such as ourselves to move customers from SVTs.

We consider the proposals set out in this consultation represent a reasonable transitional set of protections for the most vulnerable consumers while the market evolves to the best long term solution, and we look forward to working with Ofgem to ensure they are implemented in as timely a manner as possible.

In our letter of 8 September to Anna Rossington we provided our initial feedback on the proposals shared at the roundtable meeting on 24 August to introduce a price cap to protect consumers in vulnerable circumstances, and we are pleased that many of the points we made in that letter are reflected in your proposals. Our main comments on the statutory consultation document and draft licence conditions are as follows:

- a) We think the definition of current scheme year needs to be clarified;
- b) We think that 30 days is too short a deadline to move customers to the safeguard tariff after they have been identified as eligible;

- c) We think innovative tariffs which have an evergreen component (such as ScottishPower's PowerUp tariff) should be exempted from the safeguard cap.

These points are explained further in Annex 1 and our associated drafting suggestions are in Annex 2. We have also noted in Annex 1 a number of operational points.

Should you wish to discuss further or have any questions please contact me or Rhona Peat ([rhona.peat@scottishpower.com](mailto:rhona.peat@scottishpower.com)).

Yours sincerely,

A handwritten signature in blue ink that reads "Rupert Steele". The signature is written in a cursive style and is positioned above a horizontal line that serves as a separator between the signature and the typed name below.

**Rupert Steele**  
Director of Regulation

**STATUTORY CONSULTATION FOR A VULNERABLE CUSTOMER SAFEGUARD  
TARIFF - SCOTTISHPOWER COMMENTS**

**1. Introduction**

We set out below a number of areas where we believe Ofgem should consider amending the proposed licence drafting, or where there are other issues that Ofgem needs to consider to achieve timely implementation. We have suggested possible licence text in Annex 2.

**2. Definition of current and previous scheme year**

There is a potential ambiguity in the definition of 'current' and 'preceding' scheme years resulting from the fact that scheme years (SYs) and charge restriction periods (CRPs) are not aligned. We recommend that Ofgem amend the licence drafting to make it absolutely clear which SYs count as 'current' and 'preceding' for each CRP.

Recognising the potential for gaps between SYs (as there will be from April 2018 until the start of SY8, expected to commence in July 2018), we think an appropriate definition for Current SY would be the SY in operation on 1 September of the year that each CRP commences. This would result in the mapping between CRPs and SYs shown in the table below. Our proposed approach would have the additional benefit of removing the potential negative customer impact highlighted in paragraph 5.13 of the technical document, where a customer eligible for the safeguard tariff during the short first CRP could roll off the tariff in April 2018.

Charge Restriction Period	ScottishPower proposal	
	Current SY	Preceding SY
Feb to Mar 2018	SY 8	SY 7
Apr to Sep 2018	SY 8	SY 7
Oct 2018 to Mar 2019	SY 8	SY 7
Apr to Sept 2019	SY9	SY8

	From	To
SY6	1 Aug 2016	31 May 2017
SY7	1 Jun 2017	31 Mar 2018
SY8	circa. Jul 2018	31 Mar 2019 (assumed)
SY9	1 Apr 2019 (assumed)	31 Mar 2020 (assumed)

**3. Date for compliance with the relevant maximum charge**

The deadline for moving customers onto the safeguard tariff (30 days after they have been identified as eligible) does not allow suppliers sufficient time to provide the required notifications to these customers under SLC23.3. SLC23.3 requires suppliers to notify customers at least 30 days in advance of any increase in charges. It is likely that online and/or Dual Fuel discounts offered more generally by suppliers will not apply to the proposed safeguard tariff and therefore notice under SLC23.3 would be required where a customer currently receives such a discount. It is also possible that the safeguard tariff will have a higher standing charge than customers are currently on, and SLC23.3 may therefore be engaged in respect of customers with low consumption.

An alternative would be to provide a derogation from SLC23.3 in these circumstances, however we think that a period of 60 days rather than 30 would be appropriate as this would enable suppliers to provide the necessary notification to customers and would allow them to batch up groups of recently identified customers into a single mailshot, allowing more efficient processing.

We would note that the proposed approach will involve significantly greater operational complexity and resource requirements than the approach we had originally expected, in which customer eligibility is based on their status at the *start* of each CRP. Extending the period of time to 60 days would mitigate the operational impact of the proposed approach.

#### **4. Exemptions for certain evergreen tariffs**

Ofgem notes in the consultation that the safeguard tariff is proposed to protect vulnerable consumers who have not engaged in the market. We agree with Ofgem that the safeguard tariff should apply to all eligible customers on SVTs and other default tariffs but we do not believe the tariff should apply to all evergreen tariffs, as proposed. In particular, we think there should be an exemption (or failing that, a facility for Ofgem to grant derogations) for evergreen tariffs where:

- a) the customer has actively chosen the tariff; and
- b) the nature of the tariff is such that most customers on the tariff interact with the supplier to buy most of their energy at prices lower than the evergreen price.

A case in point is ScottishPower's innovative PowerUp tariff where customers purchase packages of energy in advance. This has an evergreen default price for the rare occasions where customers have not chosen a package. (Typically fewer than 2% of customers are on this default option at any one point in time.) Without an exemption, there is a risk that suppliers may simply withdraw such tariffs from sale to customers in receipt of the WHD, as the cost of creating a second variant of the tariff for a very small number of WHD customers would be disproportionate. We think it is in the interests of WHD customers that they still have the option of choosing tariffs such as PowerUp and we have suggested some licence drafting to cover this in Annex 2.

#### **5. Information Required ahead of Implementation**

The consultation document says Ofgem expects to publish its decision and the final licence changes in late November or early December, with the changes taking effect 56 days later after the required licence implementation period. We ask that Ofgem also publishes its direction for the Assumed Consumption Splits (ACS) for multi register tariffs at the same time. This will allow suppliers to provide the required notification from SLC23.3 at least 30 days in advance of any increase in charges for cases where, as noted above, SLC23.3 would be engaged for customers on the safeguard tariff who are no longer eligible for a particular discount or for customers with low consumption where the safeguard tariff will have a higher standing charge than customers are currently on.

#### **6. Process for removing customers from the safeguard tariff**

Suppliers will need to ensure that the terms and conditions for the safeguard tariff make provision for the process under which customers may be removed from the safeguard tariff when they are no longer eligible for it. We think suppliers should be permitted to move

customers to either a fixed term default tariff or the cheapest evergreen tariff (SVT) as appropriate, using the provisions of SLC23.3 where this is to a customer's disadvantage. As far as we are aware, there is nothing in the current supply licence to prevent this, but we would welcome confirmation on this point from Ofgem.

## **7. Monitoring of the Scheme and Interactions with other Licence Conditions**

Ofgem sets out in the technical document accompanying the statutory consultation its intention to undertake compliance monitoring including a cross-check with the number of WHD rebates paid by each supplier. We would note that Ofgem will need to take account of a number of factors in performing this cross-check. In particular, we would highlight that a significant proportion (over 50%) of our WHD customers are on non-default fixed term tariffs, and account will also need to be taken of customers who change supplier, and where a change of tenancy occurs.

In addition, we note that the safeguard tariff is likely to add additional complexity to existing processes, for example:

- the Personal Projection calculation where a customer has less than 12 months remaining on a fixed term tariff;
- the Cheapest Tariff Messaging provided to customers on a number of communications;
- the End of Fixed Term Notice and process – as the introduction of the safeguard tariff effectively creates the need for a “dual process” with different default tariffs depending on whether a customer is eligible for the safeguard tariff.

We continue to consider how we will operationalise the required changes. However, given the aim is to implement the safeguard tariff as quickly as possible, it may not be feasible to automate some processes, at least in the short term. The simpler the proposals can be, the easier they will be for suppliers to implement.

In particular, one area we would highlight is that we will shortly be starting the process of extracting the data required for the End of Fixed Term Notices for fixed term tariffs that are due to end in the early part of 2018. The data that allows us to assess eligibility for the safeguard tariff is not currently in a format that allows us to easily segment our data extract for these End of Fixed Term Notices. This is presenting some operational challenges in providing different notifications to customers eligible for the safeguard tariff at this early stage. While there is therefore a risk that customers may not be notified of the correct default tariff in their End of Fixed Price Notice, we will of course ensure that eligible customers benefit from the safeguard tariff from the correct date if they take no action to choose another option.

We are continuing to investigate our options in this and the other areas noted above. However we ask that Ofgem recognises these challenges in any monitoring it undertakes of supplier practices.

**SCOTTISHPOWER COMMENTS ON THE DRAFT LICENCE CONDITIONS IN SCHEDULE 1 TO THE NOTICE ACCOMPANYING THE STATUTORY CONSULTATION: PROPOSED INTRODUCTION OF STANDARD CONDITION 28AA**

The proposed amendments in this annex are for the electricity licence conditions; similar changes would apply to the gas licence conditions.

Reference	Comment and/or Suggested Amendment	Rationale
<p><b>SLC 28AA.18</b></p> <p><b>Definition of Current Scheme Year and Preceding Scheme Year</b></p>	<p>Insert the following additional definitions:</p> <p><b>“Current Scheme Year” means the Scheme Year in effect on 1 September of the year in which the Charge Restriction Period commences</b></p> <p><b>“Preceding Scheme Year” means the Scheme Year immediately prior to the Current Scheme Year</b></p>	<p>As noted in Annex 1 section 2, as the Scheme Years for the WHD scheme do not directly align to the periods covered by the Charge Restriction Periods we believe it is necessary to have definitions of both the Current and Preceding Scheme Years to ensure suppliers are clear which customers are eligible for the safeguard tariff.</p>
<p><b>SLC 28AA.15</b></p> <p><b>Date for compliance with Relevant Maximum Charge</b></p>	<p>Amend as follows:</p> <p>“Where the Obligated Licensee has identified a Relevant 28AA Customer on a date which is:                      (a) 30 days or less before the Modification Date; or                      (b) on or after the Modification Date,                      the Obligated Licensee must comply with paragraph 28AA.1 of this condition on and from the date which is <del>30</del> 60 days after that Relevant 28AA Customer was identified.”</p>	<p>As noted in Annex 1 section 3, 30 days is too short for suppliers to provide notifications required under SLC23.3.</p>
<p><b>SLC 28AA.18</b></p> <p><b>Definition of Relevant Evergreen Tariff</b></p>	<p>Insert the following additional definitions:</p> <p><b>“Relevant Evergreen Tariff” means an Evergreen Tariff other than a Special Evergreen Tariff</b></p> <p><b>“Special Evergreen Tariff” means an Evergreen Tariff chosen by the Domestic Customer, under which most customers on the tariff interact with the Supplier to buy most of their energy at prices lower than the evergreen price</b></p>	<p>As noted in Annex 1 section 4, we do not think the proposed safeguard tariff cap should apply to innovative evergreen tariffs (such as ScottishPower’s PowerUp tariff) which customers have actively selected and which have an evergreen component.</p>

<p><b>SLC 28AA.18</b></p> <p><b>Definition of Relevant 28AA Customer</b></p>	<p>Make the following amendments:</p> <p>“<b>Relevant 28AA Customer</b>” means a Domestic Customer supplied by virtue of the Electricity Supply Licence held by the Obligated Licensee and which:</p> <p>(a) is subject to a Deemed Contract, <del>a</del> <b>Relevant</b> Evergreen Supply Contact or a 28AA Default Fixed Term Contract; and</p> <p>(b) falls into at least one of the following categories:</p> <p>(i) has, in respect of the <del>e</del><b>C</b>urrent Scheme Year which corresponds with the Charge Restriction Period, already been identified by the Obligated Licensee as a Core Group Customer for the purposes of the Regulations; or</p> <p>(ii) was, in respect of the <del>p</del><b>P</b>receding Scheme Year, previously identified as a Core Group Customer by the same Obligated Licensee for the purposes of the Regulations; or</p> <p>(iii) has, in respect of the <del>e</del><b>C</b>urrent Scheme Year which corresponds with the Charge Restriction Period, already been identified by the Obligated Licensee as meeting at least one of the descriptions of persons in the Obligated Licensee’s eligibility criteria as determined by the supplier and approved by the Authority in accordance with Chapter 2 of the Regulations; or</p> <p>(iv) was, in respect of the <del>p</del><b>P</b>receding Scheme Year, previously identified by the same Obligated Licensee as meeting at least one of the descriptions of persons in the Obligated Licensee’s eligibility criteria as determined by the supplier and approved by the Authority in accordance with Chapter 2 of the Regulations;</p>	<p>Consequential amendments required to reflect the inclusion of the new definitions for Current Scheme Year, Preceding Scheme Year and Relevant Evergreen Tariff.</p>
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