

Backbilling in the NI Retail Energy Market

Call for Evidence

June 2018



About the Utility Regulator

The Utility Regulator is the independent non-ministerial government department responsible for regulating Northern Ireland's electricity, gas, water and sewerage industries, to promote the short and long-term interests of consumers.

We are not a policy-making department of government, but we make sure that the energy and water utility industries in Northern Ireland are regulated and developed within ministerial policy as set out in our statutory duties.

We are governed by a Board of Directors and are accountable to the Northern Ireland Assembly through financial and annual reporting obligations.

We are based at Queens House in the centre of Belfast. The Chief Executive leads a management team of directors representing each of the key functional areas in the organisation: Compliance and Network Operations, Finance and Network Assets, Wholesale, Retail and Consumer Protection and Corporate Affairs. The staff team includes economists, engineers, accountants, utility specialists, legal advisors and administration professionals.

Our Mission

Value and sustainability in energy and water.

Our Vision

We will make a difference for consumers by listening, innovating and leading.

Our Values

Be a best practice regulator: transparent, consistent, proportionate, accountable, and targeted.

Be a united team.

Be collaborative and co-operative.

Be professional.

Listen and explain.

Make a difference.

Act with integrity.

Abstract

Protecting consumers is at the heart of the Utility Regulator's (UR) role and we pursue this, where appropriate, through promoting effective competition in the Northern Ireland (NI) energy markets.

Backbills have the potential to cause significant financial hardship, as well as subjecting the recipients to varying degrees of inconvenience and stress. Where customers are not at fault, it could be argued that they should be provided some protection from long-term backbills.

This call for evidence marks the commencement of our 'Backbilling in the NI Retail Energy Market' project. The responses to this will assist the UR in forming an understanding of the current extent of backbilling issues in the NI energy market, and the impact or potential impact on both consumers and companies.

Audience

Electricity network and supply companies, gas network and supply companies, customers, consumer groups, industry participants, statutory bodies and the wider stakeholder body.

Consumer impact

Backbills have the potential to cause customers significant financial hardship, as well as subjecting the recipients to varying degrees of inconvenience and stress. This project will aim to decide how best to treat customers fairly regarding backbills and seek to address any issues that arise from backbilling in the NI energy retail market.

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1. INTRODUCTION

- 1.1. Protecting consumers is at the heart of the Utility Regulator's (UR) role and we pursue this, where appropriate, through promoting effective competition in the Northern Ireland (NI) energy markets. The UR operates to ensure consumers are adequately protected in these markets through competition, alongside regulation if that competition is not deemed effective enough to adequately protect consumers.
- 1.2. A backbill occurs when it has been determined that a customer has not been correctly charged for the energy that they have consumed, resulting in the customer receiving a supplementary or updated bill for the additional energy. Under UK legislation this can be calculated for a period of up to six years in the past¹.
- 1.3. Backbills have the potential to cause significant financial hardship, as well as subjecting the recipients to varying degrees of inconvenience and stress. Where customers are not at fault, it could be argued that they should be provided some protection from long-term backbills.
- 1.4. This project is related to the UR's Consumer Protection Strategy (CPS). The CPS was launched in 2016 as the UR's flagship strategy and action plan designed to bring about an enhanced level of domestic consumer protection in NI. CPS is a five year strategy, with four key objectives. The objectives are (1) Affordability, (2) Equal access to utility services, (3) Empowerment through education and transparency and (4) Leadership through being a best practice regulator. The CPS action detailed a list of projects to help achieve each of these objectives. A project on backbilling procedures was placed under the objective of affordability and was timetabled for year 2 of the CPS (2017-2018). The outcomes that we associated with the backbilling project were that fewer billing errors would occur and that customers would be protected if/when billing errors happen.
- 1.5. This call for evidence marks the commencement of our 'Backbilling in the NI Retail Energy Market' project. The call for evidence is aimed at suppliers, although we have also asked for a response from NIE Networks due to its meter reading function.
- 1.6. As part of the background research for this project, in April and May 2018 we held a series of structured interviews with a range of energy suppliers and network operators. A list of these interviewees is detailed below:
 - NIE Networks
 - Phoenix Natural Gas

¹ <https://www.legislation.gov.uk/ukpga/1980/58>

- Power NI
 - SSE Airtricity
 - Firmus Energy
 - Ofgem
- 1.7. The purpose of these interviews was to gain insight into the current processes around billing, as well determine the common causes for backbills in NI. Below are some of the most common situations discussed:
- A prolonged period without obtaining an actual meter read combined with inaccurate estimates (Most common reason)
 - Faulty or improperly installed meter (e.g. slow or stopped meters)
 - Attributing meters to the wrong address
 - Erroneous meter reads
 - Supplier billing error

Voluntary backbilling commitments

- 1.8. A number of NI energy suppliers have adopted Consumer Council Northern Ireland's (CCNI) Financial Remedy Framework for Complaints. This framework states that the total amount of a bill should be written off if the bill has been inaccurate or the customer has failed to receive a bill for a period exceeding two years. In cases of less than two years, the bill should be reduced relative to the period in which the customer has been first billed inaccurately or has failed to receive a bill, as follows:
- Unbilled / inaccurate bill is over two years old – 100% write-off
 - Over 18 months – 50-75% write-off
 - Over 12 months – 25-50% write-off
 - Over 6 months – up to 25% write-off

Current billing and metering regulations

- 1.9. Both gas and electricity suppliers are responsible for billing their customers. The amount of electricity or gas consumed by the customer is determined by a valid meter read; either an actual meter read or provided by customer. In the absence of either then an estimated meter read can be used.
- 1.10. However, meter reading arrangements differ between gas and electricity.

Electricity

- 1.11. NIE Networks is responsible for the collection and verification of meter readings. Customers can also provide readings to NIE Networks through Interactive Voice Response (IVR) and the NIE Networks' Website.
- 1.12. A schedule for the collection of quarterly readings is maintained and valid meter reads are provided to suppliers. Where scheduled readings are either not available or could not be validated, NIE Networks provides suppliers with an estimate.
- 1.13. NIE Networks will bill suppliers for use of system charges for consumption adjustments arising from metering / estimating issues, which may in turn be passed through to the end customer by the supplier.

Gas

- 1.14. Gas suppliers have a licence obligation to use all reasonable endeavors to take an actual meter reading on an annual basis.
- 1.15. Each year, the network operator determines the annual quantity for each Non-Daily Metered (NDM) meter point. Using a demand model that factors in these annual quantities, each day the operator will determine the estimated aggregate demand of NDM meters points in each End User Category.
- 1.16. Each month, the total NDM demand will be determined as the total gas input into the system, minus Daily Metered demand (determined through reads) and shrinkage. This NDM demand is allocated to suppliers as a proportion of their aggregate annual quantity, and they will pay conveyance charges accordingly.
- 1.17. Therefore, any gas backbill will be based on the assumption that the supplier has already incurred the costs of that unbilled gas across its aggregated NDM portfolio.

Backbilling in GB

- 1.18. In the GB energy market, an industry-led voluntary 12-month limit on backbilling for domestic consumers has been in place since 2007, following a super-complaint from Energywatch (now Citizens Advice).
- 1.19. In April 2017, Ofgem launched a project to examine the regulatory framework governing energy backbilling, stating it was concerned that not all suppliers had suitable backbilling procedures.
- 1.20. On 5 March 2018, Ofgem confirmed it would introduce a licence requirement to limit backbilling to 12 months in the form of supply licence condition. This would apply to both domestic consumers and micro-businesses. However, the backbill limit would not apply when a customer is at fault, including when consumers have:

- Not complied with repeated demands for payment
- Behaved obstructively or manifestly unreasonably
- Behaved unlawfully
- Prevented access to the meter

2. PURPOSE OF THIS CALL FOR EVIDENCE

- 2.1. This paper constitutes the formal commencement of our 'Backbilling in the NI Retail Energy Market' project. The project will aim to:
- Research and report on the scale of energy retail backbilling in NI at a market level
 - Identify causes of backbills, including assessing how many meters go unread for long periods
 - Determine whether backbills pose enough risk of harm to consumers to require additional regulation
 - If more regulation is required, identify, develop and critically analyse a potential measure / measures for the NI market which can be implemented to ensure customers are protected
 - Consider the logistical and regulatory policy implications of any measure (such as the requirement for licence modifications or legal issues)
 - Identify any other pertinent issues raised by stakeholders
- 2.2. This call for evidence will allow the UR to gather information from gas and electricity suppliers, although we have also asked for a response from NIE Networks due to its meter reading function. The responses will assist the UR in forming an understanding of the current extent of backbilling issues in the NI energy market, and the impact or potential impact on both consumers and companies.
- 2.3. The responses will also help us to shape future policy, including whether backbilling arrangements in NI should mirror the Ofgem arrangements. The information provided will allow the UR to understand what steps are required to address any issues. The UR seeks evidence and examples, where relevant, in order to inform the next steps in the project.
- 2.4. This call for evidence includes a questionnaire for respondents to complete. The questionnaire takes the form of an Excel spreadsheet which is separately appended. There may be further issues that have not been identified and we request that respondents include any additional information which they feel the UR should take into consideration at the bottom of the second tab of the questionnaire (Additional Factors section).
- 2.5. All responses will be treated as confidential. Any information published will be aggregated to market level.

- 2.6. We envisage that a more detailed consultation and project development will take place later in 2018 and stakeholders will have extensive opportunities to provide feedback as the project develops.

Scope

- 2.7. This project will be looking at the levels and causes of backbilling in the NI retail energy market, as well as whether the current market arrangements are providing adequate customer protection. We will be looking at backbilling from the perspective of both domestic consumers and micro-businesses (those businesses consuming up to 50 MWh for electricity and up to 73.2 MWh for gas).
- 2.8. A separate industry-led project, being progressed via the Central Design Authority, will be looking at the issue of backbilling for larger non-domestic customers this year.

Strategic priorities

- 2.9. Billing arrangements should allow suppliers the fair recovery of costs from their customers, but also work to protect customers from the financial hardship that unexpected backbills can cause.
- 2.10. We have set out our strategic priorities for backbilling in the NI energy retail market below. The intention is for these features to act as guiding principles to shape our forward policy.
- There is a limit to how far back it is reasonable to bill domestic consumers and microbusinesses, where they are not at fault
 - Where it is discovered that a customer has been overcharged for energy and they are not at fault, a full refund should be issued (up to what is allowed for in legislation)
 - Any backbill levied by suppliers should be reflective of the actual costs that it has incurred

3. NEXT STEPS

- 3.1. This backbilling call for evidence will inform subsequent work streams in this area. The submission required is detailed in Section 4 of this paper. All call for evidence documentation must be received by 5.00pm on 25 July 2018 for consideration.
- 3.2. The UR will review submissions provided in response to this call for evidence and will publish a further consultation document later in 2018. Any change to billing arrangements will include appropriate consultation and engagement.
- 3.3. We will work with partners including the Department for the Economy and the Consumer Council and other market stakeholders throughout the process.

4. CALL FOR EVIDENCE QUESTIONNAIRE SPREADSHEET

- 4.1. We request that respondents complete the two tabs within the call for evidence questionnaire spreadsheet.

Respondent Information

- 4.2. The first sheet in the questionnaire spreadsheet collates details about you and your position in relation to our backbilling approach.

Questionnaire completion

- 4.3. We have identified a number of areas that we believe would benefit from consideration as part of this review and which could assist the UR in deciding whether, and if so how, to revise our approach toward backbilling. We have outlined a number of questions (Q1-Q12) in the second tab of the spreadsheet. Please answer these questions where applicable. If any questions are unanswered, they will be assumed to be not applicable to the respondent.
- 4.4. In addition to the questionnaire questions we also welcome any additional views and evidence that respondents consider should be taken into account in this review. We request that respondents include this information within the 'Additional relevant factors' section of the questionnaire.

5. RESPONDING TO THIS CALL FOR EVIDENCE

- 5.1. The UR welcomes responses to this call for evidence by 5.00pm on 25 July. It is our preference that responses are sent by email where possible. Responses should be sent to:

Colin Magee
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Queens House
14 Queen Street
Belfast
BT1 6ED
Email: colin.magee@uregni.gov.uk
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- 5.2. As a public body and non-ministerial government department, the UR is required to comply with the Freedom of Information Act (FOIA). The effect of FOIA may be that certain recorded information contained in consultation responses is required to be put into the public domain. Hence it is now possible that all responses made to consultations will be discoverable under FOIA, even if respondents ask us to treat responses as confidential. It is therefore important that respondents take account of this and in particular, if asking the Authority to treat responses as confidential, should specify why they consider the information in question should be treated as such.
- 5.3. This paper is available in alternative formats such as audio, Braille etc. If an alternative format is required, please contact the Utility Regulator's office, which will be happy to assist.