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## Statutory Consultation on Strengthening Financial Resilience

Financial Resilience and Controls Team, Ofgem

[RetailFinancialResilience@ofgem.gov.uk](mailto:RetailFinancialResilience@ofgem.gov.uk)

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Utility Warehouse was one of the first 'challenger' brands when it entered the retail energy market over 20 years ago, and we have a unique perspective in that we operate across numerous regulated markets: energy, telecoms and insurance. Today we serve over 900,000 households.

We still broadly welcome the package of policy interventions Ofgem has settled on for this Statutory Consultation, as it represents Ofgem completing the task of shutting unsustainable business models out of the energy supply market for good. We note that the Capital Adequacy proposal has changed significantly since the previous Statutory Consultation of 25 November 2022.

Most notably, a supplier's obligations will be dependent on their status within one of three categories: below the floor, above the floor but below the target, or above the target. This is a logical approach as it will allow Ofgem to adjust the level of intervention required in each case, according to parameters which should be transparent to all at the outset.

We notice that one question in particular would benefit from further detailing, namely question 4 concerning credit ratings.

4) Have we struck the right balance between consumer interest and commercial practices by setting the minimum credit rating for parent / group working capital facilities or guarantees? How could it be improved?

We welcome Ofgem's decision to progress its proposal to allow suppliers to rely on a range of Alternative Sources of Capital in order to meet the Capital Target. This helps ensure the regulatory framework supports variation in supplier business models, which is a reality of a competitive market and should be facilitated by the regulator. Further clarity would be appreciated as follows:

- For both Drawn and Undrawn Working Capital, (two of the options within Alternative Sources of Capital), it is appropriate that Ofgem seems to be allowing a practical degree of flexibility by providing suppliers with the option of providing credit ratings of Baa3/BBB **or equivalent**. We would ask Ofgem to avoid being over-prescriptive in its use of the word 'equivalent'. This would allow suppliers to access other legitimate credit rating evidence options, and from providers other than S&P, Fitch and Moody's. Equivalents could also include for example, a confirmation from the suppliers' lending banks that they have internally rated their borrower as investment grade (which was an option allowed under the government's Covid Corporate Loan scheme). Are we correct to assume that providing reasonable flexibility is Ofgem's intention?
- We note that for the credit rating requirements for the 'Unconditional, Quantifiable General Guarantee' option, the statutory consultation document does not include the text 'or equivalent' as for the other options. For consistency, clarity, and to ensure Ofgem's financial resilience policy supports, and doesn't penalise, variations in business models, we believe credit rating 'equivalents' should be included across the board. It would be helpful to

understand if Ofgem intended to create a distinction between the treatment of the different Alternative Sources of Capital, as we have assumed not.

- And similarly, there is no option to provide an equivalent credit rating product for Renewables Obligation ring-fencing and, if applicable, CCB ring-fencing; and it is therefore also uncertain whether this restriction of options is accidental or intentional.

Given that Ofgem approval of a supplier's credit rating proof will be required regardless, it would be best for Ofgem to allow itself the full discretion of considering all equivalent products and in all cases, including for Unconditional, Quantifiable General Guarantees, RO ring-fencing and CCB ring-fencing.

We had a further detailed observation regarding the proposal to enable the option of mandating credit balance ring-fencing (CCBs), namely question 13.

13) Do you agree with our proposal for consideration of Consumer Interest issues where a CCB trigger is reached? Please tell us if you have further views on what an appropriate approach to making a decision to direct CCB ringfencing would comprise of.

We are unconvinced that the proposed approach of ring-fencing a proportion of CCBs when triggers are breached will have the desired policy effect, particularly when a 'Consumer Interest' test is introduced.

There is some merit in allowing suppliers to refute a direction from Ofgem to ring-fence a proportion of credit balances, given Ofgem's monitoring activities may not enable Ofgem to foresee the full impact of ring-fencing credit balances on the items listed under 'Consumer Interest'. However, this approach also risks weakening the impact of this regulatory option and in doing so diminishes its ability to affect change in the way suppliers operate.

More generally, it's hard to follow the overarching rationale for keeping the option to enforce CCB ring-fencing, given that to do so would take a supplier operating below the Capital Adequacy target further away from that target. The proposal to scale the ring-fenced amount to less than 100% appears to have been added only so that CCB ring-fencing itself cannot be the requirement that forces a supplier out of business. It does not answer the bigger inconsistency of applying an intervention that would push a below-target supplier's Capitalisation Plan backwards.

We have long remained of the view that Ofgem should adopt the simple option of banning advance payments, which would target much of the exposure at its root. The customer credit balance risk emerged primarily as a feature of taking advance payments, and so can be resolved to all reasonable extent by abolishing this discredited practice, whereby customers are charged upfront before they have consumed any energy.