

Potential Impacts on Consumers Following Market-wide Settlement Reform

29 March 2019

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 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.

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 680,000 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 over £12.5bn annually, delivers around £84bn in economic activity through its supply chain and interaction with other sectors, and pays £6bn in tax to HMT.

This is a high-level industry response to Ofgem's Call for Evidence: Potential Impacts on Consumers Following Market-wide Settlement Reform. Given the commercially sensitive nature of much of the evidence being sought, where Energy UK does not provide a view on any particular questions, we would expect our supplier members to be better placed to answer individually and, where necessary, confidentially.

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

Whole-market half-hourly settlement will realise the smart and flexible system of the future, and maximise the benefits for consumers, if delivered effectively. Energy UK believes that the market-wide settlement reform workstream must work in cooperation with other projects currently being undertaken that seek to build a smarter, more flexible energy system in the future. These include, but are not limited to, faster switching, the review of microbusiness protections, and the Future Energy Retail Market Review. For cost-effectiveness, these workstreams should avoid duplication and their outcomes must avoid contradiction.

To maximise the engagement and take-up of flexibility and innovation in both domestic and non-domestic markets, the regulatory framework needs to be adaptive enough to allow innovation. As a start, if any requirements for additional protections are necessary these should be principles-based as to allow market players to innovate the method in which the best and most cost-effective outcomes for consumers are reached. In addition, with the likelihood of TPIs contributing further to the product and service offerings available to consumers in the future, and in response to the current evolution visible in how consumers engage, TPIs active within the energy market should be directly regulated. This is essential in order to adequately protect consumers from harm, level the playing field, and boost confidence between market players.

Questions

Question 2.1: *Individual domestic consumers will differ in their ability and/or willingness to engage with how they use electricity.*

- a) *What are your views on the forms of communication most likely to facilitate/encourage consumers to engage with their energy use to help them make informed choices?*
- b) *What specific information about their energy use could encourage consumers to engage? Please consider how this information is presented and how regularly it is communicated.*

Energy UK considers that Ofgem should assess the ongoing smart meter rollout and take full account of key learnings from supplier communication strategies to date.

As a foundation, Energy UK believes that any prescriptive requirements for customer communications, whether it is regarding the form or timing, would restrict the ability of suppliers or service providers to tailor their messaging. We fully supported Ofgem's recent changes to the domestic supplier-customer communications rulebook reforms that introduced a more principles-based approach, creating the potential for unprecedented innovations in customer communications, improving customer outcomes and facilitating greater overall or targeted engagement. These reforms brought forward many of the recommendations that were made in Energy UK's 2017 review of domestic supplier-customer communications.¹

Rather than re-introducing overly prescriptive requirements to customer communications regarding their energy use, Ofgem should ensure that suppliers or relevant market players are able to innovate their communications to foster greater engagement, within a principles-based regulatory framework. This would ensure that communications would be able to continually adapt to evolving customer expectations, changes in the method in which they engage and developments in technology to aid in communications.

Additionally, Ofgem must consider the negative impacts on consumer engagement from its ultimate decision on data access. We note the Authority's agreement on an opt-out bases for managing supplier access to data for settlement.² As noted in Energy UK's response to the data access consultation, there are risks. For example, the need to explain settlement adequately in an opt-out system could restrict customer's willingness to grant access or otherwise engage, undermining the benefits case and system-wide effectiveness of settlement reform.³ The overall impact of the data access decision will depend upon its implementation, and Energy UK would urge Ofgem not to undermine the principles-based regulation of domestic supplier-customer communications, and allow suppliers to innovatively engage with their customers.

Energy UK is also concerned that the project on market-wide settlement reform to date has not given due consideration to the intrinsic interlinkages between settlement and billing data. Being able to relate the benefits of market-wide settlement reform to customer's primary interface with their energy use, their billing, could have beneficial impacts upon customer engagement with a more flexible energy system.

Question 2.2: Aside from communication, what other measures or initiatives would encourage consumers to become more confident about engaging with their energy use? This engagement may be direct, or through an intermediary/third party.

As in our answer to the previous question, Energy UK would encourage Ofgem to assess the key learnings from measures and initiatives already undertaken by suppliers in progressing the smart meter rollout and build upon them where necessary. Industry is already incurring costs to drive customers' take-up of smart meters, and it will be important not to duplicate efforts or to pursue initiatives that have shown to be cost-ineffective. Ultimately, novel and innovative propositions could increase consumer

¹ [Rules of engagement: Putting customers at the heart of communications](#), Energy UK, September 2017

² https://www.ofgem.gov.uk/system/files/docs/2019/03/gema_minutes_30_january_2019.pdf

³ https://www.ofgem.gov.uk/system/files/docs/2018/09/energy_uk.pdf

confidence and interest in engaging with their energy use. The regulatory framework will need to support such innovations. Energy UK believes that any further prescriptive conditions for suppliers would create a barrier to such innovations and undermine the work Ofgem has already undertaken through its Future Retail Regulation workstream.

As customer expectations and methods of engagement evolve, so too must the regulatory regime adapt to instill confidence in customers. For example, over two-thirds (68%) of customers would use a price comparison website to compare suppliers, compared to under half (43%) looking at a supplier's website directly.⁴ We are also seeing a rise in auto-switching services being the primary point of customer engagement, and to which customers delegate responsibility for some aspects of future engagement. However, such services are unregulated and therefore do not offer the same level of protections to customers as they may expect, and that suppliers are required by licence to provide. This could create confusion and undermine confidence in such engagement methods if the regulatory regime does not adapt. While we acknowledge that switching is just one measure of engagement, it readily highlights how the current regulatory framework may not be fit for purpose for the future market.

Energy UK believes that an important requirement for realising the full benefits of a smarter, more flexible energy system will be the direct regulation of TPIs in the energy market, to ensure protections are in place for consumers and to foster confidence of both consumers and other market players.

Question 2.6: Certain consumers may face barriers that prevent them from load shifting.

AND

Question 2.9: We want to understand what specific concerns or risks of detriment may exist with the use of technology and innovation to enable flexibility.

There are a number of barriers that exist that may prevent or otherwise restrict the extent to which consumers are able to load shift or adopt innovative technology to unlock flexibility. Customers in vulnerable circumstances, whether that be for financial, medical or other reasons, will have differing barriers based on their unique circumstances. These could be based on their energy usage needs, or their inability to secure necessary short-term financing to realise the long-term benefits of innovative technology. As such, there will need to be proportionate protections in place to ensure there is no unintended detriment to these consumers, and that they are not locked out of the potential wider benefits of settlement reform. Due to the varying reasons and extent of any barriers, Energy UK would urge against the introduction of prescriptive regulations that would likely fail to cover the complexity of reality and hinder suppliers' ability to proportionately address their customers' needs.

Other consumer groups will also face barriers. For example, private renters may not be fully in control of their energy engagement if it is the responsibility of the landlord. Nor might they be able to make investments into new technology for their homes due to the inherent uncertainty of their tenure. We would welcome Ofgem looking at various projects across the industry which enable communal access to flexibility i.e. NEA Technical fund installing Tesla Powerwall 2 batteries in social housing. Such an approach can ensure fuel poor households have access to flexibility and are not be left behind as industry moves towards a more flexible approach to energy.

There could be an assessment of whether existing funding (e.g. using the ECO scheme) could in the future be deployed to support engagement for vulnerable customers and/or fuel poor customers with smart technologies that deliver clear customer benefits, support engagement with energy usage and deliver whole-system benefits. Furthermore, if there were an effective pricing signal built into the market, the value of suppliers and third parties shifting consumption could be sufficient to compel suppliers and third parties to provide this customer infrastructure without the need for additional incentives.

As part of this, Ofgem needs to consider how those who are unable to engage, or benefit from innovations are treated in terms of costs. To date, there has been a lack of information on how costs will be smeared across various customer groups. At the moment, NHH customers pick up associated costs, but there is a question as to how this would work with a near fully HHS market, in which there is a minority of customers on legacy meters.

⁴ [Consumer Perceptions of the Energy Market Q4 2018](#), Ofgem, March 2019

Question 2.13: How far could principles-based obligations help ensure tariffs/choices are appropriate, including in relation to potential new access options?

Energy UK does not consider there to be a case for additional obligations on suppliers as there are already adequate protections in place for customers. However, Energy UK would urge Ofgem to consider building upon work it has already undertaken in replacing prescription with principles-based regulation when considering the needs of future customers. To maximise any benefits of market-wide settlement reform, along with other changes progressing as part of the energy transition, suppliers and other market players need to be able to innovate to meet their customers' expectations in the most effective way.

As part of this, any reform of the regulatory framework must also incorporate other players in the market that are not currently licensed. In particular, TPIs are likely to continue to play a bigger role in how customers engage with their energy and take-up new service offerings and products and will need to be brought under an appropriate regulatory regime to ensure customers are protected, no matter how they engage with the energy market.

Question 3.1: Individual small non-domestic consumers will differ in their ability and/or willingness to engage with how they use electricity.

- a) *What are your views on the forms of communication most likely to facilitate/encourage these consumers to engage with their energy usage to help them make an informed choice?*
- b) *What specific information about their energy use could encourage these consumers to engage? Please consider how this information is presented and how regularly it is communicated.*

Energy UK would reiterate the point raised in response to Question 2.1, and the need for a principles-based foundation for customer communications. We believe that it would be even more pertinent in the small non-domestic sector as the variation between customers would be even greater than between domestic households. The disparity in energy requirements, usage and the manner of engagement would likely be greater between businesses than between households, so it will be important to allow for innovation in customer communications to maximise engagement.

Question 3.2: Aside from communication, what other measures or initiatives would encourage small non-domestic consumers to become more confident about engaging with their energy use? This engagement may be direct, or through an intermediary/third party.

Energy UK has long raised concerns about the role that TPIs, such as brokers, play in the small and micro business energy market. Over two-thirds of these businesses currently use brokers to help them source their energy deal,⁵ yet TPIs still remain an unregulated player in the energy market. The potential for consumer detriment arising from the lack of TPI regulation has been highlighted by Energy UK and consumer groups, such as Citizens Advice.⁶ Ofgem has also called for more powers from Government in its response to the BEIS Modernising Consumer Markets Green Paper last year.⁷

Just as in the domestic sector, Energy UK views the direct regulation of TPIs in the non-domestic sector as a requirement for the success of a smarter, more flexible energy system. Ofgem is currently undertaking a review of the protections for microbusiness energy customers, with a view to making recommendations for short and medium-term actions. In addition, BEIS and Ofgem have recently launched the Future Energy Retail Market Review. Energy UK will be actively engaging with Ofgem and BEIS throughout these reviews and putting forward the case for direct regulation of TPIs in the domestic and non-domestic markets. Energy UK would urge Ofgem to ensure that the interactions of these two workstreams with settlement reform are cooperative and not contradictory.

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https://www.ofgem.gov.uk/system/files/docs/2018/10/micro_and_small_business_engagement_survey_2018_report.pdf

⁶ <https://wearecitizensadvice.org.uk/when-brokers-go-rogue-fb90ff6bc474>

⁷ https://www.ofgem.gov.uk/system/files/docs/2018/07/ofgem_response_to_consumer_green_paper.pdf

Question 3.7: What barriers exist that may prevent small non-domestic consumers from load shifting? Can you identify:

- a) Which particular groups of small non-domestic consumers may face greater barriers than others?*
- b) Are there certain types or levels of consumption that there will be less scope to flex for particular small non-domestic consumers (such as the very smallest)? Are there any which these consumers would consider as “essential” and be unable to shift, such that suppliers, network companies or third parties should not be able to offer to reduce consumers’ usage below this limit?*
- c) Are any other protections beyond the current regulatory framework needed to ensure arrangements are appropriate and meet small non-domestic consumers’ needs? Please identify any measures you consider would be beneficial and how these may vary with sector and company size.*

Similar barriers exist within the non-domestic sector as are present in the domestic sector as a result of tenure, although the barriers are likely more prominent for small businesses due to the increased likelihood of rented property. This could limit customer ability or any incentives to invest in products to enable or enhance load shifting. In addition, the wider disparity in energy use between different businesses means that there may be limited scope for many small non-domestic customers to load shift.

Question 3.9: Who would small non-domestic consumers trust to provide an automation or load management service (e.g. direct control over their demand) to them, e.g. if using an innovative solution like battery storage? What specific protections may these consumers need? Would they be more likely to offer flexibility if it were automated?

Energy UK does not believe that there is a need for any additional protections via supply licences. However, as highlighted previously, any non-supplier market players who offer such services should be directly regulated to build both consumer confidence in the services, as well as the confidence of other market players interacting with each other, ensuring adequate protections are in place.

If you would like to discuss the above or any other related matters, please contact me directly on 020 7747 2931 or at steve.kirkwood@energy-uk.org.uk.