4 August 2022

Leigh Rafferty, Head of SoLR Levy
SoLR Levy and True-Up Policy Team
Ofgem
10 South Colonnade
Canary Wharf
London
E14 4PU

[redacted]

By email only

Dear Leigh,

Thank you for the consultation on reviewing the costs to suppliers for dealing with energy companies who have exited the market.

Utilita agrees that you have accurately represented our proposed methodology for claiming prepayment credit balances.

I confirm we are generally in agreement with the six months or price cap period approach for wholesale costs.

With regards to paragraph 1.23 which sets out options you do not propose to pursue, we disagree that it is a matter of proportion as suppliers will incur an irrecoverable loss on wholesale energy for the period April 2022 to September 2022 on customers acquired through the SoLR process.

The price cap setting methodology prevailing in the relevant period, being September to December 2021, includes in its allowance for wholesale energy costs for the period April to September 2022 closing wholesale prices from August 2021. A rational supplier would hedge in line with this methodology and would have in place a hedge for its existing customers that reflects the methodology used in the price cap. Where prices have risen, any customer contract acquired in excess of a supplier's expectation will incur an extraordinary loss. All customer contracts acquired through SoLRs during the relevant period would, therefore, incur an extraordinary and irrecoverable loss to the supplier.

In respect of paragraphs 1.25 & 1.26, SoLRs are awarded based on the submission made by a supplier. Ofgem accepts the submission of the successful SoLR, makes the appointment via a Direction, and holds the SoLR to account with regard to any commitments the SoLR makes in its submission to Ofgem. In carrying out this process, we consider that Ofgem also enters into an agreement with the supplier it has appointed as SoLR. On this basis, Ofgem must also comply with the terms of the agreement it has made with the SoLR. Where this agreement (in the form of the supplier SoLR submission) clearly stated that it includes recovery of wholesale costs for the period April 2022 to September 2022, then Ofgem must honour that commitment.

As we have stated, not allowing suppliers to recover the efficient costs of energy supply (for example, excessive wholesale costs or credit balances) in the event of SoLRs is not in the interests of customers - should there be further supplier failures - as suppliers may not wish to act as SoLRs in such circumstances in future. It is also not in the interests of present or future customers to prohibit suppliers more generally from recovering the efficient costs of energy supply under the price cap regime.

On *Minded-to Position 2*, in all other matters, Ofgem uses the financing costs of an efficient supplier, e.g., in the cost of capital used in the price cap. Unless a different financing cost was agreed at the time of appointing the SoLR, the cost of capital used in general should be applied.

On *Minded-to Position 3*, Utilita agrees with this position. Prepayment customers with a credit balance represent a loss to the gaining supplier as the gaining supplier must pay for the energy that customer will expect to consume as a result of their credit balance but will not have been in receipt of the cash paid by the customer.

On *Minded-to Position 4*, in the absence of reliable credit balance data for legacy meters, we consider the average of smart meter credit balances provides the most accurate proxy for the average of legacy meter credit balances, given the identical payment method.

On *Minded-to Position 5* we are fully supportive of an internal assurance/peer challenge and review approach carried out by suitably independent colleagues within the business and to appropriate standards. Should Ofgem require an external audit to be conducted, we consider that the treatment of the costs of such an audit needs to be discussed at the time, depending on the outcome.

Finally, on *Minded-to Position 6* a quicker recovery process is beneficial to suppliers with less ready access to capital and the reversion to a longer recovery time will unfairly favour larger suppliers.

If you have any questions on our response to your consultation, we would be happy to discuss these issues in more detail.

Yours sincerely,

By email

Alison Russell
Director of Policy and Regulatory Affairs