

Ofgem Statutory Consultation on Price Protection Data Matching

Energy UK response 1st June 2018

Introduction

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.

These high-level principles underpin Energy UK's response to Ofgem's statutory consultation on price protection data match on behalf of our members. This is a high-level industry view; 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 if this is considered to be beneficial and will continue to work closely with Ofgem on this issue.

Executive Summary

If there is to be an extended price cap for vulnerable customers, there is broad support amongst Energy UK members for this being done by data matching with the Department for Work and Pensions (DWP) rather than using supplier data only. As noted in our previous submissions to Ofgem on this issue, if Ofgem is to proceed with expanding the safeguard tariff, data matching is the only way Ofgem can ensure that all eligible vulnerable customers receive protection automatically, regardless of their supplier.

However, there remains a number of areas of concern amongst members, including the lack of an Impact Assessment, the timelines for implementation, the readiness of the Department for Work and Pensions to handle increased data matching, and the justification for the proposed exemptions.

Outstanding issues

Firstly, we note the lack of an Impact Assessment from Ofgem. Given the extent of the proposed changes, in line with Ofgem's statutory duties, we believe one should have been published alongside the publication of this statutory consultation, so as to allow stakeholders to fully consider Ofgem's proposals. We note that Ofgem intends to publish an Impact Assessment alongside a future statutory consultation that will consult on the tariff methodology for an extended vulnerable safeguard tariff, but that does not address the present need.

Further clarity is also required from Ofgem on its timeline for implementation of an extended safeguard tariff cap. We note that the licence modifications are open ended and that Ofgem may, therefore not choose to make use of the powers until an undetermined later date. With this in mind, there is ambiguity around the expected introduction of a default tariff cap and what this means for an extended safeguard tariff. Clarity on both matters is urgently required from both Ofgem and BEIS. Energy UK members have concerns about imposing a conditional obligation with this level of uncertainty and some have raised questions as to its lawfulness.

There is also a need for clarification from Ofgem around the justifications for the proposed exemptions. Some members feel this is currently lacking. Clarity would help stakeholders assess whether the proposed framework is correct.

Given the important role that DWP will play in the proposed process, Energy UK would welcome assurances from Ofgem and DWP that they have been in active discussions with each other. It is vital that should Ofgem proceed, that DWP will be ready to provide the suggested data matching facilities, especially in relation to Universal Credit, Working and Child Tax Credits. As a point of principle, if proposed benefit criteria cannot be matched by DWP, then they are not appropriate criteria for an expanded safeguard tariff. In addition, more information is required, particularly for suppliers who do not currently engage with DWP on data matching, around costs from DWP.

An explanation from Ofgem as to why they have discounted suppliers' suggestion that an extended safeguard tariff should only apply to consumers who have been on a default tariff for a certain period of time would also be welcome. Ofgem states that the customers who would be under an extended safeguard tariff are already disengaged, whilst in other areas of regulation (for example the CMA database) disengaged is defined as being on a default tariff for 3 years.

Finally, there are questions around how unmatched customers would be managed, i.e. those customers the DWP know to be eligible for the expanded safeguard tariff but cannot be matched against a customer record held by a supplier. For the Warm Home Discount (WHD) Core Group data match a government-led letter campaign and call centre function exist to inform customers of eligibility and manage resulting queries, helping to ensure those entitled to support receive it.

Draft License Conditions changes

Energy UK and its members also have some specific comments on the draft Electricity and Gas Supply Standard Licence Conditions (SLC) that Ofgem sent out as part of the statutory consultation. Should Ofgem look to move forward with SLC modifications it is important that these are considered carefully. As both are similar, Energy UK has focused its comments on the draft electricity SLC modifications:

- **28AB.1(a)**
Energy UK notes that the language used is very prescriptive for a licence condition, which as noted above, may or may not be used by Ofgem, subject to other developments. There is a risk that this may introduce unnecessary costs for suppliers and their customers, by introducing a source of 'regret spend' for suppliers if Ofgem does not make use of the powers this winter. We would, therefore, encourage Ofgem to review the drafting.
- **28AB.1(b)**
We believe this SLC should refer to any 'reasonable' requests made of suppliers.
- **28AB.11(a)**
We are concerned that as currently drafting the SLC is overall vague as to what constitutes 'seeking appropriate opportunities'. We also note that as drafted it is an absolute requirement. Suppliers have expressed concern that it is, therefore, not clear what Ofgem's expectation of compliance is and the extent of any process changes that might be required. With this in mind, we question if the SLC would be better drafted if it made clear that suppliers should seek to take all 'reasonable and appropriate opportunities'.
- **28AB.9(a)**
The majority of Energy UK members do not currently believe the drafting is consistent with Ofgem's policy intent (as set out on page 6 of the statutory consultation). The current drafting would exempt suppliers who have less than 50,000 or who have been active in the supply market for less than three years. We understand that Ofgem's policy intent is that any supplier with 50,000 customers or more or any supplier who has been active in the market for more than three years should be obligated. The majority of members believe the licence conditions, therefore, need to be amended to make it clear that only suppliers with less than 50,000 customers and that are less than three years old are exempt. Where suppliers hold a different view on this issue we expect them to set this out in their individual responses.

If you would like to discuss the above or any related matters, please contact Tom Marsland on 020 7747 2957 or at tom.marsland@energy-uk.org.uk

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