



To: non-domestic suppliers and their representatives, consumer representatives and other interested parties

Promoting choice and value for all gas and electricity customers

Direct Dial: 020 7901 7061
Email: phil.sumner@ofgem.gov.uk

Date: 5 October 2012

NON-DOMESTIC CUSTOMER BACK-BILLING – UPDATE ON OFGEM’S POSITION

The purpose of this letter is to provide an update on Ofgem’s position on non-domestic back-billing further to our Open Letter, December 2011¹. This letter sets out the developments by the industry to address this issue since then, details of our information request to suppliers on back-billing and our further expectations of the industry in addressing this issue.

Our approach

Following a roundtable meeting held by Ofgem in July 2011, suppliers and their representatives, in conjunction with business consumer groups, developed a set of voluntary standards to address this issue for micro-businesses. In our Open letter, December 2011 we welcomed the development of the voluntary standards² and supported improvements made by suppliers on this issue. However, we considered there should be an aspiration by suppliers to time limit back-bills to one year where the supplier is at fault. We also stated that suppliers should apply the standards to cover their non-domestic customers beyond micro-business.

Recent supplier activity

We note that the majority of suppliers have signed up to the standards since their introduction in April this year. We consider suppliers should not only sign up to the standards, but as importantly, also proactively demonstrate how they are addressing non-domestic back-billing in line with our expectations. We also welcome the moves by individual suppliers and Energy UK to publicise the standards.

We have also seen that more suppliers have made public commitments to move beyond the time limits for back-bills contained in the standards and we welcome these moves. Consumer Focus has published suppliers’ current positions³ and we welcome this approach in providing transparency to consumers on this issue.

¹ <http://www.ofgem.gov.uk/Sustainability/Cp/Ewbc/Documents1/nondombackbillinglettertoERAICOSDec11.pdf>

² <http://www.energy-uk.org.uk/policy/microbusiness-.html>

³ <http://www.consumerfocus.org.uk/policy-research/energy/non-domesticbusiness-energy>

Key findings from the information request

In spring this year, as part of our intended further work in this area stated in our Open Letter, we issued an information request to suppliers to provide, on a sample basis, their back-billing cases for micro-businesses issued during 2011. We asked for a sample of the first 25 cases per month where there was a degree of supplier fault identified, or the total number if number of cases were under 25 per month. We received in excess of 2,700 cases.

Our analysis of responses to the information request highlighted a number of issues.

Suppliers segment their non-domestic customers in a number of different ways with some suppliers treating customers larger than captured under the micro-business definition as micro-businesses.

We asked only for cases where suppliers considered they were at fault. As such, some suppliers indicated they had given further consideration to how they have been dealing with, and recording their cases, in terms of supplier fault.

In the returned information, we noted some significantly large back-bills had been issued during 2011, and that they had gone back a number of years. Nearly 10 per cent were greater than £10,000, and 5 per cent more than five years in duration. A small number of bills (12) were greater than £50,000. However, we also noted that the majority of cases provided were for relatively low values with approximately 60 per cent of the sample cases having values of less than £2,000, and that 30 per cent had a time period of one year or less.

We specifically analysed the financial impact of limiting the time limit for a back bill to one year where a supplier is at fault. To provide a consistent measure across suppliers, the impact was measured against their total non-domestic billing value. While we saw financial impacts on all suppliers in moving to a shorter time period, our analysis of the information from our request does not suggest that any particular supplier or set of suppliers is disproportionately impacted by moving to a limit of one year. For the majority of suppliers the impact was estimated to be considerably less than one per cent of total non-domestic billing value. We have shared our analysis of the specific impact of a one year time limit on each supplier with them individually.

Suppliers have raised concerns about the inaccuracy of meter asset registers and difficulties in dealing with meter issues through meter contracts, as potential barriers to address back-billing. We acknowledge these concerns but consider that suppliers should be looking to manage these risks.

Next steps and our expectations

We continue to consider that the principle of providing a shorter time limit is important in addressing the consumer detriment that we have seen in this area. We welcome the continued moves by suppliers to a shorter time limit for back-bills than those contained in the standards and, where suppliers have not yet done so, we note that they are actively considering this (potentially with a move to a two year limit at this stage). Our aspiration for a time limit of one year, where there is supplier fault, remains but we see the continued movement to shorter time limits as an important step.

Suppliers should also look to move to a consistent period covering both gas and electricity. We also expect to see suppliers applying these approaches to a wider set of non-domestic customers beyond micro-businesses given our Retail Market Review which has highlighted the need for protections to extend beyond the present definition of a micro-business.

We also see the commitments contained in the standards covering consumer and supplier responsibility as important in addressing this issue, and suppliers should have in place, or be developing, communications and systems to ensure that they meet these commitments.

We see suppliers' commitment in the standards to review formally the impact of their actions as an important part of this work. Suppliers should publish the results of this review.

Overall, we would not expect to see back-billing cases which are of the value previously seen or covering long time periods and will actively monitor suppliers' approaches. We therefore intend to carry out a further request for information from suppliers on their back-billing cases which we will issue in 2013. We expect that the publication of information from this request for individual suppliers in an appropriate manner will promote the interests of non-domestic consumers and will consider doing so on this basis.

We will look to convene a further meeting with suppliers to review progress following this and if we see evidence of consumer detriment we will consider the case for further intervention.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Philip Cullum', with a stylized flourish at the end.

Philip Cullum
Partner – Consumer Policy and Insight