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3rd December 2019
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Dear Licensing Team

Supplier licensing review: ongoing requirements and exit Arrangements

Ecotricity was the world's first green energy company when we established in 1995 and we have nearly 200,000 like-minded green domestic & non-domestic customers and almost 90MW of self-developed renewable energy generation capacity with more in our development pipeline. We continue to invest in new sources of renewable generation, including developing the UK's first national electric vehicle charging network which we call the Electric Highway and more generally promoting sustainable living through all of our activities in the sectors of Energy, Transport and Food.

As a small supplier who has been active in the energy sector for almost 25 years we are very interested in how the actions of a few irresponsible market entrants can negatively affect the rest of the industry.

Summary

The costs of the proposed measures will disproportionately affect smaller suppliers, hindering competition and ultimately seeing consumers paying a higher rate for their energy. Industry exits would be less disorderly but the evidence does not suggest that they will be less frequent.

Too many suppliers have failed in the last few years, gambling with unsustainable prices in an attempt to gain vast amounts of customers too quickly. The rest of the industry cannot continue to pick up the associated costs of irresponsible suppliers. This needs to be prevented but the measures proposed are not the correct way to do this.

Pressure should be placed upon BEIS to amend the payment schedule for schemes such as the Renewable Obligation to the same monthly frequency as the Capacity Market to cut down on the amount of potential triggers for a supplier to fail and promote more responsible financial practice.

Answers to the consultation questions are included after the end of my letter which provide more detail on our views of the individual aspects of the proposals.

Thank you for giving us the opportunity to comment on this important issue. If you would like to discuss this further please contact me directly on 01453 761 380 or via email at alan.chambers@ecotricity.co.uk.

Yours sincerely

Alan Chambers
Head of Regulation & Compliance

Consultation Response

1. Do you think the proposed package of reforms will help to reduce the likelihood of disorderly market exits, and the disruption caused for consumers and the wider market when suppliers fail? Are there other actions you consider we should take to help achieve these aims?

The proposed package of reforms may reduce the likelihood of disorderly market exits but will likely increase the number of exits unless the burden on suppliers is not increased disproportionately. As per the impact assessment this will also see an increase in customer bills on a market level.

BEIS should be heavily encouraged to change the payment schedules for industry obligations, such as the Renewables Obligation, to monthly from annually. This would encourage more responsible, long term financial planning rather than an annual pinch point where irresponsible suppliers leave the market leaving their obligation for up to 12 months' worth of the obligation.

2. Do you agree with the outputs of our impact assessment?

We disagree with the credit balance and government cost protection assessments. They don't quantify the capital and liquidity costs associated with this, which would disproportionately and unfairly affect small suppliers. Insurance and third party guarantees would also be very expensive for smaller suppliers. We have concern over suppliers' ability to push these costs on to customers at the same time as remaining competitive. The remaining option of a Parent Company Guarantee wouldn't provide the desired outcome for smaller suppliers which comprise the majority of their group structure. This would lead to additional credit costs for larger suppliers also and could add a further roadblock to new entrants in joining the market.

3. What further quantitative data can industry provide to inform the costs and benefits of the impact assessment, particularly for cost mutualisation protections?

We have no further quantitative data to provide at this time.

4. Do you agree with the assumptions used to calculate the costs and benefits in our impact assessment? If not, please provide evidence to support further refinement.

The assumed cost of financing being 0.5% is not representative of actual costs faced by businesses of any size, but especially small suppliers. Adjusted to something more reasonable (4%+), the benefit does not materialise. These calculations need to be revisited.

5. Do you agree with our proposed option to cost mutualisation protections? Are there other methods of implementing this proposed option? Please provide an explanation and, if possible any evidence, to support your position.

Although ring fencing monies to protect customer credit balances would go some way to preventing a disorderly exit, legislating with BEIS for more regular settlement of RO obligations would first and foremost address the seasonal risk.

6. Do you agree with our proposal to introduce new milestone assessments for suppliers? Do you think the milestones we have proposed and the factors we intend to assess are the right ones? Are there additional factors we should consider to help us to identify where suppliers' may be in financial difficulty?

The concept of these audits is sensible and logical. However, cost has to be considered and if suppliers are prevented from taking on new customers until an assessment is passed, it may serve to make the market more complicated for consumers and decrease switching rates. Given the proximity of the thresholds to each other, this would disproportionately affect small/medium sized companies. Indications are that this is similar to new supplier process, where this is a desktop based questionnaire. We do not know enough to comment on if the process would be sufficiently robust to identify overstretched suppliers.

7. Do you agree with our proposal to introduce an ongoing fit and proper requirement? Are there additional factors, other than the ones we have outlined, that you believe suppliers should assess in conducting checks?

In principle yes, but will this actually discourage companies from working with risky individuals and encourage more ethical behaviour? If the system relies on self-certification, this risk is increased that the behaviour is hidden rather than prevented.

8. Do you agree with our proposal to require suppliers to produce living wills? What do you think we should include as minimum criteria for living will content?

No - this is a significant burden and for suppliers in distress, it is likely that this information will not be maintained to the required standard. If the problem which we are trying to solve is poor data quality in the event of a SOLR, forcing suppliers to provide this to OFGEM on a regular basis in a universal agreed format would be more effective in delivering this outcome.

Much of the information which would facilitate a swift SOLR/administration process lies in the contractual arrangements which the supplier has with its vendors - we would therefore consider this commercially sensitive information and would not be comfortable sharing this publicly.

9. Do you agree with our proposed scope for independent audits? Please provide rationale to support your view.

Financial audits are already carried out every year as required by Companies Act; what is the scope being discussed, agreed upon procedures to look at specific areas or full audit of management information? Much more clarification is required regarding what would be audited in these independent audits.

Terms of audit and parameters of expected performance need to be defined. A robust framework would have to be established to establish exactly what a supplier would be expected to be doing.

The administrative and financial burden could be significant depending on scope (£50k+). In a struggling supplier, the pressure of an audit could push the firm under.

10. Do you agree with the near terms steps we propose to take to improve consumers' experience of supplier failures? Are there other steps you think we should be taking?

Explicitly codifying Terms & Conditions of debt recovery in line with Supply Licence Conditions is a reasonable step. Administrators of failed suppliers should not be afforded the ability to chase debt which would be otherwise considered irrecoverable by a supplier.

11. Do you think there is merit in taking forward further actions in relation to portfolio splitting or trade sales? What are your views of the benefits of these steps? Are there any potential difficulties you can foresee?

Portfolio splitting would be a good way to diversify the SOLR bidding process, although in practice this does already take place, with (typically the Big 6) companies taking the whole portfolio and then selling a portion of these customers. Given the incredibly tight turn around required in the SOLR process, this may not be practical to administer.

Multiple code and system changes are likely to lead to significant costs to the industry; it needs to be assessed as to whether this would be a net positive outcome and how this would work in practice.

In theory, allowing a trade sale before a supplier is required to involuntarily exit the market would be a net positive. In the instances of a significant transaction taking place, this would already be scrutinised by the CMA, it would be logical to involve Ofgem in this process.