

## Switching Compensation Guaranteed Standards Phase 2 Workgroup– Session 7

From: James Hardy

Date: 17 June 2019

Time: 11:00 – 16:00

Location: Ofgem’s Offices,  
10 South Colonnade,  
Canary Wharf, E14 4PU

### 1. Introduction and Attendees

James Crump, Ofgem (Chair)  
James Hardy, Ofgem  
Andy Baugh, NPower  
Sam Arnold, Green Network Energy  
Iona Penman, Energy UK

Sarah-Jane Russell, British Gas  
Gregory Mackenzie, British Gas  
Joe Clark-McGhee, Octopus  
Mark Hatton, EDF Energy

1.1. Numerous group members dialed in to the Webex session. No rollcall was taken of group members joining by phone. However, the group included representatives of 10-15 organisations of varying types in person and on the phone. In the text below, we have not differentiated between contributions from members attending in person and remotely.

1.2. James Crump (JC), as Chair, opened the meeting and welcomed attendees. JC explained that this session was intended to be the last meeting of the workgroup following the productive previous session.

1.3. JC noted that the aim of this seventh session was to agree a position which would allow Ofgem to feed the group’s views on a distribution and methodology for compensation into the preparation of a second Statutory Instrument (SI).

1.4. The group were asked if they had any comments on the minutes from workgroup session six. JC noted that none had been received via email. One group member noted that the tone of the minutes suggested that the group had already come to a decision about the direction of the group’s work. JC noted that the intention of the minutes was

to reflect the discussion that took place at the meeting itself. There were no further comments on the minutes from session six, and JC informed the group that the minutes were approved and would be published.

- 1.5. JC noted that Ofgem are still receiving many requests for assistance on the Phase 1 implementation. Ofgem had contacted suppliers on its most up-to-date contact list with information on the reporting requirements. These requirements would not change ahead of the RfI.
- 1.6. A group member asked whether the Guaranteed Standards relating to erroneous switches (Guaranteed Standards B, D and A1 in the initial consultation) apply when a customer is erroneously switched to a non-domestic supplier. JC explained that the SI is drafted so that the Guaranteed Standard relates to the customer, not the supplier. Therefore, a non-domestic supplier is still responsible for returning the customer to the correct supplier, and the Guaranteed Standard (and requirement for compensation) still applies.
- 1.7. One group member raised a concern that a service error on recent erroneous switch data flows will have impacted them, and their reporting. Other group members said they has also experienced a service error. Members wanted to know how, as a third party error, this will impact reporting. JC noted that in most cases this kind of activity should be captured by an exclusion allowing that no compensation payment is due if a delay is caused by a circumstance genuinely outside of the supplier's control.
- 1.8. JC reminded the group of the outcomes of the previous session, where distributions of compensation were proposed by those in attendance. For Guaranteed Standard A (delayed switches) and C (responsibility for erroneous switches) the responsibility for compensation would be incurred by the Gaining Supplier, whilst for Guaranteed Standard E (delays it issuance of final bills) the cost will be incurred by the Losing Supplier. JC explained that the aim of this session was to discuss whether the group

still agrees with the distribution and to discuss how Ofgem/the group can draft the SI to ensure that compensation is paid by the parties who are responsible for detriment caused.

1.9. JC noted that not all stakeholders attended the previous meeting, and since then some stakeholders have contacted Ofgem with concerns about the distributions proposed at that session. Therefore, it would be useful to discuss further in this session whether the group still agrees with the conclusions from the previous session. JC said the group should aim to get closure where possible and address the new concerns that have been raised.

1.10. JC confirmed to the group that following the conclusion of the workgroup, a policy consultation will run alongside the SI consultation during the summer.

## **2. Conclusions from Previous Workgroup Sessions**

2.1. JC explained that the purpose of this session was to look at the discussions the group have previously had, and to identify where there is agreement. JC summarised the two possible models for distributing compensation discussed at the last session. These were a 'blanket implementation of responsibility' model (where the same party or parties are deemed to be responsible for all delays or ETs), or where responsibility, and ultimately compensation paid, is determined on a case-by-case basis using a process map.

2.2. JC reminded the group that the view that was agreed last session, was that members felt that the production and maintenance of process maps and a distribution and dispute resolution mechanism, in addition to requiring a party to take ownership of the mechanism and including third parties, such as the Ombudsman. This would come at a cost and would be complex to maintain and that the group was unable to identify a clearly preferable route to distributing compensation on a case-by-case basis.

2.3. The group agreed that this would be complex and would potentially take a longer timescale than was available for Phase 2 implementation.

2.4. The group agreed that the 'blanket implementation' method, with responsibility being set to one, or both parties, would be the most appropriate method to apportion responsibility.

### **3. Delayed Switches**

3.1. JC reminded the group that in the last session the group proposed that for Guaranteed Standard A on Delayed Switches, responsibility for compensation should be incurred by the Gaining Supplier. The view of group members was that whilst the majority of delays were caused by problems with address data that losing suppliers may or may not be able to influence, the responsibility ensuring that the for delays to switches overwhelmingly fall upon gaining suppliers.

3.2. The group proposed at this session that the likely occurrence of delays from losing suppliers did not warrant the development of a process map and resolution mechanism, and that a blanket implementation method for this Guaranteed Standard would be more suitable.

3.3. JC asked whether they believe that Guaranteed Standard A has been captured correctly, and whether the distribution outcome is still broadly reflective of the group's views, and to provide any dissenting views they may have. No comments were provided.

3.4. Some group members raised concerns about the slide pack saying "in receipt of all information". A member stated that the current drafting says "to ensure a switch is completed...unless there are valid reasons for a delay to switch". The member asked whether not having all information from the customer was a valid reason for a delay. JC stated that the current text for Guaranteed Standard A text was taken from the previous consultation and would need to be reconsidered ahead of the SI. JC noted

that there are numerous conflicting definitions of what constitutes an appropriate timeline for the switch. The slide pack acknowledges that the supplier needs all information to ensure effective validation for the switch to start. JC confirmed that the text for Guaranteed Standard A will be changed to represent the most appropriate distribution, which will be informed by the concerns raised by group members. JC confirmed there will be further opportunities to offer views on the most appropriate definition for Guaranteed Standard A.

3.5. The group concluded that they were comfortable with Guaranteed Standard A, noting that the drafting of the Guaranteed Standard should ensure that suppliers have enough time to ensure they can run effective validation processes.

#### **4. Delays to Final Bills**

4.1. JC summarised that in the last session the group expressed the view that for Guaranteed Standard E (to issue final bills within six weeks of switch) the responsibility for compensation should be incurred by the losing supplier.

4.2. JC noted that the group agreed that whilst the gaining supplier could influence the timing of the issuance of a final bill by failure to provide opening meter readings, it is always in the supplier's gift to issue a final bill based on estimates. Based on this assessment, it follows that responsibility should fall upon the losing supplier rather than requiring a more complex or costly mechanism.

4.3. JC noted that not all group members were agreed that the proposed measure fully captured the risks of creating an incentive on suppliers to deliver the final bill within six weeks of a switch.

4.4. Some group members noted that the disputed reads process for gas – which is designed to reduce issues arising from bills drawn up using estimated reads – requires eight weeks rather than six before a bill is issued based on estimated data. These members expressed concern that a Guaranteed Standard requiring a final bill to be

issued after six weeks would undermine the effective operation of the existing estimated reads process, and would effectively mandate that supplier issues a final bill based on estimated data in order to avoid a compensation payment.

- 4.5. The group discussed the risk arising from the use of estimated readings and the six-week and eight-week periods. A group member noted that if industry processes were possibly better outcomes for consumers, then the processes warranted change. Some group members noted that it was their customer to issue estimated bills in any instance, and if this was widespread amongst suppliers the additional detriment accrued from this measure would be limited.
- 4.6. A group member noted that the eight-week disputed read process is intended to produce an accurate final bill, and therefore produce a good outcome for the customer. The member also raised concerns that the current drafting of the Guaranteed Standard would incentivise suppliers not to use the disputed reads process. Other group members disagreed with this point.
- 4.7. JC asked if this is a concern that needs to be reflected in the drafting of the Guaranteed Standard. Some group members noted that in more than 90% of cases six weeks offers enough time to produce an accurate reads process. However, some group members felt that the SI needs to acknowledge the existence of the disputed reads process.
- 4.8. One member noted that the Output Summary for Delays to Final Bills (Slide 8 in the session's slide pack) output did not reflect the extent of the gaining supplier's ability to influence final bills. JC asked the member whether it would be more appropriate to remove the word 'only' from the summary, and replace it with 'predominantly'. The group member agreed and JC confirmed he would make the change.

**ACTION:** Ofgem to update Slide 8 of the slide pack.

4.9. JC agreed to revise the summary of output based on the comments received from the group during the session. JC concluded that, subject to today's discussion, the group still agreed that the distribution as agreed at the last session was the most preferable. JC noted that risks around the disputed reads process and the perceived increased risk from estimated bills would need to be reflected in the drafting of the SI.

## **5. Erroneous Switches**

5.1. JC noted that Ofgem had received some feedback disagreeing with the distribution of compensation for Guaranteed Standard C on erroneous switches as proposed at the previous workshop session. JC explained that the group needed to reflect, and discuss these comments in today's session.

5.2. JC noted that the view of group members at the previous session was that since there is a limited number of ways that a losing supplier's behaviour could influence an erroneous switch, it did not warrant the likely additional cost that would arise from a complex distribution mechanism. The view of stakeholders at the previous session was that the most appropriate distribution was for the gaining supplier to assume responsibility for compensation. JC noted that this differed from the initial proposal which was that both suppliers should pay £30 each if a customer has suffered an erroneous switch.

5.3. JC noted that it can be difficult for the gaining supplier to assess the quality of address data before the point of sale, and it this can cause erroneous switches where historic address data is matched against the wrong MPxN, or because of crossed meters. Balanced against this, there is a greater number of reasons that where the gaining supplier's behaviour can cause an erroneous switch (for example through a failure to validate input data). JC noted that the variance in erroneous switch rates between suppliers indicates that supplier performance is a driving factor in causing erroneous switches. JC noted that from the evidence presented so far, it was hard to tell how

many erroneous switches were caused by errors in historic address data which could not be prevented by effective validation, but the variance in supplier performance suggested that validation is a key factor.

- 5.4. JC noted that the view of attendees at the last session was that the gaining supplier is primarily the cause of erroneous switches, as members reported that a vast majority of erroneous switches are caused by address data input error by the gaining supplier or agent. The majority of the group agreed that the ways in which the losing supplier's behaviour could cause an erroneous switch is limited, and that they are limited to errors of omission (namely, failure to update or improve industry data).
- 5.5. Some group members felt that to make the gaining supplier responsible for paying compensation in every case was representative of the reality of erroneous switches. In some cases, the gaining supplier would not be responsible for an erroneous switch.
- 5.6. The group discussed how the gaining and/or losing supplier can be responsible for an erroneous switch – and therefore who the cost of compensation should be incurred by. One group member noted that if Guaranteed Standard A was calibrated in such a way as to allow enough time for a supplier to collect and validate customer data, the impact of the losing supplier would be further diminished as the gaining supplier would have the opportunity to validate historic industry data.
- 5.7. JC reminded the group that Ofgem have asked for examples of good data validation from suppliers. JC observed that it would be helpful to collect the views of group members on what proportion of erroneous switches were caused by historic industry data and could not be resolved by validation.
- 5.8. One member questioned whether a regulation should be created without the supporting data, and that further analysis was required to assess the correct apportionment of responsibility. JC reminded the group that Ofgem had made multiple requests for supporting data throughout the life of the workgroup, and that it



remained Ofgem's intention to put a measure in place based on the best available evidence.

5.9. Some group members noted that whilst there will be some erroneous switches which are not directly caused by the gaining supplier, but the large majority will be. The same members noted that it was not possible for both losing and gaining suppliers to be responsible for the same erroneous switch, so if both suppliers have to pay compensation, at least one will be making a payment for detriment for which they have no responsibility. The member suggested appropriate validation of data is the best way of minimising the number of erroneous switches for which the supplier is not at fault. The member indicated that this would be the best of a bad situation, and more practical than splitting compensation between gaining and losing suppliers. Other group members agreed with these points.

5.10. One group member questioned whether it was possible to postpone implementation of this regulation, arguing that with the REL in place it would be easier to detect and resolve erroneous switches through improved industry data. JC explained that Ofgem has explored whether implementation of the REL could be brought forward, but this is not possible. JC noted that as erroneous switches have been a major concern for customers and industry for some time, and numerous initiatives had failed to produce a reduction in the incidence of erroneous switches, the appetite for delaying implementation of the Guaranteed Standard any further was low.

5.11. JC noted the differing opinions within the group, and that group members would have the opportunity to respond to any proposal in the policy and SI consultation. JC observed that Ofgem would consider the evidence provided by the group as a whole when designing the SI, and asked group members to provide evidence to support their views. This evidence would be considered and used by group members to inform a decision.

5.12. A group member proposed another option to delay implementation of the Guaranteed Standard to further develop an option beside the complex distribution mechanism and blanket distribution. JC responded that to justify any further delay, Ofgem would need to see a convincing alternative proposal, which currently was not apparent. JC reminded group members that if they have any other proposals, then Ofgem would be welcome to hear them.

5.13. JC noted that Ofgem would develop the Guaranteed Standard C to reflect the conflicting opinions voiced at this session. In response a group member noted that the majority of group members supported the distribution agreed at the previous session, and this should be reflected in the output summary. JC concurred but noted that the support for this distribution was not as unanimous as was the case with proposed Guaranteed Standards A and E.

## **6. Exemption Reasons**

6.1. JC noted that much of the group's discussion had centred on reasons for exemption from Guaranteed Standards and Ofgem have received a lot of requests for guidance regarding the circumstances in which payments should be made. JC noted that Ofgem would not be able to provide guidance on each, individual situation.

6.2. JC explained that it is fair for a supplier not to make a Guaranteed Standard payment if it genuinely believes that not paying the compensation represents a fair treatment of the customer. JC reminded the group that if there is a circumstance where a payment is not made, then this should be documented with a reason provided as to why.

6.3. The group was made aware that suppliers may be challenged if they are repeatedly reporting circumstances where they have not made a compensation payment, but if this was supported by evidence and justification for doing not making a payment which was genuinely fair, Ofgem was unlikely to consider it unreasonable.

## **7. Any other business**

7.1. No any other business was raised.

## **8. Next Steps**

8.1. JC explained that whilst the workgroup has now run its course, Ofgem will still be open to accepting evidence which can be used to inform to the best possible decision until the final SI has been drafted.

8.2. JC noted that Ofgem will continue to engage with stakeholders whilst developing policy, and a further development session may be held closer to publication.

8.3. JC set out the plans to publish the SI and consultation, alongside a policy consultation, in late summer, but made the group aware that Ofgem will attempt to deliver a consultation(s) as soon as possible. JC said that it was Ofgem's intention to deliver the policy and SI consultation in a single stage.

8.4. One group member stated that they would not be comfortable with the policy and SI consultation being published at the same time. JC noted the group member's concern, but that due to time constraints it may be difficult to publish the consultations separately. JC said he was happy to discuss, and consider, this going forward.

8.5. JC closed the meeting by informing the group that they should expect a further session of the group to help prepare for the consultation during the summer. JC thanked all group members for their engagement in the workgroup over the previous months.

END