

Gas and Electricity Suppliers,
Electricity Distribution Network
Operators,
Gas Transporters and all other
interested parties

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4 November 2022

Dear Colleague

Last Resort Supply Payment Claim from E.ON Next

On 07 October 2022, E.ON Next gave notice to Ofgem of its intention to submit a claim for a Last Resort Supply Payment ("LRSP"). E.ON Next is seeking to recover additional, otherwise unrecoverable costs incurred in acting as Supplier of Last Resort (SoLR) to the former customers of Enstroga.

Under Standard Licence Condition (SLC) 9.1 of the Supply Licence, SoLRs are entitled, provided Ofgem consents, to make a claim for a LRSP from each Relevant Gas Transporter and Electricity Distribution Network Operator. The true-up claim from E.ON Next included its calculation of the claim amount and information to support the calculation (outlined in Table 1).

This letter sets out the reasons why we are minded to consent to E.ON Next claiming a LRSP of up to £431,810.89. This total is subject to recalculation of the working capital figure by E.ON Next. Due to deductions made on other cost categories, we are unable to undertake the calculations on working capital to arrive at an allowed amount, but the deductions made in other categories mean that this figure is likely to decrease. We therefore require E.ON Next to resubmit their working capital calculation no later than the end of the day on **Tuesday 08 November 2022**.

We are minded to allow E.ON Next to claim for costs incurred in complying with a Last Resort Supply Direction¹ relating to:

- Additional wholesale costs incurred as a result of commitments to supply energy to SoLR customers;
- protecting the credit balances owed to former customers of Enstroga;

¹ Link: [Appointment of E.ON Next as Supplier of Last Resort \(ofgem.gov.uk\)](#)

- Working capital costs incurred on becoming a SoLR, subject to recalculation of the working capital element of the claim by E.ON Next;
- other costs reasonably incurred on becoming a SoLR.

In our policy decision on this true-up process we noted that during winter 2021/22 we introduced a number of temporary changes to the LRSP claim process, which were designed to ensure that the SoLR process continues to protect consumers in the current market conditions. This included the temporary introduction of a faster, multiple-claim levy process which was intended to reduce the time taken for suppliers to submit claims and for us to make decisions on those claims. During consultation several suppliers supported continuation of this, based on the benefits to suppliers of the multiple-claim process and the likelihood of continuing market uncertainty into 2023.

As part of that faster multiple-claim levy process, each of the SoLRs entered into a true-up deed with us. Under the True-up Agreement between E.ON Next and Ofgem, Subsequent Levy Claims may be made following the Initial Levy Claim and before a final True-up claim. We are minded to consider this claim to be a Subsequent Levy Claim for the purposes of the True-up Agreement. This would mean that the final True-up claim would happen next year, or in the years after. This will enable suppliers to submit additional LRSP claims with supporting evidence for costs that have not yet been approved by Ofgem, and allow Ofgem to ensure the benefit of any monies recovered from the administrators of the failed suppliers can be utilised for consumers' benefit. A result of this is that we may, under the terms of the True-up Agreement, require a final True-up claim to be submitted in future years. In the meantime, we note that obligations under the True-up Agreement continue to apply and will continue to apply after a final True-up claim has been finalised.

We welcome views but are minded to make our consent to this claim conditional on their confirmation that the terms of those true-up deeds continue to apply to this and further claims requested or made in accordance with it. This includes an obligation to submit true-up information as requested and to refund any amounts by which E.ON Next has been overcompensated by a LRSP.

The purpose of this consultation letter is to provide interested parties with an opportunity to make any representations to us, ahead of us making our final decision. We will take such representations into account in our final decision making and may make changes to our minded to position in response to such representations, if we consider it appropriate to do so.

In addition, before we make our final decision, we will conduct an additional assurance in respect of the calculations contained in our minded to position, the results of which may also be reflected in our final decision.

We expect to make our final decision in mid-December 2022.

Background

The SoLR process

Electricity and gas supply is a competitive activity in Great Britain. While competition has the potential to bring many benefits to consumers, in a competitive market, companies that are not operating efficiently may fail. This applies as much in relation to the gas and electricity supply markets as it does to other markets.

It is Ofgem's statutory duty to protect customers' interests when suppliers fail. When a supplier fails, our focus is to ensure continuity of supply for its customers and to minimise wider negative impacts on the market. These wider effects stem from the fact that if an energy supplier fails, its customers will continue to be physically supplied with gas and/or electricity, but the supplier will not be able to meet the costs of providing this energy. In these circumstances, the costs of procuring the necessary energy will be spread across all domestic suppliers and the costs of procuring gas will fall to the relevant shipper. There is also the real risk that if a supplier fails without urgent intervention, consumer trust and confidence in the energy market would be materially damaged.

Ofgem can ensure continuity of supply to the failed supplier's customers and minimise these wider negative effects by appointing a SoLR, which is issued with a Last Resort Supply Direction requiring it to supply the failed supplier's customers at very short notice².

Failed Supplier event

On 01 October 2021, we appointed E.ON NEXT as the SoLR³ for Enstroga gas⁴ and electricity⁵ customers, following its announcement that it had ceased trading. This followed an appointment process aimed at getting the best deal for consumers. We outlined the

² The obligation for a supplier to comply with a LRSD derives from standard licence condition 8 of each supplier's gas and electricity supply licences and is intended to ensure a universal service for Great British energy consumers (for further information on this universal service, see Articles 3(3) of the EU Directives 2009/72/EC and 2009/73/EC).

³ Link: [Appointment of E.ON Next as Supplier of Last Resort \(ofgem.gov.uk\)](https://www.ofgem.gov.uk/publications/direction-appoint-eon-next-energy-limited-gas-supplier-last-resort-customers-symbio-energy-limited)

⁴ Link: <https://www.ofgem.gov.uk/publications/direction-appoint-eon-next-energy-limited-gas-supplier-last-resort-customers-symbio-energy-limited>

⁵ Link: [Direction to appoint E.ON Next Energy Limited as Electricity Supplier of Last Resort for customers of Enstroga Ltd | Ofgem](https://www.ofgem.gov.uk/publications/direction-appoint-eon-next-energy-limited-gas-supplier-last-resort-customers-symbio-energy-limited)

material factors behind our decision to appoint E.ON NEXT as the SoLR to those customers in our decision letter published on 23 June 2022⁶.

Claim for Last Resort Supply Payment

Under SLC 9.1 of the Supply Licence, SoLRs are entitled, with Ofgem's consent, to make a claim for a Last Resort Supply Payment ("LRSP") from each Relevant Gas Transporter and Electricity Distribution Network Operator.

SLC 9.4 provides that the total amount of the LRSP must not exceed the amount by which the total costs (including interest on working capital) reasonably incurred by the SoLR in supplying customers under the Last Resort Supply Direction and a reasonable profit plus any sums paid or debts assumed by the SoLR to compensate customers in respect of any customer credit balances plus any additional (actual or anticipated) interest and finance costs associated with a financing arrangement approved under SLC 9.7C are greater than the total amounts recovered by the SoLR through charges for that supply.

SLC 9.6 makes clear that Ofgem may determine that an amount other than the one calculated by the SoLR is a more accurate calculation of the relevant amount and, in such cases, the amount specified by Ofgem must be treated as the relevant amount when the licensee submits its claim to each relevant electricity or gas network licensee in accordance with SLC 9.8.

LRSPs are paid for by the relevant gas and electricity network operators, who then recover the cost through charges to suppliers. SLC 38B of the Electricity Distribution Licence and Standard Special Condition A48 of the Gas Transportation Licence set out the details of this.

Our true-up decision process and methodology

During winter 2021/22 we introduced a number of changes to the process for making LRSP claims, which were designed to ensure that the SoLR process continues to protect consumers in the current market conditions. The changes included the temporary introduction of a faster, multiple-claims process whereby SoLRs are able to submit more than one claim in relation to each Last Resort Supply Direction.

This involves SoLRs submitting an 'initial claim' for costs faced in serving SoLR customers (typically wholesale commodity costs) in the period immediately after appointment. These initial claims were therefore limited to the recovery of costs for energy delivered within 6

⁶ Link: [Appointment of E.ON Next as Supplier of Last Resort \(ofgem.gov.uk\)](https://www.ofgem.gov.uk)

months of their SoLR appointment or up to the end of March 2022, whichever was earlier. SoLRs may then follow this claim with an additional claim (or claims) for any additional and otherwise unrecoverable costs reasonably incurred under their SoLR Direction. We refer to these additional claims as 'true-up' claims for additional costs reasonably incurred that relate to period 01 October 2021 to 07 October 2022. SoLRs entered into a 'True-up Agreement' with Ofgem to support the faster process. Initial claim consents and subsequent true-up claims are conditional on SOLRs meeting the requirements of the True-up Agreement. The true-up process is intended to reconcile suppliers' initial claims with actual costs incurred and determine any additional payments or repayments that should be made.

In line with our faster, multiple claims process, by December 2021 we had consented to SoLRs making initial levy claims totalling £1.83 billion. At the time, we set out that we would give further due consideration to a number of issues and consult with stakeholders before assessing any subsequent claims by SoLRs who submitted initial claims.

On 23 June 2022, we issued a consultation seeking views on our 'minded-to' positions on the fair approach to reflecting the costs suppliers faced in providing energy to customers after being appointed as a SoLR between September 2021 and December 2021. A decision document was published on the 21 September 2022⁷ that set out our policy decisions on the approaches SOLRs should take with regards to these true-up claims. We have now applied these policies in order to reach our minded-to position on true-up claims.

Under SLC 9.5, Ofgem must decide whether it is appropriate in all the circumstances of the case for the SoLR to make the claim notified to it in accordance with Standard Licence Condition 9.3.

Our process to reach our minded-to position included:

- a. A quantitative check of E.ON Next's methodology for each cost item claimed. This included determining how each total cost item was calculated based on data sent to us by E.ON Next and ensuring these costs were in line with commitments E.ON Next made at the time of its SoLR appointment;
- b. A true-up and cross check of any evidence that may result in a change to the initial claim made by the SOLR;
- c. Undertaking validation of some assumptions with other data sources, where appropriate; and

⁷ <https://www.ofgem.gov.uk/sites/default/files/2022-09/Decision%20on%20the%20last%20resort%20levy%20claims%20true-up%20process.pdf>

d. A qualitative and quantitative assessment of the claim for costs related to credit balances, financing and other costs in accordance with our criteria and methodology, set out below.

- **Additional:** whether the costs claimed are additional to the costs to the SoLR of existing customers. In addition, we consider whether these costs would have been expected at the time of the SoLR's bid and whether any commitments were given in relation to these costs in their competitive SoLR bid.
- **Directly incurred as part of the SoLR role:** whether the costs were incurred as a result of taking on customers in an emergency situation as opposed to normal customer acquisition routes.
- **Otherwise unrecoverable:** whether the SoLR could have recovered the costs through other means. It would not be appropriate for us to allow the SoLR to claim for costs it could have recovered – or reasonably be expected to recover – through the administration process or customer charges, for example.
- **Economic:** whether the SoLR had made all reasonable efforts to avoid the cost in the first instance or absorb the cost.

E.ON Next claim

E.ON Next indicated at the time of our SoLR appointment process that it would not waive its right to make a claim for LRSP, but that it would claim for wholesale costs, credit balances, costs of financing and certain other costs.

The initial claim was consented to on 29 October 2021⁸⁹. E.ON Next also submitted an interim claim, which was consented to on 17 December 2021¹⁰¹¹. Consistent with the terms of that consent and the True-up Agreement between the SoLR and Ofgem, we have taken those claims into consideration in reaching our minded-to position on this claim.

Summary of our minded-to decision

⁸ [E.ON Next - 29 Oct - Electricity Consent - Symbio, Igloo, Enstroga \(ofgem.gov.uk\)](#)

⁹ [SoLR Levy Claim Consent - Gas - Enstroga Limited, Symbio Energy Limited, Igloo Energy Supply Limited - E.ON Next Energy Limited \(ofgem.gov.uk\)](#)

¹⁰ [SoLR Levy Claim Consent - Electricity - Enstroga Limited, Symbio Energy Limited, Igloo Energy Supply Limited - E.ON Next Energy Limited \(ofgem.gov.uk\)](#)

¹¹ [SoLR Levy Claim Consent - Gas Consent - Enstroga Limited, Symbio Energy Limited, Igloo Energy Supply Limited - E.ON Next Energy Limited \(ofgem.gov.uk\)](#)

Based on the information available and consideration of the circumstances in which a claim for LSRP by E.ON Next was consented to, and in accordance with the True-up Agreement in relation to customers of the former Enstroga, Ofgem is minded to consent to E.ON Next claiming a LRSP of up to £431,810.89. This total is subject to recalculation of the working capital figure by E.ON Next.

Under the supplier SLCs we are required to consider on a case-by-case basis whether in the circumstances it is appropriate for a SoLR to make a claim for a LRSP. We have set out below our reasons for our minded-to position for this case. This should not be taken as setting a precedent for any future claims, which would also be considered on their merits and on a case-by-case basis, taking into account all relevant circumstances of the particular case.

Table 1: Summary table of initial claim, true-up and minded-to position on final claim amounts¹².

Item	Cost	Initial Claim	Interim Claim	True-up claim	True-up deductions	Minded-to position on claim
1	Wholesale	£2,989,945.00	£370,360.81	£474,879.18	£413,874.56	£61,004.61
2	Credit balances	£0	£0	£1,827.00	£132.72	£1,694.28
3	Working capital	£0	£0	£219,318.00	£0	£219,318.00
4	Other costs: legal, tech/IT, operational, consultancy, resource	£0	£0	£186,169.00	£36,375.00	£149,794.00
	Total	£2,989,945.00	£370,360.81	£882,193.18	£450,382.28	£431,810.89

Reasons for our minded-to decision

Cost category: Wholesale

¹² We have rounded our totals to the nearest £ in reflection of the methodology used by E.ON Next when calculating their claim. This excludes Wholesale Costs, which are rounded to the nearest p.

In our published decision on the claims true-up process¹³ we explained that all SoLRs appointed in the period from September – December 2021 should be able to recover additional and otherwise unrecoverable wholesale costs reasonably incurred as part of the SoLR role relating to energy delivered up until 31 March 2022 or until the end of their 6-month SoLR direction, whichever is later. This has been necessary largely as a result of a period of extreme wholesale energy price volatility and record high prices seen, resulting in wholesale direct fuel costs often far exceeding those assumed in the default tariff price cap over the period. The bulk of these costs were considered in the December 2021 initial claim, by which time most initial wholesale energy purchases had taken place.

In this true-up claim we have analysed the information provided by suppliers, to:

- Assess whether costs being claimed for are consistent with the criteria set out earlier in this letter and our September 2022 Decision on the true up process
- Assess the reasonableness of assumptions made and decisions taken, including for example demand forecasting and hedging strategies, against the criteria we consider in assessing claims
- Assess the specifics of the reported wholesale market trades, including trade date, contract type, price, and volume. Specifically, we have considered whether trade prices are consistent with market benchmarks and price assessments
- Assess cost per MWh and cost per customer to facilitate comparisons between claims
- Assess the amounts deemed to have been recovered from customer charges, including the applicability of various price cap allowances, and hence offset against the wholesale costs incurred

Decision

The E.ON Next true-up claim includes £474,879.18 in wholesale costs. Following the above assessments, we consider that the claimed amount is not fully consistent with our criteria and we are minded to consent to the claim with the following deductions:

- A deduction of £43,176.84 for the revenue received from SoLR customers in respect of the Backwardation allowances in the price cap. Backwardation allowances were

¹³ [Decision on last resort levy claims true-up process | Ofgem](#)

set out in our decision on the potential impact of increased wholesale volatility on the default tariff cap in February 2022¹⁴ ("February 2022 Decision") and our decision on possible wholesale cost adjustment in August 2022¹⁵ ("August 2022 Decision"). The deduction has been calculated based on a value of £14 per typical dual fuel customer, SoLR customer numbers at the end of winter 2021/22, and the forecast annualised gas and electricity demand of these SoLR customers. This deduction is net of E.ON Next's own calculation which is based on an alternative methodology using monthly forecast customer numbers and volumes for the year from April 2022

- A deduction of £90,204.67 for the revenue received from SoLR customers in respect of the Contracts for Difference (CfD) Interim Levy Rate (ILR) allowance in the price cap in cap period 7. The deduction has been calculated based on a Demand weighted ILR of £6.88/MWh in cap period 7, multiplied by the claimed electricity supply volume for SoLR customers in cap period 7.
- A deduction of £280,493.05 for costs of trades associated with shaping. This has been calculated by disallowing Short Term trades (defined as Day Ahead, Within Day, and Imbalance) for delivery after 1 November 2021.

The proposed total deduction is £413,874.56 leading to a net wholesale true-up claim of £61,004.61. When taking into account the initial claims made in December 2021, the total wholesale costs approved would be £3,421,310.84.

Table 2: Summary of claims and minded-to position for wholesale costs

Item	Cost	Initial Claim	Interim Claim	True-up claim	True-up deduction categories	True-up deduction amounts	Minded-to position on claim
1	Wholesale	£2,989,945.00	£370,360.81	£474,879.18	Backwardation	£43,176.84	
					Contracts for Difference	£90,204.67	
					Shaping	£280,493.05	

¹⁴ [Price Cap - Decision on the potential impact of increased wholesale volatility on the default tariff cap | Ofgem](#)

¹⁵ [Price Cap - Decision on possible wholesale cost adjustment | Ofgem](#)

Note: We are unable to calculate the proportion of the wholesale claim made up of backwardation, CfD and retrospective shaping and imbalance. As such, we have shown the deductions above in relation to the overall wholesale claim.

Rationale for decision:

Backwardation allowances:

In February 2022 Ofgem introduced a retrospective allowance into the default tariff cap to allow suppliers to recover the systematic and unrecoverable backwardation cost for suppliers, beyond the normal basis risk inherent in the cap. An amount of £8 per customer (at typical consumption) was included within the cap for the year starting 01 April 2022, applied via an increase to the additional wholesale risk allowance component of the cap. In August 2022 a further allowance of £6 per customer was introduced, to be recovered in the year from 01 October 2022.

The allowances were based on estimates from suppliers which did not exclude costs incurred specifically for SoLR customers. These allowances will be recovered from all customers, SoLR and non-SoLR¹⁶. Given this, we consider that the revenues collected by suppliers under this allowance should be deducted from claims made by SoLRs in relation to the costs of hedging SoLR customers' demand subsequent to their taking on the customers of the failed supplier. In other words, the costs of purchasing wholesale energy for these customers should be reduced because suppliers are allowed to recover approximately £14 per customer through higher bills in later periods.

We propose to calculate the relevant deduction for each supplier based on our best view (given the information submitted by the supplier as part of its claim) of (a) the number of SoLR customers that remained with that supplier as of the end of winter 2021/22 and (b) the annualised demand of those customers. We prefer this to an approach based on suppliers' own forecasts of their SoLR customers' demand in the period from 01 April 2022, because the latter approach would result in deductions that are dependent on suppliers' forecasts of future customer numbers which have proved to be highly uncertain and prone to error in this unprecedented time for the market (as seen by previous 'unexpected SVT demand' allowances). We prefer our proposed approach to an approach based on the number of SoLR customers at the time of appointment, because that approach would not account for the fact that some SoLR customers may have since switched to fixed tariffs or other suppliers which did not take on any SoLR customers in winter 2021/22.

¹⁶ This is in contrast to the allowance for Unexpected SVT Demand, which did exclude costs related to SoLR customers

We recognise that E.ON Next already included an adjustment for the backwardation allowance to an extent in their claim, but the adjustment was based on forecast churn assumptions during 2022, and therefore falling customers numbers. We have made a deduction in the claim amount to align with our proposed methodology as set out above.

Allowances for supplier charges in relation to the Contracts for Difference (CfD) scheme:

The default tariff cap relating to electricity customers includes an allowance for costs incurred in relation to the CfD scheme, which is a government scheme aimed at supporting low carbon electricity generation. The charges that suppliers face under the CfD scheme depend on wholesale electricity prices, with higher prices resulting in lower costs (all else equal). The allowance included in the cap is based on Low Carbon Contract Company (LCCC) forecasts of the relevant charges as they exist prior to the cap being set, which are in turn based on forward prices observed at that time of the forecast¹⁷.

The increases in wholesale prices which followed the cap for winter 2021/22 being set in August 2021 led to SoLRs paying prices for wholesale electricity which were well in excess of the direct fuel allowances included in the cap - this cost has comprised the majority of SoLRs' claims. However, increases in wholesale electricity prices also resulted in CfD costs that were significantly lower than the relevant allowance in the cap.

As we set out in our February 2022 price cap decision¹⁸ on the potential impact of increased wholesale volatility on the default tariff cap, for non-SoLR customers, this benefit was not realised in most cases, as suppliers had hedged their CfD exposure earlier in 2021, when wholesale prices were lower. However, we consider that this is unlikely to apply to SoLR customers. This is because, where a supplier hedged their CfD exposure for SoLR customers, this would have been at much higher wholesale prices given the timing of the SoLRs, locking in a lower CfD cost than included in the cap. And where a supplier did not hedge, they would have realised the outturn CfD cost – which given high Day Ahead wholesale prices would have been a net payment back to the SoLR in question through the CfD scheme.

Given this, to avoid SoLRs over-recovering in relation to wholesale costs of their SoLR customers, we are minded to deduct an amount from claims equivalent to the demand-weighted interim levy rate component of the default tariff cap for period 7, on the basis that the revenue generated under the CfD allowance would have offset the wholesale costs

¹⁷ <https://www.ofgem.gov.uk/sites/default/files/2022-06/Decision%20on%20the%20Contract%20for%20Difference%20%28CfD%29%20allowance%20methodology%20in%20the%20default%20tariff%20cap.pdf>

¹⁸ <https://www.ofgem.gov.uk/publications/price-cap-decision-potential-impact-increased-wholesale-volatility-default-tariff-cap>

incurred by suppliers. Where suppliers consider that they incurred a CfD cost in relation to SoLR customers, they should provide evidence - setting out the cost incurred versus the allowance included in the cap - and we will take this into account in our final decision.

Shaping:

We note that elements of shaping and imbalance were included in the claim by E.ON Next. Ofgem clearly stated in our policy decision in September 2022¹⁹ that, to avoid overcompensating SoLRs through the levy, any SoLR seeking to claim for further incremental shaping and imbalance costs must demonstrate that the costs for their SoLR customers are more than those faced by their non-SoLR customers.

The information provided by E.ON Next shows shaping and imbalance costs above those accounted for by allowances in the cap. However we have not seen any evidence in E.ON Next's response to demonstrate that the shaping and imbalance costs incurred in relation to its SoLR customers exceeded those of the remainder of its customer base (for example, our understanding is that E.ON Next has not provided shaping costs or a breakdown of forward compared to spot volumes/forecasts for its non-SoLR customers). This relates to our previously stated criteria for assessing claims as to whether the cost was directly incurred as part of their SoLR role (whether the costs were incurred as a result of taking on customers in an emergency situation as opposed to normal customer acquisition routes) and whether the SoLR had made all reasonable efforts to avoid the cost in the first instance or absorb the cost.

Given this, in the absence of such evidence, we intend to deduct £280,493.05 from E.ON Next's claim for Enstroga to reflect our estimate of the shaping/imbalance costs that we believe it has claimed for. We have calculated this amount by removing all 'short-term' trades (which we defined for this purpose as Day Ahead, Within Day and imbalance) carried out between November 2021 and March 2022 and the shaping and imbalance allowance is deducted from the revenue assumed to be recovered from customers instead.

Re-hedging and unexpected demand:

The claim includes costs incurred in relation to re-hedging which took place in the period immediately after being appointed as the SoLR, and we note that we understand these re-

¹⁹ <https://www.ofgem.gov.uk/publications/decision-last-resort-levy-claims-true-process>

hedging activities to be related to the evolution of forecasts around customer churn and demand through winter 2021/22.

For non-SoLR customers, a retrospective allowance was introduced into the default tariff cap in February 2022²⁰ to allow suppliers to recover the costs associated with procuring energy for unexpected and unhedged default tariff customers, due to a) an unforeseeable increase in the number of customers moving to default tariffs at the end of a fixed-term contract (FTC) expiration, and b) and unforeseeable reduction in the number of customers moving away from default tariffs to FTCs. This allowance explicitly excluded costs relating to SoLR customers.

We acknowledge that for some suppliers costs of a similar nature may have arisen with respect to SoLR customers (although note that the hedging took place much closer to delivery compared to non-SoLR customers), and that these costs may have exceeded the allowances included in the cap.

We are satisfied that E.ON Next has provided sufficient evidence of how and why their demand forecasts evolved over time, and demonstrated a reasonable approach to managing this risk, and therefore we are minded to allow the claim for costs of re-hedging. We welcome any submissions on these proposed deductions, and the approach we have taken to calculating it, in response to our minded to position by the end of the consultation period.

Cost category: Credit balances

Our published guidance sets out that we may in certain circumstances consider it appropriate to approve a claim associated with costs incurred in repaying credit balances to customers who had a positive credit balance with a failed supplier.

Decision:

E.ON Next's claim for credit balance costs of £ 1,827.00 includes:

- £168.00 for the cost of refunding credit balances owed to customers of Enstroga when the company ceased trading ('open accounts'); and,
- £1,659.00 for the cost of refunding credit balances owed to former customers of Enstroga who had switched to another supplier at the point the company ceased trading ('closed accounts').

²⁰ <https://www.ofgem.gov.uk/publications/price-cap-decision-potential-impact-increased-wholesale-volatility-default-tariff-cap>

We consider that the claimed amount for honouring the credit balances of open accounts is consistent with our criteria and we are minded to consent to this portion of the claim. However, we do not consider that E.ON Next has provided sufficient evidence for the amount claimed for honouring the credit balances of closed accounts. Therefore, we are minded to consent to this portion of the claim taking into account the deductions for uncashed cheques based on the proposed E.ON Next methodology, on the condition that E.ON Next can provide sufficient evidence that all refunded credit balances have been received by the customer, or the uncashed refund cheques have been removed from its claim on the condition that E.ON Next provides further evidence to support its calculation based on the alternative methodology in order to allow us to validate the calculations in the alternative methodology.

Table 3: Summary of claims and minded to position for credit balances

Item	Cost	Initial Claim	Interim Claim	True-up claim	True-up deductions	Minded-to position on claim
2	Credit balances	£0	£0	£1,827.00	£132.72	£1,694.28

Rationale for decision:

E.ON Next has requested our consent to recover £1,827.00 for the cost of refunding credit balances to former customers of Enstroga. Under Supplier SLC 9.4(b) a SoLR may claim any sums paid or debts assumed to compensate customers of the failed supplier respect of any customer credit balances.

We are satisfied in this case that the claimed amount and corresponding evidence for open account credit balances is consistent with our assessment criteria outlined above for a valid LRSP claim, and the calculations E.ON Next has made are accurate for its submitted claim. In addition to customer account-level data of each open and closed account credit balance, E.ON Next also provided an explanation of its process of determining customer credit balances that set out the activities it undertook to best ensure the accuracy of customers’ final meter reads. E.ON Next confirmed that through its engagement with the administrator it was not aware of credit balances being made up of anything other than customer payments. Given this, we are minded to approve this portion of the claim as set out below.

As part of our assessment of the closed account credit balances, our position is that amounts of credit balance refunds made by cheque should only be recovered by the supplier through the levy once that cheque is cashed. We do not consider that it would be

appropriate to allow SoLRs to claim for closed account credit balance cheques until the point that they are actually cashed for the following reasons:

- to avoid consumers bearing the cost of compensation for credit balances never in fact received by customers of the failed supplier.
- To ensure that the SoLR does not profit from a situation where some credit balance cheques are never presented; and
- Noting that a future LRSP claim can be made so that E.ON Next can recover the cost of any credit balance cheques presented after the cut off point for the current claim.

E.ON Next has so far been unable to provide a breakdown of cashed and uncashed cheques specifically for its SoLR customers. E.ON Next provided an alternative methodology for the calculation of the likely amount of uncashed cheques that we believe is a sensible alternative when detailed data is not available. However, E.ON Next have not submitted evidence to explain their calculations in their methodology so we are unable to make a decision. However, at this stage, we are minded, in principle, to allow this portion of the claim, taking into account the deduction using the methodology proposed by E.ON Next provided that E.ON Next provides further evidence to support its calculation based on the alternative methodology in order to allow us to validate the calculations in the alternative methodology.

As noted above, in cases where individual customer-level data is not available we will assess on a case-by-case basis the appropriateness of utilising alternative means to determine the level of uncashed refund cheques. We will engage with E.ON Next through the consultation period and will assess any alternative methodology and supporting evidence in line with our process and criteria outlined above ahead of making our final decision.

We have considered whether the costs E.ON Next is seeking to claim for credit balances are otherwise unrecoverable; it may still be the case that E.ON Next is able to recover some of this claimed amount through the ongoing administration process for Enstroga, to which E.ON Next has, in accordance with the requirements of the LRSP process, submitted a subrogated creditor claim for the sums paid to compensate customers for costs incurred in repaying credit balances. We propose to make our final decision on E.ON Next's claim ahead of the conclusion of the liquidation process, the timescale of which is uncertain. Given this, we are minded to approve this element of the claim, subject to the outcome of the Enstroga liquidation process.

At this point, the final amount E.ON Next can claim would be adjusted to include costs recovered through the liquidation process.

Cost category: Working capital

The decision on last resort levy claims true-up process¹⁵ set out the requirement for suppliers to demonstrate, with evidence, that their financing cost claim delivers value for money for consumers and was the best possible rate they could achieve given their individual circumstances.

While a SoLR may seek to claim for financing costs via a LRSP and within the legal framework within which we operate, we are mindful of the pressures that consumers have been facing with the rising cost of energy. Given that the costs SoLRs claim for via a LRSP are ultimately borne by consumers, we would expect SoLRs also to be very mindful of these pressures and take this into account when determining the costs that the SoLR decide to claim through the SoLR levy. In particular, in circumstances where financing costs arise from parent/intra-group arrangements, we would expect the Company Group to consider very carefully whether it is appropriate for their Supply business to be claiming working capital costs at all and, if so, what rate is reasonable, when many consumers are struggling to be able to pay their energy bills.

Decision:

E.ON Next claim includes £ 219,318.00 for the cost of working capital. The calculation includes costs incurred over the course of 11 months to reflect actual costs incurred and the timescale for the recovery of those costs as set out in our published decision on the last resort levy claims true-up process²¹.

We did not receive sufficient evidence ahead of our minded-to position that allowed us to assess the claimed costs against our criteria effectively or undertake the qualitative and quantitative analysis that we require as set out in our process. However, in principle, we are minded to allow the claim for working capital costs provided that the evidence that is given to us before the end of the consultation period satisfies our overall assessment criteria. This includes E.ON Next making the necessary changes to its working capital calculations to reflect any costs we have disallowed from the overall claim.

²¹<https://www.ofgem.gov.uk/sites/default/files/2022-09/Decision%20on%20the%20last%20resort%20levy%20claims%20true-up%20process.pdf>

Table 4: Summary of claims for working capital

Item	Cost	Initial Claim	Interim Claim	True-up claim	True-up deductions	Minded-to position on claim
3	Working capital	£0	£0	£219,318.00	£0	£219,318.00

Rationale for decision:

When a SoLR is appointed, it incurs costs associated with taking on the new customers which need to be financed. There are a range of ways in which a SoLR can finance this activity. Regardless of the finance option used, there is a cost in doing so. Suppliers may seek to claim through the levy to recover the financing costs that they have faced in acting as a SoLR.

E.ON Next submitted a claim for the cost of working capital amounting to £219,318.00. It submitted evidence that detailed its expenditure relevant to its claim for working capital costs, as well as justification for why it had applied the interest rate that it had. This included an explanation that E.ON Next maintained their cost of capital rate at their 2021 level rather than increasing it to those reflected across their group in 2022. Based upon our assessment of the submitted evidence against our overall criteria, which included reviewing commitments made when E.ON Next was appointed as SoLR and comparing the rate against all other claims submitted to Ofgem on 07 October 2022, we are satisfied that E.ON Next has provided adequate evidence to demonstrate the rate of interest they faced in respect of working capital costs is reasonable in these particular circumstances and for these purposes only, within the regulatory framework.

In particular, we consider that the working capital costs being claimed have been directly incurred as a result of acting as the SoLR in an emergency situation and represent costs that are additional to the costs to the SoLR of its existing customers. Our decision as to a reasonable rate of interest on working capital in this case has been taken considering our criteria for these SoLR levy claims and what we consider to be reasonable and appropriate in all these circumstances and for these purposes only.

As noted above, we were not provided with sufficiently detailed evidence by our 07 October deadline that would allow us to undertake a quantitative assessment of the methodology and calculations underpinning the submitted claim for the cost of capital ahead of our minded to position. However, we believe that E.ON Next's proposed rate is reasonable when compared against the range of rates secured for initial claims and the overall market movements since the submission of initial claims.

As we have so far been unable to fully assess the submitted claim we are minded, in principle, to allow E.ON Next's claim for working capital costs provided that, following our full assessment of all the evidence, we are satisfied the claimed costs meets our assessment criteria outlined. The evidence necessary for our assessment include E.ON Next to recalculation and resubmission of its evidence to account for any deductions we are minded to make to its overall claim that impact upon its working capital cost calculations.

As set out above, we consider that the rate at which working capital has been calculated is consistent with our criteria and reasonable in these cases and for these purposes only. However, working capital may only be claimed on costs that meet our criteria for assessing claims. In light of our minded-to position to make deductions to E.ON Next's claim for internal resourcing, we are unable to undertake the calculations on working capital to be able to make a decision on the amount to be allowed for working capital. As such, the total amount of working capital claimed for of £219,318.00 is subject to E.ON Next resubmitting a revised working capital claim taking into account the deductions in this minded to position. As explained above, in order to fully assess the working capital aspect of the claim, we therefore require E.ON Next to recalculate the working capital element of their claim for Enstroga using, as costs incurred, the amounts we state in this document we are minded-to consent to.

When recalculating the working capital element of their claim, we expect E.ON Next to follow the same methodology, and apply the same rate, as their previous submission, clearly set out which costs have been reduced or removed. We also ask that E.ON Next submit their full calculations in sufficient detail to allow us to work out what their working capital allowance should be, without having to revert to E.ON Next.

Cost category: "Other costs"

We understand that other costs may have been incurred when undertaking activities as part of becoming a SOLR (for example, operational costs). We have used the criteria set out in our published decision on the last resort levy claims true-up process²² to assess whether these costs are appropriate and should be recovered through a LRSP. The other costs that E.ON Next has claimed are detailed below alongside our minded-to position.

Decision:

E.ON NExt's claim based on SoLR activity for Enstroga includes a total of £186,169.00 in other costs. These costs were incurred from the tech/IT cost of migrating of customers onto

²² <https://www.ofgem.gov.uk/sites/default/files/2022-09/Decision%20on%20the%20last%20resort%20levy%20claims%20true-up%20process.pdf>

E.ON Next’s customer platform and the operational costs for communicating with customers to keep them informed about the process, as well as legal, consultancy, and internal resourcing costs to support the process. We do not consider that the £36,375.00 claimed for internal resourcing costs is consistent with our criteria, but the remaining other costs are reasonable and in line with our assessment criteria. Therefore, we are minded to consent to a claim of £149,794.00, following the deduction of £36,375.00 in internal resourcing costs.

Table 3: Summary of claims for “other costs”

Item	Cost	Initial Claim	Interim claim	True-up claim	True-up deductions	Minded-to position on claim
4	Other costs: legal, tech/IT, operational, consultancy, resource	£0	£0	£186,169.00	£36,375.00	£149,794.00

Rationale for decision:

Legal Costs:

E.ON Next's claim includes £16,784.00 for legal costs incurred by engaging additional legal resources in relation to the SoLR process for three failed suppliers concurrently. We have assessed the evidence provided, including detailed invoices of direct costs incurred through SoLR activity and narrative explanations provided by E.ON Next and detail verified within audit documentation, and are satisfied that the costs incurred meet our criteria. In particular, we have determined that the costs incurred through engaging with additional legal resource are related to E.ON Next’s SoLR role, are additional to those that it would have faced in the course of its normal retail operations, are directly incurred as a result of their SoLR role and are not recoverable in any other way. We consider that the cost incurred is also reasonable within the circumstances of this case. As a result, we consider that the claimed amount is consistent with our criteria and we are minded to consent to the legal costs portion of the claim.

Tech/IT costs:

E.ON Next's claim includes £113,961.00 for technological and IT incurred in migrating Igloo's customers onto E.ON Next's customer platform.

We are aware that at the time that E.ON Next acquired the SOLR customers from Enstroga, E.ON Next was migrating to a new customer platform across its business. In the process of our assessment, we considered whether these costs claimed would have been expected at the time of the SoLR's bid and we are concerned that these costs may not be additional to the costs to the SoLR of existing customers, as we have not received evidence from E.ON Next demonstrating that generic programme costs of their broader migration were excluded from their migration costs claimed.

At this stage therefore, we are not fully satisfied that the evidence provided to support this portion of the claim meets our criteria that the costs incurred must be additional. We are also not fully satisfied that the costs claimed for migration have been shown to be directly incurred as part of the SoLR role – that is, whether the costs were incurred as a result of taking on customers in an emergency situation as opposed to normal customer acquisition routes.

However, we agree in principle that migration costs of customers acquired through the SoLR process may be additional and a direct result of acting as a SoLR in an emergency situation. As a result, we are minded, in principle, to allow E.ON Next's claim of £113,961.00 for costs incurred in migrating customers onto its customer platform provided that it provides further evidence within the consultation period that these costs were over and above costs E.ON Next would have incurred if these customers were acquired outside of the SoLR process, and through normal customer acquisition routes.

Operational costs:

E.ON Next's claim includes £2,001.00 for operational costs incurred in onboarding former customers of Enstroga using an outsourced contact centre additional to normal operational requirements. We have assessed the evidence provided, including detailed invoices of direct costs incurred through SoLR activity and narrative explanations provided by E.ON Next and detail verified within audit documentation, and are satisfied that the costs incurred meet our criteria. In particular, we have determined that the costs incurred in dealing with these operational issues are related to E.ON Next's SoLR role, are additional to those that it would have faced in the course of its normal retail operations and are not recoverable in any other way. E.ON Next evidenced that these costs were economic as they detailed the process of utilising existing contracts that were already in place which minimised costs.

We consider that the cost incurred is also reasonable within the circumstances of this case. As a result, we consider that the claimed amount is consistent with our criteria and we are minded to consent to the operational costs portion of the claim.

Consultancy costs:

E.ON Next's claim includes £17,048.00 for consultancy costs incurred by contracting a management consultancy firm to support operational teams with the customer migration process. We have assessed the evidence provided, including detailed invoices of direct costs incurred through SoLR activity and narrative explanations provided by E.ON and detail verified within audit documentation, and are satisfied that the costs incurred meet our criteria. In particular, we have determined that the costs incurred in engaging an external consultancy to support with operational issues related to E.ON Next's SoLR role are additional to those that it would have faced in the course of its normal retail operations and are not recoverable in any other way. E.ON Next evidenced that these costs were economic as they detailed the process of utilising existing contracts that were already in place which minimised costs. We consider that the cost incurred is also reasonable within the circumstances of this case. As a result, we consider that the claimed amount is consistent with our criteria and we are minded to consent to the consultancy costs portion of the claim.

Internal resource costs:

E.ON Next's claim includes £36,375.00 internal resourcing costs incurred to support the full SoLR process. We have assessed the evidence provided, including sample timesheets of internal resource allocation and narrative explanations verified within audit documentation, and we are not satisfied that the costs incurred meet our criteria. In particular, we do not consider that these costs are additional to those that it would have faced in the course of its normal retail operations as these were existing staff who were transferred from their existing functions temporarily, and as such E.ON Next would have incurred their salary costs irrespective of the SoLR activity. This aligns with the position that we previously held when assessing initial claims during Winter 2021/22.

As such, we consider that the claimed amount is not consistent with our criteria and we are minded not to consent to the resourcing costs portion of the claim.

SOLR Internal Audit outcome

In compliance with our published policy on the True-up process ²³ E.ON Next undertook an independent internal audit to assess the accuracy of the true-up claims.

We are content that the audit and the declaration which was signed by E.ON Next's Director of Finance, provides sufficient assurance of the accuracy of the information provided to us to support E.ON Next's claim.

Next steps

The purpose of this letter is to provide the SoLR and interested parties with an opportunity to make any representations to us, ahead of us making our final decision on this LRSP claim. We invite any representations by 30 November 2022. Responses should be emailed²⁴ to solrlevyteam@ofgem.gov.uk.

We normally publish all responses on our website. However, if you do not wish your response to be made public then please clearly mark it as not for publication. We prefer to receive responses in an electronic form so that they can be placed easily on our website.

We will take into account all relevant information, including any representations we receive, and the results of our internal audit of our assessment process in reaching our final decision on E.ON Next claim. We expect to make our final decision in mid-December.

Yours faithfully,

Neil Lawrence
Director, Retail Directorate

²³<https://www.ofgem.gov.uk/sites/default/files/2022-09/Decision%20on%20the%20last%20resort%20levy%20claims%20true-up%20process.pdf>

²⁴ Although we prefer responses in electronic format, responses can be posted to the address below.