

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

DOMESTIC GAS AND ELECTRICITY (TARIFF CAP) BILL

First Sitting

Tuesday 13 March 2018

(Morning)

CONTENTS

Programme motion agreed to.
Written evidence (Reporting to the House) motion agreed to.
Motion to sit in private agreed to.
Examination of witnesses.
Adjourned till this day at Two o'clock.

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

not later than

Saturday 17 March 2018

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The Committee consisted of the following Members:*Chairs:* SIR EDWARD LEIGH, † SIOBHAIN McDONAGH

† Afolami, Bim (<i>Hitchin and Harpenden</i>) (Con)	† Kerr, Stephen (<i>Stirling</i>) (Con)
† Brown, Alan (<i>Kilmarnock and Loudoun</i>) (SNP)	† McCarthy, Kerry (<i>Bristol East</i>) (Lab)
† Charalambous, Bambos (<i>Enfield, Southgate</i>) (Lab)	† Norris, Alex (<i>Nottingham North</i>) (Lab/Co-op)
† Donelan, Michelle (<i>Chippenham</i>) (Con)	† Perry, Claire (<i>Minister for Energy and Clean Growth</i>)
Flint, Caroline (<i>Don Valley</i>) (Lab)	† Robinson, Mary (<i>Cheadle</i>) (Con)
† Ford, Vicky (<i>Chelmsford</i>) (Con)	† Smith, Nick (<i>Blaenau Gwent</i>) (Lab)
Gaffney, Hugh (<i>Coatbridge, Chryston and Bellshill</i>) (Lab)	† Whitehead, Dr Alan (<i>Southampton, Test</i>) (Lab)
† Grant, Bill (<i>Ayr, Carrick and Cumnock</i>) (Con)	Farrah Bhatti, Nehal Bradley-Depani, <i>Committee Clerks</i>
† Harris, Rebecca (<i>Lord Commissioner of Her Majesty's Treasury</i>)	
† Heapey, James (<i>Wells</i>) (Con)	† attended the Committee

Witnesses

Greg Jackson, CEO, Octopus Energy

Juliet Davenport, CEO, Good Energy

Hayden Wood, Co-founder, Bulb

Dermot Nolan, Chief Executive, Ofgem

Rob Salter-Church, Acting Senior Partner, Consumers and Competition, Ofgem

Rich Hall, Chief Economist for Energy, Citizens Advice

Pete Moorey, Director of Advocacy and Public Affairs, Which?

Peter Smith, Director of Policy and Research, National Energy Action

Public Bill Committee

Tuesday 13 March 2018

(Morning)

[SIOBHAIN McDONAGH *in the Chair*]

Domestic Gas and Electricity (Tariff Cap) Bill

9.25 am

The Chair: Before we begin, I am afraid I have a list of dos and don'ts; I hope that we are not going to continue in this vein. Please switch electronic devices to silent. Tea and coffee are not allowed during sittings. Today we will first consider the programme motion on the amendment paper. We will then consider a motion to enable the reporting of written evidence for publication, and then a motion to allow us to deliberate in private about our questions before the oral evidence sessions. In view of the limited time available, I hope we can take these matters without too much debate.

I call the Minister to move the programme motion, which was agreed by the Programming Sub-Committee yesterday.

Ordered,

That—

(1) the Committee shall (in addition to its first meeting at 9.25 am on Tuesday 13 March) meet—

(a) at 2.00 pm on Tuesday 13 March;

(b) at 11.30 am and 2.00 pm on Thursday 15 March;

(2) the Committee shall hear oral evidence in accordance with the following Table:

TABLE

Date	Time	Witness
Tuesday 13 March	Until no later than 10.15 am	Octopus Energy Bulb Energy Good Energy
Tuesday 13 March	Until no later than 10.45 am	Ofgem
Tuesday 13 March	Until no later than 11.25 am	Citizens Advice Bureau Which? National Energy Action

(3) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Thursday 15 March.—(*Claire Perry.*)

Resolved,

That, subject to the discretion of the Chair, any written evidence received by the Committee shall be reported to the House for publication.—(*Claire Perry.*)

Resolved,

That, at this and any subsequent meeting at which oral evidence is to be heard, the Committee shall sit in private until the witnesses are admitted.—(*Claire Perry.*)

9.27 am

The Committee deliberated in private.

Examination of Witnesses

Greg Jackson, Juliet Davenport and Hayden Wood gave evidence.

9.41 am

The Chair: Good morning. We will now hear evidence from Greg Jackson, CEO of Octopus Energy; Hayden Wood, co-founder of Bulb energy; and Juliet Davenport, the CEO of Good Energy. Thank you all for being here this morning. Members of the Committee will now ask a series of questions. Unfortunately, this session has to finish by 10.15, so brief questions and brief answers will be gratefully heard.

Q1 Vicky Ford (Chelmsford) (Con): I am going to ask questions of Octopus Energy and then Bulb, because you are new entrants.

Octopus, do you think there is a risk that once the cap comes in, prices will all bunch around that cap level? Some people have said that switching activity might then reduce. Do you think that is a risk? Bulb, do you think that the cap will disincentivise investment in infrastructure at this stage, or do you think we can manage the infrastructure need separately?

Greg Jackson: To answer those three questions, on the bunching question we do not agree. There are 70-odd energy suppliers in the retail market currently. The majority of them price below any realistic level at which an absolute cap would be introduced. If there is any bunching, it will be the welcome bunching of the suppliers that currently charge their loyal customers more than an absolute cap by bringing their prices down to that level. Underneath any realistic cap, there is still plenty of room for competition, and competition among the challengers that have to fight for and win every single customer from scratch will be unabated.

In terms of switching rates, the first thing is that the idea that very high levels of switching is a good thing is outdated. For 20 years, consumers have been told that they have to switch; in any given year, no more than 15% to 20% will do so. All the rest are getting ripped off. What we need is a market in which you get good value without switching, and an absolute cap is a step in the right direction. It is an excellent measure that will help reduce the rip-off for those who switch and those who do not.

Finally, in terms of investment in infrastructure, Octopus Energy is backed by the Octopus Group, which is one of the largest investors in renewable generation in the UK. Frankly, something that makes the retail market behave more like a proper market—one in which consumers get good value by staying loyal to good suppliers—will generate more investment in the sector, rather than the current strangulation that occurs because of things such as predatory pricing, whereby back-book customers of large companies cross-subsidise loss-making deals.

Q2 Vicky Ford: Do the other witnesses agree?

Juliet Davenport: It is going to be interesting—that is the answer. If you look at the current data in the marketplace, with no intervention whatever four out of the big six have a 25% gap between their most expensive tariff and their cheapest tariff. There are two that do not—two have closer to a 6% to 8% differential between the two. Interestingly, the one with the smallest differential also has the lowest standard variable tariff.

If you have an absolute price cap, you will obviously see that the affordability of the lower tariffs for the big six will be less: you will see some shrinkage between the highest price and the lowest price. That is what we are trying to do—to get rid of cross-subsidisation between the most expensive and the cheapest.

Will we see some bunching? We will see a narrowing of that. The question is: how do you want to achieve that? I am assuming that is what you are trying to achieve: the stopping of cross-subsidisation, keeping those people who are very faithful to their suppliers and making the suppliers pay for the discounts that they are using to get other people. I think there will be some slendering through that and the data is kind of showing that already, if you look at it.

Hayden Wood: I would say two things. The first, on the bunching question, is that a price cap would have absolutely no effect on how Bulb sets its prices. We have one tariff, so whether the cap is there or not we would continue to charge the rates that we charge now, and they are among the cheapest rates in the market. There will probably be some bunching, but it is going to occur because suppliers currently adopting these “tease and squeeze” tactics, where they have a great rate in the first year and then they charge more in later years, will be less able to do that: they will not be able to subsidise those teaser rates with expensive rates later. However, we do not expect the long-term cost of energy to change.

On your question about whether this will disincentivise investment in infrastructure, there are two parts of infrastructure that spring to mind: the first is network infrastructure and the second is generation infrastructure. On the network infrastructure question, those investment decisions are made by the regional power networks. Those are regulated local monopolies. They make a metronomic profit margin of between 7% and 9%. The price cap should not affect the profit margin that they will make here, so I do not see any reason why they should be disincentivised from investing.

On the question of generation, from where I am sitting the introduction of a price cap would be a big stimulus to investment in renewable generation, because it would mean that more and more homes could choose to buy their energy from a low-cost, efficient renewable supplier. We see no reason why renewable suppliers should be exempt from this cap, because my view is that Bulb can provide 100% renewable electricity, at a rate that is at least £200 lower than the cap.

Q3 Bim Afolami (Hitchin and Harpenden) (Con): I have a question about what you were saying about the fact you have one tariff. Why do lots of your competitors—your older, more established competitors—have this completely mind-boggling myriad of tariffs? Can you explain why, if you can manage to price up one tariff, they cannot do so?

Hayden Wood: I struggle to explain it. We do not understand why two people in the same street using the same amount of energy from the same supplier should pay different rates. That just does not seem fair to us. There are some suppliers who will provide a fixed tariff and then they claim that there are substantial costs to providing that fixed tariff, and that those costs then need to be reflected in a—

Q4 Bim Afolami: Like a hedging cost, or a currency hedge?

Hayden Wood: Like a hedging cost—exactly. But the irony with the cost of hedging, which you need to put on to a fixed tariff, is that very often those fixed tariffs are cheaper than the variable tariffs. That does not make any sense to us, which is why we have chosen to have a simple offer that consumers can understand, and we think that if you provide something that consumers understand, they are more likely to engage with it.

Juliet Davenport: Most fixed-price tariffs are slightly cheaper because it is cheaper to do that. If you minimise your risk, you can guarantee that that customer will be there, and you can buy forward. If you do not know whether that customer will be there, you have a bigger risk, because you might buy the power and then they do not turn up. That is why, when you buy forward on fixed-rate tariffs, you tend to get those.

I do not agree with the myriad. There are too many tariffs—agreed—but there are some differentials. People want choice, and we must not forget what customers want. Some customers want to fix their tariffs for the next two years. Some customers—they are fairly rare—want to have a daily price, maybe even a half-hourly price, where they can see what is going on and change their behaviours as things go on. Whatever we do, we must make sure that we take into account a wide range of customers in this marketplace and actually deal with their needs.

From talking to our customers we know that there are different needs. Some want smart meters. Some love the idea of smart meters, and some hate the idea, so we have to work our way through that one. Some love the idea of fixing their power for the next five years, because then they do not need to think about it and can get on with the rest of their life, but some want to be much more active. For me the key thing is to look after the people who cannot make those decisions—who do not necessarily have the time, the capability or the access to go and find tariffs that are good for them.

Q5 Bambos Charalambous (Enfield, Southgate) (Lab): My question, which has been alluded to, is about green gas tariffs. In the Bill it is proposed that they should be exempt from the price cap. What are your views on that?

Juliet Davenport: In our view, green gas is an area that is developing in the UK. At the moment, we have a limited amount of green gas. I think the heat targets under the Climate Change Act 2008 are quite significant, and we as a country are behind those targets. We are doing relatively well on electricity, but not so well on gas. My personal view is that we need to try to seed that market. People want to choose.

It reminds me of the early stages of the mobile phone market. If we had said that everybody had to have access to mobile phones right at the beginning, we would not have ended up with a product that was cheap enough. So if you think about technological innovation, that is the way we should go. I think it is the same in this area. We should allow the early adopters to come into this marketplace, which is why there is the idea of giving an exemption on that. We should allow the infrastructure investment.

I am afraid I disagree with Bulb. A lot of work goes into making sure that there are contracts in place to allow for infrastructure investment. We are currently

running a pilot with the Eden Project in Cornwall to look at how to buy storage in this marketplace. Our customers back that—they love that—but we would not be able to do that unless we had a whole team managing it and looking at that. It is the same with green gas. You can go and buy certificates, which is really easy. You can buy them on the wholesale market. But if you want to provide investable contracts that allow people to put money behind the projects, then that looks very different.

Hayden Wood: To add to that, today Bulb supplies green gas to more homes in the UK than any other energy supplier. We are growing so quickly that there are new green gas plants being built at pace in order to meet the demand from our future customers. We see absolutely no reason why a green gas tariff should be exempt from the Bill. The cost of providing green gas to homes is between £25 to £50, which is much smaller than the £200 gap between the best tariffs in the market and the most expensive tariffs under a capped regime.

Greg Jackson: In our view, what we cannot allow is a loophole that allows exploitative suppliers to create fake green products in order to evade the cap. It needs to be formulated in such a way that, for example, a company like Good Energy, which has highly informed customers that have chosen to be with an innovative supplier and chosen the price they are on, can carry on doing the good work that it does. But at the same time it should not allow what we are seeing already, which is two of the big six launching green products since the Bill has been under discussion. I do not want to sound cynical, but I cannot help feeling there is a connection.

Q6 Bambos Charalambous: Do you think that the definition of green tariffs should be tightened?

Greg Jackson: That is exactly right. For example, if you are going to have an exemption, maybe a company would have to do 100% green products for all of its customers on all of its products. Something simple like that means you cannot get away with greenwashing a company that is really a cap evader.

Q7 Vicky Ford: I hear you saying that we need to encourage green innovation, while also insuring that there is no gaming. The approach in the Bill is that Ofgem will consult and then develop an exemption in a robust manner that reduces the risk of gaming but still allows innovation. Do you agree with that approach by Ofgem—that it should consult and, within those parameters, make sure that the green sector is protected?

Juliet Davenport: What is the alternative? Is there an alternative? To make a definition in the Bill?

Q8 Vicky Ford: The approach of making sure that Ofgem, the regulator, has to consult before making the decision.

Juliet Davenport: I would agree on that.

Hayden Wood: This Committee has an opportunity to help 12 million homes that are currently languishing on standard variable tariffs and massively overpaying for their energy, and help them to reduce their bills. If we allow a loophole such as this into the legislation—let us say that it is Ofgem's responsibility to manage that loophole and to keep it closed—we open it up to being manipulated or lobbied on or people working around it. We saw how the retail market review regulation years

ago led to some unintended consequences in how the energy market is structured, and we now suffer from this “tease and squeeze” problem, which others on the panel have described. We would propose completely removing clause 3(2) of the Bill to eliminate any issues with unscrupulous suppliers introducing non-green tariffs and removing the effect of the cap.

Q9 James Heapey (Wells) (Con): I wonder whether the panel shares my concern that this also allows green tariffs to be seen as a premium product. To achieve our decarbonisation goals, what we actually want is for green tariffs to be seen as the norm. Therefore, to allow them to be sold as a sort of premium rather defeats that long-term aim.

Hayden Wood: I completely agree with that. It perpetuates the myth.

Juliet Davenport: My view is that you can have cheap greenwash tariffs alongside genuine innovative tariffs and you can have a differentiation. You have to focus on the big six and make sure that there are not any loopholes, but most of these companies have had people come to them as a choice. What is great about this market is that we do have choice. We have the cheap greens, and we also have the more innovative products such as us. Why would you close that down? You can see that we have been leading this market and making changes in it. We support about 140,000 homes who generate power in their own house. Those are the kind of innovations that we want to continue to do. To be honest, if you price-cap us, we are going to have no investment left for that kind of innovation.

I completely agree that we should have a differentiation and we should have products that are cheaper green. I met one of Bulb's customers at the rugby the other day who was very enthusiastic. She was so excited by the fact that she is going on a green journey. I think that is brilliant, and that is what we should embrace in this. We should not try to close it down to be one thing or another. We should allow innovation within the marketplace.

Q10 Alan Brown (Kilmarnock and Loudoun) (SNP): On the cap mechanism, there has been debate about absolute versus relative, and I think there are split views across the panel. Why would we go with one versus the other? Some models are clearly more favourable to a relative cap, and others to an absolute cap. Why choose one over the other? The Government have come down for an absolute. I think that has almost got the majority view, but is it possible to find a cap level that is fair to everybody? Is there any trade-off between short-term customer needs and the long-term competitive market that we are trying to achieve? I will just throw that open.

Greg Jackson: That is the most important issue to address during these conversations. An absolute cap, as per the Bill, will provide a decency level beyond which no default customer will be charged. That is a good thing. However, at the moment, a loyal customer of, for example, one of the big six is paying £250 a year more than the price that the same company advertises openly to new customers. When I say “openly”, of course, you still have to type in 25 sets of details to see that price, because energy is too complicated. Under an absolute cap, we think that might fall to £200. It is still not going

to create an effective market in energy, where competition thrives, if we do not do something about those tremendous differentials. That loyalty penalty is by far the biggest barrier to true competition in the energy industry, so we would propose that, with the protection of an absolute cap, it is the perfect time to bring in a simple limit on the difference between the cheapest and most expensive tariff offered by a supplier, to prevent it hoodwinking its customers into overpaying for loyalty.

The only reasons given during the Select Committee hearings not to have a relative cap were a concern that large suppliers—existing former nationalised suppliers—would raise their prices to fit a relative cap. The absolute cap prevents that being a concern. Bringing in the absolute cap provides the perfect opportunity to generate real competition underneath it by a simple limit on the loyalty penalty. If you do that, I think we will find a price war among energy companies, equivalent to that in supermarkets, where everybody sees the same price. In supermarkets, you do not need to switch, because the threat of some people switching forces supermarkets to bring prices down for everybody. That will be the effect of a relative cap underneath an absolute cap. It is one line of additional rule in the statement of a price cap that would enable this. I think that what you would find, when you take away the absolute cap, which is defined to be a temporary measure, is that you would have a truly competitive market in energy for consumers.

It is worth noting that we are all challenger brands. We have to fight for every single customer from scratch. Eleven challenger brands favoured a price cap, and split roughly equally between absolute and relative, with a lot favouring the combination. We are one of those companies, and that is because we know that will generate the most competitive market for the benefit of consumers.

Juliet Davenport: This is not a position, so much as I just want to add in the risks that we need to be aware of with the absolute price cap, just to see whether there is anything else we can think about in terms of softening those risks.

One risk with an absolute price cap that I am concerned about is that Ofgem will be setting the prices. There is no downside to Ofgem with getting that wrong; if Ofgem sets that price incorrectly—I know you are seeing Dermot after this, so you can ask him the question—what are the sanctions against Ofgem for getting that price wrong?

And it is really difficult to set prices at the moment. I could ask my colleagues about the unidentified gas charges that we have just seen go from 0.6% to 2% of gas bills. This is a post-charge that we were not aware was coming. We knew there was some discussion of it, but it has been charged in arrears. How does Ofgem factor some of those things into its price? Does it put a risk in the price? That would be one question.

The other question is, because we set the price cap at a particular time of year, we will get everybody forward-contracting with their hedging position at the same time of year. The concern I have is that we might see some distortion within the wholesale market. Can we keep an eye on the wholesale market? I do not know whether that means that we have to ensure that there are extra powers to ensure that the wholesale market does not try to spike at exactly the time that everybody will be forward buying their power.

Those are the two risks that I am concerned about with the absolute cap. That is not to argue against it, but those risks are there and they need addressing whether in the Bill or in guidance from Ofgem.

Q11 Alan Brown: I was going to ask whether it was okay if Hayden could give an answer. Greg was saying that he favours an absolute cap with a relative cap underneath it, combining the two options. I just wonder whether Hayden had a view on that.

Hayden Wood: We think that the top priority is the absolute cap. As I have mentioned before, there is a risk that homes will not get relief from the cap if that is not in. The idea of a relative cap underneath the absolute cap sounds fine to us, too. I think more price competition in the energy market is a great thing.

The third point I would mention on these extraordinary powers that Ofgem would have under this new set-up to set prices is that those powers need to come with more transparency. The formula and methodology for calculating what the absolute cap would be should be published so that there are no surprises for suppliers and we can plan. We also think there should be more transparency around the contributions that Ofgem receives from suppliers and the meetings that they hold with them, in order to ensure that there is more transparency.

Q12 Dr Alan Whitehead (Southampton, Test) (Lab): I want to pursue the question of the absolute and relative cap. The way the relative cap has been talked about, it does not look like a cap to my mind. In fact, as Greg mentioned, it is a process of narrowing the range between possible tariffs that are offered, in order, I would have thought, to regulate the market subsequent to an absolute cap. Is it your view that that is the role that might be played by what is called a relative price cap? Or is it something that ought to be done in parallel with an absolute cap? That is, is it a market solution for the future or is it a cap solution for now?

Greg Jackson: You are quite right that the phrase “relative price cap” is not necessarily the most helpful name. It is a simple restriction—a simple limit—on the difference between the highest and lowest price from a single supplier. There is no reason at all why that would not operate underneath an absolute cap. In fact, there is no reason at all why it would not be defined at the same time as the pricing rules of an absolute cap.

If we did that, it would simultaneously attack the loyalty penalty, which is one of the biggest topics currently being looked at in pricing in consumer markets where you pay by direct debit. The real issue is that in consumer markets where you pay by direct debit—running an account—you do not know what you are being charged. If you do not know what you are being charged, companies essentially can have these enormous false differentials, and the opportunity, alongside this absolute cap, to bring the differential down is sitting there today. That would turbocharge competition because it would mean that, if a company wants to win new customers, it would have to bring prices down for its existing ones. But not only that: if it wanted to hang on to its existing customers, it would have to bring prices down.

We saw that British Gas provided a useful case study during the period when they were having to sit in front of Select Committees. They reduced their differential to

basically zero for that period, and they lost 823,000 accounts in four months, I think, leading to a 12.5% drop in share price and a 20-year share price low. That demonstrates that companies that try not to offer good value in a world of a relative price cap will lose customers, market share and share price.

Therefore, we think that bringing that alongside the absolute cap, sitting underneath it, is the best way to use the force of competition to drive prices down for everyone. When you remove the protection of the absolute price cap, you will actually have a competitive market.

The Chair: I want to bring in Stephen Kerr here. I should say that we have only another seven minutes.

Q13 Stephen Kerr (Stirling) (Con): My question is about appeal. Ofgem come up with their absolute level. There has been a lot of discussion from different commentators about the right of appeal. The Business, Energy and Industrial Strategy Committee came up with its view. What is your view, Greg?

Greg Jackson: Appeal rights—for example, Competition and Markets Authority appeal rights—would probably mean that every time the cap is being reviewed every six months or quarter, it gets tied up in process. It means it never actually happens. Of course, that is what the big six want.

Hayden Wood: I completely agree. If consumers are going to benefit from this, we want them in by the next winter, and also Ofgem needs to be able to set the price, and not have to go through a long appeals process because, as Juliet said, things move in the energy market, so it needs to be nimble—

Q14 Stephen Kerr: Very clearly, you two are aligned.

Juliet Davenport: The only thing I would comment on is this. In a business you have got a first line, a second line and a third line of defence. Normally, Ofgem would be your second line of defence. The issue you have got is that you are blurring their rules: they are acting as first line and second line. That is where the appeal is a concern because they are setting the prices, and then they have got to judge themselves, almost, on setting the prices.

Q15 Stephen Kerr: What is your view, then?

Juliet Davenport: I wonder whether you have to look at the role within this: how you get that to be independent rule setting—whether it almost has to sit aside from Ofgem so that Ofgem can oversee it. If you put it within the regulator, I agree it is going to get—

Q16 Stephen Kerr: But they have to consult, don't they?

Juliet Davenport: They will have to consult but, even so, I think you can see this being contested time after time. On the prepayment meter cap that has gone in so far, our calculation is that it has been incorrectly calculated probably about twice already. The question is that, if that then goes across 11 million customers, what is going to happen at that point, when it really starts to hit people's balance sheets?

Q17 Stephen Kerr: How transparent is the calculation?

Juliet Davenport: It is not.

Stephen Kerr: It is not?

Juliet Davenport: It is not transparent till afterwards. You are immediately in breach if you do not comply. There is a process where you cannot actually challenge it.

Stephen Kerr: Neither of you had any concerns relating to that. You agreed with the Select Committee.

Hayden Wood: I would say that this goes back to the transparency point that I made earlier. I have an issue with a non-transparent process where the methodology, formula, and data input into that process are not published. That is an issue. I do not have information on the appeal issue.

Greg Jackson: The idea that you end up going to appeal in order to get the right to over-charge customers is going to be pretty grotesque. The reality is that they may try to do that, and you have to stop them. We have to prevent it becoming tied up in process. The prices are all still grotesquely high, whether they are set at £1,050, £1,075 or £1,030.

Q18 Bill Grant (Ayr, Carrick and Cumnock) (Con): Juliet touched on smart meters earlier and the rather ambitious and expensive project that is endeavouring to secure 53 million installations by 2020. To what extent do you believe that smart meters can make the market work for consumers? This is to everyone. Could it lead to an early end to the cap, or could it make it redundant before 2023? It is not a freeze, it is a cap. There are opportunities three years prior to 2023 in which it could be eased or lifted. What is your view on that?

Greg Jackson: I think smart meters make this all the more important right now. If we do not clean up the energy market before we end up with everybody having a different price every half hour, it is going to be a wild west. We have the opportunity to clean up pricing now, and that is why it is particularly important that we deal with this topic of the difference between the highest and lowest tariffs. If it is hard for someone to know where they stand at the moment, then it will be even harder for them to know where they stand in the world of rampant time-of-use tariffs. Let us tidy up pricing now, and then smart meters really can be a path to success.

Hayden Wood: To add to that, we find the conflation of the price cap and the smart metering quite troubling. We do not see a relation between them. A person's understanding of how much energy they use does not influence how often they might go into the market and look at price comparison sites and understand how much they are paying versus other suppliers. We are also not aware of any evidence suggesting that installing a smart meter would offset the £100 a year that a consumer would save under this price cap. The Government's own data would suggest that the installation of a smart meter saves the consumer only £11 a year on their energy bill. They are actually separate things.

Juliet Davenport: My personal view is that they do come together when we get proper smart meters: SMETS2 in as opposed to SMETS1. The SMETS2 meters are going to make a significant difference to switchability. At the moment, if you take on a SMETS1 and you are not SMETS1-qualified you cannot switch them to smart metering. You would have a proper smart process in terms of switching. We are going to see some disruption in the market there with accessibility of data and third parties providing information in the house that can

switch you instantly to another supplier if you are over-paying. That is the intelligence we are going to see with an increased amount of data. I am quite excited about smart meters and what they can do. They will facilitate households in saving much more than at the moment because we are going to see the smart house plug into that.

The Chair: I am sorry, I just wanted to bring in Alex Norris.

Alex Norris (Nottingham North) (Lab/Co-op): My question has been answered.

Bill Grant: I welcome the embracing of the new technology and I know it is not perfect right now. You seem rather negative, Hayden.

Hayden Wood: On smart meters? Oh no, we are extremely positive about smart meters, but not—

Bill Grant: Thank you, we will leave it at that. It was my misinterpretation.

Q19 James Heapey: You have the Minister to your front and the regulator behind you. What does the end-state look like? Is this price cap to repair the current market, or to deliver something new. If new, what is it?

Greg Jackson: You now have a market of 70-odd companies, mainly vying it out in a 20% churning area. If we get this right, you will be able to let loose the competitive efforts of companies like ours and 68 or however many others to bring prices down for everyone. Getting it right involves the decency cap or the absolute cap and finding a way to tidy up the entirely unjustifiable hundreds of pounds of difference between the cheapest and most expensive tariffs from each supplier. At that point you can let loose our competitive efforts to bring prices down for everyone.

The Chair: Order. I am ever so sorry about what I am about to do, but I am required to do it. I am afraid that has brought us to the end of the allocated time to ask questions. I thank all the witnesses. It has been a very good session. Thank you very much. I now call the next panel.

Examination of Witnesses

Dermot Nolan and Rob Salter-Church gave evidence.

10.15 am

The Chair: We will now hear from Dermot Nolan, chief executive of Ofgem, and Rob Salter-Church, acting senior partner for consumers and competition at Ofgem. For this session, we have until 10.45 am. Will the witnesses please introduce themselves, although I may have already done that?

Dermot Nolan: Thank you, Chair. I am Dermot Nolan, the CEO of Ofgem.

Rob Salter-Church: I am Rob Salter-Church, the interim senior partner for consumers and competition at Ofgem.

Q20 Bim Afolami: Assuming that the legislation passes unamended, how do you intend to set this cap?

Dermot Nolan: We have already commenced the process in the sense that last Thursday, after Second Reading, we put out an open letter specifying our processes over the next few months. Yesterday we released one of a series of discussion papers that looks at certain elements of the cap and how it might work. We will do that over the next month or so. We will gather information, consult as widely as possible and issue a more formal consultation while the Bill is still passing through Parliament. That will try to tie together the various proposals that we will put in place and look at a potential framework for the cap. After Royal Assent we will issue a statutory consultation, which we are required to do, so we can put the cap in place as quickly as possible.

Q21 Bim Afolami: Is Northern Ireland and how a cap works there your starting point? Is that something that informs you, or is there something about that to make you think that we need to do it in a different way this time?

Dermot Nolan: It certainly informs us, as indeed do the designs of price caps around the world. We have caps in place for pre-payment meters and particular tranches of vulnerable consumers, and they will inform us. Given the statutory duties as we interpret them, though, we will I think have to design the cap ourselves while being informed about others. One point about the Northern Ireland cap is that it was designed specifically for one firm, for the previously dominant firm, so it may not be exactly wise to take it off the shelf for the cap in GB.

Q22 Bim Afolami: Just on this precise point, in all parts of the House there are people who are concerned about Ofgem's ability to get this right—not through lack of effort, but simply methodologically. Are you confident that we can get this right?

Dermot Nolan: I am confident. I am confident that it is a difficult task. There are statutory objectives, and we have to be mindful of them all. It will require a lot of analysis, which we are already commencing on, a lot of evidence and, ultimately, a degree of regulatory judgment to get it right, but I am confident that we can do it. It is an absolute priority for the organisation, and for my board and me.

Q23 Bim Afolami: If you did not think that you could get it right, would you have communicated that already to the Department for Business, Energy and Industrial Strategy?

Dermot Nolan: Yes, I certainly would have. I will be responsible if I do not get it right, so I would have communicated that.

Q24 Vicky Ford: The previous panel spoke about the need for transparency in this process. How do you intend to ensure that, during the consultation, transparency is achieved? Will you be consulting all suppliers equally, for example? Recently, it was pretty cold, so can you assure us that the price cap will be ready by the time next winter comes?

Dermot Nolan: We will consult as openly as possible. We will issue consultation documents, because that is the nature of what we are required to do, but we will

also hold workshops which are open to all and we will try to get views from every possible supplier. Not only that, however—I want to be very clear on this—we will want views from stakeholders far beyond suppliers. I think your next session is consumer groups, and we will try to consult as extensively as possible with them. In fact, being blunt, we are both required to and want to listen to as many as we can hear over the next few months, to inform any decision.

Regarding next winter, as you say, it was cold recently, but I have said before and I repeat again very clearly here that we will have the cap in within five months of Royal Assent. We will have it in place and affecting consumers by that point.

Q25 Vicky Ford: With the people who come to those stakeholder meetings and attend those consultations, is that public information?

Dermot Nolan: Yes, it would be on our website and we would make a specific—*[Interruption.]* Sorry, Chair.

The Chair: No, no, I am sorry. I am just keen to get as many people in as possible. Alan Whitehead.

Q26 Dr Whitehead: I just want to be clear about the point on five months, Dermot, that you have mentioned. Could you briefly break down what that five-month period will consist of? And are you able to guarantee that there will not be any drift in that process, so that the five months is an absolute outside time rather than an approximate time?

Dermot Nolan: I might ask Rob to answer that, but I may come back at the end.

Rob Salter-Church: That five-month period will start with us issuing a statutory consultation, which will run for eight weeks, or two months. That is something that we are required to do by law as part of the due process that we go through. Thereafter, we would have a period to analyse fully the responses to the consultation. As we said, that will be a transparent process; there will be lots of information that we will need to review. Thereafter, when we publish our decision and the final drafting of the cap, it is subject to a 56-day notice period, which again is a legal requirement that we have to go through before the changes can take effect. When you add those various stages together, it gets to five months. Can I guarantee you that there will not be any drift? What I can guarantee is that we will have this as our absolute No.1 priority for Ofgem to deliver.

One of the things that is important for us to consider in ensuring that this cap is in place as quickly as possible is making sure that the due process is gone through. It would be unfortunate if, in trying to do something more quickly, we created a legal risk around process, and that could be exploited by somebody challenging it and seeking to delay the introduction of the cap. So, we are confident that we have a good, robust process and we will get through it as quickly as we can.

Q27 The Minister for Energy and Clean Growth (Claire Perry): We are all very much appraised of the need—cross-party—to get this cap introduced by the end of the year. For us, winter does not start in February 2019; it starts in November 2018. What is the opportunity to apply the cap retrospectively, particularly if there is any form of legal challenge?

Dermot Nolan: Retrospectively, Minister, in the sense of—?

Claire Perry: In other words, reimburse customers who would otherwise be overcharged if for some reason the energy companies delayed the introduction of the cap through any form of legal challenge.

Dermot Nolan: First, before coming back to that, I want to reiterate again that we want the cap in as quickly as you do. There will be no drift; we will make sure that we meet that timeline. I absolutely say that as clearly as I possibly can. So we will bring in the cap.

At that point, the cap would apply to all energy suppliers. If they were in breach of it, they would be in breach of their licence obligations and potentially they would be subject to fines, and ultimately to losing their licence. So, it is almost inconceivable to me that, if the cap was in place, a supplier was not in compliance with it. We would obviously use every single power we had at that point in time.

Q28 James Heapey: On the last panel, Dermot, the price spike of two weeks ago come up. So, to follow on from Vicky's questions, first, against your modelling, what event did we see two weeks ago? Was that a once-in-five-years event or a once-in-10-years event, in terms of the price spike it generated? Secondly, how do you model against the reality that there will occasionally be those price spikes, but at the same time that we will all urge you to take as much risk as you are willing to, in order to make the price cap a meaningful cap? It would be interesting to know how you strike that balance between the variability in the wholesale market, albeit that it happens very infrequently, versus our wish that you are as bold as possible with the cap.

Dermot Nolan: Absolutely. Two points on that. First, regarding, the events of last week, it is difficult to be precise. I would say they are more the type of once-in-five-years spikes. I will note that, if I may sound very gnomic, there are spikes and spikes. This was quite an acute spike in the gas price, and then there was a spike in the electricity price, but it was not that long-lived. Forward prices for four or five days did not change dramatically, so it was an abrupt spike but a short one.

The whole point of how to set the cap, and over what time period, is a fundamentally important one. The Bill suggests that the price cap must be updated every six months or less. There is an inherent trade-off. One of the things I particularly want to hear about from consumer bodies is over what period people want their prices to change. All the evidence we have in many ways suggests that people like smooth energy prices. They do not like spikes in their own bill. If the cap is set every six months, and a one-week spike is smoothed out over that six months, there is an appeal to that—you get relatively sure prices over a six-month period.

At the same time, you find that if there have been spikes of whatever form during a six-month period—if there has been, say, a fall in energy prices after two or three months—people say, “Why is this fall in wholesale prices not being reflected in my bill? Why do I have to wait six months for it? Why can I not have it after three months?” If we did a three-month price cap, that would ameliorate that issue, but we might be a little bit more vulnerable to spikes and changes in prices. How we

balance that is not straightforward and is one of the things that we would particularly want to hear from consumer groups on during a consultation.

Q29 Michelle Donelan (Chippenham) (Con): On that point, do you think six months is right? I know you have just described the trade-off between a three-month and a six-month period. Do you believe six months is the correct period? There are people that are concerned about flexibility and fluctuations. In the last panel, we heard that if everybody started buying their energy in advance, it could inadvertently cause a spike. What do you believe?

Dermot Nolan: I think six months is the maximum. If the Bill goes through as is, we will consult on it. I honestly cannot say what we would ultimately pick, because it would be an open consultation. Certainly, I cannot imagine, at this point in the way the energy market is, having prices change every week or month. I think it would be a consultation along the lines that I have already mentioned. There is no perfect number though. We would want to try to hear from consumers what they thought was best and what reflected their preferences.

Q30 Vicky Ford: One of the issues that has been raised is making sure that the price cap does not disincentivise investment in infrastructure. During the consultation, will you also be listening to infrastructure investors to take into consideration their views when setting the cap?

Dermot Nolan: We will listen to everybody when taking views on setting the cap. However, the infrastructure should not formally be part of the price cap. It should not affect the way in which the price cap will broadly be set in terms of interactions with suppliers and the prices of the inputs they purchase. So although we will listen to everyone, I do not think infrastructure investors per se will be crucially involved.

I came in at the end of the last session and heard about smart metering. We will have to consider the smart metering costs, but only in the efficient cost. One of the difficult tasks in setting any level of cap is deciding a precise, efficient cost for the firms and ensuring that those efficient costs are passed on in the cap.

Q31 Stephen Kerr: In the past, Ofgem has said that it accepts the outcome of the CMA's energy market investigation, including the majority view that said a price cap would have a negative impact on competition. How are you going to manage that? You have accepted that a price cap can lead to a loss of competition in the marketplace. How will you know? How are you going to measure competitiveness in the marketplace, and what will you do in terms of pulling levers in order to rectify that?

Dermot Nolan: The CMA view was split. We said we would go with the majority view, but one of the points about the process is that Parliament has now taken a decision. It is absolutely something that we will implement, because we are servants of Parliament, and we will implement it as quickly and as effectively as possible.

On the theme of competition, in my reading of the draft legislation, it seems to me that there is a desire to bring in a cap but also a desire to develop a more

competitive market. There are a number of things that we are putting in place that we believe will help develop a competitive market further.

On smart metering, I know there were different views among the earlier panel, but smart metering is helpful. It is in some sense a necessary condition for, if you like, a digitised retail energy sector. There will be faster and more reliable switching processes. There are a number of remedies we have tested for prompts—ways in which people who have not yet been prompted to engage in the market will be prompted further. We have tested a lot of those already, trialled many of them and are going to roll them out in the next couple of years. There is the work on what we call midata, where we are going to push forward with a secure piece of your data that you can use in any price comparison website or any particular thing that will facilitate competition.

There are two more points—I know I am listing them off, but I want to be clear. One is that we think vulnerable protections will still be necessary if a full price cap is removed. We will look at whether any vulnerability price caps should be kept and, in particular, whether other forms and ways of protecting vulnerable customers, including things such as collective switches, could be used.

Q32 Stephen Kerr: Going back to the measures you mentioned earlier, which will underpin the competitiveness of the marketplace, those are things that can be done now. Yes?

Dermot Nolan: Those are things that will be done over the next year to two years.

Q33 Stephen Kerr: Tell us again how you will know that they are working. What are the features of a market to which you will say, “Yes, this is a competitive market.”?

Dermot Nolan: Last year we published a response to the Competition and Markets Authority—which, going forward, will form the core of our report to the Secretary of State, as envisaged under the Bill—that we called a state of the market. It was a detailed look at the state of competition in the retail sector. It will look at a number of indicators; it will be on the basis of this suite of indicators—there will not be one perfect one. It will include the numbers switching, but also survey evidence, levels of satisfaction in the market, whether people feel more trust in the market, and whether the vulnerable, in particular, feel empowered to switch or still feel disengaged. We will focus on and continue to develop a suite of indicators that will form the basis of a report to the Secretary of State, which, as envisaged in the Bill, we will make on a yearly basis.

Q34 James Heapey: I am keen to understand what you think a good market looks like. In a lot of other markets, we would consider happy customers who think that they are getting good customer service and a good deal to be a good thing. In the energy market we seem to be quite aggressively pursuing the absolute opposite. We seem to think that a good market looks like lots of people who are moving constantly to find a better deal.

I wonder how we do something in this price-capping process that, when energy companies go to war with one another over price, ensures that all of their consumers,

[James Heapey]

including those who are loyal and seeing the benefits of good customer service, get rewarded, rather than simply perpetuating this view that a good energy market is one in which everybody is moving constantly and there is no incentive for companies to deliver good service.

Dermot Nolan: Absolutely. When I talked about a suite of indicators earlier, I think one should not over-concentrate on switching. It is perfectly possible, as James Heapey has said, to have a market that is functioning relatively well, but, actually, observed levels of switching are slow. What is important is that the customer must have the ability to switch if treated poorly.

In that sense, what we have seen, particularly in the energy market over the past two years, as we have seen in other markets, is a divergence of outcomes—£200 or £300 between people's bills. Some—not all, because more than 20% of our domestic residential customers now come from small suppliers—have the disengaged feeling of, "I don't feel comfortable switching and don't feel protected." The reforms that I mentioned in the last question are about trying to create a situation where we go back to the engaged customer—in some sense protecting the disengaged—with less variation between the engaged and the disengaged as a result and with people feeling, "I don't need to switch, because I am not going to get charged £300 or £400 more by my own supplier if I don't switch." That is the kind of market that we would revert to. I think the reforms that we have set out will get us in that direction.

Q35 James Heapey: That is exactly the point. When Tesco and Sainsbury go to war with one another, they might compete over the price of Hobnobs, and that might make a small number of people switch their supermarket, but everybody who shops in those supermarkets gets the benefit of that price reduction. That surely must be the market that we are seeking to design.

Dermot Nolan: That must be the market we are seeking to design. I would say more generally that new technology, through which we are buying goods and services in many areas, is such that that old area is, to some extent, breaking down. I do not want to go beyond the topic, but you will see people paying different prices buying online, and that is good in many ways, but it also has public concerns more generally. One thing about the energy market is that it will clearly not be successful if we are still seeing observed differentials of £300 in two or three years' time.

Q36 Alan Brown: You have already said that when the absolute cap ends, you still think there needs to be protection for vulnerable customers. Does that not suggest that the Bill is not doing enough to protect vulnerable customers? What protection do you think they need going forward?

Dermot Nolan: I think there are already 5 million people who are vulnerable under price cap protection. If the Bill was not going forward, we would have extended that, anyway, to another tranche of vulnerable customers. Regardless of whether there is a price cap or not market-wide, the regulator is likely to have price caps for vulnerable customers going forward. I might be wrong on that, but it will be an absolute priority for the

regulator to do that, which we believe we can and already are doing under our own powers. Obviously, I want as much protection as possible for vulnerable customers. Any regulatory body, given the statutory duties that it has, will take on that itself. If it does not, it will be messing up. So I feel there will be protections there from the regulator in any case.

Q37 Alan Brown: I have a supplementary question. This is slightly tangential, but there is a proposed amendment that the Bill should aim to make sure that each SVT customer saves £100. Would an amendment that sets an absolute value within the Bill help or hinder you as a regulator?

Rob Salter-Church: At this stage it would be difficult to say exactly how much money a customer would be able to save through the price cap that will be put in place. We can say that—indeed, the Bill requires this—our first and primary objective is to think about protecting consumers, but we need to make sure that in setting the cap we also take account of the other factors that we need to consider, which is ensuring there are incentives for customers to switch and ensuring that suppliers are able to continue to finance their activities and fund things such as the smart metering roll-out. Although we are keen to ensure that we can save consumers as much money as possible, ultimately it would potentially create some unintended consequences to fix that amount at this stage in the Bill.

Q38 Michelle Donelan: I want to go back to the competition point. Some members of the previous panel supported a relative cap as well as an absolute cap in order to stop the cross-subsidisation that is happening between consumers. What are your thoughts on that? Would that be helpful?

Dermot Nolan: Is this a relative price cap and an absolute price cap co-existing at the same time?

Michelle Donelan: Yes.

Dermot Nolan: I have only heard that recently. I am sceptical for a number of reasons. First, I think it is always difficult, and it is undesirable, to tell a company it cannot charge a price below a certain level, which is what a relative price cap might do. I would always be reluctant, personally, to endorse something like that. More generally, the absolute price cap will, to be candid, have an effect on the larger companies. It will drive down the prices at which they charge standard variable tariffs. They will react to that, hopefully, by becoming more efficient and so on, but it seems likely that, for the larger companies, it would reduce the differential between their standard variable tariffs and their fixed tariffs. The idea that they would then be able to cross-subsidise seems unlikely, so I do not see the need for a relative price cap on top of an absolute price cap.

As I said earlier, I think that anything that involves telling a company it cannot charge a low price is not a great thing. Further, if I may say, it complicates the cap. We can figure out an absolute price cap. It will not be easy to set, but we will muster every fibre we have to set the right cap. To complicate it further with a relative price cap strikes me as undesirable.

Q39 Michelle Donelan: You would say that getting this entire process put through simply will foster competition, and that is one of the goals you believe should be in the Bill.

Dermot Nolan: I think it will have an effect. We have a prepayment meter cap already. I said that switching is only one aspect of competition; I want to be clear on that. After the prepayment cap, we saw that some of the cheaper deals left the market, but not all of them did. Some stayed, including from existing suppliers, and there were still cheaper deals from some of the smaller suppliers. I think that is likely to occur. There might be a measured drop in switching for a period of time, but as long as the mechanisms are put in place, this can facilitate competition over the medium and long term.

Q40 James Heapey: This is similar to the question I asked at the end of the previous session. What does effective competition look like to you as the regulator? Are you looking at measuring this in terms of engagement within the market and net fall in the number of SVT customers? Is it based on some differential between SVTs and introductory or promotional prices? Alternatively, is this an opportunity for transformation? We bring in the price cap, but in the process we look at what has been wrong with our old energy system and what the innovation and disruption is likely to be that leads to something for the future, and whether this is your opportunity to deliver that.

Dermot Nolan: I think it is an opportunity for transformation. I have talked about some of the short to medium-term things we will do. Over the period of the price cap—this would probably be a legislative thing, working with the Department and ultimately with Parliament—it represents a chance to perhaps radically recast the supply market.

The supply market has become quite complex. I am not saying that the system of suppliers acting as vehicles for delivering the various obligations has not worked—in many ways, it has—but we see a situation in which a host of new suppliers will be entering the market in three to five years. These might be quite large ones that do not currently provide energy, and they could come in selling energy in a bundled product with other goods.

We will see electric vehicles being rolled out, and a price cap will have to deal with issues such as electric vehicle charging and how people are charged for them. I see a situation in four to five years' time in which the energy market could have changed radically. The key point of the price cap is that it has to be flexible to any changes and fulfil its basic role of protecting consumers. With great respect to the suppliers in this room and suppliers already out there, I would hope that we could see radically different sets of people providing energy in five years' time.

Alex Norris: Ofgem said to the Department for Business, Energy and Industrial Strategy Committee when this was being considered that the cap ought to be temporary. How do you feel about 2023 as the sunset clause? What should Members in 2023 have seen to be assured that the cap would be unnecessary?

Rob Salter-Church: It is right that everyone is focused on what happens at the end of the price cap. It is important to us that if the price cap is removed, then all consumers get to benefit from the new competitive market that we are seeking to create.

We are comfortable with how the Bill is currently drafted. It requires us to have a comprehensive report from 2020 on the state of competition, and whether we

believe that the conditions for effective competition that benefit all consumers are in place. Every year, we will be providing recommendations to the Secretary of State.

We are confident that, as the Bill is drafted, there is sufficient opportunity for the Secretary of State to determine whether there is a future role for an overall price cap, or whether there are things within our powers that we should be doing. Earlier on, Dermot mentioned the likely ongoing need for vulnerable consumer price protection. More broadly, we will be able to report on the progress made by us in creating what is ultimately a more effective form of competition where everyone benefits, whether you choose to switch or whether you choose to stay with your current supplier.

The Chair: Can I bring in Vicky Ford?

Q41 Vicky Ford: In my view, 2023 is the sunset clause: a window to get the competition in the market working. If you bring in measures such as faster switching, prompts and Midata, I am sure we will see more innovation with smart appliances that feed off smart meters and therefore there is smart consumption. Are those the measures that you would write into your report in 2020 for us to be able to decide come 2021 that the competition had maybe already been achieved? You said it could be done in a couple of years. Why do we need five years?

Dermot Nolan: I hope we do not, frankly. We will do our very best to bring competition as quickly as possible.

Q42 Dr Whitehead: I just wanted to reflect the fact that there is a sequence in the Bill, which is that Ofgem carries out a review as to whether conditions are in place for effective competition, and then you have just one requirement to put into your review, which is the vision of smart meters. The Minister then has to make a statement following the report, but it is all sequentially based on your report in the first instance.

Are you happy with what appears to be an almost complete lack of pillars on which your report might be based? Is that something that you can live with easily, or would you prefer or welcome further pillars in the report to ensure that your understanding of the report was in line with what was required to bring competition back into the market?

Dermot Nolan: It is a fair question. I am personally content with the drafting, but I respect the fact that it is a matter for Parliament. I think we have a reasonably clear idea, and I hope we have given some of it today, but I assure you that we will spend a lot of time preparing an analysis of whether we think competition is working effectively in the market.

If further areas are to be put in, that is a matter for Parliament. I am slightly worried that putting specific targets and measures directly into legislative language now, in a market that will change radically over the next five years, might be somewhat distortionary. All I can say is that on the current language we will do as comprehensive a job as we can and look at all possible indicators to give an overall assessment to the Secretary of State of whether we think the market is working for consumers.

The Chair: Order. I am very sorry, but that brings our session to an end. I thank the witnesses for giving their evidence and I ask the next panel to come forward.

Examination of Witnesses

Rich Hall, Pete Moorey and Peter Smith gave evidence.

The Chair: We will now hear evidence from Rich Hall, Chief Economist for Energy at Citizens Advice, Pete Moorey, Director of Advocacy and Public Affairs at Which? and Peter Smith, Director of Policy and Research at National Energy Action. We have until 11.25 am.

Q43 Claire Perry: Good morning. Thank you very much for coming. I have lots of questions for you. Thank you very much also for your support—sometimes equivocal and sometimes unequivocal—for the Bill.

One question that I think is exercising us all is support for vulnerable customers, who we strongly believe the Bill will help. We are interested in your views as to what else, as well as the Bill, would be necessary to deliver what we all want: maximum protection for the most vulnerable.

Rich Hall: I will kick off. I think we would strongly support the view that we would like to see protections in place for vulnerable consumers as a priority—for them to be the first to be protected and the last to lose protection if there were to be a circumstance in which it would be lost. We know from the CMA's investigation and from other studies that consumers with vulnerability characteristics are less likely to switch than the norm: disabled people, the elderly, those on low incomes, renters, people in rural areas and those who left education early. Some of the most vulnerable consumers in society are likely to be on the worst rates.

The Bill should provide significant protection to those consumers for the lifespan of the legislation, but that lifespan is clearly finite in its current form. There would be annual reviews from 2020 to 2022, which we would expect to pay particular regard to the impact of the price cap on vulnerable customers and to the extent to which they are engaged in the market and benefiting from it or need further protection.

However, in its current form the Bill would fall away no later than 2023, which creates an issue around how you would ensure that those consumers continued to be protected beyond that date. Clearly, if it were possible to encourage them to engage more in the market and to switch, that would be our first line of protection in which they could help to protect themselves. However, we have to look back at the historic records here and note that over 20 years or so there has been significant disengagement in the marketplace. It might be difficult to tease vulnerable customers into the market. From our perspective, we would be looking to see price protection for vulnerable consumers extended beyond the lifespan of the legislation.

We note and welcome the comments from the Minister and the Government in their response to the Business, Energy and Industrial Strategy Committee's pre-legislative scrutiny, that enduring protections might be needed, and also Dermot Nolan's comments, from Ofgem, to a similar effect. I think the challenge is: if it is not going to be in the form of protection through this cap, what is it? We currently think that there might be a need for an enduring cap, and the Bill in its current form does not necessarily provide for that protection after 2023.

Q44 Claire Perry: Thank you. Mr Moorey, you have not been super-supportive. Would you agree on the need for more protection for vulnerable customers?

Pete Moorey: I support everything that Rich said on the potential need for ongoing support for vulnerable consumers beyond the end of the cap as set out in the Bill. It is important, though, that we do not assume that vulnerable consumers across the board do not engage in the energy market. We know that the most vulnerable are often the savviest consumers. They have to be: they are on tight budgets and, therefore, they can be the most adept at engaging with markets. I know Peter's organisation, National Energy Action, has done an awful lot of work with very vulnerable people to get them engaged and on to some of the best deals in the market.

Our—and, I hope, your—vision is ultimately of a market that is competitive and delivering good outcomes for consumers. That should include vulnerable consumers and the ability for those consumers to be as actively engaged in the energy market, as they are in many other markets—notwithstanding the fact that, as Rich said, there will potentially be some people who will need ongoing additional support. We would support that.

Peter Smith: There are two clear priorities that sit outside the Bill. The first would be to extend the warm home discount scheme to smaller suppliers; currently, smaller suppliers, with fewer than 250,000 customers, are not required to provide the warm home discount scheme. That means a real challenge on the doorstep in terms of encouraging households, particularly vulnerable households, to switch to the smaller suppliers. Those smaller suppliers are often able, at least on a price comparison website, to provide the cheapest deal but households do not know that they might be missing out on the warm home discount scheme.

The second element is to get on and use the data-sharing powers on which there was a recent consultation, which would enable Government to better share information about households eligible for the warm home discount scheme and could, therefore, benefit from the safeguard tariff.

Those two actions can take place regardless of this Bill. As we warned in the Business, Energy and Industrial Strategy Committee's pre-legislative scrutiny, if we do not do those things, the cost might be that 500,000 low income and vulnerable households—many working-age—will miss out on approximately £260-worth of support this winter and next. It is an urgent priority.

Two things that can be done inside the Bill, reflecting on the previous evidence and remarks from the rest of the panel, would be to clarify in clause 2 that Ofgem should have due regard to households on the safeguard tariff. We are particularly worried that there is an assumption being baked in at this stage that the SVT-wide cap will protect exactly the same households as are protected by the safeguard tariff. That is not the case. We are also making an assumption that the relative values of those two different caps are going to be broadly the same. Again, that is not the case. We would like Ofgem to consider those two issues specifically. It is right that that is reflected in clause 2, and we support the hon. Member for Southampton, Test's amendments that seek to achieve that outcome.

The final thing from my perspective is in relation to clause 8, where the conditions by which we remove this SVT-wide price protection need to be met. The opportunities that Dermot Nolan talked about to reflect on vulnerability within that context, particularly engagement for vulnerable consumers, are the clear priority and

should be listed in the Bill to make sure that that assessment on competition is also reflecting on engagement of consumers, particularly the most vulnerable households. There would be a set of things that could be done to make that clear.

Michelle Donelan: I just want to follow up and build on the topic of consumers. How do you each feel this Bill will impact on the interest groups you represent? This is particularly pertinent to Which?

Pete Moorey: We represent all consumers, and the Bill may have a number of different impacts for all consumers. Clearly, for the large number of people on standard variable tariffs, it is going to mean a cut in their energy bills, which will be very welcome for them.

However, as you are probably aware, we have some concerns about the risks presented by a price cap and the impact that could have for consumers as a whole, which may well be mitigated by the measures in the Bill regarding Ofgem, ensuring that it maintains attempts to promote competition.

Nevertheless, the things that we are concerned about with the introduction of a price cap are that we do not see any softening of competition and that we do not see prices for consumers overall going up. It is likely that for some consumers we will see some price rises, as some tariffs get removed. We do not want to see a reduction in the standard of customer service, which is often deemed as being poor among the larger suppliers; the annual satisfaction survey that we do at Which? every year shows that the larger suppliers do very poorly on a whole range of metrics.

Also, we do not want to see less innovation in the market. So we do not want to see the introduction of a cap having an impact on the smart meter roll-out, or indeed on the transformation that Dermot Nolan spoke about, which we really support, around the introduction of new suppliers in the market, who may well be able to bring a transformation to energy, which is what we want to see.

I absolutely understand why the price cap is being introduced. I think the energy industry had opportunities, time and again, to stop this from happening, and they failed to react to that and to the problems that their customers were facing in the market. However, as we now introduce the cap, we have to be very mindful of those risks: the last thing we want is a price cap to come in, be removed at the end, and for us then to be left with exactly the same kind of broken market that we have now.

Q45 Vicky Ford: I want to push a bit harder on understanding the concerns of Which?, because I see smart meters being only a part of the whole move towards smart consumption and connected appliances that talk to each other—in order, for example, to use less energy at peak times of day. Such innovations are important. Do you want to ensure that the cap does not stop that sort of innovation and instead continues to encourage consumers to have a competitive offer?

Pete Moorey: Absolutely. Smart meters themselves are only the facilitator of a new kind of market. Gas and electricity is a homogenous product. Of course it is dull for consumers to engage with, and our expectations around them switching have been—by and large—fairly

ridiculous really, given that there is generally little value in switching beyond the price that you can be saving, which can be significant. But beyond that, why people should really engage with this market has been bewildering to consumers, really.

However, we are now just starting to see potentially a very different energy market, because of smart metering and then smart appliances, as well as the introduction of electric vehicles, storage and a whole range of other changes. They should make energy an attractive industry for new kinds of players to enter, which may well mean that consumers start to be offered very different kinds of things. It may well be, as Dermot said, that there will be much more bundled products, whereby suppliers effectively offer to look after your whole house—your whole life—and that may well be attractive.

Of course, with that comes the risk that that will potentially only benefit people like me, who perhaps have the ability and the money to engage with that market. We obviously want to see all consumers benefiting and we will need to be very mindful, as that change comes, about vulnerable consumers and their ability to benefit from the price cap, too. They should do, because the positive benefit could well be that you can target much more specific products at the most vulnerable, and ensure that they really are getting value out of their relationship with their energy supplier, or indeed with a whole range of other suppliers that could start to form a hub around smart meters and other smart appliances.

Q46 Vicky Ford: So, is 2023 the right date?

Pete Moorey: Yes. I think it is the right date, but the critical thing is that Ofgem has the ability on a very regular basis to review how the price cap is working, to set out transparently the changes being made in the market, and to be able to recommend to the Government whether the cap should be removed earlier. I think that having that balance is right.

Q47 Bill Grant: We mentioned smart meters. Do you believe that the roll-out of the smart meters will engender or promote effective competition in the energy market, and, if so, will that contribute to the ending of the cap by 2023? Indeed, I think there is an opportunity in the previous three years to end the cap. What part do you think that process will play?

Finally, picking up on Pete's reference the less well-off groups, or those who are less price-savvy—I think that was the term—do you think the meters will assist those people in understanding their expenditure? Do you really think it will have an impact?

Pete Moorey: I hope so, but I think there are significant challenges for the roll-out. The fact is that the roll-out does not appear to be going as well as it should. Our own research in the last few months revealed that energy suppliers would be having to install 24 meters per minute for us to hit the target by 2020. So we have to keep a close eye on the smart meter roll-out. I do hope that it leads to changes, and changes that benefit all consumers, but that will require not only groups like us but also yourselves to keep an incredibly close eye on the roll-out.

Peter Smith: National Energy Action runs something called the communities programme, alongside Smart Energy GB, which is the organisation that exists to

engage smart meter roll-out. We are doing some valuable work on that, but we are concerned that the roll-out is significantly back-loaded now. That challenges the cost-benefit analysis that the Government originally estimated, which assumes cumulative benefits running all the way through successive years, up to 2020. Now we are in 2018—and 2020 is there; so there is a concern.

Q48 Bill Grant: Is it 53 million installations? I think that is the target by—

Peter Smith: It would be slightly less than that, but it depends whether you think you need to put in SMETS2 meters, once they are ready, and replace the SMETS1 meters. We recognise the value of smart meters, particularly for low-income and vulnerable households, given the fear of an unknown bill. Estimated bills are the biggest concern that these guys get, so we recognise that they can have sufficient benefits. The trouble is we are so back-loaded now, the care and attention and extra help that we thought was going to be possible with smart meter roll-out is now going to be compromised, as everybody, as you say, is just going for volume.

Q49 Kerry McCarthy (Bristol East) (Lab): This question is for NEA; I think you have already covered quite a bit of this. Obviously your remit is to look at issues of fuel poverty. You have already spoken about the warm home discount scheme and the safeguarding tariff, and the need for more engagement to make more people aware of those. You have just mentioned that smart meters have a role to play in fuel poverty as well. Do you think this Bill will help to address fuel poverty? Do you think there is enough in it? Do you think it really gets to the heart of it, or is it just about consumers being overpriced at the top end of the market and people being perhaps neglected at the bottom?

Peter Smith: First things first: it was reflected in my comments to the Business, Energy and Industrial Strategy Committee as well that NEA believes we must also tackle the vicious overlap between the households with the lowest incomes living in the least efficient homes. That needs to continue to be a priority, and, sadly, we have seen a dramatic drop-off recently in home energy efficiency delivery rates. You could build that into one condition by which Ofgem could make an assessment about whether we are now pulling on that lever as hard as can, maybe as part of an ambitious energy efficiency infrastructure programme.

The second thing relates particularly to the Bill. As I have described, there is a risk that we are assuming that the same people are covered through the SVT-wide cap as benefit currently—or would do in a few months' time, with the extension of data-sharing powers—in the safeguard tariff. There is a difference between the people that it covers, so not everybody that will be protected by the SVT-wide cap will be protected by the safeguard tariff currently; and the values are very different—or could potentially be very different—in terms of the value of the safeguard tariff currently in place. That is about £100.

Given the drivers on Ofgem to create headroom to encourage competition and so on, that headroom might be significantly reduced. Therefore the general value that the two relative caps present might be very different. So in simple terms we cannot assure ourselves that the provisions in the Bill are consistent with the value that

the safeguard tariff is currently providing. Ofgem need to consider that issue in relation to clause 2. It should be written into the Bill.

Q50 Kerry McCarthy: That was going to be my question. How should those things be done in clause 2?

Peter Smith: Clause 2 needs to say that there should be specific regard to customers that currently benefit from the safeguard tariff, and that the value of those relative price protections should be considered, to make sure that vulnerable customers benefit from the most attractive option.

Q51 Kerry McCarthy: Do you think the pool of people that currently are eligible for the safeguarding tariff is wide enough, or, in an ideal world, that it ought to be extended?

Peter Smith: Currently, the safeguarding tariff only targets those households that receive the warm home discount scheme. Those are typically poorer pensioners who automatically receive the warm home discount scheme, and some households in what is called the “border group”, which have to apply for support. Some households apply and are eligible, but miss out on the assistance because the programme is a first come, first served programme. Therefore we have been urging—and there were encouraging signs recently that this was going to be acted upon—that that should be extended to all households that were eligible for the warm home discount scheme, so it would cover those people who apply but maybe miss out on support.

Q52 Kerry McCarthy: At the moment, you have to be first in the queue to get the tariff. There is no reason why—

Peter Smith: You are either doubly benefited or doubly negatively impacted, because you do not receive the warm home discount scheme and therefore miss out on the safeguard cap, or you get the warm home discount scheme and the safeguard cap. We can reconcile all of that without these provisions. It was encouraging to hear Dermot Nolan say that he is minded to have due consideration of those issues when he sets the cap—because we could get into a situation where we look to preserve the extended safeguard cap at the same time as continuing with this endeavour. That would make sure that some of the issues I have spoken to are addressed. We would welcome that approach.

Q53 Dr Whitehead: Pete Moorey, your submission to the pre-legislative scrutiny of the BEIS Select Committee raised issues about the extent to which the remedies put forward by the CMA as far as market restitution was concerned were not, in your view, sufficient. Bearing in mind that it is going to be down to Ofgem to declare that the market is now functioning reasonably well and that the cap can now be taken off, what sort of remedies, in addition to those suggested by the CMA, might you have in mind to get the market working again? Do you think those should be introduced during the price cap or after it? Should they run after the price cap is over or concurrent with it?

Pete Moorey: We supported many of the remedies of the CMA, so while we did not believe that they would take us far enough to deliver effective competition, it

was absolutely right that the CMA recommended that we would be testing and trialling new ways of engaging people in the energy market. We were disappointed that the energy industry did not respond effectively enough to that. We said to the industry immediately after the CMA inquiry, “Start getting on with it. Test and trial new ways of engaging particularly the most disengaged people with the energy market.” I think that a lot of that work should continue. The good news from Dermot Nolan this morning, and from other statements Ofgem have made over time, is that they are going to continue to do work on that, which is welcome.

We are not necessarily suggesting that there are other remedies such as that that could be trialled. It is more that we should be spending time considering what transformational changes can be made to the market along the lines that Dermot Nolan was talking about, particularly in his responses to James Heappey, to ensure that we have much more innovation in the market through new suppliers who can be tapping into the benefits that smart and other changes in the energy market will make. That is likely to be the transformation that will lead to a new kind of energy market where consumers are more engaged. That is the critical element, alongside all the key factors around switching levels—particularly engagement of more vulnerable consumers, energy satisfaction, trust in the market and so on—that we should be looking at.

As I say, simply removing the cap in 2023, and the market looking effectively as it is now, will not, I think, be the kind of change that we all want to see in the energy industry, and certainly will not deliver the kind of change that consumers need.

Q54 Alan Brown: Are there any improvements needed to the Bill? I have a couple of suggestions and considerations. We have already heard the merits of trying to introduce what is called a relative cap to work underneath the absolute cap, and we have spoken about vulnerable customers. Are there any improvements that could be made to the Bill to protect vulnerable and disabled customers?

Peter Smith: I will try to be a bit more concise than I was earlier. Clause 2 needs to be amended specifically to ensure that the safeguard tariff is considered when setting the SVT-wide cap, and Ofgem needs to have a duty to consider that. In clauses 7 and 8, we need to include customer engagement, particularly vulnerable customer engagement, as part of that overall assessment of competition and of whether it is working effectively.

I could give you a couple of examples, but perhaps they are best fleshed out in some further written evidence. They would include online access. For instance, we know that households that are offline do not benefit from the considerable discounts for online deals and from paperless billing discounts, and they do not get to apply to the warm home discount scheme. Cumulatively that could be up to £300. Things like that need to be considered when we make that overall assessment.

Rich Hall: From our perspective, we are broadly comfortable with the Bill in its current form. In the area of providing enhanced assurance that vulnerable customers’ circumstances are being improved, we think that is something that should be captured within the annual assessment by Ofgem and by the Secretary of State. We are reasonably comfortable that that is implicitly delivered

through the Bill, but I can understand that there are arguments that there might be benefits in it being explicitly delivered on the face of the Bill.

In terms of there potentially being a relative cap underneath the absolute cap, I have some similar views to Dermot on that, in that it is an idea that has been floated only really in the last few days and weeks, possibly by people who would prefer a relative cap and who are now trying to use absolute plus relative as an alternative vehicle to reintroduce that approach.

We have some concerns about the relative cap approach. Because the large incumbents have so many sticky customers, in comparison with the relatively small number of customers they could pick up through any promotional campaign, if they were to seek to hold their line on their acquisition prices, that would make the cost of acquiring new customers punitively expensive. Because of that, we think it is more likely that the large incumbents would simply exit the acquisition market, which would neither help their SVT customers, who would continue to pay the same prices, nor improve pressure in that market. There is a risk that a relative price cap could backfire and be worse than the status quo, so we see the decision on absolute versus relative as not simply a choice between a good model and an excellent model, but as a choice between a good model and an unworkable model.

Pete Moorey: I would not add anything to what Rich said, but in terms of other changes to the Bill, there could be some changes to ensure there is more transparency and accountability of Ofgem, in terms of setting the cap. We would like to see changes so that Ofgem are required to set out clear criteria for monitoring and evaluating the success of the cap. We wanted to see a requirement to review the price cap every six months. It may well be that the evidence you have just heard from Dermot Nolan suggests that they will be reviewing it anyway every six months and that the bar could be set lower. It may well be that that is unnecessary in the Bill itself, given that it seems likely from what he said this morning that we will have a consultation on that as well. I think Ofgem should be required to publish reports on the impact of the cap on a regular basis and on how they would take any action if the cap was having any negative impacts.

Q55 James Heappey: Some of the big six, in particular, have tried to head off this legislation by, apparently, removing people from their SVTs already. I wonder whether you have made any analysis of the sort of tariffs they have been transferring people on to and of whether that represents genuinely better behaviour, or are they just getting ripped off in a different way?

Rich Hall: We do not have any analysis on that to hand, but it is a crucial issue, in that the problem with SVTs is not their name, but their characteristics; it is the fact that they are extremely poor value products that exploit consumer inertia. If the replacement products simply have the same characteristics, and they are benchmarked to a similar level of pricing, that is simply an attempt to get around the intent of the Bill rather than to reduce the detriment that those customers see. That is an area where we, Ofgem and others will need to improve our monitoring in the coming months, as we see more of those tariffs in the market. At the moment,

it is still fairly soon after the launch of these approaches by three suppliers, so it is a bit too early to say, but it is a genuine issue.

Q56 Vicky Ford: Just to come in on this issue of reviewing every six months, that is of course in the Bill.

Pete Moorey: That is good news.

Q57 Stephen Kerr: Would it help to remove the stickiness of customers if the SVTs were renamed emergency tariffs, because that is quite alarming?

Pete Moorey: I don't know. It might do. That probably returns to the point I made to Alan Whitehead around testing and trialling different ways of engaging people in the market. It is really important that Ofgem tests how it communicates the safeguard and whether it should be called the safeguard. There is a real danger that most consumers, once they hear they are on a safeguard tariff, think that there is absolutely no reason for them to switch. Once the cap is in place, one of our key messages at Which? would be to go out there and say to people, "The safeguard tariff is not the cheapest tariff on the market. You could well still be saving hundreds of pounds by switching, particularly to some of the smaller suppliers in the market."

Q58 Stephen Kerr: I think the standard variable tariff sounds rather benign.

Pete Moorey: Absolutely.

Q59 Stephen Kerr: If it was something more aggressively named, people might go, "I don't want to go on this tariff."

Pete Moorey: I think it should be tested.

Peter Smith: There is also a risk that if people are on the safeguard tariff, they think that they are safeguarded, but they are not taking up the wider support schemes that the Government have made suppliers deliver—things such as the energy company obligation, the warm home discount scheme, free gas safety checks and the priority services register. There are a number of other things that need to be considered to assess whether or not consumer engagement is happening, particularly for vulnerable households.

The Chair: If there are no further questions from Members, I thank the witnesses for their evidence.

Ordered, That further consideration be now adjourned.
—(*Rebecca Harris.*)

11.17 am

Adjourned till this day at Two o'clock.

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

DOMESTIC GAS AND ELECTRICITY (TARIFF CAP) BILL

Second Sitting

Tuesday 13 March 2018

(Afternoon)

CONTENTS

CLAUSES 1 to 7 agreed to.

Adjourned till Thursday 15 March at half-past Eleven o'clock.

Written evidence reported to the House.

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

not later than

Saturday 17 March 2018

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The Committee consisted of the following Members:*Chairs:* SIR EDWARD LEIGH, † SIOBHAIN McDONAGH

- | | |
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| † Afolami, Bim (<i>Hitchin and Harpenden</i>) (Con) | † Kerr, Stephen (<i>Stirling</i>) (Con) |
| † Brown, Alan (<i>Kilmarnock and Loudoun</i>) (SNP) | † McCarthy, Kerry (<i>Bristol East</i>) (Lab) |
| † Charalambous, Bambos (<i>Enfield, Southgate</i>) (Lab) | † Norris, Alex (<i>Nottingham North</i>) (Lab/Co-op) |
| † Donelan, Michelle (<i>Chippenham</i>) (Con) | † Perry, Claire (<i>Minister for Energy and Clean Growth</i>) |
| † Flint, Caroline (<i>Don Valley</i>) (Lab) | † Robinson, Mary (<i>Cheadle</i>) (Con) |
| † Ford, Vicky (<i>Chelmsford</i>) (Con) | † Smith, Nick (<i>Blaenau Gwent</i>) (Lab) |
| † Gaffney, Hugh (<i>Coatbridge, Chryston and Bellshill</i>) (Lab) | † Whitehead, Dr Alan (<i>Southampton, Test</i>) (Lab) |
| † Grant, Bill (<i>Ayr, Carrick and Cumnock</i>) (Con) | |
| † Harris, Rebecca (<i>Lord Commissioner of Her Majesty's Treasury</i>) | Farrah Bhatti, Nehal Bradley-Depani, <i>Committee Clerks</i> |
| † Heappey, James (<i>Wells</i>) (Con) | † attended the Committee |

Public Bill Committee

Tuesday 13 March 2018

(Afternoon)

[SIOBHAIN McDONAGH *in the Chair*]

Domestic Gas and Electricity (Tariff Cap) Bill

2 pm

The Chair: We now begin line-by-line consideration of the Bill. Today's selection list, which is available in the Committee Room, shows how the amendments selected have been grouped for debate—generally because they relate to the same or similar issues. Please note that decisions on amendments will take place not in the order in which they are debated, as shown on the selection list, but in the order in which they appear on the amendment paper. Decisions on each amendment will be taken when we reach the relevant clause. I will use my discretion to decide whether to allow a separate stand part debate on individual clauses and schedules after debate on the relevant amendments.

Clause 1

CAP ON STANDARD VARIABLE AND DEFAULT RATES

Dr Alan Whitehead (Southampton, Test) (Lab): I beg to move amendment 3, in clause 1, page 1, line 3, leave out

“after this Act is passed”

and insert

“and no later than 30 November 2018”.

It is a pleasure to serve under your chairmanship, Ms McDonagh. Let me start us off this afternoon with what I hope will be the first of many amendments that the Minister and other Conservative Members think so reasonable and constructive that they feel impelled to accept them.

Amendment 3 relates to our consensus that an energy price cap needs to be agreed across the board and brought in as soon as possible. Without presuming to speak on behalf of all Committee members, I believe that we are all united in our support for a temporary cap to allow the market to be set right. We hope that by the time the cap comes to an end, we will be reasonably assured that the market is working much better and that the circumstances that led to the cap's introduction will not be repeated further down the road.

The Committee is united on our endeavour this afternoon. We want to finish our deliberations, get the Bill passed as speedily as possible, and have it on the statute book by the summer—hopefully the early summer—so that Ofgem can execute it. We heard this morning from Ofgem's chief executive, Dermot Nolan, about the processes that Ofgem will be required to undertake to ensure that the price cap is properly implemented. The Bill requires it to have regard to a number of concerns, which I am sure we will discuss in our deliberations.

Essentially, Ofgem has the task of ensuring that the provisions in the legislation for the implementation of the price cap are legally waterproof, that the measures

in the Bill around Ofgem's responsibility for having regard to those various pillars are properly carried out, and that Ofgem has the arrangements in place that it will need to look periodically at what is happening to wholesale prices and to produce reports and proposals for how those wholesale price changes can be taken into account under the umbrella of the cap. Ofgem has to get a whole range of things right before the cap is properly in place. It is proper and right that Ofgem takes a reasonable amount of time to ensure that happens.

We heard this morning that Ofgem already has some consultations and discussions under way in anticipation of the Bill shortly being on the statute books, but there are a number of statutory things that it has to do and a number of further consultations that it has to undertake. We were told this morning that all this is about five months' work as far as Ofgem is concerned. In principle, if we assume that the Bill will be on the statute books by the end of June, the five-month timescale that Ofgem has set itself would mean that the cap could be effective by the end of November this year.

Pretty much everybody associated with this Committee and the passage of the Bill has said that they fervently want to see this legislation enacted and a proper price cap in place before winter this year. By that, I am sure they do not mean when a cold snap takes place next February and looks a bit like winter, but the onset of winter—about the time people get their winter fuel allowances. That will ensure that the price cap is in place and benefiting customers in advance of the bills they face over winter.

To get this price cap in place not just over winter but as winter comes in—absolutely on the nail, given the time that Ofgem says it will need to get this Bill into shape and to get an operational cap—we will clearly want to ensure that that timetable is adhered to as closely as possible. That is why I asked Dermot Nolan this morning whether he thought the five-month period was an exact period, a maximum period or an approximate period. What was his view? He said that they would do their best to ensure it was within that five-month period. However, I did not get the impression from that evidence this morning that Ofgem was saying to us, “We can absolutely stand by the idea that there is a maximum possible period of that amount of time for us to do our work.”

James Heapey (Wells) (Con): My reading of Mr Nolan's evidence this morning was somewhat different. I thought that he very much felt this could be delivered within five months. The only note of caution he sounded was over a legal challenge. I am not sure that any timeline that we prescribe in legislation would prohibit such a legal challenge from one of the current large suppliers.

Dr Whitehead: The hon. Gentleman is absolutely right. If there do turn out to be legal challenges, despite our best efforts in this Committee to ensure that the Bill is as watertight as it can be, it is conceivable that the whole timetable of a price cap could be seriously derailed—I think we have all understood that, as far as the process is concerned. Indeed, one reason there is legislation, rather than Ofgem going down the road of a price cap under its own steam, which it has been claimed at various times could have been the case, is to ensure that, as far as possible, the proposals and what Ofgem puts in

place around them, are legally watertight. That comes in two parts. First, there is the question of ensuring that the legislation is as watertight as possible, but there is also a duty on Ofgem to ensure that, in translating the instruments in the legislation into a workable price cap, it takes measures that are also legally watertight, so that it does not slip up after we have done the good work in Committee of making the legislation as watertight as possible.

Vicky Ford (Chelmsford) (Con): In the evidence session this morning, I clearly asked whether Ofgem would be ready for next winter, and Ofgem was not only clear that it would be ready for next winter, but outlined the very robust, transparent and deep process being undertaken to ensure that.

Dr Whitehead: Yes, indeed. The hon. Lady will recall that, in answer to my question, Ofgem went through the processes it is statutorily required to undertake, together with an estimate of the time that that would take. Between us, we were able to get on record a pretty clear note of intention from Ofgem that, subject to the possibility that the whole thing could come off the rails because of an unexpected legal intervention, it would bend its efforts to ensure that the process of five months was adhered to.

The amendment seeks to go a small step further and to place on the face of the Bill an indicative time by which Ofgem should have done its business, to ensure that the working price cap becomes reality under the Act. The amendment does not seek to interfere with, foreshorten or undermine what Ofgem is trying to do, quite properly, to make the Bill a reality.

Vicky Ford: I am sorry, but I read the amendment completely differently. If we have all agreed that Ofgem has made it clear that it will go through the process to come up with the right level of cap—taking the right level of evidence—by next winter, and that the only thing that could delay it would be a legal judgment, why would we even suggest, through the amendment, that it may not be ready? That throws unnecessary doubt on the process, which would still be subject to a legal challenge were the amendment there. I think it would just add confusion and doubt.

Dr Whitehead: I fully accept the hon. Lady's reading of the amendment, but I assure her that that is not its purpose.

2.15 pm

Caroline Flint (Don Valley) (Lab): Does my hon. Friend agree that it is quite useful to discuss this at the start of our Bill consideration, because our constituents will want to know that, in truth and earnest, we are going to push, in whatever way we can, to ensure—let us hope we do not have as bad a winter as we have had in recent weeks—that we get this cap into place? It is worth while to have this discussion. I hope the Minister can give reassurance in her response that it is up to all our endeavours to ensure that the cap is in time for when those winter bills drop on our mats.

Dr Whitehead: I thank my right hon. Friend for that intervention underlining the thrust of what I have to say. Although we may take serious account of Ofgem's earnest intentions, which we heard about this morning,

we are not legislating for the good side of earnest intentions, but for what we want to happen in the end with the Bill. To put in the Bill what we actually want to happen clarifies matters for the future, rather than spreading confusion. We will have declared—I use that word because we cannot entirely proof ourselves against the possibility of an unexpected legal challenge, although, if I can be congratulatory to the Bill's constructors for a moment, they have done a good job of ensuring that it is as legally unchallengeable as it can be—

Stephen Kerr (Stirling) (Con): I perfectly understand where the hon. Gentleman is coming from, because Ofgem's performance over the last few years has been less than inspiring. Having said that, both sides of the House have said, and we heard it again from Ofgem today, that we know what our destination is with the Bill. I cannot understand what we gain by putting a date in it, beyond what we have already amassed in terms of collective evidence and collective will that we have to see this enacted before next winter.

Dr Whitehead: I fully accept that there are different interpretations of the best way forward within the overall agreed framework of where we want to go. Perhaps hon. Members take the perfectly reasonable, honourable and thought-out view that we have got what we want to say in the Bill, we have heard what Ofgem thinks it can do and we are happy to leave it there. My view is that it would be helpful to properly encapsulate our position on the Bill by saying in it what we want to happen—by setting an out-date for the considerations that Ofgem has to undertake before the cap becomes real.

Although I do not doubt for a moment the bona fides of Ofgem, or the sincerity of what Dermot Nolan said this morning, nevertheless, if we are not as clear as we can be about what we want to put forward in the Bill, it is conceivable—no more than conceivable—that someone could say, "Actually, we said five months, but some unexpected circumstances have cropped up—not a legal challenge, but other things—so we can push that further down the line. We'll have to say that we are a bit sorry about that, but that's how it is." I do not want that circumstance to be even remotely in the minds of anyone at Ofgem over the next few months.

Kerry McCarthy (Bristol East) (Lab): Is it not also a fact that in 2012, under the last Government, the then Prime Minister promised that he would force companies to switch customers to the lowest tariff? When he was talking about the "green crap" on energy bills, he also promised to use regulatory measures to reduce energy bills for consumers. As we have already heard, if we had introduced measures after last year's election, when there was a manifesto commitment to do it, customers would have been protected in the cold weather we have just had. So I think it is only fair that people have some concerns about whether this is actually going to happen, when there have been so many false promises in the past.

Dr Whitehead: My hon. Friend makes a powerful point. Today, thinking about the cap, we are not in such a position that we can look back with complete equanimity and say, "Actually, everything that could have been done to hasten the cap, once it was decided that there

[Dr Whitehead]

should be a cap, has been done over that period.” There has been quite a bit of equivocation since, for example, the suggestion at the time of the Conservative manifesto for the last election that there should be a cap. It made an appearance but then went through a period when there seemed to be some resiling from that particular commitment.

As hon. Members will recall, there were indeed suggestions and discussions that Ofgem, in its own right, could and should undertake a cap: a cap would need no legislation from Government, so Ofgem could go ahead and put one in place. Indeed, as I recall it, a letter to Ofgem from the Secretary of State during the summer in effect said that. At the time, as hon. Members will also recall, Ofgem came back fairly publicly to say, “We are not convinced that we have the powers to do this,” or rather, “We may technically have the power to do this, but we wouldn’t be proof against legal challenge were we to go ahead and introduce a price cap administratively without the back-up of legislation from Parliament.”

As hon. Members will again recall, it was at that point—I think it was at the Conservative party conference—that the Prime Minister reasserted the fact that she wanted a price cap. Perhaps we will come on to what she said about the consequences of that price cap in a moment, but she certainly said at Conservative party conference that she wanted a price cap and that, in effect, legislation was to be introduced to produce one. So, arguably, we could say that, had we got on with legislation from the moment that the idea that there should be a price cap was put forward, we would not be sitting here today. Instead, we would be contemplating a price cap having been introduced, probably this autumn.

James Heapey: The hon. Gentleman makes his case well, but I remain to be convinced that putting in a deadline makes a difference. The biggest pressure that Ofgem will be operating under once we clear the Bill through Parliament—surely the biggest variable in the whole process—is an enormous amount of political pressure. Given that the hon. Gentleman does not propose a sanction against Ofgem should it miss the deadline, one would imagine that the political pressure Ofgem will be under from both sides of the House to deliver the cap is more than enough to deliver it very quickly. He will remember that the last time that there was a notice of insufficient margin, with the price spike that it brought, was in the middle of November 2015, so a date of the end of November seems somewhat arbitrary. We want it done as quickly as possible.

Dr Whitehead: The hon. Gentleman’s point about the amendment not suggesting any sanctions on Ofgem is an interesting one. Were that suggestion put into operation, it would require about six more pages of amendments to secure a sanctions regime against Ofgem, but that is not how Ofgem works. In effect, Ofgem has a requirement to do things—in its charter of existence, in legislation—and it is instructed by legislation and not, by the way, in final and legal terms by what a Minister may or may not write to it on a daily basis. It is supposed to go along with what is in legislation. That was the problem that arose with the letter from the Secretary of State to Ofgem when the idea of a legislatively based price cap appeared to be up in the air.

Ofgem made the point that it would prefer, or that it thought it necessary, to have some kind of legislation on the statute book to guide and advise it—or, more than that, to be a framework for its carrying out of its responsibilities. The Bill requires Ofgem to do all sorts of things but contains no sanction. It does not set out what would happen to Ofgem—whether Dermot Nolan would be taken out, and something would be done to him—if it did not do all that is specified. The point is that there are requirements on Ofgem under its charter from Government.

The Chair: Order. May I suggest to the shadow Minister that we have an awful lot of amendments to deal with this afternoon, and sanctions are slightly off track.

Dr Whitehead: Yes, I am happy to accept your guidance, Ms McDonagh. I am being enticed down the road I have taken by hon. Friends and colleagues, and of course as far as I am able I will not give way to temptation.

The central point, on which I want to end, is that we do not need a lot of sanctions to get Ofgem to do what it is supposed to do under legislation; but if something is in legislation it is pretty sure that it will get done, because that is how it works. An out date in the Bill would be a little further help in making sure that Ofgem would do what it has said it will do to put the measure into practice. Hon. Members will have a view on how important or necessary that approach is, but I do not think it can be gainsaid that putting the date into the Bill would provide a little further assurance.

That is the basis for the amendment. I hope that Members will support it, if they decide they want that further assurance, but I am sure that the Minister will come up with persuasive reasons why another view could be taken. We will listen with interest.

The Minister for Energy and Clean Growth (Claire Perry): It is a pleasure to serve under your chairmanship, Ms McDonagh. I thank all members of the Committee. We have a highly qualified Committee here to deliver, over the next few days, what we all want: a legally watertight price cap Bill that enables some of the more egregious pricing structures in the energy market to be addressed.

The amendment moved by the hon. Member for Southampton, Test is intended, as he said, to put a hard-stop deadline on the implementation of the Bill. I understand his reasons exactly. We have discussed the Bill and are broadly in agreement about what we are trying to achieve. I agree that it is imperative for the measure to be in place before the end of the year. People say “before next winter”, and that somehow rolls into 2019. I want it on the statute book and implemented by the end of the year—ideally well before 31 December—because we owe it to the customers whom we are trying to protect. We have all been clear about that, and it is the message delivered in multiple debates and in multiple communications with Ofgem and suppliers. I shall speak in a moment about the possible risks of accepting the amendment.

Something else that is refreshing is that all parties have committed to getting the Bill through. I do not suggest that there will not be strenuous attempts to amend it, but I intend that it should be sent up to the

other place in good order, so that it can go through the Lords effectively and we can get what we want, which is for the Bill to be in place and in good shape by the summer recess.

It was helpful to have the witness sitting this morning. We heard Ofgem say that, once we have given the go-ahead on Royal Assent, it will have to take a whole series of statutory measures, including developing the cap. Of course, some of that work has already started, quite rightly. We do not need to do this sequentially; we can do it in parallel. We are then going through a fairly transparent consultation process to make sure that any possible objections or concerns about the tests we have set out in the Bill on competition, switching and maintaining investment are met. There is a statutory duty to have a consultation period. We heard this morning that that will take five months, albeit with some things starting already and processes going on in parallel.

2.30 pm

I am concerned that we make the cap as robust and watertight as possible. I am not sure that we have amendments on possible alternative routes of appeal, but we can certainly talk about that. We need to shut down routes by which this cap could be seen off. My concern is that if we put a date on the face of the Bill and for some reason a process of challenge is brought forward by the suppliers over the Ofgem methodology, or somehow the price cap implementation deadline proposed by the hon. Gentleman is missed—then what? I do not know; but we would certainly be back in unknown legal territory where we had not met the deadline, and therefore our strong desire to get pedal to the metal and get the cap implemented would take a real setback.

I think we all share the aspiration that this Bill should be passed quickly. We want to get it through both Houses of Parliament in as good a shape as possible. However, I am concerned, first, that by putting a hard stop date in the Bill, we may constrain the critical process that Ofgem has to go through to set the cap at the right level, and secondly, that we potentially increase the risk of a successful challenge to the cap once it is structured and put in place. So I was reassured to have heard from Ofgem again this morning. Ofgem wrote to the Chair of the Select Committee, who did an excellent job in pre-legislative scrutiny, setting out its strong belief that it understands the need to do this and can complete the necessary analytical processes. Although I strongly share the hon. Gentleman's desire, I feel there is nothing to be gained by making this a statutory deadline. That potentially creates implementation risks which would mean this long-awaited price cap could not be put in place. With that explanation I hope I have persuaded the hon. Gentleman to withdraw his amendment—though I appreciate that his amendments are tabled in the spirit of trying to improve the legislation.

Alan Brown: It is a pleasure to serve under your chairmanship, Ms McDonagh. I was not originally going to talk, but 25 minutes into the Bill Committee my frustrations kicked in. It felt like 25 minutes of almost agreeing with the amendment. We have got an amendment with a date and everybody agrees that it is a reasonable deadline and timeframe. We are seeming to agree that Ofgem has committed to doing this in

five months. I thought that Dermot was absolutely resolute in the evidence session in saying “We will do it in five months”, but his colleague had slightly more caveats and was slightly more restrained.

I cannot see any problem in getting a deadline that puts a marker down: humans work better to a deadline. It sends a message to our constituents and the people out there that we have this clear deadline. I listened to the comments from the Minister and I understand that she is saying that she wants to minimise any risks going forward in getting the Bill implemented. What if there is a legal challenge and then the deadline becomes a possible issue? But given that we have already agreed that we think this is a robust Bill that has been well written and well crafted, I think we have got to have confidence that it is robust. Having a date on the face of the Bill will make it that bit more robust and watertight.

Claire Perry: I appreciate the hon. Gentleman's support, and I am delighted that we have cross-party support. I think we are all agreed that this is a robust Bill. I thank the hon. Gentleman for sharing his tribute to the parliamentary team, who have done a good job drafting it.

Stephen Kerr: I would like to pick up on the comments made by the hon. Member for Kilmarnock and Loudoun about the robust performance that we saw from Ofgem this morning. Frankly, that could be, in part, because when Ofgem appeared before the Select Committee scrutinising the legislation, it was less than robust—the witness was less than robust. I think he has got the message: he cannot be neutral on this; he has to be robust. We saw that today and that gives me great confidence that we will see this Bill enacted in the way we envisage.

Claire Perry: I defer to my hon. Friend's experience. He sat through this process, doing an excellent job on the Business, Energy and Industrial Strategy Committee, and has seen the evolution of this robustness.

In response to the hon. Member for Kilmarnock and Loudoun, I think the Bill is absolutely robust. We are agreed: we have a tight, well-drafted Bill that does not allow for random amendments. The challenge is that the actual job of setting the price cap has, quite rightly, been given to the independent regulator. We have to go through a process of transparency and confidence building, if you like, with participants in the market, so that the number is set at the level we want to deliver maximum benefits to consumers without the dis-benefits of driving investment out of the industry, or indeed providing a less competitive environment. That is why I have been persuaded that Ofgem gets the deadline, believes it has the right to do it, but has asked for a period in which, quite rightly, it can go through a very transparent process. The more transparency the better, because that will head off any possible legal challenge. I wish we did not have to be in the world of worrying about future legal challenges, but I think we are all convinced that we need to make the whole process as robust as possible.

In responding to the hon. Gentleman from north of the border, Kilmarnock and Loudoun, I hope I have persuaded the hon. Gentleman from a long way south of there to withdraw his amendment.

Dr Whitehead: I would not say that I am wholly convinced but, as I mentioned in my opening remarks, to some extent it is a matter of how one views what has been said so far and the degree to which one thinks that this really is going to work as well as it could. Having been in this place for some while, I must admit that I am of a mind that one ought to legislate for things being as terrible as they possibly can be, and make sure that one moves upwards from there. Obviously, that view is not entirely shared but, on the other hand, it is also not a particularly big deal. We have heard from Ofgem that it is pretty committed to that five-month period. As I said, if all goes well with this Bill getting on the statute books when we think it will, that just about gets us to the right time. I am happy to withdraw this amendment on that basis, but I hope that I will not have to say I told you so come 31 December if it is all not in place as well as it should be. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Dr Whitehead: I beg to move amendment 4, in clause 1, page 2, line 15, at end insert—

- “(e) the need to ensure that customers on standard variable and default rates have their annual expenditure on gas and electricity reduced by no less than £100 as a result of the tariff cap conditions, and
- (f) the need to ensure that adequate protection exists for vulnerable and domestic customers, including those customers protected by the safeguard tariff.”

The Chair: With this it will be convenient to discuss the following:

Amendment 8, in clause 8, page 5, line 21, leave out from beginning of line to end of line 24 and insert “—

- (a) the statement published by the Secretary of State in that year under section 7 is to the effect that the conditions are not yet in place for effective competition for domestic supply contracts, or
- (b) effective competition does not exist for vulnerable or disabled domestic customers,

“(none) in which case the tariff cap conditions have effect for the year 2021.”

Amendment 9, in clause 8, page 5, line 26, leave out from “unless” to end of line 29 and insert “—

- (a) the statement published by the Secretary of State in that year under section 7 is to the effect that the conditions are not yet in place for effective competition for domestic supply contracts, or
- (b) effective competition does not exist for vulnerable or disabled domestic customers,

“(none) in which case the tariff cap conditions have effect for the year 2022.”

Amendment 10, in clause 8, page 5, line 31, leave out from “unless” to second “in” in line 33 and insert “—

- (a) the statement published by the Secretary of State in that year under section 7 is to the effect that the conditions are not yet in place for effective competition for domestic supply contracts, or
- (b) effective competition does not exist for vulnerable or disabled domestic customers.”

New clause 1—*Duty to consider the needs of vulnerable and disabled domestic customers*—

“(1) When exercising its duties under section 1, the Authority must have regard to—

- (a) the need to protect vulnerable and disabled domestic customers, and
 - (b) the needs of domestic customers protected by the Authority’s safeguard tariff at the date the cap outlined in section 1 comes into force.
- (2) When exercising their duties under sections 7 and 8, the Authority and the Secretary of State must have regard to—
- (a) whether effective competition exists for vulnerable and disabled customers, and
 - (b) additional protection in place for vulnerable and disabled customers.”

This new clause requires the Secretary of State and the Authority to have regard for vulnerable and disabled customers when exercising their powers in setting, reviewing and terminating the cap.

Dr Whitehead: The amendments and new clause 1 are grouped together because they refer to the pillars of consideration that Ofgem—the authority—must have regard to when drawing up the process of turning our legislation into a practical price cap. That is essentially the subject matter of clause 1(6), which sets out the four pillars instructing the authority about its considerations. They include incentives for holders of supply licences to improve their efficiency; setting the cap at a level that enables holders of supply licences to compete effectively; the need to maintain incentives for domestic customers; and the need to ensure that holders of supply licences who operate efficiently are able to finance activity, as authorised by the licence.

The amendments essentially agree that those pillars should be in place, and it is right that Ofgem should have clear guidance in the legislation about how to go about their business. We suggest that further pillars be added to the considerations that Ofgem should have in mind when it is doing its work after we have done ours. Amendment 4 has two further pillars: one relates to further amendments to enforce that. As stated in the amendment, it refers to

“the need to ensure that adequate protection exists for vulnerable and domestic customers, including those customers protected by the safeguard tariff.”

We know that a number of customers are protected by a safeguard tariff. Effective price caps relating to those ranges of customers are already under way and, as far as this Bill is concerned, the price cap that will be introduced will add to those protections, placing a much wider tariff cap on to SVT customers in particular, whether or not they are vulnerable. It also substantially widens the scope.

We suggest that it would be a good idea to put in the pillars relating to Ofgem’s work; the fact that they should have consideration, particularly for those vulnerable domestic customers and those protected by the safeguard tariff, should relate to this wider tariff. That seems a reasonable addition, as a reminder to Ofgem that it ought to be considering that issue during its discussions about making the price cap a reality.

The other pillar suggested in amendment 4 is that Ofgem should bear in mind what sort of saving—it cannot be exact, obviously—should be considered as being possible as a result of those tariff cap conditions. I have a view on what that figure ought to be—not because I put the figure forward, but because the Prime Minister did. I will not ask hon. Members about their reading habits, but some of them may have seen a piece in *The Sun* newspaper on 25 February.

Stephen Kerr indicated dissent.

Dr Whitehead: The hon. Gentleman shakes his head. I cannot possibly comment on that. I got this on the internet, by the way. The headline was “Millions of Brits in line for £100 as Theresa May delivers on energy price cap promise”. Underneath, it said:

“The price cap on 11 million gas and electricity bills is to come in by end of the year as The Sun’s Power to the People campaign pays off”.

“It was *The Sun* wot done it”—not us, by the way.

Claire Perry: It is worth saying that that fine newspaper *The Sun* has campaigned for an end to various aspects of rip-off energy tariffs, and it is great that it was celebrating the fact that we had finally launched this Bill and got the provisions in. In this case we should all say, “Power to the people!”

Dr Whitehead: Since I do not read *The Sun*, I am not entirely up to date with all its campaigns, but obviously the Minister does and is. We will leave it there.

2.45 pm

Bim Afolami (Hitchin and Harpenden) (Con): I understand the thinking behind amendment 4. At first glance, one might almost be persuaded by it—until one looks at the clause in its entirety. The first sentence of clause 1(6), which governs all its paragraphs, states that functions must be exercised

“with a view to protecting existing and future domestic customers”. That consideration is already in the legal framework.

With respect to the hon. Gentleman’s second pillar, the reference to £100 in his proposed new paragraph (e) is very prescriptive. It would make Ofgem’s already pretty difficult job—setting the cap at a level that satisfies all the conditions—even harder.

Dr Whitehead: I appreciate the hon. Gentleman’s point. Paragraph (e) would, conceivably, make life more difficult for Ofgem with respect to what it has to consider. As he correctly points out, it is required first to take a very general view

“to protecting existing and future domestic customers who pay standard variable and default rates”,

and then

“in so doing it must have regard to the following matters”—

those listed in the following paragraphs. In other words, if my reading is correct, after Ofgem has undertaken its initial consideration, it has a number of specific further considerations to take into account. All our amendment says is, “Here are two more to add to the list.”

Vicky Ford: The way I read amendment 4, it suggests that all customers on standard variable and default rates will get a £100 reduction, whereas the Prime Minister’s statement was that the millions of consumers who are on unacceptably high default rates would get a reduction. In the statement this morning, there was a suggestion that at least two of the big six do not have unacceptably high rates. I am rather concerned about the one-size-fits-all nature of the amendment.

Dr Whitehead: The hon. Lady has a point, but if hon. Members read amendment 4 and clause 1(6) reasonably carefully, they will see that

“the need to ensure that customers on standard variable and default rates have their annual expenditure on gas and electricity reduced by no less than £100 as a result of the tariff cap conditions”

would be a consideration—I emphasise the word “consideration”—that Ofgem needed to take into account.

James Heapey: I am afraid that I agree with my hon. Friend the Member for Chelmsford. A number of the larger supply companies have already sought to get ahead of the Bill by transferring their most loyal, or “sticky”, customers from what used to be called SVTs—standard variable tariffs—to other tariffs that are called something else but may be just as expensive. My concern is that the hon. Gentleman’s amendment is overly prescriptive and might allow the energy companies to get round what we seek to achieve.

Dr Whitehead: I do not think the amendment would allow energy companies to get round what we seek to achieve, although I accept the analysis that it may produce more work for Ofgem. I based amendment 4 on what the Prime Minister said. One could argue that she was being overly prescriptive—I do not know.

Alan Brown: I am glad the hon. Gentleman has explained that the £100 is not arbitrary, but a figure from the Prime Minister. Equally, I assume the Prime Minister’s £100 was arbitrary as well, so I must admit that I have concerns about stipulating a figure in the Bill. When I asked about it earlier, Ofgem said that there would be unintended consequences.

Presumably, concerns have been expressed about the big energy companies gaming in terms of exemptions and green tariffs. I am concerned that they will use this as a way to do gaming, so that they provide savings on paper by dodging and changing rates before the legislation kicks in. Could he address that?

Dr Whitehead: The hon. Gentleman makes an important point about what could happen prior to the cap coming in. Energy companies could be gaming ahead of the game with their prices, so what would savings look like after that? I am not sure that we can do anything about that right now. As Ofgem mentioned, if energy companies are too blatant in their price rises over the next period, they will be in breach of their obligations to Ofgem anyway.

We have seen several instances of small price rises recently. We heard about one—a comparative gas price—this morning. Bulb, one of the witnesses this morning, put up its rate by £24 just a few weeks ago. That was for particular purposes, but one could argue that it was a gaming price rise ahead of the legislation. Bulb was very clear that it was not, and that it was for other purposes, but we clearly have to be alert to that possibility.

If that does happen, what anyone has said about what savings would result from this price cap would have to be taken relative to whatever that price was at the point when the price cap was introduced. It would be possible for consumers to say at that point, “Actually, we were promised a £100 price saving. It does not look like a £100 saving to me, because it is a saving against a price rise that will end up increasing my bills.” In wishing to place this in the legislation, I am indicating that we in this Committee do not wish to let the public down regarding what might happen with this price cap.

[Dr Whitehead]

The Prime Minister has already said that there will be a £100 saving. Indeed, I do not know whether this applies to anyone present, but interestingly *The Sun* article states:

“Government insiders say the cap should save at least £100, potentially rising to £300 a year with increased competition and faster switching.”

Government insiders, whoever they are, are suggesting that the £100 is a minimum and it could be considerably more.

Stephen Kerr: More important than any quotation from *The Sun*, the number that really counts is the £1.4 billion of detriment that was identified in the CMA report. That is the number we should be going on. Confusing the issue by coming up with arbitrary numbers in the Bill means taking our eye off the ball of the £1.4 billion.

Dr Whitehead: The hon. Gentleman is right to draw attention to the CMA figure. Customers were, in effect, being overcharged by that over a considerable period. Indeed, that was a substantial precursor to the idea that there should be a price cap in legislation in the first place. A regime was in place that allowed overcharging by a variety of devices, a number of which were identified by CMA in its report. We want not only to cap the price for a certain period of time, but to ensure that the behaviour that allowed more than £1 billion to be overcharged is not repeated. We do not want to be back here in a few years’ time, saying “That is terrible—now we have to implement another price cap.”

The issue is not just about the price cap, but about what happens afterwards. We need to do what we can, both during the passage of the Bill and during the price cap, to ensure that circumstances in the market prevent such overcharging from happening again. One of the underlying aims of the Prime Minister’s statement about the savings that would arise was that the price cap should be more than just a temporary punishment for certain energy companies; it should be an attempt to reset the market so that things work differently. The proposal for the £100 saving derives from that.

In May 2017, the BBC site—I do watch the BBC—reported that the

“Prime Minister...said 17 million households would benefit by up to £100 from the cap on poor value standard variable tariffs.”

What has been in the papers recently is slightly different, but it is clear that the original plan was a £100 saving for customers paying standard variable tariffs. That is the public’s expectation, as franked by the Prime Minister, of the consequences of the price cap; committing to it in the Bill would show that our intention is in line with the results they expect. Including the £100 saving as a consideration for Ofgem would complete the circle. As I say, it was a suggestion not from any Opposition Member, but from the Prime Minister, about how the Bill should work. We merely seek to enshrine her words in the Bill.

Our other amendments serve essentially the same purpose but relate to later clauses, especially clause 8, which sets out a clear mechanism for the circumstances in which the cap can be terminated, describing subsection by subsection what will happen at the end of each year

from 2020 until 2023, when the sunset clause has effect. In each year, the trigger for rolling over the tariff cap conditions for another year is that

“the statement published by the Secretary of State in that year under section 7 is to the effect that the conditions are not yet in place for effective competition for domestic supply contracts”.

Our amendments would insert an additional condition for effective competition in each year, based on whether the Secretary of State thinks that

“effective competition does not exist for vulnerable or disabled domestic customers”.

3 pm

Vulnerable or disabled domestic customers are in a different position with their energy bills from a lot of other people who would previously have been on standard variable tariffs. Disabled people routinely face much higher energy bills than non-disabled people. Estimates from the charity Scope suggest that more than a quarter of households with a disabled person—roughly 4.1 million households—spend more than £1,500 a year on energy. Of those, 790,000 households spend more than £2,500 a year on energy. That is the circumstance they find themselves in with regard to household expenses and living costs. Compared with the average tariff of just over £1,000, that is a considerable additional burden of energy costs on those households.

The purpose of the amendment is to ensure that the Minister is sure that effective competition exists for those households with higher bills, so that they are open to the benefits of competition in the same way as those people who are paying lower bills. If the Minister does not think that competition exists for that subset of the population, the Secretary of State would be required to say that the conditions were not in place for the termination of the energy price cap that year.

That is what those amendments do. They are a sensible addition to the Bill—to what Ofgem should consider in the first place and to what the Secretary of State should consider in the last place, as it were, as the price cap moves through its life up to 2023. I hope the Minister will see a way to accept some or all of the amendments. Their intention is certainly to strengthen the Bill and the Minister’s consideration of it, and not anything else.

Alan Brown (Kilmarnock and Loudoun) (SNP): I rise to speak to new clause 1, which is tabled in my name. It replicates or mirrors amendments 8, 9 and 10 in trying to provide explicit support for vulnerable and disabled consumers.

In the Minister’s opening remarks this morning—in private and in the evidence session—she expressed her concern to ensure that vulnerable customers are protected in future. Clearly, part of the Bill’s aim is to protect the vulnerable and those who have been getting ripped off. When I asked one of the panels about improving the Bill, and I specifically mentioned vulnerable and disabled people, the representative from Citizens Advice said that the protections are implicit in the Bill, but not explicit. Ofgem agreed that the protection of vulnerable people needs to be considered, although it believes that some measures are already in place. New clause 1 would explicitly ensure that vulnerable and disabled consumers have that protection and consideration in terms of effective market competition for the grouping they sit within.

New clause 1 effectively mirrors a clause proposed by Scope—a charity whose strapline claims that it exists “to make this country a place where disabled people have the same opportunities as everyone else.”

Given that Scope are expert advocates and campaigners, I was happy to move this new clause.

As Scope rightly observes, people with disabilities are often high consumers of energy due to their impairment or condition. The hon. Member for Southampton, Test highlighted that a quarter of the households in which a disabled person resides—4.1 million households—spend more than £1,500 per year on energy, and nearly 800,000 households spend over £2,500 a year. That is a huge, significant sum and clearly has a huge impact on their expenditure. In terms of market regulation, it therefore makes absolute sense to make specific provision for vulnerable and disabled consumers.

We heard that some disabled people are protected under current schemes, but not all disabled people are automatically eligible for the warm home discount, and nor do they automatically get registered on the priority services register. That, again, reinforces why the Bill needs to make explicit provision for vulnerable and disabled people when setting, implementing and reviewing the cap, particularly in terms of whether conditions for effective competition are in place and whether the cap should be lifted.

We have already heard that, as predicted, additional protections will need to remain in place post cap. I want to conclude with an example from Scope. This is from someone called Lynley:

“Before I became disabled, I never gave heating a second thought. But now, as I’m home every day, things are very different. I find it hard to stay warm as I can’t move around to generate any heat. I need the heating on pretty much constantly. I also use an electric heat pad to help manage my pain and an electric powerchair to go outside. This equipment requires charging frequently. My energy bills are much higher than before, and—coupled with the loss of my income as a teacher—have made getting by very difficult.”

There is cross-party support for the Bill as a whole, and we all agree that it is about doing the right thing to protect consumers from getting ripped off in what has been a market failure to date. But let us do this absolutely properly and make sure that the rights of the vulnerable and the disabled are explicitly protected in the Bill as well.

Claire Perry: I would like to speak to amendments 4, 8, 9 and 10 and new clause 1. I will start with the first part of amendment 4, which requires a hard estimate on the face of the Bill as to what the saving might be. I was delighted to hear the hon. Member for Southampton, Test quoting our Prime Minister so extensively. I could quote some of the things she has said about the Labour party, but I would not like to challenge the spirit of cross-party consensus. *[Interruption.]* The hon. Gentleman really does not want to tempt me on that.

We can all sit and make estimates of what the savings ought to be, but all of that will depend on the level at which Ofgem chooses to set the cap.

Alex Norris (Nottingham North) (Lab/Co-op): Does the Minister think that it is regrettable that, in the newspaper with the biggest circulation in the nation, a legitimate expectation may now be created that the saving will be at £100 or greater?

Claire Perry: I am sure the hon. Gentleman listened to the Prime Minister talking about the Labour party as being divided, divisive, tolerating anti-Semitism and supporting voices of hate. He probably does not want to trade quotes the Prime Minister has given.

However, let me move back to what we discussed in relation to the previous amendment. We talked extensively about how Ofgem needed to set the level of the cap to avoid crowding out investment, to encourage switching and, importantly, to set the cap at a level that does not facilitate strong legal challenges. That is why it is so important that we let Ofgem—which I think we all now believe does have the capability, and does share our commitment, to get this done by year end—get on and set the cap.

My hon. Friend the Member for Chelmsford made the point about setting an arbitrary figure. The problem with that is that this is not an average figure. We all know that we tend to work in averages, so just having that as the target would lead to all sorts of gaming.

The three things we all want are for the cap to come in, for it to be set at the right level and for it to be proportionate—once again, I wish we were not worrying about legal challenges, but we have to make sure. This is absolutely vital.

The hon. Member for Southampton, Test and I have discussed at length the difference between a cap and a freeze. We do want this cap to move over time. We know that prices go up as well as down. We know that the wholesale cost changes. We want to have the most efficient energy system we can, but the cost may increase. Having this number in the Bill would, in effect, bind Ofgem into setting a number that had no relation to the underlying costs.

I absolutely support the hon. Gentleman’s intentions. He and I both want to see these sorts of savings. In fact, the average spread between the cheapest tariffs in the market and the average of the standard variable tariffs is more like £300, so we would both confidently expect the savings to be greater than this. I will turn to the prepayment meter cap—the safeguarding cap—in a second in relation to the specific regard for vulnerable customers, but it is notable that the average saving after the April increase will be north of £100. Customers who are on that tariff are more than £100 better off than they would have been if that tariff had not come into place, so there is evidence that more than that amount could be achieved.

I will turn now to the second part of amendment 4, plus amendments 8 to 10 and new clause 1, which was tabled by the hon. Member for Kilmarnock and Loudoun.

Kerry McCarthy: If I heard correctly, the Minister was saying that people on the safeguarding tariff would be better off. However, in evidence this morning we heard that people will be eligible for it only if they have successfully applied for the warm home discount. Is that right? There is a waiting list and money runs out before time, so would she give consideration to the notion that it should be people who are eligible for the warm home discount and not just the people who have actually managed to get it?

Claire Perry: That is a very important point, and the hon. Lady is extremely knowledgeable in this area. She brings me to the second part, when I will hopefully address her point.

[Claire Perry]

The safeguarding tariff came into force in April 2017. That perhaps gives the lie to the idea that the previous Government did nothing; this was all part of the pressure that we put in place. The tariff initially affects people who are on prepayment meters, who are often exactly as the hon. Member for Kilmarnock and Loudoun described—perhaps living in fuel poverty. That tariff is put in place by the CMA—it is nothing to do with Ofgem—and it will run until 31 December 2020. We have seen Ofgem extend that to this additional group—those who have claimed warm home discount—as the hon. Lady quite rightly said. She raises an interesting point, and we should take a look at it to ensure the maximum number of people are capable of achieving that safeguarding discount.

I asked the team to look at the impact on the bills of customers on these tariffs. Before the safeguarding tariff came in, the PPM average standard variable tariff was about 5% more expensive than the average standard variable tariff. Now, those who are on the PPM and vulnerable tariff pay on average 8% less than those on standard variable tariffs. That is absolutely working, independently of the Bill, to deliver the savings that we want to see for vulnerable and disabled customers. Those caps will continue to be in place, and it is very important that both are in place and that the Bill does nothing to remove eligibility for them.

I want to talk about some of the other duties on Ofgem, which are already covered in clauses 1(6), 7 and 8. They require Ofgem to protect all existing and future domestic customers, including vulnerable and disabled customers, and to consider whether effective competition is in place for the domestic energy supply as a whole. When effective competition is considered, it has to apply for all customer groups, including vulnerable and disabled customers.

James Heappey: Before the Minister gets too far from the issue of vulnerable customers and the cap, I thought National Energy Action's evidence this morning was interesting. It is probably premature to react to that evidence by enacting the Opposition's amendments. Could the Minister confirm that she will go back and look at whether the evidence provided this morning warrants some action, perhaps before the Bill comes back on Report?

3.15 pm

Claire Perry: Again, it was a very effective evidence session this morning. I was just going to come on to some of the other support we are looking to provide, in particular through the Energy Company Obligation, where we may be looking to help a broader group of people than is currently eligible.

I want to touch on some of the other duties that Ofgem already has in relation to protection of this customer group. The original gas and electricity Acts place a duty on Ofgem to protect the interests of existing and future customers. In carrying out this duty, Ofgem should have regard to the interests of individuals who are disabled or chronically sick, individuals of pensionable age, individuals with low income and individuals residing in rural areas. So I would argue that Ofgem already has

these duties in place as part of its conditions. Indeed, the Bill, in which we make it explicit that we need Ofgem to consider all customers and all competition in setting the cap, makes the amendment surplus to requirements.

Stephen Kerr: I just have a brief question. I know the Minister has acknowledged the Select Committee's work on pre-legislative scrutiny. One of the recommendations in its report was about amending the Digital Economy Act 2017 to allow data to be shared with energy companies. That is a huge impediment right now to getting help to the most vulnerable—particularly those who are on SVTs.

Claire Perry: Yes. Again, I want to thank my hon. Friend and the Select Committee for bringing forward a series of recommendations, which we have accepted. He refers to a statutory instrument that is being started in the Cabinet Office, which I am assured will receive assent—or whatever the right word is—during the passage of this Bill, subject, of course, to cross-party support. That opens up the opportunity for much better data sharing to support vulnerable and disabled consumers.

It is extremely important that we continue to look at this group. We heard today that some of those we might consider most vulnerable are also the most assiduous switchers, because they simply do not have a penny to spare. I guess the issue I have, which is why we are here, is that we do not want people to have to invest the time in shopping around to feel that they are always getting the best deal.

Households that are receiving the warm home discount, in addition to qualifying for the safeguarding tariff, get £140 a year. Of course, we protect our pensioners, with up to £300 a year for winter fuel payments. Sadly, the cold weather payment was also triggered in the last couple of weeks, and that was another £25 during the cold snap. There is also the priority services register, which is a free service provided by suppliers for people of pensionable age who are disabled or chronically sick, have a long-term medical condition or are in a vulnerable situation. Those people go to the front of the queue should an emergency—a supply interruption—interrupt their heating or cooking facilities.

Finally, I want to mention the ECO consultation, which we will bring forward shortly. It is my intention, as far as possible, to pivot the whole of ECO to focussing on the challenge of fuel poverty and trying to make sure that those in the greatest poverty receive the greatest benefit, but also to use the programme to support more innovation and more targeting. I live in an off-grid area, and I am fed up of getting ECO leaflets through my door. It does not feel like the best targeted scheme to me, and I would like it to be targeted at those who are perhaps time-poor and need the help the most.

Kerry McCarthy: In the NEA's evidence this morning, it said that one of the additional things needed for a package for the most vulnerable customers was energy efficiency measures. I know the Government are consulting on energy efficiency programmes, and particularly on amending the energy efficiency standards for rented homes. May I urge the Minister to make sure that that is brought forward quickly as well, because it will take a

while to implement these measures in people's homes? This is not just about lowering the bills; it is about making sure that people are not using huge amounts of electricity and gas in the first place.

Claire Perry: The hon. Lady is quite right: the great thing about energy efficiency in the home is that it cuts both carbon emissions and bills, so it is a win-win situation, and that is why we have set an ambitious target. She is right that we have started with homes in the rented sector and the social rented sector, and our intention is to make sure that progress is delivered as soon as possible.

Dr Whitehead: I am grateful to the Minister for not exactly spilling the beans but giving us a little preview of what the Government will come up with in response to the consultation on ECO. If there is to be much more concentration on those in fuel poverty, regardless of one's view on whether the total sum on ECO is sufficient to do what we want on energy efficiency, that is a positive step.

Will the Minister also say a word or two about the regulations that I think are still not yet with us on the responsibilities of landlords to raise the energy efficiency of their properties? I am sure the Minister will know that overwhelmingly those who are vulnerable and in fuel poverty are concentrated in that private rented sector—

Claire Perry: I am not sure I agree.

Dr Whitehead: Substantially, I think we can agree. Does the Minister have any idea whether the regulations will turn up shortly? Secondly, if they do turn up, will they have within them the requisite amount of money that landlords should spend on bringing their properties up to band E, so that we can have reasonable assurance that will help vulnerable and fuel-poor customers?

Claire Perry: At the risk of being ruled out of order, I will write to the hon. Gentleman. He is quite right that we want to make sure that people are not living in private rented accommodation with poor quality safety or energy efficiency. We intend to introduce those regulations—indeed, they are already on the statute book. We intend to make sure of the maximum amount of cash that is required.

The other question on this is that the vast majority of landlords are small: they are people owning one or two properties that they rent out. As the hon. Gentleman will know, the whole scheme was based on the green deal. It was a Bill Committee that I was proud to sit on; we thought that was going to provide a financing mechanism, but it has not. That is why the work of the Green Finance Taskforce, which we will be bringing forward to assist in financing mechanisms, will be helpful. I will write to him with those details.

Turning to amendments 4, 8, 9 and 10 and new clause 1, I hope I have persuaded the Committee, first, that to put an arbitrary number for savings in the Bill would not be appropriate. It would not be an average number and is not necessary, because we can see from the safeguarding tariff that bills have fallen. Also, we would all expect that number to be greater. Secondly, I think

we are all seized of the need to protect and improve services for vulnerable customers. That is part of Ofgem's duty and is part of the tariff cap conditions and the conditions for competition. There is a lot of support already. I take the point made by my hon. Friend the Member for Wells that more needs to be done. That is why we would like to bring in ECO, to make sure that that customer group is paying the least possible for their energy and getting the best possible service.

On that basis I invite the hon. Member for Southampton, Test, to withdraw his amendments.

Dr Whitehead: As I have mentioned, our amendments are requirements on Ofgem to take these matters into account. It may be that, as a result of what we have discussed in Committee—after all, it will be on the record—that Ofgem might consider itself to be rather better instructed.

Claire Perry: I want to emphasise that this is exactly why this process is so incredibly helpful. The signalling that collectively we can give about the need to consider the conditions that might be there—albeit perhaps buried in a statute book somewhere—is vital. That is why it is a pleasure to have these conversations.

Dr Whitehead: I think the Minister for giving that additional weight to the points we made this afternoon, which will amplify our intentions for those reading our deliberations. It is clear that the intention behind the amendment—what Ofgem should have regard to in setting the tariff cap—is shared across the Committee.

I also take the point in practice that the first part of amendment 4 would give Ofgem additional work and could be a little problematic as far as getting the amount right before the price cap comes in is concerned. It might have been prudent for the Prime Minister to put those caveats in what she said a little while ago about how the Bill was to proceed, but on the basis of our discussion this afternoon, I do not wish to proceed further and I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 1 ordered to stand part of the Bill.

Clause 2 ordered to stand part of the Bill.

Clause 3

EXEMPTIONS FROM THE CAP

Dr Whitehead: I beg to move amendment 5, in clause 3, page 3, line 17, after “Authority” insert “wholly”.

Hon. Members will find the amendment rather hard to spot. It is to insert one word, “wholly”, and I want to explain why that is important and give some of the background to how the clause came about in the first place. There is no universal agreement on the need for the clause. After all, it exempts certain providers of certain tariffs from conditions that elsewhere will apply as far as the price cap is concerned. The providers exempted under subsection (2)(b) are those that appear to the authority to support the production of gas or the generation of electricity from renewal sources. There are a number of arguments about whether an exemption should be in place; my view is that there should be.

[Dr Whitehead]

We heard in the evidence session this morning about suppliers of renewable tariffs ensuring that what they source is genuinely from renewables. They might undertake power purchase agreements from independent producers so that they can guarantee that their tariffs are sourced directly from those producers or, under certain circumstances, they might have their own supply of renewable energy because they have themselves invested in wind farms or other forms of such energy and therefore know that their renewable energy is wholly such. Under those circumstances, those companies—there are a number of them—inevitably incur rather more complicated arrangements in the delivery of their tariffs and in guaranteeing that these really are what they say they are, wholly renewable tariffs delivered to customers on that basis.

3.30 pm

Bambos Charalambous (Enfield, Southgate) (Lab): When I asked Octopus and Bulb this morning whether there was a need to tighten the definition of renewable energy, they both agreed that there was. They saw it as a way of the big six getting round the cap. So does my hon. Friend agree that there needs to be a tightening of the definition?

Dr Whitehead: Yes, I certainly do. If one first agrees that this particular provision should be made, the question of tightening it is quite an important aspect of the Bill.

I am sure that hon. Members will be aware that the draft Bill, when it first appeared, had a much wider and I think much less satisfactory definition of the circumstances under which an exemption could be made. The Select Committee that considered the draft Bill and produced its excellent report singled out this particular clause as one that should be strengthened, as my hon. Friend the Member for Enfield, Southgate has pointed out. It thought it should be strengthened on the basis that a number of stakeholders viewed the Bill as then drafted as allowing for

“unscrupulous suppliers to game the system and avoid the cap by moving customers on poor-value tariffs onto loosely-defined green tariffs.”

It recommended:

“The Government should work with Ofgem to strengthen the definition, standards and checks for electricity tariffs with environmental claims so the system cannot be gamed in this fashion and undermine the success of the cap.”

That concern was absolutely right. Regrettably, it is the case that throughout the present tariff offer a number of tariffs are in place that purport to be green tariffs, but when we drill down to what they consist of, they are pretty much not green tariffs. They may have a part of renewable energy in their make-up. It may be claimed that the company is advantageously purchasing renewable energy as part of its overall purchase arrangements, but of course we know in terms of today’s energy mix that it is fairly difficult to rigidly remove oneself from purchasing any renewable energy in the portfolio of purchases for tariff purposes.

James Heapey: I have huge sympathy with the point that the hon. Gentleman is making. My concern is that we risk letting the perfect be the enemy of the good. There may well be tariffs that are 95% or 99% green that

really should be supported, but would not be under his amendment. The wider issue of greenwashing is a matter for the regulator more generally, rather than specifically a matter for this Bill.

Dr Whitehead: I take the hon. Gentleman’s point. I have tried to think about this point precisely on those sort of lines. It is difficult, in looking at such tariffs, to see the circumstances under which a company offering not a wholly renewable tariff is protected from a slippery slope—from going right down that slope and saying, “Well, as long as there is something in there that is renewable, we can call it a renewable tariff.”

I was about to make a point about the circumstances under which companies trade. Normally, because of the extent of renewable penetration into the energy system, most companies will come across a renewable supply as part of their trading arrangements. As I said, it is pretty difficult to avoid that, so we can imagine how relatively easy it is in principle for someone sitting in a company boardroom to say “How can we produce a tariff that looks like a green tariff but does not give us any sort of problem in producing it? Why don’t we just set aside what we have come across by chance, as far as our energy supply is concerned, say that it is our green purchase and put it in a tariff? Then we will have a green tariff and will be fine.” No work would have been done to distinguish that tariff from anything else, and the company would have no intention of doing anything within their tariff offer but trade in the ordinary way. That is a worry.

Caroline Flint: This is an important area of the Bill. Does my hon. Friend agree that there is a requirement on energy companies to source renewable energy—quite rightly—and those costs are already spread across all bill payers? Why should there be a premium on top?

Dr Whitehead: The point that my right hon. Friend makes is, I think, taken into account by the circumstances that now apply across the board for energy sourcing. As she and I know, having talked about this for years, the process of the renewables obligation did impose a particular obligation for a proportion of energy purchased to be green. Then there was a system of trading those obligation certificates. Those people not directly purchasing green energy would have to purchase certificates, which could be traded from those who had actually traded in green energy in the first place, so that those involved had, in one way or another, carried out their obligation. The overall design of the renewables obligation system was to encourage the production of green energy, because the beneficiaries of the certificates when they were traded in cash would be the producers. That was a system that very much incorporated in it an incentive to trade in green energy in the first place.

Now, of course, the renewables obligation is no more. It continues as a ghost trade system and will continue on a declining basis, I think, until 2027, but as of March 2017 no more renewables obligation certificates are being issued. They are being replaced by the contracts for difference system, which does not impose an obligation to purchase green energy in the same way as the renewables obligation system did. The prospective system does not, as my right hon. Friend suggested, provide a universal underwriting of green energy production. She is right,

of course, that the system overall encourages renewable energy production, but not in the same way as the renewables obligation.

I do not think that that particularly detracts from my right hon. Friend's fundamental point, but it puts us in a position where we can properly consider the idea that a number of energy companies might accidentally, as it were, purchase green energy that does not, otherwise, have an obligation attached to it, and introduce it as part of a green tariff that is not really a green tariff. I suggest that companies wholly in the business of producing renewable energy, or those that produce it from their own sources or sources guaranteed through a power purchase agreement, or something similar, with the operator, are in a different category. I want to emphasise that difference with respect to the purpose of the amendment.

James Heapey: I think the point made by the right hon. Member for Don Valley was really about the existence of clause 3(2)(b) in the first place. I have a lot of sympathy with that. I think it is unhelpful to mark out green tariffs as a premium product—that is counter-intuitive to the wider effort we are making. However, if clause 3(2)(b) must remain, I am not convinced that the amendment tabled by the hon. Member for Southampton, Test is necessary. I encourage him to consider again whether where we all agree is that Ofgem might take a much more robust view on the practice of greenwashing and that that is the actual challenge that we want the regulator to close with, not necessarily an amendment to the legislation this afternoon.

Dr Whitehead: I would say that the essential point is how far up the beach and close to the walls the greenwashing actually goes. Can we conversely say that we can put greenwashing into a particular box and say “That looks like greenwashing”, but as we move up the scale of more and more renewables in the system, the greenwashing ceases and therefore can we say that this really is a renewable product and is something we can apply special exemption arrangements to? That is the nub of the debate.

Stephen Kerr: I would like to share with the hon. Gentleman the very words of Dermot Nolan in relation to this issue. In evidence to the Select Committee, he said in answer to a question about how it is decided whether energy is green or not:

“There are ways to determine the source of energy as to whether the generation of energy by that company has occurred in a sufficiently green fashion, which we have a definition for already, although not a perfect one. We would make specific requirements of companies on that. We would audit them and we would police it. If they were not compliant, we would tell them they must immediately withdraw the tariff or face enforcement action.”

That answer and the agenda that Ofgem is following make the amendment redundant.

Dr Whitehead: That is a reasonable and honestly held opinion about the extent to which it is possible easily to distinguish when greenwash is not greenwash and the point at which an energy company, even with a partially green tariff, puts in something that is honestly green and not something that they have just cooked up because they happen to have purchased something that has an element of traceable green energy in it.

Even under the circumstances that the hon. Gentleman mentions, it would be fairly difficult for Ofgem to make easy distinctions when it came to what it was doing about tariffs that could be jumbled up with a lot of brown energy but nevertheless be claimed to be at least partially green.

I have tried to think this through and consider how we might be able to make honest citizens of those companies under such circumstances. It is possible to argue that even if a company accidentally buys green energy, if it is genuine green energy, then yes, it has sourced green energy. However, the bar needs to be set rather higher.

Vicky Ford: The hon. Gentleman's amendment uses the word “wholly”. In my view, “wholly” means that 100% of the energy would be renewable. To me, that is wholly unworkable. I want more consumers to get more choice. If they really wish to buy more renewable energy packages, they can do that. I would also like to see green tariffs that encourage smart consumption—smart appliances that switch on and off at peak times, for example. Those could also be bundled into a green tariff.

Furthermore, as more and more people want to buy renewable packages, what happens at a peak time on a very, very cold day when our renewables cannot cover the amount of consumption those consumers need? Would they have to be switched off and have no energy at all? Would they not be allowed any back-up supply? “Wholly” is not the right word.

3.45 pm

Dr Whitehead: I hope the hon. Lady will forgive me for saying this, but she makes a rather good case for my amendment. Let us consider circumstances, such as those she mentions, in which insufficient renewable energy is generated on a particular day to “go round”. What we mean by “go round” is that renewable energy, in most instances, is variable. If we look at our little National Grid—

Claire Perry: The app!

Dr Whitehead: The app, to see what is being generated on any particular day, we will see that it varies from 4% or 5% to 20% or more, depending on the circumstances, so it certainly is true that there will be a variable amount of renewable energy to go round.

However, that is not the point as far as renewable energy suppliers who contract to supply wholly from renewable sources are concerned because they will provide themselves with power purchase agreements or will own their own generating capacity and guarantee that, come what may, what the consumer gets as a result of their tariff is renewable. In a sense, they will have pre-empted the “not enough to go round” point by guaranteeing with their arrangements that there is. I suggest, precisely for the reasons the hon. Lady set out, that that can be problematic for those companies. Nevertheless, that is what they guarantee as part of their tariff.

As far as brown energy companies that want to do a bit of greenwashing are concerned, the hon. Lady is absolutely right that if there is not enough green energy to go round they remove the portion of renewable

[Dr Whitehead]

energy from their supply and the tariff becomes browner, even though they say it is partially green. That is precisely what the amendment seeks to avoid, by making the starting point that the exemption applies to tariffs that are clearly wholly renewable and about which it can be said without a doubt that that is what they are—no messing about. That is why they should be exempted.

Michelle Donelan (Chippenham) (Con): Further to the point made by my hon. Friend the Member for Chelmsford, I am a little confused as to why the hon. Gentleman would add “wholly” when he admits that that is a virtually impossible state for companies to be in at present. Would the amendment not make the Bill have a null and void section, if the word “wholly” was used when that was unachievable?

Dr Whitehead: Forgive me, but I was trying to distinguish between other companies and those that guarantee to provide a green tariff come what may because they have either their own supplies or a power purchase agreement with a supplier that guarantees to supply them come what may with renewable energy.

Let us remember that not all renewable energy is variable. Not all renewable energy is reliant on a variable supply being continuously variable. I have recently been to see a number of plants, one of which was a large solar farm close to the Minister’s constituency, which had a large battery installation next to it. The power produced from that source is continuous even though the solar is variable because of the existence of the battery. If a company offering a wholly renewable tariff has a power purchase agreement with that producer, it will have a reliable source of renewable energy come what may, because that is the contract it has made. That is essentially the contract that those companies are undertaking on their renewable tariffs.

Michelle Donelan: Is that not disincentivising the green company from growing? It knows that if it takes on more consumers, it cannot 100% guarantee to fulfil their needs on a cold day or in a cold snap. That would cap the green market, which is contrary to what we want to do—we want to encourage it to grow.

The Chair: Order. Before the shadow Minister responds, we will have a short comfort break.

3.50 pm

Sitting suspended.

3.58 pm

On resuming—

The Chair: We return to amendment 5 to clause 3. I call Dr Alan Whitehead.

Dr Whitehead: I was about to reply to the hon. Member for Chippenham, who suggested that the amendment might be superfluous because, as she put it, if companies cannot supply from renewable energy in any event, putting forward an amendment to require an exemption only where a supplier wholly supplies renewable energy might be a step too far for the energy market.

The amendment sets the bar fairly high, but not impossibly high. Companies that genuinely supply renewable tariffs have effectively pre-empted the variability of the market by securing reliable renewable supplies one way or another in advance, because of their power purchase agreements or their individual ownership, so that they can reliably offer a renewable tariff.

On a wider basis, it is true that what we want is to have as much renewable energy on offer as possible, as a general policy good thing, but that amount on offer will necessarily vary, although as I think hon. Members can see—the Minister has mentioned the nice app that we both watch regularly—those numbers have come up enormously in recent years.

4 pm

To all intents and purposes, to have no renewable energy—even on a pretty windless day, the sun might be shining so there is a lot of solar—there would have to be a day in which no wind was blowing anywhere, there was an overcast sky and possibly rain. There would be no wind even on the North sea, or on the other side of the country—those prevailing winds coming in from the Atlantic would not be doing the business for the farms on the western side and in the approaches to the British isles. Subject to ministerial agreement soon, there might also be the Swansea tidal lagoon arrangement—provided the tide is coming in or going out, which it normally does—to provide a pretty reliable source of renewable at that point too.

Objectively, therefore, we are no longer in a position where the sort of circumstances that some hon. Members have suggested might be the case will be the case. However, renewable energy generation is still variable to some extent. That is the point that I essentially want to make: it is important that we distinguish between those companies that know they can genuinely offer a wholly renewable tariff, and can be audited properly as doing so, and those that may offer a part-renewable tariff, but cannot really be audited as to what the constancy of their supply is.

That is what I think we need to do to strengthen marginally what I freely acknowledge to be a much-strengthened clause anyway, compared with how that clause stood before it was looked at by the Select Committee. The Minister has done a good job in responding to the Committee and in ensuring that within that definition there are much clearer lines as to what is renewable and what is not, and what is a renewable tariff and what is not.

I am suggesting a small sparrow on the shoulder of eagles—an additional point to make the provision absolutely right. I hope that the Minister will be able to accept the amendment in the spirit in which it is intended and as an assurance that we get the Bill completely right. That is the beginning and end of the purpose of this amendment. I hope that it can be accepted on that basis.

Caroline Flint: It is a pleasure to serve under your careful stewardship, Ms McDonagh.

I find myself in an interesting position. I completely understand what my hon. Friend the Member for Southampton, Test is trying to do with his amendment. The sense I get from the interventions so far is of common agreement, and that is also the response of the

Select Committee. I am glad to see on page 24 of the Select Committee's report that I have a footnote—I have never been a footnote before, and I am so proud. Good Energy and I, and others, made a submission to the Select Committee about why we have to be very careful about gaming in moving forward in relation to the price cap.

My hon. Friend has clearly outlined the concerns that we have—and share with others across the House and those outside who have made representations—about the danger of people trying to use green as a way to avoid providing fair prices. Let us be clear: we are talking about the sticky customer base—those people who, year in year out, find that their energy bills go up. The CMA review and others have found how people have been overcharged for a number of years now, and there has been much discussion in this place about that. I totally understand my hon. Friend's intent in trying to introduce “wholly” as another way to separate those who might game the system from those who are in all good faith seeking to invest in and buy 100% renewable energy.

My only problem is that I feel that we want to make this legislation as simple and straightforward as possible, given that there is also agreement that this is a temporary measure for a period, which will hopefully allow people to get a fairer Bill for their energy and not be overcharged, and in which we and the Government can look at what further reform might follow from this in the future. My hon. Friend and I have spent many hours discussing that and we think there is much that could be done—but that is not for today's debate, Ms McDonagh.

As someone who very much supports renewable energy, not only for our electricity and power supply but for our heat supply as well, I am not sure of the evidence. I may be convinced during the passage of this Bill that a premium price for green energy stacks up. I might be wrong, but I am not sure it does stack up. I apologise to colleagues on the Committee that I was not able to be here this morning, but I have read the written submissions—in particular, those from Bulb and OVO, who outline their concerns about exempting green tariffs from the legislation. A lot has been done to contribute to today's situation, where the sort of energy that we want, for climate change and in terms of being innovative in the sector, has seen a huge reduction in overall costs and is therefore able to compete very effectively in the market.

Claire Perry: In my mind, the right hon. Lady is not a footnote—she is a major chapter heading. I am enjoying listening to her speech, because it was largely as a result of the great cross-party consensus that we brought in the Act—and some pretty tough decisions, which she supported in her shadow Secretary of State role. That is why we are able to buy renewable energy at prices that do not require a substantial subsidy. That is why we all look forward to a situation where customers should not be charged a premium for that renewable energy source.

Caroline Flint: I thank the Minister for that intervention—I aspire to be a book. *[Interruption.]* A library, no less. Goodness. People will not be able to work out what the hell we are talking about in this Committee!

A lot has been done to drive investment in the renewable sector, and some of that is ongoing. My hon. Friend is quite right that the renewable obligation is coming to, if not its end, then close to it. We also have contracts for difference. We also have the renewable heat incentive for heat. A business in my constituency that produces green gas is a beneficiary of that. In lots of different ways, there continues to be support for renewable energy of one form or another. No doubt, should it get the green light, the tidal lagoon will also be receiving a contract for difference that will guarantee a price for what it produces over a number of years.

I would question my hon. Friend, and also the Minister—she has tried to tighten up the wording and, in this clause, has enabled Ofgem to step in, assess, consult and what-have-you—because I am still not convinced that there is any need for exemptions in the way they suggest. The more complicated things become, the more clarification that is required and the more points at which Ofgem is tied up finding a formula for what the price should be—we will have more discussions down the road about how often that should happen and the methodology for that—the more tasks we are giving it, which could lead to more confusion. The last thing I want, after all this, is a legal challenge that could stop the price cap being in place in time for the people we care about as they start paying their winter bills in 2018 and early 2019.

I hope we can think more about those issues. We may not resolve them today, but we should give them some more thought—I certainly will. I might be wrong about this, and I am happy to receive submissions and thoughts from others outside this place. For reasons of simplicity, and for the development of the renewable energy market and how it has been helped to get to a place where it provides cheaper energy today than our fossil fuels, it is still worth considering whether any kind of exemption is warranted in the Bill.

Alex Norris: It is a pleasure to serve under your chairship, Ms McDonagh. I will briefly follow the contributions of my hon. Friend the Member for Southampton, Test and my right hon. Friend the Member for Don Valley with one simple point.

I should say, for context, that we have obviously broken out into violent agreement—that is always good—not just on the need for the legislation, but on what it is for. It is not the end state that we seek, but a key part of getting us on the journey there. We all want the market and the providers to use this time, whether the full five years or not, to change practices so that, at the other end, the consumer gets what they need. There is a lot of enthusiasm for that.

With that in mind, as we look at each and every line in the Bill, we should think about how the individual words fall and the unintended consequences that might arise from a superfluous word or a missing word, because we know—and we would expect nothing less—that there will be conversations in the big companies about the different ways to approach the next five years. The choice will be whether to genuinely change or to game the system. We have to be mindful of that and look to close down every possible opportunity to game the system, so as to be clear that this is legislation to drive proper change. It is a short-term cap, but will lead to a long-term benefit.

[Alex Norris]

The amendment does that. It takes up the cudgels from what the Select Committee said. It is proportionate, simple and easy to understand. I understand that delivering what sits behind it may be complicated, but it sends a clear signal about what this Parliament values and I support it.

Claire Perry: One little word has provoked a substantial and excellent debate. There is a genuine sense in the Committee that we all want to achieve the same thing: companies not being able to game the system, and tariffs that deliver for consumers and do what they say on the tin, so that if they say they are renewable, they are actually renewable, not just a package of greenwash. That is why I genuinely feel that the crowdsourced approach to legislation can be very good. I pay tribute to the Select Committee process, once again ably represented by my hon. Friend the Member for Stirling, who helped us to focus on the issue. I was pleased to hear several hon. Members comment that we have tightened up the wording accordingly.

We are wrestling with questions around gaming and what a green tariff looks like, and this question of “wholly” or “in part”. All those will be addressed by two processes, which I will talk briefly about. First, as the right hon. Member for Don Valley said, we have quite properly tasked Ofgem with looking at the whole issue. I think I am right in saying that it has never been asked to review the whole suite of green tariffs in the market and opine on whether they are any such thing.

A co-benefit of the whole process will be understanding what is out there, whether it is wholly, partially or not at all green, and what the price premium for some of those products is. I was a very early Good Energy customer, over 10 years ago, and—

Kerry McCarthy: So was I!

Claire Perry: I am afraid that, unlike the hon. Lady, I came off it, because it was so expensive—I apologise if she thought we were going to have a nice bonding moment over our green tariff. By the way, having heard the evidence, particularly from some of the more nimble companies coming in, I have every intention of looking very closely at changing my tariff again. However, the point is that the world has moved on. As the right hon. Member for Don Valley pointed out, prices have dropped and there is a question as to why we should be paying a premium tariff.

I would like the amendment to be withdrawn today—albeit on the basis that we do not yet have a brilliant fact base—but the offer I would make to every member of the Committee is for my team to put together a list of all the green tariffs in the market already and perhaps to ask for some evidence for to what the price premium is, so that when we look at this issue again on Report we will perhaps all feel a little bit better informed about this part of the market structure.

4.15 pm

James Heapey: It is useful that the Minister will go away and make an analysis of the green products that are already on the market. I wonder whether she might

also, with the evidence from Octopus and Bulb ringing in her ears, go away and ask the Department to go for just one more lap on whether or not this exemption is necessary all together, or whether it might do more harm than good when it comes to promoting green energy and the way that consumers regard green tariffs.

Claire Perry: I am sympathetic to my hon. Friend’s point; he is extremely knowledgeable in this area. However, as we have been through, particularly in the draft scrutiny process, we genuinely do not want tariffs that customers actively choose to be on, and which support the welcome development of creating demand for the renewable market, to be captured, as it were. The hon. Member for Nottingham North made the point about unintended consequences, and that is why word-by-word scrutiny is so important. The BEIS Committee supported that view, and I think the legislation has been substantially improved by that process. I am therefore less inclined for the proposal to be withdrawn completely, but I want to talk a little more about the point that the hon. Member for Southampton, Test made. I have talked about publication transparency. To me, transparency—having Ofgem look at these tariffs, probably for the first time—is an important part of establishing that this is a credible part of the market.

Kerry McCarthy: I should say that although I have been a Good Energy customer for some time, we now have Bristol Energy—there is that conflict between being green and giving support locally; I think it has now introduced a green tariff. Another west country electricity company, Ecotricity—which has made a submission to this Committee very late in the day—is concerned that if the cap is introduced across the board before the green exemptions are looked at, its customers might find their bills having to go down when the cap comes in, only for Ecotricity to have to turn round and say, “Actually, we’ve got this exemption now. We want to put your bills up.” At the risk of delaying the introduction of the cap, I urge the Minister to make sure that the green exemption issue is sorted out at the same time that the cap comes in.

Claire Perry: In standing up for her local enterprise, the hon. Lady pre-empts the second point I was about to make, which is that we will use transparency, but we will also use the Ofgem consultation process to do exactly that. Ofgem has to consult—it has to review the existence of these tariffs and understand what they mean—and it will have to do that as part of creating the cap, because it is a condition of introducing the cap that those exemptions are also carefully defined.

There is an interesting question. There is the transparency issue, there is the consultation issue, but the third thing is this: is it zero, 100 or somewhere in between? It will be explicit, I think, in conducting that analysis that Ofgem has chosen a level of what it thinks this level will be. I totally understand the point that the hon. Member for Southampton, Test made about us all wanting a world in which renewable energy is not intermittent. Indeed, I opened Clayhill solar farm, the country’s first subsidy-free solar farm, partly because it has managed to achieve on-site storage, providing both a better economic return and overcoming the problem of intermittency. That is all absolutely correct.

However, we are not there yet, and I was very struck by what my hon. Friends the Members for Wells and for Chelmsford and the right hon. Member for Don Valley said. They said that we want to be in a world where we are not stifling that evolution, but instead creating a demand for those tariffs in the future. It may be that, in setting out its view on what constitutes the tariff, Ofgem will say that it is 75%, or 95%, or 50%, and we will all have a chance to respond at that point. I absolutely accept the spirit in which the hon. Member for Southampton, Test tabled the amendment, but I fear, as we talked about, that it would have the unintended consequences of driving some tariffs out of the market and creating other perverse incentives.

I would like to put on record that the issue of gaming exercises us all. I have said this to the energy companies and I will say it face to face: if they think they should be spending their energies working out ways to game the tariff, as opposed to delivering better consumer value and service, we will put them on notice that that is exactly what none of us wants to see. That is a strong message that we have all delivered.

I am happy to provide more information to inform the debate. I have listened carefully to the excellent contributions, but I hope that the hon. Gentleman sees that this one tiny word creates a series of unintended consequences that perhaps weaken the cap and that he is therefore content to withdraw the amendment.

Dr Whitehead: I take the Minister's offer to give further and better particulars about green tariffs, including what they consist of, what the relationship between part-green tariffs and wholly green tariffs is, and what the cost is, as essentially a suggestion that the matter should at least partly be placed on the Table and might be revisited on Report, depending on what we see. It is an excellent suggestion and I very much welcome it.

Claire Perry: To be clear, I am not inviting further amendments to the Bill—far from it. My hope is that during the passage of the Bill, with the joint messages we are sending out with cross-party support, the requirements for more information and transparency that will accompany the Bill's passage—because they have to inform the tariff calculation—can only be helpful in this consumer market, even if they are not on the face of the Bill.

Dr Whitehead: I understand that the Minister is not inviting further amendments—it is her job not to—but I can envisage a circumstance in which we have gathered all the information together and some things scream out from it that we might consider on Report. In which case, we should properly do that. On the basis of that offer, and presuming that the information would effectively be in the form of a sort of late evidence submission to the Committee and would go to all its members—

Claire Perry: My intention is that we will write to all Committee members with the information.

Dr Whitehead: That is great. It is a very welcome suggestion and wholly constructive regarding what we are trying to achieve with the amendment. On that basis, I wholly agree that it should be withdrawn. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 3 ordered to stand part of the Bill.

Clause 4

NOTICE OF PROPOSED MODIFICATIONS

Question proposed, That the clause stand part of the Bill.

Claire Perry: I realise that, in moving swiftly through clause 2, I did not give anyone the opportunity to comment, so I feel that I should say briefly what this clause does and why it should stand part of the Bill.

The clause sets out the first part of the bespoke licence modification that must be followed by Ofgem to implement the price cap. They are the statutory steps that Ofgem will take and they will cover the final design and level of the cap. Concerns have been expressed that if organisations wanted to try to derail the implementation of the Bill, it would be by objecting to some part of that process. The process very much mirrors powers that Ofgem already has to modify the standard supply licence. The clause sets out the technical arrangements of the timing, the timings of notice of publication, and provides the steps to be taken before the Bill is passed, which I alluded to in earlier comments, so that as much of the work as possible can be done in tandem with the Bill's passage through Parliament.

Question put and agreed to.

Clause 4 accordingly ordered to stand part of the Bill.

Clause 5

PUBLICATION AND EFFECT OF MODIFICATIONS

Question proposed, That the clause stand part of the Bill.

Claire Perry: Again, the clause outlines the final part of the licence modification process that Ofgem must undertake to impose the tariff cap—this is the actual modification of the licence conditions and implementation. It, too, sets out the statutory steps that Ofgem must go through. Ofgem must set out how it has taken account of representations made during the consultation specified under clause 4. As we heard in the evidence session this morning, it must set a date that the modifications will take effect from, which must be after a period of 56 days beginning on the day when the notifications are published.

The clause also sets out that the appeal mechanism is via judicial review, rather than through an appeal to the Competition and Markets Authority. We have had a conversation about that—certainly during the very good Second Reading debate—which is primarily because we want nothing to get in the way of implementing the temporary price cap. The CMA's powers are used exclusively where there is a permanent control mechanism, but we and the Select Committee have taken substantial evidence to suggest that judicial review gives all interested parties an adequate means of address. A court has sufficient expertise to hear an appeal. A court is likely to be able to hear a matter more quickly than the CMA, which reduces the possibility of the implementation route being delayed.

James Heappey: I am keen to ensure that I understand the measure correctly. There is a 56-day period ahead of any modification being published, but presumably there is also a 56-day period for the initial implementation of the cap. Are we clear that Ofgem is content about being able to publish its cap within the five months—actually, eight weeks ahead of that five months?

Claire Perry: My hon. Friend makes a good point. I believe a very good letter was written to the Select Committee in which the timetable was set out specifically. Perhaps we can arrange for the letter to be distributed to the Committee—although I am not sure whether I have such powers over a letter to the Select Committee. Ofgem set out the timetable clearly, including all the statutory periods, with the assurance that it felt very capable of bringing the cap in before year end.

To return to the clause, in Committee we are very much of the mindset that the judicial review route, should someone wish to appeal against Ofgem's methodology, is appropriate and would not delay implementation. That was agreed in the excellent work of the Business, Energy and Industrial Strategy Committee.

Question put and agreed to.

Clause 5 accordingly ordered to stand part of the Bill.

Clause 6

REVIEW OF LEVEL AT WHICH CAP IS SET

Dr Whitehead: I beg to move amendment 6, in clause 6, page 4, line 31, leave out “6” and insert “3”.

I must confess that I have been following the past several clauses assiduously by reference to the draft Bill instead of to the actual Bill, although the Government had not made any changes, so I do not feel too out of sorts. However, with this clause, the draft Bill and the final Bill part ways considerably. Fortunately, I managed to realise where I was in time, so we can talk about this relatively short clause, which is on a review of the level at which the cap is set.

The clause is important because it is the clause that decides this is a cap and not a freeze. The requirement on the authority is that it regularly review the level at which the cap is set, on the basis of all the circumstances to which the market has been subject, and whether the cap should be modified or changed as a result of its review. Indeed, the clause requires the authority to publish a statement when it has done that review, as to whether it proposes to change the level at which the cap is set.

4.30 pm

For example, let us say that we set a price cap such that it comes in at the end of November 2018. Even if the cap was terminated towards the end of 2020 upon a statement by the Minister that competition had returned to the market and everything was okay, the mechanism, internally to the price cap over its period of existence, would mean that there would be—as matters stand at the moment in this clause—something like four reviews, which would lead to the authority issuing a statement saying whether the cap should stay at its previously agreed level or be raised. As I said, that would be determined by an inevitable consideration of what was happening to wholesale prices, which we know are sometimes fairly volatile.

It might be worth seeking a little clarification on this and assurances on whether we have sufficient clarity in our legislation here, but I assume that if those reviews, or one of those reviews, looked at the wholesale market, and that market had, for whatever reason, dropped

precipitously, and it was considered by the authority that that drop was not just a brief drop, but a fairly sustained drop, the authority would reasonably recommend that the cap be tightened—that is, that the top of the cap should come down, rather than go up.

We are making the assumption that that is a necessary part of the proceedings, because, as has been amply laid out, we know that wholesale prices are a factor in any price cap or price freeze. Indeed, as I recall from my conversations with my right hon. Friend the Member for Don Valley about the previous cap, which was discussed amply in this place, the question of what to do about wholesale markets, and how they tucked in to any particular cap or freeze and over what period, is central in constructing any cap in a reasonable way, and allows us to take account properly of the fact that companies subject to those wholesale price changes would necessarily have to absorb them or could have some sort of leeway given through consideration by the authority of how those changes might be passed on in a different cap.

Clearly, that cap, in principle, can work both ways. I am not sure—I would welcome an assurance from the Minister—that the authority would reasonably be required to consider tightening the cap on its review, if it turned out that the wholesale prices determined that it should do so. That is an additional reason why the amendment, which is even shorter than the previous amendment—it has one number in it, rather than a number of letters—suggests that the authority's review on the level of the cap should be at least every three months, rather than every six months. That would mean that the movement in wholesale prices could be better calibrated against what the cap consists of. Certainly, there have been suggestions that sticking to the requirement for a six-month review by the authority could lead to some clunkiness in the proceedings, because the cap would be in a certain position up to that six-month point, and then it would be clunked up and be in place for another six-month period.

We can imagine what may happen with the wholesale market if we look back over the last year and a half to two years of wholesale prices. If the movements in wholesale prices over the last two years were to be set against the likely period of the first stage of the temporary cap, we would see movements in those wholesale prices that could not easily be accommodated in a set of four interventions in that period. That is why we have suggested the amendment in this way, particularly in the context of the fact that wholesale prices could conceivably go both ways in that period—sometimes quite decidedly so—as they have done over the last few years.

I am sure hon. Members will have different views on the amendment, but it can be seen as strengthening the reasonableness of the Bill in terms of its approach to how we offer tariffs to customers under a price cap, and to how we offer reasonable circumstances to businesses operating under a price cap in which to do their business. We have a joint duty to ensure that the market works reasonably well for companies as well as for customers.

Someone may answer that it is not technically possible to reduce the time to three months, because so much time has to be spent reviewing whether the trend is long term or short term, so reducing the time would not allow anyone to be sure that the trend was a trend. I would accept that point, but failing that, reducing the

period to three months would be a wholly beneficial part of the cap, and it would be welcomed in principle on all sides of the debate.

Claire Perry: The hon. Gentleman again puts forward a sensible probing amendment that it is a pleasure to think about and speak to, but I will chance my luck and try to persuade him to withdraw it.

The hon. Gentleman is right that the review is a crucial part of the Bill's effectiveness. Is the cap set at the right level? Is the ability to change the cap clear? Have we set out the conditions under which the cap must apply? We will get on to the conditions as to what success looks like. Is the cap dynamic enough to make a difference in the market?

If I read clause 6 carefully, two words precede the hon. Gentleman's one-number intervention. In terms of reviewing the cap, the clause uses the phrase:

"The Authority must, at least once every 6 months".

When we had this conversation on Second Reading, I said, correctly, that the opportunity is there for Ofgem to review this cap more frequently than that, should it choose to do so. It can review it on a weekly basis or a three-monthly basis, but it must review the cap every six months. That is consistent with the reviews of the prepayment meter cap, which is already delivering savings of up to £120 a year, as we talked about, and which is what the excellent Business, Energy and Industrial Strategy Committee report recommended. I think that the flexibility the hon. Gentleman is seeking is covered by the words "at least".

Yet the hon. Gentleman raises an important point: what happens if there are suddenly wild fluctuations in the energy market, which we want consumers to benefit from, and particularly if there is a sustained price fall? I have looked at this a bit. It is a bit like the mortgage market: unless someone is on a tracker rate, changes in the wholesale prices do not always feed into the retail prices. Indeed, these companies make an art, or a science, of hedging their supplies so that they bake in what their margins look like on a future basis. Any sustained price fall would take its time to feed through to those companies' overall cost of energy provision.

Indeed, companies change their SVTs only once or twice a year, even though those are standard variable tariffs. We had a very interesting conversation this morning in Committee about whether that was a rather benign description—maybe we should be looking to tighten up the language a bit. These variable tariffs vary only once or twice a year. There is an argument that giving Ofgem a statutory duty to review this at least every six months provides an opportunity for the market movement to be greater than it is under the SVTs. I feel that with the words "at least" we have provided in the Bill for Ofgem to react to market movements or any other structural changes that would affect consumers. That flexibility is there.

As always, the hon. Gentleman has thought about these things carefully. As he alluded to, there is a risk that by specifying every three months, given that this is a short-term cap—it will apply for a minimum of just over two years and a maximum of just over five years—we would perhaps create an unnecessary process burden. We want Ofgem to continue to regulate this market well; we want it to continue to bring forward initiatives such as the cancellation of billing backwards for more

than 12 months and the work it has announced it wants to do in the wholesale energy markets to ensure that returns are proportionate. I am persuaded that by changing the period to three months, we would create a potentially unnecessary burden that does not deliver anything more than we have already allowed for with the wording of clause 6(1).

James Heapey: I got there in the nick of time. While the Minister has been speaking, I have been looking at Ofgem's tracker for wholesale energy prices. It is clear to me that in the first quarter of each calendar year, prices are particularly volatile and disproportionately higher than in the remainder of the year. In his evidence, Dermot Nolan said that, over six months, those midwinter peaks are ridden out. That means we should defer to his judgment that six months is the right unit, not quarterly.

Claire Perry: My hon. Friend again brings assiduous online research, which is marvellous, and his knowledge of this market, to support the point that Ofgem believes that six months is a proportionate time. The Bill does allow Ofgem—should it be required to do so by market movements, and that volatility persists over a period of time—to make the necessary adjustments. I know that I am on a winning trend, which may not last, but on that basis, I hope the hon. Gentleman is persuaded once again to withdraw the amendment.

Dr Whitehead: The intervention of the hon. Member for Wells demonstrates why I should not only have been looking at the right Bill in the last 10 minutes, but have brought my iPad with me.

Claire Perry: You are sat in front of the iPad queen.

Kerry McCarthy: Mine has died.

Dr Whitehead: There you are—I am on my own now.

At the heart of this proposal is the rocket and feathers issue that my right hon. Friend the Member for Don Valley is famed for in her past interventions in this area, which is about the extent to which, when wholesale prices go up, energy companies put prices up pretty assiduously to compensate for the additional costs, but when wholesale prices come down, the same picture is not quite so much in evidence. For various reasons—buying along the curve, hedging in the medium term and various other things—the energy companies all say, "Oh no, we can't possibly put our prices down, because of the positions we have taken." It seems to work one way rather than the other.

4.45 pm

Being able to reflect reasonably accurately what is happening and to direct a cap accordingly is potentially a very good thing. I did not entirely catch the Minister saying that Ofgem would clearly have the ability and the authority to tighten the cap if necessary under those circumstances.

Claire Perry: That is an excellent point, and I was thinking of exactly the same things when the hon. Gentleman was speaking. The rocket and feathers, by the way, sounds like a marvellous pub in the Don Valley

[Claire Perry]

that I would love to come and visit one day. That is an excellent description for what happens and, thinking it through, the existence of the cap protects against the feathers, because there will be a hard stop in the market that might accelerate the fall of the feathers or create something a little more weighty, on the same duration, or a more accelerated duration, than the current SVTs. It would be a prod to the market, to make sure that those downward prices are reflected in the price cap. On that basis, it could be very helpful to overcoming the problem.

Dr Whitehead: Indeed. As the hon. Member for Wells points out, over the recent period, there has been a pattern of volatility in the wholesale market, but not necessarily a pattern of predictability. The market tends to be rather more volatile at the beginning of the year; the level of volatility differs, but we know it is more volatile. There is the question of looking at that effect over the entire period of intervention of the cap, and how that volatility is factored into Ofgem's duties.

I take the point that the phrase in the Bill is "at least once every 6 months".

After what has been said this afternoon, I hope that Ofgem will consider fairly carefully how its interventions take place. It may well be that—after close consultation with the hon. Member for Wells—Ofgem comes along and says it will review the cap more frequently at certain parts of the year and rather less frequently at other parts of the year.

Claire Perry: I hope that the hon. Gentleman will agree that the wording of the Bill allows Ofgem to effect exactly those decisions, should it think it necessary.

Dr Whitehead: I take that point. Although I prefer to legislate with absolute certainty rather than hope, in this instance we can reasonably expect that Ofgem would look at that properly, as far as the market is concerned. On that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Question proposed, That the clause stand part of the Bill.

Claire Perry: We have had an excellent debate, where we have been genuinely probing and testing the Bill, and we have come to a good outcome. I commend the clause to the Committee.

Question put and agreed to.

Question 6 accordingly ordered to stand part of the Bill.

Clause 7

REVIEW OF COMPETITION FOR DOMESTIC SUPPLY CONTRACTS

Alan Brown: I beg to move amendment 1, in clause 7, page 4, line 38, at end insert—

"(1A) The Secretary of State shall within six months of the passing of this Act publish a statement outlining the criteria that is to be used by the Authority in the review to assess whether conditions are in place for effective competition for domestic supply contracts."

This amendment would require the Secretary of State to outline the criteria that shall be used by Ofgem when assessing whether conditions are in place for effective competition for domestic supply contracts.

I do not know if it is my upbringing in the west of Scotland, but compared to the hon. Member for Southampton, Test, I am a man of few words, so I will be really brief.

Amendment 1 and its explanatory notes lay out the case. I have prepared a timeframe for the Secretary of State to set out the criteria by which Ofgem will assess the operation of the energy market for effective competition in the marketplace, and such effective competition clearly will allow the cap to be lifted.

The amendment is important for a couple of reasons. Clearly, if we want the suppliers to change their behaviour, it is important that they know what they will be measured on. Hopefully, that will give them further incentives to change their behaviour and to make the market much more competitive and effective for consumers.

The Government's aim is that the cap will be only temporary—perhaps lasting only two years. Therefore, it is a limited timeframe. That makes it even more important that, as soon as we can, we understand what the companies will be measured against. If a report is laid that sets out the criteria within six months, that takes away the risk of moving targets, in terms of the suppliers changing how they are operating, but perhaps not in the way we want. Obviously, we want to manage how they operate and make that most effective for consumers. The amendment is quite simple and speaks for itself.

Claire Perry: The hon. Gentleman is a man of few words, but what a very pleasant accent, if I might say so, and what a joy it is to welcome so many colleagues from north of the border with similar burrs on our side of the House. I will now try to speak exclusively about the amendment and take his example of brevity in doing so.

The hon. Gentleman is absolutely right to raise the question of the conditions for effective competition so that we can all understand when the recommendation to remove the cap is the right one, as he said, considering how the market evolves over the next few years. We all have a hope and expectation that the market will evolve rapidly; indeed, the whole principle behind the Bill is about an intelligent intervention that will help the market to reset to a more competitive environment.

We have set out these general conditions, but I feel very strongly that with an independent regulator that we all believe has the powers and knowledge to both set the cap and confirm whether competition has been restored, it is right that we do not hold it to a specific set of weightings for what competition looks like. Again, I refer to the BEIS Committee, which said:

"We believe that Ofgem have the required expertise to set and measure indicators of effective competition and make the appropriate recommendation to the Secretary of State."

The hon. Member for Nottingham North made the point about unintended consequences; we had conversations in pre-Bill meetings about whether we would want there to be a formula that said, "It is 20% switching times and 50% price cap reduction". All that constrains Ofgem's ability to review and set an opinion on competition, particularly as the market evolves. We are all expecting the energy market to evolve quickly. The amendment would constrain Ofgem's job unnecessarily. There is nothing to be gained from seeking to pre-empt Ofgem

in its work. In raising this issue, the hon. Member for Kilmarnock and Loudoun is absolutely right to say that that scrutiny of what effective competition looks like will form an extremely active test of whether we can all sit around in a couple of years' time and say that this Bill on which we have all worked so hard has been effective.

On the basis that the amendment would constrain what Ofgem want to do, I hope that the hon. Gentleman feels content with my explanation and will consider withdrawing it.

Alan Brown: Listening to the Minister, on one level I think that constraining Ofgem might not be such a bad thing if it constrains it in a way that we are happy with, because then we can have criteria that we as politicians, and consumers and suppliers, understand. On the other hand, I understand what the Minister says, in that the regulator has its own job to do. I am conscious that some of the submissions we received as part of this process express concern about the fact that nobody knows what these effective competition criteria will look like. I still have some slight concerns, but I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Dr Whitehead: I beg to move amendment 7, in clause 7, page 4, line 39, leave out from “must” to end of line 40 and insert

“have regard to the extent to which—

- (a) progress has been made in installing smart meters for use by domestic customers,
- (b) incentives for holders of energy supply licences to improve their efficiency have been created,
- (c) holders of energy supply licences are able to compete effectively for domestic supply contracts,
- (d) incentives for domestic customers to switch to different supply contracts are in place,
- (e) the barriers which prevent the customers from switching from different supply contracts quickly and easily are addressed,
- (f) holders of supply licences who operate efficiently are able to finance activities authorised by the licence,
- (g) holders of supply licences have eliminated practices that are to the detriment of customers in their tariff structures,
- (h) District Network Operator costs and dividends are proportionate to expectations and the impact of that on domestic supply contracts, and
- (i) vulnerable and disabled customers are adequately protected.”

I am afraid this may be the end of the Mr Nice Guy bit. Hon. Members must find that incredible, but it is true. This amendment is potentially very important for the integrity of the whole process of how the price cap is set up, how it works and the circumstances under which it can be brought to a close. There is no real difference between the amendment of the hon. Member for Kilmarnock and Loudoun and mine, except that his requires the Secretary of State to produce a statement to outline the criteria that shall be used by the authority in a review to assess whether conditions are in place for effective competition.

Our amendment seeks to identify what the conditions might look like. That is particularly important, because for this price cap to work clearly both ends of the cap have to be reasonably synchronised. As hon. Members

will have observed when we debated an earlier clause, a number of conditions are put forward for the authority to digest when we move from the point of legislation to the point of actually putting the cap in place. There are a number of conditions in clause 1(6) to which the authority needs to have regard when it is putting the cap in place.

That is not so when the authority is considering whether to lift the cap. It is worthwhile considering for a moment what the mechanism for lifting the cap in the Bill actually is. The authority has to carry out a review—in the first instance, in 2020—to look at whether it considers that conditions are in place for effective competition for domestic supply contracts. Therefore, in principle, it can consider whether to bring the cap to an end. Once that review is carried out, roughly before halfway through 2020, the authority must produce a report on the outcome, which must include a recommendation about whether the authority considers that the tariff cap conditions should be extended and should have effect for the following year. When the report is produced, before 31 August 2020, we would expect to see a view from the authority about whether the cap should be continued. Obviously, subject to the sunset clause in the next clause, what the authority says effectively has a one-way view on what the Secretary of State should subsequently say about the cap. As laid out in clause 7(5), the Secretary of State, having received a report,

“must publish a statement setting out whether the Secretary of State considers that conditions are in place for effective competition for domestic supply contracts.”

5 pm

There is a double-belt, as it were, on the process. The authority comes along and produces a report, as required by the legislation, saying whether or not the cap conditions should be extended. Presumably, any recommendation that the authority makes that does not include a recommendation to extend the cap will be taken as a report saying that the cap should not be extended. On the contrary, the Secretary of State must then read that report and publish his or her own statement setting out whether he or she positively considers, at that point, that the conditions are in place for effective competition, and therefore that the cap can come off.

The procedure in the clause means that it looks like the Secretary of State will be fairly paralysed in what he or she can do about the statement that conditions are in place for effective competition by what the authority says to the Secretary of State in the first place. The question that then arises is about what circumstances surround the report that the authority has to produce for the Secretary of State. The Bill does not actually give us much enlightenment as to what those circumstances are. Rather oddly, there is only one circumstance in the Bill that the authority is required to review:

“the extent to which progress has been made in installing smart meters for use by domestic customers.”

My fear about the roll-out of smart meters, based on my experiences in a previous brief, is that if that is the only thing that the authority has to consider, so far as its review is concerned, it is quite possible that the authority will systematically say that conditions are not yet ready for competition to resume, and will repeatedly produce reports for the Minister saying that conditions are not yet ready because of its particular regard to the

installation of smart meters. Under those circumstances, the Minister would find it difficult to produce his or her statement saying that the cap should come to an end.

We may be in a position, effectively by default, in which whatever the views of the Minister we will be in for a cap going up to the end of 2023. One can of course hope that smart meter installation is absolutely on time and that all smart meters are in place by the end of 2020, as they should be, but if that is the prime consideration in the Bill for the authority's review—the clause does say “among other things”—I should have thought that that would skew the review substantially in the direction of considering that particular concern against others when producing the report for the Minister.

Ofgem has not simply been left to decide for itself what circumstances are in place when it produces its report—and there is something in the Bill that shows that that is not the case. Perhaps I would have understood matters rather better if there was no clause 7(2) and the authority was simply left to its own devices to carry out a review of whether conditions were in place, with the authority deciding what those conditions were. I do not think that would be terribly satisfactory in terms of how we proceed through to the Minister's statement, but it would nevertheless be consistent.

We have not done that. We have put an effective condition down, but we have been silent about all the other conditions that might exist and guide Ofgem in its review. The amendment would essentially take a number of conditions about the circumstances in which the cap should be set up that are mentioned earlier in the Bill and puts them in place as conditions for terminating the cap. It therefore bookends the temporary cap process. It would also add protections for a couple of our other concerns, such as vulnerable and disabled customers, and we can all agree that that should be the case. That is particularly important in terms of Parliament, through the Minister, retaining the ability properly to determine whether the cap should be removed or not. Although I have considerable faith in Ofgem to do the right thing, that is what we will be doing if we leave the Bill as it is. Legislation should not be based on leaving someone to do something on the basis of their good intentions and good offices.

As I have mentioned, it is necessary to legislate for the worst circumstances, not the best. We can hope that the best circumstances will happen, but at least then we would have the legislation there to prove us should the worst happen. The worst could be that Ofgem, in its wisdom, decides only to consider the progress of smart meters or to make up its own concerns as to what the market does or does not look like and then reports to the Minister that it does not think the cap should be lifted, even though at that point the Minister is jumping up and down, thinking it should be. If we get into that position, Parliament and the Minister will have lost control of the cap. Since we think that the cap should be temporary, I imagine that, if the circumstances are right, we will want to see it as a more temporary cap rather than a less temporary one. I suggest that adopting these guidance notes, as it were, for Ofgem would put us precisely in that position.

I hope to receive an explanation as to why everything is all right in the world of the Bill as far as Ofgem is concerned and to hear that my fears are entirely imaginary and that the out arrangements for the cap are in perfectly

good hands, so I need not worry myself at all. However, I fear I may not. I hope the Minister will have a very good attempt at persuading me. This matter is really important, and we ought to take it seriously.

James Heapey: I rise to speak briefly. I know exactly what the shadow Minister is trying to achieve with the amendment, and I agree with him that the cap must be a temporary measure. On Second Reading, I answered an intervention by saying that this should be a raid into the market, not an occupation. It is very necessary indeed to set out clearly the terms on which the cap will come to an end.

Having said that, my concern with the amendment is that whereas the Bill as drafted refers explicitly simply to progress with smart meter deployment—it quite reasonably leaves the regulator and the Minister to work out what progress is being made on the remainder—the hon. Gentleman's list is so lengthy as to be overly prescriptive. Some measures in his list, such as improving efficiency in suppliers' business models, are not the business of the regulator at all. I rather think that suppliers will be driven to find efficiency by the creation of competition, rather than needing to have it required of them. That is what the market does.

The hon. Gentleman is an enthusiastic fellow traveller on the route to a decentralised, digitised, dynamic energy system, so I wonder why his list does not include half-hourly settlement or the universal application of demand-side response, why he does not require the market to be electric vehicle-ready, why he is not concerned about transmission costs as well as distribution costs, why he does not seek signals from the regulator about the readiness of the market to manage a decentralised energy system given all the price advantages that might bring, and why he is not enthusiastic about a code review or embedded benefits, or about looking at what energy-efficiency measures have been made or at whether we are ready for a data-heavy digitised market.

As well as all those things, there is the unknown scale of the renewable deployment that might come our way, alongside the flexibility that storage and demand-side response will bring with them, and what impact that might have on price variability over the course of a year. There are so many unknowns, and the pace of change in the energy system is such that being as prescriptive as the hon. Gentleman desires at this stage would risk hindering progress in the system. It would shape the way the market worked towards achieving the end of the price cap, rather than allowing it to be disrupted in the way that I know he and I genuinely hope it will be.

Alan Brown: Will the hon. Gentleman give way?

James Heapey: I was done, but I am happy to give way.

Alan Brown: I understand the hon. Gentleman's point about other factors that may ultimately influence the retail energy market, but why should progress with smart meter installation be the one thing we tell Ofgem it must measure in its review? It seems to me a bit strange to specify that criterion but say that we do not want all the other important criteria that the hon. Member for Southampton, Test laid out.

James Heapey: I suspect that the Minister is much better placed to answer that than I am, but I guess—I would support this wholly if it were the case—that we have done a lot of work with carrots when it comes to smart meters and we are starting to get into stick territory. If we want the new digitised market to really work—I know that almost everyone here is passionate about achieving that—smart meters are no longer optional: they are a necessity. To use that as a metric of success seems very reasonable to me.

Claire Perry: I want to try to address two of the main points that came up: what “good” looks like, the conditions for success and how far we should specify them in the Bill, and why progress with installing smart meters is the only explicit condition. Ultimately, this is the nub of the whole Bill. We are all here because we believe that the conditions for effective competition are not in place and that the Bill will assist the market towards that evolution. I suspect that we all believe in well regulated, competitive markets delivering the best value and service for consumers, and if we see a regulatory gap—a place where the regulator needs new powers to deliver that—it is only right that we fill it. That is what we are doing.

Once again, I have great sympathy with what the hon. Member for Southampton, Test set out. I feel sometimes that we are a bit like Eeyore and Tigger: he is always looking for the very worst outcome and I am always very optimistic about the future. Perhaps it is good that we often meet in the middle. The challenge, as my hon. Friend the Member for Wells set out, is that the list that the hon. Gentleman has put forward is very sensible. I am sure that we could all come up with further factors that we thought would indicate that the market was acting more competitively.

5.15 pm

One thing gives me comfort. If we believe that the independent regulator has the skills and powers to do this job, it is right that the regulator should do it. When it makes its report it will be completely transparent as to what conditions it has considered.

The Select Committee said, in its excellent summary, that

“We believe that setting a definition of ‘the conditions for effective competition’ before setting the cap could create incentives for suppliers to game the system”—

back to that problem—

“or treat the cap as a box-checking exercise rather than going above and beyond their obligations.”

That also gets us back to the unwelcome but possible prospect of legal challenges. Suppose that in the Bill we say, “We think that Ofgem should have regard to one of the hon. Gentleman’s conditions”, but the market evolves so quickly that the condition becomes irrelevant. What if, after the legislation was lifted properly with the sunset clause, Ofgem determined that that condition was not taken into account? There will be an opportunity for a legal challenge to say, “Aha! You didn’t take into account that particular condition”.

One of the reasons why I love this job so much is that this is such a rapidly evolving market. If we look at what has happened to the price of offshore wind and of renewables, we have seen precipitous changes in pricing and the structure of the market. I believe we

had two new entrants to the market in 2010; almost 70 companies are now competing, in a matter of seven years. There is this really rapid change. I fear that, by setting out what appear to all of us to be very sensible conditions, we risk creating “a box-checking exercise” and risk creating again future legal obligations that would come back and basically render what we want to achieve null and void.

For me, this is very much a job for the expert regulator. I take comfort from the fact that the process will be very transparent; the regulator will have to set out why it considers this market to be more competitive.

Alan Brown: Why would it be a box-ticking exercise if we as parliamentarians set out criteria that we think can be used, but not if Ofgem sets out the criteria?

Claire Perry: That is a valid point. I guess that by setting the criteria in the Bill we would effectively constrain the opportunities that Ofgem has. Ofgem, as a regulator, should be able to sit closer to the market and observe its evolution, and amend its processes accordingly. All of us know how even the most tortuous, tiny change to a Bill, even if it is done through a statutory instrument, can chew up an awful lot of time and reopen a debate that did not actually need to be reopened.

The hon. Member for Southampton, Test is right that we absolutely have legal powers to protect our constituents, and that is what we are doing, but what we are also doing is empowering the regulator to be perhaps more nimble and agile than politicians and even my fine civil servants might be.

I turn to the Smart Meters Bill, because it is right to say, “Why is that the only thing in the Bill?” Frankly, the reason is that we are rolling out this massive Government programme. We are talking about £11 billion of investment and £17 billion of benefit to consumers. It is now a licence condition for Ofgem. We have had the first roll-out and we are working hard on the data integration, so that the upgrades to a SMETS2 meter happen seamlessly and remotely. I fully intend to work with industry very closely this summer to start to turbocharge that process. There is huge benefit there; the conditions are in place and we want to accelerate.

We want to make sure that the obligations to be part of the evolution of a competitive market and to roll out smart meters are inextricably linked in the minds of industry. On that basis, although we have an important role to play in talking about the terms of effective competition, we expect the market to continue to evolve. It would not be helpful to constrain Ofgem’s definition now by setting out what could be perfectly sensible ideas.

Of course, there will be an opportunity to review Ofgem’s report and say what the conditions are. We have not yet talked about what the transparency of publication is for that report, but that is certainly something we can address when we discuss that part of the Bill. There is a question as to how transparent that report is made and how widely it should be circulated. As the Committee knows, I am open to ideas of transparency, because it is the way to drive the best forms of competitive behaviour. I fear I may be chancing my luck this late in the day, but I invite the hon. Member for Southampton, Test to withdraw his amendment.

Dr Whitehead: May I say something first about Tigger and Eeyore? I can see the analogy, but we have to remember that Tigger got Pooh and Piglet completely lost in their quest for the North Pole, and also consumed all Roo's medicine in a very unhealthy way.

Claire Perry: But surely the hon. Gentleman would accept that that was a fine and wonderful adventure, and Tigger did it with great gusto?

The Chair: This might be slightly outside the scope of the Bill.

Dr Whitehead: I was just going to say briefly that Eeyore stopped people standing on each other and falling over while trying to get Piglet out of a tree. He was very wise in certain circumstances. What I am trying to say, I hope without any further reference at all to Pooh and Piglet, is that under these circumstances we need to be a little more—I will refer to it again—Eeyoreish than Tiggerish. It is essential that we are careful about the going out of the cap, just as we are careful about its going in.

I heard what the hon. Member for Wells had to say—indeed, it would have been possible to put out a list as long as your arm of possible concerns. He is quite right. I heartily endorse a number of the concerns he raised. I am grateful to him for describing me as a fellow traveller; as he will know, in our party, being described as a fellow traveller is not always meant in the most complimentary of ways. He has set the record straight as far as that is concerned.

What I have tried to do with this particular amendment—by the way, I am not particularly precious about every last line of it—is to craft a number of considerations that should reasonably pass by the eyes of Ofgem when it is thinking about whether conditions have returned to the market or not, so that it is shaped. Indeed, if the Minister were to say, “Yes, jolly good idea, but we're not quite sure that all the conditions are absolutely right. We'll take it away and come back with something on Report that will set that out in a rather better way,” I would be overjoyed. It is an attempt to try to make things work, rather than to get everything right first time.

What I do know, however, is that among the flakier conditions is ensuring that Ofgem has due consideration for the roll-out of smart meters. I could see circumstances where the smart meter roll-out has gone completely down the Swanee, yet market conditions are effectively there for the removal of the cap. Indeed, from what I know about the circumstances around the smart meter roll-out, partly as a result of my involvement in the Smart Meters Bill recently, it is quite possible that the smart meter roll-out will go seriously down the Swanee.

Claire Perry: I now feel a T-shirt coming on saying, “What would Eeyore do?” I wanted to try to give the hon. Gentleman some comfort on this matter. Clause 7(1) refers back to something set out in clause 1(6)(b):

“whether conditions are in place for effective competition for domestic supply contracts.”

That means that in consulting on the cap structure, what Ofgem believes to be important will have to be explicit upfront. Also on smart meters, it says that the review “must, among other things”, so it is not the exclusive thing. In fact, I have just reassured myself, because clause 7(5) states that the Secretary of State will have to publish the statement about whether they consider the conditions to be in place. It will be very explicit about which conditions have been taken into account in establishing whether the market competitive conditions have been restored.

Dr Whitehead: I thank the Minister for her concordance-like examination of the Bill to look at those conditions, but I stand by the point that there is, with the anomalous imposition of smart meter roll-out, nothing there effectively. I would have hoped that the Minister would be able to say, “Yes, you are quite right. There is nothing there effectively and we can put something there—perhaps not exactly this—on Report”. That would have caused my worries about the out as well as the in of the price cap to recede, but apparently that is not going to happen.

I, of course, wish the Minister the best of luck with her Tiggerish wish to get smart meters absolutely right. I am sure she will give that her full attention and ensure that it works as well as it possibly can, but I am afraid that under the circumstances I will have to press the amendment to a vote on the principle of what it is about.

Question put, That the amendment be made.

The Committee divided: Ayes 8, Noes 9.

Division No. 1]

AYES

Brown, Alan	McCarthy, Kerry
Charalambous, Bambos	Norris, Alex
Flint, rh Caroline	Smith, Nick
Gaffney, Hugh	Whitehead, Dr Alan

NOES

Afolami, Bim	Heapey, James
Donelan, Michelle	Kerr, Stephen
Ford, Vicky	Perry, rh Claire
Grant, Bill	Robinson, Mary
Harris, Rebecca	

Question accordingly negated.

Question proposed, That the clause stand part of the Bill.

Claire Perry: I rise simply to say that I think that was a useful conversation about what competition looks like. We have made excellent progress today, and I propose that clause 7 stand part of the Bill.

Question put and agreed to.

Clause 7 accordingly ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned.—(Rebecca Harris.)

5.30 pm

Adjourned till Thursday 15 March at half-past Eleven o'clock.

**Written evidence to be reported to the
House**

DGEB01 Scope

DGEB02 Energy UK

DGEB03 OVO Energy

DGEB04 Centrica plc

DGEB05 E.ON UK

DGEB06 Octopus Energy

DGEB07 npower

DGEB08 Energy Networks Association

DGEB09 SSE

DGEB10 Bulb

DGEB11 uSwitch

DGEB12 Citizens Advice

DGEB13 Utilita Energy Ltd

DGEB14 Green Gas Certification Scheme (GGCS)

DGEB15 Ecotricity

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

DOMESTIC GAS AND ELECTRICITY (TARIFF CAP) BILL

Third Sitting

Thursday 15 March 2018

(Morning)

CONTENTS

CLAUSES 8 TO 13 agreed to.
New clauses considered.
Bill to be reported, without amendment.
Written evidence reported to the House.

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

not later than

Monday 19 March 2018

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The Committee consisted of the following Members:

Chairs: † SIR EDWARD LEIGH, SIOBHAIN McDONAGH

† Afolami, Bim (*Hitchin and Harpenden*) (Con)
 † Brown, Alan (*Kilmarnock and Loudoun*) (SNP)
 † Charalambous, Bambos (*Enfield, Southgate*) (Lab)
 † Donelan, Michelle (*Chippenham*) (Con)
 † Flint, Caroline (*Don Valley*) (Lab)
 † Ford, Vicky (*Chelmsford*) (Con)
 † Gaffney, Hugh (*Coatbridge, Chryston and Bellshill*)
 (Lab)
 † Grant, Bill (*Ayr, Carrick and Cumnock*) (Con)
 † Harris, Rebecca (*Lord Commissioner of Her
 Majesty's Treasury*)

† Heapey, James (*Wells*) (Con)
 † Kerr, Stephen (*Stirling*) (Con)
 † McCarthy, Kerry (*Bristol East*) (Lab)
 † Norris, Alex (*Nottingham North*) (Lab/Co-op)
 † Perry, Claire (*Minister for Energy and Clean Growth*)
 † Robinson, Mary (*Cheadle*) (Con)
 † Smith, Nick (*Blaenau Gwent*) (Lab)
 † Whitehead, Dr Alan (*Southampton, Test*) (Lab)

Farrah Bhatti, Nehal Bradley-Depani, *Committee Clerks*

† **attended the Committee**

Public Bill Committee

Thursday 15 March 2018

[SIR EDWARD LEIGH *in the Chair*]

Domestic Gas and Electricity (Tariff Cap) Bill

11.30 am

The Chair: We will now recommence line-by-line consideration of the Bill. There are the usual words about turning off your mobile phones. I can see at least one cup containing what is a banned substance as far as the House of Commons is concerned—

Vicky Ford (Chelmsford) (Con): It is water.

The Chair: It is water! I do apologise. It was the Clerk who drew it to my attention. We have to obey the rules, but water is very acceptable. Thank you.

Clause 8

EXTENSION AND TERMINATION OF TARIFF CAP CONDITIONS

Alan Brown (Kilmarnock and Loudoun) (SNP): I beg to move amendment 2, in clause 8, page 5, line 36, at end insert—

“(3A) In the case that the tariff cap is extended to have effect for the year 2023, the Secretary of State must publish a statement before the end of that calendar year outlining whether the Secretary of State considers it appropriate to introduce further legislation to introduce a new tariff cap to have effect beyond the date outlined in this Act.”

This amendment would require, in the event that the tariff is extended until 2023, the Secretary of State to publish a statement outlining whether he or she considers it appropriate to bring forward further legislation to introduce a new tariff cap to have effect beyond 2023.

It is a pleasure to serve under your chairmanship, Sir Edward. At our last sitting I made a joke about being brief in my comments, but I will be super-brief this time.

The whole reason for the Bill is the admission that the retail energy market is not working in terms of providing effective competition for consumers and allowing them to access the best-priced tariffs. I recognise that the Government have made it clear that the proposed cap mechanism is temporary for that reason and is to allow the market to remedy itself. Because this is a temporary cap, clause 8 is the sunset clause, which in effect states that the cap must end by the end of 2023.

I have tabled my simple amendment because, as we know, the market is not working, but there is no guarantee that it will remedy itself in the time proposed, although we hope it will. There is a risk that there will still be no effective competition in 2023, so the amendment suggests that if we get to that final year of the temporary cap, the Government should make a statement outlining whether they believe it appropriate to introduce further legislation for a new tariff cap with effect beyond 2023.

The amendment is to ensure that the Government update Parliament about where matters are at, and imposes that duty on the Secretary of State. It is a very simple amendment, so my comments have been super-brief. I look forward to hearing what the Minister has to say.

The Minister for Energy and Clean Growth (Claire Perry): Good morning, Sir Edward. It is a pleasure, as always, to serve under your august chairmanship, and I am impressed with your X-ray eyes seeing the coffee cup. It is, once again, a pleasure to welcome fellow travellers on our Committee.

I was of course interested in what the hon. Member for Kilmarnock and Loudoun said—in essence getting back to that long-term question that we have all been discussing as to what “good” looks like. In 2023 how will we know whether the cap can be removed? Interestingly, the hon. Gentleman is in a way seeking to bind the hands of a future Government with his amendment, by putting in place, when the cap is finally removed—I think we all agree with the sunset clause—the need to opine as to whether further legislation should be introduced.

My hope is to persuade the hon. Gentleman to withdraw the amendment, so I shall set out a couple of reasons why he should, although I think we all agree that we support the cap. We want the cap to be in place for the period it takes to restore effective competition in the market. We also agree that we do not want permanent caps to run in the market, because we want it to move towards a more competitive position. The Bill is an intelligent intervention to speed up that journey.

Frankly, the Government have no wish for a price cap to be a permanent feature of our energy market. We debated that point briefly last week. I think there is strong consensus in the Committee—if I have not misjudged it—that the cap should have a sunset clause. In order for a sunset clause to be effective, there should be an end date to the legislation. Of course, as we discussed last week, that does not simply mean we will pass the Bill quickly through both Houses—as I hope we will—and have the cap in place by the end of the year, as Ofgem has assured us is possible; we will also all be working alongside Ofgem to ensure that the conditions for effective competition are in place by the 2023 deadline. I think we would all want to see those conditions in place well before that date.

Ultimately, we want a fully working and competitive market that is transparent, innovative and adaptive, that promotes competition as the best driver of value and service to customers, and that has a regulator with the powers and appetite to regulate actively should a situation arise, as it has done, where we do not believe some groups of customers get that value and service.

We discussed last week the roll-out of smart meters—where we have seen good progress but we need to go further and faster—and moving to faster and more reliable switching. I am very interested in Ofgem’s midata proposals, which will make switching an almost seamless process. Indeed, my hon. Friend the Member for Weston-super-Mare (John Penrose), who was so instrumental in creating the Bill, told me about his latest app, Flipper, which enables someone’s supplies of various services to be transferred almost seamlessly, with their consent, to the best value tariff, based on what tariff they are looking for.

There are plenty of opportunities for consumers to benefit from that improved competition, but we have discussed the fact that, although some of us are active switchers and are aware of those opportunities, some of us are too time-poor to do that. Worryingly, there is a large group of customers who are on bad-value tariffs and either do not know it or are sufficiently disengaged from the market not to do anything about it. That is why we brought forward the Bill and why it is extremely important to test the initiatives that the Competition and Markets Authority proposed to improve engagement with so-called disengaged customers.

We have discussed incredibly exciting technological changes, such as the move to distributed energy, the increase in renewable energy and people's ability almost to create their own energy network, which includes them, local businesses and other local energy consumers. New business models will also come into the sector. I was interested to hear the evidence of some of the more innovative new entrants about where they want to go with the market. They mentioned half-hourly settlement and payments to people who do not consume energy at certain times. There is an enormous range of adaptations, and of course smart metering will unlock even more.

We are all determined to have a fully competitive and fair energy market, but I think we are all of a mind that the cap should be a temporary measure. I pay tribute once again to my hon. Friend the Member for Stirling, who serves with great effect on the Business, Energy and Industrial Strategy Committee, to which we all owe a great debt of gratitude. The Committee said that there is a risk that if the price cap became a longer-term fixture it

“would put the Government unduly in charge of setting energy prices for the foreseeable future.”

Caroline Flint (Don Valley) (Lab) *rose*—

Claire Perry: It is always a pleasure to give way to the right hon. Lady.

Caroline Flint: I thank the right hon. Lady for giving way and congratulate her on receiving Privy Counsellor status—she joins a merry band of us. I accept the argument for a temporary price cap, but does she accept that we should look closely during this period at whether any other structural reform of the energy market is needed to ensure that there is even wider competition and hunger for customers, rather than complacency?

Claire Perry: I could not agree more. I thank the right hon. Lady for her kind congratulations. I feel it is an undeserved honour, but it is amazing. She is absolutely right. One of the reasons we were minded to bring forward the Bill was that we have a competitive energy market, with more than 60 companies that would like to sell us energy—either combined heat and power or, in some cases, just power—but we gifted incumbency to a large number of companies when we took what I thought were sensible steps to privatise the energy system. That brought in more than £60 billion of new capital and caused prices to fall and power cuts to halve, but the companies that were gifted incumbency have not had to work for customers. It was interesting to hear from new entrants about how they are determined to shake up that complacency.

I think the right hon. Lady also alluded to practices further up the energy system—or further down; I am not sure whether it starts at the top or the bottom—and particularly profits in the distribution sector and overall network costs, which have come down but arguably could come down further. Work has been done in that area, but I am determined that the whole sector, from generation right to the customer's meter, should be highly efficient, that efficiency and customer service should be rewarded, and that we ensure we have not created a shield of incumbency that allows companies to persist with bad customer practices. This is the start. We may not need legislation to get there, so we may not have the pleasure of—

Vicky Ford: Will my right hon. Friend give way?

Claire Perry: Of course—it is a pleasure.

Vicky Ford: I thank my right hon. Friend for giving way and wish her many congratulations from the Government side of the Committee, too. On incumbency and the investment that she mentioned, is it not extremely important that the price cap is set at a level that continues to encourage investment the whole way through the energy chain and into the new infrastructure we need? That is one of the reasons it is so important to signal that this is not a permanent cap; it is an incentive to increase competition and to ensure that the market continues to be dynamic and that infrastructure continues to be invested in.

Claire Perry: My hon. Friend brings her great knowledge of these markets on a broader European scale to make a telling and vital point. The need to maintain investment in the industry, which we must have as we go through what is possibly the most exciting revolution in our energy markets for decades, is included in the Bill for exactly that reason. Clause 1(6)(d) speaks to exactly that point: we must ensure that we still have the financial investment in the industry that we so desperately need.

Having talked about the need to keep on improving efficiency, and having accepted the view of the Select Committee that the price cap should be only a temporary measure—reflecting a cross-party view that the Government should not be unduly involved in setting energy prices—I hope that I have persuaded the hon. Member for Kilmarnock and Loudoun that his amendment is unnecessary and provides an obligation on a future Secretary of State to impose another price cap. A future Government may decide to do that—who am I to suggest what legislation a future Government might introduce? However, I do not feel that the amendment is appropriate; it creates disincentives and uncertainty in a market where we have to have certainty to generate investment. On that basis, I hope he might be persuaded to withdraw his amendment.

Alan Brown: The Minister finished as she started, by talking about binding future Governments. I suggest that most legislation, in one form or another, binds future Governments. It is for future Governments to make changes to the legislation if it does not suit their policy at the time. Binding future Governments is not a reason not to table an amendment or to withdraw an amendment.

Again, the amendment is not about making the cap permanent. It acknowledges that the cap is temporary, but if, for whatever reason, we get to 2023 and we still

[Alan Brown]

do not think that there is effective competition in the marketplace, it puts a duty on the Secretary of State to explain what the Government will do to address that, including possibly introducing new legislation.

On what “good” looks like in the future, if the Government had accepted an amendment setting out the criteria for what effective competition will look like—such as the Labour amendment that suggested a whole list of criteria that should be considered to determine and measure that—we would know what “good” looks like in the future. That might also help to generate the effective competition that we are discussing.

That said, to go back to my original point, I am not trying to say that the cap should not be temporary. Following my comments to the Minister, I do not see any point in pressing the amendment to a vote, so I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Dr Alan Whitehead (Southampton, Test) (Lab): I beg to move amendment 11, in clause 8, page 5, line 36, at end insert—

“(3A) In the case that the tariff cap is extended to have effect for the year 2023, the Secretary of State must publish a report before the end of that calendar year on further measures that can be taken to ensure that conditions are in place for effective competition for domestic supply contracts.

(3B) The report under subsection (3A) must include, but is not limited to—

- (a) the merits of establishing pooled trading arrangements which matches energy sellers and buyers on the day-ahead and near-term markets; and
- (b) the potential impact of such an arrangement on competition for domestic supply contracts.”

It is a pleasure to serve under your chairmanship, Sir Edward. Before I proceed, I ought to say two things. First, I congratulate the right hon. Member for Devizes on her elevation to the Privy Council. In terms of nomenclature, I am not entirely clear whether I should refer to her as the Minister or the right hon. Minister in the future.

Claire Perry: Just Claire is fine.

Dr Whitehead: I think I will just continue with “the Minister”—or Claire, depending on the circumstances under which we meet.

Secondly, the hon. Member for Kilmarnock and Loudoun mentioned that he is a man of few words. I may well be a man of even fewer words today, because I am suffering somewhat, and my voice may not last for the whole proceedings. That could be a great boon for the Committee.

11.45 am

In the previous debate, we heard the hon. Gentleman’s wish to put further consideration of a possible cap in place at the end of 2023, when the sunset clause in the Bill comes into operation. Amendment 11 addresses that same issue but in a slightly different way. It acknowledges that there is a determined endpoint for the cap, come what may, and regardless of all other mechanisms in the Bill, such as reports by Ofgem, ministerial statements and considerations of market conditions. Clause 8 makes apparent that those mechanisms

apply for each year during the term of the price cap, but they do not apply when it comes to 2023, because that is the end of the price cap.

Hon. Members might be tempted to wonder, if the conditions for proper market operation are not securely in place by that point—in each of the previous years, Ofgem has reported that the conditions are not in place and therefore the Minister would almost certainly not agree that the price cap should be taken off—what happens in that last year, when those considerations do not apply?

The amendment would make it necessary, under those circumstances, to look at other factors across the market, not just in retail but in wholesale trading, and to consider the conditions that would lead to better operation of the market as a whole. It would require the Minister to produce a report in that last year about what conditions in the wholesale market might bolster the market in terms of working properly, looking particularly at trading and how the market might work under a trading pool system.

I do not intend to go into a lengthy disposition about the nature of a pool as opposed to bilateral trading—I would recommend a paper from the University of Dundee entitled “How does bilateral trading differ from electricity pooling?” by Egheosa Onaiwu. That is a pretty comprehensive study of the differences. Briefly, a pooled system for generating would be established, whereby generators sell into the pool at an agreed price, and buyers bid into that market on the basis of the pool having been established at that agreed price.

The advantage of such a system is that trading is completely transparent at all times. At that point, depending on how far down the curve the pool goes, there are no bilateral deals, which hon. Members may well know have been quite a subject for investigation in previous years. It is not always obvious with bilateral deals in which companies are effectively trading with themselves—when one company has both generation and retail capacities—that they affect what is happening with the real price of energy at the point at which the trade is made. Nor is it particularly obvious, because it is not transparent, whether those deals are in the public interest in keeping the prices as low as possible. Suggestions have been made that on occasions where companies are effectively dealing with themselves, there can be price transfer. That is, a company is actually trading up in its bilateral deals, so that a price is taken out of the retail and transferred to the wholesale operation and an additional profit could be made.

Caroline Flint: My hon. Friend is making an important point. To sum it up, the big six are both generators and retailers. The case is that they generate energy, sell it to themselves and then sell it on to us, without us really being clear about what the true price is. But does he agree that the advantage of a more transparent pool is for those independent generators to have a marketplace in which they can sell their energy, as well as those smaller retailers that would like to operate in a much more open and transparent way? I am glad to say that that was the policy when I was shadow Secretary of State for Energy and Climate Change. If, like other policy areas, it seems to be more popular these days, more strength to his elbow.

Dr Whitehead: I thank my right hon. Friend for that encapsulation of how the pool works and for her important point that a pool system would allow independent

generators to trade on exactly the same basis as those vertically integrated generators, and, equally importantly, independent retailers bidding into the market would be able to bid in transparently, on the basis that they would know what the price was at that particular point. There would be hands on the table and the price would be clear for everybody. The whole trading process would be thoroughly transparent, to the particular advantage of how the market works in its new incarnation as a large number of independent retailers and generators operating alongside the more integrated generators and those large inheritors of customers from, essentially, the days of the Central Electricity Generating Board.

James Heapey (Wells) (Con): I am not sure that I am that enthusiastic about this idea for further intervention, on two grounds. First, the big six are increasingly separating out their supply and generation businesses, because it makes commercial sense for them to do so, and I am therefore not sure that we are tackling a problem that will continue to exist. Secondly and more importantly, in one of the most successful green finance models that is coming through the cheapest cost of capital tends to be when generation is built with a contract directly to a supplier. I wonder if the hon. Gentleman has considered what impact this measure might have on that very cheapest cost of capital that seems to be available for quite significant amounts of generation capacity coming onstream.

Dr Whitehead: I will make two points in response. I hope that the hon. Gentleman will be enthused by the merits of the pool when he looks into it—knowing, as I do, how deeply he does look into these matters on a regular basis. Although it is true that a number of companies are dividing themselves in different ways from the model that there used to be, it is by no means clear that in the complete vertical integration of those companies those divisions all face in one direction. In some instances, such as the recent merger of SSE and Innogy, retail has been put together in one company. In other instances, companies are breaking themselves up into what might be called a good company and a bad company, in terms of the different forms of generation, without distinguishing between vertical integration and generation. Indeed, there are further moves abroad. For example, E.ON in Germany has effectively taken over elements of Innogy, which may have effects back on SSE and Innogy in the UK. A variety of things are happening in the market, some of which point towards different forms of vertical integration and some of which, as the hon. Gentleman says, point in the direction of demerger.

That is not necessarily the central point about how a pool operates. Even if there are circumstances under which there is rather less vertical integration, the fact that the pool is bringing complete transparency on all trades to the table means that everybody in the market is absolutely on the same level as far as both those trades and the retail element, whereby people are bidding in, are concerned. As the hon. Gentleman knows, a number of newer companies will largely be bidding into the day-ahead market. They may be considerably disadvantaged in not knowing what has happened with trades down the curve when bidding into that market. Having that transparency right across the piece is, in principle, a very powerful lever to ensure that the market works well regarding retail trading.

Secondly, the pool system is not a fanciful notion that some people might think is a good idea but that has never worked in practice. Probably the most successful trading arrangement in Europe at the moment is Nord Pool, which does precisely this across the whole of Scandinavia. It does not have the negative effects that the hon. Member for Wells suggests it might in terms of cost of capital and investment, but stabilises that market across the whole of Scandinavia and produces transparency across borders.

In any event, a pool system is something that this we ought to look at for this country. What this amendment does is rather less than that. It asks whether the Minister thinks that, under circumstances in which it has not been possible to frank the market for returning to competitive purposes by 2023, other instruments should be introduced to get us beyond the end of the temporary pool and out of that temporary price cap, which is what we all want. That will be on the basis that we between us will have not just done a good job of running a cap but changed how the market works, so that the cap does not have to be in place subsequently and we do not need to return to the idea of one in the future.

That is what the amendment intends to do. I think it is a relatively modest ask of the Minister. I am sure that, if she is not promoted, she will be in her post in 2023—if there is a Conservative Government. At that point, she would simply have to produce a small report setting out how the pool system might work. Then we will look to see whether we can take that forward at that point as a key measure, to ensure that competition returns to the markets after the end of the temporary price cap.

Claire Perry: I have listened with interest to the hon. Gentleman and done a bit of research.

The first part of the amendment asks that an additional report is published setting out additional measures for competition. We had a fruitful discussion of this issue on Tuesday, and talked about the fact that there will be a comprehensive report. There is a duty on the Secretary of State to make this transparent, so it will be obvious that the conditions for competition that have been recommended by Ofgem at that point are clear. We discussed at length whether we need to specify, and the will of the Committee was that that was not the case. So the first part of the amendment is not needed, because we will have a transparent report, we will be able to see what “good” looks like—a phrase many of us have used—and we should be able to satisfy ourselves of that.

The second part of the amendment relates to pooled trading. I understand that the hon. Gentleman is a bit of an expert on that, so I felt that I should go away and look at such things. His argument is that having pooled trading arrangements could be an option that should be included in the assessment of competition, and that the report should cover that. He will know that pooled trading arrangements were in place historically. Indeed, I believe it was the first Blair Government that removed those conditions.

12 noon

Dr Whitehead *rose*—

Claire Perry: The hon. Gentleman is going to correct me on that. Good—I like a bit of correction on history.

[Claire Perry]

Dr Whitehead: The Minister is absolutely right that there was a pooled system in place, but it was a one-way pool, not a two-way pool. Furthermore, there were only two generating companies at that time, so the circumstances were very different, and it was not a full pool in any event.

Claire Perry: I accept that helpful piece of information. But when it was cancelled and replaced with alternative arrangements, the real issue was that prices did not fall as far as they should. The rocket and feathers effect was in full cry. I have not been able to find a pub called “The Rocket and Feathers” anywhere in the country, so we cannot go out and celebrate the successful passage of the Bill with a drink in an aptly named pub. However, the new arrangements were put in place back in 2001 and extended in 2005.

The CMA, in its very comprehensive review of market competition, compared the principle of bilateral trading relationships, which the hon. Gentleman has eloquently expounded, with a pool approach. Its view was that the evidence did not support a move to such a pooling system, primarily because there is sufficient liquidity in the market—Ofgem reviews the liquidity arrangements—and there is price transparency for all the pool participants already. The CMA’s conclusion was that if we all accept that we need to move to a more competitive market, the evidence does not suggest a move to bilateral pooled trading relationships.

I have set out that Ofgem has wide powers to say what “good” looks like, on the basis of which it will make its recommendation to the Secretary of State about whether the cap should be lifted. I think that covers the first part of the amendment. I am persuaded by the CMA’s report that, given that the arrangements are working, there is insufficient merit in examining the merits of the pooled market, and there would not be sufficient gain from introducing that system. It should not be a specific requirement, as detailed by the clause.

There may be other opportunities to debate this structural point. On the point made by the right hon. Member for Don Valley when discussing the previous amendment, I hope that there will be opportunities over the next few years to talk in depth about what other arrangements need to be made in the market to improve the efficiency of the entire supply chain. However, hopefully in this case the hon. Member for Southampton, Test will consider withdrawing his amendment, as it is not needed in the Bill at this time.

Dr Whitehead: I am not persuaded that this notion is not needed in the Bill in the eventuality of the cap going to 2023. However, I am reasonably persuaded that it would not be a good idea to press the amendment to a Division this morning, because the purpose of the amendment was essentially to allow us to debate the question of the possibility of a pool. I have not persuaded the Minister this morning that it would be a good idea for future trading arrangements. However, given the assiduous work that she has already done in looking at how a pool might work, I hope that she will continue with her studies, and will perhaps be persuaded in the fullness of time that it is actually a rather good idea for the long term, and ought to be pursued—if not by this Government, then by the next. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 8 ordered to stand part of the Bill.

Clause 9

CONSEQUENTIAL MODIFICATION OF STANDARD SUPPLY LICENCE CONDITIONS

Question proposed, That the clause stand part of the Bill.

Claire Perry: I am not going to delay the Committee on non-controversial clauses, but I feel it is important to state briefly the purpose of each clause, so that we are all clear in supporting them. Clause 9 gives Ofgem the power to modify the standard supply licence conditions after the tariff cap ceases to have effect under clause 8. On the point made by hon. Member for Kilmarnock and Loudoun, we are giving the regulator powers, as it sees fit, beyond the extension of the price cap, to modify the licence as it has already. The effect is that Ofgem can continue to modify the standard supply licence conditions as it deems appropriate, following the removal of the tariff cap, but of course those modifications must be published and it must state their potential impacts.

Question put and agreed to.

Clause 9 accordingly ordered to stand part of the Bill.

Clause 10

AMENDMENTS OF THE UTILITIES ACT 2000

Question proposed, That the clause stand part of the Bill.

Claire Perry: This is simply a clause containing a whole load of technical gubbins. I commend it to the Committee.

The Chair: It is a pity we cannot have that sort of debate on every clause.

Question put and agreed to.

Clause 10 accordingly ordered to stand part of the Bill.

Clause 11

INTERPRETATION

Question proposed, That the clause stand part of the Bill.

Claire Perry: This clause is a lot of definitional gubbins. It is extremely important—I do not wish in any way to reduce the hard work of the Bill drafting committee—but it does not require a long speech.

Question put and agreed to.

Clause 11 accordingly ordered to stand part of the Bill.

Clause 12

EXTENT AND COMMENCEMENT

Question proposed, That the clause stand part of the Bill.

Claire Perry: This clause confirms the geographical extent of the Bill. It will come into force in England, Wales and Scotland, but not Northern Ireland. I am sure the Committee knows that there are separate arrangements for energy supply in Northern Ireland, including existing price controls on incumbent suppliers. We have made reference to that cap in our debates. The Act will come into force on the day it is passed, to make sure that we achieve the crucial momentum in the implementation period.

Question put and agreed to.

Clause 12 accordingly ordered to stand part of the Bill.

Clause 13 ordered to stand part of the Bill.

New Clause 2

DUTY TO CONSIDER THE NEEDS OF CUSTOMERS IN RURAL AREAS

“(1) When exercising its duties under section 1, the Authority must have regard to the need to protect customers in rural areas.

(2) When exercising their duties under sections 7 and 8, the Authority and the Secretary of State must have regard to—

- (a) whether effective competition exists for customers in rural areas, and
- (b) additional protection in place for customers in rural areas.”—(*Alan Brown.*)

This new clause requires the Secretary of State and the Authority to have regard for customers in rural areas when exercising their powers in setting, reviewing and terminating the cap.

Brought up, and read the First time.

Alan Brown: I beg to move, That the clause be read a Second time.

We know that part of the problem with existing tariffs is that certain groups of people are more likely to be adversely affected. New clause 2 would make the duty to consider the needs of customers in rural areas absolutely explicit. To recap what I think we are all aware of, people who reside in rural areas are more likely to have lower incomes; they are more likely to be off the gas grid, which leads to overall higher energy costs; and, particularly in Scotland, they are more likely to have properties that are much more difficult to make energy-efficient, thereby increasing their ongoing energy costs.

Digital connectivity is an issue predominantly in rural issues, which means that is difficult to undertake regular switching. Rural areas also still suffer from notspots for mobile coverage, which is an impediment to getting a smart meter. If we really believe that smart meters will help revolutionise the market and help people get lower tariffs, we need to eliminate the notspots. The Scottish Government have just announced a £25 million fund to provide more coverage in rural areas, but that is perhaps not something they should need to step up to the plate on. Challenger companies are also less likely to tackle the rural issue, so the incumbents—the big six—often have almost a monopoly in some rural areas. That is another barrier to competition.

To cap it all in terms of the disadvantages for rural customers, people in the Scottish highlands and islands have to pay 4p a unit more for electricity usage. Rubbing salt into their wounds, anything generated in more rural areas has higher transmission charges placed on the generation companies, and customers in those areas pay a higher distribution levy. That is a real injustice for those in rural areas. And, of course, the Government

have removed contract for difference auction capabilities for onshore wind in rural areas, which compounds the whole feeling of injustice.

The new clause would therefore require the Secretary of State and the regulator to have regard to customers in rural areas in exercising their powers when setting, reviewing and terminating the cap. The clause itself is self-explanatory. Again, I am interested to hear what the Minister has to say.

Claire Perry: The new clause seeks to add a clause to the Bill to create duties on Ofgem and the Secretary of State to consider the needs of customers in rural areas and to consider additional protections for them.

The hon. Gentleman spoke about this on Second Reading, and many of us who represent very rural constituencies understand exactly what he is saying. I have been really pleased to learn that, in the north of Scotland, the Government have confirmed their commitment to the hydro benefit replacement scheme, which is worth an average of £41 annually per household in the region.

The hon. Gentleman will be aware that costs are in some cases the function of geography—there is this unfortunate thing that it costs more to get electricity down to certain parts of the country. In my own region, the south-west, the peninsular effect creates some unfortunate energy price increases for those living at the end of the grid, as it were. That is something we have long had to live with. I am not saying that that is acceptable, but to date it has been a function of the pricing of energy distribution.

The other issue for many of those representing rural areas, including mine, is that people rely on heating oil or liquefied petroleum gas deliveries, because we are off the grid. Not only can that be a costly proposition, given the spike in heating oil prices, but it is a problem in terms of carbon emissions. As the hon. Gentleman knows from the clean growth strategy, I am determined to phase out fossil fuel heating—not in a way that penalises existing customers—starting with new builds from 2025, and really trying to come up with cost-effective alternatives in future.

When we have the consultation on the energy company obligation, which will be happening shortly, I am minded to review how much we direct towards customers in rural areas. As the hon. Gentleman knows, and as I know only too well from my constituency, fuel poverty is not an urban phenomenon. Many of our constituents live in old homes, which are not suitable for more modern forms of energy efficiency—[*Interruption.*] My hon. Friend the Member for Hitchin and Harpenden is putting up his hand to say that his house is like that. These homes are a problem, particularly for those on low incomes; in my constituency the average income is well below the national average, and many of our homes are simply very old. That is why, what I would like to do with ECO, to be forthcoming, is to see how we can deliver more help to rural households and how we can focus that help more on innovation so that we can create more of a route to market for important new technologies that could help.

We have an open market in the supply of heating oil—it has been looked at, and the conclusion was that it is competitive and working. LPG customers have the

[Claire Perry]

LPG orders introduced by the CMA, which set a maximum contract length. Under the fuel poor network extension scheme, Ofgem sets a target for gas distribution companies to connect an additional 91,000 low-income homes to the gas grid by 2021. So there is work afoot to reduce some of the disbenefits of living in some of the most beautiful parts of the world, such as the constituency of the hon. Member for Kilmarnock and Loudoun.

I have mentioned additional help, but I suppose the question is whether we should specify in the Bill that more should be done. My argument is that the new clause is not necessary, because the Bill already explicitly requires Ofgem to protect all existing and future standard variable and default customers, including consumers in rural areas. Furthermore, Ofgem's role as the regulator under the existing gas and electricity Acts confirms that it has a duty to protect the interests of all existing and future customers. It should specifically have regard to the interests of individuals living in rural areas, among other things.

There are already protections at various levels of the law and in the Ofgem regulations for those customers for whom the hon. Gentleman so rightly speaks. I therefore do not believe that the new clause is necessary, but I remain apprised of the issue he raised, which many of us face: how we help people who live in rural areas, who do not have the same options as those who live in urban areas, whether in terms of heating, lighting or broadband. I hope that he is content with that explanation and is minded to withdraw his new clause.

12.15 pm

Alan Brown: I welcome what the Minister said about ensuring that ECO is rolled out and that people who live in rural areas are prioritised. I realise that a cap in itself is not a means to an end in terms of ensuring effective competition and particularly helping people in rural areas, and that other Government policies are required to do that. Although, as the Minister said, the regulator needs to have due concern for all consumers, the new clause was intended to re-press the need for the Government and the regulator always to remember the disadvantages that people in rural areas face. It is clear that the Minister is well aware of those issues from her own constituency. For that reason, I beg to ask leave to withdraw the clause.

Clause, by leave, withdrawn.

New Clause 3

ASSESSMENT OF EXTENSION OF THE TARIFF CAP TO SMALL BUSINESSES

“(1) Within three months of the passing of this Act, the Secretary of State shall lay a report before each House of Parliament assessing the merits of extending the tariff cap to small business customers.”—(*Dr Whitehead.*)

Brought up, and read the First time.

Dr Whitehead: I beg to move, That the clause be read a Second time.

This is a simple and brief new clause that would require the Secretary of State, immediately after the passage of the Bill, to lay a report before both Houses assessing the merits of extending the tariff cap to small

business customers. I do not think I need to emphasise that the Bill's title gives the game away about what the tariff cap will cover: the Domestic Gas and Electricity (Tariff Cap) Bill applies to domestic customers and to no one else. That rather gainsays the idea that, in many instances, small businesses have far more similarities with domestic customers than with large companies, which may have wholly different arrangements for dealing with their electricity supply—they may engage in private wires or bilateral long-term contracts, or have their own generating plant—from small businesses, which in effect hug pretty closely to the principles for domestic customers.

It seems a little invidious that the cut-off point for the price cap is the end of the domestic customer level. I am sure no hon. Member present is in this position, but it is quite possible for a very large house with multiple activities going on in it to consume a lot more electricity than a high street retailer or a small business. A number of small businesses will find that their electricity bills are not capped even though, to all intents and purposes, they are indistinguishable from domestic customers as far as their patterns of use, means of purchase and so on are concerned.

The new clause would require the Secretary of State, shortly after the Bill's passage, to think about whether it might be appropriate to bring small businesses under the cap as it progresses, with a proper definition of which small businesses are in and which small businesses—those at the larger end—are out, so that the cap's benefits can be extended to that particularly hard-pressed sector of the UK economy, and so that a proper relationship can be established between who is doing what so far as their energy purchases are concerned and who should benefit from a cap as a result of doing those things.

This is a simple, straightforward amendment, which I hope the Minister will consider carefully.

Claire Perry: I am extremely interested in new clause 3. I will not delay the Committee too much, but the hon. Gentleman is absolutely right to have observed the issue faced by many small businesses. Indeed, it was observed by the last Conservative Government when they commissioned the CMA report. That report also looked at what was happening in the small business sector. It was a really important question.

As the hon. Gentleman mentioned, there is a huge variety of SMEs. They consume energy in entirely different ways and have different supply contracts. Many of them are on a domestic tariff. A question I have asked—I am not sure I know the answer—is what triggers the move from a domestic to a business tariff. If I do not have the answer by the end of this speech, I will happily write to the hon. Gentleman. It is an important question. [*Interruption.*] My civil servants are scribbling furiously. Of course, those businesses will be protected by the tariff.

As the hon. Gentleman mentioned, companies that are not supplied via a domestic tariff generally have fixed-term, fixed-price contracts that they negotiate through a broker, and those contracts are based on a range of different factors. In my constituency, I am aware—this has come up in the question around energy efficiency, which is a particular problem we need to try to crack with the small business sector—that many small businesses, particularly service companies, occupy

premises where energy is just part of the price they pay. There are real disincentives for those landlords to shop around for a more competitive energy price, because it might reduce some of the benefit they get from selling those services as a bundle. It is an interesting question.

The CMA reviewed the small business market and found that a combination of features lead to a weak customer response. My argument on that—I have discussed this with small businesses—is that if someone is making payroll every month, looking to export to new markets and thinking about what they might have to do with the changes to our technical relationship with the EU, they do not necessarily always default to looking at energy costs, even though that might be economically rational, as electricity or power prices might be 5% of an overall cost base. According to the CMA, that weak customer response provides energy suppliers with unilateral market power over inactive customers—those words always make me feel very uncomfortable when we are talking about a supposedly competitive market.

The CMA has already recommended remedies, and those are being implemented. We have ended auto-rollover contracts with restrictions, including termination fees. That was implemented by the Energy Market Investigation (Microbusinesses) Order 2016. We are making prices more transparent, and we are having a price comparison website, which has already been implemented by the CMA through an order in June 2017. Early reports suggest that that has not been fully taken up by suppliers.

We are establishing a programme of prompts with information for consumers to engage, which is similar to the remedy for domestic customers in terms of the least engaged groups. That is ready for implementation, but no date has been set. In a similar way to what we are doing on domestic remedies, we are establishing a database of inactive customers that will be made available to rival suppliers and switching sites. Ofgem has not yet implemented that recommendation.

There has been some progress on transparency and auto-rollover contracts. The recent welcome action Ofgem announced to end back-billing beyond 12 months will also benefit small businesses and should help significantly with the cash-flow drain that a large backdated bill could cause.

Ofgem has a business consumer survey under way that we expect to get sight of this summer. It should give us more insight into the experience of business consumers. Ofgem plans to review consumer protections in the small business market.

While I invite the hon. Gentleman to withdraw the new clause on the basis that the Bill focuses on domestic customers, where we already have more information, I am extremely interested in the problem of how we might provide better customer service and pricing availability to small business customers. I am perfectly happy to commit to looking at the problem very seriously and to have a proper and open discussion, as the hon. Gentleman and I tend to do, about what more might be done. I would send a very strong signal that, if at some future point a price cap mechanism might help small businesses, that is not something I would turn away lightly.

The hon. Gentleman has re-identified an excellent problem, if you like, in the energy markets. As I said to the right hon. Member for Don Valley earlier, the Bill is part of the intention to make a competitive market

work well for all consumers. I will continue to engage closely with this problem, and I hope the hon. Gentleman will be content to withdraw the new clause on that basis.

Dr Whitehead: I thank the Minister for that positive response to the overall suggestion. I appreciate that the Bill sticks fairly closely to domestic tariffs, and that is perhaps how we should leave it for present purposes, but I hope that the principle that has been raised, about that almost imperceptible gap, on occasion, between where domestic tariffs finish—

Claire Perry: Would the hon. Gentleman accept an intervention?

Dr Whitehead: Ah! The Minister has been inspired.

Claire Perry: I can inspire the entire Committee with the assiduousness with which my brilliant team is able to answer my questions. A company chooses the business rate. Those in commercial and retail premises have to choose a business tariff, but, of course, a home business, of which there are millions and millions, can be on a domestic tariff. In a way, there is a sort of self-selection mechanism, but if the business moves into commercial premises, it does have to default on to a business tariff. I hope that clarifies the confusion I raised.

Dr Whitehead: I thank the Minister for that clarification, but it emphasises the fact that a small business may be in circumstances where it is renting part of a building or is part of a business park, the negotiation of the energy supply is out of its hands and it is paying a set amount for that electricity, but that is not done on domestic rates, even though the extent of the business means the electricity may be well within what is normally paid for by a domestic consumer.

The Minister is absolutely right to identify the issue for small businesses, and I hope that will underline the seriousness with which she will take the issue forward. She indicated that she does want to give it further thought and to look at circumstances where the point of departure may be less abrupt in the future. On that basis, with the trust that she will assiduously pursue this, I beg to ask leave to withdraw the clause.

Clause, by leave, withdrawn.

New Clause 4

ONGOING RELATIVE TARIFF DIFFERENTIAL

“(1) The Secretary of State shall, during the term of the tariff cap conditions being in place, develop, ready for implementation, a relative tariff differential.

(2) A relative tariff differential is a requirement on supply licence holders that the difference between the cheapest advertised rate and the most expensive standard variable or default rate shall be no more than a specified proportion of the cheapest advertised rate.

(3) The Authority will be responsible for setting the proportion referred to in subsection (2).

(4) The relative tariff differential shall take effect on the termination of the tariff cap conditions.”—(*Dr Whitehead.*)

Brought up, and read the First time.

Dr Whitehead: I beg to move, That the clause be read a Second time.

This new clause is one that I feel particularly strongly about and that I hope the Minister can take on board, not necessarily with an immediate indication that the exact clause might be accepted but perhaps with an indication that she will look carefully at the principles it outlines and consider whether a similar amendment may be necessary and possible on Report. I say that partly because I appreciate that some of the wording is not what we would want to see in the final Bill. I particularly draw attention to the word “ongoing”. I am sorry that I have committed that word to paper, because it really should not exist as an English word; perhaps we can think of a better clause title. However, I want to talk briefly about what the new clause suggests.

12.30 pm

Anyone who has followed the debate leading up to the Bill will know that the hon. Member for Weston-super-Mare in particular has pursued with great vigour, and to his great credit, a campaign to ensure that a price cap Bill came before the House. The fact that the Bill is here today is in no small part down to his hard work, and that of many other hon. Members, in keeping the issue at the head of discussion, and making suggestions and proposals about how the legislation might be introduced.

One proposal that the hon. Gentleman put forward is that, when we talk about a price cap we should talk about not an absolute cap but a relative one, because that has a number of merits that an absolute cap does not. He suggested that it should be based on tariff differentials. For my part, I do not think that a relative price cap cast in that way does the business. Like the Minister, I am in favour of an absolute price cap, which is what is in the Bill. I am not in favour of that formulation of a relative price cap because that is not actually a price cap. It could start on the basis of differential tariffs at any level, and would not perform the function of an absolute price cap.

However, what the proposal of a relative cap does really well is draw attention to a serious, big problem in the energy market today. If energy companies have a very substantial range between tariffs, that affects their ability to switch their customers, and particularly their sticky customers. Let us not forget the range of sticky customers—people on variable tariffs—that a number of companies have. I think SSE, for example, has 89% of its customers on standard variable tariffs and other similar tariffs. Most of the big six have well over 50%. Even some of the newer energy companies are accreting a number of customers who are in that position. Those customers, who have been the focus of the Bill, are the most prone to particular energy companies effectively trading on their loyalty to change the terms of the tariffs over a period of time, so that they migrate towards the top end of the tariff range, rather than the bottom end, which they may have entered into an agreement on in the first place. Even if someone is on a fixed-term tariff offered at a particular point by an electricity company with a substantial tariff range, thinks they got a particularly good deal from that company and is a loyal customer, they may well find themselves placed on a new tariff towards the top end of that company’s tariff range when that mode of deal comes

to an end. In many instances, people do not know that has happened: they thought they were getting a good deal but find that they are paying through the nose for their electricity.

Caroline Flint: It is worth exploring what might happen down the road when the temporary price cap ends. I am in favour of an absolute price cap rather than a relative price cap. I am listening very carefully to what my hon. Friend is saying and I have read the new clause, but may I say this to him in a friendly way? My concern is that there is a danger that what he is putting forward may inadvertently create a relative price cap and I am against that because a company could set its highest tariff very high so that, even if there were a 6% differential, it would be a differential between a high tariff and a really high tariff. I am totally at one with him on ensuring that another set of bad practices does not come in when the temporary price cap ends, but is there not a danger that that might be the unintended consequence of his new clause?

Dr Whitehead: I thank my right hon. Friend for that important point about trying to look at the consequences of what may happen when the price cap ends. Indeed, the new clause considers precisely what circumstances will be in place at that point. In essence, its purpose is to require the Secretary of State to produce a report on what might happen to relative tariff differentials in the period after the price cap ends. I suggest that that may be one of the pillars of a return to reasonable market conditions when the cap ends. If that pillar and other matters relating to the market working well were in place, and had been franked by Ofgem as being in place, the relative tariff range limitation device might come into place at that point.

In those circumstances, it would make no sense for an energy company to start with a very high tariff, because it would simply lose a whole pile of customers. Indeed, in circumstances where companies have done that, for various reasons, they have bled a very large number of customers. We can see that in some of Centrica’s activities, for example. It seems to me that in circumstances where the market was otherwise working reasonably well, the market itself would determine whether companies could hoick their original offer tariff really high to take advantage of a restricted tariff level. That may simply not be a viable strategy for them to adopt under those circumstances. At the same time, however, companies that had offered a competitive tariff would not have the option of transferring customers to a non-competitive tariff if they did not switch.

That is particularly important given that all the evidence we have so far shows that, whatever we do and whatever remedies or new instruments are put in place, it is unlikely that we will ever have a market in which everyone actively switches. It is extremely likely that the system will continue to operate on the basis of a majority of people one way or another not switching and a minority of people switching, sometimes very actively. Yes, perhaps that switching would keep the market in order, but the market nevertheless would still carry a large number of people who did not switch.

In the past, people not switching has led to the maintenance of SVTs and default tariffs. Even when measures are applied, such as Ofgem’s experiments with

getting people to switch on the terms of the CMA's recommendations—a number of pilots have been carried out, including letters from energy companies or from Ofgem informing people about how they might switch—a good number of people do not switch. We have a reasonable responsibility—indeed, a duty—to consider what will happen to that body of people even after we apply all the other remedies to the market. It seems to me that this particular remedy for the period after the absolute price cap ends may actually address that issue of sticky customers continuing not to switch.

Let me give hon. Members an idea of what is happening in the market today. As we might expect, among the 60-plus companies making a tariff offer in the market, there is an upwards curve in basic tariffs. The annual cost of a dual fuel tariff ranges from about £800 to £1,200 for some of the green tariffs we discussed. If we look at those companies' tariff ranges—I will not mention names—we see that one company that starts at the lower end with an initial tariff offer of a little over £800 has a tariff range of up to £1,150, another company that offers an initial tariff of just over £900 has a tariff range of up to £1,200, and a company that starts at just under £900 has a tariff range of up to £1,150. That indicates that, at the moment, the slope of a company's initial tariff bears no relation to its tariff range. Indeed, some companies have very good tariff ranges—Members might be surprised to hear some of their names—whereas other companies, which Members might have a rather more benign view of, actually have huge tariff ranges. So the question of tariff range and how that may affect sticky customers is a question not just of there being bad companies doing this and good companies not doing it, but of it being reasonably endemic across the range of companies offering a relatively low initial tariff but having a very high tariff range structure in their arrangements.

12.45 pm

The new clause therefore simply says not what should be offered after the cap is over but that there should be a piece of elastic, as it were, between the lowest tariff and the highest. In essence, that is what the relative price cap suggests, but I am saying that the good bits of that suggestion should be incorporated as a pillar of the market's working well once the absolute cap is over. In a sense, that is the best of both worlds, the good bits of what is being proposed in the relative price cap and the good bits of the absolute price cap working well together to ensure that the market works well in the long term.

The Minister should look closely at my suggestion as an instrument to ensure that the market works well, which is what we all want to happen at the end of the absolute price cap. It would also be relatively easy to put in place while nevertheless assuring that section of the market for the future for those people who pay the high tariffs because of their particular behaviours. We should all be concerned about that and I hope that the Minister will take it on board and come back with something that makes it work, perhaps in a slightly different form—perhaps with a better name than the ongoing relative tariff arrangement—and that works well for all of us.

Claire Perry: I agree with the right hon. Member for Don Valley that it is absolutely right to think about what might happen when the cap goes off into the sunset,

as we have done extensively. I am always interested to listen to the hon. Member for Southampton, Test but I slightly feel—unless I have misjudged this—that we are going over territory that we have covered extensively, in particular on Second Reading. We have heard many arguments about the absolute versus the relative tariff and, in effect, he is proposing a perpetual relative tariff—*[Interruption.]* Perpetual or ongoing, perhaps we are dancing on the head of a pin—

Dr Whitehead: I am not proposing an ongoing cap.

Claire Perry: Okay, but there is a relative tariff or a relative cap that is ready to go. The hon. Gentleman said on Second Reading:

“It should be clear that we want this price cap to come in. We believe it should be an absolute and not a relative price cap”.—*[Official Report, 6 March 2018; Vol. 637, c. 271.]*

I agree with him, as does Ofgem and as does the Select Committee, which made it very clear that it felt that a relative cap would simply be gamed.

As the right hon. Member for Don Valley mentioned, there is also the problem that companies will simply lift up their skirts and raise their whole tariff. The hon. Member for Southampton, Test may say that companies would then lose their customers, but we come back to the question of whether people will actually move. Yes, companies may lose those hyper-price-sensitive switchers who are very engaged, but they may not lose the customers we are really here to help today—those who are more vulnerable and not as savvy.

The hon. Gentleman is right to say that Centrica lost more than 800,000 customers, but 650,000 of them were due to a collective switch—one big deal. So only 150,000 of a very substantial customer base, the majority of whom are still on SVTs, actually shifted, despite the price rise. The numbers are therefore not quite as unequivocal as he suggests.

He is also right to raise the issue of ongoing protection for vulnerable consumers. We will all be pleased that, regardless of the price cap, Ofgem has already introduced a safeguarding tariff for those on prepayment meters, an additional 1 million customers. Those customers have saved about £120 to date relative to what they would have paid. The tariffs that they are paying have come down relative to the uncapped SVTs on the market. That absolute cap mechanism, therefore, is working. Even when the safeguarding tariff put in place by the CMA or the price cap in the Bill comes to an end, Ofgem will continue to have the powers to take further steps to protect vulnerable customers as it sees fit.

We are all here because we want the market to be in a competitive place on the expiration of the tariff cap under the sunset clause. The hon. Member for Southampton, Test may say that that is a triumph of optimism over practicality but, in essence, if we believe the market will be more competitive and we do not believe that the relative price cap is the way to address any remaining issues of uncompetitiveness, I find it difficult to see why we should put his new clause into the Bill, running all the risks we talked about on Second Reading—which have been explained eloquently by others—of the variable tariff cap not being an effective way to establish competition. We will have had a temporary absolute cap in place. We will have sent the very clear

[*Claire Perry*]

signal. That will have operated. I can see a situation where a relative cap could undo some of that good work and we would suddenly see prices zooming upwards because there was the opportunity to do so.

I appreciate the hon. Gentleman thinking hard, as always, about what “good” will look like, and I share his desire to continue to work together on ensuring that this cap delivers, but I hope he will withdraw the new clause on the basis that it is not necessary and could have had unintended consequences.

Dr Whitehead: I simply do not accept what the Minister says about bad unintended consequences. I do not think that is realistic. Conversely, having something like this in place would be a positive driver of a return to not only good market conditions but proper protections for those operating tariff arrangements under those otherwise good market conditions. It is important that, in the ending of the absolute cap, we get both sides right. It is not just a question of the market working well. It is a question of people in that market who have disadvantageous circumstances being protected properly as it goes forward.

Claire Perry: Would the hon. Gentleman accept that those arguments could be made today about whether we are introducing an absolute or relative cap? We have all agreed quite strongly that an absolute cap provides those protections. If he were proposing that Ofgem has an absolute cap ready to go, we could raise some of the questions we discussed earlier about future uncertainty in the market. I felt that until today we had all considered carefully, but rejected, the structure of a relative cap as a hypothesis—as opposed to an actual absolute cap, which we have—that would not deliver the results we want: vital protections for vulnerable customers.

Dr Whitehead: Yes, indeed. That is why I have been pains to say that this is not a relative cap. It was not a relative cap when it was proposed, although it was branded as one, but can actually be a pillar of an instrument for market return. I do not want to pursue the new clause today; but, for reasons that the Minister and I perhaps need to talk about, it would be a good idea to bring something like it back on Report. I think we probably will. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

Question proposed, That the Chair do report the Bill to the House.

Claire Perry: May I thank you for your wise chairmanship, Sir Edward? I also thank Ms McDonagh, who chaired the Committee on Tuesday; the Clerks of the Committee, who have kept us assiduously on the straight and the narrow; and the House staff and *Hansard* reporters, who always do such an amazing job.

I extend fervent thanks to all members of the Committee. We have had an extremely constructive and helpful debate and have probed many aspects of the Bill. I also thank the witnesses who gave evidence and from whose wisdom we have benefited. I think that covers it, apart from thanking my excellent civil servants for their help in drafting the Bill and their excellent answers to questions. We will continue to draw deeply from that well, but at this stage I thank everybody for taking the Bill—hopefully successfully—through Committee.

Dr Whitehead: Like the Minister, I thank everyone who has taken part in this stage of the Bill’s passage. We have had a genuinely constructive debate, in which we have all been facing in the right direction. I particularly thank the Clerks for their assiduous work and for their help with tabling Opposition amendments; unfortunately we do not have an entire civil service on our side, so we must seek other help, but we have not been failed.

I hope that the Bill will now progress to its remaining stages with consensus that the tariff will be an absolute cap, and with good support from all sides of the House for the result that we all want.

Alan Brown: Without going on for too long, may I, too, thank the Clerks and the Chair? I thank the Minister for listening—I hope—and congratulate her on her appointment to the Privy Council. Like the hon. Member for Southampton, Test, I look forward to seeing the tariff cap in place, competition in the marketplace and consumers being saved money.

The Chair: On behalf of us all, I congratulate the Minister on her great honour; we are all absolutely delighted. On my own behalf and my fellow Chair’s, I thank all hon. Members who have taken part, particularly Dr Whitehead and the Minister. For an unreconstructed Thatcherite libertarian marketeer like me, it has certainly been a useful re-education camp on the benefits of intervention in the marketplace.

Question put and agreed to.

Bill accordingly to be reported, without amendment.

12.57 pm

Committee rose.

Written evidence reported to the House

DGE16 comparethemarket.com

DGE17 Ofgem - supplementary written evidence

DGE18 MoneySavingExpert.com

DGE19 Good Energy - supplementary written evidence

