

Report

Retail Supplier Compliance and Enforcement Report: Spring 2019

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Welcome to the third in our series of reports on the work of Ofgem's retail compliance and enforcement teams. This report shines a light on some of our compliance and enforcement activities in the gas and electricity retail supply markets during the autumn and winter of 2018-19.

As with previous reports, the aim is to help retail energy suppliers learn from our work, better understand their obligations, and prepare effectively for regulatory changes. In the report we:

- identify compliance issues likely to be of relevance across the market;
- highlight our expectations and summarise learning points for suppliers; and
- flag some important changes to the regulatory framework for suppliers.

For **more information** about our approach to compliance work, see the [retail compliance page](#) of the Ofgem website.

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Foreword

Ofgem wants a retail energy market that delivers good outcomes for all consumers, including the vulnerable. A consistent focus on delivering good customer service plays a critical role in this. A number of suppliers significantly improved their performance on customer service over the last year. However, too many are still failing customers and we expect them to improve.

Since the last report published in [August 2018](#), we have worked closely with suppliers where we have had concerns they are not doing enough to treat customers fairly. This has included several examples of where we have taken action against unacceptable customer service failings.

We have closely followed the data to catch and address problematic trends or worrying spikes - for example an increase in call wait times, volume of complaints, changes in responses to our quarterly consumer survey or an increase in social media traffic relating to a specific issue. We have followed up with extensive engagement with suppliers.

Some suppliers have responded to our engagement by putting things right for affected customers and by establishing and dealing with the root causes of their customer service difficulties. We welcome that. However, a small group of suppliers have not responded convincingly to compliance engagement. We wrote about Iresa, its failings and our response to them in our previous report. Since then, it has unfortunately also been necessary to issue Provisional Orders to two more suppliers, Economy Energy and Solarplicity (as well as issuing Provisional Orders to other companies for other reasons).

Iresa and Economy Energy have ceased to trade. These suppliers had sustained deficiencies in customer service, billing and other activities. Economy Energy had also failed to make its Renewables Obligation payment. The Provisional Orders were intended to compel both suppliers to make the changes that would enable them to provide satisfactory customer service.

We have increasingly used Provisional Orders to address apparent contraventions causing imminent or actual consumer harm which needed urgent action to stop. We remain ready to take strong but proportionate action where we judge it to be in the best interests of consumers, and failures in customer service will be one such area.

We will continue to focus heavily on customer service, including ensuring standards do not drop following the introduction of the default tariff cap. The new changes to the rules around customer communications are a key opportunity for suppliers to show that where they are given more freedom to innovate, they can adapt, improve and deliver real benefits to their customers. Clear communication is vital so that customers understand what they are being offered and can make an informed choice. While we refresh our consumer vulnerability strategy, our retail compliance work will also continue to focus on the needs of consumers in vulnerable circumstances.

The lessons in this report show that suppliers must keep their eye on the ball and work hard to deliver a positive customer experience. It is good for consumers and it is good for business. If you would like to contact our compliance team for any reason, please email Consumers.Directorate@ofgem.gov.uk.

Anthony Pygram
Director - Conduct and Enforcement
Consumers and Markets

1. Special focus: meeting new suppliers

1.1. In this and in future reports we will focus on a particular aspect of our routine monitoring and compliance work so as to promote greater understanding of the work that we do. Here, we describe how we typically engage with new entrant suppliers.

1.2. New entrants are expected to gain a clear understanding of their regulatory obligations before they enter the market so that they can comply with the regulatory framework from the day they become active. We may meet companies before they are granted a licence if they seek an opportunity to discuss their plans. However, we normally meet new suppliers once they have become active in the market.¹ The purpose of these meetings is:

- for us to set out our expectations of suppliers and what they can expect from us;
- for the supplier to show Ofgem that it has an understanding of its obligations;
- for Ofgem to signpost sources of further information that could be useful;
- for Ofgem to understand more about the supplier's business model, hedging strategy, access to finance, and future growth plans; and, crucially,
- to seek to establish a cooperative relationship that facilitates dialogue should any compliance risks or issues emerge.

What we expect of suppliers

1.3. When we meet new suppliers we make clear that they must put the needs of all their customers at the heart of their business. We emphasise the need for them to:

- treat all customers fairly and use customer feedback to improve the quality of the services they provide;
- think hard about how they are to deliver good customer outcomes;
- be receptive and responsive to any feedback they may receive from Ofgem, Citizens Advice's consumer service and Extra Help Unit and the Energy Ombudsman;
- engage with us at an early opportunity, especially when things go wrong, because it is far better to acknowledge and deal with an issue promptly and effectively than to avoid or conceal it, and risk substantial consumer harm; and
- work constructively with other suppliers to resolve industry-wide issues.

1.4. We strongly encourage suppliers to record the reasons for decisions and to monitor the subsequent impacts on their customers. This is because doing so may assist suppliers in demonstrating compliance with the principles in the supply licence.

What suppliers can expect from us

1.5. We explain how we can help new suppliers. For example, we may refer to:

- sources of information and advice about suppliers' obligations, whether in-house (such as Ofgem's suite of licence guides²) or from third parties like Citizens Advice and the Energy Ombudsman;
- the supply licence changes that clarify the customer outcomes we expect and that give suppliers more freedom to innovate in support of those outcomes;

¹ As part of the [Supplier Licensing Review](#), we propose to increase our scrutiny of potential new entrants before taking any decision to grant a licence. The aim is to ensure that all prospective entrants are adequately prepared, resourced and fit to operate in the energy supply markets.

² [Guides to the supply licences](#).

- Ofgem’s Innovation Link where suppliers (and others) can explore innovative ideas and how these might work in practice;
- the publicity that we may give to ongoing and completed compliance and enforcement activities, which we do in order to highlight the key issues and lessons learned (and, for example, to reassure the public when an issue is already in the public domain); and
- our overall approach, which is risk-based and proportionate: we state explicitly that suppliers posing serious risks to consumers will receive closer scrutiny than suppliers that appear well set up to deliver good customer outcomes.

1.6. Where appropriate, we may appoint an Ofgem account manager as a first point of contact with whom the supplier can build a relationship and exchange information.

Gauging new suppliers’ awareness and understanding of their obligations

1.7. The onus is firmly on suppliers to understand the full range of their obligations. At new entrant meetings we focus on many of these obligations, including:

- the Standards of Conduct (SoC) and the vulnerability principle in the SoC;
- billing, payment and associated issues;
- obligations towards vulnerable customers, such as the Priority Services Register and dealing with customers in payment difficulty;
- general tariff and customer communication requirements, now including the new principles that took effect from 11 February 2019;
- statutory obligations on complaints-handling, the Guaranteed Standards of Performance, and related reporting (including Supplier Obligations Reporting);
- where relevant to the supplier’s business model, specific requirements for serving microbusiness customers; and
- the role of Citizens Advice and the Energy Ombudsman, including the need to signpost customers to them and to engage fully and cooperatively with them (for example when Citizens Advice issues a formal information request or the Energy Ombudsman determines the outcome of a dispute referred to it).

Understanding more about the supplier’s operations and plans

1.8. We discuss a range of important matters relating to the new supplier’s business plans, including:

- the supplier’s target customer base, key products, tariffs and services;
- customer service capacity (especially customer service staff) including any outsourcing of staff and systems;
- current customer numbers and growth and/or acquisition plans, including sales channels and plans to manage and support the planned customer growth;
- customer service provision, including identification of and support for customers in a vulnerable situation, the recording of and response to customer feedback, and how the supplier deals with customers in financial difficulty; and
- the supplier’s hedging strategy, existing and planned access to finance and its plans and ability to make required industry and policy payments.

Benefits for all

1.9. We find these meetings extremely valuable as a means of exchanging information and building an ongoing compliance relationship. We will continue to meet new suppliers as they become active in the market. We want suppliers to engage with us to highlight and address any potential risks and issues as early as possible. By building relationships and trust we hope suppliers will feel confident they can work with us to ensure both regulatory compliance and good outcomes for their customers.

2. Key themes and issues

2.1. In this section we highlight supplier activities where things went wrong and specific regulatory obligations weren't met. It is important to remember that the retail gas and electricity supply licences contain enforceable overarching principles that relate to many of these supplier activities. The principles include behaving in a fair, honest, transparent, appropriate, and professional manner, and providing information that is complete, accurate and not misleading. Domestic suppliers need to make an extra effort to identify and respond to the needs of domestic customers in vulnerable situations. As of 11 February 2019, domestic suppliers must also abide by a suite of new principles relating to communications with their customers.³

Customer service arrangements

Facilitating and responding to inbound customer contact

The issue and why it matters

2.2. Customers rightly expect to be able to contact their supplier to make an enquiry or complaint. Suppliers should also allocate sufficient customer service resources to enable a rapid response when a customer tries to get in touch. Where customers may be experiencing poor outcomes, suppliers must be able to demonstrate that their customer service offering is compliant with their obligations. This is basic but essential. The harm to customers from being unable to contact their supplier may be severe, especially where a customer is in a vulnerable situation.

2.3. The time it takes to respond to calls, emails and social media contacts is an important indicator of whether a supplier is providing a good level of customer service. Long call wait and email response times and restricted call centre opening hours are a significant cause of customer dissatisfaction. Of course, getting through is in itself no guarantee that the customer will be treated fairly. When customers do make contact suppliers must deal with their complaint or enquiry fairly, efficiently and professionally.

2.4. Over the past year we have engaged with a number of suppliers whose customer service arrangements appeared deficient. Some suppliers responded by taking effective action. Other suppliers responded less convincingly. Ensuring suppliers maintain fit for purpose customer service arrangements will remain a major focus for our compliance function.

Relevant regulatory obligations

2.5. These matters are covered by the SoC.⁴ Amongst other things, SLC 0 requires a supplier to:

- behave and carry out actions in a fair, honest, transparent, appropriate and professional manner;
- provide information (whether in writing or orally) to customers which is complete, accurate and not misleading (in terms of information provided or omitted) and communicated (and, if provided in writing, drafted) in plain and

³ [Final Decision: Domestic supplier-customer communications rulebook reforms.](#)

⁴ On 22 February 2019 we published an update to the licence guide on the [Standards of Conduct](#) that was first published in 2017.

intelligible language with more important information given appropriate prominence;

- make it easy for the customer to contact the supplier;
- act promptly and courteously to put things right when the supplier makes a mistake;
- otherwise ensure that their customer service arrangements are complete, thorough, fit for purpose and transparent;
- identify customers in a vulnerable situation in a manner which is effective and appropriate; and,
- when applying the Standards of Conduct, do so in a manner which takes account of any vulnerable situation of each identified domestic customer.

What went wrong and key lessons

2.6. We monitor suppliers in many ways. For example, we request information (both informally and using formal powers) from suppliers and we receive information from Citizens Advice and the Energy Ombudsman about customer contact and complaints. We also monitor social media.

2.7. In June 2018 our social media monitoring picked up a significant rise in expressions of customer dissatisfaction with Solarplicity citing an inability to contact the supplier and consequent inability to resolve their issues with the supplier. At the same time the Energy Ombudsman and Citizens Advice experienced increased contacts from dissatisfied Solarplicity customers.

2.8. We engaged with Solarplicity to seek improvements in its customer service, which appeared, on the basis of the supplier's own data, to be poor for a number of months. Between March and September 2018, there were, for example, long call wait times and a very high proportion of abandoned calls. Whilst call handling appeared to have improved by mid-February 2019, serious concerns remained elsewhere.

2.9. On 22 February 2019 we issued a [Provisional Order](#) (a 'PO') to Solarplicity. We published the PO along with a [notice setting out the reasons](#) why we issued it. The PO included a ban on taking on new customers and increasing direct debits of customers in a vulnerable situation. Among other things, it also required Solarplicity:

- to ensure that it has domestic customer service arrangements and processes which are complete, thorough, fit for purpose and transparent and which make it easy for those customers to contact it;
- for the duration of the PO, to maintain average call waiting times of no more than 2 minutes and ensure that no more than 5% of calls are abandoned by customers; and
- to have a process in place to record the contents of and acknowledge all emails and all other domestic customer contact (including via post, web chat and social media) in a timely and efficient manner.

2.10. The fact that we have made a PO in respect of Solarplicity does not mean that we have concluded that it has in fact contravened a relevant requirement. We will continue to monitor Solarplicity's performance.

2.11. Suppliers must deploy sufficient customer service staff to operate effectively. Suppliers must anticipate potential causes of increased demand for their customer service functions, such as the growth of their business, and make adequate provision for this. Such provision includes investing in sufficient staff and infrastructure so that the supplier can cope with the increased inbound customer contact. Finally, suppliers should cooperate fully with Ofgem when we seek to understand the causes, scope, scale and impact of potential compliance issues (including when responding to informal and/or formal requests for information).

Complaints-handling

The issue and why it matters

2.12. As noted above, customers should be able to contact their supplier easily to make a complaint, and suppliers should respond promptly, courteously and effectively. Where a supplier fails to do this, the harm to customers may be severe, especially where a customer is in a vulnerable situation. In addition, a well-managed complaints procedure allows a supplier to understand weaknesses in its operation and implement improvements across the business, as well as putting things right for the complainant.

2.13. We closely monitor supplier complaints-handling performance. As of July 2018, suppliers must submit complaints data to us on a monthly and quarterly basis.⁵ Every two years, we publish the results of independent research⁶ into how satisfied energy consumers are with how suppliers handled their complaints. We urge all suppliers to read these documents carefully and put into practice the lessons they contain. In March 2019 we launched four new customer satisfaction charts. They show how well customers think suppliers are performing overall and on interactions such as billing, switching and ease of contact. We publish updates every quarter.⁷

Relevant regulatory obligations

2.14. These matters are covered by SLC 0 and the Gas and Electricity (Consumer Complaints Handling Standards) Regulations 2008 ('the CHRs'). SLC 0 requires suppliers to achieve certain standards of conduct and to ensure that the standards are interpreted and applied consistently with the customer objective, which is to treat customers fairly. Suppliers must ensure that information is complete, accurate and not misleading, make it easy for the customer to contact the supplier and act promptly and courteously to put things right when the supplier makes a mistake.

2.15. In summary, the CHRs require suppliers to:

- have a complaints handling procedure;
- record complaints upon receipt;
- record the handling of complaints;
- signpost customers to a redress scheme if complaints cannot be resolved;
- allocate and maintain adequate resources for complaint handling; and
- in respect of complaints relating to a customer in a vulnerable situation, take such additional necessary or appropriate steps to assist that customer and resolve the complaint in an appropriate and prompt manner.

What went wrong and key lessons

2.16. The 2018 customer satisfaction survey found that average satisfaction with complaints handling had increased over the previous two years for the largest 11 suppliers surveyed. However, satisfaction levels remained unacceptably low for many. Indeed, more customers were dissatisfied than satisfied with how the supplier had dealt with their complaint. For some suppliers, only 21%-23% of customers were satisfied. The main causes of dissatisfaction were the length of time taken to resolve an issue, a lack of updates, and not being clear about how long resolution would take.

⁵ [Compare supplier performance on complaints](#).

⁶ [Complaints Handling Survey 2018](#).

⁷ For details see the [Customer Service Indicators](#) and [Retail Market Indicators](#) on our website.

2.17. As a result, Ofgem began compliance engagement with First Utility (now Shell Energy), Ovo Energy and Utilita, and expanded the scope of compliance discussions with Scottish Power that were already under way. We also requested that seven other suppliers - British Gas, Npower, Utility Warehouse, SSE, EDF Energy, E.ON and Co-operative Energy - submit plans to improve how they deal with complaints and provide us with regular updates through account management relationships. We are currently working with these suppliers to improve their procedures.

2.18. Our compliance engagement with Economy Energy and Solarplicity in late 2018 revealed apparently serious shortcomings in their complaints handling. It appeared that complaints were not being recorded on receipt, resolution times were poor, and customers were not always being signposted to the Energy Ombudsman. The POs we issued to those suppliers required both of them to make substantial improvements.

2.19. Suppliers should deal with customer complaints promptly, courteously and efficiently. Where we find evidence that suppliers are not doing this, we will take robust action to prevent further harm to customers.

Providing timely and accurate information

Billing and direct debits

The issue and why it matters

2.20. Suppliers must issue accurate bills to customers and, when setting direct debit payment levels, must treat customers fairly. Where suppliers fail to issue bills or issue inaccurate bills, there is a risk that customers will be paying more for their energy than they should or that they will be backbilled for a large amount.

2.21. Where suppliers impose high direct debit payments (for example to repay a debt), customers might be unable to keep up with the payments. Where a supplier receives a request to refund a credit balance, the supplier must deal with that request fairly and reasonably. Suppliers should not unreasonably or unfairly refuse such requests. Such practices may put customers at risk of serious financial detriment.

Relevant regulatory obligations

2.22. Various SLCs relate to billing and direct debits. For example, under SLC 0 a supplier's billing and payment processes must be complete, thorough, fit for purpose and transparent. This includes making it easy for customers to get in touch with their supplier, ensuring that information is accurate and not misleading, behaving in a fair, honest, appropriate and professional manner and putting things right promptly and courteously when they make a mistake. The new customer communications principles should also focus suppliers' attention on providing accurate and timely billing information (see in particular SLC 31F and 31H).

2.23. Where a domestic customer has requested the refund of a credit balance, SLC 27.16 requires the supplier to refund that balance unless that supplier considers that it is fair and reasonable for it not to do so. In those circumstances, the supplier must inform the customer and explain its reasons.

What went wrong and key lessons

2.24. In 2017, Economy Energy moved into the credit customer market. Until then it had focused on PPM customers. Entering the credit customer market meant Economy Energy faced new obligations such as setting direct debits and issuing credit refunds.

Throughout 2018, Economy Energy appeared to have problems with its customer service, billing and payment activities.

2.25. In the summer, it significantly increased the level of customers' direct debits. This led to an increase in customer contact to the Citizens Advice's consumer service and Extra Help Unit, and an increase in complaints to the Energy Ombudsman. Online review platforms and social media indicated strong customer dissatisfaction.

2.26. We engaged extensively with Economy Energy to try to understand the causes, scope and scale of the apparent problems, to learn what the supplier was doing to fix them and prevent recurrences, and whether they were providing redress for affected customers - and for us to make our own expectations clear. Economy Energy did not provide convincing responses. This meant we had serious ongoing concerns in respect of apparent contraventions relating to:

- "one-off" payments taken from customers' accounts;
- the supplier's explanation of its interpretation of the meaning of "debt";
- the supplier's treatment of customers who fell into the "vulnerable" and "ability to pay" categories and whether unwarranted payments were being taken from those customers, or whether those customers were being subjected to unnecessary debt collection procedures; and
- final bills, and refunds.

2.27. Accordingly on 4 January 2019 we issued Economy Energy with a PO. The PO and related documents are [here](#).⁸ Again, the lesson for suppliers is that their approaches to billing, refunds and payments should ensure they treat all customers fairly, including those who are in a vulnerable situation. We will take action where we do not see this is the case.

Annual statements

The issue and why it matters

2.28. Suppliers must provide domestic customers with information about their past energy usage, their projected energy costs, and any cheaper alternative tariffs. Communicating this information is intended to help consumers to manage their consumption and costs, and to remind them that they could save money by switching. In turn this should promote informed engagement in the market. However, the full potential of these communications can only be realised if customers are able quickly and easily to access and understand the information, and can rely on its accuracy.

2.29. Until 11 February 2019 suppliers were required, in certain circumstances, to provide this information via Annual Statements which:

- showed how much energy a customer had used in the past year;
- gave an estimated cost for the next year; and
- highlighted any possible savings from cheaper alternative tariffs.

2.30. Suppliers must still provide this information but since 11 February 2019 they have not had to do so in the form of an Annual Statement.

⁸ Economy Energy ceased trading on 8 January 2019. We revoked its gas and electricity supply licences on 12 January 2019.

Relevant regulatory obligations

2.31. These matters are covered by SLC 0 in relation to providing accurate, clear and not misleading information. In addition, section 31A set out obligations about providing information on Bills, statements of account, and Annual Statements.

2.32. On 11 February 2019 we introduced new customer communications principles. As part of these changes, we removed references to Annual Statements together with licence conditions prescribing the form, content and frequency of key communications such as the Bill and statements of account. However, the new principles on making informed tariff and consumption choices (SLC 31F.3) and comparing and switching tariff and supplier (SLC 31F.4), require the same outcomes.

2.33. In addition, the licence still includes:

- a rule that statements of account must be provided in a form that they can be easily retained as a copy, or easily made available for reference; and
- rules on the content of bills and statements of account (requiring provision of the supply number, consumption comparison with the same period last year, the machine readable optical label (QR code), "About Your Tariff" Label, dispute settlement and Citizens Advice).

2.34. Suppliers must help consumers understand and manage the costs associated with their tariff and energy consumption (SLC 31H.1). This means providing relevant billing information and, where relevant, bills and statements of account. In doing so, suppliers must take into account a consumer's characteristics, the features of their current tariff and, where appropriate, a consumer's preferences (SLC 31H.2).

What went wrong and key lessons

2.35. In March 2018 Green Star Energy (GSE) told us that between August 2014 and November 2017 it had not issued annual statements to customers. GSE had neither put in place a system to generate and issue annual statements automatically nor a manual workaround. We engaged with GSE to understand the number of affected customers (past and present) and the potential savings that those customers could have made if they had received annual statements and had chosen to switch.

2.36. As a result of our engagement, GSE put in place systems to issue annual statements to the majority of its customers and set out an action plan to issue annual statements to the remainder. GSE also agreed to pay £166,492 to the voluntary redress fund in recognition of its failings and the detriment caused to customers. Ofgem decided not to take enforcement action. We took into account the fact that GSE reported the issue to us, took steps to address its failings and agreed to pay an appropriate amount of redress. We published our [decision](#) on 19 September 2018.

2.37. Suppliers must make it easy for people to find the best deal for them. The customer communications licence changes give suppliers the freedom to discover better ways of communicating important information to their customers. The onus is on suppliers to understand the needs of consumers and to tailor their communications accordingly. This should foster an environment where consumers receive accessible, informative and useful communications that promote informed market engagement.

2.38. Customers should get the right information, in the right form and at the right time, to enable them to understand their costs and consumption and make an informed choice as to their future tariff and supplier. We will watch closely whether and how effectively suppliers respond to this challenge. We are, for example, engaging with suppliers following the latest [survey data on consumer perceptions of the market](#).

Tariff and product offerings

Collective switching trials

The issue and why it matters

2.39. In 2016 the Competition Market Authority (CMA) published the conclusions to its energy market investigation. The CMA found that 70% of customers of the 'Big 6' were on relatively more expensive default tariffs. This was bad for competition and bad for consumers: the CMA estimated an annual consumer detriment of £1.4 billion.

2.40. The CMA recommended that Ofgem establish a programme of trials to provide customers, directly or through their own suppliers, with measures to prompt them to engage more with the market. In response, we introduced a licence condition, SLC 32A, that enables us to direct suppliers to test consumer engagement measures.

2.41. We conducted an initial collective switch trial which was successful. We decided to run a second trial⁹ to test replicability of the findings and whether this intervention model could be scaled up. A third collective switch trial was conducted in the first quarter of 2019. Full analysis of all three trials is underway.

Relevant regulatory obligations

2.42. SLC 32A gives Ofgem the power to specify, in a direction, the scope and scale of a consumer engagement measure to be tested by Ofgem (such as a collective switching trial), and give instructions to a supplier to facilitate testing of the measure. SLC 32A also requires the relevant supplier to comply with the terms of the direction.

What went wrong and key lessons

2.43. We selected a number of suppliers, one of which was Npower, to take part in the second trial. On 1 August 2018, we issued a draft direction to six Npower entities¹⁰ (and to the other suppliers selected to be involved in the trial) directing them to participate in the trial. The direction came into force on 3 September 2018.

2.44. The direction required Npower to undertake a series of actions to implement the trial, following a prescribed timescale. One requirement was for Npower to send a given number of customers initial notification of the start of the trial by noon on 20 September 2018 and to carry out actions thereafter in order to implement the trial fully. Npower did not send the letters as required by the direction and on 24 September 2018 Npower confirmed to us that it did not intend to do so.

2.45. Npower's ability to comply with other requirements of the direction depended on sending the letters to the prescribed number of customers in the first place. If Npower did not do so, other elements of the trial could not take place. On 24 September 2018 we issued a PO to Npower requiring them to comply with the intent of the direction. Npower continued to refuse to take action in respect of the collective switch trial and consequently on 5 October 2018 Ofgem applied to the High Court for an injunction compelling Npower to comply with the terms of the PO and the direction.

⁹ The 'Active Choice Collective Switch Autumn Trial'.

¹⁰ Npower Direct Ltd, Npower Ltd, Npower Northern Ltd, Npower Northern Supply Ltd and Npower Yorkshire Supply Ltd.

2.46. This was the first time that Ofgem has applied for an injunction compelling compliance with a PO. The High Court found in our favour and required npower to comply with the direction. We confirmed the PO on 26 November 2018.

2.47. Npower applied to the High Court for judicial review to challenge the direction and to quash the PO. The High Court dismissed both applications on 21 December 2018. Npower has done everything required of it by the Direction for the trial to occur, albeit in some instances after some delay and/or initially providing incomplete or incorrect information. After reviewing Npower's actions, on 13 March 2019 we consulted on [proposals](#) to revoke the PO. The response deadline is 15 April.

Lessons to be learned

2.48. The key lesson for suppliers is the importance of engaging constructively with the regulator. Any questions or concerns should be raised as early as possible. Suppliers are regularly invited to make representations. Suppliers should ensure that they provide full and considered responses when invited to do so. Suppliers must comply with any direction issued to them under SLC 32A. Ofgem will take whatever action is necessary to secure that compliance.

Smart meter roll-out

The issue and why it matters

2.49. Smart meters give consumers near real time information on energy use - expressed in pounds and pence - so they will be able to better manage their energy use, save money and reduce emissions. Smart meters will bring an end to estimated billing, meaning consumers will only be billed for the energy they use, which should help them budget better. Smart meters are also a key enabler for the transition to a more flexible energy market and the move to a low carbon economy. We want to see new business models that seek to take advantage of the opportunities that arise. The sooner consumers receive smart meters the sooner they can realise these benefits.

Relevant regulatory obligations

2.50. Suppliers must take all reasonable steps to roll out smart meters to all domestic and small business customers by the end of 2020. We monitor suppliers' plans and progress to ensure they are in consumers' interests. Each May we publish an open letter setting out our observations on rollout activity in the previous year.

2.51. Under the roll out obligation, suppliers must be users of the data and communications network operated by the Data Communications Company (DCC).¹¹ For suppliers that were already in the market, the deadline for becoming a DCC user was 25 November 2017 (as set out in SLC 48.8 for electricity and SLC 42.8 for gas).

2.52. Suppliers must deliver a positive consumer experience and must comply with relevant obligations including the Smart Metering Installation Code of Practice and the Standards of Conduct. In particular, suppliers must ensure they demonstrate to consumers how to use their In-Home Display and give advice on how to save energy.

¹¹ Under the conditions of its licence the DCC is responsible for establishing and managing the data and communications network connecting smart meters to the business systems of energy suppliers, network operators and other authorised service users of the network.

2.53. Suppliers must ensure that all communications with consumers are complete, accurate and not misleading. Suppliers must also tailor communications and advice for those in vulnerable situations and with specific needs. As part of the broad vulnerability principle, we expect suppliers to monitor usage of smart meters and respond to any changes as part of identifying vulnerable situations.

What went wrong and key lessons

2.54. In November 2018 we published our latest [open letter](#) on lessons from Ofgem's advanced meter rollout (AMR) investigations. The investigations led to penalties for three suppliers¹² and provided several lessons in how to demonstrate compliance with the obligation to take all reasonable steps to complete the smart meter rollout. We are likely to consider how suppliers have taken account of or acted upon our observations when assessing smart meter roll out compliance.

2.55. Larger energy suppliers have binding annual milestones to install smart meters. SSE missed its 2018 target for installing gas smart meters. On 3 April 2019 we [announced](#) that SSE had agreed to pay £700,000 to Ofgem's consumer redress fund administered by the Energy Savings Trust, which supports consumers in vulnerable situations and the development of innovative products or services not currently available to energy consumers. Due to the steps SSE has taken, Ofgem has decided not to take formal enforcement action.

2.56. Avro Energy failed to become a DCC user by the November 2017 deadline and is still not a user. On 8 March 2019 Ofgem published a [proposal to issue a Final Order](#) to Avro Energy. If it is made in the form that is proposed, the Final Order will ban the supplier from taking on new customers if it does not become a DCC user by the end of May 2019.

2.57. We are engaging with the other suppliers that have not yet become DCC users. We will take appropriate regulatory action to ensure that these suppliers also comply with this important requirement. Further information about the roll out and obligations is available on our smart metering [webpage](#) and [licence guide](#).

Supporting customers in vulnerable situations

Identifying and supporting customers requiring priority services

The issue and why it is important

2.58. Customers, particularly if they are vulnerable, may suffer real harm if they do not have gas or electricity to heat and light their home and cook their food. Suppliers must offer free services to customers in a vulnerable situation or with a disability (or other characteristic) that means they need extra (non-financial) support in relation to their energy supply. This could, for example, mean communicating in alternative format like Braille. We have focused increasingly on whether suppliers are meeting their obligations to identify vulnerable consumers and to treat them fairly.

¹² In December 2015 and January 2017, Ofgem reached settlements with E.ON and British Gas of £7 million and £4.5 million respectively. In September 2018, the Enforcement Decision Panel (EDP) issued its determination of Ofgem's final AMR investigation. The EDP imposed a penalty on npower of £2.4 million and the decision concluded the last of three investigations.

Relevant regulatory obligations

2.59. SLC 0.3 requires domestic suppliers to make it easy for customers to contact them; act promptly and courteously to put things right when they make a mistake; and otherwise ensure their customer service arrangements and processes are complete, thorough, fit for purpose and transparent. Suppliers must make an extra effort to identify and respond to the needs of customers in vulnerable situations.

2.60. Under SLC 26 each supplier must set up and maintain a Priority Services Register (PSR) of its domestic customers who, because of personal characteristics¹³ (or other reason for being in a vulnerable situation), may require priority services. Each supplier must take all reasonable steps to promote the existence of its PSR and the priority services that it is offering. Each supplier must take all reasonable steps to identify such customers and offer to add any or all of the Minimum Details¹⁴ to the PSR. Information must be shared, and services offered, free of charge.

What went wrong and key lessons

2.61. In 2018 Solarplicity's Social Obligations Reporting data suggested that its customers in vulnerable situations were not being added to the PSR as they should have been. Information submitted by the supplier during our compliance engagement also showed that an unusually low proportion of its customer base was registered as vulnerable, when compared with an average of 7% for smaller suppliers¹⁵, and indicated that very few of Solarplicity's indebted customers were on a repayment plan.

2.62. The [PO](#) we issued to Solarplicity on 22 February 2019 bans it from increasing direct debits to customers in vulnerable situations. The ban will remain in place until 22 May 2019 unless:

- Ofgem confirms the PO before that date, thereby extending the ban; or
- Solarplicity complies with relevant requirements of the PO including improving its performance on identifying customers in vulnerable situations to the satisfaction of the Authority, in which case the ban will be lifted.

2.63. The PO requires Solarplicity to review all domestic accounts to determine:

- whether the customer is in a vulnerable situation;
- the reason why they have been identified as being vulnerable;
- the total number of customers who have been added to the PSR once they have been identified as being in a vulnerable situation; and
- for each such customer identified as being in a vulnerable situation, what customer service arrangements are in place to ensure Solarplicity applies SLC 0.3 in a manner which takes account of the customer's vulnerable situation.

2.64. Where we suspect that suppliers are putting vulnerable customers at risk, or are failing to provide them with support they need, we will take appropriate action. Where we have serious concerns, and/or where a supplier appears unwilling or unable to cooperate with our compliance team in putting matters right, we will take robust action to prevent further harm to customers.

¹³ 'Personal Characteristics' means the domestic customer is of pensionable age, or is chronically sick, or has an impairment, disability, or long term medical condition, or has any other characteristics identified by the licensee as being relevant to the priority services offered.

¹⁴ 'Minimum Details' means the domestic customer's name, details of any relevant Personal Characteristics and/or vulnerable situation, and such other relevant details as we may specify.

¹⁵ See Figure 1.1 of our [report on Vulnerable Customers in the Energy Market 2018](#).

Customers in payment difficulty

The issue and why it matters

2.65. Suppliers have a responsibility to respond promptly where they have reason to believe customers may be experiencing payment difficulty. Effective customer engagement can stop debt reaching unmanageable levels. Understanding why a customer is having difficulty paying energy bills is also vital. The customer may have vulnerabilities that should be taken fully into account when discussing debt repayment options and the debt repayment rate.

Relevant regulatory obligations

2.66. SLC27.5 to 27.8 sets out several important requirements for suppliers dealing with customers in payment difficulty. Suppliers must:

- offer debt repayment options, including instalment plans, PPMs and - where applicable - deductions from social benefits;
- take into account the customer's ability to pay when calculating the debt repayment rate;
- establish whether a PPM would be safe and reasonably practicable for the customer; and
- provide information about the pros and cons of a PPM, and information about how to use one, before or upon installation.

2.67. Suppliers must comply with SLC 0 on Treating Customers Fairly. This includes making an extra effort to identify and respond to the needs of domestic customers in vulnerable situations. When considering whether to install a PPM to recover debt, suppliers must also bear in mind the requirements of SLC 28B.

What went wrong and key lessons

2.68. In 2017 we took a close look at how some suppliers deal with customers in payment difficulty. Given the potential risk of harm towards vulnerable customers, we requested that six suppliers commission an independent audit of their practices. The audits were carried out in late 2017 and early 2018.

2.69. We carefully considered the auditors' findings and recommendations and have been taking forward compliance discussions with most of the six suppliers as a result. We welcome the generally constructive approach they have taken. We emphasise the following points. Suppliers should:

- be prepared to use a variety of methods to communicate with customers having payment difficulties;
- engage empathetically to understand whether any vulnerabilities are affecting the customer's ability to pay;
- periodically re-check whether the customer has vulnerabilities, as their circumstances might have changed since they joined the supplier or first had difficulty paying (this is important given the need to be certain that the chosen repayment arrangement remains suitable for the customer – for example whether a PPM is still safe and practicable); and
- ensure that agents such as meter installers make proper checks that a PPM is indeed appropriate for the customer, and record and transfer information about customer vulnerabilities to the supplier in sufficient detail to be of ongoing use.

2.70. In June 2018 we announced that we had launched an investigation into whether Utility Warehouse had breached licence conditions on the provision of services to

customers in payment difficulties, their ability to pay and associated communications. This includes requirements in relation to using PPM warrants. The fact that we have formally opened this investigation does not imply that we have made any findings about non-compliance. The investigation is ongoing.

Financial obligations

Renewables Obligation and Feed-in Tariff payments

The issue and why it matters

2.71. The RO scheme is one of the main support mechanisms for large-scale renewable electricity projects in the UK. It requires electricity suppliers to source an increasing proportion of the electricity they supply from renewable sources. RO Certificates ('ROCs') are issued to operators of accredited renewable generating plant for the eligible renewable electricity they generate. Operators can trade ROCs with other parties. Suppliers use ROCs to show they have met their obligation.

2.72. Where suppliers do not present a sufficient number of ROCs to meet their obligation in the reporting period (one year) they must pay an equivalent amount into a buy-out fund. The administration cost of the scheme is recovered from the fund and the rest is distributed back to suppliers in proportion to the number of ROCs they produced in meeting their individual obligation. It is essential that suppliers fulfil their financial obligations and do not impose costs on the rest of the market. If not, those costs are borne by suppliers that complied - and ultimately by their customers.

2.73. The Feed-in-Tariffs (FIT) scheme is designed to promote the uptake of a range of small-scale renewable and low-carbon electricity generation technologies. It is available through licensed electricity suppliers and requires them to make tariff payments on both generation and export of renewable and low-carbon electricity.

2.74. The FIT scheme requires suppliers to make quarterly and annual submissions in respect of costs incurred through making payments to eligible generators. Suppliers that have met a proportion of the costs of the scheme at a level less than their market share of customers must make payments into the levelisation fund. Suppliers that have met a proportion of the costs of the scheme greater than their market share of customers receive payments from the levelisation fund.

2.75. The RO and FIT schemes make a valuable contribution to decarbonising electricity generation. The integrity of these schemes must be upheld in order to sustain the progress that has already been made in increasing the share of renewable electricity in the overall energy mix.

Relevant regulatory obligations

2.76. Under the Renewables Obligations Order (RO Order) 2015 and the RO Order (Scotland) 2009, suppliers must submit to the Authority the number of ROCs in respect of each megawatt hour of relevant electricity that it supplies during an obligation period. Alternatively, the supplier may make a payment to discharge its RO obligations. Suppliers must do this by 1 September after each obligation period.

2.77. If payment is not made by 1 September, there is a further period - the late payment period - which lasts to 31 October. In this period suppliers can pay any outstanding sums, plus interest on a daily basis at an annualised rate of 5% above the Bank of England Base Rate. If a supplier does not pay in full (including all interest) by 31 October, it will be treated as not having discharged its obligations.

2.78. SLC 33 (Schedule A, Part 3, Paragraph 3) requires suppliers to take part in the Levelisation Process¹⁶ as set out in the FIT Order 2012. Suppliers must provide information as required to administer the Levelisation Process efficiently, and make Levelisation Payments¹⁷ in accordance with the Authority's instructions.

What went wrong and lessons learned

Renewables Obligation

2.79. The amount of payments outstanding into the RO buy-out fund for 2017-2018 at 31 August 2018 was £102.9 million. Suppliers had until 31 October 2018 to pay outstanding sums into the late payment fund to meet their obligations. However, after that date there remained a significant shortfall of £58.6 million.

2.80. In November 2018 we launched investigations into Economy Energy and Spark Energy over the non-payment of their RO and gave notice that we required two other non-compliant suppliers – URE Energy and Eversmart – to deliver all outstanding payments by 31 March 2019 through monthly instalments. On 28 November 2018, Spark Energy went into administration. We revoked its licences to supply gas and electricity. On 8 January 2019, Economy Energy ceased trading. On 12 January 2019, we revoked its gas and electricity supply licences. As a consequence, we closed the investigations into both these suppliers.

2.81. URE Energy failed to produce ROCs by 1 September 2018 or to make payments as an alternative. We consulted on whether to issue a Final Order (FO) requiring payment in full, plus interest. We received one representation, which said Ofgem should act to protect the integrity of the RO scheme and to prevent compliant suppliers from being penalised by shortfalls arising from non-compliant suppliers such as URE. On 8 March 2019 we issued a FO. It requires URE Energy to make a payment to the Authority in full settlement of its RO for the obligation period 1 April 2017 to 31 March 2018, including interest, by 31 March 2019. The total amount due was £209,013.78. We have published the [FO](#) and our [reasons](#) for making it.

Feed-in tariffs

2.82. On 23 March 2018 SSE self-reported that it had overstated generation payments in its FIT annual levelisation submission for 2016/17 by £9.88 million. This meant SSE received £4.07 million more in payments from the levelisation fund than it ought to have received. SSE told us the error had come to light during an end of year reconciliation process and that it had been caused by duplicate lines of data being included in a FIT annual levelisation submission to Ofgem. SSE's internal checking procedures had failed to pick up the error.

2.83. We asked SSE to check previous years' submissions to ensure that any other payment errors were corrected. Smaller errors were identified and corrected. SSE commissioned an independent audit of its processes and implemented new reports to minimise manual reporting work and to ensure accurate levelisation submissions. SSE repaid the £4.07 million to the levelisation fund plus interest. SSE made a contribution of £250,000 to the Voluntary Redress Fund. In the circumstances, we decided not to take formal enforcement action. We published a [Decision Notice](#) on 27 February 2019.

¹⁶ 'Levelisation Process' means the process by which the total cost of the FIT Scheme is allocated between licensees in proportion to the size of their GB electricity market share.

¹⁷ 'Levelisation Payment' means a payment required to be made by a FIT Licensee to the Authority or by the Authority to the FIT Licensee in accordance with the Levelisation Process.

2.84. The RO and FITs cases raise several lessons for all suppliers. Most importantly, suppliers must ensure that sufficient funds are available to enable them to discharge their responsibilities in full and on time. Our position is very clear: a supplier must not, and should not be seen to, gain advantage from non-compliance. We will take firm but proportionate action where a supplier fails to comply in order to maintain the integrity of these schemes.

2.85. Other lessons include the need to make proper checks to ensure the accuracy of any information being submitted to Ofgem. Where a potential inaccuracy has occurred, suppliers should report the fact promptly to us. Suppliers should identify the cause, remedy it promptly and prevent any recurrence. Suppliers should also assess any potential gain to which the supplier was not entitled and make good any repayment in a timely manner, including appropriate additional voluntary payments.

3. Regulatory changes

Customer communications principles

3.1. We have introduced a substantial package of [changes](#) to the rules relating to supplier communication with customers with effect from 11 February 2019. Many detailed rules have been removed from the licence. They have been replaced by four new standard conditions containing five new enforceable principles. Some particularly important detailed rules do, however, remain in force. These changes allow suppliers to discover better ways of communicating important information to their customers.

3.2. The onus is on suppliers to understand the needs of consumers and to tailor their communications accordingly. Suppliers should think about how they will satisfy themselves they are delivering the positive consumer outcomes we want to see. We will watch suppliers closely to see how they respond. We have published a [guide to the rule changes](#) and updated the guide on [information for consumers](#). Suppliers should read these documents carefully but bear in mind they are not substitutes for reading and understanding the licence itself.

Default tariff cap

3.3. In 2018, Parliament gave Ofgem a duty to introduce a price cap on all Standard Variable Tariffs and default tariffs. The price caps came into force on 1 January 2019. The price caps (default and PPM) are a cap on the price of a unit of gas and electricity, with standing charges taken into account. We adjust the level of the caps twice a year to reflect underlying changes to the costs of supplying gas and electricity.

3.4. In February 2019 Ofgem reset the [caps for the summer 2019 period](#).¹⁸ Suppliers intending to raise their prices from 1 April 2019 must write to affected customers before the price rises take effect, ensuring customers have enough time to consider their options and switch away, if they so choose. Suppliers must report their price capped tariffs to us so we can ensure that customers are not being overcharged. The default tariff price cap protects around 11 million households on default tariffs and 4 million PPM customers. This is a key strategic issue for Ofgem and Government and suppliers must expect us to respond robustly to non-compliance.

Guaranteed Standards of Performance for suppliers

3.5. Guaranteed Standards of Performance (GS) place service level requirements upon suppliers arising from certain interactions with their customers. Delivering reliable and fast switching for consumers is a key priority for Ofgem. In November 2018 we proposed new GS and published our [decision](#) in February. The [Regulations](#) have been made by the Authority and have received Ministerial consent.

3.6. Compensation will be automatic where a supplier unduly delays a customer transfer, switches a customer erroneously, or takes longer than they should to issue final bills once a customer has switched supplier. Suppliers will be required to make payments for breaches occurring on or after 1 May 2019. Where a supplier performs particularly badly, we will consider whether simply paying the statutory compensation will be sufficient to drive up the quality of its customer service.

¹⁸ In August 2019 we will announce caps for the six-month winter period from 1 October 2019.

4. Further reading

4.1. As noted above, this publication draws attention to recent retail supplier compliance and enforcement activities that we believe will be of wide interest to the market. It is not, and is not intended to be, a comprehensive survey of all our retail compliance and enforcement activity.

4.2. Later this year we intend to publish the fifth annual overview of our enforcement work. It will outline, for the 2018-19 financial year, the formal investigations we opened and alternative actions we took. It will also note the outcome of any formal investigations we completed, set out any financial penalties we imposed and describe any remedial actions that licensees took in response to our activity. In the meantime, suppliers may wish to read our annual [Enforcement Overview 2017/18](#).

4.3. On 22 February 2019 we published an updated suite of [ten guidance documents](#) intended to help suppliers find their way around the licences. There is an introductory guide and nine subject-specific guides. All are intended as a helpful tool. They do not substitute for a sound knowledge of the actual [gas](#) and [electricity](#) supply licences. The guides were originally published in late 2017 and early 2018.

4.4. For more information about our approach to compliance work, see the [retail compliance page](#) of the Ofgem website.

List of compliance issues covered in previous reports

Compliance and Enforcement Report, August 2018

Publicising compliance activity
Inaccurate and/or unissued bills and Annual Statements
Call centre services
Trade sales
White Label partnerships
Price increases under fixed tariffs
Offering prepayment meters
Topping-up prepayment meters
Tariff caps for prepayment meter and Warm Home Discount customers

Compliance and Enforcement Report, December 2017

New billing systems
Exit fees
Third party agents and the Guaranteed Standards of Performance
Erroneous transfers
Website information requirements
Smart meter roll out targets
Smart meter PPM switching
PPM price cap