



**Dennis Berg
Ofgem
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Protecting consumers who receive backbills

Flow Energy agree that backbilling can be a significant cause of customer detriment and as such adhere to Energy UK's Billing Code to try and mitigate any potential harm.

Whilst we accept that there may be room to reform and simplify the existing Backbilling code, we do not believe that making it a licence condition is required or appropriate. The proposed condition is highly prescriptive and while we accept that prescriptive regulations will always be required, in this case a narrow principle that includes a requirement to follow the Backbilling code, would deliver the desired result.

One of the main reasons for the move to PBR is to allow innovation as licence conditions are inherently inflexible and difficult to modify once encoded. The evolving nature of the existing Back-billing code highlights the need for flexibility and adaptability within these rules.

Beyond the potential impacts on future innovations, we have concerns about the unintended consequences of the proposed conditions that would be hard to change once implemented.

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Question 1: Do you agree with our assessment of consumer harm? Both for domestic & microbusiness consumers?

Whilst we agree that back-billing can cause harm if applied without restriction, we do believe that the harm can be mitigated by all suppliers correctly following the existing billing code.

Question 2: Do you agree with the way we are proposing to implement a back billing limit and the other effects of our proposed licence modification?

Flow Energy's main concern with Ofgem's Backbilling proposals, is with the potential for suppliers having to write off charges due to an inability to gain reads despite taking all reasonable steps and without purposeful obstructive behaviour from the customer.

Suppliers have multiple incentives both regulatory and commercially to gain accurate meter reads. This is particularly true if a site is approaching 12 months without a validated read. However, despite suppliers taking all reasonable steps to do so, it is not always possible.

The proposed rules are based on the assumption that re-bills due to lack of reads are solely due to the supplier not trying to get reads or that obtaining reads will immediately correct issues. While this approach may simplify the back-billing rules substantially it is overly simplistic, ignoring the time and resource it can take to resolve issues and ultimately it may be counter-productive.

In the majority of cases when suppliers fail to get a read it is not due to purposeful obstruction by the customer. More common causes will be due to the practicalities of a customer being able to provide access or the meter being inaccessible. For example, situations where meter cupboard keys being held by a landlord or building management company or when a customer is not home when a meter reader calls.

In situations such as this the ability to read the meter is out of the suppliers control. While customers are not being obstructive in the manner suggested in Ofgem's draft legislation, they are the only route to gaining access to the meter.

Under the proposed rules, the cases where an account may need to be re-billed for more than a 12-month period due to a lack of reads, a large number will fall into a situation where the supplier has followed all possible routes but has failed due to inaction by the customer rather than wilful obstruction.

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Due to these issues the proposed rules could end up costing suppliers considerably more than the current voluntary code. As with all increases in cost, it will ultimately be passed on to the customer, effectively socialising the burden of a few customers inaction among all customers.

Assuming the decision to include Back-billing in the licence is taken, as an alternative, we would like to have in place clear rules regarding what is considered reasonable steps that a supplier should take, detailing those circumstances where a supplier has attempted to gain access but has been unable to due to no fault of the supplier or the customer.

Question 3: Do you agree with our assessment of the costs to suppliers?

Flow Energy believe that although implementation may be low cost, for the reasons mentioned above the longer term financial impact could be significantly higher than under the current back-billing code.

Question 4: Do you agree with the proposed implementation period?

We are concerned with the decision to move directly from an Open Letter to a Statutory Consultation.

Back-billing is an important and complex subject, both in its implementation and its potential consequences on customers and suppliers. Taking the step of encoding it in the license as quickly as has been proposed risks potential consequences that could have been mitigated with a longer period of industry and consumer body input.

Should you have any questions relating to our response, please do not hesitate to contact me.

Yours sincerely,

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