Utilita's response to the 'Deemed Rates and SLC 7.3 & 7.4' Consultation

About Utilita

Utilita Energy Limited ("Utilita") serves around 730,000 households and small businesses, with a non-domestic portfolio of around 8,000 live B2B customers. This gives Utilita practical experience of domestic and smaller non-domestic customer needs, including the challenges faced by microbusinesses and SMEs in understanding contracts, charges, billing information, third-party intermediary involvement and routes to support.

This experience provides insight into the circumstances in which deemed contracts can arise, including change of tenancy, onboarding, switching and situations where a customer has not agreed an express contract. These scenarios can vary significantly by business size, consumption profile, tenancy arrangements and level of customer engagement.

Utilita's response is informed by its experience across domestic and non-domestic markets. Our focus is on ensuring that the final guidance provided by Ofgem remains aligned with the existing licence framework, supports fair customer outcomes, and allows suppliers to manage credit risk and recover efficient costs in a reasonable and evidence-based way.

Executive Summary

We fundamentally disagree with Ofgem's proposed changes to the Deemed Rate guidance. We believe the existing guidance should remain focused on (a) the existing requirements in SLC 7.3 and 7.4 and (b) current legislation in place and should not introduce new obligations or more prescriptive expectations outside the statutory licence-change process.

The key points in this response are:

- The guidance should remain aligned with the existing legislation on when a deemed contract arises. The proposed focus on a customer's "ability to consume" risks broadening the current position and should not replace the established case-by-case assessment.
- Suppliers should be able to recover efficient costs associated with deemed contract customers, including bad debt risk, where their approach is objectively reasonable, supported by evidence and consistent with the licence. The test should not depend on alignment with an unpublished or discretionary expectation.
- Where issues are already addressed elsewhere in the licence, the guidance may cross-refer to those obligations rather than restate or expand them, if at all. This is particularly relevant to customer transfer blocking, delayed switching and security deposits.
- The proposed guidance does not support Ofgem's Consumer Outcomes Strategy. Rather than simplifying the regulatory framework and moving towards outcomes-based regulation, it would add further prescription, complexity and evidential burden through guidance, without a corresponding licence change.

- The guidance should preserve legitimate supplier tools for managing credit risk, including reasonable security deposits where they are fair, proportionate and justified, and should remain flexible enough to reflect future policy developments.

Overall, Ofgem's final guidance should support clarity and fair customer outcomes without creating additional regulatory burden or moving beyond the scope of SLC 7.3 and 7.4.

We also echo the response from Energy UK.

Responses to questions

Q1. Do you agree with our proposal around the situations in when we generally view a deemed contract to exist depending on a customer's ability to consume energy? Please provide your reasons.

We do not support Ofgem's proposal. Any guidance should mirror the current legislation and should not take the position further. The legislation already sets out when a deemed contract arises, and any broader interpretation of that legal position is ultimately a matter for the courts, not for guidance.

The current framework is based on energy being supplied otherwise than in pursuance of an express contract. It is at the point of supply that the deemed contract comes into play; the test should not be reframed around a customer's "ability to consume" energy. Introducing that concept risks broadening the current position and creating uncertainty about when contractual terms apply.

Extending the legal position through guidance is likely to create confusion and could increase disputes between suppliers, customers and occupiers. The guidance should therefore remain aligned with Schedule 6, paragraph 3 of the Electricity Act 1989, Schedule 2B, paragraph 8 of the Gas Act 1986, and SLC 7.3 and 7.4, without introducing additional tests or expectations.

Q2. Do you agree with our proposal around the reasonable recovery of bad debt? Please provide your reasons.

We agree that suppliers should be able to recover efficient costs associated with deemed contract customers, including bad debt risk, through deemed rates. However, the proposed wording appears to move beyond explaining that principle and could be read as setting a defined pricing methodology rather than providing guidance.

Ofgem's reference to additional costs being recoverable "to the extent that the supplier can justify and evidence these additional costs and that they are set at a reasonable level" would benefit from further clarification. It is not clear what test Ofgem expects suppliers to meet, or whether this would be assessed by reference to Ofgem's discretion after the event. Suppliers should not be required to demonstrate alignment with an unpublished or subjective expectation. The

appropriate test should be whether the supplier's approach is objectively reasonable, supported by evidence, and consistent with SLC 7.3 and 7.4.

We recommend that the guidance remains focused on outcomes for deemed contract customers and avoids prescribing comparator approaches or evidential standards that are not required by the licence.

Q3. Do you agree with our proposed text that reminds suppliers of their obligations around customer transfer blocking and delayed switching? Please provide your reasons.

We disagree. This issue is already addressed in SLC 14, which restricts the use of deemed contract terms to prevent switching on the basis of debt when read alongside the defined terms in SLC 1, including "Contract" and "Deemed Contract". Where suppliers act contrary to a prescriptive rule, Ofgem should enforce that rule rather than duplicate or expand it through guidance. The guidance may cross-refer to SLC 7.6A and SLC 14, if at all, rather than restating those obligations.

We disagree with the expectation in paragraph A1.98 regarding retrospective rebilling. We believe that a conscientious supplier would consider a credit note or goodwill gesture where an error or delay has been caused by the supplier. However, where there is no provision for this within the licence, it is not appropriate for Ofgem to set this as an expectation through guidance. The purpose of the guidance is to provide clarity on SLC 7; it should not be used to create new regulatory requirements without following the statutory process.

Q4. Do you agree with our proposal around the circumstances in which suppliers should ask for security deposits? Please provide your reasons.

We do not consider that additional guidance is required in this area. The treatment of deposits and debt is already covered within the existing licence framework, including SLC 27 on charges, deposits and payment, SLC 0 and 0A on fair treatment, and Ofgem's recent *Good Practice Expectations for Non-Domestic Suppliers on Issues Surrounding Debt Management and Disconnection of Customers*, dated 9 June 2026.

Security deposits should only be used where they are fair, proportionate and justified. However, they remain an important tool for suppliers to manage credit risk. Suggesting that deposits are "in most cases" inconsistent with SLC obligations would introduce a general presumption that does not exist in the licence. It also appears inconsistent with Ofgem's 9 June 2026 guidance, which recognises that:

"suppliers may need to request customers to pay a security deposit as part of their onboarding process, and that security deposits are one way for energy suppliers to offer terms to non-domestic customers".

Restricting the use of reasonable security deposits is likely to increase bad debt. While Ofgem permits an allowance for bad debt within its cost stack, recognising that deemed customers may leave without settling their bills, suppliers should retain the ability to request reasonable deposits from customers who present a higher risk of non-payment. Requiring suppliers to continue supplying energy without upfront security, particularly where there is a demonstrated history of non-payment, would weaken an important risk control. Directing those customers to switch supplier would transfer the risk across the market rather than resolve it.

Q5. Are there any potential implications for domestic customers that the proposed guidance on deemed contract rates may impact on?

Domestic customers are protected by the price cap and do not have separate deemed rates. While the price cap is technically temporary, any removal would not be immediate. The suitability of SLC 7.3 and 7.4 for domestic deemed rates could therefore be reviewed if changes to the price cap model are proposed. There is no current need to introduce additional expectations for domestic customers through this guidance, indeed this may be counter-effective to Ofgem's recent publication of its Strategic Decision on Consumer Outcomes which seeks to simplify the regulatory framework.

Q6. Do you have any further comments on our proposals for the deemed contract guidance?

We recognise Ofgem's intention to improve clarity. However, the draft guidance increases the level of prescription across several areas, including pricing methodology, equivalent contract comparisons, review expectations and evidencing. These concepts already sit within the current framework, and the proposed wording risks moving beyond clarification into more detailed requirements.

Creating additional regulatory burden through guidance, rather than through formal licence change, would be inconsistent with Ofgem's wider direction of travel, including its Consumer Outcomes work and the move towards outcomes-based regulation.

We note Ofgem's parallel work on the supplier home-moves process, which is exploring structural solutions to reduce debt accumulation at change of tenancy. While this is a separate policy initiative, it demonstrates that the deemed contract framework sits within a wider and evolving policy landscape.

The final guidance should remain principles-based, avoid duplicating existing licence conditions, focus on outcomes rather than process, and remain flexible enough to accommodate future policy developments.

By way of additional minor observations:

- In paragraph A1.2, Ofgem refers to the *Guidance on Deemed Contract relationship* from October 2009 and repeats part of it within the revised guidance. For simplicity and

efficiency, this should be consolidated where possible and the previous guidance should be retired.

- The links in paragraphs A1.12 and A1.13 are broken.

For further information or to discuss this response in more detail, please contact Utilita's Head of Regulation, Faye Widdowson, at fayewiddowson@utilita.co.uk.