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Sent via email: RetailFinancialResilience@ofgem.gov.uk

20 July 2022

Dear David

RE: Policy Consultation – Strengthening Financial Resilience

I am writing to you in response to Ofgem's policy consultation on Strengthening Financial Resilience, and in particular the proposals to require suppliers to protect domestic customer credit balances and Renewables Obligation (RO) payments.

This is a high-level industry view - Energy UK's members may hold different views on particular aspects of the consultation. We would be happy to discuss any of the points made in further detail with Ofgem or any other interested party if this is beneficial.

Building Financial Resilience in the Retail Energy Market

Since the sharp increases in global gas prices in September 2021, we have seen 30 supplier failures, affecting almost 4 million customers at an estimated cost of £2,678bn to households across Great Britain (of which credit balances and RO payments have been estimated to account for approx. £500m)¹, with a further £1.9bn estimated cost of Bulb's Special Administration Regime to date.² High and volatile energy costs, with further significant increases in the default tariff cap anticipated in October and January,³ also continue to place unprecedented pressure on the retail energy market and its customers. Overall, we recognise and welcome Ofgem's intention to learn from the ongoing crisis and take urgent action to address any deficiencies in the regulation of the retail market that may have exacerbated the impacts of the crisis on the stability of the market, and we remain supportive of Ofgem's ongoing financial resilience workstream.

When considering questions around financial resilience, it is important that the regulator recognises that many of the issues that contributed to supplier failure predate rapidly escalating and volatile wholesale gas prices. Ofgem should also ensure that any new measures are assessed in the context of the other regulatory requirements to improve supplier financial resilience that it has already introduced. As previously highlighted by Citizens Advice, regulatory failings over the past decade unfortunately allowed unfit and unsustainable energy companies to enter and trade in an essential services market with little oversight or risk.⁴ When these businesses subsequently collapsed, other suppliers and their customers have had to pick up the pieces and bear the cost of these regulatory failings. Furthermore, despite being aware of widespread problems in the market (and being alerted to poor practice by consumer groups

¹ National Audit Office, [The Energy Supplier Market](#), 22 June 2022

² *ibid*

³ [Cornwall Insight's latest price cap estimate](#) sits at £3,244 for the October cap period, rising to £3,363 in January 2023

⁴ Citizens Advice, [Market Meltedown](#), 10 January 2022

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and industry), Ofgem's actions to date (as part of its long-running supply licence review to improve financial resilience) ultimately occurred too late, proving to be insufficient and inadequate.

Credit Balance Proposals

Energy UK remains supportive of Ofgem's efforts to improve financial resilience of the retail market, including the intent to:

- a) protect customer credit balances,
- b) promote responsible business practices
- c) minimise future mutualisation costs.

We recognise that Ofgem has been considering options to reduce mutualisation costs since launching its Supplier Licensing Review in 2018. We welcome that Ofgem is now seeking to rectify the detriment to customers caused in part by its previous regulatory focus on maximising new market entry and its past approach to financial resilience regulation.

Energy UK members, however, continue to have differing views on the design of specific mechanisms and timelines associated with the proposals outlined in the consultation. We anticipate that individual Energy UK members will be responding to Ofgem setting out their views and are best placed to provide detailed feedback on Ofgem's proposals and their impacts on retail market participants and competition.

Renewables Obligation (RO) Proposals

Energy UK continues to believe that robust action is needed to reduce the risk of supplier payment default in the RO scheme to the lowest level possible. We note that the cost of mutualisation of RO payments in total value has historically been considerably greater than that of credit balances.⁵ As such, we still believe that legislative action would be the most suitable approach to rectify underlying deficiencies in the scheme's design to minimise unnecessary bill increases to customers. However, given BEIS' reluctance to act on this issue, we are supportive of Ofgem's proposals to address RO non-payment and mutualisation through the licence.

As it develops its final position ahead of a Statutory Consultation, Ofgem should further engage with relevant industry parties to fully explore how its proposals interact with, and impact on the ROC trading market to ensure there are no unintended consequences. In addition, Ofgem needs to address how its current domestic supplier-focused proposals will impact on the scheme which covers both domestic and non-domestic market participants. It should engage with industry to assess whether its approach would unduly distort competition between market participants, and whether the RO payment protections need to be extended to the non-domestic market as result.

We hope that these comments on Ofgem's update have been useful, and we would welcome the opportunity to engage further as it develops its thinking ahead of any Statutory Consultation.

Yours sincerely,

Dan Alchin

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⁵ Citizens Advice, '[Picking up the pieces](#)', 21 June 2019