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"Market Stabilisation Charge activation"

Dear Danny,

So Energy is a leading energy supplier providing great value renewable electricity to homes across Great Britain. We welcome the opportunity to respond to this consultation. We do not think Ofgem should activate the MSC now. If it does, the MSC should be short, harder to trigger, and quick to switch off.

1. The MSC is not needed at this time.

- The MSC is a very disruptive measure. It severely constrains the competitive market. It should only be used in extreme circumstances. It is unclear why Ofgem appears to assume that current levels of switching will be maintained if the MSC is reactivated – that is not what happened the last time it was turned on. We worry that Ofgem does not the impact MSC activation will have on competition.
- Wholesale volatility is lower than in the last crisis. Ofgem itself says prices remain much lower than in 2022 (paragraph 3.11).
- Ofgem's own case is marginal. Its activation threshold is a likely loss of £20–30 per dual fuel customer (4.18). Its pessimistic central scenario shows a loss of up to £21. Its lower-switching case shows up to £13, below the threshold (Table 1).
- Other protections are now in place and fully embedded, including the financial resilience rules and the Ban on Acquisition-only Tariffs (BAT). These justify a higher threshold for activation and deactivation than Ofgem proposes.

2. If activated, the MSC should run for one price cap period at most.

- Last time, MSC payments continued long after the market had corrected. The MSC became a switching tax, not a market protection. Ofgem must avoid a repeat.
- Ofgem expects the MSC to stay active "at least" until the end of March 2027. That should be the latest date, not the earliest.

3. The MSC must continue to apply to customers who leave fixed tariffs.

We agree with Ofgem (5.16) that the MSC should apply to all switches, given the complexities at play:

- The value of hedges held for fixed tariff customers is an order of magnitude greater than for price-capped customers.
- Exit fees do not cover the full cost of selling back hedges when a customer leaves early. This is especially true in volatile markets.

- Suppliers set exit fees knowing the MSC is an established Ofgem tool. Without it, exit fees would be higher. If Ofgem has any intent of revisiting this, we would need to be informed well in advance, so that we may revise exit fees upwards to account for the increased risk.
- Many fixed tariff customers that are subject to exit fees pay no exit fee. For example, customers leaving in the switching window will not pay an exit fee.
- Suppliers may hedge fixed tariff customers as if they will roll onto the Cap during the last 4.5 months of their contract. Suppliers cannot wait to see whether a customer renews, leaves or defaults so must choose a follow-on hedging strategy. If the customer leaves, those hedges must be sold back.

Q1. Do you have any comments on our description of the current market context?

Ofgem has undervalued their own work in preparing the market for energy crises, post Ukraine. Ofgem notes that some suppliers are below the Capital Target but going into the last crisis there was no such thing as a Capital Target. In addition to this, Ofgem has introduced an extensive financial supervision function, closely monitors supplier activities to ensure they are complying with the broader Financial Responsibility Principle.

Ofgem notes that profitability going into this crisis is far below what one would expect in an investible market. We agree this is a cause for concern and there are structural issues for Ofgem to resolve regarding debt, forecasting of costs and the price cap. Debt and arrears alone have reached £5.02bn. However, the MSC will in effect suspend the competitive market, which is an extreme intervention. But the MSC fixes none of these issues. In effect, it suspends the competitive market. That is an extreme intervention.

The current crisis is not as severe as the last one. When the MSC was first introduced, the Ukraine crisis came straight after the post-COVID energy crisis. That crisis had already imposed heavy losses on suppliers and caused many to fail, at a SoLR cost Ofgem puts at £2.35bn. The market today is in a much stronger position.

Q2. Do you agree that we should activate the MSC?

No. Market volatility does not make the MSC necessary at this time, especially once Ofgem's existing protections are taken into account.

- **Ofgem's own numbers do not appear to make the case.** Ofgem's threshold is a likely loss of £20–30 per dual fuel customer. Its central scenario only reaches £21, and only as an "up to" figure. That figure assumes all backwardation disappears and that customers switch as fast as prices fall. These are deliberately pessimistic assumptions. With lower switching, the loss is £13, well below the threshold.
- **The BAT already curbs the worse competitive outcomes.** The BAT requires that acquisition tariffs also be offered to existing customers, which constrains the extend to which the price of acquisition tariffs can be reduced in a falling market scenario.

If Ofgem decides to activate the MSC despite these points, it should do so on the terms we set out below: a higher trigger, a fixed end date of 31 March 2027, and enough notice for suppliers to reprice.

Q3. Do you have any comments on our proposed MSC guidance?

The guidance must let suppliers forecast, at any time, when the MSC will trigger and how much it will cost. We cannot price acquisition tariffs while the MSC is active without this.

Ofgem says contracts limit the price data it can publish (3.10). It should therefore publish the full calculation method and a worked example. Suppliers can then replicate the MSC from their own market data. Ofgem should also confirm the payment timetable. It notes that first payments will be slower than normal (6.5). Gaining suppliers need to know when invoices will fall due so they can plan cash flow.

Q4. Do you agree with our proposal to keep the MSC parameters unchanged?

No. The trigger should be raised. It should allow much greater volatility before MSC payments start, and it should let payments stop more quickly. The MSC is an extremely disruptive measure and should only bite during dramatic wholesale market adjustments.

Ofgem originally set a 30% trigger in February 2022, and should return to a trigger of that order. Lowering the trigger to 10% left to the MSC having a long tail, where the MSC acted more as a tax on switching than a market stabilisation mechanism. With hindsight, it was wrong to lower the trigger to 10%.

We do not support any increase in the 85% sharing factor.

Q5. Do you agree with maintaining the MSC trigger as a percentage value?

We care more about outcomes than the format of the trigger. A percentage trigger is acceptable if it is set high enough. Our concern is that Ofgem may keep an MSC switching tax in place for an extended period. That is not justified. The market is not as volatile as in the last crisis, and stronger protections are now in place.

Q6. Do you agree with not including deferred allowances in the MSC calculation?

Yes, we agree. Including deferred allowances would add complexity far beyond the risk being managed. It would also widen the MSC from a targeted measure into a general charge on switching.

Q7. Do you have any comments on the notice period required for activating the MSC?

One working day is too short. Suppliers need time to wind down sales channels – the cost and disruption associated with this does not appear to have been accounted for by Ofgem. Two weeks would be more appropriate.

Once the MSC is active, suppliers understand the trigger levels and payment levels so they can price tariffs correctly.

Q8. Do you agree with our proposed approach to deactivating the MSC?

No. Ofgem must be clear that it intends to keep the MSC active for as short a time as possible. As drafted, the MSC could stay in place long after the worst volatility has passed. It would then act as a switching tax.

This happened last time. Wholesale prices peaked in summer 2022, but MSC charges were still being paid in March 2024, when the scheme lapsed. Consumers will get better outcomes if the MSC is in place only for the shortest time necessary. We propose:

- an automatic end date of 31 March 2027, with no extension unless Ofgem consults again and shows fresh evidence
- a commitment to deactivate earlier if wholesale prices stabilise
- a deactivation consultation no longer than this two-week activation consultation

Ofgem's own analysis supports a short period as losses are greatest when there are large falls over a short period, rather than a gradual fall over a longer period (3.5). Therefore mechanism should similarly be designed to account for similar dramatic falls in the wholesale price.

Q9. Do you have any comments on our draft impact assessment?

The impact assessment is not adequate for a decision of this significance. Ofgem's regulatory function grew from 371 staff in 2021–22 to 900 in 2024–25. Yet Ofgem appears increasingly reluctant to carry out comprehensive impact assessments. It has the resources to do one here.

The draft assessment appears to have gaps. It assumes the MSC does not change how many customers switch - one would expect a tax on switching to have an impact on the demand to switch. It does not test any alternative parameters. It does not quantify the impact on competition. Ofgem should go further. It should test whether the MSC needs to be as draconian as last time, or whether consumers would be better off if greater volatility were tolerated before the MSC triggered. We believe this analysis would show that an MSC that triggers only briefly, during dramatic wholesale market adjustments, would deliver the best outcomes for consumers.

Yours Sincerely,

Paul Fuller