

10 January 2023

Dan Norton  
Deputy Director, Price Protection  
Ofgem  
10 South Colonnade  
Canary Wharf  
London E14 4PU

Email: [alisonrussell@utilita.co.uk](mailto:alisonrussell@utilita.co.uk)

Dear Dan,

**Re: Price Cap: Programme of Work**

Please accept my apology for the late submission, I am afraid sending in this submission was missed in the bundle of consultations closing on 3<sup>rd</sup> and 5<sup>th</sup> January 2023. However, as our additional comments are brief, I hope you will be willing to consider our observations.

Firstly, we welcome the approach of setting out a clear programme of work, it assists suppliers in considering consultations, however, we do have some concerns that it is not clear what might happen in the case of related decisions. For example, hypothetically, one of the aspects due for review during 2023 might not, of itself cause concern, however when taken in combination with a later decision in 2024, the earlier decision may become more problematic. The issue here may be that the opportunity to appeal the earlier decision 'times out', but suppliers will not be able to foresee the future impact. Given this is the case, and we appreciate that it would not be Ofgem's intention to have this effect, we believe that Ofgem should commit up front to address this issue where it arises.

Our second main point is that while we understand the ordering in general, we believe that the operating cost review, scheduled for winter 2024/25 is far later than it ought to be; the SMNCC model and EBIT are being reviewed over summer 2023, and given the interdependencies of operating costs, the EBIT allowance, and the SMNCC allowance, and the substantial changes to operating costs since the allowances were set, Ofgem must expedite its review of operating costs to 2023, thereby coinciding with its other relevant reviews.

Finally, we note that the Headroom Allowance is allocated to a long term workstream. We understand the logic of this reasoning but believe there may be unintended consequences. It is clear that in recent years, Ofgem has assessed a number of changes as being within headroom and therefore has declined to provide additional allowances. The issue is that where a permanent new obligation is assessed in this way, it uses part of the headroom allowance on an ongoing basis.

The more logical approach would be to assess such long-term obligations as being part of uncertainty in the year of implementation, and then fund going forwards, so freeing up that

part of headroom to cover future uncertainty. The current approach utilises headroom to cover embedded policy, which is no longer uncertain, we believe this is a misuse of headroom. It also means that headroom is 'used up', and no longer is available to meet the original intention.

If review of headroom is to be deferred in this way, Ofgem should commit to addressing this issue when considering all new policy changes. If the approach is changed as above, this means that the headroom allowance continues to be available to address uncertainty. At present, it has been unfairly utilised to address ongoing policy implementation.

We hope these observations are helpful and would be happy to discuss them on a call with your team if that would be useful.

Kind regards

By email

Alison Russell  
Director of Policy & Regulatory Affairs