

Date: 16<sup>th</sup> February 2011

Liz Chester  
Social Policy Manager  
Ofgem  
9 Millbank  
London  
SW1P 3GE

Dear Ms Chester

re: Consultation on Smart Metering Spring Package

Utilita is a new entrant gas and electricity supplier that is focused on delivering a low priced pre-payment service using smart meters. Virtually all of our customers have opted for our pre-payment service.

The consultation is nominally aimed at protecting customers using smart pre-pay meters, however most of it appears to relate at least as much, if not exclusively to, existing pre-pay meters. Furthermore, it seems a little heavy handed to be proposing new licence conditions to protect the rights of customers that may find themselves being supplied on pre-pay terms using a smart meter (possibly some 100,000 customers pre-smart roll-out), when there are millions of customers being over-charged on old pre-pay technology.

In general I don't believe the consultation places enough emphasis on, or indeed respect for, consumer choice. For example, where customers have chosen to take a pre-payment service, I think they are in the best position to judge what is "safe and reasonably practicable". All customers' situations and expectations vary – what is safe and reasonable to one may not be for another. The consultation seems to be predicated on the idea that customers would not have a pre-pay meter by choice, only if is forced on them because of a debt or payment problem.

There are no specific questions relating to privacy concerns. As a supplier that is actively installing smart meters now, we would welcome clarity on the detail of how we should interpret the DPA and on what data is required to perform regulatory duties. We do not believe that it is feasible to explain to consumers the purpose or value of collecting more granular data. We completely understand and accept our duty to use data in an appropriate manner. For example, in our view, for electricity, this includes using aggregated half-hourly data to optimise our purchasing so that we can maintain low retail prices for customers. Obviously with gas, since actual readings are of no relevance to purchasing, the use of any more granular data is limited.

We believe the concern raised over interoperability is overstated, and are more driven by those suppliers seeking to suppress innovation, and maintain market dominance. We do not understand why it should be of such great concern that some pre-payment customers should be "locked-in" to a supplier when that supplier is offering the lowest prices and best pre-pay functionality. Furthermore, by blocking modifications to existing industry wide systems, incumbent suppliers have made the transfer of key information on smart meters, e.g. the phone number, more difficult.

We do not accept that suppliers offering innovative solutions that benefit customers should be placed at a unnecessary commercial risk. Utilita started its business long before Ofgem or DECC set out any plans for the roll out of smart meters. We cannot simply stand still waiting for government plans to be finalised. We have to continue to grow, and we believe this is in customers' interest. We do not accept the position stated in paragraph 4.22.

The main consumer benefit of smart meters should be lower prices, as well as better service. If that is not the case Ofgem should investigate why, rather than trying to produce a complicated list of obligations around interoperability. If the market is working correctly there should not be a reason why a consumer would switch away from a supplier that is giving them the lowest price and best service. We currently have the lowest pre-payment prices, and are the only supplier offering smart pre-payment, but still lose customers to more expensive pre-payment options. The reasons for this are market failings such as miss-selling. These are of far greater concern than issues around interoperability.

Where we have the biggest difficulty with this consultation document is in section 4 regarding proposals for pre-payment. Utilita is the only supplier providing a smart pre-payment offer, and any new rules will therefore disproportionately impact us and seek to minimise any competitive advantage that we have. Furthermore they will help other suppliers to maintain their market share. We believe this is fundamentally anti-competitive and should not be supported by Ofgem.

With regards to costs arising from changing meters we cannot control what other suppliers do. However, we install our smart meters free of charge and therefore do not accept that it is any hardship for the customer. If a new supplier wants to charge for a meter change then this is part of the choice the customer has made (in addition to wanting to pay higher prices). Ofgem would be better serving customers by stopping suppliers charging for the installation of old fashioned pre-pay meters.

There are in excess of 4 million households using pre-payment meters. For many years, and largely because of the failure of their technology, incumbent suppliers have been charging a premium to these normally lower income households compared with customers paying by direct debit. Concern over the rights of those customers that have chosen a pre-pay product based on smart meters, with lower prices and better services, seems largely misplaced. Ofgem would better serve customers by taking action to reduce prices for customers being forced to use old fashioned pre-pay meters.

Our response to the specific questions raised are as follows:

### **Prepayment**

**Question 1:** Do you agree with our proposal to issue guidance on safe and reasonably practicable and require suppliers to have regard to this guidance through a licence amendment? If not, what else is needed?

*We would welcome guidance on this matter, although we do not believe that it is particularly related to smart meters, and indeed we would expect smart meters to considerably reduce issues of this nature.*

**Question 2:** Do you agree with our proposal to require suppliers, where they know or have reason to believe that prepayment is no longer safe and reasonably practicable for a customer, to offer an alternative payment method or some other form of action?

*We do not agree that suppliers should override consumer choice, or have any obligation to do so. It is important to differentiate where a pre-payment meter is essentially being forced on the consumer because of debt or poor payment record, and where the consumer has chosen pre-payment in preference to other payment options.*

*Again this issue is not particularly related to smart metering and we believe the roll-out of smart meters will ameliorate these issues.*

**Question 3:** Do you have any comments on our proposed guidance regarding taking into account whether it is safe and reasonably practicable for a customer to pay by prepayment?

*Our main concern is around customer choice. Many people that have low fixed incomes, for example either a pension or a disability benefit, choose to have pre-payment services in order to have peace of mind and avoid building up debts.*

**Question 4:** Do you agree with our view that the current notification periods for switching to a prepayment meter are sufficient?

*Yes.*

**Question 5:** Do you agree with our proposal to require suppliers to give customers information on using a prepayment meter ahead of switching them to prepayment?

*I am not sure that this is practicable. Often suppliers do not know that customers they are gaining have pre-payment meters. This is not the fault of the new supplier but of a previous supplier that has failed to maintain industry wide data records when they have exchanged a meter.*

*An obligation should not exist if it is consumer choice.*

**Question 6:** Do you consider it necessary to explicitly require suppliers to provide the ability to top-up by cash where payment is made through a prepayment meter?

*Yes. In our experience, even when other more convenient payment options are available, most customers top-up via a cash terminal.*

*Please note that SMS vending referred to in paragraph 2.34 would still require the customer to have a bank or credit card account.*

## **Disconnection**

**Question 7:** Do you agree with our proposal to issue guidance on identifying vulnerability prior to disconnection and require suppliers to have regard to this guidance through a licence amendment? If not, what else is needed?

*We believe that, with the possible exception of a response to theft, disconnection should not be allowed following the roll-out of smart meters.*

**Question 8:** Do you have any comments on our proposed guidance regarding identifying vulnerability prior to disconnection?

*There is a limit to what suppliers can do to identify all the special needs in a household. This is particularly difficult in properties with higher than average change of tenancy rates, for example social housing (and where pre-pay might be expected to be more prevalent).*

*This would not be an issue if there was a ban on disconnection after smart meter roll-out.*

**Question 9:** Do you agree that suppliers should ensure rapid reconnection and provide compensation on a voluntary basis where any customer has been disconnected in error?

*Where a genuine mistake has been made rapid reconnection would be appropriate. However, any obligation to do this needs to contemplate the full circumstances that surround each occurrence.*

**Question 10:** Do you agree with our view that the current notification periods for disconnection are sufficient?

Yes.

**Question 11:** Do you agree with our proposal to explicitly set out in the supply licences that load limiting and credit limiting amount to disconnection in certain circumstances?

*No. Where customers have chosen a load limited, or credit limited, product this is comparable to choosing a pre-payment product – not comparable to disconnection. The customers right to choose is paramount and suppliers should not have obligations to override customer choice.*

**Question 12:** Are there any protections that should be considered regarding disconnection and prepayment for non-domestic customers? If so, what are these? Please provide evidence to support your views.

*Again this question appears to relate more to changing the rules for current pre-payment technology rather than for smart pre-payment. Smart meters offer the potential for all customer types to significantly reduce the number of circumstances when disconnection would be a sensible option for either the supplier or the customer.*

## **Commercial Interoperability**

**Question 13:** Do you agree that there should be an obligation on the original supplier to offer terms for use of the meter?

*Yes. However, we believe both commercial and technical interoperability could be enhanced by including within the Ofgem meter approval process a requirement on the meter manufacturer, to make systems open, including the provision of software*

*where necessary. This should be in a format that would enable integration with suppliers' existing systems, for example XML.*

*Furthermore, where the customer requests it, the new supplier should be obligated to take on the new meter on the terms offered.*

**Question 14:** Do you have any comments on the requirement for terms to be reasonable and non-discriminatory and factors we would propose to take into account?

*No. Perhaps similar obligations should be placed on old fashioned pre-pay meters. A simple way to determine reasonableness will be to check that the cost of the meter plus transaction charges is lower using the smart meter than the alternative old fashioned pre-pay meter.*

**Question 15:** Do you agree with the proposed obligation that terms should be transparent?

*This seems unnecessary since this cost will be the minority of the costs faced by the supplier and most of the time suppliers do not know what the detailed costs are. For example there is no clarity on charges for existing pre-pay meters. Again similar rules should apply to existing meter provision.*

**Question 16:** Do you have any views on the appropriateness of an obligation to offer terms for use of communications services as part of the Spring Package, and the timeframe for any such obligation?

*This would be better resolved using existing industry processes and Ofgem meter approval mechanisms. The key to the communication technology is the telephone number, and there is the option of including this in a standard set of D0149/D0150 (for electricity) and the equivalent dataflows for gas. Incumbent suppliers have deliberately blocked the inclusion of the telephone number in the D0149/D0150.*

**Question 17:** Do you have any comments on our proposed approach for dealing with prepayment?

*We do not agree with the basis of the approach to prepayment. Utilita is currently the only supplier offering smart pre-payment and so these rules are essentially a direct attempt to limit our business and to place additional burdens on us. This is anti-competitive and Ofgem should not be supporting it.*

*There is an error in paragraph 4.31 which suggests that the communications link is essential to operate smart pre-payment. It is not. We believe it is essential that any pre-payment technology can be operated manually.*

**Question 18:** Do you believe there should be a de minimis threshold before commercial interoperability obligations apply and if so, at what level should it be set?

*Generally we believe that de minimis thresholds are a good idea because they tend to off-set the market power of incumbent suppliers. In this case we believe suppliers over the de minimis limit should be compelled to accept the terms offered by the new entrant. Otherwise there is a serious risk of undermining the funding of the new entrant and that the larger players will use their power to force smaller players, and innovation, out of the market.*

*It would be preferable for any de minimis limit to be in line with other obligations and we believe it should be at least 500,000 premises.*

Please don't hesitate to contact me again if you have any further questions. Furthermore, if you would like to visit our premises to see our product and services you would be very welcome.

Yours faithfully,

William Bullen  
Managing Director, Utilita Electricity Limited