

Suppliers, consumer groups and  
other interested parties

BY EMAIL

Date: 3 April 2017

Dear colleagues

**Open letter – notifying of our intention to launch a project to protect consumers from back billing**

The purpose of this letter is to announce that we are launching a project to examine the regulatory framework governing back billing.<sup>1</sup> Our minded-to position is to introduce new licence obligations to strengthen consumer protections in this area.

The back-billing principle was introduced in 2007 and states that, if a supplier is at fault, they will not seek additional payment for unbilled energy used more than 12 months prior to the error being detected and a corrected bill being issued.<sup>2</sup> We view this as an essential consumer protection and a minimum standard that we expect all suppliers to apply.

The principle was introduced through self-governance; the suppliers active in the domestic retail market (at the time of introduction) committed to apply it and enshrined it in their own policies. However, in the ten years since it was introduced the market has changed markedly. There are now over fifty active suppliers in the retail market; in 2007 there were just eleven. We are not confident that the principle is being applied consistently across the market and are concerned that not all suppliers have appropriate back billing arrangements in place. When the principle was originally introduced, we stated that we would regulate to protect consumers if we became aware that the principle was not being applied universally.<sup>3</sup>

Given the reasons outlined, we are launching a project with the aim of protecting consumers from excessive back billing time limits. At a high-level the project will consider:

- the types of consumers any new licence obligations will need to protect (ie domestic alone or both domestic and non-domestic)
- whether it is appropriate for different limits to apply for consumers with differing metering technology

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<sup>1</sup> A back bill is a 'catch-up' bill issued by a gas or electricity supplier when a consumer has not been charged for their energy use

<sup>2</sup> The back bill principle was introduced following a super-complaint from energywatch, which was the Gas and Electricity Consumer Council, a statutory non-departmental government body. Ofgem's response to the super-complaint can be viewed here: [https://www.ofgem.gov.uk/sites/default/files/docs/2005/07/11070-16305\\_0.pdf](https://www.ofgem.gov.uk/sites/default/files/docs/2005/07/11070-16305_0.pdf)

<sup>3</sup> See page 5 of our response to the super complaint referenced above

- the level of detail any new licence obligations (should we decide they are necessary) need to contain.

It is important to set out this project within the context of Ofgem's wider regulatory approach, particularly our shift to regulate through principles to allow suppliers to innovate and differentiate themselves. We are committed to this approach. However, this does not preclude an enduring role for prescription when we believe there is a specific way a licensee needs to act in order to treat its customers fairly. Indeed in our consultation on the future of retail market regulation<sup>4</sup> we stated that we would use prescription to ensure specific minimum standards are not breached – our minded-position is that the back billing limit is one such minimum standard.

### **Smart back billing time limits**

In the annex to this letter, we have published suppliers' respective back bill limits for domestic and non-domestic consumers with smart meters. Publishing this information improves transparency over suppliers' smart back billing policies and forms part of our work to enable consumers to make informed choices.

We are grateful to suppliers for providing us with the information on their smart back bill limits. However, we note that few suppliers (and none that have a significant portfolio of smart meters installed) are using the opportunity smart meters afford – through enabling suppliers to remotely obtain actual meter readings on which to base bills on – to reduce their back bill limits. As part of the project outlined above we will consider whether, in any regulations we may introduce, a different back bill limit should apply to consumers with smart meters, or whether the limit should reduce over time for all types of meters to reflect the increasing proportion of smart meters.

### **Next steps**

We are eager to hear parties' initial views on this letter; should any party disagree with our minded-to position, we would be particularly interested to understand the reasons why and what viable alternatives we could explore. Please send your initial views to Jeremy Adams-Strump at [Jeremy.adamsstrump@ofgem.gov.uk](mailto:Jeremy.adamsstrump@ofgem.gov.uk) by 28 April. There will also be further opportunities to share your views on more detailed proposals later this year. We will set out timings and further details in due course.

Yours sincerely

**Anthony Pygram**  
**Partner, Consumers and Competition**

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<sup>4</sup> Ofgem, *The Future of retail market regulation*, 2015, can be viewed here: [https://www.ofgem.gov.uk/sites/default/files/docs/the\\_future\\_of\\_retail\\_market\\_regulation.pdf](https://www.ofgem.gov.uk/sites/default/files/docs/the_future_of_retail_market_regulation.pdf)

**ANNEX: Suppliers' smart back billing policies for domestic and microbusiness consumers<sup>5</sup>**

<b>Domestic Suppliers</b>			
	<b>Does company have in place a back bill policy for consumers with smart meters?</b>	<b>Is the policy different to that for consumers with traditional metering?</b>	<b>What limit does the company use for consumers with smart meters (same for both gas and electricity unless stated differently)?</b>
<b>Affect Energy</b>	No	N/A	Use a case-by-case approach to back-billing but will work within industry standard
<b>Axis</b>	No	N/A	12 months
<b>Better Energy</b>	No	N/A	No smart meters in place yet but anticipate using a 6 month limit
<b>Bristol Energy</b>	Yes	No	12 months – will use a case-by-case approach
<b>British Gas</b>	Yes	No	12 months
<b>Bulb</b>	No	No	6 months
<b>Co-op Energy</b>	No	No	12 months
<b>E</b>	No – prepayment customers only	N/A	N/A
<b>E.ON</b>	Yes	No	12 Months
<b>Economy Energy</b>	Yes	No	6 months
<b>Ecotricity</b>	Yes	No	9 months
<b>EDF Energy</b>	Yes	No	12 months
<b>Extra Energy</b>	No	N/A	Not yet formalised
<b>First Utility</b>	Yes	No	12 months
<b>Flow Energy</b>	Yes	No	12 months
<b>Future Energy</b>	No – no smart meters in place yet	N/A	Will use a case-by-case approach but unlikely to go beyond 6 months for traditional metering
<b>Go Effortless Energy</b>	No	Yes	6 months
<b>LoCO2 Energy</b>	No	No	12 months
<b>npower</b>	Yes	No	12 months
<b>Octopus Energy</b>	Yes	No	12 months
<b>Our Power</b>	Yes	No	6 months
<b>Ovo Energy</b>	Yes	No	12 months
<b>People For Places Energy</b>	No	N/A	No smart meters in place yet – policies in development

<sup>5</sup> For the information presented, a smart meter is defined as a meter that satisfies the definition of a Smart Metering System in condition 1 of the electricity supply licence, or condition 1 of the gas supply licence; or a meter that satisfies the definition of advanced meter in condition 12.19 of the electricity supply licence, or condition 12.22 of the gas supply licence, that has been installed in a Designated Premises (as defined in standard condition 1 of the gas supply licence, or standard condition 1 of the electricity supply licence).

<b>Robin Hood Energy</b>	No	No	12 months
<b>Scottish Power</b>	Yes	No	12 months
<b>Spark Energy</b>	Yes	No	12 months
<b>SSE</b>	Yes	No	12 months
<b>Utilita</b>	Yes	No	12 months
<b>Utility Warehouse</b>	Yes	No	12 months
<b>Zog Energy</b>	N/A – no smart meters in place yet	N/A	N/A

<b>Microbusiness Suppliers</b>			
	<b>Does company have in place a back bill policy for consumers with smart meters?</b>	<b>Is the policy different to the limit used for consumers with traditional metering</b>	<b>What limit does the company use for consumers with smart meters (same for both gas and electricity unless stated otherwise)</b>
<b>Affect Energy</b>	No	N/A	Use a case-by-case approach to back billing but will work within industry standard
<b>Axis Energy</b>	No	N/A	12 months
<b>BES Utilities</b>	Yes	No	12 months
<b>Better Energy</b>	No	N/A	Based on experience to date, do not currently expect to back bill for more than 6 months
<b>Bristol Energy</b>	Yes	No	12 months
<b>British Gas</b>	Yes	No	12 months
<b>Bulb</b>	No	No	6 months
<b>Corona Energy</b>	Yes	No	4 years for gas 3 years for electricity
<b>Crown Energy</b>	Yes	No	3 years
<b>DONG Energy</b>	Yes	No	2 years
<b>E.ON</b>	Yes	No	12 months
<b>Ecotricity</b>	Yes	No	2 years
<b>EDF</b>	Yes	No	12 months
<b>Engie</b>	Yes	No	12 months
<b>Extra Energy</b>	No	N/A	Not yet formalised
<b>First Utility</b>	Yes	No	12 months
<b>Gazprom</b>	Yes	No	4 years for gas 3 years for electricity
<b>Go Effortless Energy</b>	No	No	6 months
<b>Haven Power</b>	Yes	No	3 years
<b>LoCO2 Energy</b>	No	No	12 months
<b>npower</b>	Yes	No	12 months
<b>Octopus Energy</b>	Yes	No	12 months
<b>Opus Energy</b>	Yes	No	12 months
<b>People for</b>	No	N/A	No smart meters in place yet

<b>Places Energy</b>			- policies in development
<b>Regent Gas</b>	No	N/A	12 months
<b>Scottish Power</b>	Yes	No	12 months
<b>Smartest Energy</b>	Yes	No	12 months
<b>SSE</b>	Yes	No	12 months
<b>Total Gas &amp; Power</b>	Yes	No	12 months
<b>Utilita</b>	No	N/A	Anticipate using a 12 month limit but will this be a business decision
<b>Utility Warehouse</b>	Yes	No	3 years
<b>Zog</b>	N/A - no smart meters in place yet	N/A	N/A

\*As well as a time limit, suppliers' back billing policies will generally also set out the scenarios where the time limit will and will not apply. For instance, suppliers' policies may stipulate that the back bill time limit will not apply if a consumer wilfully avoided payment.

For full details of your supplier's back bill policy or if you think you have been back billed erroneously we encourage you to contact your supplier. Citizens Advice can also offer help and advice on energy issues, including back billing, their consumer helpline can be found at <https://www.citizensadvice.org.uk/consumer/get-more-help/if-you-need-more-help-about-a-consumer-issue/>.