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Utility Regulator
Queens House
14 Queen Street
Belfast
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Date: 21ST December 2012.

Consultation:

ELECTRICITY CUSTOMERS WITH MULTIPLE PREMISES IN THE NON-DOMESTIC MARKET

Dear Robert,

Electric Ireland welcomes the opportunity to comment on this consultation and has carefully considered the circumstances and challenges set out by the UR in the competitive position for customers with multiple premises in the non-domestic electricity sector.

Electric Ireland does not agree that these challenges can be dealt with by a loosening of current regulatory constraints on Power NI. Indeed we believe the regulated customer base may be exposed to an increased price risk if these proposals are implemented as presented.

In 2.4 the UR states that Power NI may not be able to meet the criteria of tenders in many cases. No evidence is presented to support this statement. In any event where / if Power NI is unable to bid for any customer category the broader Viridian Group has the capacity to respond to tenders through its VP&E independent retail arm, Energia. Customer choice therefore is only limited in a benign way to the extent intended by regulation anyway i.e. the dominant position of the regulated entity is constrained to the overall benefit of the development of competition in the market. Further if the Customer was made aware by Power NI of any issue it thought it had it is reasonable to assume the customer could modify their tender if they so choose to accommodate whatever issue Power NI Claim they have – again customer choice being the primary issue here.

Electric Ireland notes that the UR also states in 2.3 that it has an obligation to ensure premises below the threshold ‘**avail**’ of a regulated tariff despite being part of a larger tender. This is technically incorrect – the UR’s obligation is to ensure that Power NI doesn’t offer anything other than the regulated tariff for those premises below the threshold , thereby ensuring such customer “avail” of regulated tariffs.

The UR has not reviewed the potential negative impacts on the regulated customer base should large numbers of group customers avail of the increased flexibility offered by their proposal. Specifically Electric Ireland is referring to what the proposal might mean for the regulated customer base where there was, for example, an increased exposure to hedging risk which materialises into real financial impacts requiring a K-factor adjustment.

If UR is minded to accept, in principle, that Power NI should be allowed to offer unregulated prices to groups of aggregated sites then Electric Ireland believes that the conditions in 3.5.5

are wholly inappropriate. Once a site is reclassified to deregulated rates it should no longer have access to the regulated rate (unless there are exceptional circumstances under the control of UR e.g. business unable to get any independent supplier willing to offer terms – potentially likely with a group that may be in trading difficulties, in receivership, etc). Reversion options could confer a perverse and unintended benefit on the group customer where, for example, the regulated tariff was artificially depressed as a result of K-factors and independent suppliers couldn't then match it. This will not disadvantage the class of customers with multiple premises who put their electricity requirements out to tender. UR acknowledges (in 2.2) that these customers 'clearly want something different from the regulated tariff and wish to be exposed to a competitive market' By adopting the proposed criteria of 3.5.5 such customers are being granted their required exposure to competitive markets but with a safety net option of reversion to regulated rates where it may suit. No other class of business customer has this safety net and in our view it should not be permitted.

It would be equally important that the customer base that remains on regulated rates is not exposed to any adverse consequences arising from the departure of group customers e.g. if volume/price risk causes a loss or negative impact for Power NI then this should not be passed through to the regulated tariff customer base; or if there were implications for the underlying hedge position of the regulated tariff base for example if a large number of the customers quickly departed for group rates and the ensuing losses from the hedge position have to be reflected in a higher cost base and prices for the regulated customer base.

Furthermore, it would be important that Power NI specify default 'out of contract' rates (that cannot be the same as or lower than the regulated tariff rates) that would be applied when a contract expires and the customer (group) hasn't agreed a new contract or hasn't moved to another supplier. In such circumstances Electric Ireland suggests that the specified 'out of contract rates' would be calculated as 'the regulated rate plus an additional percentage'

In summary Electric Ireland does not agree that the proposals as set out are necessary at this time and, if implemented as presented, will lead to perverse and unintended adverse effects. However, if the UR decision is to implement the proposals then Electric Ireland requests that these modifications (and indeed all regulatory alterations) are considered which would better reflect fair treatment of all classes of customers, in particular the regulated base.

Regards,

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