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Date: 3 December 2019

Dear Vlada and James

Ref: Supplier Licensing Review: Ongoing requirements and exit arrangements

PFP Energy welcomes the opportunity to respond to Ofgem's consultation on the proposed Supplier Licencing changes relating to ongoing requirements and exit arrangements.

We are supportive of the recent changes to new entry requirements under Ofgem's Supplier Licencing review which we see as a positive step change to ensure businesses who enter the market have a reduced likelihood of detriment to competition and consumers. This should have a positive impact downstream to issues raised as part of the wider consultation.

We also understand some of the concerns Ofgem raises as part of its wider Supplier Licensing Review. For example, the mutualisation of costs when things go wrong have an impact across consumers and all suppliers. However, careful consideration needs to be given and in-depth impact assessments carried out to confirm the cost of any new proposals versus the current status quo and how in practice some of these may work. The cost and impact of any new reforms will no doubt have a ripple effect onto consumers. Careful thought needs to be given to whether such proposals will meet the aims set out by Ofgem and whether current Ofgem practice can fill any perceived gaps.

There also needs to be thought around options to meet some of the new proposed requirements. For example, some of the proposals may not be a viable option both in terms of providers offering certain types of insurance and the cost of doing so. The ring-fencing of credit balances without the consideration of debt may in itself have unintended consequences and careful thought should be given to how estimated meter reads impact these factors.

Consideration also needs to be made to the added cost of any changes and how these should be factored into the price cap, the significance of changes in terms of resources and the timelines for change.

We feel that there should be more of a focus on data validity for example, as we believe this is a main area of concern during and after supplier failure. Loss making tariffs are also a clear sign of a business operating a higher risk strategy, which in turn makes others do the same to compete. We feel Ofgem could provide focus in both of these areas outside of any new reforms.

The energy market is already seeing further contraction, with mergers, acquisitions and suppliers exiting the market due to financial market volatility. Proposals need to seek to add market stability

and we must be assured that there will be no unintended negative consequences of any new reforms.

Our responses to the specific questions Ofgem set out as part of this consultation follow. Should you require any clarification on any of the points we have made, please do not hesitate to let me know.

Our response is not confidential.

Yours sincerely



Kellie Hather
Regulation & Compliance Manager

- 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?**

PFP Energy feel that it will difficult to put in place reforms that take away all risks for disorderly market exits. The steps Ofgem has already taken for new entrants should strengthen this area, but we believe some of the reforms under the current consultation will already be existing practices within many suppliers or areas Ofgem already monitors suppliers against. For example, many suppliers already carry out employment checks for all employees. They have regular meetings with Ofgem to discuss financial status, business plans, growth plans, systems, hedging strategies, customer service and complaints. Therefore, the impact of any new proposals will of course be offset due to these factors.

Ofgem also currently focuses RFIs and investigations in areas where they may have concerns. We are therefore unsure how much more the new reforms will provide to Ofgem over and above existing practices. We assume milestone checks and independent audits are set to provide Ofgem with an additional view of what is happening within a supplier and enable Ofgem to take a different course of action to reduce the likelihood of disorderly market exits.

PFP Energy feel that all existing obligations and measures Ofgem utilise should be considered prior to implementing a new suite of reforms. At a minimum there should be no overlaps with existing practices and the cost of any changes carefully considered to make sure these will not add financial burden without having the desired outcome.

Living Wills for example are unlikely to help suppliers once failure starts, as employees will either be focused on more pressing issues or those employees ring-fenced to carry out such tasks may have already exited the business. We therefore feel that there should be more of a focus on data validity for example, as we believe this is a main area of concern during and after supplier failure. Loss making tariffs are also a clear sign of a business operating a higher risk strategy, which in turn makes

others do the same to compete. Ofgem could provide focus in both of these areas regardless of any new reforms.

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

PFP Energy feel that wider impact assessments are needed in certain areas, as highlighted in other sections of our response.

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

PFP Energy would recommend detailed analysis is carried out with the help of finance and insurance parties, to determine what insurances may be available for suppliers and the costs of these fully assessed. Would insurance be available for those that are making little or no profit? If so, at what cost?

Even before doing this, it should be clear what is meant by credit balances. At what point would these be calculated, as seasonal differences will occur. Would the definition only include excessive credit balances and if so, what is meant by excessive? We feel more work is needed in this area to enable suppliers to impact these changes.

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.

PFP Energy has no additional comments to make in respect of Ofgem's impact assessment.

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.

We acknowledge and agree that poor risk management can have wider customer and business consequences. The mutualisation of costs across suppliers can in itself have financial implications for those suppliers who have been managing costs responsibly. Whilst in principle we can see why additional safeguards may be looked at to minimise the credit balances covered through the Supplier of Last Resort process, or mutualisation across other government schemes, however we're unclear how new reforms could be put in place in practice without them coming at a high cost.

Parent company or third party guarantees that are low cost are unlikely to be viable for all and other types of guarantees and insurance policies may not be accessible and are likely to come at a high cost. As previously mentioned, we feel the cost of such insurance policies should be fully costed as part of a wider impact assessment before any conclusions can be made.

We must safeguard against any higher costs being passed onto suppliers and ultimately onto consumers as part of any new reforms. We need to make sure any remedy does not in itself add financial strain.

The ring-fencing of credit balances without consideration for debt may in itself have unintended consequences and careful thought should be given to how estimated meter reads impact these factors.

It would also be helpful to understand what proportion of renewable obligations would need to be covered before any detailed business assessments can be made.

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?

PFP Energy fully supports the prevention of consumer harm from uncontrolled growth. We agree there should be appropriate engagement between Ofgem and suppliers at appropriate stages, but all proposals should be considered as a whole to make sure there is no duplication or unnecessary additional costs. We feel that there are steps Ofgem could put in place through current engagement with suppliers that may at least in part have similar outcomes. We would recommend that Ofgem considers loss making tariffs as a signal that a supplier is operating a higher risk strategy.

We agree with Ofgem that customer detriment should be avoided, but proposals that could have more suppliers turning away customers could in itself be detrimental to confidence in the supplier and ultimately the market as a whole.

If proposed milestone assessments are to go ahead, these should be governed by strict SLAs and any charges kept to a minimum. We feel Ofgem could provide focus in both of these areas outside of any new reforms.

Consideration also needs to be made for scenarios such as once a customer number's milestone has been met previously, as customer numbers will fluctuate. There are also situations where two merging suppliers may together reach new milestones and where one party is already over the maximum threshold. These wider situations should be understood and explored prior to proposals being agreed.

Quarterly meetings with Ofgem should also be considered as a way to identify any significant financial changes to company business plans without the need for new 'milestone' checks.

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?

PFP Energy already has its own 'fit and proper' checks relating to Senior Board members and Directors and in turn relevant employment checks for all employees. Therefore, we are extremely supportive of having high standards across all suppliers, but need to air caution around the level of new checks and how these may be carried out in retrospect. We believe Ofgem has indicated that new fit and proper requirements would follow the 'companies house' definition of Senior Management, which we assume would mean only those individuals listed by Companies House

would be in scope of any changes. We of course need to make sure any new measures have limited cost and resource impacts.

The retrospective implementation of additional checks also needs to be considered, as it's unclear what a supplier would need to do should one of their Senior team not meet new requirements. We are supportive of making sure suppliers have their own employee checks, but feel this should be considered and proportionate and the supply licence drafting amended to 'all reasonable steps' rather than a 'must ensure' to take into account wider factors at play.

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?

Living Wills have been adopted across other organisations, but we feel that once a supplier starts to fail they will in turn have difficulty following a Living Will. In Ofgem's proposals, we notice that for small suppliers there is acknowledgment that there is likely to be a need for additional outsourced specialist resource to support with the implementation of this proposal. This of course is also likely to come at a relatively high cost. In addition, the timeline for implementation which is within 1-2 months brings with it complexities. Bringing in a 3rd party is likely to include a procurement process, contracts and the creation and sign off of the Living Will.

In addition, it should be noted that this will require both operational and management resource, which will be being used to implement other consultation remedies. With this in mind, PFP Energy feels that a more realistic timeline would be 3-4 months following a final decision.

We would also propose a wider impact assessment of the cost for suppliers to implement a Living Will and whether this remedy really should be focused on improving data validity.

In publishing Living Wills, we need to be mindful of how consumers would use these documents to make sure suppliers have sufficiently robust plans. Commercial sensitivities around publishing information should also be considered.

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

Our assumption would be that the request for independent audits should be minimal, should current Ofgem measures be utilised prior to this measure being enacted as well as any additional consultation reforms.

We are not necessarily challenging that Ofgem may wish to further interact with suppliers, but believe Ofgem should consider whether existing annual financial audits that are carried out across many suppliers, annual industry audits, quarterly Ofgem meetings and internal audits could be used as a way to provide any such independent assurances.

Independent audits will come at significant external cost to suppliers, in particular smaller suppliers. We need to be mindful of this fact and how these may work in the current financial climate where a high number of suppliers are making limited profits.

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?

PFP Energy has provided thoughts relating to Ofgem's near term steps and other steps as part of our wider consultation response.

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?

PFP Energy supports the further analysis Ofgem wishes to carry out in relation to portfolio splitting as part of the Supplier of Last Resort process. We can see that this may lead to suppliers who would otherwise not be able to be engaged being able to and in turn this may lead to a more competitive Supplier of Last Resort process.

However, it should be accessed carefully to determine splitting parameters so as to make sure some customer segments don't then become less attractive. The complexity of joined up customer messages and how multiple suppliers will engage as part of a Supplier of Last Resort event also needs careful consideration.

In respect to trade sales and Ofgem's involvement, we believe Ofgem would already look to take action in relation to compliance should there be concerns over the treatment of customers as part of a trade sale. We do not believe Ofgem should require suppliers to obtain approval before being able to proceed with customer book sales, and of course larger transactions are already subject to CMA approval. We agree an open and honest relationship should be maintained during any trade sale process.

12. Do you think our draft supply licence conditions reflect policy intent?

PFP Energy agree that the draft supply licence conditions reflect Ofgem's policy intent.