



Direct Dial: 020-7901 7256

15 March 2004

**MRASCo (c/o Gemserv), MRA Parties
and Other Interested Parties**

Our Ref: PPM MRA Appeals

Dear Colleague,

Authority decisions in relation to the BGT and npower Appeals against the Master Registration Agreement (MRA) Forum decisions that the PPMIP to PPMIP (P2P) proposal for resolving misdirected PPM payments should not proceed and that the Supplier to Supplier (S2S) proposal for resolving misdirected PPM payments should proceed

This letter sets out Ofgem's decision in respect of the above MRA appeals.

Background

A problem currently arises where customers use the prepayment device issued to them by a previous supplier to charge their prepayment meter. When this occurs, the payment transaction details from the use of the device are provided to the previous supplier who requested that device to be issued rather than the customer's current supplier. The current supplier will not be able to credit the customer's account with the payment made and collect this revenue until they have identified that a misdirected payment has been made, identified that the supplier that this has been sent to and received the details of the transaction from that supplier.

The Prepayment Meter Expert Group (PPMEG) was charged with examining long-term solutions to this issue. PPMEG were unable to reach a consensus for a single solution. Consequently, on the 2nd May 2003 two sets of change proposals (the S2S and P2P proposals) were submitted to the MRA Development Board (MDB) for decision. The originator of the S2S was Gemserv on behalf of the PPM Expert Group. British Gas Trading raised the P2P proposal.

On the 29th May 2003 MDB rejected these change proposals to the MRA product set.

The S2S proposal consists of a change to the MRA, the creation of a MRA Agreed Procedure (MAP)15 and Data Transfer Catalogue (DTC) changes. It requires that suppliers audit the transaction details that they receive on PPM payments and pass on the details of any transactions that have been routed to them incorrectly, where the customer has used the incorrect device, to the next known supplier. The proposal allows for a supplier to route transaction details to the current supplier where the current supplier is not the next supplier that the customer transferred to and also allows for a charge to be levied for passing on transaction details.

The P2P proposal consists of a change to the MRA, the creation of MAP 14 and DTC changes. It requires the supplier to assign a PPMIP to provide service in respect of PPM customer transactions. The PPMIP will maintain sufficient information so that the PPMIP can pass on PPM transaction details to the appropriate supplier/PPMIP if the customer uses the incorrect payment device. It also requires suppliers to inform the old PPMIP of the identity of the new PPMIP.

On 19th June 2003, SSE submitted an appeal on the MDB decision to the MRA Forum regarding the S2S proposal, in accordance with MRA Clause 6.45. On 25th June 2003, BGT submitted an appeal on the MDB decision to the MRA Forum regarding the P2P proposal, also in accordance with MRA Clauses 6.45.

At a meeting of the MRA Forum called to discuss both appeals on 17th July 2003, the Forum upheld the decision taken by the MDB to reject the P2P proposal and overturned the decision taken by the MDB to reject the S2S proposal.

On 14th August 2003 the Authority¹ received two appeals from BGT to the MRA Forum decisions regarding the S2S and P2P proposals and an appeal from npower to the MRA Forum decision regarding the S2S proposal in accordance with MRA Clause 7.26. Under this clause, an MRA party may raise an appeal where the party reasonably believes that a resolution passed by the MRA Forum will, or is likely to, unfairly prejudice the interests of that party, or will cause the party to be in breach of the MRA, its licence or the Electricity Act.

The BGT and npower appeals were lodged within the period specified in Clause 7.26 of the MRA and stated that BGT and npower considered that the MRA Forum decisions unfairly prejudiced the interests of their respective companies.

Ofgem circulated a separate notice for each of these appeals to all MRA parties and MRASCo (c/o Gemserv) on 11th September 2003. The notices detailed the procedure Ofgem intended to adopt in determining these appeals and invited any addressee of the notices to make written representations and/or present its case in person to the case officer and decision maker respectively in relation to the appeals. This procedure is based on 'Ofgem's Procedures for Determining Disputes Affecting Customers'. Responses to the notices were requested by 2nd October 2003. Comments on these responses were invited, for submission by 9th October 2003.

¹ Ofgem is the office of the Authority. The terms "Office" and "the Authority" are used interchangeably in this letter.

Ofgem received six responses to the S2S proposal appeal notice, which have been published on the Ofgem website². Two respondents (EDF Energy and SSE) were opposed to the BGT and npower appeals, two respondents (npower and Scottishpower) were in favour and two respondents (NEDL/YEDL distribution and energywatch) did not indicate a preference. Ofgem received four further submissions (EDF, Lerryn, npower, and Paypoint) commenting on these responses.

Ofgem received seven responses to the P2P proposal appeal notice, which have been published on the Ofgem website. Four respondents (EDF Energy, npower, Scottishpower and SSE) were opposed to the BGT appeal, one respondent was in favour (the appellant) and two respondents (NEDL/YEDL distribution and energywatch) did not indicate a preference. Ofgem received six further submissions (British Gas, EDF, Lerryn, npower, Scottish and Southern Energy plc and Paypoint) commenting on these responses.

As allowed for under the Ofgem procedure for determining appeals, two parties (BGT and SSE) requested an oral hearing. SSE requested an oral hearing on the 2nd October 2003 in their response to the S2S proposal appeal notice. BGT requested an oral hearing on the 9th October 2003 in their further submission that commented on the responses to the P2P proposal appeal notice. Ofgem requested further information from the appellants, in particular seeking clarification on what costs would be incurred by suppliers and PPMIPs in implementing or not implementing the P2P and S2S solutions, be presented at the hearing. On the 24th October 2003 the relevant parties presented their case in person to the decision maker. These presentations highlighted issues raised by the relevant parties in their written submissions.

During the oral hearing Ofgem asked BGT and SSE to provide further written submissions to Ofgem to describe why it is important that the customer uses the correct device, the technical constraints as to why a supplier can not overwrite a prepayment meter device with updated information following change of supplier and the extent to which these constraints can be overcome. On the 29th October 2003 Ofgem received a response from SSE and on the 31st October 2003 a response was received from BGT.

Discussion

Ofgem is satisfied, based on the evidence of the responses received, that the appellants' interests may reasonably be expected to be prejudiced by the resolutions of the MRA forum in accordance with MRA Clause 7.26.

Ofgem considers that the MRA Forum decision to implement the S2S proposal does unfairly prejudice the interests of BGT and npower. Competitors in the supply market should not be dependent upon other competitors for the resolution of MDPs. The charge by the supplier to cover the PPMIP costs and administration of misdirected payment transactions may also place a significant burden on supplier entrants to the market.

Ofgem considers that the MRA Forum decision not to implement the P2P proposal will, or is likely to, unfairly prejudice the interests of BGT. There has been a significant problem in the prepayment

² <http://www.ofgem.gov.uk/ofgem/work/index.jsp?section=/areasofwork/electricityinfrastructure>

market with MDPs following change of supplier since the opening of the domestic electricity market to competition. These problems have not been resolved with any success within the current MRA product set, they have led to costs on suppliers and may increase the cost of servicing PPM customers.

When making a decision regarding an appeal, Ofgem will have regard to paragraph 4 of Standard Licence Condition (SLC) 37 of the Electricity Distribution Licence, the Authority's statutory duties and the views of MRA parties expressed at MDB, the MRA Forum and during the Ofgem appeal consultation process.

SLC 37(4)(f) of the electricity distribution licence requires that the MRA shall comprise such matters "as are or may be appropriate for the development, maintenance and operation of a co-ordinated and economical system for the supply of electricity and for the purposes of facilitating competition in electricity supply."

Ofgem considers that a revised set of arrangements for the handling of Misdirected Payments (MDP)s may better facilitate the objectives of the SLC 37 (4) than the current voluntary Working Practice (WP) 124 (Allocation of Prepayment Meter Payments following CoS). WP 124 requires co-operation from suppliers who are not incentivised or mandated to do so.

Four main issues appear on the responses to the appeal. The following is a summary on each of these issues together with Ofgem's view:

Cost

Cost is an important determinant in reviewing the merits of the P2P and S2S solutions. Both the implementation and ongoing operational costs should be considered in these proposals. However, no respondents were able to provide assessments of actual costs for either the implementation or operation of either proposal. Therefore our assessment of comparative costs is necessarily speculative and this has been taken into account in Ofgem's assessment of the proposals.

In a response to questions Ofgem raised at the oral hearing, SSE estimated that the cost of implementing the S2S proposal would be significant, but the cost of implementing the P2P proposal would be at least double that of the cost of implementing the S2S proposal, based upon their view of the additional complexities of the P2P proposal.

Ofgem considers that it is likely that the implementation of the P2P proposal would have greater start up costs than the S2S proposal. Under the P2P solution there are 3 new dataflows, 8 revised dataflows, 38 field changes and 14 new or amended PPMIP databases. In comparison the S2S proposal would introduce 3 new dataflows, 1 revised dataflow and 2 field changes. However, npower has noted that they would incur significant costs in amending their npower Yorkshire customer database to handle these transactions and other suppliers may be in a similar position.

Ofgem considers that it is likely that the S2S proposal would incur more significant on-going costs for the reallocation of misdirected payments than the P2P proposal. Under the S2S proposal each supplier will need to review all PPM payments received, match these to the next supplier and pass

on the details. This may result in the new supplier being caught in a chain of transactions with a number of previous suppliers. In particular this is likely to impact on the current supplier, in terms of the administrative charges levied by the old supplier and for old suppliers in having to maintain customer account records indefinitely.

Under the S2S proposal the old supplier can levy a charge on the new supplier to cover the administration of MDPs at £1 or 50p per MPAN per transaction depending upon the source of information. As PPM payments are on average £5-10 per transaction³, this administration charge may account for a relatively high proportion of the overall payment made to the supplier, especially if the transaction data is passed on by more than one supplier where the customer has changed supplier a number of times. The charges levied in processing PPM transactions may therefore increase the costs for new suppliers in providing PPM services to customers. This cost may be passed through to customers or may deter suppliers from actively seeking to gain PPM customers.

Under the P2P proposal there are likely to be ongoing costs associated with the increased functionality of the PPMIP, for example, the requirement to maintain a database and to pass transactions to other PPMIPs. The P2P proposal also makes reference to the ability for PPMIPs to make charges for the passing of transaction data to other PPMIPs. However, there is likely to be an associated decrease in the costs incurred by suppliers as they will not need to spend resource in identifying and chasing MDPs as the transaction data will automatically be routed to them.

For both proposals there is an implicit requirement to maintain the customer's details so that at any point in the future a transaction can be correctly routed. There are costs associated with the ongoing maintenance of this data.

Incentives on the Supplier

The S2S Proposal relies on a previous supplier checking all of the transaction details that they receive and passing on transaction details and monies to the customer's current supplier. The supplier is required to conduct this activity within a defined timescale. Ofgem considers these represent relatively weak incentives as the previous supplier is no longer responsible for the interface with the customer and there do not appear to be commercial advantages to them passing on information to the next supplier in a timely manner. However it is recognised that, where this is not being done, a party may be referred to the conciliation process or to the MRA Disputes Committee or may be escalated to MEC who can investigate whether a party is in material breach of the MRA.

Under the P2P proposal the previous supplier is required to provide details of the old PPMIP to the new supplier once the objection period for the customer transfer has completed so that the new supplier can inform the old PPMIP of the appointment and identity of another PPMIP for that site. There is no clear incentive on to the previous supplier to undertake this activity but the new supplier should be easily able to identify instances where this flow has not been received so that

³ This figure was provided by a PPM outlet provider (Paypoint) in their submission that commented on the responses to the appeals.

they can seek to resolve the issue through review with the previous supplier or compliance action should that fail. Additionally, the previous supplier may be incentivised to ensure that their PPMIP is notified of the transfer as they may otherwise continue to be liable for charges.

There will be additional incentives on suppliers to minimise the number of MDPs by using reasonable endeavours to encourage the customer to use the new device if the processing of transaction data becomes a chargeable service under either the S2S or P2P proposals.

SLC 53B (3)(d) requires the ex-PES suppliers to offer to enter into an agreement for the provision of prepayment services. Amongst other things the licence condition requires that this service should comprise facilities for the making of payments to electricity suppliers in respect of the sums received by the licensee on behalf of domestic customers. The P2P proposal is consistent with this obligation to provide customer PPM payments to the correct supplier. The S2S solution puts the emphasis on the supplier to provide this function through agreement under the MRA.

Audit Trail

Any process that is implemented should be designed so that compliance is incentivised and, where required, can be clearly audited to provide confidence that the performance standards are being met.

Ofgem does not consider that the S2S proposal delivers these requirements. The new supplier is reliant on the previous supplier(s) providing information on MDPs. They do not automatically know when a MDP has been made. An audit function has been identified under the S2S proposal that relies on the ability of the old supplier to report accurate information to MEC. The new supplier can undertake investigative work to determine whether they believe that MDPs have occurred but this is to undermine the reason for attempting to introduce a robust MDP process.

Under the P2P proposal when the new supplier appoints the incumbent PPMIP, that PPMIP will have a record of all transactions against the payment devices that have been issued to the customer and the identity of the current supplier. In a case where the new supplier appoints a new PPMIP, Ofgem considers that there will need to be a clear audit trail between the old and new PPMIP so that transaction data can be traced and verified and subsequently made available to any PPMIPs that may be appointed in the future.

Customer impacts of using the incorrect device

Irrespective of which proposal is implemented, all parties agree that a percentage of prepayment customers will continue to use the old supplier's device. Any solution implemented should seek to ensure that the impact on customers, in terms of their billing accounts and cost of servicing should be minimised and they should pay the correct amount for the energy consumed.

Where a customer uses the incorrect device they may, depending upon the technology employed, be charged for electricity at the incorrect tariff. The result being that the account may not be credited with the payment where the MDP has not been processed, or the number of units of electricity purchased on the meter may differ from the number that should have been purchased

had the customer used the correct device. The P2P proposal offers a more robust solution than the S2S proposal to ensure that transaction data is sent directly to the correct supplier, enabling suppliers to better manage customer accounts.

S2S Proposal - Conclusion

In light of the above Ofgem considers the S2S proposal to be technically viable, to have relatively low implementation costs and a relatively low implementation impact on the MRA product set (in comparison to the P2P proposal). There may however be significant operational costs, particularly for new suppliers.

Furthermore, in the event that a customer has changed supplier on numerous occasions, the accumulative administrative charge(s) levied by the previous supplier to the next known supplier(s) could exceed that of the MDP.

The S2S proposal does not offer significant financial incentives on the old supplier to process MDPs for customers in a timely manner. Despite audit functions being specified in the MAP it is not clear that this will identify cases where the old supplier has not processed the MDP. The current supplier may conduct separate investigations to determine whether they believe that there are MDPs but this is to defeat the purpose of implementing the change.

It is likely that the introduction of the S2S proposal would offer some improvements in resolving MDPs to that currently available under WP124.

P2P Proposal – Conclusion

Ofgem considers the P2P proposal to be technically viable, to have relatively high implementation cost and a relatively high implementation impact on the MRA product set (in comparison to the S2S proposal).

The P2P proposal is more robust and as such will incur relatively lower on-going compliance costs (in comparison to the S2S proposal). The old supplier is required to provide information to facilitate the de-appointment of the old PPMIP but the new supplier is able to clearly monitor and identify any issues with poor performance.

It is likely that the introduction of the P2P proposal would offer substantial improvements in resolving MDPs to that currently available under WP124.

Decision

Having regard to all circumstances including the objectives of the MRA set out in SLC 37(4) and our wider statutory duties and for the reasons outlined above, Ofgem determines that the decision taken by the MRA Forum regarding the S2S proposal should not stand (MCP 125, MAP CP 11 and DTC 3204 should not proceed), and BGT's and npower's appeals are upheld.

Having regard to all circumstances including the objectives of the MRA set out in SLC 37(4) and our wider statutory duties and for the reasons outlined above, Ofgem determines that the decision taken by the MRA Forum regarding the P2P proposal should not stand (MCP 123, MAP CP 10, DTC 3200, DTC 3201 and DTC CP 3202 should proceed), and BGT's appeal is upheld.

Related Matters

Ofgem is disappointed that the parties have been unable to analyse and determine a single, effective solution to the problems encountered with MDPs. We are also disappointed that Ofgem has been asked to deliberate on this issue with such poor quality information having been provided by the industry.

Ofgem considers that the two proposals considered in this decision have not been clearly prepared or costed. Ofgem recommends that the industry urgently considers the most appropriate arrangements to implement the principles of the P2P proposal.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Iain Osborne', with a long horizontal flourish extending to the right.

Iain Osborne

Director, Consumer Markets

Signed on behalf of the Authority and authorised for that purpose by the Authority