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Ofgem
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11th April 2014

Energy UK Response: Ofgem's proposals for non-domestic automatic rollovers and contract renewals

Dear Meghna,

I am pleased to attach Energy UK's response to Ofgem's consultation.

If you have any questions, please do not hesitate to contact me on 020 7747 2963 or daisy.cross@energy-uk.org.uk

Yours sincerely,

Daisy Cross
Policy and External Relations Executive

Ofgem's proposals for non-domestic automatic rollovers and contract renewals

Energy UK response

11 April 2014

Introduction

Energy UK is the trade association for the energy industry. We represent over 80 members made up of generators and gas and electricity suppliers of all kinds and sizes as well as other businesses operating in the energy industry. Together our members generate more than 90 per cent of the UK's total electricity output, supplying more than 26 million homes and investing in 2012 more than £11 billion in the British economy.

This is a high-level industry view; Energy UK's members may hold different views on particular issues. We would be happy to discuss any of the points made in further detail with Ofgem or any other interested party if this is considered to be beneficial.

Executive summary

Energy UK welcomes the opportunity to respond to this consultation, and is supportive of Ofgem in its aim to promote consumer engagement, encouraging business customers to effectively manage their energy contracts and actively seek out the best deals in the market. Our Micro Business Group meets regularly to share best practice in the treatment of micro business customers, and to explore measures which will lead them to become more active in their approach to energy management. We are pleased that Ofgem regularly and constructively engages with this group.

Energy UK's members are committed to delivering improvements for non-domestic customers, with a particular focus on micro business customers. Energy UK wishes to highlight the progress it has already made in improving contracts, communications and the renewals process for micro business customers, such as through its work at the DECC and No.10 SME Energy Working Group. The government's communiqué setting out member commitments is attached to this response (Annex A).

As you are aware most of our members stopped offering contracts with a rollover clause to new customers from 1st April, instead offering variable or fixed price products that allow the customer to switch away at the end of the agreed period by giving short notice and without incurring any exit or termination fees.

Those suppliers who still offer auto rollover contracts have committed to improving their processes to make them fairer and more transparent for those consumers who choose this option – for example by removing termination fees or sending renewal letters by recorded delivery - while others are offering these contracts on an 'opt in-only' basis.

Responses to individual consultation questions

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

Energy UK is supportive of this move which, as acknowledged in Ofgem's consultation, our Members are in the process of initiating.

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

Member views differ on this point, and suppliers will express these through their individual responses to this consultation.

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

Energy UK is supportive of this proposal and, through the work of the No.10 Small Business Energy Working Group, Energy UK members have already agreed to confirm in writing to micro business customers that they have acknowledged the customers' notice to terminate.

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

Members have major concerns around the proposed implementation deadline of 31st August. Suppliers are already running a series of significant changes throughout their customer and billing systems - including modifications associated with quicker switching and RMR proposals - and will be required to implement changes in line with incoming European legislation through the Energy Efficiency Directive.

Energy UK calls for Ofgem to revise its implementation date to take account of individual supplier constraints. These constraints and appropriate implementation timeline can only be assessed once final proposals are known.

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

Ofgem has communicated in the past that suppliers may be exempt from applying SLC7A.8 and SLC7A.10 to contracts which are for a fixed period, but which do not contain a rollover clause. Given the extension of the micro business definition and the proposed revisions here, Energy UK would appreciate clarity from Ofgem on its current position.

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

Energy UK agrees with Ofgem's assertion that customers on deemed contracts already have sufficient protection under existing licence conditions. Deemed customers have no obligation or requirement to engage with the supplier and have no restriction on transfer. They are also protected from unjustified higher prices as terms must not be 'unduly onerous'.

In offering different types of products suppliers take account of the costs and risks inherent in those products. This means that deemed customers carry the cost burden of those who generate the high levels of debt (and then leave a property without paying), rather than the majority of customers who are in a contract.

More broadly, Standards of Conduct will offer Ofgem extensive scope for acting where it feels a supplier's actions or omissions give rise to a likelihood of detriment as, under SLC 7.B, deemed 'charges' are subject to the principle of fairness under Standards of Conduct.

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

Energy UK has initiated work on developing common terminology in both the domestic and non-domestic sectors, and welcomes the contribution of relevant stakeholders.

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

Member views differ on this point, and suppliers will express these through their individual responses to this consultation.

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

Energy UK has no comment. Members will respond with their own views.

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

Suppliers aim to cater to the differing needs of their customers through their services and products. Reflecting this, our members have taken different approaches when designing their products and contracts, and their responses to this question will vary accordingly. Members will respond individually with their own views.

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.

Energy UK members will respond with their own views.

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

Energy UK members may respond with their own views.

Annex A

Small Business Energy Working Group Communique

Small and micro businesses are the backbone of Britain's economy and deserve a fairer and more transparent energy market that will help them ensure they are getting the best energy deal.

The Small Business Energy Working Group was convened by Number 10 and the Department for Energy and Climate Change to ensure that micro business consumers can benefit from a market that is fair and transparent.

The members of the Group, including Energy UK, the Federation of Small Businesses, the Forum for Private Business, Consumer Futures, Ofgem, and energy supplier and third party intermediary representatives, have made significant progress to address the key issues of concern to micro businesses, such as back-billing, auto roll-overs and introduction of new contract continuation processes, and the need for increased clarity and transparency of communications.

The Group contributed to the development of the work of Energy UK, British Gas, EDF Energy, E.ON, First Utility, Good Energy, npower, Opus Energy, Scottish Power and SSE and as a result, the Group endorses the following commitments made by those suppliers:

Making the back-billing process fairer by:

- Bringing forward the date at which suppliers will limit back bills for micro business customers to one year where the supplier is at fault. This means that many consumers will feel the benefit of this agreement either by the end of 2013 or as soon as practicably possible in 2014¹.
- Improving options for repaying a back bill by agreeing to take into account the individual circumstances of the customer and offering the customer repayment options that reflect those circumstances.
- Recognising where energy bills may only be part a wider debt issue that the micro business consumer is facing and referring them, where appropriate, to an independent third party advice organisation (such as the Business Debt Line).

Improving transparency and clarity of communications by:

- Producing a factsheet that sets out the termination process in full. This will be sent or signposted to the customer when a customer first signs up to a supply

¹ Three suppliers have indicated that, due to system change and data issues, they will not be able to limit back billing to one year until the end of 2014.

contract, and when they are sent a renewal notice at least 60 days before their contract ends. The factsheet will include all the options open to micro business customers at renewal and key dates.

- Simplifying the termination process by agreeing that written notice to terminate a contract at its end date can be received any time before a common Relevant Date (30 days before a contract is due to end²), thereby ending the use of termination windows.
- Improving the clarity and transparency of information provided on termination by writing to micro business customers at least 30 days before the Relevant Date to remind them that the contract will end soon³.
- Establishing an Industry Steering Group to develop standard information and common language for supplier communications.
- Exploring improving the switching process for micro business consumers via Ofgem's Change of Supplier Expert Group (COSEG).

Ending or improving the practice of rollover contracts:

As a result of concerns voiced by parts of the micro business community about the practice of automatically continuing contracts after the end of the contract term, some suppliers have already announced they will be stopping this practice. These suppliers will:

- Offer variable or fixed price products that allow the customer to switch away at short notice without incurring any exit or termination fees.
- Introduce these new contract continuation processes for all new customers from April 2014, and to existing customers shortly after.

However, it is recognised that there may be demand amongst some micro businesses for the ease of an automatic contract continuation. Some independent suppliers also find that automatic fixed term contract continuations can provide a stable profit base on which to raise credit for trading.

Some suppliers have, therefore, decided to continue offering their customers this option and have committed to improving their processes to make them fairer and more transparent for those consumers who choose this option.

To address customer demand, some suppliers are also considering offering automatic contract continuations on an "opt in - only" basis, or without an exit fee.

² One independent supplier proposes to remain at 60 days in line with current practices.

³ In line with suppliers licence conditions following the package of reforms set out in Ofgem's RMR.

The Group also acknowledged that Ofgem is reviewing auto-rollovers to ensure a balance between eradicating unfair or unattractive practices from the market and maintaining consumer choice and Ofgem plans to publish a consultation in early 2014.

Role of Third Party Intermediaries [TPIs] in non-domestic market

In addition to the commitments made by suppliers to improve the experience of micro and small business consumers, the Working Group also identified that TPIs have an important role to play in the non-domestic market and wished to ensure that all TPIs act in a fair and responsible way. In order to achieve this, the Working Group supports Ofgem recently gaining new powers under the Business Protections from Misleading Marketing Regulations, as well as advocating the introduction of a compulsory, independently monitored Code of Practice for TPIs operating in the non-domestic market.

Ofgem has developed a draft Code of Practice following a series of stakeholder working group sessions. The minutes of these working groups, the draft Code of Practice and a factsheet for consumers are available on the Ofgem website. Whilst the content of this code is at a draft stage it reflects the high level principles that Ofgem expects TPIs to follow in offering a high standard of service to their current and prospective customers. An Ofgem consultation is planned in early 2014.

Future of the Working Group

The Working Group will continue to look at ways for improving the transparency and fairness of the energy markets for small businesses, maintaining a forum where new issues can be raised and discussed constructively. Future areas for discussion already identified include the publication of tariffs for micro/small businesses and TPIs. The Group is also committed to exploring innovative new tariff arrangements for micro/small businesses – such as evergreen tariffs.