

Rachel Clark
Switching Programme Director
Ofgem
10 South Colonnade
Canary Wharf
London
E14 4PU

Submitted via email to: SwitchingCompensation@ofgem.gov.uk

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Supplier Guaranteed Standards of Performance: Consultation on Switching Compensation

Dear Rachel,

Energy UK is the trade association for the GB energy industry with a membership of over 100 suppliers, generators, and stakeholders with a business interest in the production and supply of electricity and gas for domestic and business consumers. Our membership encompasses the truly diverse nature of the UK's energy industry – from established FTSE 100 companies right through to new, growing suppliers and generators, which now make up over half of our membership.

Our members turn renewable energy sources as well as nuclear, gas and coal into electricity for over 27 million homes and every business in Britain. Over 730,000 people in every corner of the country rely on the sector for their jobs, with many of our members providing long-term employment as well as quality apprenticeships and training for those starting their careers. The energy industry invests £12bn annually, delivers £88bn in economic activity through its supply chain and interaction with other sectors, and pays £6bn in tax to HMT.

The comments below represent a high-level industry view, and Energy UK's members may hold different views on particular issues. We would be 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.

Executive Summary

- Improving the customer experience of the switching process is a priority for industry. Evidence-based decision making is imperative in order to identify the key priorities and deliver on the right outcomes.
- Erroneous switches are a significant area of customer detriment and industry has proactively proposed that customers should be compensated if they suffer detriment in this area. As the costs of compensation will ultimately be borne by all customers, the amount of compensation must be proportionate and targeted at the supplier at fault. The current proposals for compensation for erroneous transfers are neither proportionate nor targeted at the supplier at fault.
- Ofgem's proposals for compensation for delayed switches are not supported by evidence to demonstrate that this measure is proportionate, do not place adequate incentives upon suppliers to improve performance and would create a complex and arduous customer journey.
- Any action that is taken in relation to the timely issuing of final bills and credit refunds must be designed to incentivise improved performance by targeting the root causes of unjustified delays. There is a need for further analysis of valid reasons for delays in these areas in order to determine whether automatic compensation would have a positive impact.
- The proposed forms of compensation for intentional switches would threaten the existence of the Energy Switch Guarantee without introducing any new appropriate incentives to encourage improved supplier performance.

Energy UK members recognise the importance of delivering further improvements to the switching process in order to ensure that it provides for the best possible customer experience. There is a significant volume of existing and planned activity designed to achieve this outcome, including the creation of a centralised address database, the Energy Switch Guarantee, faster switching reforms and

the smart meter rollout. It is, therefore, vital that automatic compensation should be evaluated within this wider framework as a means to an end rather than being perceived as an end in itself.

Overall, Energy UK highlights that the proposals adopt a wide-ranging prescriptive approach that are in contrast with the regulatory shift towards principles-based regulation (PBR). The specificity and breadth of the proposed measures of compensation require suppliers to act in a certain way rather than using a principle that would put the responsibility on suppliers to interpret and deliver a fair customer outcome. While Ofgem has stated that under PBR it will use a prescriptive rule if there is only one acceptable way of treating customers, the current proposals would introduce a prescriptive rule in some areas that draws on a limited basis of evidence and goes beyond what is outlined to be an acceptable approach under the licence.

Energy UK is, therefore, concerned about the precedent that these proposals would set and whether they are aligned with PBR. In addition to this overarching point, the response below outlines specific questions and concerns regarding the technical challenges associated with each of the proposed measures of compensation.

SECTION 1: DELAYED SWITCHES

Evidence Base / Proportionality

The level of customer detriment in this area is currently unknown. A robust, evidence-based Impact Assessment is crucial in order to evaluate the costs and benefits of introducing compensation in this area. There is a risk that these proposals could otherwise result in the introduction of a compensation payment of £45 to engaged consumers who in many cases may have simply had their switch delayed by a day, with no further action required by them and a financial loss of less than £1 (assuming that the tariff being switched to was not more than £365 cheaper than their previous tariff). The cost to suppliers and customers of introducing systems for compensation payments, monitoring performance and communicating the changes to customers would be significant and it needs to be clear that there is a strong rationale for imposing such a change.

Ofgem highlights in the consultation that 9% of switches were delayed beyond 21 days for invalid reasons. It is essential to know, for example, the number of these switches that were completed in 22 days. This is particularly significant as Ofgem states in its consultation that it would measure the speed of the switch from the date the consumer enters into the contract with the supplier. This is inconsistent with the commitment in the Energy Switch Guarantee, which states that a switch will be completed within 21 days of a supplier receiving a customer's application. This can be a day later than when a customer has entered into a contract if a price comparison website (PCW) has not passed on the application promptly. Energy UK and Citizens Advice also consider that switches delayed by 4 or more non-working days occurring between day 15 and 21 of the switch should be considered as valid delays. It is unclear whether Ofgem has considered such a scenario to be a valid exception in the statistics cited in the consultation.

Furthermore, Ofgem's assertion that non-compliance appears to be widely spread across the industry needs to be carefully examined. It is important to know whether a small number of suppliers who are not signed up to the Energy Switch Guarantee are causing a significant volume of the delayed switches, as this will influence the most appropriate course of action to address the issue. Given that 98% of valid switches to Energy Switch Guarantee signatories are completed within 21 days of receipt of the application, it does not appear proportionate to require the majority of well-performing suppliers and their customers to bear the costs of implementing new systems and processes due to customer detriment caused by a small number of underperforming suppliers.

Impact on Switching Outcomes

The mechanism of the proposed compensation means that it is not possible to assume that it will have an impact upon switching outcomes in this area. If a supplier is penalised regardless of whether it was the cause of a delayed switch, then there is no clear incentive placed upon a supplier to improve its performance. A supplier that has invested time and resource in order to perform at a high standard would still be punished for the failures of others. This proposal would, therefore, add a significant cost without creating a strong incentive to improve switching outcomes.

As Ofgem notes in its consultation, the principle of responsibility sharing would establish a system where “the incentive effect is not perfectly targeted and in some cases will simply impose a cost on those who cannot respond by improving processes or procedures to remove or reduce the cost”.

An investment of resource of this size could be applied elsewhere to far greater impact. For example, a key cause of delayed switches is the length of the gas confirmation period. A better impact on switching speed outcomes could be achieved from a project to remove the gas confirmation period, in contrast to a proposed form of compensation that requires investment without any guarantee of improving the existing levels of performance.

Impact on Customers

Customer research commissioned by Energy UK at the time of the launch of the Energy Switch Guarantee highlighted that providing compensation does not increase consumer confidence in switching, but rather highlights the issues with the process. In contrast to a positive message that reassures customers that switching is an easy and reliable process, the provision of automatic compensation conveys the message to customers that their switch may go wrong. This is not an attractive proposition for customers, who expressed the view in our customer research that in the event of an issue, what they want most of all is for their issue simply to be sorted.

Energy UK also highlights that Ofgem’s guidance for valid exceptions to 21-day switching identifies a number of areas where it is appropriate for a switch to take longer than 21 days. This creates a risk that customer expectations will be raised that they will receive compensation if their switch is longer than 21 days, when in reality there are a number of circumstances where this will not be the case. This is a significant risk as a customer is likely to be extremely dissatisfied if they do not receive compensation having thought they would do so. Communicating the nuances of valid exceptions to 21-day switching would be a complex challenge for all industry stakeholders, particularly given that the switching process is already not the most consumer-friendly topic to explain.

In addition, the proposed method of compensation is not automatic for the customer. For example, the losing supplier would not automatically know the reasons for a switch taking longer than 21 days, which could be for a variety of reasons including a customer requesting a later date. A customer would be required to request compensation from their old supplier, who would be likely to require information in order to gain an understanding of when the switch took place.

Impact on Suppliers

Energy UK notes that the licence requirement for a timely switch is longer than 21 days. The implementation of Proposal A would create a situation whereby suppliers switching customers at a speed that is compliant with the licence would be required to pay compensation. This would create a challenging regulatory environment for energy suppliers as it would indicate a divergence between the conditions set out in the licence and Ofgem’s expectations of supplier actions.

The principle of responsibility sharing outlined in Proposal A could also have the impact of disincentivising new market entrants. As noted by Ofgem in its consultation, the proposed compensation “could comprise a significant portion of the margin accrued by a supplier for gaining customers”, while being outside of the control of a potential new entrant.

SECTION 2: FINAL BILLS & CREDIT REFUNDS

Evidence Base / Proportionality

Energy UK notes that no evidence base is provided in the consultation for customer detriment in relation to credit refunds. Given the costs associated with setting up systems and processes to pay compensation for a Guaranteed Standard that exceeds the licence condition in this area, there must be a clear justification for doing so.

With regard to Final Bills, it is crucial that a clear link can be drawn between any mechanism designed to improve the speed of Final Bills and the root cause of existing delays. In particular, it needs to be examined the extent to which these delays are caused by existing industry rules, such as the Missing Reads process for electricity. This would determine whether a more effective outcome would be achieved by a project to improve the Missing Reads process, rather than introducing compensation.

Impact on Switching Outcomes

In the absence of evidence on the root causes of the cases where the issuing of a Final Bill or credit refund is delayed, it is not possible to ascertain the extent to which these instances would be covered by valid exceptions due to factors outside of a supplier's control. It is, therefore, impossible to understand whether these measures would have a positive impact on switching outcomes as the problem itself remains unclear.

Impact on Suppliers

The logic put forward in the consultation document that, given this commitment is made by the many suppliers signed up to the Energy Switch Guarantee, it "might reasonably be supposed to be timely" and proportionate to make it mandatory, would establish a logic that Ofgem considers that any successful Voluntary Code can be placed into licence on this basis. This would be likely to make it far more difficult to incentivise suppliers to sign up to Voluntary Codes. Since the publication of Ofgem's proposals, Energy UK has already seen a negative impact on the willingness of new suppliers to join the Energy Switch Guarantee and there is a risk to the future of the Energy Switch Guarantee itself.

The blanket imposition of compensation being paid by the losing supplier could also result in scenarios whereby a supplier would be required to pay compensation for a delayed Final Bill due to another supplier's agents not following the Deeming process or failing to provide a customer read within an appropriate timeframe.

Impact on Customers

There would need to be a thorough piece of work to consider valid exceptions to issuing a credit refund within 14 days, given that there will be certain scenarios in which the best customer outcome is achieved by a longer timeframe. For example, in cases where a supplier requires a forwarding address or updated bank details, it would not be in the customer's interest if a supplier put undue emphasis on the speed of credit refund over its accuracy. As with delayed switches, it will be necessary to communicate to customers the criteria under which a delayed final bill or credit refund would be eligible for compensation.

As was recently discussed with Ofgem at Energy UK's Fraud and Financial Crime Group, the need to protect against fraud is a further relevant consideration in this area. It is important to highlight that in a small number of cases, there can be a tension between the need to provide a prompt refund and the need to minimise fraud linked to overpayments on accounts. Energy UK would be happy to provide further detail on this concern through the appropriate forum in order to inform Ofgem's understanding of the issue.

SECTION 3: ERRONEOUS SWITCHES

Evidence Base / Proportionality

Energy UK recognises that, in contrast to the other areas of proposed compensation, there is an evidence base to justify action to be taken in relation to Erroneous Transfers. Energy UK notes the findings of Ofgem's qualitative research that customers who have been transferred erroneously experience a greater emotional impact than for the other identified switching issues, and that these customers potentially have to spend more time driving a resolution themselves. For this reason, the industry-led Erroneous Transfers Working Group concluded that £30 compensation should be provided to domestic customers where they had not received confirmation within 20 working days of their initial contact that they would be returned to their old supplier.

It is, however, important that any compensation measure is proportionate and appropriate. This is crucial as the cost of paying compensation to customers affected by an erroneous transfer will ultimately be borne by all customers. Through this lens, £45 appears a large amount of money for a customer to receive for an Erroneous Transfer, especially when contrasted to the £30 payment that was identified as appropriate for a missed appointment under the existing Guaranteed Standards.

Impact on Customers

Ultimately the cost of compensation will be borne by all customers, which means it is important that the selected amount of compensation is proportionate. Energy UK notes that the decision by a supplier as to whether a switch is erroneous (Proposal B) is the same decision that triggers the issuing of the 20 Working Day letter (Proposal D). By artificially separating these out, the level of compensation for a failure in this area becomes £90. It is unclear how Proposal B achieves any outcome for customers not

already achieved by Proposal D. This is a large sum of money for such a delay and it appears difficult to justify that all customers should ultimately be expected to bear the cost of this level of money being provided to certain customers.

Impact on Switching Outcomes

Erroneous switches can be caused by customers, suppliers or PCWs. In order to incentivise suppliers to improve performance, it is important that compensation payments for erroneous switches due to supplier actions are made by the supplier at fault. Energy UK members believe that, in a significant number of cases, it is possible to identify the supplier at fault in the event of an erroneous transfer. By obtaining a clearer picture of the evidence in this area, Energy UK notes that Ofgem would also be better placed to identify whether a market-wide intervention is the most appropriate mechanism for delivering improved outcomes.

It is important to note that PCWs have an important role to play in this area under the CMA remedy enabling them to access DES and ECOES. It will be challenging for an individual supplier alone to place sufficient incentive on a PCW to improve data quality and Ofgem should consider how it can engage PCWs more holistically through its own means of influence.

Similarly, the quality of centrally-held industry meter point data, which is crucial to the switching process, is reliant upon the actions of Distribution Network Operators (DNOs) and Gas Transporters (GTs). Energy UK highlights that although a new dataflow was introduced in electricity to enable suppliers to send meter point address updates to distributors in February 2018, the responsibility to make these updates sits with DNOs and GTs. It is important that Ofgem considers whether the appropriate incentives are in place on all parties in this process as well as suppliers. In order to work towards the achievement of a zero-error database, there is a need for Ofgem to acknowledge and accelerate the work being led by the full range of industry stakeholders that are critical to its delivery.

Impact on Suppliers

In all three proposed areas of compensation for erroneous switches, Energy UK's view is that the fault can be assigned to one supplier in the majority of cases. It stands to reason that automatic compensation will only result in an improved outcome if it is targeted at the supplier at fault.

As with delayed switches, the current proposed method of responsibility sharing could be a barrier to market entry. Potential new entrants will note that both parties are required to pay compensation, regardless of fault.

SECTION 4: OVERARCHING FEEDBACK

Guidance on Valid Exceptions

It would be vital for Ofgem to provide guidance on valid exceptions for any new performance standards. This would have a crucial impact on the effect of these measures. The existing Guaranteed Standards for missed appointments are unambiguous and the same level of clarity is essential for any new Guaranteed Standards. Energy UK notes that where Ofgem has an existing list of valid exceptions for 21-day switching, the reasons given are open to interpretation and would require added clarification prior to the introduction of any automatic compensation.

Cap on Overall Compensation

Energy UK believes that Ofgem's proposals should align with the current Guaranteed Standards of Performance guidance and introduce a cap on compensation. We highlight that the absence of such a limit may lead to customers disengaging with the market to receive more compensation due to a lack of incentive to engage. Such payments are also likely to cause significant financial detriment for suppliers and add to the overall cost of the scheme that ultimately will be borne by customers.

Non-domestic consumers

Energy UK's view is that there is no justification for extending the proposed new Guaranteed Standards to non-domestic consumers. There are distinct differences in the way that the non-domestic market operates, such as the proportion of customers that switch supplier on a specified date at the end of a contract period. Energy UK does not believe that there is evidence to suggest that such a regime, which would impose considerable costs, is justified in the non-domestic sector.

Timeframe

In order to implement the proposed measures, suppliers would need to implement new processes, metrics and exemption reporting. It is important that the start date selected by Ofgem for any compensation proposals that are taken forward provides suppliers with sufficient to make these changes. It is noted that suppliers cannot begin to make changes while the proposals are still in draft format. In identifying an appropriate period of time, a comparison can be drawn with the introduction of the existing Guaranteed Standards, for which the time period for implementation was significantly longer.

Yours sincerely,

Audrey Gallacher

Audrey Gallacher