

Maureen Paul  
Ofgem  
10 South Colonnade  
Canary Wharf  
London  
E14 4PU

Email: [retailpolicyinterventions@ofgem.gov.uk](mailto:retailpolicyinterventions@ofgem.gov.uk)

Date: 18 July 2022

## “Extending short-term interventions and adjusting Market Stabilisation Charge calculation” – So Energy Response

Dear Maureen,

So Energy is a leading energy supplier providing great value 100% renewable electricity to homes across England, Wales and Scotland. We have consistently been recognised by our customers and the wider industry for our outstanding customer service since we were founded in 2015, including being a Which? Recommended Provider in 2020. In August 2021, So Energy merged with ESB Energy, and our combined business now supplies over 300,000 domestic customers. As one of the last challenger suppliers left in the market, and one that is backed by ESB’s resources and expertise, So Energy is able to provide a unique view on the energy market and future reform.

We welcome the opportunity to respond to this statutory consultation which followed up from your initial consultation in January on “potential short-term interventions to address risks to consumers from market volatility”. We supported action on protecting consumer interests then and we support continued action now.

As you state in the consultation document, this consultation has three elements:

1. A proposal to extend the Market Stabilisation Charge (MSC) until 31 March 2023.
2. A proposed technical amendment to how the MSC is calculated.
3. A proposal to extend the Ban on Acquisition-only tariffs (BAT) until 31 March 2023.

In this response we will focus on the third proposal, which we fully support and see as a particular priority. We would however go further and support making this measure permanent for reasons we will set out below.

On the extending the BAT, we support the rationale that you have outlined – namely the impact of price discrimination on unsustainable pricing practises and the consequential impact this would have on the market. The case for the BAT is just as compelling now as it was when you decided on its introduction earlier this year. Just because prices have not fallen off yet – which means acquisition-only tariffs haven’t re-appeared yet – doesn’t mean that the BAT won’t be needed. As soon as prices re-align and suppliers start offering new tariffs for switchers through Price Comparison Websites (PCWs), we will see unsustainable pricing practices return.

With regards to making the BAT permanent, we believe there is a resounding ongoing case for doing this, both in terms of the consumer interest and effective competition. Addressing the ‘loyalty penalty’ (whereby cheaper acquisition-only tariffs are hidden from current customers resulting in these customers often being charged more to compensate for loss-making acquisition-only tariffs) will improve consumer trust in the market and curtail the disastrous loss-leading pricing practices we have seen in the past.

As we outlined in our previous consultation response, we support making BAT permanent for a number of reasons – some of which we would like to reiterate here:

- It will mitigate a significant element of the risk of unsustainable pricing practices which have clearly been a feature of the energy market in recent years. By constraining suppliers' ability to price acquisition-only tariffs aggressively and at unsustainable levels, the likelihood of requiring more interventionist measures will be lessened.
- It incentivises suppliers to focus on de-risking their hedging position by moving their existing engaged customers from default tariffs onto fixed tariffs. Internal switching of this nature is less risky and less costly to the market than switching between suppliers. This also preserves trust at a time where consumer confidence in the integrity of energy suppliers could be further eroded.
- It creates a market that is fairer to loyal customers who should not be excluded from accessing their own suppliers' best tariffs. This is an issue So Energy has been campaigning on for several years. In March 2021 we prepared a policy paper which examined the impact of CMA's relaxation of tariff rules which, until the energy crisis, had created a new 'loyalty' penalty. This has historically seen suppliers offering aggressive acquisition-only tariffs on PCWs which cannot be accessed by that suppliers' existing customers. Whilst the current energy crisis has eliminated the loyalty penalty, it could return in a manner more extreme than before if wholesale prices see further volatility with prices moving lower. We once again have enclosed our loyalty penalty report for your reference, although we have previously shared and discussed this with several BEIS and Ofgem officials.

We hope you find this input helpful. Please don't hesitate to contact us should you require any additional information or clarity on our views.

Yours Sincerely,

Paul Fuller  
Regulation Manager

