

Maxine Frerk
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Ofgem
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London
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5 February 2014

Dear Maxine,

ENFORCING THREE WEEK SWITCHING

Thank you for your open letter of 3 December 2013 outlining Ofgem's proposals to modify SLC14A as a first step towards wider improvements to switching. Our answers to your questions on the proposed licence condition changes are in Annex 1 attached.

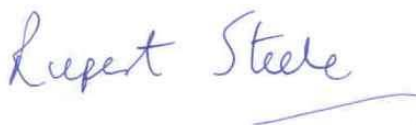
We are fully supportive of recent initiatives to improve the switching process to make it faster and easier for customers to switch, provided that these can be delivered in a way that does not result in greater cost to the customer (either in service experience or financially). We therefore accept the recommendation to introduce an obligation on Suppliers (condition 14A.1) to take all reasonable steps to complete a transfer within three weeks, and agree with Ofgem's view that this should not significantly impact on our current operational objectives and working practices.

Ofgem is also proposing changes to the licence condition to link the relevant date to an agreement between the supplier and the customer to proceed with the switch during the cooling off period. We are comfortable with this amendment on the understanding that there is no intention to create (in conjunction with the amendment to 14A.1) any *obligation* on suppliers to give customers the option to initiate a switch during the cooling off period. Our reading of the proposed amendments is that making such an offer would remain discretionary for suppliers, but we would appreciate confirmation of this.

Finally, we have suggested a minor drafting amendment to the proposed definition of "Relevant Date" to ensure that the definition does not inadvertently create problems for suppliers in complying with the 3 week switching Licence Condition in future.

If you wish to discuss any of the information in our response further, please do not hesitate to contact me or Gareth Williams on 0141 568 3930.

Yours sincerely,



Rupert Steele
Director of Regulation

ENFORCING THREE WEEK SWITCHING

SCOTTISHPOWER RESPONSE

Question 1 – Do you agree with our proposed changes to Standard Licence Condition 14A?

1) Obligation to complete a supplier transfer within three weeks

We agree with Ofgem's recommendation to introduce a direct obligation on suppliers to take all reasonable steps to complete the switch within three weeks. We share Ofgem's view that this does not change the overall intent of the industry requirements and that an impact assessment is not needed in relation to this change.

2) Linking the Relevant Date to an agreement between the supplier and the customer to proceed with the switch

In relation to linking the Relevant Date to an agreement between the supplier and the customer to proceed with the switch during the cooling off period, we support the principle of quicker switching with the aim of giving the customer confidence that their supply transfer has completed, and we note that the proposal to amend the definition of the "Relevant Date" gives suppliers a discretionary opportunity to proceed with the switch during the cooling off period.

From a legal viewpoint, we would stress that suppliers cannot agree to remove the cancellation rights which a customer has under the Distance Selling Regulations (see regulation 25) and the enhanced rights that they will have under the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 (coming into force in June 2014). The customer may decide not to exercise their right to cancel but the customer can also change their mind during the cancellation period and decide to cancel. If the transfer is initiated during the cooling period, it is essential that measures are in place to reverse that transfer if the customer changes their mind, so as to comply with relevant legal requirements.

We would also note that initiating transfers during the cooling off period is not currently permitted under the MRA¹, although there is a modification (CP MRA 210) in progress to remove this clause. This means that it will not be possible to initiate transfers during the cooling off period for electricity or dual fuel accounts before CP MRA 210 is implemented (expected to be on 6 November 2014).

In order to reverse transfers that have been initiated during the cooling off period, industry systems would require the functionality to permit suppliers to carry out a valid cancellation of a registration request. In gas, the confirmation withdrawal process would fulfil this requirement, although the period of time permitted to initiate this request is currently under review. There is no equivalent process for electricity transfers, but this is currently being assessed under proposed changes to the MRA (CP MRA 210 and CP MRA 211) and related introduction of new data flows to the Data Transfer Catalogue.

¹ Clause 15.2 states "Where a Supplier has entered into a contract to supply electricity, the Supplier shall not apply for Registration in respect of that Metering Point until the expiry of any initial period during which the Customer has the right (whether contractual or statutory) to terminate the contract".

We would note that there has been some suggestion that the Erroneous Transfer process could also be used to cancel transfers that had been initiated in the cooling off period². For the reasons set out above, we do not think it will be possible to initiate switches during the cooling off period before 6 November (except for solus gas), and after that date it should be possible to cancel registration requests rather than having to use the ET process. We see this as very important, since routine use of the ET process for this purpose could have significant system and customer service impacts.

3) Proposed change to the definition of Relevant Date

We think the current definition of “Relevant Date” could be problematic in relation to the revised definition of ‘cooling off period’ under the Consumer Rights Directive (CRD). The definition coming into force through the CRD provides for a minimum of 14 calendar days cooling-off, unless the customer has expressly requested early commencement of their energy supply. We would like to suggest a further minor drafting amendment to this definition to ensure that the definition does not inadvertently create problems for suppliers in complying with the 3 week switching Licence Condition in future. We think this drafting amendment would be valid irrespective of whether Ofgem concludes that SLC14A.10(b)(ii) should be changed in line its proposals:

“**Relevant Date**” means:

(a) the day after the day on which a Customer enters into a Contract with a new Gas/ Electricity Supplier; or

(b) if after entering into the Contract there is a period of time within which the Customer may decide not to proceed with the Contract (the “Cooling Off Period”), the earlier of the day after:

- (i) ~~the day after~~ the day on which the Cooling Off Period ends;
- (ii) ~~the day after~~ the day on which the Customer and the Licensee agree that the transfer may proceed during the Cooling Off Period; and
- (iii) 14 days after the day on which the Customer entered into the Contract

Question 2 – Do you agree with proposed implementation timetable?

Ofgem is proposing that the licence modifications will have effect from summer 2014. We are comfortable with the proposed timescale in relation to part one of the Licence Condition changes (obligation to complete a supplier transfer within three weeks). We would note that second modification (to definition of relevant date) is unlikely to have any material impact before November 2014, but on the understanding that the option to agree to transfer during the cooling off period is strictly discretionary for the supplier, we see no problem with this.

ScottishPower
5 February 2014

² Eg Ofgem’s letter ‘Preventing Erroneous Transfers’ suggests that where a customer has provided their express permission to initiate a transfer during the cooling off period, and has subsequently decided to cancel the switch, Ofgem would consider this to be a valid use of the ET process