



Making a positive difference  
for energy consumers

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

Email: [solrlevyteam@ofgem.gov.uk](mailto:solrlevyteam@ofgem.gov.uk)

20 December 2022

Dear Colleague

### **Last Resort Supply Payment Claim from British Gas Trading Limited**

On 7 October 2022, British Gas Trading Limited ("British Gas") submitted a claim for a Last Resort Supply Payment (LRSP) for Ofgem's consent under Supply Licence Standard Licence Condition (SLC) 9. British Gas is seeking to recover additional costs incurred in complying with a Last Resort Supply Direction<sup>1</sup> to act as Supplier of Last Resort (SoLR) to customers of the former Together Energy (Retail) Limited ("Together Energy").

### **Decision to consent**

Following our assessment of the evidence provided, and taking into account the results of our internal assurance process, on 20 December 2022 Ofgem consented to British Gas making a LRSP claim of up to **£89,454,367.74**.

This letter is the notice of reasons for Ofgem's decision to consent to British Gas making a LRSP claim from relevant network operators. Our decision will allow British Gas to claim for costs 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 Together Energy;
- other costs reasonably incurred on becoming a SOLR.

In our policy decision on the 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.

---

<sup>1</sup> <https://www.ofgem.gov.uk/publications/direction-appoint-british-gas-trading-limited-electricity-supplier-last-resort-together-energy-retail-limited> and <https://www.ofgem.gov.uk/publications/direction-appoint-british-gas-trading-limited-gas-supplier-last-resort-together-energy-retail-limited>

As part of that faster multiple-claim levy process, we have made our consent to this initial claim conditional upon the SoLR entering into a True-up Agreement with Ofgem. Under that True Up Agreement, British Gas will submit full details, including any reconciliation of all of its costs once they are fully incurred and known. This will need to include all supporting evidence in line with the SoLR's obligations under the True-up Agreement and Ofgem's policy decisions in September 2022.<sup>2</sup> We expect British Gas to obtain an independent audit of those full details and board sign off before making any further claim. If there is any reduction in these costs, we will set them off against British Gas' subsequent claim. In the highly unlikely event that the subsequent claim is not sufficient for that set off to be made, British Gas will agree to repay any net overpayment back to consumers.

We have assessed this LRSP claim in accordance with our policy decision on the true-up process, published 21 September 2022<sup>3</sup>, and consistent with our published *Guidance on supplier of last resort and energy supply company administration orders*.<sup>4</sup> In addition, in making this decision, we have had regard to Ofgem's principal objective of protecting the interests of current and future energy consumers<sup>5</sup>, the public sector equality duty<sup>6</sup>, relevant licence provisions, and the particular circumstances of the case.

Nothing in this decision should 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.

An overview of British Gas' LRSP claim together with the reasons for decision with respect to this claim are set out below.

## 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. The failure of a supplier may affect a range of groups including its consumers, the wider market and other consumers. Ofgem has discretionary powers that enable it to address these consequences.

It is Ofgem's statutory duty to protect customers' interests when suppliers fail including their interests in the security of energy supply to them<sup>7</sup>. Under Supplier SLC 8 Ofgem can issue a Last Resort Supply Direction to direct any gas or electricity supplier to take over responsibility for a failed supplier's customers.

Generally suppliers are open to taking on the role of SoLR because they acquire a large number of new customers who may remain with them over the longer-term and allow the supplier to increase its margins. As a result, suppliers may compete to be appointed.

---

<sup>2</sup> <https://www.ofgem.gov.uk/publications/decision-last-resort-levy-claims-true-process>

<sup>3</sup> <https://www.ofgem.gov.uk/publications/decision-last-resort-levy-claims-true-process>

<sup>4</sup> [https://www.ofgem.gov.uk/system/files/docs/2016/10/solr\\_revised\\_guidance\\_final\\_21-10-2016.pdf](https://www.ofgem.gov.uk/system/files/docs/2016/10/solr_revised_guidance_final_21-10-2016.pdf)

<sup>5</sup> s4AA Gas Act 1986 and s3A Electricity Act 1989

<sup>6</sup> Equality Act 2010 Part 11 Sections 149 to 157 [Equality Act 2010 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2010/15/contents/enacted)

<sup>7</sup> See section 4AA (1A) (b) Gas Act 1986 and section 3A (1A) (b) of the Electricity Act 1989

In considering which supplier to appoint as SoLR, Ofgem must be satisfied that the SoLR can supply additional customers while continuing to supply its existing customers and to fulfil its contractual obligations for the supply of gas or electricity<sup>8</sup>.

Ofgem's criteria for the selection of a SoLR are set out in its "Guidance on supplier of last resort and energy supply company administration orders"<sup>9</sup> and our stated policy preference is to appoint a SoLR that has volunteered for the role. To understand the terms on which suppliers are willing to volunteer as SoLR, Ofgem requires potential SoLRs to provide information about a number of issues, including customer service, how the supplier would meet SoLR obligations, whether it would make any LRSP claim and, if so, for what categories of costs and with what upper limit. This is done by way of a Request for Information (RFI).

Once a Last Resort Supply Direction has been issued, the responses to the RFI become supplier commitments, which under Supplier SLC 8.3 the SoLR must take all reasonable steps to honour. Under Supplier SLC 8 a supplier must comply with a Last Resort Supply Direction, whether or not it volunteered for the SoLR role.

As part of its regulatory responsibilities Ofgem has discretion under Supplier SLC 9<sup>10</sup> to determine the amount of compensation that a SoLR can recover for additional costs incurred as a result of complying with a Last Resort Supply Direction<sup>11</sup>. Ofgem's subsequent exercise of that discretion can not be limited by any response that a supplier makes to an RFI before a Last Resort Supply Direction is issued. SLC 9 makes clear that in deciding whether or not to approve a SoLR levy claim, Ofgem must consider what it considers to be '*appropriate in all the circumstances of the case*'. In making that decision, Ofgem's principal objective is to protect the interests of existing and future consumers and we are very mindful that all amounts consented under SoLR levy claims are paid for by customers.

It is well understood by suppliers that Ofgem must make complex regulatory choices about the allocation of risks and when a supplier has failed. It must do so having regard to the future operation of the market. In particular, Ofgem must balance the need to ensure that its approach to claims for a LRSP ensures that suppliers are not disincentivised from volunteering to become SoLRs while not creating a moral hazard by encouraging suppliers to make commitments on the basis that any losses subsequently incurred could be recovered by way of a LRSP. This is a complex balancing assessment carried out by Ofgem as regulator, having regard to its principal objective to protect consumers.

### Failed Supplier event

On 23 January 2022, we appointed British Gas as the SoLR for Together Energy gas<sup>12</sup> and electricity<sup>13</sup> customers, following its announcement that it had ceased trading. This followed an appointment process aimed at getting the best deal for consumers. We

---

<sup>8</sup> See Supplier SLC 8(1)(b)

<sup>9</sup> [Supplier of Last Resort: Revised Guidance 2016 | Ofgem](#)

<sup>10</sup> See in particular Supplier SLC 9.5 and 9.6

<sup>11</sup> A consent given by Ofgem under SLC 9 may be varied, amended or remade and may be made subject to conditions – see Supplier SLC 2.7.

<sup>12</sup> <https://www.ofgem.gov.uk/publications/direction-appoint-british-gas-trading-limited-gas-supplier-last-resort-together-energy-retail-limited>

<sup>13</sup> <https://www.ofgem.gov.uk/publications/direction-appoint-british-gas-trading-limited-electricity-supplier-last-resort-together-energy-retail-limited>

outlined the material factors behind our decision to appoint British Gas as the SoLR to those customers in our decision letter published on 01 December 2022<sup>14</sup>.

### Last Resort Supply Payment

Under SLC 9.1, 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 Operator ("network operators").

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 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.

### Multi-stage claims

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. SoLRs may then follow this claim with a subsequent 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 during the relevant period. SoLRs entered into a 'True-up Agreement' with Ofgem to support the faster process. Initial claim consents, subsequent claims and true-up claims are conditional on SoLRs complying with 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.

---

<sup>14</sup> <https://www.ofgem.gov.uk/publications/appointment-british-gas-trading-limited-supplier-last-resort-together-energy-retail-limited>

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 2022<sup>15</sup> that set out our policy decisions on the approaches SoLRs should take with regards to these true-up claims. We applied these policies in reaching our decision on this new initial claim. To reduce the risk of overpayment, we expect the initial claim only to include costs that have actually been incurred and can be fully evidenced in the period after appointment as SoLR.

### Decision-making process

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. In making this decision Ofgem has considered evidence provided by British Gas, previously published policy decisions, and its own knowledge of the energy markets. In exercising this decision-making function Ofgem has had regard to the interests of current and future consumers of gas and electricity, and has considered the public sector equality duty.

In reaching its decision Ofgem carried out:

- a. A quantitative check of British Gas methodology for each cost item claimed. This included determining how each total cost item was calculated based on data sent to us by British Gas and ensuring these costs were in line with commitments British Gas made at the time of its SoLR appointment;
  - b. Undertaking validation of some assumptions with other data sources, where appropriate;
  - c. Review and assurance of the calculations made in the published minded-to position; and
  - d. A qualitative and quantitative assessment of the claim for costs related to wholesale costs, credit balances, 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.

---

<sup>15</sup> <https://www.ofgem.gov.uk/sites/default/files/2022-09/Decision%20on%20the%20last%20resort%20levy%20claims%20true-up%20process.pdf>

- **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.

### Overview of British Gas' claim

British Gas indicated at the time of our SoLR appointment process that it would not waive its right to make a claim for a LRSP for some of costs incurred as a result of being appointed as SoLR, and that it would claim for the additional wholesale costs, credit balances, and certain other costs.

### **Summary of decision**

Ofgem has consented to British Gas claiming a LRSP of up to **£89,454,367.74** conditional on British Gas entering into a binding True-up Agreement with Ofgem in respect of the Last Resort Supply Direction.

The reasons for the decision are set out below. This decision 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.

*Table 1: Summary table*

Item	Cost	This claim	Decision on deductions	Decision on this claim
1	Wholesale	£56,773,213.55	£4,985,244.08	£51,787,969.47
2	Credit balances	£37,644,552.87	£387,775.96	£37,256,776.91
3	Other costs: Meter read reconciliation	£413,839.51	£4,218.15	£409,621.36
<b>Total:</b>				<b>£89,454,367.74</b>

### **Reasons for decision**

#### General

Ofgem's general preference is for a SoLR not to make a claim for a LRSP for costs it has incurred carrying out its role. However, we do recognise that circumstances may exist which would justify a departure from this general rule and that the costs of this claim will ultimately be paid by consumers. In our assessment of the claim, consideration has been given to the interests of current and future consumers, particularly those in more vulnerable circumstances.

Historically, some SoLRs have waived their right to make that claim through the SoLR processes. Recent SoLRs have not waived those rights as the recent costs associated with becoming a Supplier of Last Resort have been significant. In the particular circumstances of this claim, and in line with the relevant licence conditions, we consider it appropriate to allow for the additional and otherwise unrecoverable costs summarised in Table 1 to be recovered via a LRSP.

In granting consent for this claim, the net costs incurred by the supplier acting as a SoLR in an emergency situation will be spread across all consumers, rather than borne solely by the SoLR and its customers. We consider it to be in the interest of current and future consumers to allow this claim to ensure that the consumer safety net provided by the SoLR process remains viable into the future, and the stability of the retail energy market is not further undermined to the detriment of all consumers.

### Condition

Ofgem has made its consent to this LRSP claim conditional on British Gas entering into a binding True-up Agreement with Ofgem in respect of the Last Resort Supply Direction.

### **Cost category: Wholesale**

In our published policy decision on the true-up process<sup>16</sup> we explained that appointed SoLRs would be able to make claims to recover additional and otherwise unrecoverable wholesale costs reasonably incurred relating to energy delivered up until 31 March 2022 or until the end of their 6-month Last Resort Supply 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. For this new initial claim, we have maintained this decision to only allow for wholesale costs reasonably incurred until the end of the 6-month Last Resort Supply Direction.

### Decision

British Gas requested our consent to claim for £56,773,213.55 for the cost of purchasing energy on the wholesale market to supply the customers of Together Energy, reflecting the cost it had incurred, minus an amount absorbed by British Gas in relation to credit balance costs. In our assessment of the wholesale element of the claim, we have analysed the information provided by British Gas alongside its claim, to:

- Assess whether costs being claimed for are consistent with the criteria set out earlier in this letter
- 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

---

<sup>16</sup> <https://www.ofgem.gov.uk/sites/default/files/2022-09/Decision%20on%20the%20last%20resort%20levy%20claims%20true-up%20process.pdf>



- 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

British Gas' claim related to the costs of purchasing energy to be delivered specifically in the six months following the date of the SoLR, in line with the approach we have taken to true up claims for SoLRs appointed in the period from September 2021 to December 2021. For the period from 23 January 2022 to 31 March 2022, the costs claimed by British Gas were based on a comparison of the commodity costs incurred against the wholesale allowances included in the default tariff cap for that period. In contrast, for the period from 1 April to 22 July, the costs claimed by British Gas were based on a comparison of the price the supplier paid when hedging the gas requirements of the Together Energy customers for the summer period with a fixed reference price of 160 pence per therm. Under this alternative approach, British Gas has absorbed a part of the costs associated with purchasing the energy required to supply these customers.

Following the above assessments, we consider that the majority of the claimed amount meets the criteria that we have set out above. That is, we were satisfied that the costs were additional, directly incurred as part of the SoLR role, otherwise unrecoverable and economic. However, for the winter period, we consider that the claim is not fully consistent with our criteria and we have therefore decided to consent to the claim only with the following deductions:

- A deduction of £2,405,467.14 for the revenue received from SoLR customers in respect of the Backwardation allowances in the price cap. Backwardation allowances were set out in our decision on the potential impact of increased wholesale volatility on the default tariff cap in February 2022 ("February 2022 Decision")<sup>17</sup> and our decision on possible wholesale cost adjustment in August 2022 ("August 2022 Decision")<sup>18</sup>. 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.
- A deduction of £1,026,948.89 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 £1,552,828.05 for the revenue received from SoLR customers in respect of the retrospective Shaping & Imbalance element of the Wholesale Risk Allowance in the price cap (as set out in our February 2022 Decision), which will be collected from customers between April 2022 and March 2023. The deduction has been calculated based on a value of £12 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.

Where calculating the deductions to apply to the Together Energy claim, we have taken an approach that is consistent with that applied in the true-up claims relating to SoLRs

<sup>17</sup> [Decision on the potential impact of increased wholesale volatility on the default tariff cap, February 2022](#)

<sup>18</sup> [Decision on possible wholesale cost adjustment](#), August 2022



taking place between September and December 2021. This includes taking into account the comments made in responses to our minded-to decisions on those claims - including those of British Gas, which said that it supported Ofgem's stance of removing wholesale costs that have already been accounted for under the price cap from those claims, provided that the deductions were applied proportionately across all claims from all suppliers.

The proposed total deduction is £4,985,244.08 for the part of the claim falling within winter 2021/22, leading to a net wholesale claim of **£51,787,969.47**. This is net of a contribution to credit balances, which British Gas agreed to absorb as part of its claim.

*Table 2: Summary of claims and decision for wholesale costs*

Item	Cost	Initial Claim	Deduction categories	Minded-to deduction amounts	Final position on claim
1	Wholesale	£56,773,213.55	Backwardation	£2,405,467.14	
			Contracts for Difference	£1,026,948.89	
			Retrospective shaping allowances	£1,552,828.05	
<b>Total:</b>		<b>£56,773,213.55</b>		<b>£4,985,244.08</b>	<b>£51,787,969.47</b>

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

*Reasons 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 1 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 1 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-SoLR. 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 in winter 2021/22 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 an amount equivalent to £14 for a typical dual fuel customer through higher bills in later periods.

We have calculated the relevant deduction based on our best view (given the information submitted by British Gas as part of its claim) of (a) the number of Together Energy customers that remained with British Gas as of the end of winter 2021/22 and (b) the annualised demand of those customers. We note that it will be open to British Gas to submit a further claim in 2023 in relation to the backwardation deduction if it considers that new evidence exists to support such a claim. We note that an important consideration in assessing any such claim will be the extent to which it is appropriate to base the amount to be deducted on outturn demand, rather than seasonally normal demand (given the potential inconsistency with how costs for winter 2021/22 have been treated).

### **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,<sup>19</sup> which are in turn based on forward prices observed at that time of the forecast.

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 for the customers of the failed suppliers which were well in excess of the direct fuel allowances included in the cap. However, increases in wholesale electricity prices also resulted in CfD costs for those customers that were significantly lower than the relevant allowance in the cap.

As we set out in our February 2022 price cap decision 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 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 British Gas over-recovering in relation to wholesale costs of Together Energy's customers, we have decided to deduct an amount from the claim equivalent to the demand weighted interim levy rate component of the default tariff cap for period 7, multiplied by the claimed volume of electricity in winter 2021/22, on the basis that the revenue generated under the CfD allowance would have offset the wholesale costs incurred by the supplier.

---

<sup>19</sup> [August 2021, Default tariff cap, Annex 4](#)

### **Shaping allowance:**

We note that elements of shaping were included in the claim for Together Energy by British Gas. Our view is that, to avoid overcompensating SoLRs through the levy, where British Gas seeks to claim for further incremental shaping and imbalance costs it must demonstrate that the costs for its SoLR customers are more than those faced by their non-SoLR customers.

Based on our checks of the data submitted across all of the British Gas claims, and a comparison with the alternative approach of relying only on the shaping allowances in the cap rather than actual short-term shaping trades, we believe the approach taken by British Gas shows that the shaping costs incurred for the SoLR customers are below those allowed for in the shaping allowance. As this does not represent 'further incremental shaping and imbalance costs' above the allowances, and it aligns with our 'economic' principle outlined for levy claim assessments that the SoLR should make reasonable efforts to avoid or absorb SoLR costs, Ofgem has decided to accept this aspect of the claim and welcome British Gas' adherence to the principle to keep the costs of this process as low as possible for customers.

As shaping costs were included in this claim, the shaping allowance included in the price cap for winter 2021/22 was rightly accounted for and removed in calculations by British Gas. However, we also note that in February 2022 Ofgem introduced a retrospective allowance into the default tariff cap to allow suppliers to recover additional revenue in relation to electricity shaping and imbalance costs, which had been materially higher in winter 2021/22 than the price cap had accounted for. An amount of £12 per electricity customer (at typical consumption) was included within the cap for the year starting 1 April 2022, applied via an increase to the additional wholesale risk allowance component of the cap.

This allowance will be recovered from all customers, SoLR and non-SoLR. Given this, we consider that the revenues collected under this allowance should be offset against any claims made by SoLRs in relation to the costs of shaping and imbalance in winter 2021/22 which we are otherwise minded to allow, given the principles set out above on when we will and will not accept claims for shaping costs.

To calculate the appropriate amount to deduct from British Gas' claim, we have, as with the backwardation allowance (and for similar reasons), used our best estimate of the remaining Together Energy customer accounts as of the end of winter 2021/22, combined with an estimate of annualised demand for these customers, whilst adjusting the allowance amount to properly account for line losses.

### **Cost category: Credit balances**

Our published guidance sets out circumstances in which we may consider it appropriate to approve a claim for the amount a SoLR spends compensating customers who had a positive credit balance with a failed supplier.

### Decision

British Gas claimed £37,644,552.87 in compensation to former customers of Together Energy for their credit balances. We consider that the claimed amount is not consistent with our criteria.

We have consented to British Gas claiming up to £37,256,776.91, which we consider to be a more accurate calculation of the amount of customer credit balances to be paid as part of a LRSP claim.

*Table 3: Summary of claims and decision for credit balances*

<b>Item</b>	<b>Cost</b>	<b>This claim</b>	<b>Decision on deductions</b>	<b>Decision on this claim</b>
2	Credit Balances	£37,644,552.87	£387,775.96	£37,256,776.91

*Reasons for decision:*

British Gas requested our consent to claim £37,644,552.87 through the LRSP for the cost of refunding credit balances of customers and former customers held at the time the Direction was issued.

In the minded-to positions on SoLR's true-up claims as part of the temporary multi-claim process,<sup>20</sup> we noted that SoLRs could claim sums paid or debts assumed to compensate customers of the failed supplier in respect of customer credit balances. Although we have not consulted on this initial claim, we have referenced the outcomes of the consultations with regards to our policy decision on disallowing uncashed cheques from credit balance claims.

In these consultations, we were minded-to not allow claims for the value of uncashed cheques where the SoLR had compensated customers for credit balances by sending cheques. In our minded-to positions we explained that this was because we did 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 [SoLR] can recover the cost of any credit balance cheques presented after the cut off point for the current claim.

We received one stakeholder response from British Gas on our minded-to-positions on credit balances across its other claims. It supported our stance of allowing all credit balances refunded to customers to be reclaimed via the levy. It also stated that it supports the pragmatic approach for uncashed cheques that will allow it to claim any issued cheques that are cashed by customers in the future. We have taken the same approach to uncashed cheques in our assessment of this claim.

British Gas requested our consent to recover £37,644,552.87 for the cost of refunding credit balances to some former customers of Together Energy. In line with our position

<sup>20</sup> <https://www.ofgem.gov.uk/publications/last-resort-levy-true-claim-minded-position>

on uncashed cheques, with a deduction for the value uncashed cheques. We are satisfied that the evidence submitted by British Gas demonstrates that the costs incurred were additional, directly incurred as part of the SoLR role, otherwise unrecoverable and unavoidable. We have decided to consent to a LRSP claim of **£37,256,776.91** for sums paid to compensate customers for credit balances, with a deduction of £387,775.96 for uncashed cheques.

As part of our assessment for this claim, we considered whether the amount British Gas is seeking to claim for credit balances is otherwise unrecoverable; it may still be the case that British Gas is able to recover some of this claimed amount through the ongoing administration process for Together Energy, to which British Gas has, in accordance with the requirements of the LRSP process, submitted a subrogated creditor claim for the sums paid to compensate customers for credit balances. We have made this decision on the initial claim ahead of the conclusion of the liquidation process, the timescale of which is uncertain, and have approved this element of the claim, subject to the outcome of the Together Energy liquidation process.

### **Cost category: "Other costs"**

When a SoLR goes through the process of onboarding customers of failed suppliers, we understand that as part of this process the SoLR may incur costs which could, for example, include administrator or operational costs. We have used the criteria set out in our published policy decision to assess whether these costs are appropriate and should be recovered through a LRSP. The other costs that British Gas has claimed are detailed below.

British Gas claimed £413, 839.51 in other costs incurred as a result of complying with the Last Resort Supply Direction. We consider that the claimed amount is not consistent with our criteria.

We have consented to British Gas claiming up to **£409,621.36**, which we consider to be a more accurate calculation of the amount of other costs to be paid as part of a LRSP claim.

*Table 4: Summary of claims and decision for other costs*

<b>Item</b>	<b>Cost</b>	<b>This claim</b>	<b>Decision on deductions</b>	<b>Decision on this claim</b>
3	Other costs; Meter read reconciliation	£413,839.51	£4,218.15	£409,621.36

### **Reasons for Decision**

British Gas requested our consent to claim £413,839.51 for meter read reconciliation costs. During Ofgem's assessment of the claim, British Gas provided updated evidence which revised its claim amount and submitted new finalised amounts, which we have accepted. These costs were incurred due to British Gas correcting customer meter readings which did not align with initial settlement readings provided to them by the administrator of Together Energy. British Gas has provided an explanation as to why the costs were unforeseen at the time of the SoLR process. In trying to ensure continuity for

customers, British Gas has been under-compensated as a result of reimbursing consumers the cost of misaligned readings in settlement. In addition to the explanation British Gas provided; a calculation sheet was submitted for review in the assessment period. We are satisfied that the evidence submitted demonstrates that British Gas acted in an economic manner by making all reasonable efforts to avoid the cost in the first instance or absorb the cost.

We are satisfied that the evidence submitted by British Gas demonstrates that the costs incurred were additional, directly incurred as part of the SoLR role, otherwise unrecoverable and unavoidable. Furthermore, in acting to resolve the settlements correctly and British Gas made all reasonable efforts to ensure that customers had the correct meter readings and did so in the most economic manner. Therefore, based on the information submitted as part of the claim and within the particular circumstances of this case, we consider it reasonable to allow British Gas to recover these costs and we have approved the revised amount of £409,621.36.

### **Recovery of LRSP claim**

British Gas will be paid the amounts specified in the Ofgem's consent documents, published alongside this letter, by the relevant licensed gas and electricity network operators. This will be recovered by the network operators in proportion to the total number of nationwide gas and electricity supply points.

Yours faithfully,

**Neil Lawrence**  
**Director of Retail**