

Formal Consultation on Draft Energy Market Remedies: Orders

Energy UK response

18th November 2016

Introduction

Energy UK is the main trade association for the energy industry, with over 90 members; representing energy generators and suppliers of all sizes. Our members supply gas and electricity and provide network services to both the domestic and non-domestic market. Energy UK members own over 90% of energy generation capacity in the UK market and supply 26 million homes and 5 million businesses, contributing over £25 billion to the UK economy each year. The industry employs 619,000 people across the length and breadth of the UK, not just in the South East, contributing £83bn to the economy and paying over £6bn annually in tax.

Energy UK's retail members are: Bristol Energy, British Gas, Co-Operative Energy, DONG Energy, Ecotricity, EDF Energy, Engie, E.ON, Flow Energy, First Utility, GB Energy Supply, Good Energy, Haven Power, npower, Opus Energy, ScottishPower, Smartest Energy, Spark Energy, SSE, Utilita and Utility Warehouse.

Energy UK strongly believes in promoting competitive energy markets that produce good outcomes for consumers. In this context, we are committed to working with Government, regulators, consumer groups and our members to develop reforms which enhance consumer trust and effective engagement. At the same time, Energy UK believes in a stable and predictable regulatory regime that fosters innovation, market entry and growth, bringing benefits to consumers and helping provide the certainty that is needed to encourage investment and enhance the competitiveness of the UK economy.

These high-level principles underpin Energy UK's response to the CMA's formal consultations on the following energy market remedies Orders:

- Database
- Gas Settlement
- Microbusiness
- Restricted Meters

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 the CMA or any other interested party if this is considered to be beneficial.

Our views on each of the Orders are set out below. We note that there are a number of important issues Energy UK has raised previously with the CMA that have not been adequately addressed.

The Energy Market Investigation (Database) Order 2016

Energy UK members are committed to working with both the CMA and Ofgem as they move forward with the Database.

If the remedy is to be successfully implemented, it is vital that the handling of customer data is consistent and compliant with the UK's data protection regime. It is in this spirit that Energy UK has written to the ICO to seek their input and support as industry and Ofgem move forward with the development and

implementation of the Database to ensure it meets the requirements of both the current and future UK data protection regime (notably the GDPR).

We believe there may be merit in a joint workshop with the ICO, CMA, Ofgem, consumer groups and suppliers to discuss the Database and how we can work together to ensure that it helps to drive customer engagement, as intended, whilst also safeguarding customers' data.

We also note that the draft Order and supply licence amendments have different definitions of Domestic Customer Data. The supply licence amendments include: *"(c) any additional items of information specified by the Authority that are necessary for the purposes contemplated by the CMA Order."* We suggest that the definition in the Order is amended to match the supply licence definitions. We also think that Ofgem's ability to specify additional items of information (which could have cost, operational or consumer privacy impacts) should be subject to consultation where appropriate. We therefore suggest that the relevant text is amended as follows: *"and (c) any additional items of information specified by the Authority (after consultation where appropriate) that are necessary for the purposes contemplated by the CMA Order."*

The Energy Market Investigation (Gas Settlement) Order 2016

Energy UK has significant concerns around the Order's requirements for suppliers to provide daily reads for supply points with a smart meter. The proposals in the draft Order go significantly beyond that originally proposed in the CMA's final report. The CMA's final report stated that readings should be submitted once a month for supply points with a smart or advanced meter. Given the CMA's remedy has changed from that proposed in its final report, it is essential the CMA conduct a full impact assessment and cost benefit analysis before proceeding with the revised remedy.

In line with the CMA's final report, Energy UK believes submitting one read a month from smart or advanced meters should satisfy the CMA's policy intent. We note that the difference in settlement accuracy between a supply point being reconciled monthly versus daily (with daily reads being issued in a monthly batch) is minimal, as demonstrated by an independent, Engage Consulting report procured by Ofgem.¹ Increased meter read frequency will not positively impact the volume of unidentified gas or address the inefficiencies in the allocation of gas acknowledged by the CMA in its final report². It is, therefore, not clear what Adverse Effect on Competition (AEC) the CMA is seeking to address by moving to mandate daily reads. We also note that the CMA in its final report endorsed the Performance Assurance Framework as the correct route for industry to assess and tackle settlement risks going forward.

If daily readings are required this will come at significant cost. Mandating daily readings would require significant investment by suppliers and Xoserve in IT infrastructure to manage the increased processing and storage requirements. Ultimately it is the difference, following the completion of the smart roll-out, of suppliers and Xoserve having to store and process 276 million readings per annum (one monthly read per supply point only) and having to process and store 8.76 billion readings per annum (daily reads provided for all supply points). As a result, the CMA needs to carefully consider the Order in relation to both suppliers' and Xoserve's capabilities.

Energy UK notes that providing daily reads to Xoserve under the project Nexus (Product Class 3) is currently a voluntary option for suppliers. The draft Order appears to be based on the incorrect assumption that all suppliers will have developed Product Class 3 as part of their Nexus delivery. We understand that a number of Energy UK member suppliers have taken the commercial decision not to develop Product Class 3. The Order, therefore, constitutes a fundamental change to the base requirements of project Nexus, without due consideration to the benefits or costs of such a change.

Given the delays in Nexus and the expected period of hyper care that will follow, members have also raised concerns as to whether Xoserve will be ready for the likely increase in read traffic the remedy will generate. The Nexus design assumes all readings will undergo shipper validation. The increased

¹http://www.gasgovernance.co.uk/sites/default/files/Gas%20Market%20Settlements%20Risks%20Quantification%20Section%202%20%20V2.0_Final.pdf

² CMA Report paragraph 9.527

frequency in meter read data will place significant strain on Xoserve to process and work potential exceptions. Under Nexus, Energy UK understands that Xoserve has estimated servicing only 10 million meter points at Product Class 3, as opposed to ultimately all gas meters following the completion of the smart rollout.

The Energy Market Investigation (Microbusiness) Order 2016

Energy UK is concerned that the CMA risks creating confusion by its proposed use of the term “total contract price” in the Draft Explanatory Note. If taken literally, the requirement to display the “total contract price” would not be possible to fulfil, because the term “total contract price” is singular, however, there may be multiple charges that make up a contract. It would also not be possible to provide a single contract “price” based on previous consumption, as future consumption is variable. We also note that, in line with the CMA’s final report, we do not believe it was CMA’s intention to compel suppliers to provide an estimated total contract cost incorporating all charges based on an estimate of consumption.

Energy UK, therefore, suggests the CMA removes reference to “total contract price” from the draft explanatory note. It should be sufficient for the CMA to simply refer to *“each separate combination of Standing Charges, Unit Rates and all other associated charges per Electricity Meter and Gas Meter”* as it does in the Draft Order.

We also note that the definition of a relevant microbusiness customer in the Order makes reference to Non Domestic Customers rather than Microbusiness Customers. A Microbusiness Customer is a distinct group of customers, already specified within the supply licence. A Non Domestic Customer is a broader catch all phrase which would include businesses of all sizes. The Order should refer to microbusiness customers only.

The Energy Market Investigation (Restricted Meters) Order 2016

In our previous response, Energy UK members raised significant concerns about the practicality and proportionality of implementing the remedy by 1 April 2017. To operationalise the remedy, Energy UK members noted that they will need to:

- Put in place policies and train staff to help customers make the right choices for their circumstances.
- Undergo significant IT development and system change to put robust processes in place to ensure that billing correctly aggregates the consumption from two meters, or from more than one rate category, and is billed correctly.
- Add new information to existing communications (i.e. bills and Annual Statements) to inform customers on restricted meters that they can choose a single rate tariff without needing to swap their meter.

Energy UK members have, therefore, suggested that implementation of the remedy is not feasible until at least the end of September 2017. With this in mind we would also support the December 2016 implementation date for the other elements of the remedy also being amended accordingly so as to minimise the potential for any customer confusion.

Members also note the inclusion of new customers under the remedy make an April 2017 implementation date even more challenging. To support customer acquisitions for people with dual-MPANS switching to a single rate tariff will require suppliers to at a minimum signpost these customers to an appropriate sales channel and consider how to transfer the supply properly and manage customer expectations. To facilitate such a switch the New Supplier would need to switch both meters simultaneously or the transfer will fail, as per the technical requirements under the MRA. The transfer process could not rely on the approach taken when transferring a single meter to a single rate tariff; supplier switching is already an area of industry change via Ofgem’s faster switching programme – so further consideration would need to be given to ensure that appropriate/realistic expectations are in place regarding this non-standard kind of supplier switching process. This includes where customers are seeking to switch via a price comparison website or another intermediary.

Energy UK is currently discussing with Citizens Advice how a list of consolidated restricted meter arrangements could be pulled together to assist both suppliers and Citizens Advice in implementing the remedy. Any assistance the CMA could offer would be much appreciated.

In addition, while Energy UK welcomes the clarification in the Explanatory Note (paragraph 24) of the definition of Economy 7 meters, members remain concerned that the definitions in the draft Order and draft licence conditions have not been amended. Legally, these definitions take precedence over the explanatory note, and it would be preferable to modify them directly rather than rely on the explanatory note to change their meaning.