



UR Consultation
**THIRD PARTY INTERMEDIARIES
IN THE ENERGY MARKET**

SSE Response

Executive Summary

SSE Airtricity welcomes the opportunity to respond to this consultation on Third Party Intermediaries in the retail and wholesale energy market. We broadly support the strategic aim of the project to ensure non-domestic consumers and scale-scale generators engaging with TPIs are adequately empowered to make informed decisions. We agree that all parties, including TPIs, have a duty to provide clear information to customers prior to contractual agreement and with the UR's objective to seek certainty that consumers are not at risk.

Establishing risk

We therefore stress the need for a clearly defined materiality threshold to guide the progression to further exploration and implementation of measures. This threshold should ensure that interventions are proportionate and avoid unnecessary burdens on industry. Previous assessments, including the 2018 review, concluded that the threshold for intervention was not met and current findings suggest this remains the case, despite the growth in TPI activity. We caution against equating market growth with the types of issues experienced in other jurisdictions, such as poor contracting practices and mis-selling.

Where there is no evidence of harm, we recommend that no action be taken, with the option to reconsider intervention should risks materialise in the future.

Publication of information

SSE Airtricity supports the development, publication, and promotion of relevant Retail TPI information on the Utility Regulator's website. We believe that clear and accessible information could improve market transparency and empower customers. We recommend that the UR's website serves as a single source of truth, with industry echoing this message to ensure broad dissemination of clear information.

Ongoing monitoring

Regarding monitoring and reporting, SSE Airtricity does not consider regular supplier information submissions to be proportionate or justified given the lack of current known issues. We suggest that stakeholder engagement with customers offer a more effective means for identifying emerging concerns with targeted information requests to suppliers issued only when specific issues are identified.

TPI costs on bills and contracts

On the matter of TPI commissions and third-party costs, SSE Airtricity does not support the publication of commission details by suppliers, as these are details of agreements between TPIs and customers. Transparency between TPIs and customers is already ensured through contractual obligations and supported by our voluntary Code of Practice, which requires TPIs to disclose cost structures to customers prior to contracts being signed. Mandating publication of these costs, in their various structures would be impractical and costly for suppliers, and ultimately customers, as it requires significant changes to billing systems with no clear consumer benefits.

Further considerations

We agree with the exclusion of measures such as mandatory Codes of Practice, Alternative Dispute Resolution schemes, and a General Authorisation Regime, as these would require direct regulation of TPIs and legislative change, which falls outside the UR's remit. We do not propose any alternative measures currently. Furthermore, we are not aware of any issues or concerns impacting micro & small-scale generators through their arrangements with TPIs, nor do we believe additional regulatory protections are required for these groups at present.

In summary, SSE Airtricity advocates for a proportionate, evidence-driven approach to TPI regulation, focused on improving consumer information. We recommend that intervention be revisited only if material risks emerge, and that unnecessary obligations and cost be avoided.

Response to Consultation Feedback:

Question 1:

Do you agree with our proposed strategic aim, objectives and scope in relation to this TPI project? If no, please provide reasoning.

Strategic Aim:

SSE Airtricity supports the proposed strategic aim of the project, which is to ensure that both non-domestic consumers and micro/small scale generators engaging with TPIs are adequately informed and empowered to make informed decisions. However, all parties, including TPIs, already have a duty to provide clear information to customers before they enter into contracts. Subsequently, where intervention in the TPI market is required, the Trading Standards Service (TSS) holds vires to directly intervene to promote fair trading, protect consumers and ensure compliance with the law.

As outlined in the consultation paper, para. 2.49, there is limited evidence to illustrate mis-selling by TPIs in Northern Ireland in the last five years. Therefore, we would ask the UR to consider whether any intervention is required at this time. Where evidence of potential harm is not present, then no action is required, and this can be revisited at a time when the risk increases.

Scope:

Yes, SSE Airtricity deems the scope of the TPI project as reasonable and proportionate. The definitions of 'Retail TPI' and 'Wholesale TPI' are clear and ensure that the project will consider the full range of TPI activities across all relevant customer cohorts. Additionally, by separating the two markets into two broad categories, the Utility Regulator can effectively assess the level of concern based on the individual impact of TPI engagement, ensuring proportionality and tailored approach in response to the type of agreement e.g. customer versus a small-scale generator.

Objectives:

We recognise the value in the project's objectives to gather evidence as a foundational step to proportionate intervention. However, we believe that this initial step is a natural reflection point, where evidence gathered is assessed against a clearly defined materiality threshold to progress to the exploration, consideration and implementation of interventions. This materiality threshold has not been defined within the consultation paper but must be used to ensure that interventions are proportionate and targeted, avoiding unnecessary and costly burdens on industry and the UR.

Previously, this assessment was conducted in 2018, culminating in the threshold for intervention not being met and the decision made that the UR would not proceed with the implementation of measures at that time and would revisit in later years. Under Section 2 of this consultation paper, it is apparent that this threshold – if consistent with the 2018 assessment – has once again not been met unless the UR has determined that increase in TPI activity as an area of concern. SSE Airtricity would stress that increase in activity alone does not correlate with growth in bad-practice and therefore the materiality threshold for intervention must also evidence an element of specific concern.

In summary, we would encourage the UR to ensure that the identification of concerns is clearly defined and that any interventions are proportionate to the risks identified.

Question 2a:

Do you think development, publication and promotion of relevant Retail TPI information on the UR's website would be beneficial to consumers? Please provide a clear rationale for your answer.

SSE Airtricity has no objections to the development, publication, and promotion of relevant Retail TPI information on the UR's website.

We believe that making clear, accessible information available to non-domestic consumers will help improve market transparency and empower customers to make more informed decisions when engaging with TPIs. We believe that publication on the UR's website, supported by appropriate collaboration and promotion with industry and TPIs, is a proportionate and effective way to reach a broad audience and enhance comprehension.

Question 2b:

Do you suggest any alternative/additional methods of sharing this TPI information with non-domestic consumers? If so, please describe.

SSE Airtricity would strongly recommend a single source of truth for these customers, which the publication on the UR's website could provide and the promotion by industry or third parties would ensure that information is shared with a broad audience.

Question 3a:

Would you consider enhanced monitoring and reporting (to include i) regular supplier information submission and ii) a programme of engagement) to be beneficial in ensuring that consumers are adequately protected? Please provide clear rationale for your answer.

SSE Airtricity does not believe that the regular submission of supplier information is warranted at this time. The data which suppliers hold and have access to is limited to quantitative metrics such as number of TPIs who have been involved in contracts and is not an indicator alone of bad practice or need for intervention. Collection of these data points on an ongoing basis from suppliers will not meaningfully contribute to UR's assessment of the concerns and will create an ongoing administrative burden on industry and UR which is not required at this time.

Instead, the stakeholder engagement programme could provide a more effective route for ongoing monitoring and identifying evolving areas of concern – consistent with Objective (c) of the project. If specific issues are identified through engagement, targeted information requests to supplier would then be both purposeful and justified, rather than broad and routine.

Question 3b:

Should a regular supplier information submission be voluntary or implemented through a licence requirement?

As outlined above, regular supplier information submissions are neither beneficial for assessment nor warranted unless specific areas of concern are identified. Section 2.64 of the consultation paper notes that there is limited evidence of widespread issues in practice.

The existing Provision of Information conditions within our supply licences allow the UR to request information where necessary. If or when further information on this topic is required, the existing condition could be used to request this; a supplementary licence condition is not required to request this information.

Question 3c:

Can you suggest any alternative methods of monitoring and reporting TPI activity?

SSE Airtricity does not consider the monitoring and reporting of TPI activities by suppliers, on a regular basis, to be necessary currently. Despite the growth in TPI activity seen in the UR's research, the absence of systematic concerns indicates that the market is currently self-regulating either by voluntary means or by fair practices. For example, SSE Airtricity take a proactive approach to encouraging best practice from TPIs, via a voluntary Code of Practice, to enhance transparency and fair practices.

Question 3d.

Would it be beneficial for the TPI information gathered by UR to be anonymised and published (in addition to being used internally by UR for market monitoring)?

SSE Airtricity believes that any TPI information gathered by the UR should be concern-driven and, if it is deemed beneficial to publish, must be anonymised to protect the identities and commercial interests of individual TPIs. Given that TPIs are separate business entities, the UR should remain mindful of the potential sensitivities and commercial implications associated with publishing such information.

Question 4a.

Are you of the view that TPI commissions being published would increase levels of transparency and benefit consumers? Please provide clear rationale for your answer.

Publication of commissions may be very difficult for the UR to identify and therefore publish. The costs associated with TPI services are agreed directly between the TPI and the customer, and it is the responsibility of the TPI to determine how and when this information is shared. Suppliers do not always have access to this information and therefore unable to accurately disclose this, as we are not party to the commercial agreement between the TPI and the customer at the point of sign up.

Question 4b.

Which publication format should be used for Third Party Costs: i) consumer bills and on request, ii) a customer's Principal Terms and upon request iii) both i and ii or iv) another publication? Please provide information to support your answer.

SSE Airtricity does not support the introduction of new publication requirements for suppliers of Third-Party Costs at this time. The evidence that led to the decision not to proceed with an obligation in 2018, namely that the potential costs of implementation would outweigh the benefits remains valid. While TPI activity has grown since the previous information request, this increase is largely driven by larger energy users who generally have the internal resources and expertise to manage these arrangements effectively.

For smaller businesses, the UR's proposed increase in accessible information should provide a "one-stop-shop" of guidance on engaging with TPIs, which is more proportionate and practical solution than mandating the publication on bills or contract terms.

Importantly, it should be noted that TPI arrangements are external contracts between the customer and the TPI. Therefore, it is neither appropriate nor applicable for suppliers to include third-party contract terms or cost details on customer bills or with supplier documentation. Doing so, would create unnecessary complexity and raise concern on the legality of publishing third party costs without delivering clear consumer benefit.

Question 4c.

Which publication cost structure would be most beneficial to consumers: i) a lump sum for contract duration ii) a cost per unit iii) combined approach (both i & ii) iv) other? Please provide information to support your answer.

SSE Airtricity reiterates that the decision should remain between the TPI and the customer, as part of their commercial agreement. However, we believe that all relevant cost details must be clearly outlined within the contract and fully understood by the customer to ensure transparency and informed consent.

To encourage TPI transparency, SSE Airtricity currently operates a voluntary Code of Practice with our TPIs. This code ensures that essential information, including the agreed cost structure, is provided by TPIs to each customer before contract signing. Additionally, contractual terms are already regulated under the Business Protection from Misleading Marketing Regulations (BPMMRs) which in Northern Ireland are enforced by the Trading Standards Service. This means that any mis-selling or misleading practices are already addressed within an existing regulatory framework.

Question 4d.

What changes to billing systems—or wider systems and processes - would be required in order to enable the publication of TPI commissions on a customer's bill? Do respondents have any view of the difficulty and cost of these changes?

SSE Airtricity notes that implementing the publication of TPI commissions on customer bills would require significant system changes. For example, our billing operations currently run on two separate platforms for each utility in Northern Ireland which means this change would incur double costs for development and implementation.

More specifically, this would involve a bill rendering change request, classified as a large-scale development. The estimated cost for this change is a minimum of £160,000 for our business, and these costs would ultimately end up driving up costs for all customers, regardless of their interaction with TPIs. Furthermore, the calculation method would need to be fixed and standardised, as variations cannot be accommodated within our current system architecture. This limitation would either fail to consider the complexity of cost structures in the market or require a further large-scale development to accommodate the inputs.

Once again, SSE Airtricity reiterates that the decision should remain between the TPI and the customer, as part of their commercial agreement.

Question 5a.

Do you agree with the exclusion of the potential measures (4-6) for the reasons described above? If not, please provide reasoning

Yes, SSE Airtricity agrees with the exclusion of potential measures (4-6) for the reasons outlined above. As noted, suppliers do not influence or control the terms within the customer-TPI relationship. Introducing measures such as mandatory Codes of Practice, Alternative Dispute Resolution schemes, or a General Authorisation Regime would require direct regulation of TPIs, which falls outside the scope of the UR and a supplier's remit and would necessitate legislative change. These measures would therefore be disproportionate and impractical at this stage.

Question 7.

Do micro/small scale generators require regulatory protection when engaging with TPIs in the energy market in Northern Ireland? Please provide any information to support your answer.

SSE Airtricity believes that the principle of evidence-based intervention should apply equally to micro/small-scale generators. Where there is evidence that these consumers are affected by malpractice, proportionate action should be taken directly with the TPI through the TSS under the current regulatory framework.

Conclusion

In conclusion, SSE Airtricity supports the project's aim to improve transparency and consumer protection but stresses that any intervention should be evidence-based and proportionate. Current evidence shows limited risk, so measures should focus on enhancing consumer awareness rather than imposing unnecessary regulatory change. Where concerns arise, actions should be targeted and aligned with clearly defined thresholds to maintain market efficiency. TPIs can be a key enabler for competition and therefore, we need to ensure that unnecessary intervention does not dampen those benefits.