

Unite The Unions Response to Ofwat's Consultation:- Strengthening protections for customers in the Business Retail Market: Customer Credit Balances – Code Change Proposals CP0014 and CP0015



1. Introduction

- 1.1. This submission is made by Unite, the UK's largest trade union with over one million members across all sectors of the economy, including manufacturing, financial services, transport, food and agriculture, construction, energy and utilities, information technology, service industries, health, local government and the not-for-profit sector. Unite also organises in the community, enabling those who are not in employment to be part of our union.
- 1.2. Of particular interest to this consultation Unite represents over 30,000 members in the Energy & Utilities sector many of whom are employed directly in the Water Industry and over 1.3 million members who are customers in every nation of Great Britain.
- 1.3. Unite believes that opening the market to private ownership was foolish in the extreme as has been proven by the debit mountain¹, illegal water extractions, leaks and amount of untreated sewage entering our rivers and oceans. Unite further believe that opening the water industry to competition will, as has happened in the energy sector, to be a recipe for disaster, as it will open the water industry to additional costs at a time when they are trying to tighten their belts in order to stay afloat. Unite predicts that if further liberalisation occurs it will simply lead to the industry to be littered with bad debt and bankruptcies with the core provision to provide fresh and treat waste water threatened with disruption.

2. Consultation Questions

1. *What are your thoughts on our proposals to amend §7.1.6 of the CPCoP so that Retailers are required to inform customers who agree to pay for services in advance of the risk of losing credit in a range of circumstances? Please provide evidence to support your views.*
2. *What are your thoughts on our proposals to amend §7.1.7 of the CPCoP so that Retailers are required to provide additional information to all customers who have accrued credit against their account about the risk of losing credit in a range of circumstances? Please provide evidence to support your views.*
3. *The above proposals are designed to highlight to customers the risks associated with recovering accrued credit balances in the event that a Retailer becomes insolvent, or a customer ceases trading or moves premises without providing a forwarding address, contact or bank details to the Retailer. Are there any other circumstances where similar risks could be incurred that should be highlighted to customers, such as a customer switching Retailer? Please provide evidence to support your views.*

- 2.1. Unite believes that highlighting that the prepaid funds of any customer, be that a household or business, should be held separately from any other moneys received until the payment falls due, thus ensuring that the funds can always be returned.

¹ According to the [FT in April 2024](#) water companies have paid out another £2.5 billion in dividends and added 8.2 billion to their debt mountain. According to some estimates this is now in the region of £80 billion and growing by the day.

Should the need arise, Unite does not believe that should the water industry benefit from the access and interest on this money that this should be returned to the customer. The financial state of the water companies currently, is marred with huge debt mountains, there is, therefore, a real risk that credits are at grave risk and even more so if water retailers can compete for the scraps of any profitability from the supply and treatment of water.

- 2.2. Given the past experiences of the energy sector where over half of the UK's remaining domestic electrical and gas suppliers are technically insolvent and at imminent risk of collapse², according to Matt Howard of Price Bailey,

“These businesses will find it almost impossible to access extra funding unless directors provide personal guarantees, and few are likely to do so in the current climate.”

Between November 2016 and July 2022 there was a flood of energy retail companies that failed and had to have its customer base transferred to a new supplier³. While Ofgem's safety net⁴, it was Ofgem and the government that took the financial hit, every time this happened. Unite feels that if the customer realises that any funds lodged with the supplier are at risk and given the financial issues with the water companies⁵, these funds will be put to better use elsewhere in their organisation. This will therefore result in the retailer losing the opportunity to profit from interest gained from the retention of such funds prior to their payment to cover the customer's bill.

4. *Do you support the proposed exclusion of unmeasured customers from the minimum information requirements of §7.1.7 of the CPCoP, unless unmeasured customers have accumulated genuine credit? If not, please explain why.*

- 2.3. Unite believe that all customers need to be made aware of the risks associated with leaving monies in credit with the water companies to cover future bills. If the customer has a contract with the supplier to provide an unmeasured supply, then the contract is to supply an unlimited volume of water and treat an unlimited amount of waste water. As such they are not billed by the volume supplied but the duration of this agreement, regardless of the amount supplied or treated. Consequently, the customer can just as easily accumulate credit if they pay more than they are billed or receive a credit due to disruption of their contracted services. As such the customer should be made aware of all the risks associated with the commercial contract with their supplier of water services.

5. *What are your thoughts on our proposal to require Retailers to keep a log of its refund attempts following an unsuccessful credit refund after issuing a final bill, using different contact methods, where they have the contact details to do so? Do you have any additional thoughts or considerations about this proposal? Please provide evidence to support your views.*

² according to an analysis of financial data by [Price Bailey, the Top 30 accountants](#)

³ See Appendix 1

⁴ The Ofgem safety net maintains the customers energy supply without interruption, and without customers having to take any action, given it arranges the transfer of customers' accounts to a new supplier, working with the firms to honour customer credit balances and manage debt repayments

⁵ Especially Thames Water which has already warned the government of its imminent collapse.

- 2.4. Unite believe that all retailers should be obliged to keep a true record of customers details and make efforts to trace them should they relocate, regardless of the status of their account until that account shows a zero balance. Unite recognises that not all customers inform their suppliers of their details if they move, but it is unusual to have a commercial customer move, change all their phone numbers, company house records etc. If the customer was a named individual, then the difficulties would be understandable, but even so efforts to contact customers using registered post and electronic mailing records should be a minimum requirement.
6. *What are your views on our proposal for Retailers to provide accessible information online about the process on how customers can obtain credit refunds? Please provide evidence to support your views.*
- 2.5. Unite would suggest that the requirement to provide such information should be a normal requirement of trade rather than one that requires intervention from the ombudsman or legislation. Unite would hope that there should not need to be the requirement to spell this out as a minimum requirement of their operation. Further, Unite would hope, that the process of requesting a refund, is not so convoluted as to deter the customer from obtaining their refund, if one is due.
7. *What are your views on our proposal to require Retailers to refund credit on live accounts within ten calendar days upon customer request. Is the proposed timescale sufficient and are there any other circumstances which needs to be consider exempting Retailers from the proposed timescale for credit refunds upon customer request? Please provide evidence to support your views.*
8. *What are your views on our proposal for Retailers to annually communicate with customers who have been continually in credit for the preceding 12-month period that they can request a credit refund? Please provide evidence to support your views, and, where possible, evidence on the likely scale of the costs associated with this proposal.*
9. *Do you agree with the proposed housekeeping changes? If you disagree, please provide evidence and explain why.*
- 2.6. Unite does not wish to pass comment on these detailed requirements.
10. *What are your views on our proposed decision to reject CCW's change proposal? Please provide evidence to support your views.*
- 2.7. Unite would agree with the Consumer Council for Water (CCW) that retailers should not retain access to revenue that they are not entitled to retain. Therefore, if there is a defined and agreed arrangement to pay in advance, a set amount per month etc. then unused credit balances, which result in a balance in excess, should be returned, in full automatically on an agreed date or upon request in writing.
11. *What are your thoughts on our plans for regular monitoring of credit balances? Please provide evidence to support your views.*
- 2.8. It is the role of an ombudsman to oversee all aspects of the industry they are supposed to regulating on behalf of the consumer. It should therefore not be the role of a trade union representing workers in that industry to remind the ombudsman what they should or should not be monitoring to ensure that the consumer is protected. It would appear, however, that Ofwat needs to be reminded of that primary role and reminded that their duty is to the consumer not an industry

whose primary role to date appears to be to asset strip or allow to the industry to degrade to one on the brink of collapse.

3. Conclusion

- 3.1. Unite feels that the measures imposed by Ofwat do not go far enough to redress the situation the industry finds itself in with the asset degrading and in dire need maintenance and repair. As stated in previous responses to Ofwat, the union believes that careers and employment levels will be put at risk if the budgets of the water companies become squeezed as a result of the introduction of competition.
- 3.2. Further Unite believe that after 35 years of underinvestment, asset stripping, profiteering, mounting debts of the private sector together with the rise of fat cat shareholders and directors within the water industry the sector is on the verge of financial collapse. The only realistic outcome needs to be, in the opinion of our members, is renationalisation rather than removing the monopoly status and introducing retailers of water that will drain the provider of resources as the competition attempts to make profits of its own from sales which would otherwise fund repairs and water industry staffing levels.
- 3.3. Unite believe that there are opportunities for innovation particularly in the waste water industry as it provides access to a largely untapped resource which might provide sources of energy, employment, much needed financial resources and help tackle climate change. Unite believes in the saying that “where there is muck there is brass” but instead the water industry appears to try and find more excuses and in some cases under reports the depositing of untreated waste water into rivers, canals, lakes and the sea.
- 3.4. Unite would therefore suggest that Ofwat reconsider the path they have chosen with their proposals to open up the market to competition. Competition only serves to cause further belt tightening to undercut the competition and gambling on the supply and price of the raw commodity (fresh water). If there is a wholesale market then this should be subservient to the supplies needed to support individual supplies and hence at time of drought, the individuals rather than commercial customers should receive priority access to supplies. Unite believes with climate change will come increasing times of drought and monsoon like downpours the like of which we have never previously known. Without the infrastructure, supplies will run dry and there will continue to be waste water issues due to downpours flooding the waste water network. Unite fears that this move to introduce competition is madness as it will strip the water industry of the funds needed to repair the damage of years of neglect.
- 3.5. Unite is happy to work with Ofwat and the government to provide a conduit for workers views in order to make the transition to a better water industry possible. As has been illustrated in the energy sector, the idea of competition between retailers of a basic utility is one of the worst ideas that Ofwat could have entertained, let alone put into practice. Unite fears a string of job losses and bankruptcies will follow as a result of this decision and Unite hopes that Ofwat is prepared to pick up the pieces of the devastation that will surely follow.

Simon Coop
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For further information please contact Colin Potter, Research Officer in the Unite the Union in the first instance.

Appendix 1 - List of energy retailers that have failed between November 2016 and July 2022

Date	Failed Supplier	Customers		Acquiring Supplier
		Domestic	Non Domestic	
09-Jul-22	UK Energy Incubator Hub (UKEIH)	3,000	0	Octopus Energy
18-Feb-22	Whoop Energy	50	212	Yú Energy Retail Limited
18-Feb-22	Xcel Power Ltd	-	274	Yú Energy Retail Limited
18-Jan-22	Together Energy Retail Ltd	176,000	1	British Gas
Dec-21	Zog Energy	11,700		EDF
Nov-21	Entice Energy Supply Ltd	5,400		Scottish Power
Nov-21	Orbit Energy	65,000		Scottish Power
Nov-21	Bulb	1,700,000	12,000	Octopus Energy
Nov-21	Neon Reef Ltd	30,000		British Gas
Nov-21	Social Energy Supply Ltd.	5,500		British Gas
Nov-21	CNG Energy Ltd.	-	41,000	Pozitive Energy
Nov-21	Omni Energy Ltd.	6,000		Utilita
Nov-21	MA Energy Ltd.	-	300	Smartest Energy Bu
Nov-21	Zebra Power Ltd.	14,800		British Gas
Nov-21	Ampower UK Ltd.	600	2,000	Yú Energy Retail Limited
Nov-21	Bluegreen Energy	5,900	Undisclosed	British Gas
Oct-21	GOTO Energy	22,000		Shell Energy
Oct-21	Daligas	9,000	Undisclosed	Shell Energy
Oct-21	Pure Planet	235,000		Shell Energy
Oct-21	Colorado Energy	15,000		Shell Energy
Sep-21	Symbio	50,000	2,000	E.ON Next
Sep-21	Igloo	180,000		E.ON Next
Sep-21	Enstroga	6,000		E.ON Next
Sep-21	Avro	600,000		Octopus Energy
Sep-21	Green	350,000	Undisclosed	Shell Energy
Sep-21	People's Energy	350,000	1,000	British Gas
Sep-21	UtilityPoint	200,000		EDF
Sep-21	PFP Energy	82,000	5,600	British Gas
Sep-21	Moneyplus Energy	9,000		British Gas
Aug-21	Hub Energy	6,000	9,000	E.ON Next
Jan-21	Simplicity Energy	50,000		British Gas
Jan-21	Green Energy Network	367,500		EDF
Dec-20	Yorkshire Energy	74,000		Scottish Power
Oct-20	Tonik Energy	130,000		Scottish Power
Sep-20	Effortless Energy	2,500		Octopus Energy
Mar-20	Gnergy	9,000		Bulb
Dec-19	Breeze	18,000		British Gas
Oct-19	Toto	134,000		EDF
Oct-19	Uttily (Rutherford)	280		Total Gas and Power
Sep-19	Eversmart	29,000		Utilita
Aug-19	Solarplicity	8,000		EDF

Date	Failed Supplier	Customers		Acquiring Supplier
		Domestic	Non Domestic	
Aug-19	Cardiff Energy Supply Limited	800		SSE
Mar-19	Brilliant	17,000		SSE
Jan-19	Our Power	32,000		Utilita
Jan-19	Economy Energy	237,000		OVO
Dec-18	One Select	33,000		Together Energy Retail Ltd
Nov-18	Spark Energy	290,000		OVO
Nov-18	Extra Energy	108,000		Scottish Power
Oct-18	Usio Energy	7,255		First Utility
Jul-18	Iresa Energy	95,000		Octopus Energy
Jul-18	UK National Gas	80		Hudson Energy
Jan-18	Future Energy	10,000		Green Star Energy
Nov-16	GB Energy	160,000		Coop Energy

Some of this information was obtained from an article drafted in January 2022 by energy comparison site Choose⁶

While Ofgem selected what it thought to be a stable retailer of energy to take on these accounts. In two cases highlighted above the company chosen subsequently failed. (Together Energy and Bulb).

More than 2.7 million customers in the United Kingdom were affected by the failure of their energy supplier in 2021 and in the first two months of 2022. Until February 2022, 30 companies had gone bust, mostly related to a steep rise in natural gas prices, and the market cap on energy prices set by the UK's energy regulator. Avro was the largest energy supplier affected that year, with some 600,000 customers. That total as you can see from the above was surpassed when Bulb Energy, was placed under Special Administration and eventually was allowed to fail with 1.7 million customers transferred to Octopus energy.

This has left Utility week to conclude in March 2023 was that "the Non-household market has failed" . <https://utilityweek.co.uk/ccw-non-household-market-has-failed/>

⁶ <https://www.choose.co.uk/energy/guide/energy-crisis-2021/>