

# Opening the retail electricity market to competition

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# Is the retail energy market suitable for competition?

- “Is this [retail energy] an appropriate market to be opened up to competition? That wasn’t the question we were asked, but I think somebody should be asking, actually is this the right model for this particular section of the market?”
- “When the liberalisation of utilities happened in the 1990s it was based on ideology,” he added. “It was a very powerful idea that says allowing competition into these markets will increase innovation, improve efficiency and consumers will get a good deal, but no one has actually looked back and said, what’s the record?”
  - Roger Witcomb, Interview *Utility Week*, 2 Sep 2016

# Competition v regulation

- 1983 BT privatisation
  - any nationalized industry could be privatised
- Electricity by far largest nationalized industry – most benefit from privatisation
- Competition in generation seemed feasible
- But how to get benefits of competition to customers?
  - Area Boards local monopolies - competition limited to boundaries of Area Boards? Or competing networks eg US?
- Or rely on regulation using retail price controls?
  - US experience: regulation part of the problem

# Competition in supply?

- BT privatisation gave long-distance competitor Mercury access to BT local network
- Energy Act 1983 access for new generators via use of system obligations on National Grid & Area Boards
- Could do same for competing suppliers?
  - Anyone could buy wholesale & supply any customer anywhere
- Avoid costly & ineffective price controls
  - Force ABs to be more efficient in energy purchasing & operation
  - Better customer service, innovation in tariff types(?)
- Most importantly, minimise scope for Govt or regulator to impose costs on customers
  - E.g. via uneconomic generation or cross-subsidy

# Draft Electricity Act wording

S6 (2) The SoS or DGES may “(a) grant a licence authorizing any person **to supply electricity to any premises specified or of a description specified in the licence**; or (b) extend such a licence by adding to the premises or descriptions of premises specified in the licence”

6(3) applicant must publish application within 14 days

6(4) DGES must state reasons why he proposes to grant licence, allow time (min 28 days) for representations or objections, must consider them etc

6(5) DGES must bring to attention of persons likely to be affected by grant of licence

# Problems of envisaged approach

- Problematic:
  - Not just time & cost to companies & regulator
  - Not just advance warning to incumbent, could respond by selective price cutting
- Real danger regulator would not approve applications
- Cf Civil Aeronautics Board in US
  - Airlines had to apply to serve new routes, no entry approved, high prices, finally deregulation 1978
- Franchise created to enable coal contracts

# Attempts to change wording

- Concerns to Dept En & Parliamentary draftsman
- Various answers
  - Language flexible, not a problem, will deal with it, not right time etc
- Meaning of “premises of a description specified”?
  - E.g All businesses located in a named industrial park
  - All branches of Lloyds Bank in GB? Certainly not
- But by then too late to change wording
  - And might well get rejected
  - WR: “leave it with me”

# The solution

- WR: “We’ve added a little clause”
- Part III, Miscellaneous & Supplemental
- Sec 111 General Interpretation
  - (1) “In this Act, unless the context otherwise requires, “Area Board has the same meaning as in the Electricity Act 1947, the Director means the DGES, etc etc ....
  - (2) **For the purposes of this Act, any class or description may be framed by reference to any matters or circumstances whatever.”**
- WR: “You can issue whatever kind of licence you like”



# The first general licence

- Vesting licenses included description of premises
  - E.g. Seaboard licence “Seaboard area & Heathrow airport”
- Scottish Hydro request to supply 7 additional customers, with names & addresses
- OK but nuisance to keep repeating this?
- Licence to supply any 1MW customer at any premises anywhere in GB?
- Issued to SHE
- All other suppliers asked for one too
- All supply licences like that ever since
  - Including 100kW and domestic markets

# Lessons?

- Useful for regulator to be involved in drafting legislation that governs own later powers
  - And to have colleagues concerned to promote competition
- Did retail competition bring benefits to energy customers? Yes, & reduced costs, but views differ on retail competition
- Has it stopped Govt & regulator from intervening to impose costs on energy customers? No
  - Hinkley Point £18bn construction cost just tip of Govt iceberg
  - Post-2008 regulatory interventions extensive & anticompetitive
- But it has forced such interventions to be more explicit
  - Costs/consequences of intervention identified sooner & more easily
  - Govt & regulator therefore more accountable
  - Conjecture interventions later, less severe & sooner rectified
- In assessing retail competition, these factors important
- Retail competition not perfect, better than alternative