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Dear Arina,

Re: Proposals to improve outcomes for consumers who experience self-disconnection and self-rationing

Thank you for the opportunity to respond to the above consultation. Utilita's submission comprises this letter and Appendix 1 which addresses the individual questions in the consultation.

Utilita Energy Limited (Utilita) is a smart prepayment energy supplier, specialising in providing an excellent smart service to a previously poorly served market sector. We have been installing Smart meters for our customers since 2008, and SMETS meters since 2013. Our portfolio is around 95% prepay customers, and of those, approximately 90% have smart meters installed operating in smart mode.

In terms of non-smart customers, we have a small portfolio of legacy customers, who are either awaiting install, awaiting an appointment or who have refused a smart meter subsequent to sign up. As our core business model is that once a sale is made to the customer, we will try and book an install at point of sale, and accepting a smart meter is part of Utilita's principal terms, the number of customers in this group is small relative to the overall portfolio. We also have a small number of customers for whom a smart meter cannot be installed.

We pride ourselves on the quality of our offering to our smart prepay customers, and as far as we are able, we care equally for our traditionally metered customers. The best option for our customers will always be to install a smart meter for them as soon as we can and give them access to the full range of our smart services. For example, if a traditional prepay customer is off supply, and needs immediate help, we would not send an engineer to complete a 'wind-on'. This would be a purely temporary solution and not address the customer's longer-term issue. Instead, we will take the opportunity to install the customer's smart meter for them, which will mean we can help them remotely in future if this is needed.

We already provide Emergency Credit at £15 per meter and extensive Friendly Credit between the hours of 14:00 and 10:00 the next working day. In addition, we offer a self-service discretionary credit option (via our My Utilita App, known as Power Up) to our prepay customers who meet modest criteria, and can also provide further assistance via

our Extra Care Team (ECT) for our most vulnerable customers. The ECT is also trained to provide customers with tailored energy efficiency advice and to signpost customers appropriately, for example, to StepChange where broader debt advice is needed. The ECT is also alert to other signs of difficulty with customers, that might indicate referral for an ECO3 consultation might be appropriate.

The My Utilita App helps customers understand and manage their energy use and account, in addition to the IHD. Our services also allow prepay customers to top up through a wide range of routes, including by App, online, by mobile, text, IVR and the usual cash/Paypoint options.

The extensive range of services that we deliver to our customers, plus the help that we offer to our vulnerable customers who may be in difficulty, shows that as a company, Utilita does support our vulnerable customers effectively.

We support many of the principles set out in the document. We demonstrate this every day in our business as usual practices. We also agree that the same level of support is not necessarily provided by other suppliers to their customers. However, we have serious concerns in several areas which include the detail of the proposals in the consultation; the way in which these proposals integrate with other obligations placed on suppliers; and the quality of the consultation process itself.

We disagree with Ofgem's approach to impact assessment for these proposals. Ofgem seeks to impose significant additional obligations on suppliers, some of these obligations are not even subject to an all reasonable steps test, and in fact appear to be unlimited.

We do not believe that is the reasonable for Ofgem to impose unlimited obligations on suppliers with respect to providing financial support to vulnerable customers, without conducting a robust impact assessment, and ensuring that suppliers can fund the arrangements. Ofgem states that as these proposals are based on the spirit of existing voluntary requirements, they do not consider there will be a significant cost for industry participants. We strongly disagree with this and believe it is essential that Ofgem conduct a robust impact assessment.

The current arrangements do not impose on suppliers an unlimited obligation to give credits to customers who may be off supply, no matter what debt the customer has or how much support has already been given.

Such an open-ended obligation imposes significant additional risk on suppliers and can be expected to have long term impacts on customers' willingness to pay their energy bills. This has already been the case in water, and we should learn from that experience. If, as an industry, such a broad and effectively unlimited proposal is to be implemented, this must be considered and funded at a strategic level. For that, an IA and robust cost benefit analysis must be conducted.

The consultation period is also problematic. For Ofgem to issue a consultation of this magnitude, needing significant analysis and to allow only four weeks to respond (including a bank holiday) is manifestly unreasonable. Best practice on important consultations suggests 12 weeks for responses, in this case barely one third of this time has been permitted.

Finally, the proposals in the consultation will require suppliers to make extensive use of customer smart data to assess their behaviour and potential difficulties. There are several issues with this. Many customers already refuse to allow suppliers to collect

granular smart data due to privacy concerns. We also have anecdotal evidence from our customers that while some vulnerable customers appreciate this kind of monitoring for self-disconnection, others do indeed object to what they see as oversight. The proposals make no allowance for such customer preference. There is no evidence that Ofgem has conducted the necessary DPIA for this type of proposal. If a full DPIA has been conducted, we ask that Ofgem publish it, and allow suppliers an opportunity to respond.

In considering the broader aspects of the consultation, Ofgem must ensure that the SLCs do not place suppliers in conflict. Examples of such conflicts include how suppliers should integrate these requirements with ability to pay principles, and how suppliers should work to stop customers getting into financial difficulty when being required to provide mandatory credits.

We accept that there is need for balance between the conditions, but due consideration must be given to both long and short-term effects for both customers and suppliers. In the document, Ofgem sets out that "For example, where a customer has shown that they have fully repaid a previous discretionary sum, we believe that there shouldn't be a limit on when a customer can reapply for discretionary credit". We agree with this, especially for short term issues, and indeed have developed an App to support this approach. Discretionary credit is an important factor, everyone will go through some form of short-term vulnerability and we offer any and all customers the ability to receive this help without fail, or indeed needing to even talk to us.

The difference is that discretionary credit offered by suppliers cannot and will not address long term, low income based or severe issues. These are a factor of the welfare system and must be addressed by wider social and governmental policies.

We hope this submission has been helpful, and we would welcome an opportunity to meet with you and discuss our comments in more detail.

Yours sincerely,

By email only

Alison Russell
Director of Policy and Regulatory Affairs

APPENDIX 1 – Consultation Questions

Question 1: Do you agree with our proposal to require suppliers to identify prepayment self-disconnection and the associated proposed licence conditions? Please refer to Appendix 1 for the draft licence conditions.

We are generally supportive of requiring suppliers to engage positively with customers around self-disconnection and we operate a number of processes to assist in this regard. However, these processes operate most effectively with our smart meter customers, due to the data delay with traditional meters. We agree that where a traditionally metered customer identifies self-disconnection, suppliers should be obligated to have regard to the information and take all reasonable steps to respond appropriately.

There are, however, difficulties with some of the consultation proposals which we have referenced elsewhere in this submission. The first of these is the requirement for customer consent to collect granular smart data. For the purposes of identifying self-disconnection as proposed, monthly or daily data is not sufficient.

On this basis, if Ofgem intends to impose these obligations as drafted, we propose the relevant licence conditions relating to smart data should also be amended. The change should ensure that the supplier may collect the smart data from the meter in all cases. If Ofgem wishes to include an opt-out mechanism, it should also be clear, that if the customer does decide to opt out, then the obligations proposed as SLC27A.1 and SLC27A.2 may be detrimentally affected.

Equally, where a customer objects to the monitoring and/or contact, there must be an acceptance that suppliers may exclude that customer from future calls at the customer's request.

It is also important to note that the tools available to suppliers vary drastically between smart and traditional meters. This cannot be glossed over and must be addressed effectively within the proposed obligations. For traditional meters in particular, the difficulty of identification of a self-disconnection versus the other 4 common risk factors identified by OFGEM for self-disconnection would be very difficult to achieve under the current metering arrangements.

Traditional Meters:

To illustrate the difficulties inherent in the proposals, we have set out a likely scenario below.

Miss A is a PSR registered customer. She lives in a small house and has a traditional prepayment meter. Miss A usually tops up her meter weekly on a Sunday. However, this week Miss A ran out of credit. As the supplier, it is impossible for us to know on which day Miss A ran out of credit unless she calls us and tells us. In fact, in this scenario, as the supplier, we may not find out until the subsequent week Miss A had not made a further top up and why. We will not know if this is due to financial difficulty or if she had simply gone away for a few days.

We believe that a scenario like this shows why traditional meters effectively render rapid identification of issues and such monitoring unworkable. We can and do monitor for longer term no vend customer accounts with traditional meters, but short-term monitoring is not viable. Any such identification would involve significant manual

intervention and outbound calls which would definitely have resource impacts, that should be assessed and considered in an impact assessment. We suggest the solution for this issue with traditional meters is actually to replace the traditional meter with a smart meter wherever possible.

Smart Meters (SMETS):

This metering type is much more likely to facilitate better monitoring of the disconnection process. Suppliers could check other services (such as the gas or electricity meter) to see if there is ongoing 'normal' consumption which may provide supporting information. However, this is only the case where there is consistent WAN. Intermittent or no WAN is a known issue. This may be due to network coverage, SMSO activity or indeed DCC performance as well as other issues.

While this concern could reasonably be covered by the 'all reasonable steps' approach, Ofgem should state clearly that suppliers will not be held unfairly accountable for issues outside of their control. Equally, it must be clear that where suppliers have taken all reasonable steps, and are let down by a third party such as the DCC, this does not change the scope of the requirement.

Given the examples above and the other 4 common risk factors, there is significant work to triangulate customers' usage habits against disconnection behaviour. There is also significant risk of overburdening suppliers with false positives which would need to be managed. As noted above, identification is especially difficult with older generation meters, and may not be economically deliverable with any true degree of accuracy or urgency.

The costs of such a programme, beyond the activities we already undertake, would be significant. The requirements are not simply to identify customers, but the ongoing delivery cost of then making contact and follow up. This may vary widely as use of technology such as text, email and App may not address the demographics in need of help, meaning suppliers must resort to telephone calls to confirm if the result of their triangulation was correct.

In conclusion, while we believe that it is reasonable for suppliers to have an obligation to take reasonable steps, and to have regard to customers' difficulty once identified, the current drafting is too extensive. We believe the drafting should be amended to reflect the difference between traditional and smart meters, and to have more regard to customer privacy. We also consider that the text should not be implemented as written without the corresponding changes to the smart metering data collection licence conditions.

Question 2: Do you agree with our proposal to require suppliers to identify self-rationing and the associated proposed licence conditions? Please refer to Appendix 1 for the draft licence conditions.

In response to the call for evidence and the RFI, Utilita provided extensive information and evidence from our own portfolio that even with a high percentage smart portfolio, it is incredibly difficult to identify self-rationing. The same is as true, if not more so, with traditional meters.

There is also a fundamental difficulty for suppliers in separating out whether a customer who has a smart meter and reduces consumption is simply implementing energy efficiency measures or self-rationing. The two are arguably synonymous. Suppliers are compelled by licence to encourage customers to reduce energy consumption, give energy efficiency advice and ensure customers can use the IHD to gain control over their energy usage. To impose an opposing obligation on suppliers to try and identify when customers are not using enough energy and encourage them to use more creates a conflict. It also raises the same privacy concerns noted above.

There is also a fundamental question inherent in a debate over self-rationing which is whether this simply reflects a customer's choice over the use they make of their funds. While this is also true of self-disconnection, it is even more difficult to identify with self-rationing.

The first step is to consider the definition of self-rationing, which is fair to all customers (noting that support to self-rationing customers will impose costs on all a supplier's customers). The consultation proposes the following definition:

"When a Domestic Customer deliberately limits its [gas / electricity] use to save money for other areas".

Before a licence condition of this type is implemented, we believe that an assessment is needed with guidance on how this could be monitored by suppliers. Given that support to one customer imposes costs on others, guidance is needed on the types of costs which are acceptable as 'other areas', and how suppliers could or should access this information. For example, should it be considered relevant whether a customer is seeking to save money to pay for what may be considered optional items, such as TV & broadband packages, cigarettes etc. vs food, clothes and other essentials.

Once such definitions and guidance are arrived at, the next step is to consider how suppliers might practically monitor consumption, vending patterns and use of Emergency or Friendly Credit facilities and repayment rates? What is perfectly normal for one customer could be a sign of distress from another.

While no-one would disagree that customers in genuine financial difficulty (or with other vulnerabilities) need help and support, it is difficult, if not impossible for a supplier to assess. This is an area in which effective communications between all parties, including government, charities, suppliers and other third parties could work to help identify genuine cases for support.

Where suppliers have a licence obligation to implement, manage and monitor a programme of this type, including managing attendant customer concerns and privacy issues, the cost must be accurately evaluated, and a full impact assessment carried out. The difficulties in managing a programme on self-rationing are more extensive than those on self-disconnection, and the costs will be higher. Such costs will need to be factored in to the current charge restrictions (both the PCR and DTC) to ensure that efficient suppliers can continue to fund their activities, and that suppliers are not disincentivised from supplying such customers.

We agree that where a customer communicates self-rationing issues, or gives information to a supplier which indicates (or should indicate) the difficulty, the supplier should respond appropriately.

We do not support the imposition of an obligation on suppliers to proactively identify self-rationing, as we do not believe this is reasonably achievable.

A more practical obligation may be to require suppliers to have regard to the risk of customer self-rationing in their interactions with the customer, and where it is identified, to respond appropriately.

We believe that this approach would strengthen supplier obligations in a positive way while not conflicting with the requirements around energy efficiency.

Question 3a: Do you agree with our proposal to require suppliers to offer emergency and friendly credit functions for all customers?

We generally agree that suppliers should be obligated to offer emergency and friendly credit functions for prepay customers. However, this must reflect the inherent difficulties in the market and the differences between traditional and smart meters.

We agree with the proposal not to fix amounts, we believe that suppliers should be able to offer services as they wish to. For example, some suppliers may choose to offer £5, others larger sums. Providing this is clearly communicated, we believe that it is appropriate that suppliers should be able to develop unique selling points and tailored offerings to their chosen demographic. Customers can then choose the offering which best suits them.

We do not support an approach of seeking to drive all suppliers towards the same solution as this stifles innovation and damages competition.

In respect of the provisions in this section that suggest such facilities must be provided to all customers, including by visiting to wind-on if required, the cost must be properly evaluated (as it may be extremely costly) and factored in to the price caps as discussed above.

As set out in our covering letter, our approach to such issues would be to seek to install the customer's smart meter to deliver on ongoing solution. Where the customer refuses this, and hence prevents the supplier from delivering a cost-effective solution, consideration should be given to the supplier's ongoing obligation.

Question 3b: Do you agree with our associated proposed licence conditions? Please refer to Appendix 1 for the draft licence conditions.

As set out above, we do not support the implementation of the licence conditions as drafted. The conditions need to be amended to address appropriately the conditions set out above.

If they are to be implemented as drafted, a full impact assessment is needed, together with appropriate adjustments to the PCR and DTC to ensure that efficient suppliers can fund the required activities.

Question 4a: Do you agree with our proposal to require suppliers to offer discretionary credit for customers in vulnerable circumstances?

In principle yes, and this is something that we already do extensively. We have a long history of offering discretionary credit and have learned from significant experience on how best to provide this service offering, dependent on our customers' needs and circumstances. As such we strongly oppose the current drafting. Please see below.

The approach set out in the document suggests that where a customer is vulnerable, no matter how much support, help and discretionary credit a supplier has already given to that customer, further discretionary credit must be given. There is a clear expectation that a supplier may not refuse, the only discretion that can be applied by a supplier, is in the sum granted and how it is repaid.

We do not support this approach. Suppliers are not, and should not be held, responsible for the fact that customers have low income. Of course, suppliers must take all reasonable steps to help and support vulnerable customers, but this should be case-by-case and should not be unlimited.

If the licence conditions are implemented as drafted there will be significant consequences. Customers will become aware that the unlimited obligation exists, the use of the facility will increase exponentially, and bad debt will increase.

Ofgem asserts they expect additional cost to be small/justified. This must be properly assessed with a robust impact assessment and proper cost benefit analysis. Such sweeping assumptions must be properly justified and challenged.

In addition, the unlimited nature of this obligation poses high regulatory and cost risk to suppliers. If the obligation is to remain unlimited as drafted, it must be factored into the PCR and DTC and properly socialised. It needs to be properly monitored and reported, as well as being updated each half year in line with the price caps. If these actions are not taken, there is the risk that a situation will develop where suppliers will seek to avoid such customers.

If we have misunderstood Ofgem's intention, and the obligation is not intended to be unlimited, we ask that Ofgem publish clear guidance, on which suppliers can rely, which sets out when a supplier may reject requests for additional support.

Question 4b: Do you agree with our associated proposed licence conditions? Please refer to Appendix 1 for the draft licence conditions.

We strongly oppose implementation of the condition as drafted. We also consider that it is contradictory. The concept of discretionary credit which is mandatory is flawed.

Placing an unlimited obligation on suppliers to supply additional credit, without regard to pre-existing debt or recovery will place even the most prudent and efficient suppliers at financial risk. The requirement may place suppliers in difficulty due to non-recovery of debt which is due, and if it increases as we believe it will, would also be expected to impact suppliers' cost of capital. For all these reasons, if an unlimited obligation is to be applied it must be properly funded, and suppliers must be able to recover the costs under the caps.

A potential amendment to the drafting which would be manageable would be to require suppliers to consider whether a discretionary credit should be made to that customer, and further require that the requirements around supporting customers in difficulty must be fully applied when setting repayment arrangements.

This would mean that responsible suppliers, who are already applying these principles, should face minimal additional difficulty, while ensuring suppliers who do not offer such support must consider it going forward.

Question 5: Do you agree with our proposal to incorporate the Ability to Pay principles in the supply licence?

Utilita supports this proposal

Question 6: Do you agree with our proposal to update the Ability to Pay principles to reflect changes in supplier debt recovery practices? Are there other changes that we should implement?

We agree with this proposal and do not consider other changes are required.