Will Fletcher
Project Manager
Energy Market Investigation
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Southampton Row
London
WC1B 4AD

05th August 2015

Dear Will,

Total Gas & Power Ltd Response to Competition and Markets Authority possible remedies to the energy market

Thank you for giving Total Gas & Power Ltd (TGP) the opportunity to comment on the energy market remedies outlined in your notice of possible remedies on 07th July.

TGP actively trades in the wholesale natural gas and electricity markets and is one of the leading energy Shipper and Suppliers to Industrial & Commercial (I&C) business customers (including microbusinesses) within the UK. As such TGP has commented only on those possible remedies that impact our activities and has not commented on lower impact or Domestic only issues.

Yours faithfully,

(Sent electronically – signed hard copy posted)

Andrew Green
Head of Regulation
Total Gas & Power Ltd

Appendix 1 – TGP response to CMA possible remedies

Remedy 6 – Ofgem to provide an independent price comparison service for domestic (and microbusiness) customers note: *We also note our provisional finding of a similar feature in the SME retail energy supply markets of actual and perceived barriers to microbusiness customers from accessing and assessing information as a result of a general lack of transparency, and the role of TPIs. As we discuss in more detail in paragraphs 72 to 76, there are currently very few PCWs for microbusinesses. We note that this remedy concerning domestic customers could also be extended to include a price comparison service for microbusinesses, which could serve to remedy this feature of the SME gas and electricity markets*
(a) Would this remedy be effective in increasing customers' trust in PCWs and thereby encourage engagement in the markets and switching?
It is not obvious that Ofgem providing a PCS would encourage trust in the market. This would encourage a "price is all" mentality in the industry which would be to the detriment of customers who value service and suppliers who provide it. Some if not all TPIs recognise this and it is difficult to envisage how Ofgem could capture this. It would be extremely difficult for Ofgem to keep their price comparison website in line with all others with all live tariffs from all suppliers for both gas and electricity. Further to this, suppliers in the competitive microbusiness markets do not only offer tariffs instead also offering bespoke quotations in accordance with live market conditions and underlying costs. Further to the above, business suppliers are not obliged to supply any particular customer that requests a contract, unlike the domestic market where there is a licence obligation to supply. This means that if business suppliers published their Tariff with Ofgem, this might not be available to some customers that may wish to take it up as the supplier may choose not to supply that customer, for example if the customer failed to meet credit standards.
(b) Should this service be online-only, or should it also operate over the telephone for those customers without access to the internet?
TGP has no opinion on this
(c) Is there a risk that such an independent service could undermine the development of other PCWs in the energy sector? How could this risk be mitigated?
Yes, there is a risk that PCW market would be compromised.
(d) Should the Ofgem website quote the energy suppliers' list prices only? Or should it seek to provide full details of all quotes available on the market (including on other PCWs), ie function as a meta-PCW?
This would be extremely complex

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(e) How could we ensure that an Ofgem price comparison service was robust in terms of offering all tariffs available on the market? Should there be an obligation on retail energy suppliers and/or PCWs to provide information to Ofgem on their tariffs?
This would be very difficult and further complicated by the fact that most suppliers to microbusinesses do not provide tariffs to customers in the same way as in the domestic market. As previously stated competitive non domestic suppliers generally offer bespoke pricing in accordance with prevailing market conditions.
(f) Should any price comparison service operated by Ofgem be transactional, ie be able to carry out switches for consumers, or should it provide information only?
This would place Ofgem in competition with TPIs in the microbusiness sector which cannot be a good idea.
(g) What would be the likely costs to Ofgem of offering this type of price comparison service? Would Ofgem need additional funding and/or statutory powers in order to provide this type of service? If so, where should this funding come from?
Ofgem would need to determine the cost of providing this service.
(h) How should customers be made aware of the existence of this service? Should information be provided by energy suppliers on bills/during telephone calls? Should PCWs be required to provide links to the Ofgem website during the search process to allow customers to cross-check prices?
If this is to be perceived as a truly independent service then ofgem and/or the government would need to promote it. However, it would be relatively easy for suppliers to signpost the service on bills and websites.
(i) Is there any additional information that Ofgem should provide on its website relating to energy suppliers and/or tariffs to facilitate the customer search and switching process?
TGP has not identified any additional information.
Remedy 7 – Measures to reduce actual and perceived barriers to accessing and assessing information in the SME retail energy markets
Remedy 7a – Introduction of a new requirement in the licences of retail energy suppliers to provide price lists for microbusinesses on their own websites and to make this information available to PCWs
(a) Would this remedy be effective in increasing price transparency for microbusiness gas and electricity tariffs? Would it serve to make comparisons between different suppliers easier, either directly or by encouraging the development of PCW services for microbusinesses? If not, are there other measures that would encourage this development either as an alternative to this remedy or in conjunction with it?
TGP prefers to offer products and services for customers that suit their needs and requirements and believes that this is better for customers than a tariff. TGP does not believe that forcing tariffs into the non domestic market is in the best interests of consumers and that offering quotations in line with prevailing market conditions is in customers' best interests. It is likely to not be the best price that the customer

could be given and would circumvent direct communication where suppliers can ascertain information in order to provide the best deal or product for the customer. Also the customer's credit-worthiness and line of business may impact risk and price paid by a particular customer.
(b) Do microbusinesses have sufficient access to the information they need (for example on their meter types) in order to engage effectively in the search and switching process?
Yes, generally customers would have good access to the information that they need either through their supplier or one of the many TPIs that operate in the market. TPI's are very active in this market and are available to help customers navigate the market
(c) How long should energy suppliers be given to provide the required information?
It is difficult to answer the question as it depends on what information is being asked for and how often it would need to be updated.
(d) Should energy suppliers be permitted to fulfil this requirement by providing an automated quoting service on their websites (where microbusinesses can put in their details in order to obtain quotes) rather than a list of prices?
No, TGP does not support the concept of mandatory online quotations. It is for suppliers to determine their own commercial and ecommerce strategies. TGP is in favour of leaving the market to competitive forces and it is for individual suppliers to determine the services that they choose to offer.
Remedy 7b – Introduction of rules governing the information that TPIs are required to provide to microbusiness customers
(a) Would this remedy be effective in improving transparency over incentives and trust in TPIs in the energy sector? How could the CMA ensure that this remedy was enforced, i.e. that TPIs were providing the specified information?
TGP supports more transparency in the TPI market and believes that Ofgem's TPI Code of Practice provided a mechanism for this. Due to the varying nature of the different business models within the TPI market TGP does not believe that TPIs should be regulated through the supplier as TPI's are often appointed directly by the customer. In these cases, the supplier would have no way of overseeing the TPI's behaviour. For these reasons, the TPI Code of Practice should be developed and operated centrally by Ofgem.
(b) What information should be provided by TPIs to microbusinesses in order to enable them to make informed choices?
It would require that TPIs provide microbusinesses with information on their incentives, including for example: (a) the extent to which they cover the markets, ie highlighting which suppliers they have

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agreements with and which they do not; (b) how they are paid for their services, eg by commission from energy suppliers; and (c) whether they will provide the customer with the cheapest quote (or cheapest quotes) among those firms with which the TPI has an agreement to supply customers, or whether only a selection of quotes will be provided. TGP believe it should be clear what service the TPI is providing for the customer and how the service is paid for. It should not be assumed that this is the cheapest quote as the TPI should be seeking the best arrangement for the customer which may not always be the cheapest price. Terms and conditions vary amongst suppliers and quality of service differs as do any additional services offered. The TPI is well placed to understand these aspects of the market.
(c) Could the provision of certain types of information have unintended consequences (eg customers choosing tariffs based on commission rates rather than total price)? If so, are there any steps that could be taken to mitigate this effect?
See above comments
(d) Should the specified information be provided to customers in writing or orally (or both)? At what stage in the sales process should this information be provided?
No Comment
(e) Should this remedy be introduced in addition to Ofgem's proposed code of conduct? Or should only this remedy (or only Ofgem's code of conduct) be introduced?
An Ofgem code of conduct should be implemented to support this remedy so that we have a single approach to this issue. Any code of conduct and audits into compliance should be funded by TPI's and not suppliers.
f) Are there any additional measures that should be implemented alongside this remedy to enhance its effectiveness?
No we do not propose any additional measures
Remedy 8 – Introduction of a new requirement into the licences of retail energy suppliers that prohibits the inclusion of terms that permit the auto-rollover of microbusiness customers on to new contracts with a narrow window for switching supplier and/or tariff
(a) Would this remedy be effective in allowing microbusiness customers greater opportunity to engage (by removing the narrow window in which they can choose not to roll-over automatically)?

This remedy would prevent energy suppliers from including in their contracts terms which allow them to automatically roll a customer on to another fixed-term contract if the customer fails to choose an alternative contract within the switching window. Firms would be free to roll customers on to flexible contracts, ie ones that the customer could exit having provided a reasonable period of notice to the supplier. TGP do not believe rollovers should be prohibited. We believe that with clear guidance and a fair approach to customers including proper communications and reasonable notice periods rollovers can work for both customers and suppliers. It is our view that the approach taken by some suppliers has brought rollovers into disrepute and that it is the unfair approach that should be prohibited rather than rollovers themselves.
(b) Are there any means by which energy suppliers could circumvent this remedy to continue to lock customers into energy tariffs that they have not chosen for extended periods of time?
Not that we are aware of.
(c) What is the minimum or maximum notice period that customers should be required/allowed to give in order to exit a contract that they have been rolled on to?
There are two aspects to the notice period. How early the customer can serve notice and what is the last date they can serve notice. TGP are of the view that there should be no restriction on how early notice can be served by a customer and that the last date should give sufficient time for the customer to arrange an alternative supply and for the supplier to source the energy required.
(d) Should energy suppliers be required to inform customers that they are nearing the end of their contract and prompt them to switch?
Suppliers should not be required to "prompt" a customer to switch to a competitor. Suppliers already prompt them in accordance with Supplier Licence Condition 7A which is fair.
Remedy 9 – Measures to provide either domestic and/or microbusiness customers with different or additional information to reduce actual or perceived barriers to accessing and assessing information
(a) Does the current format and content of energy bills facilitate engagement by customers? Is there additional information that should be included on bills? Should the quantity of information on bills be reduced to enhance clarity?
This has already been addressed through recent changes where customers get more information on bills and renewal letters through Ofgem's retail market reforms. This provides more transparency to help customers in making their choices for future supply.
(b) When customers seek to switch tariffs, are they given enough/too much information on the terms and conditions of their new contract?

TGP believes that the current licence conditions obligate suppliers to provide the right amount and clarity of information to customers (e.g. the principal terms and conditions of the new contract which highlights the key information that applies to them.)
(c) Should customers be prompted to read their meters (quarterly or annually), either by information on their bill or by a phone call from their energy supplier? Would this increase engagement by improving the accuracy of billing?
TGP believes that with the prevalence of Automated Meter Reading (AMR) and smart metering which should increase actual read usage, more regulation in this area is unnecessary. TGP already prompts customers to provide actual customer readings where estimated readings have been used.
(d) Once customers reach the end of a contract period, should subsequent bills highlight that they have now been moved onto the standard variable tariff and/or other default tariff and encourage them to check whether they are on the most appropriate tariff for them?
Yes, TGP currently highlights to customers on deemed/default rates on their bills and invites them to contact TGP to negotiate a new contract.
Remedy 10 – Measures to prompt customers on default tariffs to engage in the market
(a) What information should be included in the prompts to customers on default tariffs in order to maximise the chances that they are acted upon? (i) Should customers who have failed to engage be informed that they are 'no longer under contract for energy', that they have been 'rolled onto a safeguard tariff', or an alternative message, for example, emphasising how many customers in their area have switched in the last year?
There are already prompts provided to customers when they fall out of contract and onto a deemed rate and this information should be displayed on the deemed bills that customers receive and they are prompted to contact their supplier to agree a new contract. However, suppliers should not be required to encourage customers to switch suppliers – please see the point raised under Remedy (8) d.
(b) How should prompts be communicated to customers? For example, there is some evidence from the financial sector that text prompts are particularly effective at raising awareness in terms of overdrafts etc.
This might be difficult to manage as Suppliers will not hold all customer mobile telephone numbers
(c) What should be the timing and frequency of prompts in order to balance effectiveness in terms of encouraging engagement with the cost and potential irritation that might arise from repeated prompts?
TGP believes the current prompts on how to change from being on an out of contract rates are sufficient.

(d) Who should provide the prompts: customers' energy suppliers, Ofgem or another party?
Please see above. TGP does not believe energy suppliers should have an obligation to prompt customers to switch.
(e) Are there particular groups of customers who should receive prompts at specific points? For example, should house-buyers be prompted to engage with the market on completion of their purchase?
These sorts of prompts would be more suited to the domestic market and not applied to non-domestic customers.
(f) Is there benefit in others in the markets, such as rival energy providers or TPIs, being made aware of which customers remain on default tariffs (or have been rolled on to the safeguard tariff)? In this respect, data protection issues would need to be carefully considered. The ability of other market participants to identify inactive customers, however, has the benefit of potentially encouraging the customer to switch tariffs once out of contract.
No, customers would be inundated and confused by the volume of calls they would receive from TPIs whose businesses thrive on prompting customers to switch.
Remedy 11 – A transitional 'safeguard regulated tariff' for disengaged domestic and microbusiness customers
(a) Should the safeguard tariffs be set on a cost-plus basis, or should they be related to other retail prices?
Under this remedy, the maximum price level for default tariffs would be set by either the CMA or Ofgem. Customers, who, in spite of the prompts provided, did not actively choose a new tariff at the end of their existing contract, would be rolled on to either a domestic or a microbusiness default tariff. Any safeguard tariff should reflect the additional risk that the portfolio of customers who tend to end up on such a tariff pose to suppliers. It should not be assumed that all such customers are simply disengaged. Their energy requirements are often uncertain and pose additional procurement, balancing and credit risks. Supplier default / out of contract rates are set to reflect this additional risk and the Safeguard Tariff would have to be set in a similar way. TGP currently use a cost plus approach to pricing deemed contract customers.
(b) If the safeguard tariffs were set on a cost-plus basis, which approach(es) we should consider to determining the wholesale energy cost element of the tariffs? What are the relative merits of the proposed approach(es) in the context of the purpose of the safeguard price cap?
TGP do not think an industry wide safeguard tariff is appropriate. TGP's approach is to try to contract all its customers rather than leave customers on a deemed / out of contract tariff. As a consequence the customers who remain on this tariff present a greater risk than a portfolio where they are not encouraged to re-contract. When determining our tariff, we look at wholesale prices, customer off-take compared to AQ, credit risk, transport costs, imbalance costs and service

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costs.
(c) Could the imposition of a transitional safeguard price cap result in energy suppliers reducing the quality of service offered to customers on this tariff? Is this risk reduced by customers' ability to choose alternative, unregulated tariffs?
Safeguard regulated tariff customers are likely to receive a vanilla service from suppliers. Contracted customers will receive a service and service-levels that their contract defines and prices are likely to reflect the lower risk and cost to serve for this type of customer.
(d) Should all domestic and microbusiness customers on default tariffs be rolled onto the safeguard tariff, or should this remedy only apply to a subset of these customers? If this remedy should not apply to all customers, why? And how should energy suppliers identify those customers who should be covered?
No comment
(e) How should the headroom be calculated to provide the right level of customer protection while not unnecessarily reducing healthy competition?
This would require wider industry discussion
(f) What regulatory information would be required to set the safeguard tariffs?
This would require wider industry discussion
(g) How long should the safeguard price caps be kept in place? Is it appropriate to include a specific sunset provision, or should there be a commitment to review the need for and level of the safeguard price caps after a certain period of time?
This would require wider industry discussion
(h) How frequently – if at all – would the level of the cap need to be reassessed? If the cap is set on the basis of directly passing through wholesale and network costs, then it may not be necessary to revisit the safeguard price level.
There are many other elements to pricing such as metering, credit risk and environmental levies and taxes that would need to be continually assessed which would be complex.
(i) Which energy suppliers should be subject to the safeguard cap, and why? Should it be restricted to the Six Large Energy Firms, or should all retail energy suppliers be covered?
The safeguarded tariff should only apply to ex- monopoly national and regional suppliers of gas and electricity where "sticky" customers are particularly prevalent. i.e. have large numbers of customers who have never switched suppliers.
(j) How should the transition from the current arrangements be managed? We note that an immediate requirement to change the prices for all customers on standard variable tariffs,

rollover, evergreen, deemed and out-of-contract tariffs might put pressures on certain suppliers more than others. Should there be, therefore, a period over which the safeguard price cap is phased in? If so, how long should this period be and how should the transition work?
It should be introduced for new contracts only from a point in time and not be retrospective.
(k) Would energy suppliers have the ability to circumvent the remedy, for example, by encouraging disengaged customers to switch on to less favourable, unregulated tariffs, and how such risks could be mitigated?
Unregulated non-domestic tariffs are likely to be more favourable, as they will be priced in accordance with current market conditions and will attract less risk due to the ability of suppliers to hedge their positions based on fully understood customer requirements.
(l) Should the CMA set the level of the safeguard price caps itself, or should make a recommendation to Ofgem to do so?
Ofgem should set any regulated caps.
(m) Are there any potential unintended consequences of setting safeguard price caps, for example, in terms of their potential impact on the level of other, unregulated tariffs?
No comment on this section
Remedy 12a – Requirement to implement Project Nexus in a timely manner
(a) How long should the parties be given to implement Project Nexus?
This remedy would require Xoserve and the gas suppliers, together, to ensure that Project Nexus is implemented within a given time frame in order to address most of the current inefficiencies in the gas settlement system without undue delay. The Project Nexus industry programme plan has recently been reset and PriceWaterHouse (PWC) have been appointed to provide project assurance of the plan and testing window. The current timescales of October16 are now more realistic and subject to finalisation of the test plan, should be more achievable. Suppliers however are still dependent on the Xoserve's delivery plan as they are the central service provider. If their project slips, as it has in the past, then there will inevitably be knock on impacts to suppliers' plans and this is out of suppliers' control.
(b) Should the CMA implement this remedy directly (e.g. via an order and/or a licence modification) or should it make a recommendation to Ofgem to implement the remedy?
The industry has provisions in place for managing Project Nexus. However, suppliers are reliant on transporters (through Xoserve their agent) developing a stable central system to connect to. It would be unfair to give suppliers a licence condition if the implementation date is outside of their direct control. Previous industry delays to the programme have been as a result of Xoserve's failure to

deliver to the central industry programme plan and this has had a large financial impact for suppliers who have had to re-plan to accommodate a year's delay from October 15 to October 16 implementation.
Remedy 12b – Introduction of a new licence condition on gas shippers to make monthly submissions of Annual Quantity updates mandatory
(a) Is it proportionate to require the mandatory monthly updating of AQs? Would it be more proportionate to require less frequent updating of AQs? Would less frequent updating still be effective in terms of removing the scope for gaming of the system?
We have provisionally found that the option available to gas shippers to provide Annual Quantity (AQ) updates allows for gaming of the system with shippers facing an incentive to prioritise the adjustment of AQs downwards and to delay the adjustment of AQs upwards. We do not currently consider that Project Nexus will address this issue. Therefore, this remedy would make it mandatory for energy shippers to update all AQs on a monthly basis in order to remove the scope for gaming.
TGP believes there should be some post Nexus monitoring and reporting and action taken against any suppliers who are proven to be gaming AQ updates.
Remedy 14 – Remedy to improve the current regulatory framework for financial reporting
(a) Should the scope of the individual areas reported on align with the scope of the markets as set out for generation and retail supply in our provisional findings? For example, should a requirement to report wholesale energy costs on the basis of standard products traded on the open wholesale markets be imposed? (b) What regulatory reporting principles would be particularly relevant to the preparation of regulatory financial information in this sector? (c) Would summary profit and loss account and balance sheet information for each area be sufficient to enable the effective regulation of the sector and the development of appropriate policies? Or should the large domestic and SME energy suppliers be required to collect and submit additional, more granular financial information? (d) Should Ofgem require that the summary profit and loss and balance sheet information be audited in accordance with the regulatory reporting framework? (e) Should this remedy apply to the firms that are currently under an obligation to provide Ofgem with Consolidated Segmental Statements? Or should it apply to a larger or narrower set of firms? (f) What would be the costs of imposing such a remedy? We note that some firms' reporting systems are not currently capable of providing information on such a 'market-orientated' basis and that our remedy could require significant additional system requirements. (g) Should the CMA implement this remedy by way of licence modifications or by way of a

recommendation to Ofgem? (h) To what extent should this financial information on performance be published?
General Comment Whilst the collection of additional "market orientated" regulatory financial information may be seen as a means to increase comparability across firms, it is not necessary to remind you that firms are already under an increasingly heavy burden to produce information, of a general accounting nature, of a specific trading nature (with REMIT and EMIR) and of a more general ethical nature (such as the Modern Slavery act which came into force last Friday). The identification and collection of such information invariably requires investment in additional IT systems and resources which will add to the general overheads that will need to be recovered if a business is to remain viable, so the question of the proportionality of such a remedy is important. Another issue which will need to be considered is the use of the information to be collected. Currently, firm's accounts are published globally on an annual basis and whilst many produce consolidated quarterly reports, there is no obligation to do so and they are not as detailed. In the event that firms were required to produce detailed periodic information, is the intention that this information should be publicly available? If so, there are some fundamental accounting issues at stake and the availability of such market information may itself influence or change firms' market behaviour.
Remedy 18a – Recommendation to DECC to make code administration and/or implementation of code changes a licensable activity
(a) Is this recommendation likely to result in a positive change in the initiation, development and/or implementation of code changes that pursue consumers' interests?
TGP cannot see how making code administration activities licensable would bring sufficient benefits to the industry. In effect it would add another layer of bureaucracy for little benefit.
(b) Would this remedy be more effective if certain functions currently carried out by code panels and/or network owners (e.g. setting up working groups) were transferred to code administrators?
As above, TGP cannot see what benefits this would bring.
(c) Would this remedy be more effective if Ofgem or DECC were to impose stricter requirements relating to the selection (e.g. competitive tender), financing and/or independence of code administrators (and/or delivery bodies)?
As above, TGP cannot see what benefits this would bring.
(d) Should Ofgem's ability to use this power be limited to defined circumstances (eg modification proposals which are relevant to Ofgem's principal objectives) or should it be left to Ofgem's discretion?

As above, TGP cannot see what benefits this would bring.
Remedy 18c – Appointment of an independent code adjudicator to determine which code changes should be adopted in the case of dispute
(a) Are there benefits in terms of independence, impartiality and/or industry know-how of an independent code adjudicator that are not available with Ofgem, given its other responsibilities, when undertaking the adjudicator role?
TGP believes that the current process works well where Ofgem can accept or reject the Code Panel's recommendation
(b) Would there be unintended consequences, arising for instance from an increased lack of coordination between code modification governance, licence modifications and legislation?
No Comment

Summary Conclusions

- Microbusiness customers already receive sufficient information and notifications as set out in Supplier Licence conditions – in particular clause 7A.
- Tariffs (including safeguard tariffs) and publication of these are not suitable for the Non Domestic Microbusiness market where not all suppliers offer tariffs but more accurate pricing based on live market conditions and underlying costs.
- Project Nexus has now been re-planned and PWC appointed to provide robust planning and project assurance and intervention at this stage will not achieve any benefits.
- Ofgem should be asked to conclude their work on the Ofgem TPI code of practice and this should be overseen by Ofgem moving forward.
- The possible remedies proposed do not address the fundamental issue of customers who have never switched supplier and are disengaged.