



Statutory consultation on the process for making changes to the Default Tariff Cap licence conditions – E.ON response

Thank you for the opportunity to comment on your proposal to modify SLC 28AD.18 (gas licence) and SLC 28AD.19 (electricity licence) to allow any Decisions made by Ofgem, but not yet implemented due to the 56-day period required by the Gas Act 1986 and Electricity Act 1989, to be taken into account when Ofgem announces the cap prices for the following Charge Restriction Period.

For the fifth Default Tariff Cap Charge Restriction Period (1 October 2020 to 31 March 2021), there are three main changes that should take place:

- the outcome of the review of the non-pass-through Smart Metering Net Cost Change (npt SMNCC) allowance;
- preparation of the cap to include prepayment customers when the Prepayment Charge Restriction comes to an end;
- reassessment of the wholesale allowance in the first cap period following the High Court's judgement in the case between British Gas and GEMA in November 2019.

SMNCC review

Under SLC 28AD.11, Ofgem was due to undertake a review of the npt SMNCC during the course of 2019. The review was intended to be based on the Department for Business and Industrial Strategy's 2019 Smart Metering Implementation Programme Cost Benefit Analysis (SMIP CBA); however, publication of this was delayed until 16 September 2019. Ofgem then consulted on its proposals to update the npt SMNCC for the fourth cap period. However, following representations from stakeholders, Ofgem announced on 12 December 2019 that it would use a contingency method to calculate the npt SMNCC for the fourth cap period and would consult further on this issue in the New Year. Ofgem has not yet issued such a consultation, and it was only on 3 February 2020 that it issued an RFI to gather additional information. We believe that Ofgem could have acted more quickly in order to issue this RFI sooner and thus consult earlier, enabling it to make a decision by 12 June 2020.

Changes to include prepayment customers

With respect to preparing the cap to include prepayment customers; Ofgem has been aware of this potential requirement since the Competition and Markets Authority published its Decision on its Review of the Energy Market Investigation (Prepayment Charge Restriction) Order 2016 in July 2019. Had it acted more quickly, there would have been no difficulty in making a decision by 12 June 2020. Even now, we believe there is sufficient time to issue a statutory consultation in mid-April.

Reassessment of the wholesale allowance

With respect to the reassessment of the wholesale allowance, we believe Ofgem could bring forward its statutory consultation to mid-April and thus make a Decision by 12 June 2020, still allowing for four weeks statutory consultation and four weeks to make the Decision.

We are disappointed, therefore, that Ofgem has failed to act speedily to ensure it can meet existing deadlines for the Default Tariff Cap.

If Ofgem decides to proceed with its proposals under this consultation, Decisions could be made any time up until 6 August 2020 for implementation on 1 October 2020; a reduction of almost two months for suppliers to undertake any changes that may be necessary to its systems and processes, and to plan and put into effect communications to customers about any resulting price change. Should the level of the price cap in any future cap period increase, large suppliers would need to increase the default tariff prices they are quoting customers on within days in order to mitigate against the insufficiencies of the price cap methodology, which does not provide for a level playing field between large and small suppliers and does not take proper account of the differences in customer portfolios between large, ex-incumbent suppliers and those who have entered the market since the market opened up to competition. Failure to implement any price increase on the date the Charge Restriction Period commences would have serious financial implications for those suppliers.

Ofgem may not appreciate the amount of work required to implement a price change, and the potential for other changes resulting from its Decisions on the issues discussed above. We consider below what this work might include.

Price changes and the impact on communications

There is a very tight timescale for producing, printing and sending communications to customers to advise them of a price change. Our current terms and conditions of supply require us to give 30 days' notice to customers of a price increase (we are currently in the process of reviewing this). In order to meet deadlines for printing and posting, we must issue customer data to our print house at least six weeks prior to the effective price change date. Customers acquired after we have finalised that customer data must be quoted at the new prices; we must therefore update our pricing tables just prior to finalising our customer data, meaning that we must start quoting on the new prices within days of receipt of notification from Ofgem of the prices for the next Charge Restriction Period. The diagram below demonstrates the timescale.

It also means that we must start to design the letter, develop paragraph logic, prepare artwork and test proofs before the new cap prices are announced, and therefore must act as though the price cap will result in a price increase for at least some of our customers in order to meet the deadlines shown below; this is inefficient, but unavoidable.



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The impact of other changes

We anticipate that most of the changes Ofgem is planning to make for the fifth Charge Restriction Period will impact the methodology only and therefore the only impact will be to the cap prices; therefore delaying Decisions to 6 August will have minimal impact. However, with respect to Ofgem's plans in respect of including prepayment customers in the Default Tariff Cap, there is less clarity. It is possible that some suppliers may need to make system and/or process changes in order to deliver Ofgem's proposals. Work on these cannot commence until Ofgem has made its Decision; if the final Decision changes what was proposed in its statutory consultation, any work undertaken prior to the Decision may be wasted, resulting in inefficiency. Making system changes requires: clear definition of precise changes required; assessment and pricing of what is required by our third party IT provider; planning and development; testing. Only the simplest changes are achievable under current timescales and would be impossible should Ofgem decide to adopt its proposals under this consultation.

For more complex changes, our alternative approach would have to be to find a work around in order to mitigate the risk of customers being charged above the level of the cap. However, if a decision is not made until 6 August 2020, we would have only two weeks to plan and put into operation such mitigation prior to having to start printing price change notifications. We risk being subject to enforcement action due to an issue not of our own making.



Conclusion

We believe that, had Ofgem commenced work on the three issues above at the earliest opportunity, there would be no problem in meeting existing deadlines. Even now, we believe that, acting swiftly, it would be possible to issue Decisions by 12 June 2020, with statutory consultations issued in mid-April. In its letter¹ of 31 January 2020, Ofgem proposes to issue its statutory consultation on the three issues stated at the beginning of this response by mid-May 2020 and publish its Decisions at the end of July 2020. We believe it is possible to bring these dates forward so that there is no need to change SLC 28AD.18 (gas) and SLC 28AD.19 (electricity).

However, we appreciate that, given where we are, the timescale is tight. Therefore, providing Ofgem gives assurances that it will not unduly delay making its Decisions and will take all reasonable steps to do so before the end of June 2020, we would be prepared to accept Ofgem's proposals under this consultation in respect of the fifth Charge Restriction Period only, to act as a contingency. There should be no need to apply it for further cap periods (should there be any) providing Ofgem acts speedily in future.

¹ Default tariff cap: January 2020 update letter, Ofgem, 31 January 2020