

Supplier Guaranteed Standards of Performance: Consultation on Switching Compensation

Energy UK & Energy Switch Guarantee Joint Response

Background

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 covers over 90% of both UK power generation and the energy supply market for UK homes. We represent the 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.

The Energy Switch Guarantee (ESG) is a voluntary industry initiative consisting of 10 commitments that was launched in 2016 to drive up standards in switching. Since the time of its launch, the number of signatories has more than doubled to 24 signatories in total, covering over 90% of the market. Signatories are required to consistently demonstrate compliance with its Key Performance Indicators (KPIs), including two KPIs for switching speed and the issuing of credit refunds that set a higher bar than licence conditions. Switching numbers during the past two years have reached record levels and following conversations with key stakeholders, it is clear that the ESG has a key role to play in continuing to encourage consumer confidence in the switching process in the context of the Price Cap.

The Energy Switch Guarantee sets requirements for suppliers to complete switches within 21 days, issue final bills within 6 weeks and issue credit refunds within 14 days of final bills. Overall compliance with these standards is currently high and underpinned by a robust application process. As outlined in further detail below, this has driven up standards among an ever-increasing number of suppliers and ensured that the Guarantee has significantly improved outcomes for customers. We published suppliers' collective performance data for Q2 2018 [here](#) to provide reassurance that our targets are being met and are committed to publishing individual suppliers performance for our Q3 2018 results and onwards.

The Energy Switch Guarantee has aspirations to go beyond the progress made in its initial phase. During the past year, we have made reforms in order to set up structures to change the scheme. This has included: investing in a full-time member of staff; introducing a tougher ongoing monitoring process developed in partnership with Citizens Advice; reviewing and redesigning the role of the Chair to ensure that this role aligns with our overall vision; developing a funding model that ensures the Guarantee is scalable while being affordable for all market entrants; and redesigning our tender for customer research so that our work is informed by the feedback of thousands of customers each year. During this time, we have continued to drive up standards and increase membership. There is much more to do and the foundations laid in the past year have placed the Energy Switch Guarantee in a strong place to deliver this change. We have launched a process to review the Energy Switch Guarantee's future mission, strategy and the commitments and projections that it offers consumers. We hope to announce our direction in the New Year.

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

Energy UK and the Energy Switch Guarantee share Ofgem's aims of protecting consumers when switches go wrong, improving all household consumers' confidence in the switching process and creating sharper incentives on suppliers to ensure that switches go right first time. The Energy Switch Guarantee was created two years ago with these aims in mind and it is our ambition to continuously drive up standards across industry in order to achieve our vision that every switch is simple, speedy and safe.

Energy UK and the Energy Switch Guarantee accept the decision from Ofgem on implementing the Supplier Guaranteed Standards of Performance, subject to points of detail outlined below. We welcome the decision to allow more time for consideration of the detail behind the second phase proposals. Both Energy UK and the Energy Switch Guarantee are keen to engage positively with Ofgem in the further development of the second phase proposals.

There is concern over a number of points of detail in the Statutory Instrument that will be laid out in the response below. Whilst Energy UK and the Energy Switch Guarantee accept the decision, it is felt that in some cases there is a lack of clarity in the Statutory Instrument, which could create problems in the process of issuing refunds. If the Guaranteed Standards are to truly deliver better outcomes for the consumer, these points of detail need to be addressed to ensure that compensation can be sent in a timely manner to those who have suffered detriment.

Erroneous Switches

Energy UK and the Energy Switch Guarantee recognise that customers who have been transferred erroneously experience a significant emotional impact. We accept the decision to introduce Guaranteed Standards on erroneous transfers, however, there is concern that some of the comments provided in responses to the policy consultation have not been acknowledged and that this may lead to unintended consumer detriment.

We understand that the resolution of Erroneous Switches involves two suppliers agreeing whether a switch is erroneous in a timely manner and the notification to the customer following the investigation. This is reflected through Standards 'B' and 'D' in the decision document. Some responses to the summer consultation raised that the two standards do not reflect how the Erroneous Switch process operates, as the 20 Working Day letter forms part of the agreement with the responding supplier making it a single process. Therefore, it would be more appropriate to have one standard.

Ofgem has justified standard 'D' being separate as communication is required and is an operation that is already completed by Suppliers so will be easy to implement. The detriment for separate standards such as this should be justified, proportionate and targeted at the Supplier at fault. We believe standard 'D' is not targeted and proportionate as the most common reasoning for not being able to send the letter is likely due to standard 'B' not being complete. The two standards place greater burden and cost on the contacted Supplier as it will result in the contacted Supplier paying £60 as soon as standard 'B' fails, as opposed to £30 for the responding Supplier.

We believe a more appropriate and proportionate standard would be to alter standard 'B' to read as contacted and responding Supplier rather than gaining and losing Suppliers. The responsibility for the contacted Supplier should be to *agree whether a switch is erroneous within 20 WDs as well as sending confirmation to the customer of the outcome within 20 WDs*. This standard will mean that both Suppliers involved in the erroneous switch will be exposed to a fair proportionate cost, as well as there being an appropriate incentive for communication being sent in a timely manner to complete the investigation and notification of Erroneous Switch outcomes to customers.

There is a material concern surrounding automatic compensation for erroneous transfers that was brought forward in a supplier response to the policy consultation that appears to have not been acknowledged in the decision. It concerns the situation where a supplier does not have an existing relationship with the customer that has been erroneously transferred. This can occur where an Erroneous Transfer has occurred because of an incorrect site being selected, a data entry error or an industry data error, it is likely the customer who has been erroneously transferred is not the customer that has entered into a contract with the new supplier.

The new supplier will therefore not know who they should be paying compensation to or how to contact them to make the payment unless they have been directly contacted by the old supplier's customer. The customer would need to provide consent for suppliers to pass these details to each other, as there are no other legal grounds for sharing this data under the General Data Protection Regulations (GDPR), and there is currently no mechanism in place that would allow this.

Another example of where a supplier does not have an existing relationship with the customer that has been erroneously transferred is when there has been a change-over in tenancy. If the losing supplier has not been provided with the details of the new tenant, they will have no information in order to give a payment.

Processing Refunds

Energy UK and the Energy Switch Guarantee share the view that in order for automatic compensation to be a good experience for consumers, the delivery of the compensation payment should be timely. However, we are concerned that Ofgem's decision that a credit balance would be considered refunded via cheque once it is received by the consumer contradicts the principle of contract law where the date of postage should be used. Suppliers will not be able to validate when the cheque is received and if the customer is relied upon to provide notice of receipt, this introduces the risk of consumers gaming the system. We therefore propose that the Statutory Instrument reflects contract law and that cheques must be dispatched within 10 working days.

Supplier of Last Resort (SoLR)

Energy UK and the Energy Switch Guarantee support Ofgem allowing an exemption from the Erroneous Transfer Standards for when a customer is transferred to another supplier under the SoLR process. We believe SoLR currently plays a vital role in the retail market and agree that we should avoid introducing a disincentive on suppliers' involvement in the process. We recognise that the exemption operates to enable an appointed SoLR supplier to register a meter point without a valid contract, without falling into the Erroneous Transfers definition (which relies on the absence of a valid contract).

Second Phase Proposals

Energy UK and the Energy Switch Guarantee are keen to engage positively with Ofgem in the further development of the second phase proposals. The Energy Switch Guarantee is a unique forum of 24 diverse suppliers working collaboratively to drive up industry standards. The insight from this forum has the potential to feed into the work on setting guidelines for determining the party at fault in switching issues and also define valid exceptions relating to switching ≤ 21 days and issuing final bills ≤ 6 weeks. We are keen to feed into the work of Ofgem in this area.

We are concerned that there will be significant time between the initial policy consultation and the proposed implementation of the second phase of standards and that this may expose the project to incremental policy change. Energy UK and the Energy Switch Guarantee would therefore like reassurance from Ofgem that if the phase 2 proposals change from those set out in the policy consultation then a further consultation period will be worked in to allow suppliers a chance to provide feedback.

If you would like to discuss the above or any other related matters, please contact me directly on 020 7024 7633 or at philip.mcnally@energy-uk.org.uk.