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Dear Melissa

## **ENDING THE TEMPORARY LAST RESORT SUPPLY PAYMENT CLAIM PROCESS**

Thank you for the opportunity to provide views on Ofgem's proposals in relation to the Last Resort Supply Payment (LRSP) process which were set out in your letter of 25 May.

These proposals relate to actions taken within the recent set of LRSP claims made by suppliers in relation to Supplier of Last Resort (SoLR) events largely in the second half of 2021. Due to the volatile market environment at the time, a large numbers of suppliers failed, and appointed SoLRs were exposed to significant costs to take on the customers of those failed suppliers.

Ofgem is seeking views on the following proposals:

1. Ending the temporary multiple claims process introduced in autumn 2021; and
2. Requiring an internal audit for future LRSP claims.

We are generally supportive of the proposals Ofgem is making but would make the following points in relation to each.

### **Ending the temporary multiple claims process**

We welcomed the implementation of the multiple claims process Ofgem has used for those SoLRs appointed since the second half of 2021. As we shared in engagement at that time, it was necessary for Ofgem to recognise the significant immediate exposure to costs for appointed SoLRs. As we noted, in the absence of an immediate initial claim and the associated quicker recovery of costs, even with access to short term funding, the "normal" LRSP claim process would have left SoLRs exposed to significant liability for a prolonged period of time.

Ofgem is now proposing ending this multiple claim process, and reverting to the previous single claim process, after its assessment that the market environment has stabilised to the extent that appointed SoLRs would no longer be exposed to immediate losses on energy purchase.

We are generally in agreement with Ofgem that the need for the multi-stage claim process has significantly decreased from the circumstances in late 2021, and therefore understand the proposal Ofgem is making recognising the resource required by Ofgem in reviewing multiple LRSP claims for each appointed SoLR.

Ofgem states that it intends reverting to the previous single claim process. As we have noted in previous engagement with Ofgem on the LRSP process, the licence conditions and guidance have never had any prescriptive requirement on the process that would limit LRSP claims to only one per SoLR event. We understand that one claim is likely to have been “normal” for SoLRs prior to August 2021 since, in most cases, the SoLR’s immediate cost exposure was not as extreme as was the case from this later date, and the need for phased recovery of costs was not so acute.

We therefore welcome the reference within Ofgem’s letter that it will continue to monitor the market and will consider re-introducing a multi-stage process if it is necessary or appropriate. While we agree that the market has appeared to stabilise in recent periods, we consider that prices and volatility remain above historic levels. Therefore, we consider it is important that Ofgem remains open to future phased LRSP claims where appointed SoLRs are exposed to unexpected future circumstances which create significant upfront costs which an appointed SoLR could demonstrate reasonably meet the criteria for an LRSP claim.

### **Requirement for internal audit of LRSP claims**

Ofgem notes that if it reverts to a single claim process then it proposes a requirement for an “independent audit” alongside each LRSP being submitted to Ofgem. Ofgem proposes that the audit would be undertaken in line with that consulted on as part of the current multi-stage claims process and published in September 2022.

The requirements of this independent audit as Ofgem notes in its letter are the following:

- Ofgem considers that an internal audit would generally be sufficient, with an external audit requested only where Ofgem has serious concerns regarding any part of the SoLR’s claim;
- The audit would be conducted in accordance with International Standard on Related Services 4400 (ISR 4400) - Engagements to Perform Agreed-Upon Procedures Regarding Financial Information; and
- The audit would require to be signed by a company director or company secretary.

We are generally supportive of Ofgem continuing with its requirement that SoLRs undertake an independent audit of LRSP claims, even though we consider future LRSP claims are likely to be of much lower values than those since August 2021. We think the process proposed by Ofgem is proportionate and will support Ofgem in ensuring costs passed to consumers to cover SoLR events are robustly scrutinised.

We would highlight the following points:

- Our support is based on Ofgem’s proposed approach in relation to whether the audit is an internal or external audit. We agree that an internal audit should be sufficient unless Ofgem has specific concerns on a SoLR’s claim. From our experience this worked well for our claims under the multi-stage process with suitably skilled internal teams able to complete the audit to support Ofgem in their

assessment and consent to our LRSP claims. We consider any move to require an external audit would likely be disproportionate.

- We note Ofgem's continued requirement to use ISRS 4400 as the required standard for the audit. We continue to have doubts that this standard delivers what Ofgem is setting out to achieve. ISRS 4400 is only one option and it may be more appropriate for Ofgem to require suppliers to set out the approach that they work to in undertaking the audit, and why it is sufficient and appropriate, rather than prescribing any one standard.

We are happy to discuss any of the above points if it would be helpful to Ofgem.

Yours sincerely,



**pp Richard Sweet**  
Director of Regulatory Policy