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(by e-mail)

Dear Tim

UNC Draft Modification Report 0255 - Publication of Objection Rates for LSP Supply Points

Thank you for the opportunity to respond to the above Draft Modification Report.

This response is non-confidential and ScottishPower are happy for this to be posted on your website.

ScottishPower are not supportive this Proposal. While we recognise the concerns the Proposer makes with regards to the current objection process we do not believe that the solution being proposed is equitable to the issue identified. The Proposal indicates that some parties currently abuse the use of objections as a retention tool for LSP's and is proposing that a monthly report is published on the Joint Office website naming companies and the volume of objections raised against LSP's. By publishing such a report the Proposer believes this will result in parties adhering to the objections rules contained within the Supply Licence and UNC. Principally ScottishPower have difficulties with the assessment of the issue, the solution being presented and the benefits stated. Our thoughts on this have been summarised below.

Assessment of the Issue

The Proposal states that the current regime is open to abuse since there is currently no requirement in either the Licence or the UNC for a Supplier to justify why an objection has been raised to either the Transporter or the prospective new Supplier. We would suggest the current process is correct in this regard. A Supplier should not be required to justify the reasoning behind an objection to a Transporter or another Supplier. The contract is between the Supplier and the customer. Therefore it is correct that the Supplier liaises with the customer on this basis.

We would also question the indication throughout the Proposal that Ofgem has expressed concerns that Suppliers use the current objections process inappropriately. Ofgem have powers that would allow them to address such concerns.

Solution

If a party suspects another of abusing any rules per their Licence or UNC this should be progressed accordingly, e.g. raise on a bi-lateral basis in the first instance and if there is no success with this route the formal rules for breach in the relevant governance regime should be followed. Obviously if a party believed another party's actions had such a detrimental impact to competition and switching in the market this could be raise directly to Ofgem as a formal complaint. We do not agree that such actions would be a disproportionate response for breaching a UNC Provision. It is also unclear as to how the publication of LSP objection rates would introduce a framework to penalise Suppliers.

With regards to the report itself and the proposed information to be published we do not agree that any threshold should be included. If this is to progress all parties have to be included. Without which surely this is biased against other Shippers. Simply publishing the % of LSP Supply Point Transfer Objections which are successful, compared to the number of Supply Point Transfer Objections raised by that party does not seem to provide the full context. In order to add context and provide materiality the total number of transfers would also have to be shown. This would get over any concern that low numbers of objections by Small parties could result in a potentially high %, distorting the information. However, we would strongly object to the number of transfers being published as this is commercially sensitive.

It is also important to note that LSP's can include domestic sites. Is this the intention of the Proposal? If not it should be specified that it relates only to non-domestic sites.

Benefits

The Proposer believes the publication of such a report will help deter anti-competitive activity. We would re-iterate that we do not see how this solution will achieve this. If a company believes another party is operating in an anti-competitive manner this should be addressed under the existing framework.

I hope you find these comments useful and should you wish to discuss further please do not hesitate to contact me.

Yours sincerely,

Lorraine McGregor
Commercial Regulation
ScottishPower