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Dear David,

**Further Statutory Consultation: Strengthening Financial Resilience– introducing a Minimum Capital Requirement and Ringfencing Customer Credit Balances (CCB) by Direction**

I am writing to you in response to Ofgem's further statutory consultation on Strengthening Financial Resilience.

This is a high-level industry view - Energy UK's members hold different views on aspects of the consultation.

Firstly, Energy UK remains supportive of Ofgem's objectives and intentions in encouraging responsible business practices and minimising future mutualisation costs. We also welcome the further detail provided in this statutory consultation and the further opportunity for members to comment on the proposals, given the range of comments submitted in response to November's statutory consultation.

However, Energy UK would urge Ofgem to consider the response periods when consulting on important and novel policy changes. To allow for a thorough analysis of the detail provided, industry would welcome sufficient time to respond, giving importance to procedural notices and timelines. The impacts of having such a short response time over a period of UK bank holidays should be carefully considered in future consultations. This is particularly true in a time of unprecedented demands on energy suppliers and their teams.

**Creating a Resilient and Investible Retail Energy Market**

Energy UK welcomes efforts to minimise mutualisation costs for consumers and we wish to ensure consumers do not pay for supplier failures. Furthermore, we welcome efforts to create a resilient, investible energy market. Nonetheless, it is important that decisions taken at this time reflect the ongoing crisis that the sector is facing. The proposals on minimum capital requirements entail an investible and profitable market and we think it is important that Ofgem enables effective competition in the energy market and ensures that these reforms are assessed with that in mind. This must be balanced with ensuring new entrants are sufficiently resourced and adequately financed upon entering the market.

## **Implementation**

As a new and novel set of requirements, we strongly recommend that Ofgem keeps these requirements under review following implementation. This includes maintaining a clear line of sight to Governments' work on retail market reform. It will be important to ensure that the requirements remain fit for purpose to allow and encourage a diverse set of business models to evolve towards net zero in an ever more competitive and dynamic market that is beneficial for consumers.

Energy UK advises Ofgem to focus on the policy intent of this consultation, ensuring suppliers can withstand shocks and minimise mutualisation costs to consumers. To stay true to this intent, Ofgem will need to ensure that suppliers meet their capital adequacy requirements with consideration to the importance of assets that are loss-absorbing. Care should be given to exploring this with individual suppliers to ensure that the outcome of capital adequacy is achieved appropriately, via common capital standards across a range of different business models. This may require Ofgem to consider whether it currently has the expertise and resource required to effectively implement these proposals.

We support Ofgem in its attempts to ensure proposals are backed up by a clear enforcement process that recognises the financial positions and overall market conditions suppliers are operating in whilst addressing the priority of protecting the consumer's interests. It is crucial that the implementation of the capital adequacy measures is not done in isolation given the interactions between them. We continue to encourage Ofgem to seek an approach to sourcing data that limits the burden on suppliers and exploits information that is readily available from suppliers.

Energy UK strongly urges Ofgem to treat suppliers with fair and consistent compliance and monitoring processes, especially when addressing minimum capital requirements. In order to achieve this, we welcome clarity from Ofgem on its expectations of supplier behaviours during the transition period to a capital adequacy regime.

Energy UK recognises that Ofgem is seeking to balance various issues in setting both the level and the implementation period for proposed minimum capital requirements. Our members may have different views and evidence of the appropriateness on both fronts.

## **Customer Credit Balance Ringfencing**

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

We would be happy to discuss any of the points made in further detail with Ofgem or any other interested party.

Best wishes,

Madeline Costello

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