

Ofgem
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To whom it may concern,

RE: Microbusiness Strategic Review: Statutory Consultation to Modify the SLC's of all Gas and Electricity Supply Licences

Thank you for the opportunity to comment on the above statutory consultation. Utilita's submission comprises this letter which offers views on the detail of the proposed licence conditions.

Utilita Energy Limited (Utilita) is a smart prepayment energy supplier, specialising in providing an excellent smart service to a previously poorly served market sector. We have been installing smart meters for our customers since 2008, and SMETS meters since 2013. Our portfolio is around 95% prepay customers, and of those approximately 90% have smart meters operating in smart mode.

We have been supplying microbusiness customers since 2017 and have a growing portfolio of commercial accounts. We have faced challenges with the broker industry historically, but we now have a very good relationship with our chosen brokers.

We welcome the changes that Ofgem have made to the licence drafting in light of the concerns raised during the policy consultations. However, we have some residual concerns from the proposals being progressed as outlined in the Statutory Consultation, particularly how the cooling off period would interact with faster switching and the ambiguity of how the ADR scheme will be funded as well as the potential powers of the ADR provider to impose sanctions on suppliers.

We are also concerned that Ofgem have chosen to introduce new requirements at the Statutory Consultation stage, namely that Principal Terms must be sent no later than one working day after the contract has been entered into.

For the avoidance of doubt, we echo the points made by Energy UK in their response to this Statutory Consultation, and we do not propose to duplicate these in this letter.

We have set out our responses to the Statutory Consultation questions below:

Question 1: *Do you agree that 1 January 2022 represents an achievable start date for implementing a 14-day cooling-off period for microbusiness consumers?*

We do not agree that the proposed date offers sufficient time to prepare for this change. We would need to devote significant IT Development resource to integrate a cooling-off period into our CRM and broker portal (an online platform used to manage the broker referrals). There is already considerable demand on that resource constrained by multiple, large-scale regulatory programs. We believe a more achievable implementation date would be 01st April 2022 at the earliest.

We would like more clarity on who is permitted to exercise the right of cancellation under these provisions. The current drafting suggests this is limited to the microbusiness customer and therefore a broker would not be allowed to cancel the contract on their behalf, with or without a Letter of Authority from the customer.

Question 2: *Do you agree that 1 January 2022 represents an achievable start date for fully implementing both the proposed supply licence obligation and the associated scheme needed to introduce independent dispute resolution for microbusinesses in dispute with a broker?*

We echo the points made by Energy UK. We strongly believe that the proposed implementation date of 1 January 2022 is not feasible. There are still many unanswered questions on the impact of the ADR decisions on suppliers and who is responsible for funding the scheme. We would strongly oppose any proposal that suppliers fund the scheme.

Question 3: *Do you have any other comments on our proposals?*

Principal Terms no later than one working day after the contract has been entered into

This is an extreme requirement that has been introduced at this late stage with no consideration of the time and costs on suppliers to change their systems and processes. Ofgem's rationale for this requirement is to give the consumer "the opportunity to read and reflect on this information while they are in the cooling-off period". However, the consumer will have already had the Principal Terms from the Broker before the contract was entered into which is ample time for the contract information to be received and digested without the requirement to provide it within one working day of the contract start date. In practice, the customer will receive the Principal Terms from their broker or supplier shortly before the contract is entered into, and within one working day they will receive it a second time.

Therefore, we do not consider the customer benefit of this requirement is proportionate to the costs of implementation. Furthermore, there is no such requirement for domestic contracts to provide the principal terms within any timeframe after the contract has been agreed. Ofgem have not consulted on the domestic licence conditions which suggests that the protections afforded to domestic customers are more than adequate.

The current licence requirements require suppliers to provide the terms and conditions of the contract "within 10 days... or as soon as reasonably practical thereafter" (SLC 7A.7). This

is inconsistent with the proposed new requirements to provide the Principal Terms within one working day and the cooling off period of 14 days.

Utilita currently provides the Principal Terms and the terms and conditions of the contract in one customer communication to provide the customer with all the information about their contract in one, easily referenceable communication. This single customer communication approach also has the benefits of reducing the environmental impact compared with sending more than one communication as well as lowering supplier costs. We would suggest that the licence drafting needs to take into consideration the whole customer onboarding process and communications to ensure a smooth customer journey.

Brokerage Costs

We share the concerns raised by Energy UK in their response however, we would suggest that the drafting of the definition should be principles based rather than prescriptive. This would take into account the suppliers differing commission structures and allow for either a total cost over the length of the contract (whether actual or estimated) or a pence per kWh representation (where commission is based on projected consumption).

Question 4: *Do you have any comments on the draft supply licence conditions at Appendix 1 in this document?*

In paragraph 1 of Condition 1 – *Definitions for Standard Conditions*, it currently stipulates that a “Broker” is a third-party organisation or individual *“whose payment or other consideration for doing so is made or processed by the licensee”*. The reference to *“payment”* within this definition should be kept consistent with the rest of the licence drafting and we suggest *“whose payment or other consideration”* is replaced with **“the Brokerage Costs”**.

There are three words used interchangeably within SLC 1 under “Principal Terms” and SLC 7A; these are “end”, “cancel” and “terminate” the contract. We suggest there is value in keeping the wording to end a fixed term contract the same, for consistency. Where there are separate licence conditions which relate to cancelling inside of the cooling-off period and for termination of the existing contract, we recommend the use of “terminate”, as this is already a recognised word for microbusiness consumers and suppliers and therefore will not cause ambiguity or confusion.

To ensure consistency of language across the licence we also believe “bring”/“brings” as referenced in SLC 7A.4 should be replaced with “provide”/“provides”, as per paragraphs 31G.1 and 31G.2. We note that the word “bring” is only mentioned once in the current supply licence and it is within SLC 7A.4. The revisitation of this particular licence condition under this consultation can enable Ofgem to align the wording with the rest of the licence and therefore not allow for any ambiguity in the term.

We believe further clarification of paragraph 7A.13E.2 is necessary; there is a risk that using “any communication” will result in cancellation notices being issued in formats which are not clear or reliable. We would like to see a more detailed list of consumer options listed, or the paragraph amended to read *“...includes any communication permitted in the microbusiness supply contract, by the Microbusiness Consumer to the licensee...”* which allow licensees to be explicit about which (reasonable) methods of notification they will accept.

We would welcome an opportunity to discuss the proposed SLC's and our submission in more detail and will be happy to answer any additional questions Ofgem may have.

Yours sincerely,

By email

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