

# **Statutory consultation on proposed changes to Eligibility Guidance and Supplementary Eligibility Guidance – comments from the Major Energy Users' Council (MEUC)**

## **Context**

Thank you for the opportunity to respond to this consultation. We welcome Ofwat's decision to refresh the Eligibility Guidance in light of nearly five years' experience of the market, and agree this is needed.

The MEUC is a membership body for industrial and commercial water and energy customers. Most of our members can be neatly classified as non household customers, but we do have a subset of members whose activities make at least some of their sites a grey area in terms of eligibility for the market. These include housing associations, developers and universities. Our comments in this consultation are only in relation to that subset of members, rather than our wider membership.

## **Comments on the new draft Eligibility Guidance**

### **Housekeeping changes**

We support the housekeeping changes Ofwat has proposed. For clarity, these are to: merge the existing Eligibility Guidance and Supplementary Eligibility Guidance into one document; divide the guidance into two separate parts for England and for Wales; and remove references to Water Supply Licences.

### **General process for determining eligibility**

Regarding the general process set out for determining eligibility, we accept this can be a complex process and the draft proposals seem reasonable in principle in terms of an overarching approach for all sectors. We would draw your attention to the following points for your information and consideration:

- The guidance sets out that determining eligibility is explicitly the responsibility of the retailer. Some members' experience is that it is the wholesaler who determines whether their sites should be in or out of the market, sometimes moving sites in or out without discussion.
- There is inconsistency in how water companies interpret the existing guidance. Members report that different companies reach different decisions on sites that have very similar characteristics (i.e. determining whether a premises should be classified as eligible or ineligible for the market). Sometimes even the same water company will treat similar sites differently. This inconsistency is very difficult for customers to manage. At one of our recent meetings, one member said this inconsistency on eligibility made the market "a complete nightmare to navigate". We would therefore ask that the guidance is made as explicit as possible, leaving as little room as possible for companies to take different approaches to similar customer premises.

### **Scenarios in A1**

We welcome the additional clarity that the sector specific scenarios in the guidance brings. This is invaluable.

However, the scenarios are very perfunctory and, for those relating to sectors where MEUC members have raised issues, we feel **the scenarios don't cover all the eligibility issues customers experience in reality.**

For instance, developers have told us the arrangements relating to temporary building supplies are extremely onerous. Some of this relates to eligibility, such as when a premises needs to be changed from non-household (during construction) to household (post construction), or even more complex, when a premises goes from non-household (during construction) to mixed use (post

construction – e.g developments containing shops and flats). Members report there is little consistency in how this process is handled in the market, and that it can many months to deal with – in some instances, leaving developers chasing resolution a year after leaving site. This has knock-on effects for data accuracy in the market and billing for customers, with bills often going to the wrong party for some time.

Moreover, **where the new draft guidance proposes changes for specific sectors**, there should be more direction on how the changes are to be managed.

For instance as regards housing associations, Ofwat appears to be moving from a position whereby housing associations are eligible for inclusion in the non-household market if there is a sufficiently large non-household element on the premises (p15 in the 2016 Supplementary Guidance) to a position where housing associations should not be considered eligible for the market (p28 of the draft proposed guidelines). Currently, we have some housing association members whose communal supplies (e.g. to service communal areas around flats/estates) are treated as non household and are therefore in the market. If these are to be moved out of the market, Ofwat should provide guidance – informed by engagement with the customers involved – on how this should be managed to make the process as smooth as possible for the customer. Leaving this open could result in different water companies taking different approaches, which would be be administratively challenging for housing association customers and could well lead to billing and payment confusion.

These are just some examples. We cannot explore all of the issues in this short response. **Our overriding recommendation for Ofwat, therefore – while you are taking the time to update this guidance – is to engage with customers whose activities fall into the scenarios listed, and really take the opportunity to produce guidance that thoroughly addresses all of the eligibility issues they are experiencing on the ground.**

The MEUC would be happy to facilitate engagement with its relevant members.

#### **Contact details**

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