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Dear Lesley

**SSE response to Ofgem consultation on New Applications Regulations, Application Forms and Guidance Document**

SSE remains a strong supporter of an improved assessment of new entrants' financial stability. While we welcome the proposed approach from Ofgem, there are still elements that could go further to better and more rigorously ensure that new entrants are suitable for market entry.

We recognise that the change to the application regulations and the introduction of ongoing requirements will generate new and complex demands on Ofgem resources. However, maintaining the integrity of the competitive market is vital and these reforms will go a long way towards protecting customers both financially and in terms of their trust and willingness to engage in the market. They will also help ensure a more level playing field on which all suppliers are held to the high standards that customers rightly expect from those providing an essential service.

Our response to the individual consultation questions is provided in Annex 1. Key points include:



- The requirement to evidence the funding of operations should be extended to 24 months.
- The tiered review process should be further consolidated to bring tier 1 and tier 2 together.
- We urge Ofgem to draw upon its experience of supplier failures to inform the design of the application process and to then assess the credibility of applications through the relevant assessment criteria.
- Voluntary service standards as well as licence-based obligations should be considered as part of demonstrating a comprehensive understanding of required service standards and due regard for the important and privileged role energy suppliers play in the provision of an essential service.
- The proposed changes for the point of market entry can only be truly effective if adequately supported by enhanced ongoing monitoring.

Please do not hesitate to get in touch you would like to discuss our response in further detail.

Yours sincerely

Josh Henderson  
**Regulation, Retail Markets**



**Annex 1: SSE response to Ofgem consultation on New Applications Regulations, Application Forms and Guidance Document**

**Question 1: Do you agree we should extend our enhanced 'fit and proper' assessment questions to all licence application types, not just supply licence applications?**

Yes.

**Question 2: Do you agree that the proposed questions in section 12 will enable applicants for a gas or electricity supply licence to demonstrate that they meet the new supply licence application criteria?**

SSE supports the proposals covering matters of applicants providing details of operating arrangements, customer service obligations and financial projections and acknowledge the guidance that is provided about the sort of details that should be included. However, we believe the requirement to provide evidence for the ability to fund operations for 12 months should be extended to 24 months. This would then also be consistent with the requirement to provide financial projections, funding arrangements and a risk management strategy for the first two years of operating.

By applying a 24 month assessment, it would become possible for Ofgem to ensure new suppliers were prepared for customer churn and/or service plan changes following the end of introductory fixed-term tariffs and related consequences such as refunding credit balances and handling a higher volume of customer contact. This would also serve as a further test to ensure applicants are fully aware of the resulting service expectations.

We would urge Ofgem to ascertain whether an applicant has previously been dismissed from a position of trust. Even if this is not a definitive factor in deciding the success of the application, it is clearly an important consideration when assessing an individual's suitability.

As part of this, Ofgem should actively monitor best practice in other markets to ensure that any suitable innovations are also considered for the energy market. For example, the introduction of the FCA's Senior Managers and Certification Regime provides added rigour in the attempt to prevent individuals simply moving from one business to another following misconduct. We can see no reason why such a regime should not be applied to the energy market.

**Question 3: Do you have any other comments on the proposed new regulations/application forms, including the updated tiered process or fees? Or, is there anything we have not included that you believe should be?**

Ofgem has taken the practical measure of removing tier 3 of the present application process after identifying it does not serve a functional purpose. We support this step but believe Ofgem should go further by consolidating the remaining tiers into a single stage. Doing so would enable a swift, objective and transparent review of all information relevant to an application and ensure a consistent standard applied to all applicants.

We would also urge Ofgem to remain vigilant where it sees the use of standardised responses as an attempt to obtain a license without giving a sincere and detailed view of an individual applicant's capability, or the proposed new suppliers' business plans. Ofgem should provide more reassurance to the market as to how narrative-based answers will be assessed to ensure they provide a credible level of detail. As part of this, it should consider mandating interviews with company directors in all cases to help ensure a rounded and comprehensive assessment of suitability can be made.

We welcome Ofgem's intentions to keep the guidance under review and believe it would be helpful to be clear when these circumstances would be necessary. We would suggest supplier failures are useful scenarios to prompt a review and ensure that relevant updates are made to assist with developing the guidance.

**Question 4: Do you have any comments or would you suggest any changes to the section on 'Suitability to hold a licence' (Chapter 3 of the draft guidance)?**

SSE welcomes the intentions to look at the connections that directors may have with other businesses. This is an appropriate measure to ensure it is understood who the decision makers are and that the supplier is controlled by approved individuals.

We also welcome the mention of code requirements as it is important that Ofgem establishes whether applicants have a full understanding of these requirements before granting a license. We believe strongly that appropriate consideration should also be given to any voluntary codes where it is agreed there are resulting positive outcomes for customers. The voluntary minimum standards on closed accounts is an example of where applicants could reasonably be expected to demonstrate an understanding of and willingness to comply with other standards that help ensure positive customer outcomes.

Forcing new suppliers to have due regard for these consider voluntary requirements at the application stage, is likely to provide some encouragement for them to be achieved and better provide positive customer outcomes will help to reinforce their value and the high standards expected of anyone wishing to operate in the energy market

**Question 5: Do you have any comments or would you suggest any changes to Chapter 4 of the draft licence application guidance, relating to the new criteria and process for supply licence applications?**



We agree that suppliers should be required to provide details of their planned customer service provision, especially in relation to the scalability of their operations. This is consistent with our long-held view that new entrants must demonstrate their awareness of customer service obligations. Ofgem's scrutiny of supplier performance in this area of the application process should have careful consideration for how customers in vulnerable circumstances will be served, given they will likely require more specific or enhanced service provisions and should not be overlooked by new market entrants and thereby made less able to benefit from competition.

As part of this, Ofgem should ensure that application details are considered in light of actual examples of recent supplier failures. Given the number of failures over the past 12-18 months in particular, there should be a wealth of data upon which Ofgem can draw to ensure a full understanding of why supplier failures occur and the types of preventative measures and mitigations that new entrants should have in place at the point of entry.

**Question 6: Do you have any other comments or would you suggest any other changes to any part of the draft guidance?**

Successfully meeting the requirements at the point of market entry does not necessarily guarantee that suitably high standards will be achieved on an enduring basis. While we acknowledge that Ofgem will be consulting separately on ongoing monitoring requirements, we would urge Ofgem to progress these reforms as a priority and look forward to engaging in this process.