

Dennis Berg  
Consumers and Competition  
Ofgem  
9 Millbank  
London  
SW1P 3GE

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Dear Dennis,

### **PROTECTING CONSUMERS WHO RECEIVE BACKBILLS**

Thank you for the opportunity to provide comments on Ofgem's proposed licence condition changes to protect customers receiving back-bills.

ScottishPower is a fully-engaged signatory of the Energy UK Billing Code and as such is committed to the current voluntary back-billing limit of 12 months. We believe this approach represents a good example of the consumer protection benefits that can be achieved by self-regulation, while still allowing the flexibility needed to address subtleties in process interactions that prescriptive regulation may not achieve.

However, we recognise that with ever more suppliers in the market, self-regulation becomes more challenging, and we note Ofgem's concern that a significant number of suppliers may not have appropriate back-billing policies in place. We therefore agree it is appropriate for Ofgem to formalise the voluntary commitments in licence conditions and to that extent we are supportive of the proposals.

However we do have a significant concern that the proposals inadvertently introduce a change of policy around the non-provision of meter readings by the customer, which could lead to increased costs for suppliers (and ultimately consumers generally), and which have not been considered in an impact assessment. Our understanding of the Billing Code and Ombudsman rulings is that it is currently permissible to back-bill customers beyond 12 months if the supplier has complied with its obligations under SCL21B.4 to take all reasonable steps to read the meter or obtain a valid reading from the customer at least once in every 12 months.

The additional costs we have identified include:

- Increased meter reading costs. Ofgem's proposals will create a perverse incentive on customers not to provide self meter readings. Currently a large proportion of our customers do so, but if there is a potential financial gain from not providing a reading (in the form of a back-billing write-off), we would expect the level of cooperation to reduce, necessitating many more meter reading visits. We might find personal finance journalists or websites drawing consumers' attention to the benefits of non-co-operation on providing readings;

- Increased back-billing write-offs. As a corollary to the above, there will be a percentage of cases where (despite all reasonable steps) we are unsuccessful in reading the meter or getting the customer to provide their own meter readings, and have to make back-billing write-offs.

We have provided some preliminary estimates of the possible magnitude of these costs in Annex 1, and would be happy to provide more refined estimates given more time. Based on these initial estimates, the annual costs (which would ultimately fall on consumers) could be as much as £60m across the industry. At this level of cost, we consider that an impact assessment should have been carried out.

We think the cost impact could be substantially mitigated by amending the licence condition to ensure it allows for situations where a customer fails to provide a meter read where suppliers have taken all reasonable steps to prompt the customer to do so. Alternatively Ofgem could provide updated guidance to state that it could be manifestly unreasonable behaviour (for the purpose of this licence condition) if a customer has failed to provide a meter reading in the last 12 months (or a reason why they are unable to provide such a reading) despite having received at least four requests or reminders from their supplier, and despite the supplier having otherwise complied with SCL21B.4. We have provided further details of these suggestions in Annex 1 (see Question 2).

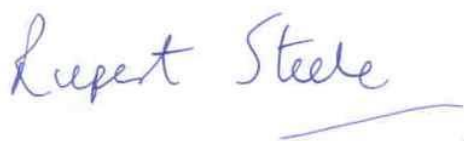
The statement in the consultation document that the costs and operational impacts of the proposed changes will be minimal, given they are based on the spirit of the existing voluntary requirements, would only be correct if it is possible to address the issue set out above. To the extent that the proposed Conditions would require changes to the way meters are read or to the number of back-billing write-offs provided, we suggest that consideration is given to a transition period to allow suppliers to make the necessary system, process and operational changes.

Finally, while we support Ofgem's aim to provide customers with the protections as quickly as possible, we think it would have been helpful for Ofgem to have shared its thinking ahead of statutory consultation to allow for issues such as the one raised in this letter to be better resolved.

We have set out our responses to the questions within the consultation document in Annex 1. Please note that some of the data in Annex 1 is confidential; we would be happy to provide you with a redacted version for publication in due course.

Should you wish to discuss further or have any questions please contact me or Rhona Peat ([rhona.peat@scottishpower.com](mailto:rhona.peat@scottishpower.com)).

Yours sincerely,



**Rupert Steele**  
Director of Regulation

**STATUTORY CONSULTATION: PROTECTING CONSUMERS WHO RECEIVE  
BACKBILLS – SCOTTISHPOWER COMMENTS**

**Question 1: Do you agree with our assessment of the consumer harm? Both for domestic and microbusiness consumers?**

We agree with Ofgem's assessment that there is currently consumer harm arising from supplier back-billing practices, but as far as we can see, the evidence presented (notably the case studies in section 2) relates to instances where the supplier is at fault and which would be covered by the existing voluntary commitments.

While the shift of the criterion from 'supplier at fault' to 'customer not at fault', makes sense to deal with situations such as those where the backbilling problem arises because of issues elsewhere in industry systems, it is less clear that it is a helpful way forward to deal with non-provision of meter readings – especially on tariffs which offer a discount for the customer undertaking to read the meter (see answers to Questions 2 and 3 below).

**Question 2: Do you agree with the way we are proposing to implement a backbilling limit and the other effects of our proposed licence modification?**

ScottishPower is a fully-engaged signatory of the Energy UK Billing Code and as such is committed to the current voluntary back-billing limit of 12 months. We believe the development of this approach from its early inception represents a good example of the consumer protection benefits that can be achieved by self-regulation, while still allowing the flexibility needed to address subtleties in process interactions that prescriptive regulation may not achieve.

However, we recognise that with ever more suppliers in the market, self-regulation becomes more challenging, and we note Ofgem's concern that a significant number of suppliers may not have appropriate backbilling policies in place. We therefore agree it is appropriate for Ofgem formalise the voluntary commitments in licence conditions and to that extent are supportive of the proposals.

However we have a concern that the draft licence conditions (and the commentary on them in the consultation document) go beyond the current voluntary commitments in the UK Billing Code, and inadvertently introduce a change of policy around the non-provision of meter readings by the customer. We think this may have unintended consequences which could lead to increased costs for suppliers (and ultimately consumers generally), and which have not been considered in an impact assessment.

Perverse incentive leading to significantly increased meter reading costs for suppliers

The proposed licence conditions would prevent suppliers charging customers for energy consumed more than 12 months previously unless the customer has behaved obstructively or manifestly unreasonably. Paragraph 2.19 of the consultation document explains that '*we are talking here about physical access to the meter, not failing to respond to requests for consumer meter readings (which does not of course prevent the supplier from making such requests)*'.

Our main concern relates to this commentary in paragraph 2.19 rather than the draft licence condition *per se*. Currently a large proportion (more than 70%)<sup>1</sup> of our customers choose to manage their account digitally (either online or via a mobile app) which includes the option to supply their own meter readings, removing the need for us to send out a meter reader and significantly reducing our operational costs. We have worked hard to fine tune our prompts to customers to maximise the number of self-reads that we receive<sup>2</sup> however there are still a reasonable number of customers who do not provide readings to us over a 12 month period. Based on the information available to us in the short timescale for this response, we estimate that this could be up to [x<] % of those customers who choose to manage their account digitally.

Our concern is that Ofgem's proposals may create a **perverse incentive** on these customers *not* to supply their own meter readings. For example, word may get out that '*if you avoid providing meter readings for 12 months and don't have a meter reading visit, you have a good chance of getting some of your bill written off*'. We might find personal finance journalists or websites drawing consumers' attention to the benefits of non-cooperation on providing readings. If this were to happen, it could result in us having to make a significantly increased number of meter reading visits with an associated cost impact.

#### Options to mitigate this issue

We have identified a number of options to address the issues identified above.

- Option 1: We believe it would be appropriate for Ofgem to amend the exceptions to the prohibition in the draft licence conditions to strike a more reasonable balance between consumer protection and incentivising efficient behaviour on the part of customers. Specifically, we suggest amending 21BA.2 (c) as follows:

“(c) the licensee has been unable to take a charge recovery action for the correct amount of electricity consumed due to obstructive or manifestly unreasonable behaviour of the Domestic Customer or **their failure to provide reasonable cooperation in respect of taking or providing a meter reading;**”

This would be our preference.

- Option 2: Alternatively, Ofgem could retain the licence drafting but amend its guidance to state that it could be considered manifestly unreasonable behaviour (for the purpose of this licence condition) if a customer has failed to provide a meter reading in the last 12 months (or has failed to provide a reason why they are unable to provide such a reading), despite having received at least four requests or reminders from their supplier and despite the supplier having otherwise complied with SLC21B.4.

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<sup>1</sup> We would note that this includes customers on specific online tariffs as well as customers on our offline tariffs who provide their own meter reads to us. Over 70% of our customers choose to manage their account using our online options

<sup>2</sup> As an example, for our online customers we ask the customer to submit a meter read on a quarterly basis, and where the customer has not responded to the first email request, we follow up with a further reminder. This is in addition to an annual meter reading visit (which includes a number of attempts to access a read) where, if we are unable to gain access to take the annual reading we will automatically default to visit the property every quarter until a reading is obtained, whilst continuing to issue request and reminder emails. We have also refined our meter read email content and timing to maximise customers opening the email and taking action.

- **Option 3:** (This would only be a partial solution.) Ofgem could state that it could be considered manifestly unreasonable if the customer has signed up to a tariff where it is a condition of the tariff that the customer submits at least one meter reading every 12 months and fails to provide a reading, in breach of the agreement.

As far as we can see, amending the proposed licence conditions and/or guidance in any of the ways suggested above would not impair the intended back-billing protection for the customers in the case studies in section 2. In practice, we think the above changes would largely affect customers who spend little time at home (so that meter reading visits are unsuccessful) and who prefer to run the risk of back-billing than go to the effort of supplying a meter reading.

### Question 3: Do you agree with our assessment of the costs to suppliers?

Given that the proposals extend the protection beyond that provided by the existing voluntary UK Billing Code, we think an impact assessment should have been carried out to consider the incremental cost impact of on suppliers of extending the protection.

Our preliminary assessment of the incremental costs of the proposals, relative to the current Billing Code is summarised in the table below. We would note that due to the short timescales for responding to this consultation we have had to make assumptions based on our experience of the market and previous changes to our IT systems. These should provide an illustration of the possible magnitude of the costs.

Cost item	Explanation/assumptions	Estimated incremental cost*
System setup (one-off)	System changes to automate the process of adjusting bills to waive charges for consumption which occurred more than 12 months previously – this is currently done manually but would need to be automated to cope with significantly increased volumes <sup>3</sup> . Also system changes to allow us to record evidence of attempted meter reading visits (including whether the customer declined to allow entry or was simply not at home) in a way that can be accessed for billing purposes	£0.15m
Increased meter reading visits (recurring)	Perverse incentive not to provide self-reads is likely to lead to more meter reading visits and increased communication with customers (eg letters). We currently spend circa £[<] per annum on meter reading. Assume [<]% increase in meter reading cost as a result of customer behavioural change and more use of expensive special reads.	£1.8m
Increased back-bill write-offs (recurring)	Around [<] electricity meters were not read in the last year despite all reasonable efforts. (We assume a similar figure for gas.) Assume 50% of these result in a back-bill write-offs, at an average of £[<] ([<]% of annual dual fuel bill value).	£5m

\*relative to current Billing Code

<sup>3</sup> In the last year we adjusted around [<] bills to remove back-billing. In the same period around [<] electricity meters had no readings taken, despite all reasonable efforts. (We do not have the equivalent figure readily available for gas but have assumed a similar effect for assessing costs.) This suggests the volume of bills that would need to be checked for back-billing could be a factor of ten higher – before any increase due to the perverse incentive effect.

The overall cost for us is around £7.2m per annum, equivalent to around £60m industry-wide. Clearly the volume of unread meters will fall as the penetration of smart meters increases, but this will be partially offset by increasing costs per meter reading visit<sup>4</sup>. There will be also trade-offs between the different cost categories that we have been unable to consider in the time available. For example, by increasing the amount of money spent on attempted meter reading visits, suppliers could potentially reduce the cost of back-billing write-offs.

If Ofgem were to change the presumption that it is not 'manifestly unreasonable' for a customer to ignore requests to provide a meter reading (as suggested above), this could substantially reduce these costs.

#### **Question 4: Do you agree with the proposed implementation period?**

We note that Ofgem intend to publish the licence modification decision notices in early 2018, with changes coming into effect 56 days after the publication of the decision notice.

If the licence conditions had followed the current voluntary commitments, we would have no concerns regarding the proposed implementation period. However, the proposed changes to the licence conditions and Ofgem's proposed guidance appear to go beyond the voluntary commitments and would have significant operational impacts as we would have to change a number of our processes.

If Ofgem proceeds with the proposed changes, we would suggest that consideration is given to a transition period to allow suppliers to make changes to their processes ahead of formal implementation.

ScottishPower  
December 2017

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<sup>4</sup> As the density of meter reading targets reduces, the cost per visit increases.