Meghna Tewari
Senior Economist
Retail Markets Policy
Ofgem
9 Millbank
London
SW1P 3GE

Email to: nondomestic.rollovers@ofgem.gov.uk

11 April 2014

Proposals for non-domestic automatic rollovers and contract renewals

EDF Energy is one of the UK's largest energy companies with activities throughout the energy chain. Our interests include nuclear, coal and gas-fired electricity generation, renewables, and energy supply to end users. We have over five million electricity and gas customer accounts in the UK, including residential and business users.

We agree with the approach taken by Ofgem to improve automatic rollover contracts while not banning them outright. The key issue is not the automatic rollover contract itself, but the use of termination fees within those contracts. Rollover contracts remain very useful for the majority of micro-business customers, in terms of offering a degree of price stability and continuity, as well as reducing commercial risks for suppliers. However, we believe that any automatic rollover product that uses a termination fee should be prohibited, as this has the potential to restrict customer movement.

Both the introduction of notice periods to a maximum of 30 days and acknowledgement of a customer's notice to terminate a contract are good practices that will provide a consistent approach across the non-domestic market.

However, while we appreciate that Ofgem is trying to achieve greater transparency, we do not agree with the proposal to put current and new prices on renewal letters for all products, as well as information on annual consumption. Given the potential for some customers to be subject to variable prices at the end of their current contract there is a risk that price changes may overlap with the communication of renewal letters, which therefore has the potential to inadvertently mislead customers. We are also concerned that putting in place the necessary changes across all of our billing systems by 31 August 2014 would have significant impacts on resources already committed to implementing and embedding changes from other initiatives, such as Quicker Switching and the Energy Efficiency Directive (EED).

Finally, in terms of Ofgem's suggested improvements to suppliers' processes for deemed rates, we believe that an important change to the existing arrangements would be to allow suppliers to object to deemed customer transfers when there is outstanding debt. This would ultimately help to reduce the cost to serve and have a positive impact on prices for deemed customers.

Our detailed responses are set out in the attachment to this letter. Should you wish to discuss any of the issues raised in our response or have any queries, please contact Martin Pearce on 07875 112299, or myself.

I confirm that this letter and its attachment may be published on Ofgem's website.

Yours sincerely,

Paul Delamare
Head of Downstream Policy and Regulation

Attachment

Proposals for non-domestic automatic rollovers and contract renewals

EDF Energy's response to your questions

CHAPTER 2: Automatic rollovers and contract renewals

Question 1: Do you agree with our proposal to reduce the maximum termination notice period to 30 days?

Yes. EDF Energy has no termination notice periods greater than 30 days on any of its products.

Question 2: Do you agree with our proposal to include current prices and annual consumption on contract renewal letters?

Yes, we agree with the principle of providing prices and consumption on renewal letters but only for relevant automatic rollover products. We do not agree with the proposal in all circumstances. Where we do not offer automatic rollover contracts, customers may become subject to variable rates. Under this proposal there is a risk of price changes overlapping with the communication of renewal letters, which therefore has the potential to inadvertently mislead customers.

In these circumstances, when automatic rollover contracts are not considered as an option, we believe that the key information prompting customer action would be: the contract end date, the right to change supplier, clarity on what would happen should they do nothing and contact information to enable contract negotiation. Clarity on prices offered would form part of the contract negotiation including a price quotation, enabling the customer to make an informed decision.

However, we do agree that where automatic rollover contracts are provided price would be a key consideration for prompting customer action. Therefore, we believe that the proposed licence conditions 7A.8 (c) and (d) should be specific to the circumstance in 7A(b) (ii) – i.e. when an automatic rollover contract is provided.

Question 3: Do you agree with our proposal to require suppliers to acknowledge termination notice received from a customer? Do suppliers already do this?

Yes. We already acknowledge in writing where a customer gives notice of termination. However, while in most cases notice is provided within five working days, our experience is that this is not always achievable. We would suggest that 10 working days would provide adequate time to respond to the customer, still giving them notification ahead of their contract end date. This would also be in line with the 10 days allowed in SLC 7A.7 for providing terms and conditions to a micro-business customer for new or extended contracts.

Question 4: Do you agree with our proposed implementation dates?

We have some concerns around the proposed implementation deadline of 31 August. These potential changes would need to run in parallel with other significant changes required on customer and billing systems, for instance around Quicker Switching and the billing articles of the EU Energy Efficiency Directive, both of which need to be implemented by the end of 2014. Therefore, delivering the proposals to include current and renewal prices and annual consumption on renewal letters by August would have further impacts on resources already committed to implementing these other changes. We would therefore ask Ofgem to consider a longer timescale and to push implementation back to early 2015, in order to achieve the changes proposed through this consultation and allowing all other changes to be bedded-in effectively.

Question 5: Do you have views on the proposed amendments to standard licence condition 7A in Appendix 2?

Please refer to our answer to Question 2 above.

CHAPTER 3: Deemed and out-of-contract terms

Question 6: Do you agree that the current licence conditions provide sufficient protection to consumers on deemed contracts?

Yes, as deemed customers have a guarantee of supply with no requirement to engage with the incumbent supplier, and no restriction on transfer. They are also protected as deemed contract terms must not be 'unduly onerous' including ensuring deemed prices are fair under the Standards of Conduct.

The key issue is that suppliers cannot object to deemed customers switching due to outstanding debt. As we apply cost-reflective pricing, this means that deemed rates are higher than they would otherwise be to factor in the debt, and so some customers carry the disproportionate burden of those who generate the high levels of debt (and then leave a property without paying).

Question 7: Do you agree that more consistent use of terms across suppliers would benefit consumers?

We will actively engage with Energy UK on the voluntary industry agreement in order to achieve standard terms for the non-domestic market. We have already made efforts to ensure that our terms and conditions are fair and are communicated effectively and would be willing to sign up to any agreement that is in line with the high standards we have already set ourselves.

In terms of standard terminology, we believe that using the term 'automatic rollover' is not a true reflection of a product that is a useful option and has benefits to many customers. 'Auto-renewal contracts' would be a more appropriate term. Equally, we would be reluctant to use the term 'out of contract' (as used in the consultation document). The requirement to supply as the incumbent supplier means we have terms and conditions that we must meet until the customer has made a choice to sign a contract with us or with another supplier.

Question 8: Should suppliers be able to object to the transfer of a deemed consumer with outstanding debt?

Yes, as stated in our answer to Question 6. The inability to object to the transfer of a deemed customer for reasons of outstanding debt creates a cost that falls disproportionately on those deemed customers who do not accumulate debt.
This change would also bring the non-domestic market in line with the domestic market where such a debt protection exists.

CHAPTER 4: Options we considered

Question 9: Do you consider there are any other options we have not considered?

The key issue is not the automatic rollover contract itself, but the use of termination fees within those contracts. Therefore, we believe that the best solution for customers is to prohibit the use of any termination fee on auto-rollover products (fixed or variable).

In choosing these products, customers have, by definition, expressed a preference for price security, but if they miss their renewal window the threat of termination fees may restrict their movement to other products.

We believe that our solution for fixed product customers, Easy Fix, offers them the best of both worlds: no termination fees and the freedom to switch, plus the security of a fixed price whilst they choose. This is why for NewStart (our product for new businesses) customers, we move these customers onto Freedom For Business (our variable price tariff with no termination fees) as we believe this better reflects the needs of this type of customer. We therefore welcome that Ofgem has referenced the Easy Fix product in the consultation and that it does not wish to inhibit choice of such options for business customers.

Question 10: Do you agree that we should not ban automatic rollover contracts?

We agree with Ofgem's conclusion that automatic rollover contracts should not be banned outright. However, we do believe that Ofgem should prohibit the use of auto rollover contracts where termination fees are used. This is because the threat of termination fees may restrict a customer from moving to a different product where they have missed their renewal window.

Automatic rollover contracts remain an important option for the majority of micro-business customers, offering a degree of price stability and continuity, as well as reducing commercial risks for suppliers. Banning auto rollover products altogether risks customers being put on variable tariffs, which could potentially be at a higher rate if the customer is put onto extended supply prices. It would also result in the customer losing the price certainty that they have expressed a desire for, as reflected in their choice of product.

It is worth noting that in the month following the launch in October 2013 of our Easy Fix product (our auto rollover product that has no termination fees), we saw only two complaints related to 'contract renewals'. In the same period a year before, where customers rolled over on to a product with termination fees, we received 19 complaints related to 'contract renewals'.

Question 11: Can you estimate the potential costs and benefits (in £) of our preferred options? Please consider the initial implementation and ongoing costs where possible.

Given that we already send out written acknowledgement to customers who give us termination notice, and that we require no greater notice than 30 days, there is no incremental cost to deliver either of these options.

In circumstances where it is appropriate (see our answer to Question 2) the incremental costs for including previous prices and estimated consumption on the renewal letter are negligible. However, as stated in our answer to Question 4, implementing these changes across all of our billing systems by the end of August would have further impacts on resources already committed to delivering changes required by other initiatives. We would therefore ask Ofgem to consider a longer timescale than 31 August 2014 to achieve the changes proposed through this consultation and have suggested early 2015.

Question 12 Are there any other impacts we have not identified?

EDF Energy has no further comments.

EDF Energy
April 2014