Project Manager
Energy Market Investigation
Competition and Markets Authority

energymarket@cma.gsi.gov.uk

Date: 9 November 2015

Response to the CMA's Supplemental Notice of Possible Remedies

As set out in our previous submissions, we share the CMA's concern that a lack of engagement among some customers results in a weakening of the competitive pressure that incumbent suppliers face, to the detriment of energy consumers. Given this, we strongly support measures that effectively encourage greater engagement in the market.

The remedy described in the Supplemental Notice of Possible Remedies would seek to increase domestic engagement by introducing an annual cycle into the contracts that consumers roll onto when they do not actively engage in the market. Less engaged customers would not be *required* to take any further action than at present, however the remedy would look to encourage greater engagement by emphasising the default tariff's fixed term in communications, and in this way change customers' perceptions around when they need to engage.

In this letter we provide some general comments on the remedy proposal. In Annex 1 we provide further comments on some of the specific questions raised by the CMA. We are happy to offer whatever assistance we can to the CMA as it considers the proposal further.

Achieving a step change in levels of consumer engagement

We see an intuitive logic to the proposal set out in the Supplemental Notice of Possible Remedies. However, we are mindful that consumers on Standard Variable Tariffs (SVT) already receive a number of periodic prompts to engage in the market (see Annex 2 for a description). As the CMA's Supplemental Notice recognises, there is a question as to whether less engaged customers would respond to an end-of-contract notice to the same degree as more engaged customers that have actively chosen a fixed term tariff.

If the CMA decides to take the proposal forward, there are a number of steps which we consider would help to improve the likelihood that the remedy achieves a step change in levels of consumer engagement:

1. Testing the design of the end-of-fixed term prompt with consumers. The design of the end-of-fixed term prompt is likely to have a significant impact on how effective it is in triggering customers to engage. If the decision is taken to progress the remedy, we would strongly support further consumer research (ideally in the context of live trials) to test the impact of different types of prompt and identify the most effective. There are a number of design features which could be put to the test, including using different communication channels (eg prompts via text, email or mobile apps) and using different types of prompts for different types of customer (eg those that have been disengaged for different lengths of time). It will also be important to test different language around the upcoming contract end date, and the explanation given for why customers are being contacted.

2. Using an advertising campaign to reinforce the perception of an annual contract cycle. For the remedy to be effective, it will have to change consumers' perceptions about when they need to engage in the energy market. We consider that the use of an advertising campaign to publicise the changes and spur consumers to switch - as referred to in the CMA's Supplemental Notice - may be a promising way of encouraging consumers to consider their options. A campaign could be timed to coincide with when the new rules are first introduced, but publicity might similarly be used on an ongoing basis to reinforce the perception of an annual contract cycle.

3. Designing the remedy such that it enables PCWs, collective switching schemes or suppliers to reach out to customers at the end of their contract. While the feasibility of sharing the details of customers reaching the end of their contract with intermediaries or rival suppliers should be explored further, we would envisage significant data protection issues associated with this proposal, and would have concerns around the potential detrimental impact of consumers receiving a large volume of unsolicited correspondence. We support exploring how rules on the timing of contract end dates could be designed to best assist third party intermediaries or other suppliers to more effectively market their services to customers reaching the end of their contract. For example, contract end dates might be required to fall on one of a small number of designated dates throughout the year - one in each quarter, say (although it would be important to consider the potential implications of the implied discontinuity in switching rates for suppliers' energy procurement costs). Discussions with third party intermediaries and suppliers should help the CMA to understand to what extent these or other design features might assist parties to compete for less engaged customers when their contracts are coming to an end. We would advise that a range of intermediaries are included in these discussions.

A key question cutting across each of these issues is *which* party should deliver the prompt to ensure that it has the most effect on consumer behaviour. We do not consider that the supplier is necessarily the right party to prompt consumers to consider switching. However, where the supplier does play a role, there may be advantages associated with avoiding overly prescriptive rules and focusing on outcomes in accompanying regulation.

Efforts should be taken to ensure customers do not feel locked in to the default tariff

One potential risk associated with introducing a fixed-term default tariff is that customers moving onto this tariff – who may often already have a poor understanding of the energy market - misunderstand the terms of that contract and believe that they are not able to switch during the contract's duration. This may be of particular concern for customers in vulnerable circumstances.

To avoid this risk, if the CMA is minded to take the proposal forward, we would propose that the prompts and information that customers receive about the default tariff and any publicity accompanying the changes emphasise that customers are not locked in, and may switch at any time.

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Banning evergreen tariffs may not be necessary to achieve the desired effects

There are likely to be legal obstacles associated with mandating that suppliers move customers onto fixed term tariffs. In particular, if current evergreen contracts were terminated, there would be challenges to transferring customers onto a new contract without their express consent.

If the CMA is minded to introduce annual contract cycles for default tariffs, an alternative approach could be to require suppliers to vary existing SVT contracts by inserting a fixed term period and an auto-renewal provision. It would be necessary to ensure that there were adequate safeguards to ensure that the variation was effected fairly and that the new terms were themselves fair. For example, customers would need to be given a reasonable period in which they could object to the renewal of their contract, by switching away, changing tariff or terminating their supply contract completely.

Another approach, using existing regulatory structures, would be to require suppliers to withdraw their SVT once per year, triggering the Dead Tariff rules in SLC 22D.[1] If this approach was taken, it would be necessary to adjust the nature of these rules in order to support the aims of the new remedy.

Thinking about the overall package of communications that a customer receives is crucial

If the CMA does decide to take the proposal forward, it will be important to consider the overall package of communications that customers receive – and revisit existing requirements relating to the communications that suppliers send, and how these interact with any new rules that are introduced.

Broadly speaking, we consider that to maximise consumer engagement, different communications should use consistent language and messaging. Their timing should be coordinated, and they should avoid confusing customers. One risk to be taken into account is that sending additional communications can reduce the impact of existing ones.

Concluding remarks

We are fully committed to supporting the CMA in developing remedies that can improve market outcomes for energy consumers. If the CMA is minded to take this proposal forward, we are happy to offer whatever advice or assistance we can to ensure that it is as effective as possible in triggering customers to engage in the market.

Yours Sincerely

Rachel Fletcher
Senior Partner, Markets

[1] Under these rules, suppliers are required to migrate customers from tariffs which are no longer available ('dead tariffs') to the cheapest evergreen tariff that they offer, based on the customer's current consumption, payment method, meter type and account management arrangement.

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Annex 1

Additional comments

Question number / para ref	Ofgem's comments
21(b)	**Would this remedy be effective in protecting those customers who failed to engage in the market, even after receiving prompts, from paying high prices? Would the extension of SLC7, in the manner proposed by Centrica, provide such protection?**
	If effective, the remedy would increase the number of customers that engage with the market – and so improve outcomes for these households. However, we consider that the remedy would be unlikely to change suppliers' incentives to charge higher prices to those customers that remain less engaged in the market. Indeed suppliers may be incentivised to charge these customers even higher prices than is currently the case, because as a group these individuals are likely to be even less engaged than those on SVTs, and even less likely to respond to an increase in prices.
21(d)	**The wording of the end of fixed-term notifications appears to be critical to the effective functioning of this remedy. Should Ofgem take responsibility for developing and testing appropriate wording, or should the energy suppliers retain responsibility for this?** **(i) If suppliers design these prompts, how can they be incentivised to maximise their effectiveness?**
	• *We do not consider that suppliers would on their own have an incentive to design prompts which would effectively trigger customers to consider their options at the end of their fixed tariff, and therefore some regulation of these communications would be required.* • *If suppliers are responsible for designing these prompts, then there may be advantages to focusing regulation on outcomes, and avoiding being overly prescriptive (except where this is necessary to ensure that minimum standards are met).*
21(e)	**Should the default tariff be fixed price as well as fixed term, or should suppliers be allowed to roll customers onto a variable price tariff?** **(i) If the default tariff were variable price, should energy suppliers be required to roll all customers who did not take action onto the same tariff, such that in effect there was only a single variable price default tariff per supplier?** **(ii) If the default tariff were fixed price, should energy suppliers be**

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	required to roll all customers who did not take action within a given period, eg one month, onto the same default tariff? Is there a risk that the existence of multiple default tariffs (eg one for every month) would reduce the pressure on SVT pricing that currently results from media attention on changes to SVTs?
	• *Requiring the default tariff to have a fixed price would represent a significant shift in how the majority of energy products are priced, with potentially significant consequences for suppliers' procurement.* • *Whether less engaged customers prefer fixed to variable products will depend on their risk attitudes and expectations about future energy costs. Fixed products may be more or less expensive than products with variable prices, depending on prevailing cost conditions.* • *Requiring prices to be fixed would carry the risk of making the pricing of default tariffs significantly more complex, and thereby reducing transparency.*

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Annex 2

Prompts currently received by a customer on an evergreen tariff

At present, a customer on an evergreen tariff may receive a number of regular communications from their supplier. These comprise of:

a) **Bill / statement of account** – bills and statements of account are sent to customers on a periodic basis. Their primary purpose is to inform customers either of how much they are required to pay, or how much they have paid for their energy (depending on the payment method).

b) **Annual statement –** the annual statement is a report on energy usage and cost over the past 12 months. Its primary purpose is to prompt engagement in the market by providing a consumer with key information about their energy use and its cost.

c) **Notices of contract variations** – contract variation notices are sent where a customer's contract is changed to their disadvantage. Most commonly these take the form of a price increase notice. The notices are designed to inform consumers of any changes to their tariff, how this will affect them, and the steps they can take to manage the change (for example their right to exit the tariff without paying a termination fee).

Suppliers are required to include material in all three of these communications that is designed to prompt customers to engage. In particular, the communications are required to include:

- A standardised reminder: "Remember – it might be worth thinking about switching your tariff or supplier".

- Cheapest Tariff Messaging, providing customers with personalised information on the cheapest tariffs offered by their current supplier and the savings available if the customer were to switch (in the case of the bill and the annual statement this information must be provided under the title "Could you pay less?").

- Standardised information on the current tariff (including the tariff comparison rate), designed to provide customers with the information required to easily compare their tariff with others available on the market.

Visual examples of these different communications are provided on the following pages.

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Example of a bill

(source: 'RMR – Final domestic proposals March 2013')

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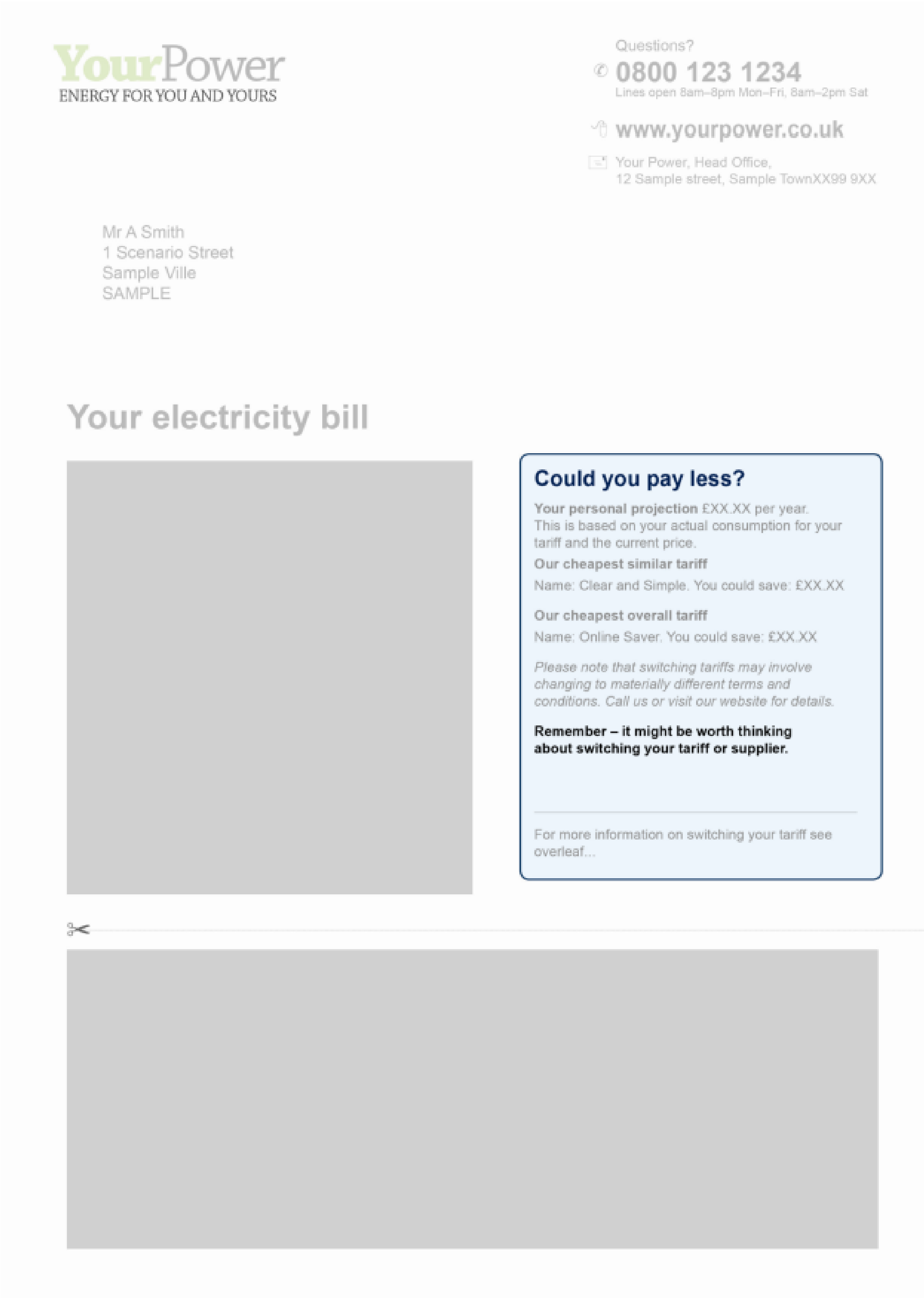

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Questions?
0800 123 1234
Lines open 8am–8pm Mon–Fri, 8am–2pm Sat

www.yourpower.co.uk

Your Power, Head Office,
12 Sample street, Sample TownXX99 9XX

Mr A Smith
1 Scenario Street
Sample Ville
SAMPLE

Your electricity bill

Could you pay less?

Your personal projection £XX.XX per year.
This is based on your actual consumption for your tariff and the current price.

Our cheapest similar tariff

Name: Clear and Simple. You could save: £XX.XX

Our cheapest overall tariff

Name: Online Saver. You could save: £XX.XX

Please note that switching tariffs may involve changing to materially different terms and conditions. Call us or visit our website for details.

Remember – it might be worth thinking about switching your tariff or supplier.

For more information on switching your tariff see overleaf...

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Page 2

About your tariff

Here's information about your tariff to help you to compare it with others available.

Electricity	
Tariff name	Standard Electricity
Payment method	Cash/Cheque
Tariff end date	No end date
Exit fees (if you cancel before end date)	£xx.xx
Your actual usage in the last 12 months	x,xxx kWh

About your TCR

Tariff Comparison Rate (TCR):
xx.xxp per kWh

This is the TCR for your online tariff. You can use your TCR only as a guide to compare the price of electricity tariffs.

The TCR is not an actual price and is based on the consumption of a typical user of electricity (3,300kWh/year) and includes your online discount. The actual prices will depend on your personal consumption.

Call us on xxx or visit our website www.xxxx.co.uk for details on your tariff and on the calculation of the TCR.

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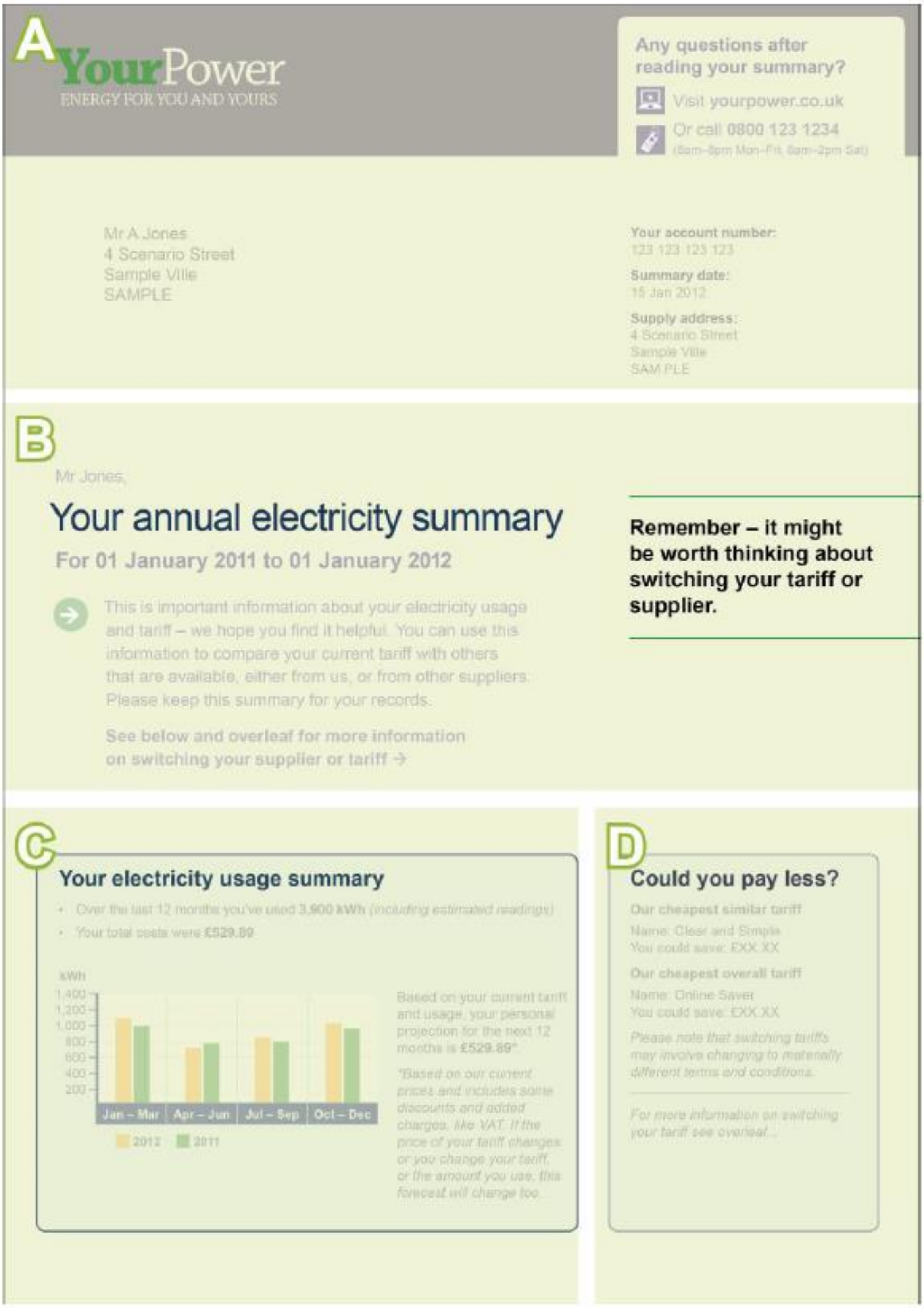
Example of an annual statement

(source: Standard Licence Condition 31A schedule 4)

Page 1



A

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Any questions after reading your summary?

Visit yourpower.co.uk

Or call 0800 123 1234
(8am–8pm Mon–Fri, 8am–2pm Sat)

Mr A Jones
4 Scenario Street
Sample Ville
SAMPLE

Your account number:
123 123 123 123

Summary date:
15 Jan 2012

Supply address:
4 Scenario Street
Sample Ville
SAM PLE

B

Mr Jones,

Your annual electricity summary

For 01 January 2011 to 01 January 2012

This is important information about your electricity usage and tariff – we hope you find it helpful. You can use this information to compare your current tariff with others that are available, either from us, or from other suppliers. Please keep this summary for your records.

See below and overleaf for more information on switching your supplier or tariff →

Remember – it might be worth thinking about switching your tariff or supplier.

C

Your electricity usage summary

- Over the last 12 months you've used **3,900 kWh** *(including estimated readings)*
- Your total costs were **£529.89**

Based on your current tariff and usage, your personal projection for the next 12 months is **£529.89***.

**Based on our current prices and includes some discounts and added charges, like VAT. If the price of your tariff changes or you change your tariff, or the amount you use, this forecast will change too.*

D

Could you pay less?

Our cheapest similar tariff

Name: Clear and Simple
You could save: £XX.XX

Our cheapest overall tariff

Name: Online Saver
You could save: £XX.XX

Please note that switching tariffs may involve changing to materially different terms and conditions.

For more information on switching your tariff see overleaf...

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E

Need independent advice about switching tariff or supplier?

For impartial advice on switching suppliers contact **Citizens Advice**.

adviceguide.org.uk **08454 04 05 06**

Consumer Focus has a Confidence Code for online switching sites to ensure consumers receive accurate, detailed and unbiased price comparisons:

consumerfocus.org.uk

The **Staying Connected Energy Consumer Checklist** contains key information for energy consumers to get and stay connected to their energy supply.

xxxxxxxx.org.uk/consumerchecklist

You could also reduce your costs by using less energy

Contact **Energy Saving Advice Service** for impartial advice on how to save energy.

0300 123 1234

F

About your electricity tariff

Tariff details	
Tariff name	Standard
Tariff type	Standard
Payment method	Cash/Cheque
Unit rate	14.01p per kWh
Standing charge	17.41p per day
Tariff ends on	No end date
Price guaranteed until	Does not apply
Exit fees (if you cancel this tariff before the end date)	Does not apply
Discounts and additional charges	No discounts
Additional products or services included	Loyalty points

Estimated electricity cost for you on this tariff	
Your annual consumption (based on your actual consumption)	3,900 kWh
Personal projection (based on current prices and including VAT)	£529.89
Tariff Comparison Rate (TCR)	15.94p per kWh

Key contractual terms

Cancellation fees and arrangements for ending the contract
You may end your contract at any time without being charged a cancellation fee, but you must give us 28 days' notice, provide a final meter reading and settle any outstanding debt for electricity.

Other terms

Discounts
Your tariff includes our [x] discount of [x]. This discount will continue to apply if you continue to meet the following conditions [x]. If we decide to withdraw this discount we will notify you in advance and inform you of your rights.

Moving house
If you move house you must give us at least 2 days' advance notice or you will continue to be liable for the supply until the earlier of:

- the second working day after you have subsequently notified us of that you have moved house, or
- the date another person begins to own or occupy the premises and starts to consume electricity.

Additional charges
We may charge you for any additional visits, tests or work carried out at your request. Details of these charges are provided in the enclosed leaflet.

Glossary

kWh (kilowatt hour) – one kilowatt of power being used for one hour. It's the same as a 40-watt light bulb being left on for 25 hours. Also known as a 'unit' of energy.

Personal projection – this is based on your actual consumption and is a projection of your future yearly charge. You could compare the personal projection for your current tariff with a personal projection given to you for an alternative tariff by your current supplier, an alternative supplier or a switching site.

Switch – to change from the current supplier to a different supplier, or to change from the current tariff to a different tariff with the same supplier.

Tariff – the package of charges and conditions that a supplier offers you for providing electricity.

Tariff Comparison Rate (TCR) – TCR is a figure that can be used to compare the price of the tariff you are on against alternative tariffs from your own or other suppliers. The TCR is calculated as the estimated yearly bill, divided by the amount of energy used each year by a typical medium user of electricity. The TCR takes account of any standing charge and the unit rates(s) that make up the tariff. The TCR is not based on your personal consumption and should be used as a guide only.

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Example of a price increase notification

(source: 'RMR – Final domestic proposals March 2013')

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www.yourpower.co.uk

Your Power, Head Office, 12 Sample street, Sample Town XX99 9XX

Your customer number:
123 123 123 123

Supply address: 20 Sample Street, Sample Town, Sample Ville SAMPLE

Your electricity tariff: Standard Electricity
Payment method: Direct Debit

Your gas tariff: Standard Gas
Payment method: Direct Debit

Mr A Smith
2 Sample Street
Sample Ville
SAMPLE

02 November 2011

Dear Mr Smith,

Your energy prices are increasing from 01 December 2011

EXAMPLE

Due to an increase in wholesale prices, from 01 December 2011, the price you pay for your electricity and gas is increasing. Your standing charges will remain the same. Here's a breakdown of how your prices are changing:

Your new prices

PRESCRIBED

		Current prices until 30 Nov 2011	New prices after 01 Dec 2011
Electricity	Standing charge (per day)	x.xxp	x.xxp
	Unit rate (per kWh)	x.xxp	x.xxp
Gas	Standing charge (per day)	x.xxp	x.xxp
	Unit rate (per kWh)	x.xxp	x.xxp

All charges exclude 5% VAT, which will be added to your total bill.

EXAMPLE

Here's an idea of how the price increase will affect you, assuming you continue to use the same amount of energy:

PRESCRIBED

		Current prices until 30 Nov 2011	New prices after 01 Dec 2011	Increase in cost
Your personal projection for the year	Electricity	£xxx.xx	£xxx.xx	£xxx.xx
	Gas	£xxx.xx	£xxx.xx	£xxx.xx

Your personal projection includes 'xxxx' discount and VAT but does not include 'xxxx'.

Could you pay less?

EXAMPLE

Remember, it might be worth thinking about switching your tariff or supplier.

We may be able to help you save money with one of our other tariffs:

Cheapest similar tariff: 'xxxxx' tariff. You could save £xx.xx
Cheapest overall tariff: 'xxxxx' tariff. You could save £xx.xx

Call us or visit our website for details.

Please note: *switching tariffs may involve changing to materially different terms and conditions.*

For impartial advice on switching tariff or supplier visit **advice.org.uk** or call the Citizens Advice consumer helpline on **0800 891 0256**.

You can also cut your costs by **using less energy**. For advice on how to save energy, contact the Energy Saving Advice Service on **0300 123 1234**.

Turn over for more information about your tariff and your right to switch

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Page 2

About your tariff and energy usage

You might find the following information useful when comparing your tariff with others:

Your gas tariff: you are currently on our Standard Gas tariff paying by Direct Debit. In the last 12 months you have used **xxx kWh** (including estimated readings).

Your electricity tariff: you are currently on our Standard Electricity tariff paying by Direct Debit. In the last 12 months you have used **xxx kWh** (including estimated readings).

Your TCRs: Your Tariff Comparison Rate (TCR) is a rate per kWh that can be used as a guide to compare your tariff to other tariffs by taking account of the unit rate and standing charge. For electricity, your new TCR is xx.xxp per kWh. For gas, your new TCR is xx.xxp per kWh.

The TCR is not an actual price and is based on the consumption of a typical user who uses 3,300kWh/year of electricity and 16,500kWh/year of gas. The actual prices will depend on your personal consumption.

Call us on xxx or visit our website www.xxxx.co.uk for details on your tariff and on the calculation of the TCR.

Further details on your rights to switch are available below

Your rights as a consumer

You have a right to end your contract for gas or electricity (or both) because of the increase in charges. There will be no exit fee for ending your current contract in any circumstances.

If you wish to end your contract, you can either:

1. **Switch to another one of our tariffs, or**
2. **Switch to another supplier.**

We recommend you enter into a new contract with us or another supplier as soon as possible, or on or before **01 December 2011**, as you may be able to avoid the increase in prices.

Please bear in mind that

- In order to avoid the prices increase when you switch to another one of our tariffs, we must start to supply you under another one of our tariffs by [date which is 20 working days from the effective date of the price increase].
- If you switch to another supplier, we won't charge you any increase if by [date which is 20 working days from the effective date of the price increase], your proposed new supplier has told us that they'll be taking over your supply within a reasonable period of time.
- If you have unpaid charges on your account, we may prevent the switch until you have paid them. If so, we will write to tell you. If you pay the balance on your account within 30 working days of us telling you this, your switch can still go ahead and we won't apply a charge increase during the switching period.

EXAMPLE

The **Staying Connected Energy Consumer Checklist** contains key information for energy consumers to get and stay connected to their energy supply. See **xxx.org.uk/consumerchecklist**.

Yours sincerely,

Name – Title/position

The Office of Gas and Electricity Markets
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