

Bord Gáis Energy Response to Customer Bad Debt in Electricity & Gas Markets

CER/11/044

Introduction

Bord Gáis Energy welcomes the opportunity to respond on the issue of customer bad debt in the Gas & Electricity markets. Changes in the social and economic climate in recent years, allied to changes in the market with the advent of deregulation, have led to a significant increase in the scale of the problem. Increasingly customers are willing to change supplier while outstanding balances on their gas or electricity account remain unpaid. It is possible that some customers are merely changing supplier to avoid paying their bills for reasons of financial distress or otherwise. An objections process for debt is both a way to encourage customers to manage their arrears in an appropriate and timely fashion, and a means for energy suppliers to maintain a credible and competitive retail market. BG Energy believes that change is needed urgently to avoid further deterioration in the bad debts situation that suppliers of gas and electricity are experiencing.

It must be remembered that “debt hopping” is not a victimless issue. Customers who choose to change supplier while leaving debt behind, or by even delaying making final payments, increase costs for all customers. This cost is ultimately borne by all the remaining customers. Indeed this is adding substantially to suppliers’ cost bases and allowing these costs to increase is adding to the cost of energy in the home, at a time when many are finding it difficult to manage their energy bills.

Energy suppliers are currently faced with a situation where customers can move from one supplier to another leaving behind many months worth of unpaid energy usage. The Suppliers’ only recourse is to the courts to recover the money. This is not acceptable as a solution because of the time and costs involved. This approach further adds costs which will have to be recovered. The level of arrears left behind by customers when they change supplier is not insignificant which demonstrates the urgency of a debt objections process for the market in order to curb this escalating problem.

Issue of debt in the electricity & gas markets:

Recent years have seen a sea change in terms of the levels of debt that are present in the electricity and gas markets. Suppliers are experiencing unacceptable levels, and age, of debt that is not decreasing. One in ten customers currently are bad debtors. BG Energy has always taken a sympathetic and supportive approach with people who have had difficulty paying their bills. While we encourage customers to be proactive in contacting us, we are equally proactive in offering payment plans and pay-as-you-go solutions where practical to our customers. As a last resort BG Energy may consider disconnection, but the emphasis here is on the term last

resort after exhausting all other options. There has been a considerable increase in the numbers of payment plans that have been set up with customers. February 2011 shows that payment plans have increased 90 fold for commercial customers compared to this time last year, and four times more payment plans were required for domestic customers.

In working with customers setting up payment plans, offering pay-as-you-go meters and engaging with customers in a proactive manner significant expense is incurred. This does add to the cost of energy. Where a better means of addressing the issue of bad debt can be developed there is an imperative to implement it in order to assist customers and reduce the cost of energy.

A debt objections process would bring greater efficiencies to the market in this regard. Payment plans are being cancelled and broken by customers on a daily basis and this situation does not look like it will improve in the near future. Surely now is the time to introduce an industry wide means of objecting to debt so that the industry's competitiveness can be maintained. There is a serious risk in not tackling this issue and the situation could deteriorate further thereby adding to the cost of energy. This will only serve to make Irish industry less competitive and Irish homes more expensive to run relatively speaking.

3.2.1 Debt Blocking:

BG Energy notes the paper's reference to debt blocking:

"It introduces an impediment to an efficient and seamless switching process and in this regard may not be in keeping with the stated objectives of the Third Package".

BG Energy strongly disagree that debt blocking does not meet the objectives of the third package. The introduction of debt blocking into the ROI gas and electricity markets would introduce a level of appropriate behaviour on consumers and suppliers alike whereby consumers could be encouraged to manage their utility bills appropriately and suppliers could protect consumers from getting into a situation whereby their debt can spiral out of control resulting in a trail of debt being left behind with numerous suppliers. If anything, the absence of a debt blocking mechanism will damage competition, as it will force new suppliers to limit their offering to very low risk customers. In addition it may force new entrant suppliers to change the practice of offering credit thereby limiting their effectiveness from a competitive standpoint.

The third package states the following:

"Member States shall ensure that the eligible customer is in fact able easily to switch to a new supplier¹."

¹ DIRECTIVE 2009/72/EC & DIRECTIVE 2009/73/EC

The introduction of a debt blocking measure to the market would not stop customers changing supplier provided they are not simply avoiding paying for the energy they used. It would have the effect of ensuring that the integrity of the market is protected and in essence, ensuring all customers changing supplier are appropriately managed. An effective and responsible switching process is not compromised by preventing a customer in significant debt from moving; it merely contributes to market stability and confidence in general. This will ultimately have the effect of enhancing competition. Unless suppliers have a degree of confidence that they are not taking on undue risks they will exhibit a degree of reticence in participating fully in the market.

The Third package does put this responsibility on regulatory authorities themselves where it states:

*“...without prejudice to their competencies:
(g) ensuring that customers benefit through the efficient functioning of their national market, promoting effective competition and helping to ensure consumer protection²;”*

Were the CER to allow a minority of customers access to a loophole, whereby they do not pay for energy and services provided to them, it would not contribute towards effective competition nor could it be seen as ensuring the delivery of consumer protection in accordance with the third directive i.e. consumer protection does not mean that the majority of customers are forced to pay for the minority who do not pay for their services. It is essential that the CER acts to address this without further delay. It is clear that costs to customers, both residential and industrial can be brought down by the introduction of such a measure due to the reduction in spend on debt management processes and the reduction in bad debts generally.

The CER consultation paper raises a point regarding the possibility that, a debt blocking process could be open to abuse by suppliers who may invoke the objection for reasons other than debt management. Surely, if such a process was brought in, all suppliers would be subject to a code of practice, within which there would be clear guidelines on behavioural expectations from suppliers. Any foul play would surely incur consequences for suppliers under this code. In addition, any customer who had issue with the process could also contact the CER in its role as independent arbiter if any abuse was being made of such a process.

In the UK market, where debt blocking is in place, it has been identified that the absence of a debt blocking process (or a dilution of such) would result in increased costs which would ultimately be borne by all customers

² DIRECTIVE 2009/73/EC

“...suppliers opposed any removal or dilution of their automatic right to debt block, arguing that this would substantially increase their risk of bad debt.”³

The CER consultation paper does not address this issue of the cost of burdening the ordinary consumer without proper protection against “debt-hopping.”

Ofgem highlighted a number of consequences: increased use of credit checks and requests for security deposits; the installation of PPMs when customers switched (to secure the debt up front); and more aggressive debt collection activity. The increased costs of these actions would be borne by customers (reflected in higher tariffs) and the increased use of credit checks and security deposits would make it much more difficult for all customers to switch but in particular those with a poor credit history”⁴.

Following on from this Ofgem proposed the following:

We recognise the risks associated with removal of the right to debt block and note the new evidence that many customers do succeed ultimately in switching”⁵.

3.2.2 Debt Notification Flag

BG Energy is of the view that debt blocking is the most favourable process to deal with “debt hoppers” in the market, with debt notification coming second in terms of dealing with the issue. Debt notification still allows an indebted customer to move to another supplier (subject to the incoming supplier doing nothing once notified) and continue to carry on building up debt. With debt blocking, the customer’s problem can be identified and managed at the point of change of supplier.

Q1. Respondents are invited to comment on the proposals for the electricity and gas markets;

- 1) to introduce debt blocking or debt flagging for business customers and/or**
- 2) To introduce debt flagging for domestic customers.**

Debt blocking is favoured by BG Energy for business and domestic customers alike. It is the most effective way of dealing with debt management. BG Energy do not agree with the CER’s reasons for debt notification flagging being preferable in the industry. We are of the view that debt blocking is the industry preference and debt notification is a much less effective approach. However we recognise the practicalities and the simple fact that debt notification could be quickly implemented in advance of the more sophisticated debt blocking scheme. For the avoidance of doubt we would prefer a proper debt blocking mechanism but in the event that this would take significantly more time to implement we would prefer to have a debt notification

³ Ofgem Energy Supply Probe 2009 Consultation – 41/09

⁴ Ofgem Energy Supply Probe 2009 Consultation – 41/09

⁵ Ofgem Energy Supply Probe 2009 Consultation – 41/09

mechanism introduced without delay. In brief, while Debt notification is imperfect, it is better than nothing. However, it has the following problems:

The introduction of Debt Notification without the simultaneous introduction of a Debt Allocation Protocol (DAP) will not work in the Prepayment Market (but Debt Blocking will). At present most Pre-Payment Meters (PPMs) are installed to help customers manage their debt. Many are paying back previous debt (on a debt recovery tariff) that they had built up with their supplier and have opted for a PPM to assist them budget.

If a prepayment customer is changing supplier under the debt flagging process, the new supplier will be notified of the fact that there is a debt outstanding with that customer. However, this new supplier would have no incentive not to take this customer on due to the fact that this prepayment customer will not be bringing debt with them, nor will the new supplier be liable to future arrears with this customer due to a PPM being in situ with this account. A debt flag would be of absolutely no use in this sector of the market. It could also have the effect of discouraging suppliers to offer PPMs to customers who are experiencing financial hardship because of the possibility that after just a couple of months, the customer could move to another supplier leaving that debt behind. If a Debt Notification process is to be introduced it must be accompanied by a Debt Assignment Protocol which would ensure that if a PPM customer had debt outstanding, this could be transferred to the new supplier with both the customer and the new supplier's consent.

The DAP (Debt Assignment Protocol) is designed to help you switch supplier, even if you have a debt. Under the rules of the DAP, consumers with PPM's are allowed to switch supplier and transfer their debt. The maximum level of debt which you are allowed to carry over to another supplier is £200 (GB Market)

PPMs in the gas market already have a debt memory function built in. At present this feature is switched off. If this were to be turned on and processes agreed surrounding this, debt blocking and debt assignment could potentially work similarly to the way it operates in the UK.

- **Debt blocking is preferable to BG Energy for both business and domestic customers.**
- **Debt Notification cannot be introduced without a Debt Allocation Protocol**
- **The CER cannot insist that Suppliers offer a Prepayment Solution as an alternative to Disconnection in a multi-supplier PPM Market without a DAP. This would encourage non-payment within the PPM sector.**

3.3.1 Customer Eligibility

Q2. 1) the proposal to allow debt blocking/notification for small and medium sized businesses in electricity as well as all NDM business customers in the gas market. Are you in favour of the proposal?

BG Energy are in favour of the proposal to allow debt blocking for small and medium sized businesses in Electricity as well as all NDM business customers in the gas market.

2) The proposal not to allow debt blocking/notification for Large Energy Users (LEUs) or DM/LDM in the gas market?

BG Energy believes that the majority of LEUs & DM customers should be included within this process. However, in those areas where supply contracts are complex and customer demand by single site is material, cut off limits for application of this principle should apply. We believe these limits should be as follows:

- Electricity: >4 GWh pa
- Gas: >5.5 GWh pa

3.3.2 Grounds for Objection or Notification

Q3 (1) Do you consider that it is appropriate to raise an objection or notification on the grounds of contract default? Is it appropriate for this provision to apply for both business and domestic customers?

BG Energy is of the view that it is appropriate to raise an objection on the grounds of contract default in the business sector of the market. This is necessary for the integrity of fixed term and fixed price contracts. It is not acceptable that a customer can switch supplier in the middle of their fixed price contract where their supplier has hedged their gas or electricity prices already. This is equivalent to debt hopping. Inclusion of objection for contract default would be a step forward. DM/LDM and LEU customers below the levels specified should not be excluded from this.

Q 3(2) Do you consider that the proposed debt thresholds and timings in section b are appropriate? Do you think the monetary thresholds should be the same or different for electricity and gas? Do you consider that it is appropriate to apply both a monetary threshold and a minimum timeframe for the monies to be owed as criteria to raise a debt block or flag?

- *For small business customers where €500 or more remains unpaid 28 days after it falls due*

BG Energy believes that there should be the same monetary amount and time period assigned (after it falls due) for both gas and electricity customers. However, BG Energy would like to see a threshold of €250 to be applied here if it remains unpaid 28 days after it falls due

- *For above medium sized small business customers where €1,500 or more remains unpaid 28 days after it falls due*

Again, BG Energy would like to see a threshold of €250 or more to be applied here if it remains unpaid 28 days after it falls due.

For Domestic Customers;

- *Where €200 or more remains unpaid 56 days after it falls due*

BG Energy believes the monetary threshold is too high and the timeframe of 56 days is too long. We suggest the threshold is **€100** where it remains unpaid **28 days** after it falls due.

BG Energy believes it is necessary to apply both a monetary threshold and a minimum timeframe for the monies to be owed. This ensures the process is both fair and clear to suppliers and consumers alike.

BG Energy has the view that a supplier should be able to raise a block/flag within five working days of the notification of CoS.

Q3 (3) Do you consider that it is necessary, as outlined in section c above, to allow for objections or notifications to be raised for business customers for sums below the threshold where debt has remained unpaid for a longer period of time?

Long term outstanding debt is certainly an issue that needs to be dealt with under this process. BG Energy supports this proposal and would suggest that if the debt is outstanding for >180 days, a notification/objection should be allowed for debts between €50 and €250 for business customers. BG Energy would also like to see a similar provision for the Domestic market. We suggest that debt objection should be permitted for longer term arrears of >€50 if arrears are >180 days.

Q4. Respondents are invited to comment on the means of acquiring customer agreement to the information on debt being passed to a third party?

BG Energy would see that the data protection requirements to take care of the transfer of information on customers under this process could be met under the data protection notice of the terms and conditions of gas and electricity supply. It should also be borne in mind that liability for the implementation of this aspect of data protection law resides with the Supplier.

Q5. What do you consider would be the impact on competition of a debt blocking or debt flagging solution?

BG Energy believes that debt blocking will in fact be a very positive contributor to a competitive energy market. Not only will it decrease costs for suppliers which will be passed on to customers, it will increase certainty in the market for suppliers also. This will feed into suppliers being able to compete more effectively and present more competitive offerings to consumers. In addition, the presence of a debt blocking process will protect customers, including the more vulnerable in society, by way of assisting them in budgeting effectively for their energy needs / limiting the amount of Debt they presently incur by moving through multiple suppliers.

Ofgem's Energy Supply Probe stated:

3.66. Of those customers who are debt blocked, a substantial percentage appear subsequently to repay their debt and switch shortly thereafter. For the vast majority of customers, debt blocking is therefore not a major barrier to switching⁶.

Debt blocking does not penalise a customer for moving supplier, it merely requests that they repay debt before leaving their current supplier. Nor does it represent a barrier to changing supplier, after all it is not unreasonable that energy customers are expected to pay for energy that they consume.

Q6. What are your views on allowing for customer debts to be transferred between suppliers?

BG Energy is in favour of allowing for customer debts to be transferred between suppliers. The first step in achieving this would be to have a debt assignment protocol in the market for PPM customers similar to that in the UK market. It should be a commercial decision made by the supplier itself as to whether they will accept the debt and the terms under which they will do so. In the UK, Ofgem (within the Supply Probe Report) mentioned they were exploring further with stakeholders whether the debt assignment protocol could be opened up to customers using other payment methods.

Q7. Respondents are invited to comment on the proposal to introduce a Code of Practice for a debt blocking or flagging process. Are you in favour of the proposal? Outline reasons for agreement or disagreement.

BG Energy believes that a mandatory Code of Practice (CoP) for all suppliers must be implemented if our preferred option of a Debt Blocking Market Message is chosen. In the event that Debt Notification is chosen, there is no need for such a Code of Practice but in this instance a Debt Assignment Protocol becomes essential (similar to that in place in the UK). This would be necessary to handle this process for PPMs and potentially other sectors of the market if debt assignment were to be widened to other payment methods.

Implementation of Debt Objections in the market:

Market rules can be agreed by the industry to introduce such a process together with a code of practice to ensure suppliers behave and use the process appropriately. As with all other market rules, general operation of the process would initially be monitored via industry fora such as the IGG and GMARG which the CER chairs. While there may be additional work to modify the Gas schema, BG Energy do not believe that progress on implementing debt objections in the electricity market should be delayed due to the potential for more changes to be made in the

gas sector. We see no requirement for changes in both markets to be simultaneous. Both gas and electricity market can proceed individually without delay or need for coordination between the two once the key elements are decided upon.

⁶ Ofgem Energy Supply Probe 2009 Consultation – 41/09

CONCLUSION

BG Energy are keen to see movement and industry processes put in place to manage the issue of debt hopping in the gas and electricity markets.

- The introduction of a debt blocking mechanism would be the most effective means of handling the issue with debt notification/flagging being a second best option. However, as a short term measure, debt notification would be a step in the right direction for all suppliers and would benefit the industry as a whole.
- Measures are urgently needed to protect customers from getting into a worsening debt position with their energy suppliers. Debt blocking will serve to assist customers in managing and budgeting for their energy bills instead of potentially leaving trails of debt with numerous suppliers in the market.
- Debt blocking will result in a reduction in debt management costs for all suppliers, thus leading to a decline in their overall cost bases. This cost reduction could benefit all customers, by allowing suppliers to be even more competitive with their energy supply offerings at a time when it is needed most.
- Debt blocking must be implemented in parallel with a mandatory Code of Practice
- Debt Notification can only be implemented in parallel with a Debt Allocation Protocol.

BG Energy look forward to engaging with the CER and other suppliers to make this process work and to ensure that customer protection and the competitiveness of the markets are maintained at all times.