

Tabish Khan
Smarter Markets
Ofgem
9 Millbank
London SW1P 3GE

03 February 2012

Dear Tabish,

SUPPORTING EFFECTIVE SWITCHING FOR DOMESTIC CUSTOMERS WITH SMART METERS: FINAL DECISION AND STATUTORY CONSULTATION

I am writing in response to your final decision and statutory consultation, 'Supporting effective switching for domestic customers with smart meters' dated 19 December 2011.

As stated in our response of 17 October 2011, we fully support the intention behind Ofgem's proposals for effective switching and are broadly comfortable with the nature of the proposed obligations.

However, there are two important areas where we do not think the current proposals are feasible:

- (a) The pre-contract requirements, where we do not believe that a sales person or process will be able to assess the detail of ADM functionality and where the only practicable option is a more general warning to the consumer;
- (b) The implementation timetable, where we think we will need until the later of March 2013 and 12 months from final determination of the new obligations, in order to deliver (and use) services to/from other suppliers. If our point on simpler pre-contract advice to customers is accepted, we could deliver that element for June 2012, together with certain other elements of the condition.

The attached note sets out these issues and some other comments in more detail. We should like to request an industry meeting at earliest opportunity to discuss specific requirements in more detail with the Smarter Markets Team and DECC representatives. To make the arrangements, or if you have any other question, please contact me or Iain Matthews, Smart Metering Industry Development Manager, who can be contacted at iain.matthews@scottishpower.com

Yours sincerely,



Rupert Steele
Director of Regulation

SUPPORTING EFFECTIVE SWITCHING FOR DOMESTIC CUSTOMERS WITH SMART METERS

SCOTTISHPOWER COMMENTS ON FINAL DECISION AND STATUTORY CONSULTATION

In broad terms, we agree with Ofgem's proposals, subject to the two matters mentioned in our covering letter. We therefore confine our comments below to those two areas and a small number of further areas where we have outstanding concerns.

Condition 25B.2 – Pre-sale obligations

We are concerned that it is likely to be very difficult to comply fully with this condition in a pre-contract situation as the customer may not know what kind of ADM they may or may not have (and what communications arrangements are in place for it) and therefore it may be difficult to provide accurate information about the loss of functionality.

In such circumstances, the only practicable approach to compliance will be to give the customer a general warning that there could be restrictions and limitations on smart services. We believe that this fully meets the consumer need and accordingly would like to see some such wording as the following added after 25B.2:

25B.2A It shall be considered a sufficient compliance with paragraph 2(a) to (c) if the licensee or Representative, having asked the Domestic Customer in plain and intelligible language whether an Advanced Domestic Meter is installed and received an answer that indicates that this is the case or the customer is unsure, informs the customer that some or all of the services provided by the Advanced Domestic Meter (other than recording the consumption for manual reading) may not work if the customer decides to proceed with the Domestic Supply Contract.

Implementation timescales

Ofgem says it will aim to modify the licences and bring the modifications in to force by 30 June 2012. We consider that this timescale is wholly inadequate given the range and complexity of measures that will need to be taken by suppliers to comply. Even if it were achievable, which we do not believe it to be, the inefficiencies and distraction from such an accelerated implementation would ultimately be detrimental to consumer experience and result in increased costs.

By way of example, some of the more complex issues that will need to be resolved include:

- new industry processes to allow the gaining supplier to discover the identity of the installing supplier and Meter Asset Provider (MAP) where several change of

supplier events have taken place, in order to obtain details of ADM functionality and assess the possibility of any termination fees¹;

- making changes to ECOES (Electricity Central Online Enquiry Service) and SCOGES (Single Centralised Online Gas Enquiry Service) to aid the identification of ADMs;
- upgrading internal systems to meet the new requirements around the sales process – suppliers have invested heavily in automation to ensure compliance with existing Condition 25 obligations, and integration of new processes into these systems will potentially be complex and time consuming;
- decisions by suppliers as to how best to meet the proposed provision of service obligations – this may include consideration of an outsourced service to minimise the level of internal change and investment.

In the first two cases centrally coordinated work will be required to assess and agree the necessary changes, and this may need to be initiated by Ofgem or DECC.

Although we support the objectives behind Ofgem's proposals, enhancing customer experience of the switching process and preventing avoidable meter replacement, we do not see that either objective is so compelling as to justify the costs and disruption of such accelerated timescales.

If our point about a simplified approach to pre-contract disclosure were agreed by Ofgem, we think that the following paragraphs could be implemented by the later of 30 June and 2 months after the final determination of the licence condition:

Paragraphs 2-4
Paragraph 12
Paragraphs 13-14 (but see our question about paragraph 13 below)
Paragraph 15

We think the remaining requirements, which have systems implications and will require industry co-ordination, could be implemented by the later of March 2013 and 12 months from the final determination of the licence condition. These timescales would be subject to review once we have a full understanding of Ofgem and DECC's intentions.

We would also urge Ofgem and DECC to consider their respective requirements and determine whether these be delivered through a single industry change. Such an approach would address the current industry uncertainty when comparing Ofgem's proposed commercial interoperability obligations and DECC's current SMIP implementation plan², which includes a milestone 'Smart Change of Supplier Becomes Standard' around October 2013. While it is still unclear exactly what this milestone involves, it would suggest that delaying the effective date of Ofgem's new licence conditions by 6 to 12 months may still be compatible with DECC's intended timetable.

¹ For example, without such processes, problems could arise when a meter fault occurs necessitating a meter replacement. The gaining supplier needs to know the identity of the MAP in order to request a replacement meter. And if the gaining supplier decides to use a different MAP for the replacement meter, the original MAP needs to know the operating supplier's identity in order to levy a termination fee.

² <http://www.decc.gov.uk/assets/decc/11/tackling-climate-change/smart-meters/3978-smart-meters-imp-programme-delivery-plan.pdf>

A delayed implementation date would allow time to harmonise Ofgem and DECC requirements³. It would also facilitate the earlier and more cost effective delivery of overall measures to ensure the consumer switching process remains smooth and seamless throughout the remainder of the Foundation Stage.

Other issues

Qualifying Date and Calculation of Thresholds

As stated in our October consultation response, we believe Ofgem should consider the merits of defining a “qualifying” date such that, once the requisite industry changes had been implemented, the new obligations would apply only to ADMs installed after that date. By excluding early models of meter whose ADM status is ambiguous, this would simplify the calculation of threshold values and assist with the identification of qualifying ADMs during key industry processes (e.g. Change of Supplier).

We would urge Ofgem to reconsider whether some form of qualifying date could be introduced. Failing that, we note that proposed licence condition 25B.11 gives Ofgem discretion to make further exemptions from condition 25B.9, and we would encourage Ofgem to issue early guidance as to how this discretion might be exercised.

Observations on draft licence conditions

We offer the following detailed comments on the draft licence conditions:

- 25B.10 – The proposed licence condition is inconsistent with the stated policy at paragraph 2.44. We assume that this is a drafting error and that condition 25B.10 should be amended as follows:

“The Installation Licensee is not required to comply with paragraph 9 where it supplies gas to fewer than 250,000 Domestic Customers ~~and~~ [or](#) has installed or arranged to have installed fewer than:
(a) 25,000 Advanced Domestic Meters; ~~or~~ [and](#)
(b) 5,000 Prepayment Advanced Domestic Meters.”

- 25B.3 – Ofgem has chosen not to specify the period for which data should be retained. Given that suppliers must balance this licence obligation to retain data against the Data Protection Act’s prohibition on retaining data for longer than necessary, it would be helpful for Ofgem to specify the required retention period in the licence condition (or, failing that, to issue guidance on this matter).
- 25B.9 – We wonder whether there might be merit in introducing an additional requirement to provide the services on reasonable terms and conditions (including price); this would provide a clearer basis on which to resolve any disputes which might arise.
- 25B.13 – It would help the reader to include a new heading ‘Information provision’ before this paragraph. We also wonder why it is included at all. Most licence conditions rely on the general Information powers in the licence for

³ Eg, Ofgem’s proposed obligations around change of supplier place certain obligations on the Installing Supplier (i.e. the supplier initially responsible for the meter’s installation), whereas DECC has stated a preference for responsibility resting with the ‘Operating Supplier’ (i.e. the supplier contracting with a smart service provider).

monitoring. The exceptions seem to be the revocation or restriction of a licence (where the information provisions are more likely to be effective if in legislation – see section 38(1A) of the Gas Act 1986 – as a revoked licence cannot be enforced) and fuel mix disclosure. The drafting “require or deem necessary or appropriate” also seems unusual compared with other such powers.

Conclusion

In conclusion, we would reiterate our serious concerns about the difficulty of complying with the proposed pre-sale process and practicality and unintended consequences of adopting the exceptionally short implementation timescales proposed in Ofgem’s consultation.

3 February 2012