

14 September 2026

Supporting innovation in the electricity retail market: exempting small suppliers from the Universal Service Obligation (USO)

Dear Tom,

Thank you for the opportunity to respond to the consultation. We welcome Ofgem's overarching objective to remove genuine barriers to innovation, and encourage wider participation in products that help households use electricity more efficiently.

However, we do not think that an exemption to the universal service obligation (USO) for small suppliers should be implemented because:

1. There is no evidence that there is a lack of availability of smart tariffs for customers
2. There are other reasons for slow customer uptake of smart tariffs that a USO exemption won't address
3. It is not at all certain that this exemption will encourage innovation.
4. Most importantly we are concerned this move will create consumer harm and potentially significant distortions in the market.
5. If Ofgem wants to take action, there are other measures that would have more certain impact without the risk of unintended consequences of a USO exemption.

We have set out our key points below.

1. There is no evidence that there is an issue with innovation in smart products for customers

In short:

- i) We see a growing range of supplier tariffs that are designed for a variety of different technologies and customers, and customers of all types saving money as a result. 86% of customers with Octopus-installed technology have taken up a smart tariff
- ii) We are concerned that Ofgem has overlooked the innovation and customer choice being offered by independent aggregators. When considered, this could alter Ofgem's assessment that adoption of smart tariffs is falling behind adoption of low carbon technologies
- iii) Low carbon technology is evolving quickly and moving fast to become a mass market phenomenon, with even more tariff offerings likely to emerge. It is premature

to make very significant changes to the energy retail model when the situation could look very difficult in a matter of months

We ask Ofgem to present more evidence on the availability of smart offerings and the issue it is trying to address before progressing with this work.

More detail on each of these points is set out below.

i) Under the current USO model we have seen a growing range of supplier tariffs that are designed for a number of different customer types

This includes:

- **Smart tariffs designed for customers with specific LCT** (EVs, heat pumps etc) - leaving customers to control their tech e.g. our GO tariff (EVs), Cosy tariff (heat pumps) etc. All the large suppliers offer an EV ToU tariff, and Octopus has over 500k customers on an EV tariff.
- **Smart tariffs for customers who are willing to hand over management of their LCT** to maximise savings e.g. our IO Go tariff controls the charging schedule of a customer's EV to deliver maximum benefit to the customer and help the grid. In addition, we have seen the emergence of flex management products from independent aggregators e.g. Axle which manage customer load for specific LCT products.
- **Zero Bills Homes** propositions enabling zero bills for customers because of smart optimisation of low carbon tech.¹
- **Smart tariffs and solutions for lower income consumers**, including people with [night storage heaters](#), [social tenants](#), and those which have no LCT at all (e.g. our "Savings Sessions" only require a smart meter to participate in flex).

Research from suppliers serving 68% of the market showed that in 2025 at least 3mn customers had participated in smart campaigns and products which reward them for using energy flexibly². Octopus Energy's smart tariff customers alone have saved over £1bn in total on their energy bills, with over £200m saved in the first half of 2026.³ Moreover, 86% of customers with Octopus installed technology have taken up a smart tariff.

These are significant numbers and do not indicate there is an issue with the availability of offerings for customers.

ii) It is unclear that Ofgem has taken sufficient account of the smart products and rewards for load management being offered by independent aggregators.

Hundreds of thousands of EVs and domestic batteries are being managed by independent aggregators such as Axel, with customers being rewarded for providing their flexible demand. This route for customers with low carbon technology needs to be considered in any assessment Ofgem makes of consumer take up of smart products.

¹ <https://octopus.energy/blog/explore-zero-bills-home-customer-interview/>

² [LCP Delta working with five suppliers found 2.9m customers](#), but we know there is coverage beyond this and that it has grown since 2025

³ [Octopus Energy press release](#), July 2026

iii) Low carbon technology adoption is still at an early stage and the technology is changing rapidly.

Plug in solar has just been approved, plug in battery products are being consulted on, and a second hand market for EVs is emerging rapidly. This plus the falling cost of batteries, solar and EVs means that these technologies are increasingly becoming mass market products. We would expect smart tariff offerings from suppliers and aggregators to continue to evolve accordingly. It is premature to make a significant change to the retail market to address a situation which may look very different in a matter of months.

2. There are other reasons for slow customer uptake of smart tariffs that a USO exemption won't address

There are a wide range of reasons for what Ofgem might consider to be slow development of tariff offerings - and these would not be addressed (and some could be exacerbated) through exempting small suppliers from the USO.

We are particularly concerned that lack of interoperability (and "walled gardens") between manufacturers software and supplier systems could be hampering customer take up of smart tariffs and limiting the availability of tariffs for all brands of low carbon technologies.

Slow uptake could be driven by a range of factors, which would suggest different regulatory actions e.g.:

- Lack of customer awareness of smart tariffs at the point of installing low carbon tech
- Not all LCT is currently smart enabled, limiting the potential for tariffs based on automated control which offer the most convenience for the customer.
- Lack of interoperability in LCT software means that suppliers/aggregators have to negotiate with each individual manufacturer for access to control their technology and this is not always forthcoming. These "walled garden" arrangements (whereby certain manufacturing brands only work with certain suppliers) mean that the customer's energy supplier may not have a smart tariff that works with the brand of tech the customer has chosen, and the customer may be reluctant to switch supplier. It is important that the market moves towards LCT interoperability (not away from it) so that customers can have a choice of smart tariffs from a variety of suppliers regardless of which brand of tech they have. Octopus has launched [Project Mercury](#) to address this friction.
- Other factors e.g. the running cost savings in switching to an EV from a traditional petrol/diesel car are considerable (around 40%) even when the customer does not take a smart tariff⁴. This means those switching to an EV may have a low incentive to make the switch to a smart tariff especially if there are frictions in the process (such as complex interfaces between the smart EV charger and the vehicle, or the need to switch supplier) . Some of this could be eroded over time as customer familiarity with EV tariffs increases, interoperability improves, more price sensitive households switch to EVs and as manufacturers/EV charger installers are more active in flagging the further running cost savings from smart tariffs.

⁴ <https://brumble.co.uk/guides/electric-car-running-costs>

Ofgem needs to conduct more research into barriers to customer take up and other frictions in this market before progressing with this work. It is not clear that Ofgem has considered other factors that may be driving slow uptake of smart tariffs which are likely to require different regulatory interventions to solve.

3. It is unclear this exemption will drive innovation

Even if Ofgem establishes there is a problem in terms of sluggish tariff innovation across suppliers, it is unclear this proposal would be effective in solving it.

There is no evidence presented in the consultation that there is significant interest from new entrants in becoming a specialist supplier. The prospect of facing USO obligations on exceeding 50k customers is likely to dampen the interest in entering the market to use this exemption, as it is likely to require more than this scale of operation for genuine innovation to pay off. Moreover, it would take a large number of suppliers with less than 50k customers to have a material impact on innovation in the market.

In addition, it is unclear what this proposal would achieve that the arrangements for aggregators don't already achieve. Independent aggregators like Axle are not subject to the USO. They can, and do, already offer tariffs⁵ exclusively for customers with specific technologies - and many thousands of customers are taking advantage of this. Any company wanting to operate on a specialist basis can already do so through this route without the volume limits Ofgem propose for USO exempt suppliers. We ask Ofgem to clarify why USO exemptions are required when this opening for specialist providers is already available.

Finally, we are concerned this proposal will have limited positive impact because removing the USO presents no *requirement* on a supplier to innovate. There is a significant risk that the exemption will simply encourage new entrants to take advantage of the cost savings from being able to cherry-pick customers. Companies will be able to grow quickly through undercutting other suppliers without any innovation at all. There is some risk that Ofgem could open the door to multiple entries on this basis with companies looking to make money when they reach the exemption threshold by selling their customer book. This is a pattern we have seen in the past. The very broad exemption makes this risk all the more likely.

4. Exempting small suppliers from the USO will create distortions in the market

There is a risk of customer harm if new suppliers enter the market through this exempt route. This is because:

- It could create a two tier market. Suppliers would be able to reject customers based on any characteristic including: those with debt or lower credit scores, those with low usage, those with no low carbon tech, those on prepay, or those without a smart meter. These customers would have less choice both of suppliers and tariffs in the market.

⁵ Flex tariffs from aggregators typically bolt on to a customer's standard tariff from their supplier to reward flexibility.

- If the supplier has a lower cost to serve due to selecting lower cost customers, it could result in certain customers (most likely more vulnerable or lower income customers) not being able to access the cheapest tariffs in the market. These may not even be innovative smart tariffs but simply lower priced offers reflecting the exempt-supplier's lower cost to serve.
- It would enable more "walled garden" arrangements which goes against the grain of the open and interoperable arrangements we should be trying to create, such as currently exist through bluetooth access. Ofgem's proposal would, for example, allow EV manufacturers to set up as an USO-exempt small supplier in order to bundle ownership of its EVs to the smart tariff offered by its energy business. This would mean that owners of that EV brand would have no choice over the smart tariff they are on and would preclude other energy suppliers from competing to serve those customers. This creates competitive distortions, and damages customer choice.
- There would be no incentive for exempt-suppliers to think about the needs of different customer types when innovating. Under the current arrangements, we have innovated to create tariffs for customers on night storage heaters and to help get retrofit into social housing. If there is stronger competition from exempt suppliers then this will focus innovation from all suppliers into those groups served by exempt suppliers, at the expense of innovation for other customer types.

These risks are exacerbated by the fact that the exemption is very wide and Ofgem has not set out basic customer protection arrangements that need to go alongside the exemption. For example, if a customer has an EV but for some reason doesn't meet the additional criteria the USO-exempt supplier is applying (e.g. income, credit rating etc), that customer may not have access to the only automated smart tariff compatible with that EV. Default arrangements have also not been considered e.g. do the normal price cap arrangements apply when a customer's fixed term deal ends, and if so, is it appropriate that the customer is protected by the standard price cap given that the exempt supplier has a much lower cost to serve?

5. If Ofgem wants to consider new ways to encourage innovation - there are other, higher priority interventions it could focus on

If Ofgem remains concerned about customer take up of LCTs and smart tariffs, creating an exemption for the USO is not the right measure to put in place. Ofgem should focus efforts on higher impact interventions such as:

- Pushing to make sure all LCT is smart enabled and keep pushing on broader LCT interoperability to avoid walled gardens and customer tie-ins
- Moving faster on improving access to markets for demand side flex (up and down). Poor access to these markets is limiting the commercial incentive on suppliers to invest the management, product design and technology needed to introduce new smart tariffs or to make existing propositions more attractive for customers.

Finally, Ofgem needs to consider how it avoids a fragmented regulatory framework where parties providing essentially the same service to customers face different regulations and are exposed to different risks and costs. This is already happening in the demand management market as a result of Ofgem's decision on P415 which exposes aggregators to lower risks and costs than suppliers, even when they are competing to provide the same service to

customers. This is not good for innovation or competition and ultimately customers lose the benefit that comes through the innovation generated by companies competing on a level playing field. Ofgem must think holistically across all aspects of the market to ensure this doesn't continue to happen.

We have responded to your specific questions below and are happy to discuss any of the above if helpful.

Yours sincerely,

Anne-Marie Spalding
Head of Regulation and Policy, Octopus Energy

Responses to consultation questions

Q1. Do you agree with our proposal to exempt suppliers with fewer than 50,000 domestic customers from the USO?

No. As explained in detail above, this proposal is unlikely to have the intended benefit, and could result in consumer harm and market distortions.

The USO has always been an important part of customer protection. It ensures that all customers have a full choice of energy suppliers in the market, and it also encourages suppliers to think about the needs of different customer types when innovating (for example we have innovated to create tariffs for customers on night storage heaters and to help get retrofit into social housing).

As set out above, removing the USO would result in a two tier market and an unlevel playing field with different regulatory requirements on different participants providing the same services. It also increases the risk of more "walled garden" arrangements where customers can only access a smart tariff for their low carbon technology through one supplier.

In Ofgem's proposal, these risks are mitigated to an extent by having a threshold of 50,000 customers, but the extent of the 2 tier market could be significant if there is a proliferation of exempt suppliers e.g. if every EV manufacturer or battery provider set up its own USO exempt energy supplier. We would also be very concerned if the direction of travel was to increase this threshold, and/or remove the USO from all energy suppliers.

Q2. Do you agree with our assessment of risks, and proposed mitigations?

Ofgem has captured a number of the key risks and proposed suitable mitigations, but it has missed a number of important considerations:

Creating a two tier market that does not incentivise innovation - as mentioned above, the proposal to remove the USO requirement is a very broad one. Suppliers could make use of this exemption by "cherry picking" lower cost to serve customers whilst making a margin without any innovation at all. This gamification would not meet Ofgem's objectives and

should not be something that is enabled. This risk could be mitigated by narrowing the exemption so that it only applies if the supplier is providing innovative tariffs aimed at customers with smart technology. The current exemption is extremely wide and creates very significant risks for customers.

Walled garden arrangements - The proposal would encourage more “walled garden” arrangements which goes against the direction of travel for the market. We should be trying to create a market where LCT can be interoperable across different suppliers, not a market that can restrict owners of certain LCT brands to be tied into certain energy suppliers. The proposal could preclude other energy suppliers from competing to serve those customers. This creates competitive distortions, less customer choice, and ultimately less innovation.

Default arrangements - We have assumed that specialist suppliers cannot simply stop providing energy to customers who are already on supply when their contract comes to an end or when their circumstances change. But it does not look like Ofgem has been considered default arrangements as part of the consultation. These are important to prevent customer detriment.

For example:

- Ofgem has not set out whether the specialist supplier would need to provide default flat rate tariffs which a customer might need for example if they sell their EV, or if the original customer moves home and a customer without an EV moves in.
- Ofgem has not considered what would happen if the customer no longer met other criteria (eg credit rating, debt position) that the exempt-supplier was using to cherry-pick customers.
- Similarly, there is no mention in the consultation document of the interaction with the price cap. Presumably the price cap would still apply to any default tariff arrangements but it is important to consider that if the supplier has lower cost to serve customers, whether the standard price cap provides fair value.

If Ofgem does proceed with this measure, then there are critical mitigations to put in place:

- We would like to see much more care taken to introduce this in a test and learn environment where the route to these exemptions could be cut off if the exemption is being gamed.
- We would like a firm commitment from Ofgem that this exemption will not be extended to suppliers with more than 50k customers.
- We need measures in place to mitigate against the risk of “walled garden” arrangements with more progress on technology interoperability than we have seen to date.

Finally, Ofgem has stated that it will mitigate the risk of one group company holding multiple licences each with less than 50k customers by SLC drafting to prohibit this. However, this is currently not present in the licence drafting in Annex 1. If Ofgem continues to introduce the exemption (which we do not think should happen) it is critical this prohibition is added.

