

Kieran Coleman
Ofgem
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24th August 2016

Sent via e-mail: redress@ofgem.gov.uk

Allocation of voluntary redress payments in the context of enforcement cases

Dear Kieran,

Energy UK welcomes the opportunity to respond to Ofgem's consultation. Members acknowledge the value of appropriate redress in preventing consumer harm by deterring regulated parties from breaching Ofgem's rules, and for ensuring that those who suffered detriment as a result are compensated directly and efficiently.

Voluntary redress payments made as a result of Ofgem's enforcement decisions should be used to directly compensate the customers affected as far as possible, or otherwise be channelled to a proxy group. As much of the redress value as possible should be returned to customers themselves, and as little as possible should be used to cover administrative costs. Administrative costs should be proportionate to the service delivered.

It is Energy UK's understanding that Ofgem's proposals apply to redress payments made with regard to either or both domestic and non-domestic customer detriment, with the exception of the proposed principle to focus funds on vulnerable customers. This is discussed in more detail later in this letter.

We are happy to discuss any of the points made in further detail with Ofgem or any other interested party if this is considered to be beneficial.

Overview

Energy UK member views differ on which of Ofgem's two principal models for allocating redress funds is the most appropriate. Some members suggest that both models could coexist, each being appropriate for certain situations, and some members would support variations or additions to one or both models. For this reason members will respond individually with their views.

But members agree that more clarity is needed on how the models would work in practice, particularly regarding funding arrangements. Members also agree with Ofgem that the current process is working well (paragraph 1.10) and therefore ask for more detail on Ofgem's case for change, as implementing

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new proposals could be time-intensive, and add complexity and/or cost burdens to suppliers, government and/or third parties.

Members agree that the charities selected for redress should be solvent, well respected and subject to audit, irrespective of whether it is Ofgem, a supplier or a third party who designates them as an appropriate recipient of redress payments.

Option 1: Current process with enhanced principles

Energy UK members have made the comments below on Ofgem's additional principles:

Preclude allocation of voluntary redress payments to charities or trusts that were established by the company under investigation and/or whose name contains a reference to that company.

Members understand the concern underpinning this principle, which is that companies committing breach could benefit from positive publicity. However, some suppliers have already set up their own unbranded redress delivery mechanisms and trusts which have been successful in benefiting customers, and could in many cases be an appropriate and efficient method of distributing redress values to customers. Therefore members suggest redrafting this principle to simply mandate that any scheme set up by a supplier does not use that supplier's name or branding.

Use an open bidding process to select the recipients

Members note that, although this principle is designed to add transparency, introducing an open bidding process could make the redress process slower, and should be used only where appropriate.

Money should be used to support energy consumers in vulnerable circumstances, with a specific focus on energy-related needs

Members agree that the drafting of this principle should make it clear that the principle relates to domestic customers only.

Recipient organisations, including indirect recipients, should be told that the money they receive is a result of enforcement action

Members ask Ofgem to clarify that 'indirect recipients' does not apply to individual customers. It would be administratively burdensome and unnecessary to contact all customers individually to inform them of the origin of the money. This principle could also effectively duplicate Ofgem's original penalty, taking into consideration that there will already have been negative press following the original announcement of an enforcement action.

Option 2: Third party responsible for managing redress allocation

Members would like to see more detail of how the costs of implementing Option 2 would be met. If no fines are levied for a certain period, members seek to understand whether the third party responsible for allocating redress payments would continue to exist, and how it would be funded.

Ofgem notes that the allocation process under Option 2 should be conducted by 'experts in the process of making grants to the charitable sector'. Members ask for clarity on whether Ofgem expects a minimum level of expertise or qualification from such experts.

We urge Ofgem to continue working closely with the industry as it develops the proposals around the allocation of voluntary redress payments in the context of enforcement cases. Energy UK and our members are always willing to discuss with Ofgem ways in which we can work together for the benefit of consumers and the industry.

If you have any questions about the issues raised above, or require any further information we would be happy to help. Please do not hesitate to contact me on 020 7747 2963 or daisy.cross@energy-uk.org.uk

Yours sincerely,

Daisy Cross
Policy Manager

Energy UK is the trade association for the energy industry. Energy UK has over 80 companies as members that together cover the broad range of energy providers and supplies and include companies of all sizes working in all forms of gas and electricity supply and energy networks. Energy UK members generate more than 90% of UK electricity, provide light and heat to some 26 million homes and last year invested £10billion in the British economy.

Energy UK's retail members are: British Gas, Bristol Energy, Co-Operative Energy, DONG Energy, Ecotricity, EDF Energy, Engie, E.ON, Flow Energy, First Utility, GB Energy Supply, Good Energy, Haven Power, npower, Opus Energy, ScottishPower, Smartest Energy, Spark Energy, SSE, Utilita and Utility Warehouse.

We strongly believe in the value of a competitive energy market underpinned by a stable and independent regulatory regime. Together these can foster innovation, support market development, bring benefits to consumers and help provide the certainty that is needed to encourage investment and enhance the competitiveness of the energy sector, a key part of the British economy.