Utility Regulator's Consultation on the implementation of the Retail Energy Market Monitoring (REMM) framework

Power NI's Response

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Introduction

Power NI welcomes the opportunity to respond to the Utility Regulator's (UR's) Retail Energy Market Monitoring (REMM) framework consultation.

The UR has a long standing, stated intention, to implement a market monitoring framework. Power NI fully accepts that this is a necessity in a competitive market.

As the largest electricity supplier in Northern Ireland, Power NI will be directly affected by the REMM programme and will be required to make submissions per its requirements and timelines. Power NI has focussed comment on the electricity supplier requirements.

General Comments

Within the consultation paper the UR has outlined the goals of the REMM framework. Monitoring, identifying risks, compliance, informing policy and protecting consumers are laudable goals. The principle of a well informed regulator, monitoring an actively competitive market and making policy adjustments if necessary, is one which all stakeholders should support.

The UR must however be mindful of the regulatory burden and ultimate cost of the REMM framework. Whilst each metric in isolation may appear both reasonable and relatively minor, the cumulative impact of multiple metrics disaggregated to numerous sub-categories must not be overlooked.

The UR should also be cognisant of the reporting requirements which already exist in supplier's licences and the reporting obligations expected to be implemented in the UR's planned review of the Codes of Practice.

Within the Power NI response to the April 2014 UR consultation on the implementation of energy supplier Codes of Practice, Power NI stated that

"Effective, reasonable and proportionate monitoring of code compliance is appropriate and consistent with the UR's duties. Power NI therefore supports the implementation of such a regime.

In determining the metric the UR must ensure that the requirements are meaningful, used and importantly not burdensome on suppliers to implement. Power NI envisages a solution which would be automated in nature and the development of such a solution will have a lead time. Power NI welcomes the UR's statements in relation to the organised system of data collection and timetable.

It will also be important that the UR is consistent in its approach both across all suppliers and in the request itself. Constant changes in requests will lead to *confusion, reduce the ability to make comparisons over time and be inefficient to implement."*

These comments in relation to Codes of Practice, apply equally to the REMM framework.

Suppliers will look to automate the reporting as much as possible. This will incur development cost. Internal audit, controls and validation will also be implemented in relation to the reporting activity. These actions, as a direct result of the REMM framework, will result in any cost ultimately being paid by consumers. It is important therefore for the UR to recognise and minimise the cost of the REMM framework, endeavouring to limit the requirements to those of most benefit to the UR and ultimately end consumers.

As the Northern Ireland energy markets operate using a common services model, Power NI welcomes the UR utilising the network company as the reporting entity for a number of the defined metrics. As the respective network companies have access to significant volumes of data, act as a central processing hub and undertake fieldwork on behalf of suppliers; it is appropriate for many of the submissions to be made by those companies on behalf of the market. It will also reduce the burden placed on suppliers, provide a more efficient implementation and ensure less interpretative error.

Power NI therefore supports the UR's utilisation of the network companies as reporting entities and would encourage their use wherever possible.

Within the consultation paper the UR goes to some length to describe the context and drivers behind the REMM framework. Power NI notes that this project is being undertaken in parallel with 2 other flagship projects in relation to the retail electricity market in Northern Ireland – 'Assessing the effectiveness of competition in retail electricity markets' and the 'Consumer Protection Strategy'.

All of these projects are derived from the UR's obligations under the Third Energy Package. The UR should be mindful however that at a principle level, the Third Package is designed to facilitate a competitive market in electricity and gas across the European Union. The requirements on the UR are clear; statutory obligations must be read in the European context and therefore the UR should be developing the competitive market while ensuring the protection of vulnerable customers.

While the UR has been active in increasing the layers of consumer protection, little has been done in the area of encouraging competition. The European Commission and ACER have clearly stated that the Member States should be working towards the removal of price regulation.

Within Northern Ireland a regulatory framework developed in the early 1990's remains in place. Regulation which does not reflect the market characteristics or evolve with the market can inhibit the development of and distort competition. Power NI believes that if a market is demonstrably competitive, the prolonged application of a price control will compromise the proper operation of a competitive market and is in effect counterproductive. This position is consistent with the view at a European level. The UR should be cognisant of potential unintended consequences of continuing and relying upon, frameworks put in place under an entirely different market context.

A number of options exist for how the regulatory framework could be developed. Retail monitoring forms an important part of a competitive market framework, in parallel with the implementation of REMM the UR should consider the re-design of its entire regulatory framework and how it operates in a competitive market. This may or may not involve price controls.

As with the REMM framework, Power NI urges the UR to consider broader regulation which moves away from an approach focusing solely only on Power NI and instead is based on a framework that regulates the market as a whole.

Key Considerations

Power NI welcomes the attempts made by the UR to provide as much clarity of definition and process as possible. The UR has clearly responded to feedback and the detail contained within the consultation paper is helpful.

The continued disaggregation of consumer groups does however represent a significant burden on suppliers. One metric split ten times is no longer one submission but rather ten. All of which have to be coded, extracted, analysed and verified. Such a burden becomes more palatable should the justification for the information be made clear. Unfortunately the UR has previously, in relation to retention of price controls; arbitrarily sub divided the non-domestic electricity market while treating the domestic market as a whole. Power NI is concerned that the UR will continue to require disaggregated information for no clear reason or purpose.

The UR has stated a preference for all suppliers to submit data in relation to all metrics. Power NI welcomes this uniformity of approach.

Power NI also welcomes the UR's stated intention "not to simply publish information exactly as it has been submitted" and not to "publish information which is deemed to be commercially sensitive".

REMM reporting will be a significant new challenge for suppliers and regulators alike. Power NI welcomes as a prudent approach, the UR's plans not to publish all data and to facilitate 2 testing phases. The UR should remain cognisant that any slippage in the decision and template publication will adversely impact supplier's ability to meet the timetable.

A period of cautious interpretation and understanding will also be required as suppliers endeavour to meet the UR's requirements and the UR reviews and attempts to draw conclusions from the data.

Indicator specific comments

Power NI has reviewed the individual reporting requirements and has a number of detail level comments in relation to the consultation paper proposals.

- In relation to the indicator entitled “sticky customers” Power NI notes that the network company is tasked with this metric. While this is entirely appropriate, as they have a central customer database, it is important that the recording undertaken by the network company is at a customer and not premise level i.e. they account for change of tenancies and not only change of suppliers.

  It will also be important for the network companies to adequately exclude vacant properties from the “sticky customers” metric.

- Debt contact notifications in the electricity market should be reported by the network company as this is a market message flag.

- As all disconnections in the electricity market are undertaken by the network company under specific market messages, this metric could be more efficiently reported centrally by NIE.

- Reconnections are also processed via the network company therefore it would also be more efficient for one reporting body to provide information under this metric to the UR.

- The categorisation and definition of a complaint is a difficult and emotive area. In response to the UR’s Codes of Practice consultation, Power NI stated

  “Providing a clear definition of a complaint is a difficult undertaking. Power NI notes some of the comments made at the UR’s workshop that the term dissatisfaction could both encompass issues such as logo or name changes but also be useful in distinguishing from an enquiry. Both of these positions are understandable and valid.

  There is undoubtedly an argument to be made that a complaint should be by the contracted person and not “any person” however carers etc. should be able to complain on behalf of vulnerable people.

  Power NI was somewhat surprised that the UR’s definition goes beyond Ofgem, CCNI and the CER definition. For the reasons stated above it may not be possible to simply have a standalone definition and therefore Power NI would welcome either the UR revisiting the definition e.g. dropping any person and/or perhaps providing clarifying footnotes in relation to specific scenarios e.g. a carer can make a complaint on behalf of a vulnerable customer; dissatisfaction in relation to logos, colour schemes or tariff announcements should not be defined as complaints.”

It is unclear if the UR made a final determination in this area as the Codes of Practice project was deferred. Power NI would welcome the UR clarifying its position in relation to the definition of a complaint.

It would also appear that the UR has omitted network company complaints from the REMM framework. Power NI would welcome the UR addressing this oversight.

- Diversity of tariffs – the UR should clarify if volume of energy supplied relates to billed or sales volume i.e. billed plus a derived unbilled volume.

- As the UR is aware the majority of domestic customer billing in Northern Ireland is undertaken on a continuous basis i.e. customers are billed everyday dependent upon individual meter reading cycles with all credit metered customers receiving one bill per quarter. This means that only a small percentage of customers will be billed on the absolute quarter end date. To accurately provide an account balance therefore, an unbilled value would have to be added. It is unclear what the information on balances will be used for. Power NI would welcome the UR accepting the customer balance at last bill figure; this would allow the most accurate information available to be used rather than require a complex unbilled addition.

Margin

The UR has correctly characterised the margin requirement as the "*area of greatest concern for suppliers*". The UR has clearly recognised the difficulties experienced in other jurisdictions and participant feedback in this area. Power NI welcomes the Annex 3 methodology paper which the UR commissioned from Cornwall Energy.

Statements from the UR such as "*the margin information determined provides a common-best-estimate across time and between suppliers*" and "*margin information will not be reviewed in isolation*" provide some degree of comfort for suppliers. The margin calculation, as described by Cornwall Energy, is not straightforward and will vary greatly dependent on the size and customer base of the supplier.

It will be important for the UR to gather margin information over a significant time period before reaching any conclusions. Seasonality, long term hedging, spot price fuel movements, contracting rounds and marketing campaigns will all cause fluctuations in supplier margin. Only by observing trends over time will the UR be in a position to comment on or understand the margin analysis. Power NI is concerned that any premature publication without analysis, trends and commentary will only serve to cause public confusion. This will risk public confidence in the energy industry (both suppliers and the UR) being eroded and Northern Ireland ending up in a scenario similar to GB.

The apportionment methodology is the most important aspect of the margin calculation. While the paper provided by Cornwall Energy provides much needed clarity, it will be important for the UR and suppliers to work through the test phases in detail. The UR must ensure consistency of application.

It is in the context of the margin calculation burden that Power NI would welcome the UR revisiting the quarterly submission requirement. Power NI as part of the Viridian Group has financing on a listed debt basis. Other participants may have similar arrangements or be listed on the Stock Exchange. In both scenarios strict rules in relation to the availability and reporting of commercially sensitive (as margin would be) information exist. Power NI is concerned that the submission timetable in relation to margin would be in breach of the various insider trading rules and regulations.

To avoid such a breach, the UR should adjust the submission timetable to require the information in excess of 60 days after the quarter in question i.e. within the third month after quarter end. Power NI believes this would avoid any compliance issue and also be more realistic in terms of providing adequate time to compile and apply the necessary governance around the reported figures.

The UR has also included a requirement to undertake a reconciliation of quarterly submission to Regulated Accounts. By virtue of this requirement the UR has an implicit understanding that the submissions will not automatically reconcile. A number of factors such as resettlement, back billing, cost adjustments, accrual releases etc. will account for the difference. It will be important for the UR to be cognisant of these issues and gain an understanding of the influencing factors. Once again Power NI would urge against the UR publishing or publically commenting upon this information until a body of data over time has been built up and a fully understanding of the underlying drivers has been gained.

As a smaller comment in relation to the margin calculation, the UR should note that collateral costs are also incurred in relation to PSO obligations.