Anna Stacey,
Consumers & Markets,
Ofgem,
10 South Colonnade,
Canary Wharf,
London,
E14 4PU

13th August 2018

Dear Anna,

Consultation on Access to Half-Hourly electricity data for settlement purposes

Thank you for the invitation to respond to the above consultation. Bristol Energy is an independent supplier of electricity and gas with a business model that has a regional focus on the South West of England, although we supply customers across Great Britain. We have a mission to fight fuel poverty and be a force for social good.

Executive Summary

Bristol Energy welcomes Ofgem's review of access to HH data for settlement purposes. The energy market is in a period of substantial change and access to usage data, something taken for granted by other industries like telecoms is fundamental to designing a new energy market fit for the future, for the benefit of all consumers whether active or not.

We support Ofgem's view that the current status quo would not deliver meaningful uptake of HH settlements and would lead to significant amount of customer usage being estimated. We believe that Ofgem should go further and progress option 3 to allow the system to be properly balanced and facilitate more effective purchasing of power by energy suppliers. We firmly believe that without sectorial regulation, suppliers would be able to access to HH metering data for settlements as a legitimate interest under current data protection law to ensure efficient purchasing.

As the market moves forward and innovations linked to data access, and some that are not, combined with Ofgem's stated view that the supplier hub principle is no longer fit for purpose, then forecasting consumer demand is going to become harder as customers will no longer follow the standard profile. To this end we believe it is imperative that Ofgem include within its definition of settlements, demand (and export) forecasting for the purpose of efficient energy purchasing. Aggregated data of the granularity suggested will be insufficient because of the different customers will need to be aggregated to match customer characteristics and usage patterns, and recognition to a future market where energy suppliers (licensed and beyond) will be more niche in their market segment.

Finally, we do not support the proposals for enhance privacy options as they add cost and complexity, are difficult to explain convincingly to consumers, and inhibit suppliers ability to validate their purchases against metered data.

We have answered your specific questions below, expanding our response as necessary.

Q1. What are your views on Ofgem's assessment of the implications of the options we have set out for access to HH electricity consumption data for settlement?

We concur with Ofgem's view that option 1 will not deliver sufficient number of sites being settled using real HH data. At present it is not clear what proportion of customers will refuse a smart meter, and thus the opt-in cohort will be a sub-set of a sub-set and may result in less than 50% of sites actually being settled Half-Hourly. This is turn will also reduce the accuracy of any profiling, especially if the sites opting for HH settlement are different in profile to those not opting in.

Option 1 will also be costly to administer as opt-in will need to be renewed on all Change of tenancies and Change of supplier to the extent that suppliers will be disincentivised to get opt-in consent unless the customer wants particularly complex tariffs.

Option 2 where customers have an opt out is likely to increase the number of customers settled on a HH basis, but again will be a sub-set of those who have a smart meter, which in itself is a sub-set of all sites. Whilst this may seem a pragmatic solution, as a compromise between requiring the data and customers rights to control their data. We feel this is a false perception. Most customers will understand that if suppliers purchase electricity for them on a Half-hour by Half-Hour basis, then it is not unreasonable for a supplier to have access to that data to settle its purchases on their behalf efficiently. We also share Ofgem concerns about some sites opting out because it will ensure their high peak usage gets averaged via profiling.

We also believe this arrangement will be difficult to communicate to customers alongside a billing and marketing which will be opt-in rather than opt-out.

Option 3 is in our view the most practical option. This will deliver the most efficient solution to ensuring suppliers are correctly purchasing what their customers are using. The legal obligation highlighted for option 2 plays equally well here. We do not believe that allowing mandatory access to HH data for settlement purposes will make any significant difference to the take-up of smart meters as long as it is properly communicated by suppliers and the restrictions around it.

Option 4a and 4b, seem to us to be overly complex to deliver and communicate and will increase costs. We are also unconvinced that that anonymisation or hidden identity will in any way ease customers fears about abuse of data and may in fact increase concern about data abuse because such efforts are being made to do it.

As a supplier we also have a concern about how we would validate the data and do root cause analysis should we find a sudden change or spike in our level of customer usage. There would therefore have to be a disputes mechanism with the party responsible for anonymising the data.

Q2. Do you agree with Ofgem's current view that the best balance could be achieved by a legal obligation to process HH electricity consumption data for settlement provided the consumer has not opted out, and if so, why? If you have a different view, please explain which option you would prefer and the reason for this.

We share Ofgem's view that option 2 is preferable to option 1 but feel this still falls short of delivering market wide HH settlement and believe option 3 is a better approach. If the Government did not have the Data Access and Privacy Framework in place, then suppliers would rightly have a legal basis for accessing Half-Hourly consumption data in order to settle their energy positions with industry which is also done on a HH basis and would not need to offer an opt out.

It is worth noting that by making the settlement system more efficient and cost reflective, all customers will benefit whether they share their HH data or not, thus those not sharing their data will get a benefit they have not contributed to.

We also believe that if suppliers had access to all HH data for settlement purposes, then customers are more likely to opt in for other purposes as they know their supplier has the data anyway. This means a greater number of customers could be offered innovative tariffs which could reduce their costs, especially fuel poor customers who could save money by making behavioural changes to their usage which currently suppliers cannot deliver.

Option 3 would be the most cost-effective option from an administrative point of view as suppliers would no longer need to process opt-out request from customers on change of supplier or tenancy. This is an additional cost saving that could be passed through to customers.

Finally, Ofgem's future insight work also makes a persuasive case for access to HH data to deliver better solutions for customers. The future energy market is looking at various innovations which deliver a more flexible and dynamic market, some of which would require mandatory HH settlement. If Ofgem chooses to proceed with Option 2, then it may create a barrier to certain innovations coming forward, or at the very least create a two-tier market where those who share gain and those that opt-out are poorly served in comparison. If Ofgem proceeds with option 3 then this potential barrier is reduced.

Q3. There is a risk that consumers who use particularly high volumes of electricity at peak could choose not to be HH settled and therefore disproportionately increase energy system costs, which would then be shared by all consumers. Do you have a view on whether or how we should address this issue?

We believe this risk is real and likely to increase as greater numbers of electric vehicles come into existence. Even if suppliers receive this data for settlement purposes through option 3, then they would not be able to use it to market a more appropriate tariff to the consumer but would be able to purchase energy more effectively for those customers with high peak demand, rather than it being spread across all consumers in the market as a profiling error, (although this assumes that suppliers can use the HH data for forecasting).

Suppliers would also get a better insight into the use of electricity by customers with electric vehicles or heat pumps and whilst they could not pro-actively market to these customers, they could design tariffs to entice such customers onto more suitable tariffs if they are able to change their behaviour.

Therefore, we believe this issue is best resolved by choosing option 3, and ensuring the definition of settlements encompasses forecasting.

Q4. What are your views on potential enhanced privacy options?

We are not supportive of either pseudonymisation or anonymisation as we feel they will be difficult to explain to consumers and not provide the comfort they seek especially as an industry party will still need to see and process the data to validate it before it is anonymised or pseudonymised. We also believe it adds to the costs of the settlement process that will need to be passed onto customers.

As a supplier, we would also be concerned about the loss of our ability to validate the data, not least the ability to reconcile HH data against register reads. From a supplier's perspective, it is important that sales (using register reads) match purchases (HH data), and whilst we would not expect to do this routinely for every MPAN, it does allow us, if we find a discrepancy at a high level to drill down into the data to establish the cause. This creates a risk to the business, which in turn would be passed onto customers as a risk premium in prices.

We also note that the DWG has not considered anonymisation/pseudonymisation processes in the design of the TOMs and if Ofgem does decide to take this work further, then the DWG should be asked to review the TOMs in light of this additional process requirements as it may make some TOMs unworkable or create new TOMs for consideration.

Q5. If we decide to further consider the hidden identity option, do you think data from all consumers should be pseudonymised or only data from consumers who have not chosen to share their HH data for settlements?

From an efficiency point of view, and dependant on which TOM is progressed then it may be preferable to pseudonymise all data for the purposes of progressing it through the various settlement stages. However, this should not prevent suppliers receiving MPAN related HH data where a customer has consented to share their data for settlements. This would allow a basic high-level of validation, although would not allow a supplier to identify the cause of any discrepancy.

If the process only covered data for customers who had not opted to share, then two sets of data would have to be merged, and there would need to be a robust process for ensuring that an MPAN could not accidentally be included (or excluded) in the pseudonymised data set, if a customer changed their consent and their data was included/excluded in the non-pseudonymised data as well.

Q6. Please provide any information you can about the likely costs and benefits of these options?

At this stage it is difficult to quantify the likely costs and benefits, not least because it is currently unclear what proportion of customers would require hidden identity. Nevertheless, the areas of extra costs would be the anonymisation/pseudonymisation process, more complex validation of data processes and disputes management and if optional, cost of maintaining customer consent and managing changes to consent, particularly on Chane of Supplier or Tenancy. Some of these costs will potentially increase on the implementation of the new switching arrangements, which provide for faster and potentially more frequent switching.

Q7. Do you think that there should be a legal obligation to process HH data from all smart and advanced metered microbusiness customers for settlement purposes only? If you disagree, please explain why.

We support this proposal, just as we support option 3 for domestic customers. Mandatory Market wide HH settlement has the potential to deliver benefits to all electricity system users including microbusinesses and thus the arguments that we have put forward for option 3 in our answer to Question 2 apply here. In addition, identifying Microbusinesses as a subset of SMEs has always been difficult for supplier particularly those that are growing businesses, and requiring all business customers to be HH settled would make this easier. As Ofgem states this will not affect a microbusinesses options regarding billing or marketing, although may encourage more microbusinesses to share their data to get better deals if they know their supplier has access to their data for settlement purposes anyway.

Q8. Are there any issues relating to access to data from microbusinesses that you think Ofgem should be aware of?

Assuming that any microbusiness that has refused a Smart or advanced meter, and thus HH data is not available would be profiled using register reads then we do not foresee difficulties. Some advanced meters do have connectivity issues, and in some cases, there are contractual issues where the customer has appointed

their own Data retrieval service, but suppliers should be able to resolve these via changing the customers Terms and Conditions in line with Ofgem's decision.

Q9. We propose that domestic and microbusiness consumers retain the level of control over sharing their HH electricity consumption data that was communicated to them at the point at which they accepted a smart or advanced meter, until the point at which the consumer decides to change electricity contract. Do you agree with this approach?

We do not agree with this approach as it places a restriction on a supplier's right to unilaterally change the terms and conditions of evergreen contracts for data access in perpetuity. We would support this option for customers on fixed term contracts, where the customer needs to sign a new contract, or where a customer seeks a new contract with a different supplier. However, suppliers should be allowed to change their evergreen terms and conditions in line with the rules on unilateral variations laid down in the licence.

Q10 What are your views on Ofgem's proposal to make aggregated HH electricity consumption data broken down by supplier, GSP Group, and metering system categorisation available for forecasting?

As stated above, we believe under GDPR that a supplier can access and use the HH data for a customer for forecasting as a legitimate interest as we have to purchase ahead for their consumption and as such Ofgem is proposing a restriction above and beyond data protection regulations.

As Ofgem states, the more accurate suppliers can forecast their customers usage, the more efficiently they can operate the electricity system and keep customer prices down. In this chapter of the consultation Ofgem has failed to set out why it believes a supplier should not receive HH data for a site even if it receives it for settlement purposes as in our view forecasting demand is part and partial of operating settlements efficiently. Allowing suppliers access to HH data so that they can aggregate as they see fit to optimise their purchases, does not infringe on a customer's right not to have their data used for billing or marketing purposes.

Currently a supplier can accurately forecast an individual customer's purchase requirement based on their EAC, profile class and forecasted temperature data as it knows how they will be profiled. Once a customer is settled on HH data, then suppliers can no longer profile the customer for purchasing as they will no longer be settled on an average profile which the supplier has access to, therefore by moving settlements to actual HH data whilst denying suppliers access to the data for forecasting makes the job of forecasting demand for customers and purchasing efficiently harder than it is currently.

For example, currently if there is a significant power outage resulting in a loss of supply for customers in a particular area, then in the current profiling arrangements this outage will not be registered for the hours concerned and the reduced consumption will be smeared over the customers consumption between the dates between the previous and future register read. Therefore, a supplier does not need to take it into account. However, in future if the customers are settled HH, then the customers settlement position in the HH it is off supply will be zero rather than been smeared. If a supplier cannot forecast what the affected customers would have been using, then they cannot adjust their purchase position accurately.

Ofgem should also consider the future market where some customers will have electric vehicles, heat pumps and storage, and as such the traditional "average profile" will disappear and a new set of profiles based on different usage patterns as will the traditional role of a supplier under the supplier hub model.

We therefore believe that Ofgem should include "forecasting for the purpose of efficient purchasing" within the

definition of settlements. Using customer data for forecasting for other purposes would of course be subject to opt-in consent.

Q11. Is there any additional data beyond this aggregated data that you consider suppliers need for forecasting?

In a competitive market which supplies an essential service to consumers, then suppliers need to ensure their purchasing accuracy is at least as good as its rivals or face having to compete with higher costs. To aid this, suppliers need to be able to aggregate their customers as they see fit based on characteristics pertinent to the market they serve. For some this will be about segregating suppliers according to which white label supplier they are with, or demand side aggregator they are contracted with. For others it will be about which consumers have EV's, storage, solar panels or heat pumps, and potentially the thermal efficiency of the properties. It is also possible that occupancy profiles will play a role as well. (e.g. Working couple, or young family). Energy usage is diversifying, and the typical energy profile is diminishing, and suppliers need to understand the impact of different customer profiles on their purchasing requirements.

Q12. Our analysis suggests that HH export data reveals less about a consumer and is therefore likely to be of less concern to consumers than HH electricity consumption data. Do you agree?

Whilst we accept Ofgem's view we also agree that it remain personal data and as such the customer should expect their export data to be treated with the same level of care and protection as their import data. The level of harm only comes into play where the data is accessed and used for purposes it was not provided for and compensations and fines based on the level of customer detriment.

Q13. Do you consider that any additional regulatory clarity may be needed with respect to the legal basis for processing HH export data from smart and advanced meters for settlements?

We believe that the legal basis for export data should be the same as import data, and thus any legal basis should refer to HH data, which can be import or export.

Q14. Do you have any thoughts on the monitoring/auditing environment for the use of HH data for settlement purposes?

Suppliers and their agents routinely collect, store and processes personal data from consumers. Some of this data is classified as sensitive data under data protection regulation, such as bank account details, debt issues and personal health issues of customers on their Priority Services Register. All of these data items are shared by customers and suppliers have in place security and data protection regimes to protect the data. HH consumption data in addition is covered by requirements in place under the SEC in terms of security, and larger suppliers also need to comply with the Network and Information systems regulations 2018. There is therefore already a complex web of rules that suppliers have to comply with irrespective of what rules Ofgem proposes in this area.

This being the case, and the risk of double jeopardy of both Ofgem and the ICO regulating this space we do not believe Ofgem has any additional monitoring needs in this area, given all suppliers will have issued a privacy notice for customers detailing how they protect their personal data. At most Ofgem should require suppliers to have a specific reference to HH data in their privacy notice.

Q15. Do you have any additional thoughts or questions about the content of the DPIA?

We have no further considerations on the DPIA.

I hope you find this response useful. If you have any queries, please do not hesitate to contact me.

Kind regards,

Chris Welby
Head of Regulation