

The Company Secretary
Octopus Energy Limited
Company Number 09263424

Email: Steven.Acorn@ofgem.gov.uk

Date: 31 January 2023

Approval of LRSP assignments to a third party

Background – Avro Energy LRSP consents

On 20 December 2022 we gave consent, pursuant to Standard Licence Condition 9 'Claims for Last Resort Supply Payment (SLC9), for Octopus Energy Limited (the Licensee) to claim for a Last Resort Supply Payment (LRSP) arising from the direction dated 16 September 2021 to supply electricity as a Supplier of Last Resort (SoLR) to the customers of Avro Energy Limited, company number 09174794.¹

Decision on LRSP third party assignment

On 11 March 2022 we published our decision on the licence changes to facilitate 3rd party assignment of LRSP claims². Any assignment would require our consent, as per Standard Condition 38B of the electricity distribution licence, Standard Condition A48.14 of the gas distribution licence, and Standard Condition 9.7A of the supply licence. In making any decision to approve or refuse an assignment we will consider our our statutory objectives including our principal objective to protect the interests of existing and future consumers. As discussed in our previous consultation and decision documents, we consider that assignments can enable greater ongoing competition in future SoLR processes by enabling greater working capital availability.

¹ [Faster SoLR levy process: consents to Last Resort Supply Payments | Ofgem](#)

² [Decision on Third Party Finance | Ofgem](#)

Approval of third-party assignment of Avro Energy LRSP claim

On 9 May 2022 we published our approval to facilitate 3rd party assignment of LRSP claims of the Avro Energy LRSP claim to a third party, LRSP Borrower SPV Limited.

In December 2022, we were approached by the Licensee to consider approving another 3rd party assignment that they were actively progressing with a 3rd party financier. The Licensee has shared with us all the relevant documents relating to the assignment. Taking into account our statutory duties, including our principal objective to protect the interests of consumers, we have decided to approve this assignment of the Avro Energy LRSP claim to a third party, LRSP Borrower SPV Limited (such an approved third party being an “**LRSP Permitted Assignee**”).

From the details of the transaction which have been provided and explained to us, we are satisfied that it would be in consumers’ interest to consent. As set out in decision of 11 March 2022, transactions such as this can support greater ongoing competition in the SoLR processes by enabling greater working capital availability. We have reviewed the transaction information and explanations and we see nothing in them that we would expect to be materially prejudicial to the licensee’s ongoing business, or we would expect to cause suppliers or other parties material prejudice in the future. In particular, we note that that this arrangement is in line with the reasonable interest of the licensee in obtaining working capital which we decided in December 2022, and will not result in increased costs to consumers. We also recognise the likely benefits to the licensee of securing such working capital. The one condition precedent to this transaction that relates to Ofgem is our consent. A condition of this approval is that LRSP Borrower SPV Limited and the Licensee fulfil their obligations as set out in the Purchase Agreement and associated documents to our reasonable satisfaction.

Enforcement of network licences

We understand that the distribution networks have acknowledged the assignment of the LRSP claim to LRSP Borrower SPV Limited, pending Ofgem’s formal approval. Where a network licensee fails to make an LRSP payment due in accordance with an obligation arising under or deriving from its licence, Ofgem would regard such non-payment as a contravention of the relevant licence condition. This would include non-payment to a LRSP Permitted Assignee. Such a contravention would have the potential to be a serious contravention.

As with any enforcement matter, Ofgem would expect to approach enforcement in accordance with its statutory duties and its Enforcement Guidelines.

This approval shall not, in respect of any licensee, affect or limit Ofgem's ability to: take enforcement or other legal action; modify or revoke any licence, give or refuse or modify consent in relation to matters connected with any licence; apply for a special administration order; or enforce or modify any undertaking given to it, whilst recognising an LRSP Permitted Assignee's interest in receiving payment of LRSPs.

We will continue to consider the merits of each proposed assignment in the future, and nothing in here should be taken as a precedent. We welcome general comments on this assignment or observations on future assignments.

No one other than LRSP Borrower SPV Limited and Octopus Energy Limited can / should rely on this letter and we don't accept any liability towards either the suppliers, the 3rd party financier, networks or other parties. This letter constitutes our notice of reasons as required by Section 49A of the Electricity Act 1989 and Section 38A of the Gas Act 1986.

Signed

A handwritten signature in black ink, appearing to be 'P. Bingham', written on a light blue background.

Peter Bingham

Director, Analysis and Assurance

Duly authorised on behalf of the Gas and Electricity Markets Authority