

24 January 2022

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Dear Nicola,

Re: Statutory consultation on proposals to modify licence conditions related to the Switching Programme

Thank you for the opportunity to provide our comments on Ofgem's consultation on the Statutory consultation on proposals to modify licence conditions related to the Switching Programme. This letter and the attached Appendix A together form Utilita's non-confidential response.

Utilita has been operating successfully in the market since 2008. We have a predominantly prepay client base, most of which have smart meters installed. We provide a high-quality service to a sector of customers who are traditionally poorly served and the continuation of excellent supply services to our prepayment customers is paramount.

We would like to note that overall, we are supportive of the drafting and feel we have had opportunity to provide feedback in previous consultations. However, we feel that Ofgem's response to some areas of concern lacking in detail, and do not provide the reassurances that were sought to previous concerns.

Because the proposed changes to the gas and electricity licences are largely identical, our answers are equally applicable to both licences. We will therefore address both questions together in our responses as set out in Appendix A.

Yours sincerely,

*By email*

Alison Russell  
Director of Policy & Regulatory Affairs

## Appendix A – Utilita's Consultation Response

### Statutory consultation on proposals to modify licence conditions related to the Switching Programme

**Q) 1.1 – Do you agree with the proposed standard licence condition modifications as drafted in Appendix 3 for the Gas Supply Licence?**

Please see the answer to Q1.2.

**Q) 1.2 – Do you agree with the proposed standard licences condition modifications as drafted in Appendix 2 for the Electricity Supply Licence**

Because the proposed changes to the gas and electricity licences are largely identical, our answers are equally applicable to both licences. We will therefore address both questions together.

#### **"Enter Into Contract"**

We believe the definition provided by Ofgem of 'Relevant date' provides the clarity needed and allows for the Supplier to ensure they have collected the necessary information to enter the customer into a contract and initiate the switch.

#### **"Debt Hopping"**

We believe the Ofgem response to this area of concern to be dismissive of the issue, and we would welcome further confirmation of how Ofgem plan to monitor the issue. Given the fragility of the market and the narrow margins placed upon Suppliers by the Price Cap we feel this a real area of concern. Suppliers are already faced with high levels of bad debt, and this would only exasperate the issue leading to further debt write off that Suppliers simply could not tolerate.

#### **"Complexity and Consumer Engagement"**

We believe that the communication with the consumer around the Cooling Off period should be an agreed statement, set within the REC, that must be used universally across industry to prevent any misinterpretations or differences in consumer understanding.

#### **"Equivalent Terms"**

We believe Ofgem's response on the issue, of accepting a customer back within the cooling off period upon the "equivalent terms" on which their contract ended with a given Supplier, gives greater clarity to how Suppliers should operate as well as giving Suppliers the option to assess each case in its own merit.

#### **"Cancellation Not Actioned"**

We believe that the response from Ofgem largely makes sense. However, we would like Ofgem to consider if this would encourage bad practices from Suppliers, as they may be incentivised to not cancel contracts as they are better off retaining the customer.

#### **"Switch Annulments"**

We believe Ofgem's position on the use of Switch Annulments to be appropriate. The process has been introduced to ensure a swift and pre-emptive resolution to switching errors. We agree with the concerns raised that there may be opportunity for the process to be mis-used and are supportive of the Retail Energy Code (REC) Performance Assurance Board (PAB) actively monitoring this.

#### **"Misuse of erroneous transfer flag"**

We agree with Ofgem's response to the issue of misuse of the erroneous transfer flag and agree that REC PAB should be monitoring the new process. However, whilst the new systems and processes bed in we would like the Authority to be mindful that Suppliers will utilise and adopt the new processes differently and so we would expect this to factor into the monitoring.

#### **"Non-Domestic Objections"**

We agree that Ofgem's decision to retain the ability to Object to a switch under the UNC for those sites not protected by Supply License SLCs is sensible.

#### **"Objection Process"**

We believe Ofgem's response to this issue is appropriate. The new CSS design includes new processes, such as withdrawals and annulments, that are more robust than the existing Objection process. We agree that the Objections process should be limited in use to instances of Debt.

#### **"Consequential changes to other SLCs"**

We would welcome further consultation from Ofgem on the impact of 5 day switching on the conditions relating to grace periods for consumers following changes to their terms and charges within the SLCs, particularly regarding conditions *22D – continuation of dead tariffs, 23.6 – notification of a disadvantageous change to contract terms or charges, and SLC 24.10 – notification at the end of a fixed term contract*. These provisions are already very complex and challenging for Suppliers to manage from a systems perspective without further uncertainty being added.

#### **"Microbusiness Strategic Review"**

We agree with the Ofgem response that the proposals under both sets of reform are compatible with one another.

#### **"Switches under Five Working Days"**

Whilst we agree that the move is good, in its intentions. Legacy Prepayment Meters (PPM) will practically only be able to achieve a 5 working day switch post Go-Live, despite all efforts from Suppliers, as customers must receive their top up device before their SSD. This differentiation between meter type switch speeds could lead to consumer dissatisfaction if this is not clearly communicated. We would like to see it clearly reflected within the drafting that Legacy PPM will not be expected to achieve a switch faster than 5 working days.

#### **"Related Metering Points"**

We are supportive of the objection process no longer allowing an objection to be made on the grounds of meter relation, the new CSS design will ensure all related meters switch together.

**Q) 1.3 – Do you agree with our proposal to modify the five working day switching regulatory backstop by introducing a 5pm cut off on a working day, after which, if a consumer signs up, the start of the five working day period will be counted as the next working day?**

Yes, we agree with this proposal.

**Q) 1.4. Do you agree with our proposals to measure the start of the grace period, from which Supplier B must continue to supply the customer on the same tariff after the**

consumer has switched and cancelled, from the point that Supplier B sends notice to the consumer of their options and that the grace period should be 15 working days?

Yes, we agree with this proposal.

Q) 1.5. Do you agree with our proposals to measure the start of the period over which Supplier A must offer to take a customer back on equivalent terms from the switch date? Do you agree that the period that Supplier A must maintain this offer is 16 working days from the switch date?

We agree that the start of the period over which Supplier A must offer to take a customer back on equivalent terms should be from the switch date, as we have noted in previous consultation responses. We are supportive of this clarification to the drafting.