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Sent via email to energymarket@cma.gsi.gov.uk

5 August 2015

Dear Will

Energy market investigation – Notice of possible remedies

I am writing in connection with the above document dated 7 July 2015 to set out Haven Power Limited's (Haven's) views on the possible remedies that are set out.

Haven is a Drax Group company and is a non-domestic electricity supplier that has been supplying Small Medium Enterprises (SME), including microbusinesses since 2007. In 2009, we entered the Industrial & Commercial (I&C) sector and have been steadily growing our customer base in both areas and currently supply ~29,000 and ~9,600 MPANS in the SME and I&C sectors respectively. We have grown our business to this size over a number of years by using a variety of sales channels including telesales, face-to-face, third party intermediaries (TPIs) and by developing direct relationships with consumers. This variety provides us with a broad spectrum of views of the microbusiness-related issues that you have been investigating and the possible remedies that you have set out in your document.

Our views on individual remedies and associated questions are set out in Annex One at the end of this letter. Whilst writing we would like to draw your attention to the timeframe for implementation of any remedies. There are a large number of changes already underway within the industry and further even more extensive change already committed – suppliers (and their third party service providers) are devoting significant time and resource to these, leaving a decreasing amount left to devote to consumers' needs. System changes can take 9-12 months to design, build, and test properly and rushing these can lead to a bad experience for consumers. Given the number of remedies that you are proposing, we would ask that you take the current industry landscape and cumulative effect of all of your proposals (both delivery cost and timeframe) into account in your decision making process. We would urge you to only introduce those remedies that are expected to deliver substantial improvements.

We would like to discuss some of your proposals in more detail with you and will be in touch to arrange a meeting. In the meantime, please get in touch using the details below if you would like any further information on our response.

Yours sincerely

Sent via email to energymarket@cma.gsi.gov.uk

Antony Badger
Strategy and Development Director

Annex One – Views on possible remedies and associated questions

Remedy 1 – Introduction of a new standard condition to electricity generators', suppliers', interconnectors', transmission, and distribution licences to require that variable transmission losses are priced on the basis of location in order to achieve technical efficiency

We believe that this remedy is disproportionate (in terms of the effort involved in implementation) and will have little, if any benefit for consumers.

Transmission losses form a very small part of consumers' bills (<1%) and for all but the very largest of consumers the time of day element that currently exists in this cost is smeared out into simple charging structures by suppliers (e.g. day/night rates) to meet consumers' needs. There is a real risk that any locational element will also be lost. Therefore, this change should not be a priority when industry resource is significantly stretched to deliver a range of changes already underway (e.g. EMR, smart metering, P272).

It should also be noted that significant locational signals are already available to potential new generators via Transmission Network Use of System (TNUoS) charges. Similar signals are provided to demand, although it is *very unlikely* that a decision on location for a new large consumer (e.g. a manufacturing plant) will be driven by TNUoS charges and even less so by locational transmission losses.

Remedy 3 – Remove from domestic retail energy suppliers' licences the 'simpler choices' component of the RMR rules

Although we are not a domestic supplier, we support this proposed remedy. Although we have not been directly affected by this, restricting the number of tariffs that a supplier can offer has been bad for consumers.

It may have had the apparent appeal of making the decision for consumers simpler, but it has reduced choice and stifled innovation. Suppliers will not have been able to offer the range of tariffs that they would have liked and as a result the market will have become more vanilla – it will have become less easy for suppliers to differentiate themselves and as a result, consumers are less likely to engage.

Remedy 4a – Measures to address barriers to switching by domestic customers

Although we are not a domestic supplier, we do not believe that the introduction of penalties for failure to switch a customer is a sensible way forward. There can be a number of reasons why a switch doesn't happen in a defined timeframe and they are not all within the supplier's control. We would suggest that suppliers have sufficient incentive to deliver to maintain their reputations in the market and with consumers.

Remedy 6 – Ofgem to provide an independent price comparison service for domestic (and microbusiness) customers

We are supportive of a PCW across both sectors and believe that consumers would find reassurance in using a service that is provided independently. It would be helpful if this PCW majored on tariff supply arrangements, rather than fixed term deals which are extensively covered by current PCWs. It would not be practical for suppliers to publish details of all negotiated contract prices.

Ofgem already provides information to consumers on how to switch through the "go energy shopping" website¹ and "be an energy shopper" media campaign and this could easily be added to these. This

¹ <http://www.goenergyshopping.co.uk/en-gb>

would also provide a way of making consumers aware of the service. Requiring suppliers to make consumers aware of an Ofgem PCW is likely to be counterproductive and not achieve the desired level of awareness. Customers are already overloaded with information from suppliers. A PCW operated by Ofgem should be seen as a way of providing information and it should not become transactional (i.e. it shouldn't facilitate switching). It could however take a proactive role by identifying consumers that have visited the site and that have not switched within a time period (e.g. three months – it could monitor this through MPAS) and providing a follow-up prompt.

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

We are unconvinced that this remedy will achieve the CMA's aim of providing greater transparency of prices to this group of customers and instead may give rise to two unintended consequences – (i) an "information overload" making it too difficult for consumers' to easily compare prices and (ii) the introduction of a "price cap".

If this remedy is put into place, suppliers should only be required to publish prices for products that they offer and not for all products available in the market place. Although this would limit the number of published prices, there will still be a significant number and we believe that simply publishing the prices will not necessarily make it easy for consumers to compare.

A "price cap" could arise as an indirect result of this remedy because suppliers are unlikely to publish their most competitive prices. Many microbusinesses are able to negotiate with suppliers, either directly or through a third party, to achieve a better deal than that of suppliers' opening offers. These will not be the prices that are published and we would expect prices shown here to be less competitive than those that a microbusiness could achieve. (It is worth remembering that microbusinesses currently have all the information they need to make an assessment of the best quote – supply number and annual spend.)

Finally, it should be noted that published prices may not be available to all business customers. For example, the published prices may not be available to those with a poor credit rating or payment history.

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Remedy 8 – Introduction of a new requirement into the licences of retail energy suppliers that prohibits the inclusion of terms that permit the autorollover of microbusiness customers on to new contracts with a narrow window for switching supplier and/or tariff

As a supplier, Haven offers fixed price contracts to microbusiness customers with the provision to autorollover. Our contracts **do not have and never have had** a narrow termination window – the customer may confirm their intent to terminate the contract from the day it is signed until 30 days before the contract end date (this exceeds the standards set in Standard Licence Condition 7A of the Electricity Supply Licence). We would be supportive of this remedy to allow autorollovers, provided that the termination window is not narrow.

We believe that rollovers are a valuable choice for microbusinesses and that they can meet the needs of a large number, provided the supplier is clear about the terms at the point of sale. Further, removal of rollovers could result in a general increase in the price that consumers pay across the piece. Changes to cash-out prices and the knock-on impact of these onto near term wholesale prices will exacerbate this.

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

For microbusinesses, a large amount of information is already provided at point of sale (or soon after) before renewal and on bills. We have no evidence to suggest that consumers want more information or that they even use the information that is provided. We have analysed the results of some of Ofgem's recent information provision changes and have been unable to find any firm evidence that they have had the desired effect.

Bills are already cluttered and reduced regulatory requirements to provide information on this document would allow suppliers to simplify it and make it easier for consumers to understand. Further this is not always the right communication route for contract-related information, since bills for microbusinesses often go directly to accountants or someone other than the contract arranger for payment.

Providing information via bills is costly and has a long lead time as suppliers need to make changes to systems (sometimes via third parties). <.....>

Remedy 10 – Measures to prompt customers on default tariffs to engage in the market

We have already provided the CMA with one suggested approach to improve engagement in this area of the market but note that you have decided not to pursue it. Outlined below is a further suggestion for proactive interaction with this group of consumers which is aimed at increasing their long-term engagement in the energy market.

- The Big 6 to identify the group of disengaged consumers that are on default tariffs using a common set of criteria (to be set by the CMA – e.g. never switched, supplied under tariff X for more than [2] years etc.)
- Each consumer is proactively contacted at least once a year **by telephone** to undertake a “fact find call”.
- The fact find call should seek to establish the consumer's needs and understand why they have not engaged in the market. There could be a number of outcomes from the call, e.g.:
 - Consumer doesn't want to do anything
 - Consumer's supply is moved to a cheaper tariff with the same supplier
 - Consumer has sufficient information to be confident in their ability to research the wider market to seek out a deal for themselves
- We suggest that the fact find call is undertaken on behalf of the incumbent by an independent agency experienced in this type of activity and domiciled in GB and using an approved (by CMA / Ofgem) script. The independence will help provide reassurance to consumers.
 - Details will need to be provided to the agency for this purpose only.
 - Consumers' contact preferences would be respected and the activity would comply with DPA requirements. It is not the intention to provide consumers with a bad impression of the industry.
 - The agency will need to be able to facilitate a tariff switch **with the same supplier** in “real time” for the consumer if they wish.
 - The Big 6 could engage an agency on an individual basis – or collectively.

The aim is to increase long-term engagement by proactive telephone communication, rather than passive messaging via email, bill or mailshot. We would be happy to discuss this in more detail.

Remedy 11 – A transitional ‘safeguard regulated tariff’ for disengaged domestic and microbusiness customers

Haven Power has concerns about the impact on competition of this proposed remedy. We believe it has the potential to lead to less engagement as customers may feel protected if they do nothing. We would prefer a more proactive approach to sticky customers – both in terms of protection for those who remain unwilling to engage and in the ways that this group are encouraged to participate.

Customers who have previously engaged because they have found themselves paying a higher tariff may not bother to do so if they are can simply do nothing and continue to enjoy reasonably favourable rates without the effort required to engage. This remedy may also push other prices up to the level of the safeguard tariff, leading to higher prices in the market generally.

If a safeguard tariff were to be introduced our view is that it should be set on a cost-plus basis, recognising the features of such supplies e.g. short term / uncertain supplies. The level of “headroom” built into a safeguard cap is critical. If it is set too low it will have a damaging impact on competition, undermining incentives for customers to engage and there needs to be enough headroom to drive competition and switching, or this tariff will have a negative effect. Non-domestic consumers won’t move or engage for a small margin <.....>.

In relation to implementation, should the CMA proceed with this remedy then we believe that the CMA, rather than Ofgem should set the methodology for any safeguard price cap and the conditions for its withdrawal. Any regulation should take into account a supplier’s costs and twice a year seems a sensible frequency to reassess the tariff and level of headroom, with the option to review following exceptional market movements e.g. wholesale power price moves by 50% of headroom.

In our view, any safeguard regulated tariff should be restricted to the Big 6 suppliers, because this remedy is aimed at “sticky customers” and they supply these. Non-Big 6 suppliers have won their customers from other suppliers and these customers are engaged in the market. This would substantially simplify the implementation.

Any safeguard tariff remedy should be an interim measure, in place only until competition is better established, then it should be removed. Criteria should be defined at the outset, e.g. a set number of sticky customers to switch, before the measure is withdrawn.

If introduced, the group of customers eligible to move onto the safeguard tariff needs to be carefully defined so that it provides protection to those that most need it. In our view, eligible consumers should be those that are on standard variable type arrangements that do not have a fixed end date.

Consumers on deemed contracts, i.e. those that have not had a contract with their supplier (e.g. change of tenancy or new supply) should not be eligible for the safeguard tariff. The characteristics of these customers are significantly different, especially in terms of payment. Deemed consumers are also different from those on out of contract arrangements. In the latter, the supplier “knows” the consumer and is able to assess their ability to pay etc. and more easily take account the costs of administering such contracts. In the case of a deemed arrangement, the consumer is unknown to the supplier but the arrangement is intended to be short-term and allow the consumer to move supplier once they are ready to do so. This group of consumers should not be considered by default as disengaged.

If the proposed remedy is implemented, we do not see the need for a transition period, as it should only apply to a subset of customers. However, we would expect at least 12 months’ notice to take into account IT changes and the challenging timetable of impending regulatory changes we are already working against.

Remedy 13—Requirement that domestic and SME electricity suppliers and relevant network firms agree a binding plan for the introduction of a cost-effective option to use half-hourly consumption data in the settlement of domestic electricity meters

We have participated in a number of Ofgem workshops covering settlement reform and will continue to engage. But, there are some issues that need we believe the CMA need to explore in more detail before pursuing this remedy:

- It is not compulsory for consumers to have smart meters installed – they can refuse. There will also be a significant number of cases where it is simply impractical to fit these meters. This leaves the potential for a “rump” of dumb meters to be left in place which will need the current

settlement arrangements to support them. This is likely to increase the cost to serve significantly and will require two end-to-end settlement systems to be run in parallel.

- An approach to a simplified half-hourly (HH) settlement for this group of customers should be explored. This could utilise current settlement arrangements and would therefore be implementable at a reduced cost. One issue that needs proper consideration is the use of meter readings in billing. The current form of HH billing is based on HH settlement and does not include 'meter readings' in the traditional sense. If the same approach were used for domestic meters it would be very difficult for customers to check their bills and this could lead to further disengagement with the market.
- It is also possible that many of the time of day / other smart meter benefits could be delivered via the current settlement arrangements or via small changes to these. This would be a cost effective route to deliver benefit for consumers.
- Smart meter data will not necessarily be clean and complete. The smart meter rollout provides an ideal opportunity to cleanse industry data, but there is no guarantee that this will be undertaken uniformly and to a high standard. It should not be assumed that moving to HH settlement will be easy – or indeed cost effective. There will always be a significant number of meters with problems and HH settlement is by definition not very robust to this.
- The case for HH settlement of all consumers has not been made and we believe that it should be set out fully before progressing. This should take account of all factors, including socio-economic. The benefits of smart metering and HH settlement need to be available to everyone. For example, it is likely that vulnerable / fuel poor consumers may not be able to modify consumption patterns and take advantage as they cannot afford to purchase the appliances and control equipment needed. Aspects such as this need to be taken full account of before the decision to implement HH settlement for the domestic sector is made.
- On a wider point, we note that network companies are not directly involved in settlement, but the remedy proposes that they should be. It is important that all relevant parties are involved at the appropriate point, but the driver should be to realise benefits that will be accessible to all consumers.

Remedy 14 – Remedy to improve the current regulatory framework for financial reporting

We do not believe this should be a key priority for introduction by the CMA. Whilst in principle we would support the separation of SME related information at a gross margin level *for those suppliers that fall within the current reporting framework*, the usefulness of the data must be questioned.

In our view, it is unlikely that any of the suppliers currently captured by the reporting requirements would accurately record costs to a sufficient level of granularity to make the output meaningful. An increased number of assumptions would have to be made by suppliers. These will vary and it will be difficult to compare "like with like".

Remedy 15 – More effective assessment of trade-offs between policy objectives and communication of impact of policies on prices and bills

We believe that this remedy provides the opportunity to improve the communication of policy objectives and more importantly the impact of policies on prices and bills. While impact assessments and studies are undertaken by DECC and Ofgem, the findings of these are not widely communicated or easily accessible to industry participants, let alone consumers.

Suppliers are nearly always left with the task of explaining policy decisions and the resulting effect on bills to consumers. A key element of this remedy should be to require DECC and/or Ofgem to provide clear and simple information for consumers in a format that they understand and this should include the likely impact on bills (which could take the form of a range). Consumers would be further informed if the information included a simple explanation of how these costs can vary (some exhibit large variabilities) **and what actual cost levels were**. Careful thought needs to be given on how to best share this information with consumers. Methods could include Ofgem / DECC factsheets which are well sign-posted (e.g. via Ofgem's "be an energy shopper" media campaign and website).

For example, EMR could have been summarised into one page explaining the need to decarbonise the energy sector whilst keeping the lights on and making it affordable for consumers. Impact on bills should be shown on a pence per unit (ppu) basis – as this would enable comparison against current rates paid by customers.

Remedy 16 — Revision of Ofgem’s statutory objectives and duties in order to increase its ability to promote effective competition

We are very supportive of returning Ofgem’s primary objective to one in which they are driven to promote competition.

The vast majority of measures that have been introduced in recent years in the “interests of the consumer” (e.g. domestic RMR) have not had the desired effect. An efficient and competitive market will naturally drive benefits for consumers without the need for “stick and carrot” approach to keeping participant behaviours in line.