



# Backbilling in the NI Retail Energy Market

Decision Paper  
8 January 2020



## 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: Corporate Affairs, Markets and Networks. The staff team includes economists, engineers, accountants, utility specialists, legal advisors and administration professionals.



### Our mission

To protect the short- and long-term interests of consumers of electricity, gas and water.



### Our vision

To ensure value and sustainability in energy and water.



### Our values

- Be a best practice regulator: transparent, consistent, proportionate, accountable and targeted.
- Be professional – listening, explaining and acting with integrity.
- Be a collaborative, co-operative and learning team.
- Be motivated and empowered to make a difference.



## 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 is our view that they should be afforded some protection from long-term backbills.

The UR published a consultation seeking views on a proposal to limit backbills. After careful review of all responses, we have decided to proceed with the implementation of a 13 month limit on energy backbills. The obligation on suppliers will come into effect 1 September 2020, and will apply to domestic consumers and microbusinesses, for both gas and electricity and across all payment types.

## 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 decision aims to treat customers fairly regarding backbills where they are not at fault and have not been in any way obstructive.



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# 1. Context

1.1 Developing a policy with regard to backbilling formed a project within the UR's previous Consumer Protection Strategy (CPS). The CPS was launched in 2016 as a UR flagship strategy and the accompanying action plan was designed to bring about an enhanced level of domestic consumer protection in Northern Ireland (NI). CPS had four key objectives:

- (1) Affordability;
- (2) Equal access to utility services;
- (3) Empowerment through education and transparency; and
- (4) Leadership through being a best practice regulator.

1.2 The CPS action plan 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 were associated with the backbilling project were that fewer billing or metering errors would occur and that customers would be protected if/when billing or metering errors do happen.

1.3 In addition, following consultation Ofgem confirmed in March 2018 that it would introduce a licence requirement to limit backbilling by energy suppliers in Great Britain (GB) to 12 months. This would apply to both domestic consumers and microbusinesses.

1.4 In this context, the UR committed to carrying out a project which would assess the level and causes of backbilling in the NI retail energy market, as well as whether the current market arrangements are providing adequate customer protection.

## Project to Date

1.5 In April and May 2018 the UR held a series of structured interviews with a range of energy suppliers and network operators across both the electricity and gas sectors. The purpose of these interviews was to gain insight into the current processes around billing, as well as determine the most common causes for backbills in NI.

1.6 In June 2018, the UR published its 'Backbilling in the NI Retail Energy Market' call for evidence<sup>1</sup>. The purpose of the paper was to assist the UR in

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<sup>1</sup> [https://www.uregni.gov.uk/sites/uregni/files/media-files/Back%20billing%20the%20NI%20Retail%20Energy%20Market%20-%20Call%20for%20Evidence\\_v1.0.pdf](https://www.uregni.gov.uk/sites/uregni/files/media-files/Back%20billing%20the%20NI%20Retail%20Energy%20Market%20-%20Call%20for%20Evidence_v1.0.pdf)



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.

- 1.7 In January 2019, the UR published a consultation<sup>2</sup> seeking views on a proposal to limit backbills to 13 months for gas and electricity. This would be applicable to domestic consumers and microbusinesses across all fuels and payment types; where the customer is not at fault in causing the backbill.

### **About This Document**

- 1.8 As set out in the call for evidence, the project analysis aims 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 implications of any measure (such as the requirement for licence modifications or legal issues)

- 1.9 In the consultation we 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 backbilling decision and policy.

- There is a limit to how far back it is reasonable to bill domestic consumers and microbusinesses, where they are not at fault in causing the backbill
- Where it is discovered that a customer has been overcharged for energy, a full refund should be issued (up to the six years allowed for in NI legislation<sup>3</sup>)
- Any backbill levied by suppliers should be reflective of the actual costs<sup>4</sup> that it has incurred

<sup>2</sup> <https://www.uregni.gov.uk/sites/uregni/files/consultations/Consultation%20-%20Backbilling%20in%20the%20NI%20Retail%20Energy%20Market%20v1.0.pdf>

<sup>3</sup> <http://www.legislation.gov.uk/nisi/1989/1339/made>

<sup>4</sup> By actual costs, we mean the costs that would have been levied had the consumption been measured accurately.



- 1.10 The document is structured as follows:
- Section 2 summarises the responses to the consultation questions; and
  - Section 3 outlines the UR's decision and next steps.
- 1.11 The UR received 11 written responses to the January 2019 consultation paper. Non-confidential submissions were received from the following organisations:
- Association of Convenience Stores (ACS)
  - Budget Energy
  - Consumer Council Northern Ireland (CCNI)
  - Electric Ireland
  - Energia
  - firmus energy Supply Ltd (FES)
  - National Energy Action (NEA) NI
  - Northern Ireland Electricity Networks (NIEN)
  - Phoenix Natural Gas Ltd (PNGL)
  - Power NI
  - SSE Airtricity NI
- 1.12 A copy of each respondent's full submission have been published alongside this paper and can be found on our website – [www.uregni.gov.uk](http://www.uregni.gov.uk)

### **Scope**

- 1.13 This project looks 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 are looking at backbilling from the perspective of both domestic consumers and microbusinesses (businesses consuming up to 50MWh for electricity per annum and up to 73.2MWh for gas).
- 1.14 Domestic consumers and microbusinesses are the focus of this project as these customer groups are the most likely to face stress or financial hardship as a result of a shock backbill. This could be due to a lack of knowledge or resource to effectively handle instances of backbilling.
- 1.15 There is an ongoing industry-led project to limit the backbilling of electricity



distribution charges that result from specific metering issues for all electricity customers (domestic and all I&C customers). This has developed through direct consultation between industry stakeholders to address specific issues and is considered separate to this project. However, it is possible that there may be some degree of overlap in the outcomes of these two separate projects. Therefore, following the publication of this decision paper the UR will liaise with the industry to ensure any overlapping outcomes and required industry changes that result from these projects are progressed in a coordinated manner.





## 2. Consultation Responses

- 2.1 Respondents were asked to provide their views on a range of issues associated with the implementation of new backbilling arrangements in the consultation paper. These issues and their corresponding responses are outlined below.

***Q1. Do respondents agree that where this consultation has an impact on the groups listed, those impacts are likely to be positive in relation to equality of opportunity for energy consumers?***

- 2.2 A small number of respondents addressed this question specifically.
- 2.3 Electric Ireland agreed that the impacts of the proposed backbilling arrangements are positive in relation to equality of opportunity for energy consumers.
- 2.4 However, SSE Airtricity argued that electricity suppliers operating in NI may have to employ its own meter readers to obtain meter reads for properties where NIEN has provided estimates. The supplier also stated that suppliers may resort to using legal remedies available to them to obtain access to properties; such as warrants.

***Q2. Do respondents consider that the proposal around backbilling needs to be refined in any way to meet the equality provisions? If so, why and how? Please provide supporting information and evidence.***

- 2.5 Similarly, only a small number of respondents addressed this question specifically.
- 2.6 Electric Ireland stated that the proposals listed within the consultation meet the equality provisions and do not need to be refined.
- 2.7 However, SSE Airtricity suggested that the UR conducts research into the type of properties and customers who have a higher possibility of being impacted due to lack of meter reads.

***Q3. Do respondents agree that any limit to backbills for gas and electricity should be 13 months for gas and electricity?***

- 2.8 Respondents were broadly supportive of the measure to limit backbills to 13



months for gas and electricity customers, although several suppliers commented of the potential negative cost impact on their business.

- 2.9 NEA supported the measure, stating that “shock” bills were a key reason why low-income households are pushed into debt. This debt can then “spiral out of control” causing further hardship, according the fuel poverty charity.
- 2.10 FES said it was “fundamentally supportive” of the UR’s proposals relating to a backbilling limit being implemented to help protect consumers.
- 2.11 Power NI stated it had previously advocated a backbilling limit for instances when the customer is not at fault. However, the supplier commented that should the UR look to implement a 13 month backbilling limit, then that limit should also apply to the Distribution Use of System (DUoS) bills suppliers’ receive.
- 2.12 Similarly, Electric Ireland was “broadly in agreement with the proposal”, but commented that some flexibility and accommodation would be required for backbilling charges which are outside of the control of the supplier.
- 2.13 SSE Airtricity argued that the proposal should be limited where the backbill is the result of a supplier error and the customer has fully engaged with the supplier on enabling meter reads to be obtained. The supplier added that where the backbill is the result of a Distribution Network Operator (DNO) issue, then the supplier should not be expected to cover any costs.
- 2.14 Whilst CCNI was supportive of the measure, the consumer body disputed the length of a potential limit; stating:

“We deem the proposed 13 month limit to be inadequate for consumers and call on the UR to reduce the limit to 12 months instead. Any additional month that is added to a consumer’s backbill can have a significant financial impact. Also to ensure Northern Ireland consumers are not at a disadvantage in comparison to consumers in GB.”

**Q4. Do respondents agree that any limit to backbills should be applicable to both domestic consumers and microbusinesses?**

- 2.15 Responses to this question were mixed.
- 2.16 ACS encouraged the UR to include non-domestic customers, stating that many small business customers have no greater resource or understanding of energy markets than domestic customers.
- 2.17 Similarly, CCNI noted that in its call for evidence it made comments about microbusiness facing similar issues as domestic customers, and stated that it



agreed strongly with the proposal to extend any proposed limit to backbills to microbusiness.

2.18 Electric Ireland also agreed that backbill limits should apply to both domestic customers and microbusinesses.

2.19 However, Power NI did not agree that limit should be extended to microbusinesses. The supplier said it was unaware of any other area of running a business (e.g. tax, employment, recruitment, rates, stock, suppliers, insurance, sales, marketing, supply chain etc) where 'special measures' were in place, and the supplier questioned why electricity should be treated differently.

2.20 Budget Energy stated that:

"Although convenient to group domestic and microbusinesses together it is important to fully understand differences in terms of the legal, regulatory and protection frameworks which exist."

**Q5. Do respondents believe that Ofgem's definition of "customer fault" is applicable to NI energy market? If not, please provide clear rationale why or identify what additional factors / scenarios should be considered**

2.21 The majority of respondents believed that customer fault will require a strong and clear definition from the UR.

2.22 Budget Energy stated that Ofgem's definition of customer fault was applicable to NI, but that it was important to define what the principles such as "behaving obstructively" or "unreasonably" meant.

2.23 Power NI argued that should a property be visited four times in a year, along with revisits and cards for self reads being left, then it is unreasonable to state that every effort has not been made to gain readings. Therefore, the supplier stated that prolonged estimates due to lack of access would meet the definition of customer fault.

2.24 NIEN also stated that customer fault should be very clearly defined, so that the responsibilities of customers and market participants remain unchanged and are clearly understood by all. The company noted that NIEN's Standard Terms and Conditions of Connection<sup>5</sup> and retail suppliers' Terms & Conditions of Supply Agreement dictate that customers must provide reasonable access at all times for NIEN to read, test, or inspect the meter.

<sup>5</sup> <https://www.nienetworks.co.uk/lvtsandcs>



Therefore, NIEN stated that the definition of customer fault should include situations where the customer has prevented access to the meter, or where the customer has behaved obstructively through lack of engagement to facilitate recovery of an actual meter reading after all reasonable attempts by NIEN.

- 2.25 SSE Airtricity stated that customers who consume gas at a premises for a prolonged period of time without obtaining a bill from a supplier should fall into the 'at fault' category. The supplier stated:

"This issue occurs when the DNO connects the premises to the gas network but fails to advise a supplier. While the DNO is responsible in this instance the customer is knowingly consuming gas without being billed by a supplier for the gas consumption."

**Q6. Do respondents agree that any limit to backbills should be applicable to all payment types?**

- 2.26 The majority of respondents supported any that any limit on backbills should be applicable to all payment types.
- 2.27 CCNI said it did not see any valid reason not to extend the application of the limit to prepayment meter customers, in order to ensure they are protected in the event that they experience metering issues.
- 2.28 Electric Ireland agreed that the limit on backbills should apply to all payment types. In the case of prepayment customers it should be clear that the reason for the backbill can clearly be identified as a metering fault, according the supplier.
- 2.29 However, SSE Airtricity stated that in the event of prepayment meter being set up incorrectly that "it cannot be left to suppliers to absorb the cost of backbilling when the cause of the issue lies with the DNO and not the supplier".

**Q7. Can respondents outline the expected cost faced by suppliers to implement the system and organisational changes required to administer a limit on backbills?**



- 2.30 Responses to this question were mixed.
- 2.31 Electric Ireland stated that it did not expect the implementation cost for the proposals to be significant. The supplier said that based on the information available that it is not anticipating material difficulties with system changes required to administer a limit on backbills.
- 2.32 Power NI said it was difficult to answer this without a clear definition of customer fault, but that significant system changes would be required to identify, flag, and calculate some form of apportionment.
- 2.33 Budget Energy stated that further work would be required to fully understand the cost to implement the system and organisational changes required to support the proposed change in backbilling. However, the supplier stated that costs would be incurred by a “significant re-write to existing IT and billing system, staff training and support as well as informing all customers of changes to their Terms and Conditions.”
- 2.34 SSE Airtricity anticipates “substantial costs” to make the enhancements required; including upfront system costs, ongoing administrative costs, additional customer correspondence, additional staff, and impacts on bad debt.

***Q8. For electricity, in situations where the implementation of a backbill limit will result in the supplier facing use of system charges beyond the period of the backbill, and the supplier is not at fault, how do respondents believe this should be dealt with?***

- 2.35 In general, suppliers that responded to the consultation believed it would be unfair for suppliers to incur these use of system charges where they, the suppliers, are not at fault.
- 2.36 Energia commented that instances of backbilling are “nearly exclusively” caused by problems with NIEN meter reads, and without a limit applied to network charges the suppliers will be expected to pay these in full.
- 2.37 Power NI argued that NIEN should be subject to the same backbilling rules as suppliers, stating it is inequitable given the meter reading standards and asset ownership for anything other than that to be the case.
- 2.38 Similarly, Electric Ireland stated it was “unreasonable to expect suppliers to face use of system charges beyond the backbill limit in these instances as these are not costs which can be fairly passed through to customers”.



- 2.39 NIEN confirmed that it could accommodate the provision of 13 months backbilling arrangements for circumstances where the customer is not at fault. NIEN said this could be facilitated through changes to provisions within the current Retail Market Procedures and DUoS Agreements.

NIEN proposed to adopt the following process to facilitate the backbilling arrangements:

- Provide full correction of the meter data through the provision of market messages. This correction will be from the point of error as is currently done.
- Apply a 13 month limit to the DUoS invoice charges issued to the relevant supplier.

NIEN anticipates that IT system costs will be incurred to facilitate this process, as the Retail Market Procedures and DUoS Agreements will require amendment. However, the DNO could not quantify the full costs until the exact requirements have been identified.

**Q9. How, and to what extent, do respondents believe these issues can be mitigated in order to implement a backbill limit that ensures no customer is billed for energy consumed over 13 months prior?**

- 2.40 Budget Energy stated that the issue of cost and incentives associated with meter reading and metering faults, which it said are the primary cause backbilling, should be addressed in the next set of network price controls.

- 2.41 SSE Airtricity suggested that an allocation methodology for pro-rating consumption over the duration of the time the adjustment covers, which takes into account the seasonal factors is required to be put in place. The supplier added:

“For cases where the issue is due to prolonged estimation, we propose that NIE Networks is not allowed to pass adjustments / UoS charges beyond 13 months to suppliers for customers covered by these requirements. In these cases, withdrawal and replacement of reads is the normal process and should only go back 13 months.”

- 2.42 NIEN suggested that it could calculate the consumption between the last actual meter read and the current meter read to determine consumption for the whole period, and using that information it could then estimate the customer’s consumption for the 13 month backbill period. This information



could then be issued to suppliers via revised market messages. Where appropriate, NIEN could then apply a 13 month cut off on the DUoS invoice.

***Q10. Do respondents agree that any limit on backbills should be enforced through the creation of a new licence condition?***

- 2.43 Responses to this question were mixed.
- 2.44 CCNI supported the UR's proposal to enforce the limit on backbills through a new licence condition. The consumer body stated that its experience operating its voluntary Financial Remedy Framework as well as Ofgem's own evidence in GB "show that only a framework enforced in suppliers' licences can ensure a consistent and appropriate level of consumer protection in this area".
- 2.45 Budget Energy stated that a new licence condition is likely to be most appropriate measure of enforcement, as it will ensure clarity and consistency across the energy market.
- 2.46 However, Power NI stated that it did not believe a licence condition in relation to back billing is required, as provisions already exist in terms of suppliers using an actual read when billing (Licence Condition 38). Alternatively, the supplier suggested that the UR could amend the Billing Code of Practice should it wish to be more prescriptive.



## 3. Decision and Next Steps

3.1 After careful review of all responses to the consultation, and given the rationale put forward in the consultation for a backbilling limit, the UR has decided to proceed with the implementation of a 13 month limit on energy backbills. This limit would be applicable:

- for gas and electricity customers;
- for domestic consumers and microbusinesses (businesses consuming up to 50MWh for electricity per annum and up to 73.2MWh for gas); and
- across all payment types.

3.2 The limit will not apply in circumstances when:

- the bill was sent before the licence condition took effect;
- the supplier has previously issued a bill that they are now seeking payment for; and
- the customer is at fault by behaving in an obstructive or manifestly unreasonable way (as defined in paragraph 3.16).

3.3 The limit on electricity backbills will be supported by NIEN recalculating the customer's consumption for the entire period that there has been a consumption inaccuracy. This information will then be issued to suppliers via revised market messages. NIEN will then apply a 13 month cut off for the DUoS invoice to the supplier, where the customer is not at fault.

3.4 A similar arrangement would not be applicable to the gas retail market as suppliers do not receive network charge backbills for their non-daily metered (NDM) customers due to consumption inaccuracies. Unbilled usage in a gas supplier's NDM portfolio is accounted for through how conveyance charges are calculated as well as shrinkage.

3.5 The limit will be enforced through the implementation of a new licence obligation. Suppliers must also include the backbilling arrangements in their tariff Terms & Conditions.

3.6 We have outlined the rationale behind our decision and provide more detail below.

### **13 months limit for gas and electricity customers**

3.7 The UR has decided, based on stakeholder feedback, to implement a 13





month limit on energy backbills which is applicable to both gas and electricity customers.

- 3.8 As outlined in Section 2, respondents were generally supportive of the measure in principle, but several electricity suppliers did voice concerns over the potential cost impact on their business. However, we believe this issue is mitigated by NIEN's proposal to limit to the DUoS invoice charges to 13 months for the affected suppliers. Similar concerns were not voiced by gas suppliers, which do not receive network charge backbills in the event of consumption inaccuracies.
- 3.9 CCNI proposed that the limit be reduced to 12 months, which would create parity with the GB arrangements. However, as the electricity wholesale market in NI only becomes fully settled after 13 months, a limit of 12 months could potentially expose electricity suppliers to additional wholesale costs which it could not recover from customers in the event of long-term backbills. We do not believe the difference of one month is material enough to make us set the limit at 12 months and remove the alignment with the electricity wholesale market settlement schedule.
- 3.10 Wholesale gas arrangements differ from electricity, and suppliers will have already paid for unbilled usage in the non-daily metered portfolio through which conveyance charges are calculated as well as shrinkage. As outlined in our consultation paper, despite the differences in the market arrangements between gas and electricity, the UR supports an aligned approach on this measure and the 13 month limit would also apply to gas.

#### **For domestic consumers and microbusinesses**

- 3.11 The inclusion of microbusinesses in the potential measure to limit backbills garnered mixed views amongst respondents. However, we agree with the several consumer organisations that indicated that many small business customers have no greater resource or understanding of energy markets than domestic customers. Added to this we were also provided with numerous case studies that showed that microbusinesses in NI are at risk and potentially vulnerable to the threat of backbills.
- 3.12 This also aligns with the findings of CMA energy market investigation, which stated that domestic consumers and microbusinesses faced similar barriers to engaging in the energy market, as we outlined in our consultation paper. The CMA found that traditional meters and bills can have a negative impact on engagement due to a lack of visibility of what is being consumed.
- 3.13 Therefore, given the potential for microbusiness to face similar risks as domestic consumers, we have decided that the 13 month limit on energy backbills will apply to domestic consumers and microbusinesses (businesses



consuming up to 50MWh for electricity per annum and up to 73.2MWh for gas).

### **Across all payment types**

- 3.14 We believe that whilst backbills are more likely to affect credit customers who either pay their bills directly or via direct debit, it is important that protection against lengthy backbills should cover all payment and meter types. Keypad customers, for example, are still at risk from backbills due to metering faults and should be afforded the same protection as credit customers.
- 3.15 The majority of respondents also supported the UR's views on this. Therefore, we have decided that the limit on energy backbills will apply across all payment types.

### **Customer fault**

- 3.16 We outlined in our consultation paper that we felt it appropriate that the 13 month limit on backbills only apply when a customer is not at fault. Many responses to our consultation requested that customer fault required a strong and clear definition.
- 3.17 Following the consultation, the UR sought legal advice when drafting the proposed licence modifications. Legal counsel recommended that the UR provide a more robust definition of the categories of customer behaviour which would exempt suppliers from compliance with the 13 month limit, and that we avoid the use of open-ended descriptions. Such conditions can be subject to interpretation and have the potential to lead to lengthy disputes.
- 3.18 Therefore, we have determined that there are two instances where the backbilling limit would not apply due to customer behaviour. These are:
1. Where the licensee has not been able to recover charges for unpaid energy, despite sending repeated demands for payment in a manner compliant with licence obligations; and
  2. Where the licensee has been unable to issue a bill for the correct amount of gas / electricity consumed because of obstructive or manifestly unreasonable behaviour by the consumer. Obstructive or manifestly unreasonable behaviour is defined as:
    - i) the effect of unlawful conduct by the customer (meter tampering or theft); and
    - ii) the licensee being unable to obtain an actual meter reading for the period to which the backbill relates, despite having used all reasonable efforts to do so.



Hence as long as the normal process of attempting to acquire meter reads (i.e. site visits, re-visits, self-read cards being left, etc) has been followed, then that will be deemed to constitute all reasonable efforts. If the customer does not engage or respond to this activity then they will be at fault.

- 3.19 We disagree with SSE Airtricity's argument that customers who consume gas at a premises for a prolonged period of time without obtaining a bill from a supplier should be deemed at fault. This is an issue that has occurred between the supplier and the DNO, and the risk of this should not be levied on the customer.
- 3.20 However, as stated above the UR are likely to deem customers to be at fault in situations where all reasonable attempts have been made to obtain a meter reading, and a lack of engagement from the consumer has meant one was not able to be obtained. Whilst this goes beyond the protections that Ofgem put in place, the decision reflects the differences between the NI and GB energy markets.

As highlighted by some respondents to our call for evidence, the meter reading schedule in NI appears much more regular and robust than GB. In GB, suppliers are responsible for the installation and reading of meters, and therefore a limit on backbills acts as an incentive on suppliers to obtain regular and accurate meter reads. However, in the NI electricity market, the network operator is responsible for the collection and verification of meter readings and is incentivised to visit properties four times per year. If a read is not obtained, meter readers also leave cards advising of re-visits and / or requesting the customer to submit a manual read. As a result, the number of unread meters—and therefore backbills—in NI is relatively low; which was the finding from our call for evidence. For gas, the number of unread meters for gas is even lower, given they are predominantly situated outside and easily accessible by meter readers.

Given the success of the meter reading schedule in NI in both gas and electricity, the UR does not wish any limit on backbills to incentivise disengagement from customers around the provision of meter reads, as was suggested by some respondents to our consultation.

Therefore, the UR has decided that should all reasonable endeavours be made to obtain a meter reading without success, and the customer has not engaged in any way despite the numerous visits and communications, then the customer will be deemed to be behaving obstructively or manifestly unreasonably. In any given case the supplier will need to demonstrate that either it or the DNO did in fact make reasonable endeavours to obtain a reading and that the proper process was followed.



- 3.21 However, if a supplier deems that a customer has behaved obstructively or manifestly unreasonably, we expect that evidence of the customer's behaviour will be kept. Should this be the result of lack of engagement from the customer, we would expect that the supplier can demonstrate that all reasonable endeavours had been taken to obtain a read. This could include, but not limited to, the dates of visits and re-visits, as well as when / what literature had been sent prompting the customer to provide a read. Therefore, for electricity we expect that suppliers will fully engage with NIEN in order to obtain this information.

### **Licence Condition**

- 3.22 We have decided that a voluntary framework would be inappropriate in this circumstance.
- 3.23 As CCNI noted in its response, given its experiences with its own Financial Remedy Framework for Complaints, only a framework enforced in suppliers' licences can ensure a consistent and appropriate level of consumer protection in this area.
- 3.24 Ofgem also found that where suppliers were signatories to voluntary commitments, domestic consumers were not sufficiently protected from receiving a large catch-up bill.
- 3.25 We believe that Power NI's suggestion of amending the Billing Code of Practice to incorporate new backbilling arrangements would also not be suitable in this case given that this code is targeted at domestic consumers only. We also do not believe that Condition 38 Paragraph 8(a), which as Power NI has highlighted compels suppliers to bill customers based on actual meter reads, will prevent instances of backbilling. Suppliers are still permitted under licence to use estimated reads in the absence to actual meter reads.
- 3.26 Therefore, we have decided that the limit on backbills will be enforced through a licence modification.
- 3.27 This new licence obligation will only apply to bills that have been sent on or after the implementation date of 1 September 2020. Therefore, any bills sent to domestic or microbusiness customers after the licence modification is effective will not be permitted to contain charges for energy consumed more than 13 months prior to that date (provided the customer is not at fault). Customers will still be obligated to pay any bills issued before the new obligation is effective.



## **Cost**

- 3.28 Respondents provided little quantitative evidence on the costs of implementing a limit on backbills. One supplier stated that any costs incurred would be minimal, whilst others indicated there would be some costs associated with changes required to the billing system and their Terms & Conditions; as well as additional staff required to implement and manage the updated process / systems. Only one supplier gave an estimate of the expected costs, which is insufficient to benchmark across all suppliers.
- 3.29 We acknowledge that not all suppliers have implemented CCNI's Financial Remedy Framework for Complaints, and will therefore face some implementation costs to make the required system changes. However, we believe this cost is outweighed by the significant benefit to consumers brought about by these new protections being implemented.
- 3.30 In its backbilling decision paper, Ofgem argued that a new licence condition limiting backbills will incentivise suppliers to make improvements to their billing systems, which could then allow for the recovery more debt before it becomes difficult for the consumer to pay a large backbill. Therefore, this could mitigate potential implementation costs.
- 3.31 Additionally, a separate industry-led project is currently underway to limit backbills in the event of specific issues. Should this project progress then we believe that many of the anticipated changes to supplier's systems will already be required. Therefore, the marginal cost of making any additional changes for the UR's backbilling proposal should be minimal.
- 3.32 Given the expected benefit to consumers as well as a lack of quantifiable evidence that there will be a significant additional cost incurred to make the required changes, we see no reason from a cost / benefit perspective as to why the UR's backbilling proposal for a 13 month limit should not proceed.

## **Next Steps**

- 3.33 The next step in this project is to implement the 13 month limit on backbills, which will be applicable to domestic consumers and microbusiness for both gas and electricity.
- 3.34 Alongside this decision paper we have published Article 14 Notices, which outline the proposed changes to gas and electricity supply licences. This consultation will be open until 11 February, and will be followed by the Article 14 Decisions. The confirmed modifications will take effect 1 September 2020, which will provide stakeholders sufficient time to implement the required changes to systems and processes.



- 3.35 Following this, we will be monitoring supplier's compliance with this licence condition and intend to take enforcement action should suppliers fail to comply.