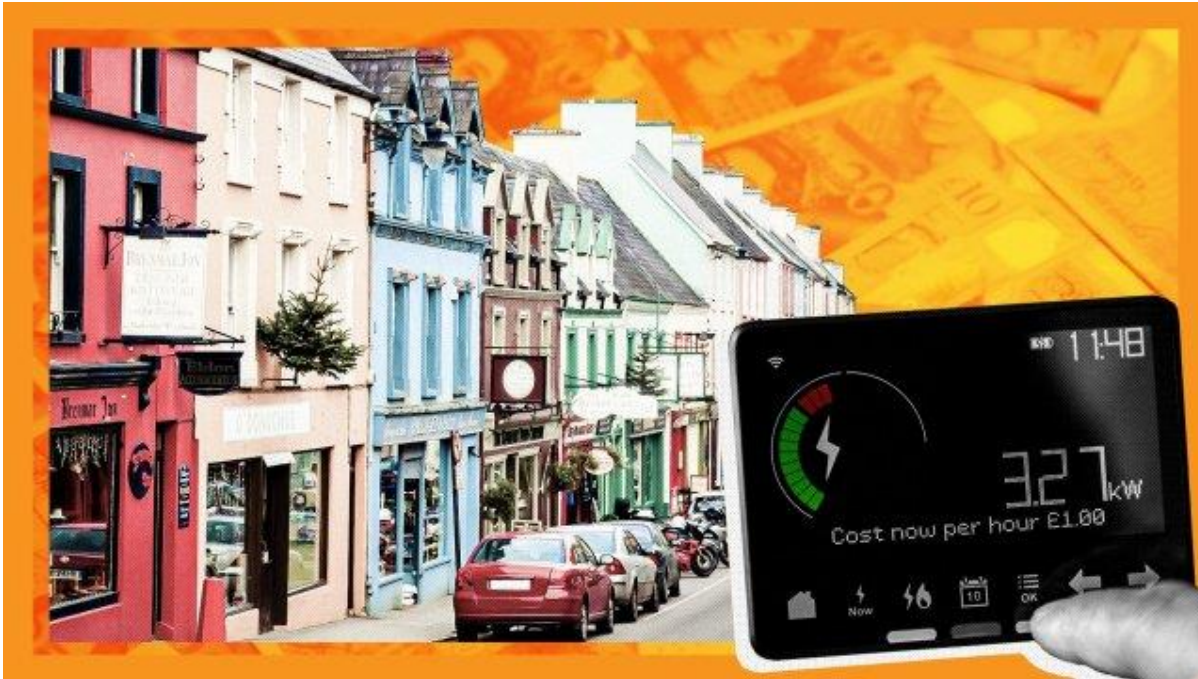


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Energy customers set for pay-outs worth billions in scandal ‘bigger than PPI’

EXCLUSIVE

Landmark case over hidden fees in bills could 'open floodgates' to more businesses taking action against their energy provider



Thousands of micro-businesses could seek compensation for hidden broker fees in their bills

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Energy firms could be forced to pay out billions to customers after a small business won a landmark legal case over hidden fees in bills.

It could now lead to hundreds of thousands of “micro-businesses” (firms with a turnover of less than £1.8m) seeking compensation over energy deal broker fees concealed within their own bills.

Queenie’s Casino Slots, based in County Durham, has recouped £14,000 from French power giant Engie after a judge ruled an energy broker hid additional fees in the business’s bills.

The judge said there was “deliberate concealment” of the broker fees and that “it was Engie’s policy to not reveal the size or nature of this commission”.

Legal and energy experts say the ruling at Leeds County Court could be the start of a scandal potentially bigger than the mis-selling of PPI (payment protection insurance) from 1990 to 2010.

The broker fee claims could stretch back as far as 2000, when Ofgem deregulated the brokerage market.

Last June, **i** revealed the practice of hiding broker fees in business energy deals, and reported that the fallout for energy firms would make the PPI scandal “look like peanuts”.

Andrew Smith, owner of Queenie’s Casino Slots, welcomed the ruling. “We are pleased to have won damages against the supplier. It may not seem like a huge amount but for a small business like ours it makes a big difference.”

He told **i**: “Like many others, we are trying to operate in challenging economic circumstances. Energy bills are big enough as it is without having to fork out more.

“Many other businesses may have fallen foul to this type of practice costing them thousands of pounds in the process – money they can’t afford.



“No business wants to be ripped off. Check your energy bill or get support. It’s important to make sure you are not overpaying through hidden fees.”

Lawyer Victoria Myers, said the court ruling against Engie could spark hundreds of thousands of claims from businesses against their energy providers.

“This has the potential to be the next PPI scandal with thousands of innocent business owners being misled and mis-sold contracts,” said Ms Myers.

“A major energy supplier ‘deliberately concealed’ costs from a small business, and that is huge.

“This is a multi-billion-pound issue and at a time when businesses struggle with growing costs across the board, it is important for them to look at their contracts and ensure they aren’t missing out on what is rightfully theirs.”

The issue centres on high-cost deals agreed with brokers who also received a commission from the energy companies, without the knowledge of the clients involved.

This commission is added to the businesses’ energy bills – often hidden in the customer’s tariff – and can account for up to 50 per cent of the total costs, according to research from industry regulator Ofgem.

It was not until October 2022 that Ofgem started to close this loophole, making it a requirement for brokers to declare their commissions to clients in micro-businesses.

The Business Energy Claims firm that brought the case on behalf of Mr Smith, said any subsequent claims from businesses could stretch back to 2000.

Mr Thompson, said: “This case has the real potential to open the floodgates to other businesses and organisations, large and small, which may have been misled and as a result mis-sold energy contracts.

“What we are looking at is a multi-billion-pound issue on a similar scale to the PPI scandal which could affect hundreds of thousands of businesses and other organisations who may or may not realise they could have a claim.”

Ofgem found that between two and three million businesses (67 per cent) use a broker to help choose their tariff, with fixed rates for up to five years and no cooling-off period, meaning companies are legally locked in.

New Ofgem rules to protect businesses

Last December, Ofgem set out its proposals to expand protections for businesses, which will bring in a new set of rules for suppliers to make sure they improve customer service and clearly set out costs for customers, including the amount paid for third party services, like energy brokers.

The Business Energy Claims firm said it had also settled “dozens of claims” relating to broker fees as energy suppliers seek to avoid court, but it had a number of forthcoming court cases that, if successful, would result in millions being paid back to their clients by a range of energy providers.

Mr Thompson claimed that mis-sold energy contracts entered into by non-domestic energy users total around £2.25bn each year since 2000.

If every company hit by hidden broker fees made a successful claim, BEC believes the total paid out could dwarf the £38.4bn paid to PPI claimants since 2011.

A spokeswoman for Energy UK, the industry's trade body, said: "As the majority of non-domestic contracts are secured through brokers, the industry has long called for them to be regulated in the same way as the rest of the market.

"Energy UK and our supplier members have supported proposals resulting from Ofgem's review of the non-domestic market, particularly around increasing the information, clarity and transparency of commissions.

"Ofgem having the legal powers to set out and enforce rules would increase regulatory oversight and establish higher standards for brokers so that business customers are properly protected."

Ofgem declined to comment. Engie did not respond to multiple requests to comment.

What the judge said

In the Queenie's Casino Slots ruling, it emerged that Engie had not been transparent during the process, as the judge highlighted "deliberate concealment" on its part.

"Relevant information was ... kept secret ... and that concealment was, in my judgment, deliberate on Engie's part," Recorder Geoffrey Pritchard ruled.

In what is known as a "half secret case", the client knew the broker would be paid in some form, but did not know the extent, the amount or that they themselves would foot the bill.

The court found a conflict of interest between the broker and client, and that the broker had determined the size of the commission which ultimately went against the client's best interests, while also determining the length of contract.

Pointing out that the client could not have discovered the commission amount, the judge said the brokerage agreement meant both Engie and the broker would deliberately conceal commission.

The ruling highlighted that "it was in Engie's interest to keep the brokers happy and to ... attract them to do business with Engie as opposed to another electricity supplier.

"If the customers did enter electricity supply contracts with Engie, then the brokers would obtain a payment (by way of a commission paid on a fixed figure per kWh) from Engie. It was Engie's policy to not reveal the size or nature of this commission."