

Friday, 27 May 2022

Maureen Paul
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Email: Alisonrussell@utilita.co.uk

Dear Maureen,

Re: Statutory Consultation for the Government Energy Bill Support Scheme (EBSS)

Thank you for the opportunity to respond to the above Statutory Consultation. Utilita Energy Limited (Utilita) is a smart prepay specialist and is therefore focusing on the experience of prepay customers under the proposed EBSS.

We have been very actively involved in the BEIS working groups and calls and remain strongly committed to delivering the best possible outcome for consumers. We have responded to the BEIS consultation document and would be happy to share with you a copy of our submission if you would find that helpful.

As many prepay customers may be in financial difficulty, we believe strongly that the help and support provided in respect of energy bills during the cost-of-living crisis should be both targeted and spread over the winter. On this basis, while the Chancellor's announcements yesterday were welcome, we are concerned as to how effectively the support will deliver relief from energy bills over the coming winter.

The details are obviously still to be worked through, but our experience of prepay customers shows that a large lump sum of support early in the winter, straight into customers' pockets, is extremely likely to be used up on other things. This approach can therefore be expected to leave customers destitute in terms of paying for their energy when it gets colder in December, January and February. We therefore urge Ofgem to use all means at its' disposal to ensure that the maximum energy bill benefit is delivered to those in need throughout the winter, not only once, including that support provided by other means is also spread out over time.

Moving to the specific consultation, we have two main concerns with the current drafting – the Reporting Requirements and the definition of 'Relevant Matters' and how these will impact suppliers.

Reporting Requirements:

For clarity, we fully understand and accept that reporting will be needed, but as we set out in our submission to BEIS, we consider that a single set of well-defined reports should be developed, which will be sufficient to meet both Ofgem and BEIS' reporting requirements. This set of reports should be laid out in Regulation and the reporting schedule should also be included. The recent trend for

Ofgem to require rapidly changing, short notice reports and RFIs on quick turnarounds (often with Board level assurance), without recognition of other challenges faced, places huge burdens on suppliers. We believe that in this instance, it would be better to lay out the reporting requirements in Regulation to reduce this burden for the EBSS, giving suppliers greater confidence in respect of the demands which are likely to be placed on them, than can be gained from the current proposals.

In addition to the unreasonable burden Ofgem's recent approach to reporting and data collection continues to place on suppliers, we have substantial and legitimate concerns over the scope of the information which Ofgem could require Utilita to provide under SLC 25E.3(c). If the proposed modifications were to come into effect, Utilita would be required to provide information which, we believe, goes beyond the scope and purpose of the proposed modifications.

We understand the need for Ofgem to be able to manage and audit suppliers as part of the implementation of the EBSS. We even support Ofgem's position – however, SLC 25E should be ring-fenced specifically to information solely relating to the EBSS. At present, there appears to be no limitation on the scope of the condition, and we respectfully invite Ofgem to outline its reasoning and to confirm why such a wide scope of information is necessary. At present, the only limitation on the provision is where we could not be required to give the information in civil proceedings before a court. While we acknowledge that the title of the SLC could be considered to mean that the content of the SLC would apply only to the EBSS, we lack confidence that this is adequate to limit the scope.

We believe that the proposed modifications, as currently drafted, will have a significant impact and unintended consequences on suppliers. Notably, that suppliers will be expected to disclose documentation and data **of any kind, whether or not prepared specifically at the request of the Authority or the Secretary of State and without limitation.**

Ofgem will be aware of our current position on its' information gathering powers pursuant to our response to Ofgem's Request for Information on Financial Resilience and Management Control dated 08 April 2022 (April Letter). We maintain and reiterate our position in relation to the protection of information that we disclose to Ofgem, including our conditions of disclosure, as set out in our April Letter. We take the protection and disclosure of our confidential information very seriously.

We must stress that we do not oppose the implementation of SLC 25E. However, we are seeking a revision to the proposed wording so that the scope of information which Ofgem could request from suppliers is limited to that which is both reasonable and necessary for the intended purposes.

Presently, we consider SLC 25E.3(c) to be unreasonably wide. Accordingly, we invite Ofgem to consider making a change to SLC 25E.3(c) with a view to providing more certainty of information. We have provided some suggested amendments below (red = additions, strikethrough = deletion) for Ofgem to consider:

25E.3 by providing to the Authority or the Secretary of State information:

- (a) in a particular form or medium by a particular date;
- (b) in a particular form or medium at such reoccurring intervals of time as the Authority considers appropriate; and
- (c) of any description **reasonably** specified by the Authority or Secretary of State, including any documents, accounts, estimates, returns, records or reports and data of any kind, **that is relevant and relating to the licensee's compliance with and facilitation of the Energy Bill Support Scheme grant payment,** ~~whether or not prepared specifically at the request of the Authority or the Secretary of State and without limitation.~~

The Definition of Relevant Matters:

As we have set out above, we do not oppose the implementation of SLC25E in principle. Equally, we agree that a definition of Relevant Matters is required and parts (a) and (b) of the definition are both clear and reasonable. The third and fourth bullets are more problematic.

In the BEIS working groups, it is clear that the overarching approach to the EBSS is intended to be one of simplicity, working within current arrangements to minimise cost and maximise efficiency. For Ofgem to suggest as part of its' approach to the arrangements, that a licence condition should be implemented which would compel short notice, billing system changes is unreasonable, and inconsistent with the approach discussed in the working groups.

The working groups had also discussed the approach to customer communications, recognising that suppliers will be better placed to maximise efficient and effective communications to their customers. Again, for Ofgem to impose, by licence, the format of any information relating to the EBSS made available to domestic customers is inconsistent with the approach being developed in the working groups. This can be expected to add significantly to the administrative costs of the scheme.

On this basis, we have provided some suggested amendments below (strikethrough = deletion) for Ofgem to consider:

"Relevant Matters for Standard Condition 25E" means:

- (a) a requirement to deliver the government Energy Bill Support Scheme grant payment;*
- (b) the time and manner in which an Energy Bill Support Scheme grant payment is to be delivered.*
- ~~(c) a requirement to display or provide any information relating to the government Energy Bill Support Scheme on or with a Bill or statement of account; and~~*
- ~~(d) the format of any information relating to the Energy Bill Support Scheme made available to domestic customers.~~*

We hope that this submission has been useful. I would be happy to discuss our proposed drafting changes with the Ofgem team if that would be helpful.

Yours sincerely,

By email only

Alison Russell
Director of Policy & Regulatory Affairs