

Lisa Charlesworth and Jeremy Adams-Strump
Ofgem
10 South Colonnade
Canary Wharf
E14 4PU
(email:licensing@ofgem.gov.uk)

23rd January 2019

Dear Lisa / Jeremy,

Total Gas & Power Ltd (TGP) response to the Ofgem Supplier Licence Review consultation published on 21st November 2018

TGP is one of the largest non-domestic gas and electricity suppliers in the UK. TGP also has a large shipping and trading division trading in UK. As such we have exposure to costs associated with Supplier of Last Resort (SOLR) claims and other industry liabilities when suppliers fail and exit the market. As you will be aware there have been twelve failures in the last twelve months resulting in significant charges back to suppliers that remain in the market which are then subsequently likely to be passed on to end customers.

Thank you for providing TGP with the opportunity to respond to Ofgem's consultation proposals to strengthen the criteria used to assess supply licence applications, and amend the process for applying for a licence. We would also like to respond to your intention to increase ongoing scrutiny and oversight of suppliers already operating in the retail energy markets, particularly in relation to rules about how suppliers manage credit balances and exposure to wider unsecured industry charges. This letter sets out our view on what we consider to be the most important issues, with the responses to the individual consultation questions given in Appendix one.

We note that Ofgem intends to consult on potential rules and restrictions in respect of credit balances, to ensure appropriate protections are in place in the event of a supplier exit and that remaining suppliers are not asked to bear undue costs. We believe that this is the most significant issue as honouring credit balances forms the largest costs associated with SOLR and we would urge Ofgem to bring the work on this policy area forward. For example we note that Octopus Energy's SOLR claim relating to Iresa totalled £13.8M of which £11.5m related to honouring credit balances.

TGP therefore agrees with Ofgem that the new rules or restrictions are required to protect credit balances and minimise these costs to the wider industry. A failing supplier should take a greater responsibility for their share of the costs of



Postal Address: Bridge Gate, 55-57 High Street, Redhill, Surrey RH1 1RX Tel: 01737 275587 Fax: 01737 784914 www.totalgp.com

Total Gas & Power Limited VAT Registration No.689638949 Registered in England No. 2172239

Registered Office: 10 Upper Bank Street, Canary Wharf, London E14 5BF

failure. They should not be allowed to use account balances as part of their working capital and the rules should be changed to prevent this, something we believe would be relatively simple to implement. We agree with all four options that you are considering that would reduce or eliminate costs associated with honouring credit balances for failed suppliers, in particular the suggestion to restrict using credit balances as working capital and holding funds in a separate ring-fenced account or requiring security cover to cover the amount of credit balances that they hold. This could be effected through a new domestic licence condition.

We also believe that where domestic suppliers fail with protected domestic credit balances, then these costs should be levied on those suppliers active in the domestic market only and not to non-domestic suppliers, where credit balances are not protected. We would ask that Ofgem clarify this through a small change to the Transporter's licence conditions.

With respect to failed suppliers not meeting obligations under the Renewable Obligation and other Government schemes, then we believe changes should be made to minimise the mutualisation exposure to the rest of the market. We believe that the costs associated with these schemes should be recovered more frequently and that credit cover should be in place to cover any exposure in the event of failure.

Yours Sincerely

Andrew Green

Head of Regulation
Total Gas & Power
UK Energy Retail



Annex 1 - Consultation Questions

Do you agree with the principles we have set out to guide our reforms?

Yes, we agree with the principles. We agree that oversight of suppliers in the market should be “proportionate” and would suggest a risk based approach. Companies that form part of a large financially secure parent company with high credit ratings should not be treated the same as new entrants with weaker financial backing.

Do you agree with our proposal to introduce new tougher entry requirements and increase scrutiny of supply licence applicants? Do you agree this can be achieved with increased information requirements and qualitative assessment criteria?

Yes, we believe this is the most proportionate approach but that Ofgem could consider a hybrid of the two approaches depending on the risk profile of the new applicant. We also believe that some scrutiny of business plans and accounts would be prudent and should not be too onerous. In our view, the highest risk relates to “off the shelf” shell companies being offered to new entrants who are not sufficiently prepared or qualified to run energy supply businesses. Your qualitative approach does not make specific reference to how Ofgem would approach an application for a Domestic Licence from an established Non-Domestic supplier. We believe such an application bears the least risk of all and therefore the revised application process should take account of this.

Do you agree that our proposed assessment criteria for supply licences applications are appropriate?

Yes

Do you agree that applicants should provide evidence of their ability to fund their activities for the first 12 months, and provide a declaration of adequacy?

We believe that a new entrant should demonstrate that they have enough funding for at least 2 / 3 years not just the first 12 months. If things go wrong during the first 12 months there is high risk of customer service failure and ultimately supplier exit in the absence of longer term financial stability.

Do you agree with the specific information we would generally expect applicants to provide (in Appendix 1)? If not, why/what would you add or change?

Yes

Do you agree that applicants should provide a narrative in respect of their key customer-related obligations under the licence?

Yes

Do you agree with the areas we would generally expect applicants to cover (in Appendix 1)? If not, why/what would you add?

Yes

Do you agree that we should ask additional ‘fit and proper’ questions as part of the application process (as set out in Appendix 1)?

Yes



Do you agree that Ofgem’s licensing process should be undertaken closer to proposed market entry? Do you identify any barriers to this approach or any adverse impacts of this change?

Yes

Do you consider that suppliers should report on their financial and operational resilience on an ongoing basis? If so, do you have any initial views on the content of these reports/statements?

We believe a certificate of adequacy is the best option with the “annual viability” option being overly burdensome. We also believe that these additional resilience reporting should be limited to the domestic market where all the SOLR issues have been. It is not necessary to increase the regulatory burden in the non-domestic sector which has not experienced any supplier failures.

We suggest that there could be a further test of suppliers when they are on track to exceed the 250k customer accounts when additional environmental obligations are triggered. At this point margins may be eroded as they incur additional costs and it would be sensible for Ofgem to assess their ability to operate past this benchmark. The risk of SOLR costs to the rest of the market increases with more customers and therefore we would support such a risk-based approach.

Do you have any initial views on the potential introduction of targeted or strategic monitoring/requirements on active suppliers?

We broadly agree with your proposals

Do you have any initial views on the potential introduction of prudential/financial requirements on active suppliers?

We broadly agree with your proposals

Do you consider that Ofgem should introduce a new ongoing requirement on suppliers to be ‘fit and proper’ to hold a licence?

Yes

