



[REDACTED]

Department of Energy and Climate Change
Area 4C
3 Whitehall Place
London
SW1A 2HD

E.ON UK plc
Westwood Way
Westwood Business Park
Coventry
West Midlands
CV4 8LG
eon-uk.com

[REDACTED]

[REDACTED]@eon-uk.com

Tuesday 23 November 2010

**Response to DECC consultation on the provision of third party access to
licence exempt electricity and gas networks**

Dear [REDACTED]

Consultation Questions:

***Do you have any views or concerns on how Government intends to apply
third party access requirements to licence exempt distribution networks?***

We believe that the approach suggested by Government to ensure Great Britain's compliance with the relevant EU Directives is reasonable considering the uncertainty around benefits to consumers of the proposals and the added impetus provided by the European Court of Justice (ECJ) ruling on the Citiworks case to introduce appropriate changes into legislation.

We believe that early clarity on the exact nature of the proposed amendments to the Electricity (Class Exemptions from the Requirement for a Licence) Order 2001 (the "Class Order 2001") is essential for existing operators to understand and comment upon the detailed implications. It would be unhelpful for example if potentially well meaning changes were to have unforeseen and negative impacts upon established low carbon licence exempt generators operating in Great Britain.

E.ON UK plc
Registered in
England and Wales
No 2366970

Registered Office:
Westwood Way
Westwood Business Park
Coventry CV4 8LG

We are sceptical that there will be many consumers on private wire networks that will take up the option of a 3rd party energy supplier. Those that may be interested in this option will clearly be those where the commercial benefit outweighs the additional set up costs that will be required.

Therefore we believe that the 'Commercial Agreement' is the most likely option that will be adopted in the future once the proposed amendments to the exempt licencing regime are introduced.

The other options proposed within the Annex of the consultation will result in significant costs to the customer, private network operator or supplier to implement and ensure ongoing compliance with the existing licence and industry requirements. These additional costs we believe will outweigh the benefits of being able to choose an alternative energy supplier and make them not commercially viable.

We have two points that we would like to raise in response to this question:

1. Regulatory Costs

The proposed regime for exempt network operators requires them to gain approval of their charging methodologies from Ofgem. It also extends Ofgem's compliance monitoring and enforcement powers to private network operators. We agree that this is required to ensure that the regime is robust and that consumers on private networks are protected.

However it was not clear from the associated consultation Impact Assessment what the cost of this additional regulatory regime may be. As the potential number of private network arrangements could be considerable the regulatory administration involved might be significant.

It would seem to be inappropriate for these additional regulatory costs to be recovered via the existing route (i.e. licenced network operators). This would create a cross subsidy from consumers (including domestic ones)

who are attached to licenced networks to those on private wire networks.

We would therefore suggest that some form of cost recovery mechanism is also introduced onto private wire network operators where they propose to introduce their own charging methodology to recover these costs and ensure that any cross subsidy is not introduced.

2. Domestic Maximum Resale Costs

The Maximum Resale Price for anyone who buys electricity or gas from a licenced supplier and resells it to someone for domestic purposes is set at the same price as that person purchased it for. We believe that this requirement should remove the commercial incentive for any domestic customers on a private network to seek individually a 3rd party supplier.

However it would be helpful if Ofgem could update their guidance document for resellers and place this somewhere prominently on their website with any future information that is going to be made available for private wire network operators. It would also be helpful if a description of this was included in the proposed Government guidance for private network operators.

Do you have any views or concerns on how Government intends to apply these Third Package requirements to licence exempt undertakings?

We believe that the methods suggested within the consultation for applying the other aspects of the Third Package of changes to licence exempt undertakings are acceptable and should ensure that consumers on these networks are afforded the additional protection envisage by the changes to the EU Directives.

Yours sincerely

A blacked-out signature, likely of a representative of e-on UK, used to sign the letter.

