

23 December 2022

Maureen Paul
Deputy Director, Retail Market Policy
Ofgem
10 South Colonnade
London E14 4PU

Email: alisonrussell@utilita.co.uk

Dear Maureen,

Re: Statutory Consultation on extending the MSC and BAT beyond 31 March 2023

Thank you for the opportunity to comment on the above. We refer to our previous submissions on these topics. Utilita has never operated acquisition tariffs which we consider to be a poor practice and not in the interests of consumers. We believe that this practice contributed significantly to the market exits observed and that Ofgem should have implemented the Ban on Acquisition Tariffs (BAT) sooner.

We support the permanent implementation of the BAT policy. We regret that the current proposals are only for a temporary extension, but trust that Ofgem will bring forward permanent proposals as soon as possible to given certainty. On that basis we reluctantly support the licence drafting associated with the BAT.

In respect of the Market Stabilisation Charge (MSC), we are disappointed in the proposed approach. Reviewing the Impact Assessment, we agree with sections of the text, in particular, 3.5 – 3.7 and 3.33. We have consistently raised the concern that suppliers must be allowed to recover efficient costs. We believe that this must be true within payment types, not just overall, and we have continually opposed the approach implemented by Ofgem under the price cap of relying on cross-subsidy to recover efficient costs. Ofgem has repeatedly noted in price cap consultations that specialist suppliers cannot recover efficient costs.

In these paragraphs and associated text, Ofgem has clearly set out the consequences that can be expected if a price cap does not allow recovery of efficient costs. These consequences have actually happened, as Utilita predicted.

We repeatedly called out the flaws in the price cap (in particular, failure to allow recovery of efficient costs) and the results of Ofgem's failure to address them. Ofgem has also accurately set out the results of the policy as implemented in paragraph 3.6. On this basis, we agree that there is an issue in the market with efficient cost recovery by payment type, but we do not support the principle of the MSC as a solution.

The correct solution to the issue is the permanent implementation of a ban on abusive acquisition only tariffs, in conjunction with suppliers being allowed to recover efficient costs and being allowed to make normal profits, allowing them to rebuild balance sheets. This will allow increasing resilience in the market and obviate the need for an MSC which we see as anti-competitive and distortionary.

We therefore do not support the principle of the MSC or extending it. We would, of course, be happy to discuss any points in more detail.

Yours sincerely,

By email

Alison Russell
Director of Policy & Regulatory Affairs