

## Supplier of Last Resort: Revised Guidance



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**Target audience:** Gas and electricity suppliers, network operators, gas shippers, insolvency practitioners, consumer groups and other interested parties.

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### Overview:

This document updates Ofgem's November 2003 guidance on the Supplier of Last Resort (SoLR) process. It sets out the issues that we would consider in the event of the failure of a gas or electricity supplier, information about the process we would follow and the criteria we would use to select and appoint a SoLR. It also provides details about the information that industry parties would be required to provide as part of that process.

This revised guidance is based on the current licence conditions and provides enhanced guidance on Ofgem's policies and procedures. It also takes account of developments since November 2003 relating to the arrangements for dealing with supplier failures. This includes, in particular, the experiences of the winter of 2005/6 and more recently in October 2008, when Ofgem needed to invoke the SoLR arrangements.

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## Context

Ofgem's principal objective is to protect the interests of consumers wherever appropriate by promoting effective competition. In the event of a supplier failure, Ofgem's priority is to ensure that all customers continue to receive supplies of gas and/or electricity.

## Associated Documents

- Supplier of Last Resort: Revised guidance, November 2003.  
[http://www.ofgem.gov.uk/Licensing/Work/Revoc/Documents1/5174-SolR\\_guidance\\_doc\\_24nov03.pdf](http://www.ofgem.gov.uk/Licensing/Work/Revoc/Documents1/5174-SolR_guidance_doc_24nov03.pdf)

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## Summary

From time to time, companies in competitive markets fail. This applies as much in relation to the gas and electricity supply markets as it does to other markets. It is therefore inevitable that some gas and electricity suppliers will fail. The difference between gas and electricity and other sectors of the economy is that gas and electricity supply are services that are generally regarded as essential. This is why it is important that Ofgem, in conjunction with other bodies where appropriate, takes all reasonable steps to address the consequences of suppliers failing. Not every failure will require regulatory intervention – the business may be sold in a trade sale. However, it is for Ofgem to take all reasonable steps within its available powers to secure continuity of supply for all customers.

In November 2003, Ofgem published guidance<sup>1</sup> on:

- the legal and regulatory framework relevant to the appointment of a Supplier of Last Resort (SoLR);
- Ofgem's arrangements for dealing with supplier failures;
- the information Ofgem is likely to request from industry parties in the event of a supplier failure; and
- the criteria used by Ofgem when selecting a SoLR.

Since that document was published there have been a number of developments. Firstly, Ofgem has had to use the SoLR process. During the winter of 2005/6, five smaller suppliers failed and were unable to secure a trade sale.<sup>2</sup> In each case, Ofgem was required to revoke their supply licence and appoint a SoLR. Most recently, in October 2008, a SoLR was appointed for the customers of Electricity4Business. These events enabled us to test and refine our procedures for dealing with failures.

Secondly, the supply licence conditions relevant to the SoLR process have been significantly amended and simplified as part of the 2006/7 Supply Licence Review. This document provides up-to-date guidance on the current arrangements for dealing with supplier failures.

Ofgem considers that trade sales are generally more desirable than regulatory intervention. However, the current regulatory regime gives Ofgem some discretion as to when it revokes a licence, and how it selects and appoints a SoLR. Among other things, this can make it difficult for those contemplating purchasing a failing business to commit finance because they may not be sure whether or not the regulator is likely to revoke the supplier's licence. The guidance provided by this document about

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<sup>1</sup> Supplier of Last Resort: Revised guidance, November 2003

<sup>2</sup> The Team Group of Companies, Eledor, Reephram (all December 2005), Utility Link (January 2006) and Zest 4 (February 2006).

Ofgem's role in the event of a supplier failure should help facilitate trade sales. It will also help potential SoLRs and other industry parties to ensure that they have procedures in place to deal with their responsibilities in the event of a supplier failure. This includes the possibility that Ofgem has to use its powers to appoint a SoLR where no suppliers have volunteered to take on some or all of the customers of a failing supplier.

Ofgem has the power to appoint a SoLR for all customers – domestic and non-domestic. This power is essential to ensure that all of a failed supplier's customers have continuity of supply. Appointing a SoLR only for domestic customers would leave other customers without a supplier and at risk of possible disconnection. It could also expose other industry parties to bad debt as customers continued to use electricity or gas for which the failed supplier was not paying.

There is no statutory or licence provision for Ofgem to appoint a "Shipper of Last Resort" if a shipper fails (whether or not the supplier(s) it services remain solvent). This document does not, therefore, consider in any detail what happens when a shipper fails but its supplier remains solvent. Any SoLR supplying gas customers would always have to have their own shipper.

This guidance is issued to help industry parties, their advisors and insolvency practitioners understand Ofgem's current powers, policies and procedures to deal with supplier failures, in particular the circumstances in which it would appoint a SoLR. The guidance cannot take account of unforeseen circumstances that might arise during a particular failure. Such circumstances may necessitate changes (which may be substantial and at short notice) to the policies and procedures in this document.

#### *Structure of this document*

The rest of this document is structured in the following way:

- **Chapter 1** explains the legal and regulatory framework relevant to the appointment of a SoLR;
- **Chapter 2** explains Ofgem's arrangements for dealing with supplier failures;
- **Chapter 3** gives details of the selection criteria that Ofgem is likely to use when selecting a SoLR;
- **Chapter 4** gives details of what happens after a SoLR appointment;
- **Chapter 5** reviews other issues that have been raised about supplier failures including what happens if a shipper fails but not related suppliers; and
- the **Appendices** give details of the information that we are likely to request from various industry parties in the event of us possibly needing to appoint a SoLR.

## 1. Background

1.1. Ofgem's principal objective is to protect the interests of consumers, wherever appropriate by promoting effective competition. In the event of a supplier failure, Ofgem's priority is to ensure that all customers continue to receive supplies of gas and/or electricity.

1.2. This Chapter explains the legal and regulatory framework relevant to the appointment of a SoLR. It covers briefly the circumstances under which Ofgem may:

- grant a licence;
- revoke a licence; and
- appoint a SoLR.

### Granting licences

1.3. Ofgem assesses applications for licences for a number of activities including the supply of gas and electricity. Ofgem does not consider that any check it could perform on a potential licensee at the time its application is being considered will provide continuing comfort about its financial viability once the licensee commences operations. The Application Regulations 2004 do not therefore require applicants to submit financial information or a detailed business plan.<sup>3</sup>

### Licence revocation

1.4. Ofgem can revoke a gas or electricity supplier's licence in not less than 24 hours in certain circumstances.<sup>4</sup> For the purposes of this document, the relevant terms for revocation of a supplier's licence include when the supplier:

- "is unable to pay its debts (within the meaning of section 123(1) or (2) of the Insolvency Act 1986<sup>5</sup>) or any voluntary arrangement is proposed in relation to it under section 1 of that Act or it enters into any composition or scheme of

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<sup>3</sup> The Gas (Applications for Licences and Extensions and Restrictions of Licences) (no.2) Regulations 2004 SI 2004 No 2983 and The Electricity (Applications for Licences and Extensions and Restrictions of Licences) (no.2) Regulations 2004 SI 2004 No 2952

<sup>4</sup> Contained in Schedule 2 to the Licence

<sup>5</sup> The terms state that section 123(1)(a) of the Insolvency Act 1986 shall have effect as if for "£750" there was substituted "£100,000" or such higher figure as the Authority may from time to time determine by notice in writing to the licensee. The licensee shall not be deemed to be unable to pay its debts if any such demand as is mentioned in section 123(1)(a) of the Insolvency Act 1986 is being contested in good faith by the licensee with recourse to all appropriate measures and procedures or if any such demand is satisfied before the expiration of such period as may be stated in any revocation notice.

arrangement (other than for the purpose of reconstruction or amalgamation upon terms and within such period as may previously have been approved in writing by the Authority); or

- has a receiver (which expression shall include an administrative receiver within the meaning of section 29 of the Insolvency Act 1986) of the whole or any material part of its assets or undertaking appointed; or
- has an administration order under Schedule B1 of the Insolvency Act 1986<sup>6</sup> made in relation to it; or
- passes any resolution for winding-up other than a resolution previously approved in writing by the Authority; or
- becomes subject to an order by the High Court for winding-up.”

*Circumstances where Ofgem would consider revoking a supply licence*

1.5. Ofgem considers that trade sales are generally more desirable than regulatory intervention. However, the current regulatory regime gives Ofgem some discretion as to when it revokes a licence, and how it selects and appoints a SoLR.

1.6. In deciding whether or not to revoke a supplier’s licence, Ofgem is likely to take into account (but would not necessarily be limited to) the following issues:

- Payment of post-receivership charges by the receiver

1.7. Although Ofgem’s preference is for a trade sale, we do not consider that it is acceptable for a receiver<sup>7</sup> to continue to supply gas or electricity without agreeing to pay the appropriate energy balancing and network charges. If a receiver agrees to pay the post-receivership costs it is likely that we would consider that they should be allowed to continue supplying customers for a limited period in order to give them some time to sell the company’s assets in a trade sale. If the receiver does not agree to pay these post-receivership debts then we would consider the balance between the interests of the failed supplier’s customers against the risk to other industry parties (and, ultimately, all other customers) of exposure to the increasing bad debt of the failed supplier.

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<sup>6</sup> As amended by section 248 of the Enterprise Act 2002.

<sup>7</sup> For the purposes of this document, the term “receiver” is used to mean any insolvency office holder.

- Whether the supplier is “unable to pay its debts”

1.8. Ofgem cannot consider whether a supplier is “unable to pay its debts”, nor can it pre-empt the outcome of a resolution for winding up. Both these issues are matters that must be decided by a court. In these circumstances, we would wait until a court has made a decision before deciding whether to revoke a licence. For instance, if a creditor issues a Statutory Demand on a supplier, we will wait for the 21 day period allowed to satisfy the demand and until a court has decided that the demand is valid before considering whether the supplier’s licence should be revoked.

- Potential SoLRs

1.9. Before deciding to revoke a licence and appoint a SoLR, Ofgem must be satisfied about the ability of potential SoLRs to supply the failed supplier’s customers without significantly prejudicing their ability to continue to supply their existing customers. We will do this by asking other suppliers a series of detailed questions about how they would deal with various aspects of being a SoLR.

#### *Revocation procedure*

1.10. The timescale for deciding whether to revoke a licence will depend on the circumstances of the failure. Ofgem will take all reasonable steps to contact the relevant person at the supply business, whether that is a director or a receiver. This will enable us to raise and clarify any concerns we have and to explain the regulatory position and our powers.

1.11. This contact will also provide the director or receiver with the opportunity to provide reasons why its licence should not be revoked. Ofgem would make clear the timescale for making such representations. This will depend on the urgency of the situation and in particular the impact on customers and other industry parties of delaying any decision to allow time for further representations or for alternative solutions to the licensee’s problems to be found. Ofgem expects directors and receivers to make it a priority to respond to any requests by us for a meeting.

1.12. Ofgem must publish reasons for revoking a licence.<sup>8</sup> Once we have decided to revoke, we will therefore issue a Notice of revocation and, simultaneously, a Notice giving reasons. Any confidential material is likely to be contained in a separate annex sent only to the licensee.

1.13. For operational reasons relating to the respective industry settlement systems, the revocation of the licence is likely to be at 00:01 for electricity and 06:00 for gas.

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<sup>8</sup> Section 38A(1)(a) Gas Act 1986 and section 49A(1)(a) Electricity Act 1989

**Appointing a Supplier of Last Resort**

1.14. Any gas or electricity supply licensee can be directed by Ofgem to take over responsibility for a failed supplier's customers (i.e. to be a SoLR).<sup>9</sup> In considering which supplier to direct, we must be satisfied that:

- circumstances have arisen that would entitle Ofgem to revoke the failed supplier's licence; and
- the SoLR could supply the additional customers without significantly prejudicing its ability to continue to supply its existing customers and to fulfil its contractual obligations for the supply of gas or electricity.

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<sup>9</sup> Gas and electricity supply licences: Standard Condition 8.1

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## 2. Arrangements for dealing with supplier failures

2.1. This Chapter and Chapter 3 describe the arrangements that Ofgem has put in place to enable it to decide which supplier to appoint as a SoLR if it decides to revoke a failing supplier's licence. The arrangements include:

- obtaining information from a variety of sources about the failing supplier's customer portfolio;
- discussions with any receiver appointed to the failing company;
- providing information about the failing supplier's portfolio to potential SoLRs and obtaining information from them about how they could take over responsibility for customers; and
- deciding which supplier to appoint as a SoLR if Ofgem decides to revoke the failing supplier's licence.

### **Information about the failing supplier's portfolio**

2.2. Good quality information about a failing supplier's portfolio enables potential SoLRs to assess the impact on their existing business of supplying additional customers. It also enables a SoLR to provide a better service to those customers, particularly if customer names and billing addresses are available. Ofgem will therefore use its powers to obtain information about the failing supplier's portfolio and customers.<sup>10</sup> Some information about customers can be obtained from the network operators, however they do not have customer billing details. If poor quality systems have been one of the factors in the supplier's failure, customer billing information may be limited.

2.3. Ofgem will consider carefully when it is appropriate to serve information requests on the failing supplier and network operators. Where possible and appropriate in the circumstances, this will be done before the supplier goes into receivership. This will enable Ofgem to move quickly to the next stage of its procedures (requesting information from potential SoLRs) if and when it is appropriate to do so.

2.4. Some high-level, aggregated portfolio information will be provided to potential SoLRs to enable them to assess their ability to supply the additional customers. Specific customer details (where these are available) will only be released by Ofgem to a SoLR when it has been appointed. The information provided to potential SoLRs is covered by the provisions of section 105(1) of the Utilities Act 2000. This restricts further disclosure of the information. As such, the information provided must only be

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<sup>10</sup> Gas and electricity supply licences: Standard Condition 5 (Provision of Information to the Authority)

used for the purposes of making a decision about whether to volunteer for the role of SoLR and for providing the information requested by Ofgem.

2.5. Participants in previous SoLR events have commented that some form of early contact from Ofgem would be useful as it would give potential SoLRs more time to consider their position (and, if possible, attempt a trade sale) and enable them to respond quicker to a formal information request. Where possible, we will endeavour to give potential SoLRs early warning that a SoLR situation may be imminent. Such warning may include the total number of domestic and non-domestic gas and/or electricity supply points and the likely energy volume commitments required.

*Information from gas and electricity network operators*

2.6. Gas transporters can provide information about a gas supplier's portfolio by:

- Local Distribution Zone (LDZ); and
- whether the meter is registered as domestic or non-domestic.

2.7. An example of the type of information that would be requested from gas transporters is set out in Appendix 2.

2.8. Electricity Distribution Network Operators (DNOs) will be asked for details of three main customer groups in each Grid Supply Point Group, identified by their profile/measurement class:

- domestic (i.e. profile classes 1 and 2);
- non-domestic non-half hourly (NHH) (i.e. profile classes 3 - 8); and
- Half hourly (HH) (i.e. profile class 00).

2.9. An example of the type of information that would be requested from DNOs is set out in Appendix 3.

2.10. Elexon will be asked for information about:

- the Balancing Mechanism Units (BMUs) registered to the failing supplier;
- metered volumes, showing the total volumes, by settlement period, consumed in the previous week by the failing Supplier ID in each Grid Supply Point Group; and
- HH and NHH volumes, showing the total volumes, by settlement period, consumed in the previous week by the failing Supplier ID in each Grid Supply Point Group, split by HH and NHH customers.

*Information from the failing supplier*

2.11. Although network operators and Elexon have information about a supplier's meters, volumes used and site addresses, they do not hold customer billing details.

Ofgem will therefore ask the failing supplier for information about its portfolio and for details of its customers.

2.12. Ofgem will also ask for information relating to the failing supplier's electricity sales volumes. This will be used to determine the supplier's obligations under the Renewables Obligation.<sup>11</sup> Each year, suppliers have to demonstrate their compliance with the Renewables Obligation. This takes the form of presenting Renewable Obligation Certificates (ROCs), paying a buy-out payment or a mixture of the two. The number of ROCs that have to be presented or the amount of buy-out that the company has to pay is based on a proportion of the previous year's sales. If a company were to go into administration then Ofgem needs to have this sales data as it would let us know whether the company has an obligation, what amount of buy-out payment or late payment the company owes or will owe and whether there is likely to be a shortfall in the buy-out fund (and how much it might be) as a result of the supplier not complying with their obligation.

2.13. An example of the type of information that would be requested from the failing supplier is set out in Appendix 1.

### **Discussions with the receiver**

2.14. Ofgem will seek an urgent meeting with any actual or prospective receiver to discuss their intentions and explain our role and powers, particularly our ability to revoke a licence and appoint a SoLR. Ofgem would seek the receiver's agreement to pay those post-receivership costs that could otherwise be incurred by other industry parties and/or customers. If the receiver agrees, it is likely that we would consider that some time should be given to finalise a trade sale. If there is no agreement to pay these costs, other industry parties are exposed to the failed supplier's bad debt once any credit cover has been utilised. In these circumstances, we will consider whether it is appropriate to move to the next stage of the SoLR process – obtaining information from potential SoLRs about their ability to supply the failed supplier's customers. This does not indicate that the failed supplier's licence will be revoked. It is a prudent measure by Ofgem to ensure that if revocation and the appointment of a SoLR become necessary, they can be done as quickly as possible.

### **Information from potential SoLRs**

2.15. Ofgem would always prefer to be able to appoint a SoLR that had consented to the role. However, if no suitable supplier wants to be a SoLR, we will consider using our powers to direct a supplier without its consent. We will therefore send high-level, aggregated information about the failed supplier's portfolio to those licensees that we

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<sup>11</sup> The Renewables Obligation Order 2006 and the Renewables Obligation (Scotland) Order 2007 (both as amended).

consider are most likely to be able to fulfil the role of SoLR, whether voluntarily or otherwise. In the current market circumstances, these licensees are likely to include:

- British Gas Trading
- EdF Energy
- E.On
- npower
- Scottish and Southern Energy, and
- ScottishPower.

2.16. In some circumstances there may be other licensees who could be considered as a potential SoLR. Ofgem will decide, depending on the circumstances of the supplier failure, which licensees to approach.

2.17. Ofgem will use its powers to require potential SoLRs to provide information about a number of issues which could affect their ability to supply the failed supplier's customers.<sup>12</sup> This section summarises the information required; full details are set out in Appendix 4.

#### *Ability to provide gas and electricity*

2.18. In appointing a SoLR, Ofgem has to consider whether the supplier could carry out the role without significantly prejudicing its ability to supply its own customers and fulfil its contractual obligations for the supply of gas and electricity.<sup>13</sup> Ofgem will therefore ask potential SoLRs to say how they will continue to provide gas and/or electricity to their existing customers while also supplying the failed supplier's customers.

#### *Industry processes*

2.19. Ofgem wants to keep to a minimum the disruption to the failed supplier's customers. It will therefore need information to allow it to judge how the SoLR will operate various industry processes and agreements. Potential SoLRs will be asked how they will manage the change of supplier process so that customers are transferred as quickly as possible from the failed supplier to the SoLR.

2.20. In addition, potential SoLRs will be asked for information about how they (or their gas shipper, where applicable) will maintain adequate current and increased credit cover under existing industry agreements.

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<sup>12</sup> Gas and electricity supply licences: Standard Condition 5

<sup>13</sup> Gas and electricity supply licences: Standard Condition 8.1(b)

### *Customers*

2.21. The provision of information to the failed supplier's customers will be a very important part of the SoLR's role. Potential SoLRs will be asked how they will:

- tell customers about what has happened;
- inform customers of the charges they will face; and
- ensure that arrangements are in place to enable customers to move onto a contract with the SoLR or to move from the SoLR to a contract with the supplier of their choice.

### *Deemed contracts*

2.22. If a supplier provides information on the above criteria that indicates that it would be able to perform the role of SoLR, Ofgem will then consider the deemed contract prices for each potential SoLR.

2.23. Ofgem does not consider that the failed supplier's customers (whether domestic or non-domestic) should be protected from all price increases. However, a SoLR's deemed contract prices can reflect no more than the reasonable costs of supply (including costs attributable to the purchase of gas or electricity at short notice), together with a reasonable profit.<sup>14</sup> Once appointed, a SoLR will be able to charge the failed supplier's customers on the basis of its deemed contract rate. This will cover the period from appointment until customers have agreed a replacement contract rate with the SoLR or another supplier of their choice, or the six month period of SoLR appointment expires, whichever is earlier. We will consider the SoLR's deemed contract prices in terms of what is best overall for the customer groups involved.

2.24. Ofgem considers that it is important that the failed supplier's customers can switch to an alternative supplier if they wish to. A SoLR must not charge a termination fee if a customer takes supply from another supplier.<sup>15</sup>

### *Claims for last resort supply payments*

2.25. The role of SoLR represents a significant logistical challenge to a supplier. The supplier is likely to incur increased administrative costs and will have to implement additional energy purchasing arrangements. These will have to be activated and managed within a very short period of time. However, there are also potentially valuable commercial benefits to a SoLR. It will not have the normal acquisition costs

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<sup>14</sup> Gas and electricity supply licences: Standard Condition 8.6

<sup>15</sup> Gas and electricity supply licences: Standard Condition 7.6 (Terms of Contracts and Deemed Contracts)

(for example, paying commission to doorstep sales agents) and will have the opportunity to convert the customers it has acquired as a SoLR to normal contracts.

2.26. Electricity and gas suppliers' licences permit them (in some circumstances) to make a claim for the otherwise unrecoverable costs that they have incurred in being a SoLR.<sup>16</sup> This would be paid by a "levy" on gas transporters' and electricity distributors' Distribution Use of System (DUoS) charges.

2.27. Ofgem would prefer a SoLR not to make a claim via these arrangements for costs it has incurred carrying out its role. A SoLR should set its charges for customers at a level that reflects the supplier's reasonable assessment of the expected costs involved in supplying those customers. It would not be appropriate for the customers of a failed supplier to be charged less than the actual cost of supplying them with the difference being funded by other customers through these arrangements.

2.28. Whilst we expect an efficient SoLR to be able to cover its own costs through deemed contract prices, Ofgem recognises that the circumstances of supplier failures are different and that there may be some instances when a SoLR incurs otherwise unrecoverable costs. An efficient SoLR should be able to minimise its exposure to these costs. Following appointment of a SoLR that had not waived its right to make a claim, we will decide on a case-by-case basis whether it might be appropriate for a SoLR to make a claim on the levy - and whether the amount of any claim was reasonable. In coming to a decision, we will consider issues such as the number of customers and their total consumption of gas/electricity and whether customer details are available (either from the failed supplier or a third party).

### *Timescales*

2.29. Ofgem wants to try to ensure that all potential SoLRs can comply with the information request. As noted earlier, we will endeavour to give suppliers advanced warning that a SoLR event is imminent. There is a considerable amount of information that suppliers can prepare in advance of an actual failure which would ensure that, when the SoLR selection process starts, more time can be spent on key decisions. We have previously indicated that we are likely to allow potential SoLRs between four to six hours to provide all the information requested. However, this will depend on the specifics of each case and, in considering what response time is appropriate, we will take into consideration the size of the failing supplier and the nature of the failure as well as the need to protect customers and minimise the impact of the failure on other industry parties.

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<sup>16</sup> Gas and electricity supply licences: Standard Condition 9 (Claims for Last Resort Supply Payment)

2.30. The provision of information by potential SoLRs is a licence obligation. Ofgem expects potential SoLRs to take seriously their obligations to respond adequately and in a timely manner. A potential SoLR that fails to provide the information required may still be considered as a SoLR. We will also consider whether we should take enforcement action if a licensee fails to respond properly to the information request within the set timeframe.

### 3. Ofgem's SoLR selection criteria

3.1. This Chapter sets out the selection criteria that Ofgem is likely to use in assessing which supplier(s) to direct to be a SoLR. The criteria should be read in conjunction with the information request in Appendix 4. The criteria may vary depending on the circumstances of the failure – this is therefore provided for guidance only.

#### General information

##### *Volunteer SoLR*

3.2. Ofgem policy: Other things being equal, preference will be given to those suppliers who volunteer for the role of SoLR. Ofgem would prefer to appoint one SoLR for all the failed supplier's gas customers and one SoLR for all its electricity customers (this may be the same SoLR). However, there may be circumstances where the portfolio has to be split. In gas, the large gas transporters' systems allow the portfolio to be split by domestic and non-domestic customers. In electricity, the portfolio can be split by Grid Supply Point Group.

3.3. Reason: Ofgem considers that customers' interests will be best served by a supplier that wants to be a SoLR, provided Ofgem is satisfied that the volunteer has the capacity and resources to fulfil the role. One SoLR would make it easier for customers to know who their new supplier was. In addition, system constraints in gas mean that the operation of more than one SoLR would be difficult.

3.4. Criteria: The answer "Yes" to being a volunteer SoLR, whatever customer group.

##### *Last resort supply payments*

3.5. Ofgem policy: Other things being equal, preference will be given to those suppliers who state that they will not make a claim for last resort supply payments pursuant to standard condition 9 of the supply licence.

3.6. Reason: Ofgem would prefer a SoLR not to make a claim via the levy arrangements for costs it has incurred carrying out its role. A SoLR should set its charges for customers at a level that reflects the supplier's fair assessment of the expected costs involved in supplying those customers. It would not be appropriate for the customers of a failed supplier to be charged less than the actual cost of supplying them with the difference being funded by other customers through these arrangements. We would therefore expect an efficient SoLR to be able to cover its own costs and not rely on additional payment through the levy arrangements, although there may be circumstances in which this is not possible.

3.7. Criteria: The answer "Yes" to agreeing to waive the right to make a claim for a last resort supply payment before being appointed a SoLR.

## **Industry arrangements**

### *Sourcing gas and electricity; network agreements*

3.8. Ofgem policy: A SoLR should have robust arrangements in place that will enable it to supply the failed supplier's customers economically and efficiently. A SoLR should have arrangements in place to source the additional gas and electricity required for any customers acquired as part of a last resort supply direction, while enabling it to continue to supply its existing customers. A SoLR's shipper must have signed the appropriate Network Codes for the licensed gas transporters on whose networks the Licensee may be a SoLR. The Licensee must have entered into Distribution Use of System Agreements with all distribution companies in whose areas it may be a SoLR.

3.9. Reason: Ofgem will not issue a last resort supply direction to a supplier that it considers may not be able to supply the acquired customers in addition to its existing customers. Ofgem will not issue a last resort supply direction to a supplier if, as a result of the direction, the supplier (or its shipper) would be in breach of its licence conditions or industry codes and agreements.

3.10. Criteria: All suppliers should demonstrate that they can supply additional customers without jeopardising supply to existing customers. Gas suppliers must have an existing agreement with a licensed shipper.

### *Credit cover*

3.11. Ofgem policy: A SoLR or its shipper must be able to comply with current credit cover rules.

3.12. Reason: The transfer of customers to a SoLR is likely to be delayed if the SoLR or its shipper is in breach of credit cover rules. Other market participants and other customers may be exposed to smeared costs in the event of default where there is inadequate cover.

3.13. Criteria: A supplier must provide evidence of compliance with current credit cover rules and the ability to provide the increased cover required without reaching its credit limits.

## **Customers**

### *Change of supplier process*

3.14. Ofgem policy: A SoLR must be able to operate the relevant change of supplier processes to minimise disruption to customers and other industry participants.

3.15. Reason: To minimise disruption to customers of the failed supplier (e.g. enable them to be billed) and other industry participants.

3.16. Criteria: Ofgem will assess the issues that the supplier would face in processing the failed supplier's customers. In particular, Ofgem will assess the supplier's ability to assimilate customer information and issue bills without undue delay.

#### *Customer service*

3.17. Ofgem policy: A SoLR must have adequate arrangements in place to deal with customer queries.

3.18. Reason: Although Ofgem, network operators and consumer groups will be able to provide some information to the failed supplier's customers, Ofgem expects a SoLR to deal with the bulk of customer enquiries.

3.19. Criteria: Ofgem will assess the supplier's ability to deal with customer enquiries, taking into account draft letters, notices, Q&As prepared, call centre capability and billing arrangements.

#### *Prepayment meter customers*

3.20. Ofgem policy: A SoLR should recognise that there are particular difficulties associated with a last resort direction to supply PPM customers, and should have robust arrangements in place to enable it to deal with the challenges, minimising disruption to affected customers.

3.21. Reason: PPM customers of a failed supplier may face additional problems as a result of their supplier's failure. In particular, the customers may not be able to obtain emergency credit or replacement PPM devices quickly. The SoLR should recognise the additional issues associated with these customers and should have arrangements in place to deal with them.

3.22. Criteria: Ofgem will assess the supplier's ability to deal with PPM customers acquired as part of a last resort supply direction.

### **Deemed contracts**

#### *Deemed contract prices*

3.23. Ofgem policy: A failed supplier's customers should not expect to be protected from paying increased prices. However, deemed contracts can reflect no more than the reasonable costs of supply (including costs attributable to the purchase of gas or electricity at short notice), together with a reasonable profit.

3.24. **Reason:** In the case of a failed supplier, Ofgem's primary interest in customer protection means ensuring continuity of supply.

3.25. **Criteria:** Ofgem will consider the supplier's prices, taking into account the explanation given by the supplier for the difference, if any, between its deemed contract prices in normal circumstances and its deemed contract prices under a last resort supply direction.

### **Assessment of information**

3.26. Ofgem will set up a Panel of staff to assess the information provided against these criteria. The Panel may need to contact suppliers to clarify individual responses and, if necessary, discuss certain aspects of the responses, particularly the interaction of deemed contract prices and the potential for any claim for a last resort supply payment.

3.27. Ofgem would always prefer to be able to appoint a SoLR that had consented to the role. However, if no suitable supplier volunteers to be a SoLR, we will consider using our powers to direct a supplier without its consent.

3.28. This emphasises the importance of suppliers responding to our information request. Failure to respond in a full and timely manner constitutes a licence breach and we may take enforcement action if this occurs.

3.29. Suppliers must also be reasonable in their responses to our information request, particularly with respect to their deemed contract prices. These can reflect no more than the reasonable costs of supply and a reasonable profit. As such, any supplier appointed as a SoLR should be able to demonstrate that their prices are reasonable and may be asked to do so if we think this is necessary.

3.30. Ofgem has the power to appoint any supplier as a SoLR so long as we think they could carry out the role without significantly prejudicing their ability to supply their own customers and to fulfil their contractual obligations for the supply of gas and electricity. We will consider as potential SoLRs all suppliers that we think meet these criteria, irrespective of whether they have responded to our information request. We will select a SoLR from those suppliers we consider to be most appropriately placed to carry out the role.

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## 4. What happens after SoLR appointment

4.1. This Chapter covers a number of issues regarding what happens during and after the appointment of a SoLR.

### **Revocation date, appointment date and duration of direction**

4.2. The revocation and the effective date of appointment of the SoLR will always coincide.<sup>17</sup> For operational reasons relating to the respective industry settlement systems this is likely to be at 00:01 for electricity and 06:00 for gas.

4.3. The direction to be a SoLR cannot last longer than six months.<sup>18</sup> After that time the SoLR remains the supplier for any customers with which it has deemed or other contracts. However, after the direction ceases to have effect the SoLR's deemed contract price must revert to its normal rate.

### **Transfer to a SoLR**

4.4. It is for the SoLR (and its shipper), in conjunction with other industry parties (e.g. network operators), to decide the best way to transfer customers to its portfolio. In the case of a large supplier failing, this may take some time due to system constraints in the transfer process. The SoLR should seek to register all the customers of the failed supplier as soon as possible after the direction takes effect.<sup>19</sup>

4.5. Nevertheless, the SoLR has a deemed contract with each of the failed supplier's customers and is therefore able to charge them for the gas or electricity they use prior to actual transfer to the SoLR. When determining the amount of gas or electricity a customer has used, a SoLR must act on a reasonable basis, taking into account available consumption data for the premises in question and other relevant factors.<sup>20</sup>

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<sup>17</sup> Gas and electricity supply licences: Standard Condition 8.2(a)

<sup>18</sup> Gas and electricity supply licences: Standard Condition 8.2(b)

<sup>19</sup> Master Registration Agreement: Section 26.4

<sup>20</sup> Gas and electricity supply licences: Standard Condition 7.9 (Terms of Contracts and Deemed Contracts)

## **Obligations on a SoLR**

### *Data protection principles*

4.6. If appointed as SoLR to some or all of the failed supplier's customers, suppliers will receive from Ofgem any information that it has available on those individual customers. The SoLR must, in these circumstances, comply with the data protection principles set out in Schedule 1 of the Data Protection Act 1988. The data disclosed by Ofgem must only be used for the purpose of providing information to Ofgem or for the purpose of supplying gas and/or electricity pursuant to a last resort supply direction.

### *Notice to customers*

4.7. Within a reasonable period of time after appointment, the SoLR must send a notice to customers for which the SoLR has become the supplier telling them<sup>21</sup>:

- the failed supplier is no longer supplying them;
- the SoLR is their supplier from the date of appointment;
- they are supplied under a deemed contract;
- they may switch to another supplier if they wish to; and
- the charges payable and how those charges are determined.

### *Meter readings*

4.8. The SoLR should take reasonable steps to ensure that actual or estimated meter readings are secured to enable acceptable and timely billing of customers. In practice, Ofgem and Consumer Focus are likely to have advised customers through the media to take a meter reading.

### *Sourcing gas and electricity*

4.9. In purchasing any additional gas or electricity in order to supply its newly acquired customers, the SoLR should take all reasonable steps to do so as economically as possible under the circumstances.<sup>22</sup>

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<sup>21</sup> Gas and electricity supply licences: Standard Condition 8.5

<sup>22</sup> Gas and electricity supply licences: Standard Condition 8.7

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## 5. Other issues

5.1. This Chapter considers a number of issues that have been raised about supplier failures, including the implications for gas shippers and Distributed Energy schemes.

### **Gas shippers**

#### *Suppliers' undertakings to gas transporters*

5.2. There is no statutory or licence provision for Ofgem to appoint a "Shipper of Last Resort" if a gas shipper fails (whether or not its supplier remains solvent). All suppliers must give a deed of undertaking to their relevant gas transporter within 20 working days of being granted a licence. The deed's terms state that if the arrangements between the supplier's shipper and the transporter end and no arrangements with another shipper are put in place then (after notice from the transporter) the supplier will be responsible to the transporter for the charges that the shipper would otherwise have paid (this includes transportation charges and charges for gas). The gas supplier must use its best endeavours to arrange another shipper within 25 days.<sup>23</sup>

#### *Obligations on shippers*

5.3. When a SoLR is appointed, any gas shipper that shipped gas to a failed supplier's customers must comply with any relevant directions given by Ofgem to facilitate the SoLR supplying gas or to make arrangements with the SoLR's shipper to convey gas to premises.<sup>24</sup>

### **Distributed Energy**

5.4. With the likely advent of Distributed Energy (DE) schemes<sup>25</sup>, it is possible in future that a failing supplier may act as agent for one or more DE schemes. Ofgem is keen to minimise any disruption for such DE schemes and their customers, in particular avoiding inadvertently transferring a DE scheme's customers to a different supplier as part of the SoLR process. These issues will be considered as part of the wider workstream regarding the establishment and operation of DE schemes.

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<sup>23</sup> Gas supply licence: Standard Condition 18 (Undertakings to Relevant Gas Transporters)

<sup>24</sup> Gas shippers licence: Standard Condition 12 (Provisions Relating to Continuity of Supply)

<sup>25</sup> A Distributed Energy scheme is defined as a supplier primarily using distributed generation of electricity to meet local or community supply, on the public distribution network. Distributed generation is defined as renewable electricity generation and combined heat and power plant connected directly into the local distribution network.

## Appendices

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## Appendix 1 - Information from a failing supplier

This Appendix sets out the information that Ofgem is likely to request from a failing supplier. The information requested may vary depending on the circumstances of the failure – this is therefore provided for guidance only.

### **Company structure, contractual arrangements and financial position**

1. A description of (or organogram showing) the current ownership of the Licensee, including any parent companies and any significant shareholdings in the Licensee and any parent companies.
2. A copy of the standard contract (or, if more than one standard contract, the various forms of standard contract) entered into by the Licensee with customers. To the extent the terms and conditions on your website accurately and completely represent the contractual arrangements you have with customers, you may simply refer to this.
3. A brief description of the financial position of the company as at the date of response, including a statement as to whether, were the licensee company to be wound up by its members, such winding-up would be a solvent or insolvent winding-up under the Insolvency Act 1986 (otherwise known as a members' or a creditors' voluntary liquidation).

### **Gas**

4. Give details of any shippers with whom the Licensee has made contractual arrangements for the shipping of gas.

#### *Non-domestic supply points*

5. For non-domestic supply points supplied by the Licensee, provide the following data items:
  - (a) Total number of non-domestic supply points.
  - (b) Number of non-domestic supply points in each Local Distribution Zone (LDZ) and Exit Zone, in the format attached at [...], showing separately the number of Daily Metered & Interruptible sites.
  - (c) Number of non-domestic supply points supplied via each Independent Gas Transporter (Gas Transporters not party to the Uniform Network Code).
  - (d) Details of any unique sites supplied, including site address, billing address and emergency contact details.
  - (e) Number of non-domestic supply points in the process of registration.
  - (f) Number of non-domestic supply points in the process of transferring away.

6. Non-domestic supply point portfolio report by Meter Point Reference Number (MPRN) detailing in the format attached at [...]:

- LDZ and Exit Zone, or Connected System Exit Point (CSEP) and name of licensed gas transporter in the case of Independent Gas Transporters
- Customer name and telephone number
- Billing address
- Site address
- Meter Asset Manager (MAM)
- Annual Quantity (AQ)
- Emergency contact details
- Details of whether the MPRN is Daily Metered (DM) or Interruptible
- Whether the customer contracted for the supply of gas with any company acting as agent to the Licensee and, if so, who

*Domestic supply points*

7. For non-domestic supply points supplied by the Licensee, provide the following data items:

- (a) Total number of domestic supply points.
- (b) Number of domestic supply points in each Local Distribution Zone (LDZ) and Exit Zone, in the format attached at [...].
- (c) Number of domestic supply points supplied via each Independent Gas Transporter.
- (d) Number of domestic supply points in the process of registration.
- (e) Number of domestic supply points in the process of transferring away.

8. Domestic supply point portfolio report by MPRN detailing in the format attached at [...]:

- LDZ and Exit Zone, or CSEP and name of licensed gas transporter in the case of Independent Gas Transporters
- Customer name and telephone number
- Billing address
- Site address
- Meter Asset Manager (MAM)
- Annual Quantity (AQ)
- Special End User Contact Details (SEUC)
- Details of whether the MPRN is a prepayment meter (PPM)
- Whether the customer contracted for the supply of gas with any company acting as agent to the Licensee and, if so, who

9. A copy of the Licensee's Priority Services Register (as required by Standard Condition 26 of the gas supply licence).

**Electricity***Non-domestic supply points*

10. For non-domestic supply points registered in Supply Metering Registration Service (SMRS), provide the following data items. These should be reported a) at the close of business on the day before the date of the report and b) in relation to the Meter Point Administration Numbers (MPANs) registered to the Licensee c) including MPANs in the course of registration to the Licensee but excluding MPANs in the course of registration away from the Licensee:

(a) the total number of non-domestic MPANs registered to the Licensee;  
(b) in relation to each Grid Supply Point Group comprised in the format attached at [...]:

(i) the total number of non-domestic non-half-hourly MPANs registered to the Licensee classified by profile class; and  
(ii) the total number of non-domestic half-hourly MPANs registered to the Licensee.

11. Number of non-domestic supply points in the process of registration.

12. Number of non-domestic supply points in the process of transferring away.

13. Number of non-domestic supply points supplied via each Independent DNO.

14. For each MPAN referred to in paragraph 10 above, specified by reference to each MPAN and comprised in the format attached at [...] provide the following details:

- Grid Supply Point Group
- Customer name and telephone number
- Billing address
- Site address
- Profile class
- Meter timeswitch code
- Line loss factor
- Energisation status
- Meter serial number
- Estimated Annual Consumption (EAC) figure
- Last Annualised Advance figure
- Registered maximum demand figure (Profile classes 5 to 8 only)
- Is the customer contracted for the supply of electricity with any company acting as agent to the Licensee and, if so, who
- Meter Asset Manager (MAM)

*Domestic supply points*

15. For domestic supply points registered in SMRS, provide the following data items. These should be reported a) at the close of business on the day before the date of the report, b) in relation to the MPANs registered to the Licensee and c) including MPANs in the course of registration to the Licensee but excluding MPANs in the course of registration away from the Licensee:

(a) the total number of domestic MPANs registered to the Licensee;  
(b) in relation to each Grid Supply Point Group comprised in the format attached at [...]: the total number of domestic non-half-hourly MPANs registered to the Licensee classified by profile class.

16. Number of domestic supply points in the process of registration.

17. Number of domestic supply points in the process of transferring away.

18. Number of domestic supply points supplied via each Independent DNO.

19. For each MPAN referred to in paragraph 15 above, specified by reference to each MPAN and comprised in the format attached at [...] provide the following details:

- Grid Supply Point Group
- Customer name and telephone number
- Billing address
- Site address
- Profile class
- Meter timeswitch code
- Line loss class
- Energisation status
- Meter serial number
- Estimated Annual Consumption (EAC) figure
- Whether the customer is contracted for the supply of electricity with any company acting as agent to the Licensee and, if so, who
- Meter Asset Manager (MAM)

20. A copy of the Licensee's Priority Services Register (as required by Standard Condition 26 of the electricity supply licence).

*Embedded generation*

21. Give details, including MPANs, contact details and site addresses (where relevant) of any unlicensed generation held in the Supply Volume Allocation (SVA) system.

*Renewables Obligation*

22. Provide estimated figures relating to total sales of electricity to customers in England and Wales, and in Scotland [for both the preceding and current financial years]. Two sets of figures should be provided, one for England and Wales and one for Scotland.

The estimated figures should be provided having regard to any sales figures which the Licensee has provided or intends to provide to the Department for Energy and Climate Change (DECC) for statistical purposes and publication in "Energy Trends".

The estimated figures should include:

- billed electricity supply (to distribution connected customers only);
- sales through a 'private' distribution network;
- sales made under sell-and-buy-back contract;
- sales to customers directly connected to the transmission network; and
- sales to customers directly connected to the transmission network where exemptions apply.<sup>26</sup>

**Failure to comply with the terms of this request for information may lead to enforcement action under section 28 of the Gas Act 1986 and/or section 25 of the Electricity Act 1989.**

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<sup>26</sup> The following exemptions apply up to 31 March 2010:

- (i) sales to 'high electricity users' (i.e. customers with long term, fixed price contracts signed prior to 1 April 2002 where those customers' bills constitute more than 20 per cent of their yearly turnover); and
- (ii) 'stand-by electricity' sales (i.e. sales to corporate customers who require the electricity in order to cover temporary power outage in their own generating capacity).

## Appendix 2 – Information from gas transporters

This Appendix sets out the information that Ofgem is likely to request from gas transporters. The information requested may vary depending on the circumstances of the failure – this is therefore provided for guidance only.

### Portfolio overview

1. The shippers who provide a gas shipping service to **[name of failed supplier]**.
2. The total number of supply points in the portfolio.
3. Spread of sites geographically by Local Distribution Zone (LDZ) and Exit Zone in the format attached at [...] showing separately the number of domestic (D) supply points, the number of non-domestic (I) supply points, the number of supply points for which there is no 'D' or 'I' indicator on the large gas transporters' system, and the sum of Annual Quantities (AQs) for each category.
4. Number of sites in the process of registration.
5. Number of sites in the process of transferring away.

### Portfolio supply point information

6. For each Meter Point Reference Numbers (MPRN) supplied by **[name of failed supplier]**, provide in the format attached at [...]:
  - Full site address including postcode
  - LDZ and Exit Zone
  - Annual Quantity (AQ)
  - Meter Model Description (e.g. credit or pre-payment)
  - Market Sector Code - domestic (D) or non-domestic (I)
  - Gas Nomination Type Code - daily metered (DM) or non-daily metered (NDM)
  - Meter Link Code
  - Meter Asset Manager (MAM)
  - Whether the supply point is live or isolated

### Connected System Exit Point (CSEP) information

7. Count and location by LDZ of CSEPs through which shipping activity is provided.

**Failure to comply with the terms of this request for information may lead to enforcement action under section 28 of the Gas Act 1986.**

## Appendix 3 – Information from electricity network operators

This Appendix sets out the information that Ofgem is likely to request from electricity Distribution Network Operators (DNOs). The information requested may vary depending on the circumstances of the failure – this is therefore provided for guidance only.

### Portfolio information

The following information, held by the Metering Point Administration Service (MPAS) established and operated by or on behalf of the Licensee at the close of business on the day before the date of the report for the Metering Point Administration Numbers (MPANs) registered to **[name of failed supplier]**:

1. Total number of MPANs in the portfolio split by Profile Class, Measurement Class and Grid Supply Point Group in the format attached at [...];
2. For each MPAN referred to in paragraph 1 above, specified by reference to each MPAN and comprised in the format attached at [...], provide the following details:
  - Full site address including postcode
  - Measurement Class
  - Profile Class
  - Meter timeswitch code
  - Line loss factor
  - Energisation status
  - Meter serial number

**Failure to comply with the terms of this request for information may lead to enforcement action under section 25 of the Electricity Act 1989.**

## Appendix 4 – Information from potential SoLRs

This Appendix sets out the information that Ofgem is likely to request from potential SoLRs. The information requested may vary depending on the circumstances of the failure – this is therefore provided for guidance only.

### GENERAL

#### *Data protection*

1. Please provide confirmation that, unless appointed as SoLR to some or all of the customers of **[name of failed supplier]**, the high-level portfolio information provided with this request will only be used for the purposes of making a decision about whether to volunteer for the role of SoLR and for providing the information requested in this request.
2. If appointed as SoLR to some or all of the customers of **[name of failed supplier]**, Ofgem will provide to the Licensee any information it has obtained on those individual customers to which the Licensee is appointed as SoLR. Please confirm that, if appointed as SoLR, the Licensee will comply with the data protection principles set out in Schedule 1 of the Data Protection Act 1988, and that the data disclosed by Ofgem will only be used for the purpose of providing information to Ofgem or for the purpose of supplying gas or electricity pursuant to a last resort supply direction under standard condition 8 of the gas and electricity supply licences.

#### *General information*

3. State whether the Licensee wishes to volunteer to be a SoLR for the following customer groups:
  - Gas customers
  - Electricity customers
  - Domestic customers
  - Non-domestic customers
4. State if the Licensee agrees to waive its right to make a claim for a Last Resort Supply Payment before being appointed a SoLR.

### Customers

#### *Change of supplier process*

5. Give details of the arrangements the Licensee will make to manage the change of supplier process and the length of time it is likely to take to transfer all the customers of the failed supplier.

*Customer service*

6. Explain the arrangements that the Licensee will make to deal with the customers of **[name of failed supplier]**, including:

- i) how customers will be informed about what has happened;
- ii) how customers' written and telephone enquiries will be dealt with;
- iii) how it will be ensured that customers will receive a timely and accurate bill; and
- iv) how customers will be made aware of their options to sign up to a contract with the Licensee or another supplier

*Prepayment meter customers*

7. Explain the arrangements that the Licensee will make to deal with the PPM customers of **[name of failed supplier]**, including:

- i) how arrangements will be made to deal with the provision of new PPM devices;
- ii) how arrangements will be made to enable the provision of emergency credit;
- iii) how arrangements will be made to deal with the switching of customer meters to the Licensee's deemed contract tariff rate for customers whose meter has been programmed to collect a proportion of debt; and
- iv) provide details of the number and type of PPM customers already supplied by the Licensee.

**GAS****Industry arrangements***Sourcing gas*

8. Give details of the arrangements the Licensee has to source gas to:

- i) continue to supply its existing customers; and
- ii) supply the customers of **[name of failed supplier]**.

9. Give details of the Licensee's shipping arrangements that will enable it to ship gas to customers of **[name of failed supplier]**.

*Network agreements*

10. State which gas transporters' network codes have been signed by the shipper, and give details of any contraventions of any of these network codes during the past 12 months, including whether there have been any failures to pay invoices.

*Credit cover*

11. Give details of the shipper's current arrangements for complying with (a) energy balancing and (b) transportation credit cover by providing the following information:

- i) type of security instrument;
- ii) secured credit limit;
- iii) current level of indebtedness; and
- iv) details of any failure to pay cash call or invoice notices received in the past 12 months.

12. Explain how the shipper would comply with the credit cover requirements if it had to ship gas to customers of **[name of failed supplier]**. In particular, give details of how quickly any required additional security could be arranged and put into place, and the type of new security that would be used.

**Deemed contracts***Domestic customers*

13. Complete the table below, giving the average GB deemed contract price for each group if directed to supply gas pursuant to Standard Condition 8 for a domestic gas customer with medium kWh consumption as defined on the Consumer Focus pricing factsheets (20,500 kWh per annum). **(NB – All prices must include VAT)**

<b>DOMESTIC CUSTOMERS – AVERAGE PRICE</b>			
Standard Credit		PPM	
p/kWh	Standing charge (p/day)	p/kWh	Standing charge (p/day)

14. If the Licensee's deemed contract prices as a SoLR for domestic customers differ from its normal deemed contract prices explain how and give the reasons for the different pricing structures.

*Non-domestic customers*

15. Complete the table below, giving the average GB deemed contract price if directed to supply gas pursuant to Standard Condition 8 for a non-domestic gas customer. **(NB – All prices must include VAT)**

<b>NON-DOMESTIC CUSTOMERS – AVERAGE PRICE</b>	
p/kWh	Standing charge (p/day)

16. If the Licensee's deemed contract prices as a SoLR for non-domestic customers differ from its normal deemed contract prices explain how and give the reasons for the different pricing structures.

## **ELECTRICITY**

### **Industry arrangements**

#### *Sourcing electricity*

17. Give details of the arrangements the Licensee has to source electricity to:

- i) continue to supply its existing customers; and
- ii) supply the customers of **[name of failed supplier]**.

#### *Network agreements*

18. State which Distribution Companies the Licensee has entered into Distribution Use of System Agreements with.

#### *Credit cover*

19. Give details of the Licensee's current arrangements for complying with:

- the Balancing & Settlement Code credit cover;
- distribution credit cover; and
- transmission credit cover.

For each of these arrangements, please provide the following information:

- i) type of security instrument;
- ii) secured credit limit;
- iii) current level of indebtedness;
- iv) details of any failures to pay invoices in the past 12 months; and
- v) explain how the Licensee would comply with the credit cover requirements if it had to supply electricity to customers of **[name of failed supplier]**. In particular, give details of how quickly any required additional security could be arranged and put into place, and the type of new security that would be used.

### **Deemed contracts**

#### *Domestic customers*

20. Complete the table below, giving the average GB deemed contract price for each group if directed to supply electricity pursuant to Standard Condition 8 for a domestic electricity customer with medium consumption as defined on the Consumer Focus pricing factsheets (3,300 kWh per annum). **(NB – All prices must include VAT)**

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<b>DOMESTIC CUSTOMERS – AVERAGE PRICE</b>			
Standard Credit		PPM	
p/kWh	Standing charge (p/day)	p/kWh	Standing charge (p/day)

21. If the Licensee's deemed contract prices as a SoLR for domestic customers differ from its normal deemed contract prices explain how and give the reasons for the different pricing structures.

*Non-domestic customers*

22. Complete the table below, giving the average GB deemed contract price if directed to supply electricity pursuant to Standard Condition 8 for a non-domestic electricity customer. **(NB – All prices must include VAT)**

<b>NON-DOMESTIC CUSTOMERS – AVERAGE PRICE</b>	
p/kWh	Standing charge (p/day)

23. If the Licensee's deemed contract prices as a SoLR for non-domestic customers differ from its normal deemed contract prices explain how and give the reasons for the different pricing structures.

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## Appendix 5 – The Authority’s Powers and Duties

1.1. Ofgem is the Office of Gas and Electricity Markets which supports the Gas and Electricity Markets Authority (“the Authority”), the regulator of the gas and electricity industries in Great Britain. This Appendix summarises the primary powers and duties of the Authority. It is not comprehensive and is not a substitute to reference to the relevant legal instruments (including, but not limited to, those referred to below).

1.2. The Authority's powers and duties are largely provided for in statute, principally the Gas Act 1986, the Electricity Act 1989, the Utilities Act 2000, the Competition Act 1998, the Enterprise Act 2002 and the Energy Act 2004, as well as arising from directly effective European Community legislation. References to the Gas Act and the Electricity Act in this Appendix are to Part 1 of each of those Acts.<sup>27</sup>

1.3. Duties and functions relating to gas are set out in the Gas Act and those relating to electricity are set out in the Electricity Act. This Appendix must be read accordingly<sup>28</sup>.

1.4. The Authority’s principal objective when carrying out certain of its functions under each of the Gas Act and the Electricity Act is to protect the interests of consumers, present and future, wherever appropriate by promoting effective competition between persons engaged in, or in commercial activities connected with, the shipping, transportation or supply of gas conveyed through pipes, and the generation, transmission, distribution or supply of electricity or the provision or use of electricity interconnectors.

1.5. The Authority must when carrying out those functions have regard to:

- The need to secure that, so far as it is economical to meet them, all reasonable demands in Great Britain for gas conveyed through pipes are met;
- The need to secure that all reasonable demands for electricity are met;
- The need to secure that licence holders are able to finance the activities which are the subject of obligations on them<sup>29</sup>; and
- The interests of individuals who are disabled or chronically sick, of pensionable age, with low incomes, or residing in rural areas.<sup>30</sup>

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<sup>27</sup> Entitled “Gas Supply” and “Electricity Supply” respectively.

<sup>28</sup> However, in exercising a function under the Electricity Act the Authority may have regard to the interests of consumers in relation to gas conveyed through pipes and vice versa in the case of it exercising a function under the Gas Act.

<sup>29</sup> Under the Gas Act and the Utilities Act, in the case of Gas Act functions, or the Electricity Act, the Utilities Act and certain parts of the Energy Act in the case of Electricity Act functions.

<sup>30</sup> The Authority may have regard to other descriptions of consumers.

1.6. Subject to the above, the Authority is required to carry out the functions referred to in the manner which it considers is best calculated to:

- Promote efficiency and economy on the part of those licensed<sup>31</sup> under the relevant Act and the efficient use of gas conveyed through pipes and electricity conveyed by distribution systems or transmission systems;
- Protect the public from dangers arising from the conveyance of gas through pipes or the use of gas conveyed through pipes and from the generation, transmission, distribution or supply of electricity;
- Contribute to the achievement of sustainable development; and
- Secure a diverse and viable long-term energy supply.

1.7. In carrying out the functions referred to, the Authority must also have regard, to:

- The effect on the environment of activities connected with the conveyance of gas through pipes or with the generation, transmission, distribution or supply of electricity;
- The principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed and any other principles that appear to it to represent the best regulatory practice; and
- Certain statutory guidance on social and environmental matters issued by the Secretary of State.

1.8. The Authority has powers under the Competition Act to investigate suspected anti-competitive activity and take action for breaches of the prohibitions in the legislation in respect of the gas and electricity sectors in Great Britain and is a designated National Competition Authority under the EC Modernisation Regulation<sup>32</sup> and therefore part of the European Competition Network. The Authority also has concurrent powers with the Office of Fair Trading in respect of market investigation references to the Competition Commission.

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<sup>31</sup> Or persons authorised by exemptions to carry on any activity.

<sup>32</sup> Council Regulation (EC) 1/2003

## Appendix 6 - Glossary

### A

#### Annual Quantity (AQ)

The AQ of a supply point is its annual consumption over a 365 day year, under conditions of average weather.

### B

#### Balancing and Settlement Code (BSC)

The BSC contains the rules and governance arrangements for electricity balancing and settlement in Great Britain. All licensed electricity suppliers must be party to the BSC.

#### Balancing Mechanism (BM)

A market based mechanism that enables National Grid to instruct generators and suppliers to vary electricity production or consumption close to or in real time, in order to maintain the safe operation of the system.

#### Balancing Mechanism Unit (BMU)

A subset of electricity generation or consumption that is registered to a supplier or generator under the terms of the BSC. BMUs do not need to participate in the BM. A BMU is typically the smallest available collection of meters with half hourly metering. On the generation side, a BMU may be a single combined cycle gas turbine module or a genset (power electricity generator).

### C

#### Consumer Focus

Consumer Focus is a statutory organisation, created by the Consumers, Estate Agents and Redress Act 2007 to represent the interests of consumers across England, Wales, Scotland, and, for postal services, Northern Ireland. The organisation handles customer complaints processes – including a single point of contact for consumer advice, incentives for service providers to improve performance, and an ombudsman scheme which can issue decisions that are binding on companies. It also acts as a single, cross-sector organisation to help ensure a more coherent approach to consumer advocacy and campaigning for change.

### Connected System Exit Point (CSEP)

The System Point(s) (for the purposes of the National Grid Network Code) comprising one or more Individual System Exit Points at which the Connected Offtake System(s) are connected to the System.

## D

### Daily Metered (DM) Supply Point

A supply point fitted with equipment, for example a data logger, which enables meter readings to be taken on a daily basis.

### Distributed Energy (DE)

Renewable electricity generation and combined heat and power plant connected directly into the local distribution network.

### DECC

The Department for Energy and Climate Change.

### Distribution Use of System (DUoS) charges

The charges paid by electricity suppliers to distribution companies for use of the electricity distribution system.

### Distribution Network Operators (DNO)

DNOs came into existence on 1 October 2001 when the ex-Public Electricity Suppliers were separated into supply and distribution businesses. There are 14 DNOs covering discrete geographical regions of Britain. They take electricity off the high voltage transmission system and distribute this over low voltage networks to industrial complexes, offices and homes. DNOs must hold a licence and comply with all distribution licence conditions for networks which they own and operate within their own distribution services area. DNOs are obliged to provide electricity meters at the request of a supplier.

### Domestic energy suppliers

Companies who sell energy to and bill residential customers in Great Britain.

**E****Elexon**

The Balancing and Settlement Code Company (BSCCo) created by the Balancing and Settlement Code (BSC). Elexon procures, manages and operates services and systems which enable the balancing and imbalance settlement of the wholesale electricity market.

**G****Gas transporter**

A company, licensed by Ofgem, which transports gas through its network on behalf of a gas shipper.

**Gas shipper**

A company licensed by Ofgem, which arranges with a gas transporter for gas to be introduced into, conveyed and taken out of the pipeline system. Shippers must balance their input to and customer off take from the National Transmission System (NTS) each day. Ofgem licences all shippers.

**Grid Supply Point (GSP)**

A point of connection between the transmission system and the distribution system.

**I****Industrial and Commercial (I&C) sector**

The non-domestic sector in general rather than any specific group of customers.

**K****kWh**

Kilowatt hour is a unit used to measure energy consumption in both electricity and gas.

**L****Local Distribution Zone (LDZ)**

A geographic area supplied by one or more national transmission system offtakes. Each LDZ consists of the local transmission system and distribution system pipelines.

**M****Master Registration Agreement (MRA)**

Along with its supporting documentation, the MRA provides a governance mechanism to manage the processes established between electricity suppliers and distribution companies to enable electricity suppliers to transfer customers.

**N****Non Daily Metered (NDM)**

A meter that is read monthly or at longer intervals. For the purpose of daily balancing, the consumption is apportioned, using an agreed formula, and for supply points consuming more than 73.2 MWh per annum, reconciled individually when the meter is read.

**P****Prepayment meter (PPM)**

These are meters that require payment for energy to be made in advance of use or they will prevent the supply of gas or electricity. A PPM customer pays for energy by inserting electronic tokens, keys or cards into the meter.

**R****Renewable Obligation Certificate (ROC)**

Certificates issued under the Renewable Obligations Order to demonstrate that a supplier or another electricity supplier has supplied to customers a certain percentage of all the electricity that they supply from renewable sources. The electricity suppliers then produce these certificates to the Authority as evidence that they have discharged their renewables obligation.

**S****Smart meter**

A generic term for innovative forms of metering that provide increased levels of functionality above that of a basic meter. It usually includes at a minimum the ability to read the meter remotely via a communication channel.

**Standard Credit (SC)**

A payment method where customers pay on receipt of the bill. This typically covers a wide range of payment mechanisms, including cash, cheque, credit card and standing order.

**Supplier of Last Resort (SoLR)**

A supplier appointed by Ofgem to resume the responsibility for supplying gas and/or electricity to customers of a failed supplier without significantly prejudicing its ability to continue to supply its existing customers, and to fulfil its contractual obligations for the supply of gas or electricity.

**Supply Point**

A group of one or more meters at a site.

## Appendix 7 - Feedback

1.1. Although this document is not a formal consultation, Ofgem welcomes views of interested parties in relation to any of the issues set out in this document.

1.2. Responses should be sent to:

- **Name:** Neil Barnes
- **Team:** GB Markets
- **Address:** Ofgem, 9 Millbank, London SW1P 3GE
- **Telephone number:** 0207 901 7260
- **Email:** [neil.barnes@ofgem.gov.uk](mailto:neil.barnes@ofgem.gov.uk)

1.3. Unless marked confidential, all responses will be published by placing them in Ofgem's library and on its website [www.ofgem.gov.uk](http://www.ofgem.gov.uk). Respondents may request that their response is kept confidential. Ofgem shall respect this request, subject to any obligations to disclose information, for example, under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004.

1.4. Respondents who wish to have their responses remain confidential should clearly mark the document/s to that effect and include the reasons for confidentiality. It would be helpful if responses could be submitted both electronically and in writing. Respondents are asked to put any confidential material in the appendices to their responses.