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Our Reference:
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Dear Iain,

Restriction on Self-Supply - Ofgem's Initial Proposals

Thank you for the opportunity to comment on the issues raised in the above paper. We welcome Ofgem's proposal to remove the self-supply restriction from our electricity supply licences and to instead use the Competition Act 1998 to address any cases of anti-competitive behaviour.

We support Ofgem's conclusion that competition is now established in both the generation and supply markets and, as a consequence, there is no justification for continuing to restrict self-contracting. Indeed, the relevant licence conditions themselves specifically provide for the restrictions to cease to have effect on the date on which Ofgem modifies any of the price control conditions and this would clearly include removing the conditions altogether. Furthermore, the removal of the restriction would not detract from the level of protection afforded to market participants (and ultimately customers) as Ofgem would be able to address any cases of anti-competitive behaviour using its powers under the Competition Act. This is in line with Ofgem's stated aim of moving from ex-ante to ex-post regulation.

In addition to the arguments *for removing* the restriction, there are compelling arguments *against retaining* it. First, it is not clear specifically why a self-contracting restriction is required given that there is no evidence of a lack of market liquidity under NETA. Second, the resource and cost burden which would result in trying to monitor the self-supply

restriction (both for suppliers and Ofgem) would by far outweigh any perceived benefit in retaining the restriction.

Finally, and more importantly, the restriction applies to some electricity suppliers but not all. In particular, BGT has no equivalent self-supply restriction yet has the largest share of domestic electricity customers in Great Britain and has a number of generation affiliates. This raises potential issues of discrimination and market distortion. Furthermore, given BGT's uniquely dominant position in the energy market and the increasing frequency of dual fuel offers in the competitive market, we would also regard it as unacceptable to retain these restrictions on (some) electricity suppliers when BGT (which enjoys a level of vertical integration in the gas market in excess of anything in the electricity industry) is not subject to a similar restriction in gas.

To conclude, therefore, we agree that competition is now firmly established in generation and supply and, as a consequence, there is no longer any justification to retain the self-supply restriction. Indeed, we believe that there is an overwhelming case for removing the restriction from those suppliers who are currently subject to it in the competitive market. In SSE's case, this would involve modification to the licences of both SSE Energy Supply Limited (Special Conditions M and S) and South Wales Electricity (Special Condition G).

I hope these comments are helpful. If you would like to discuss this further, please call.

Yours sincerely,

Rob McDonald
Group Regulation Manager