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interested parties

Email: solrlevyteam@ofgem.gov.uk

20 October 2023

Dear Colleague

Last Resort Supply Payment Claim from Yu Energy Retail Limited

On 24 October 2022, Yu Energy Retail Limited (“Yu Energy”) gave notice to Ofgem of its claim for a Last Resort Supply Payment (LRSP) in relation to acting as Supplier of Last Resort (SoLR) to customers of the former AmpowerUK Limited (“Ampower”).

Under Standard Licence Condition (SLC) 9.1 of the Supply Licence, SoLRs are entitled, provided Ofgem consents, to make a claim for a LRSP from each Relevant Gas Transporter and Electricity Distribution Operator. The claim from Yu Energy included its calculation of the claim amount and information to support the calculation (outlined in Table 1).

This letter sets out the reasons why we are minded-to recover an overpayment from Yu Energy of **£110,867.70**.

We are minded-to recover the overpayment of costs incurred in complying with a Last Resort Supply Direction¹ relating to additional wholesale costs incurred as a result of commitments to supply energy to SoLR customers.

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 volatile 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. Our policy on assessing further claims under this temporary multiple-claim process was published on 21 September 2022². On 25 May 2023 we published a further consultation on whether to end or continue the temporary multiple-claim process. In the consultation decision, published on 24 August 2023, we set out our decision to maintain the temporary process until at least after winter 2023/24, at which point we would again review market conditions and consult on whether the temporary process should be ended.³

¹ [Direction to appoint Yu Energy Retail Limited as Electricity Supplier of Last Resort to Ampoweruk Ltd | Ofgem](#)

² <https://www.ofgem.gov.uk/sites/default/files/2022-09/Decision%20on%20the%20last%20resort%20levy%20claims%20true-up%20process.pdf>

³ [Decision on ending the temporary Last Resort Supply Payment claim process | Ofgem](#)

As part of that faster multiple-claim levy process, each of the SoLRs entered into a True-up Agreement with Ofgem. Under the True-up Agreement between Yu Energy and Ofgem, Subsequent Levy Claims and a final True-up claim may be made following the Initial Levy Claim. Clause 5 of the True-up Agreements sets out what is required for a final True-up claim.

Clause 2.2 of the True-up Agreements sets out that the agreement will terminate on the earlier of the following:

- (a) Where any Valid True-up Amount is an Excess, the date upon which the SoLR has repaid in full the total of any Excess resulting from the True-ups of all Last Resort Supply Directions covered by this Deed;*
- (b) Where any Valid True-up Amount is a Deficit, the date of the last of the Valid Final Levy Claim(s) covered by this Deed; and*
- (c) The date of termination specified in any notice of termination of this Deed issued by the Authority.”*

Following our assessment of this current claim, we consider that it meets the requirements of a True-up claim under clause 5 of the True-up Agreement. We propose to treat it as a True-up under the True-up Agreement. This means that the True-up Agreement will cease to have effect when the SoLR has repaid the total of any Excess in our final decision.

The True-up Agreements that SoLRs entered into with Ofgem address the possibility that a SoLR may have received overpayments (an Excess). Clause 7 of the True-Up Agreement provides:

*7.1 Where any Valid True-up Amount is an Excess, the Authority shall, acting reasonably, determine that the SoLR must repay an amount equal to the Excess including any interest accrued. Where it so determines and acting reasonably, the Authority shall provide a draft direction setting out the time, method and amount of any such repayment, together with the rate of interest, where relevant, and shall provide such draft to the SoLR and other relevant stakeholders, consulting where appropriate (a **Draft Repayment Direction**).*

*7.2 The Authority will consider any representations received from the SoLR, and, if relevant, any consultation on the Draft Repayment Direction and will issue a final repayment direction setting out the time, method and amount that the SoLR will be required to repay, including any interest (a **Final Repayment Direction**).*

Ofgem is minded-to issue a Draft Repayment Direction in accordance with clause 7 of the True-up Agreement following a decision on Yu Energy’s final true-up. We are minded-to require that the method of repayment be through Yu Energy making payments to the relevant Gas Distribution Networks (GDNs) and the relevant District Network Operators (DNOs), which would then be passed through to all energy customers in the form of adjusted charges.

The purpose of this consultation letter is to provide interested parties with an opportunity to make any representations to us, ahead of us making our final decision. We will take such representations into account in our final decision making and may make changes to our minded-to position in response to such representations, if we consider it appropriate to do so.

In addition, before we make our final decision we will conduct an additional assurance process in respect of the calculations contained in our minded-to position, the results of which may also be reflected in our final decision.

We expect to make our final decision in mid-December 2023.

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.

It is Ofgem's statutory duty to protect customers' interests when suppliers fail. When a supplier fails, our focus is to ensure continuity of supply for its customers and to minimise wider negative impacts on the market.

Ofgem can ensure continuity of supply to the failed supplier's customers and minimise these wider negative effects by appointing a SoLR, which is issued with a Last Resort Supply Direction requiring it to supply the failed supplier's customers at very short notice⁴.

Failed Supplier event

On 7 November 2021, we appointed Yu Energy as the SoLR⁵ for AMPower gas and electricity customers, following its announcement that it had ceased trading. This followed an appointment process aimed at getting the best deal for consumers. We outlined the material factors behind our decision to appoint Yu Energy as the SoLR to those customers in our decision letter published on 23 June 2022⁶.

Claim for Last Resort Supply Payment

Under SLC 9.1 of the Supply Licence, SoLRs are entitled, with Ofgem's consent, to make a claim for a LRSP from each Relevant Gas Transporter and Electricity Distribution Operator.

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

⁴ The obligation for a supplier to comply with a LRSD derives from standard licence condition 8 of each supplier's gas and electricity supply licences and is intended to ensure a universal service for Great British energy consumers (for further information on this universal service, see Articles 3(3) of the EU Directives 2009/72/EC and 2009/73/EC).

⁵ Link: [Ofgem appoints new suppliers for customers of CNG Energy and CNG Electricity, MA Energy, Omni Energy, Bluegreen Energy, Zebra Power and Ampower | Ofgem](#)

⁶ Link: [Appointment of Yü Energy Retail Limited as Supplier of Last Resort for Ampoweruk Ltd | Ofgem](#)

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 gas and electricity 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.

Our true-up decision process and methodology

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. These initial claims were therefore limited to the recovery of costs for energy delivered within 6 months of their SoLR appointment or up to the end of March 2022, whichever was earlier. SoLRs may then follow this claim with an additional claim (or claims) in accordance with SLC 9. We refer to these additional claims as either a Subsequent claim or a final True-up claim. SoLRs entered into a 'True-up Agreement' with Ofgem to support the faster process. The Initial, Subsequent and True-up claim consents are conditional on SoLRs meeting the requirements of the True-up Agreement. The true-up process is intended to reconcile suppliers' initial and subsequent claims with actual costs incurred and determine any additional payments or repayments that should be made.

Following consultation, on 21 September 2022⁷ we published our policy decisions on our approach to these true-up claims. These policies have been applied in order to reach our position on subsequent and true-up claims.

In December 2022, Ofgem consented to SoLRs making Subsequent levy claims totalling £405m on the condition that these claims be treated as Subsequent levy claims under the True-up Agreements, and that the Agreements remain in place until a valid final True-up claim is made. As a result, SoLRs that submitted claims in 2022 under their True-up Agreements were still required to submit to Ofgem a final True-up claim for each Last Resort Supply Direction in respect of which they have a True-up Agreement.

In May 2023, we set out in an open letter our expectations for SoLRs' final True-up claims following the LRSP claims that were approved in December 2022 under the temporary multiple claim process.⁸

Under Supplier 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 SLC 9.3.

⁷ <https://www.ofgem.gov.uk/sites/default/files/2022-09/Decision%20on%20the%20last%20resort%20levy%20claims%20true-up%20process.pdf>

⁸ [Update on the last resort claim process for 2023 | Ofgem](#)

Our process to reach our minded-to position included:

- a. A quantitative check of Yu Energy's methodology for each cost item claimed. This included determining how each total cost item was calculated based on data sent to us by Yu Energy and ensuring these costs were in line with commitments Yu Energy made at the time of its SoLR appointment;
 - b. A true-up and cross check of any evidence that may result in a change to the initial claim or subsequent claim made by the SoLR;
 - c. Undertaking validation of some assumptions with other data sources, where appropriate; and
 - d. A qualitative and quantitative assessment of the claim for wholesale costs in accordance with the relevant licence conditions and/or 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.
 - **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.

Yu Energy's Claim

Yu Energy indicated at the time of our SoLR appointment process that it would not waive its right to make a claim for a LRSP.

The initial claim was consented to on 17 December 2021.⁹ Yu Energy submitted its True-up claim on 24 October 2022, although it was not seeking to recover any further costs through a LRSP. Consistent with the terms of the consent for the initial claim and the True-up Agreement between the SoLR and Ofgem, we have taken the initial claim into consideration in reaching our minded-to position on this true-up.

Summary of our minded-to decision

Based on the information available and consideration of the circumstances in which the claims for LSRP by Yu Energy was consented to, and in accordance with the True-up

⁹ Our Notice of Reasons for granting consent to the initial claim was published on 23 June 2022: [Faster SoLR levy process: Notice of Reasons for Last Resort Supply Payment \(LRSP\) claims | Ofgem](#)

Agreement in relation to customers of the former Ampower Ofgem is minded-to recover an overpayment of **£110,867.70**.

We have set out below our reasons for our position for this case. This 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 of the particular case.

Table 1: Summary table of initial claim, true-up and minded-to position on final claim amounts.

Item	Cost	Initial Claim Approved	True-up Claim Submitted	Minded-to position on True-up Claim
1	Wholesale	£124,305.61	-£976.80	-£110,867.70
2	Other Costs	£18,131.00	N/A	
	Total	£142,436.61		-£110,867.70

Reasons for our minded-to decision

Cost category: Wholesale

In our published decision on the claims true-up process¹⁰ we explained that all SoLRs appointed in the period from September – December 2021 should be able to recover additional and otherwise unrecoverable wholesale costs reasonably incurred as part of the SoLR role relating to energy delivered up until 31 March 2022 or until the end of their six-month SoLR 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. The bulk of these costs were considered in the December 2021 initial claim, by which time most initial wholesale energy purchases had taken place.

In this true-up claim we have analysed the information provided by suppliers, to:

- Assess whether costs being claimed for are consistent with the criteria set out earlier in this letter and our September 2022 policy decision on the True-up process
- 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
- 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

¹⁰ <https://www.ofgem.gov.uk/sites/default/files/2022-09/Decision%20on%20the%20last%20resort%20levy%20claims%20true-up%20process.pdf>

Yu has submitted one claim covering costs relating to energy delivered until the end of March 2022, which was in line with our September policy decision¹¹.

Decision:

The Yu true-up claim for Ampower, submitted on 24 October 2022, includes -£976.80 in wholesale costs. Following the above assessments, we consider that the claimed amount is not fully consistent with our criteria, and we are minded to make the following deductions:

- A deduction of £3,362.79 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 2022¹² ("February 2022 Decision") and our decision on possible wholesale cost adjustment in August 2022¹³ ("August 2022 Decision"). 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 £3,782.96 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 £78,731.61 for incorrect demand forecasts. The claim included hedged volumes demand forecasts for 412 customers. 155 of these were subsequently found to be non-domestic customers. This left only 257 domestic customers (combining both gas and electricity). Only the hedges for domestic customers are recoverable through the SoLR Levy Claim process. The deduction has been calculated by recalculating the demand forecasts that would have been used had all customers been accurately identified.
- A deduction of £1,647.15 for corrections to which prices and price comparators were used in the initial levy claim.
- A deduction of £22,366.38 for the increased cost of hedging after the initial hedging period. This has been calculated by repricing volumes (specifically those for delivery from 1 January 2022 to 31 March 2022) traded after the initial hedge, at the average of prices in the market on the date of the initial hedge, for delivery in the relevant delivery period.

The proposed total deduction is £109,890.90 leading to a net wholesale true-up claim of -£110,867.70. When taking into account the initial claim made in December 2021, the total wholesale costs approved would be £13,437.

¹¹[Decision on the last resort levy claims true-up process.pdf](#)

¹² Ofgem (2022), Price Cap - Decision on the potential impact of increased wholesale volatility on the default tariff cap, <https://www.ofgem.gov.uk/publications/price-cap-decision-potential-impact-increased-wholesale-volatility-default-tariff-cap>

¹³ Ofgem (2022), Price Cap - Decision on possible wholesale cost adjustment, <https://www.ofgem.gov.uk/publications/price-cap-decision-possible-wholesale-cost-adjustment>

Table 2: Summary of claims and minded-to position for wholesale costs

Item	Initial Claim	True-up claim	True Up Claim Categories	Minded to position on true-up claim	Overpayment minded-to recover
Wholesale	£124,305.61	-£976.80	Backwardation	-£3,362.79	
			Contracts for Difference	-£3,782.96	
			Overestimated Demand Forecast	-£78,731.61	
			Incorrect price and price comparator	-£1,647.15	
			Re-pricing of trade	-£22,366.38	
Total					-£110,867.70 ¹⁴

Rationale 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 incurred in cap period seven, 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.

These allowances would be recovered from all customers, SoLR and non-SoLR. Given this, we considered 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 subsequent to it 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 were allowed to recover approximately £14 per customer through higher bills in later periods.

When we assessed the other SoLR true-up claims last year, we calculated the relevant deduction for each supplier based on our best view (given the information submitted by the supplier as part of its claim) of (a) the number of SoLR customers that remained with that supplier as of the end of winter 2021/22 and (b) the annualised demand of those customers. We have used the same approach this year for our minded-to position. However, during the consultation period, we expect Yu to provide outturn demand for the domestic SoLR customers.

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

¹⁴ This number is 1p higher than the sum of the Yu True-up claim and the deductions. This is because the "True-up deduction amounts" column displays rounded values, but the final calculation uses unrounded values.

depend on wholesale electricity prices, with higher prices resulting in lower costs (all else equal). The allowance included in the price cap is based on Low Carbon Contract Company (LCCC) forecasts of the relevant charges as it had exist prior to the cap being set, which are in turn based on forward prices observed at that time of the forecast¹⁵.

The increases in wholesale prices which followed the price cap for winter 2021/22 being set in August 2021 led to SoLRs paying prices for wholesale electricity which were well in excess of the direct fuel allowances included in the cap - this cost has comprised the majority of SoLRs' claims. However, increases in wholesale electricity prices also resulted in CfD costs that were significantly lower than the relevant allowance in the cap.

As we set out in our February 2022 price cap decision¹⁶ 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 exposure 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, it 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 SoLRs over-recovering in relation to wholesale costs of their SoLR customers, we are minded to deduct an amount from claims equivalent to the demand-weighted interim levy rate component of the default tariff cap for period 7, on the basis that the revenue generated under the CfD allowance would have offset the wholesale costs incurred by suppliers. Where suppliers consider that it incurred a CfD cost in relation to SoLR customers, it should provide evidence - setting out the cost incurred versus the allowance included in the price cap - and we will take this into account in our final decision. We have calculated our minded-to deduction based on forecast volumes. During the consultation period, we expect Yu to provide outturn demand for the domestic SoLR customers.

Overestimated Demand Forecast

In its initial claim, Yu claimed an amount for the volume of gas and electricity it initially hedged. To calculate how much of this was to be apportioned to domestic SoLR customers, Yu used classifications of the meters that was provided by Ampower (the failed supplier). This listed 412 domestic meters (304 electricity meters, 108 gas meters). It was subsequently discovered that many of these meters were non-domestic, leaving just 257 domestic meters (169 electricity meters, 88 gas meters). As non-domestic customers are not subject to the price cap, the wholesale costs incurred by the SoLR are otherwise recoverable. To account for this in the absence of additional evidence from Yu, we needed to calculate a volume that would have been appropriate for the actual domestic customer numbers. To recalculate the demand forecasts that would have been used if the meters had been correctly classified at the time of the SoLR, we have used the following methodology:

¹⁵ <https://www.ofgem.gov.uk/sites/default/files/2022-06/Decision%20on%20the%20Contract%20for%20Difference%20%28CfD%29%20allowance%20methodology%20in%20the%20default%20tariff%20cap.pdf>

¹⁶ <https://www.ofgem.gov.uk/publications/price-cap-decision-potential-impact-increased-wholesale-volatility-default-tariff-cap>

1. First, we took the list of domestic customers that Yu provided to us (on 12/09/2023). We matched the meter numbers to the meter numbers provided by Ampower at the time of the SoLR process. This Ampower data included EAC/AQ values for each meter. Combined, we had a list of the 257 domestic meters (down from 412), along with their corresponding estimated annual demand for gas and power.
2. From this new dataset, we calculated the *average* estimated annual demand of the domestic SoLR customers. We then converted this into estimated monthly demand, using a monthly demand profile based on typical demand consumptions for PC1 customer profiles for electricity, and non-PPM customer profiles for gas.
3. We then created an estimate of what demand forecasts Yu would have generated for the claim period if it had used just the domestic numbers. To do so, we used the monthly demand profiles, the new average annual demand figures, the new customer numbers, and the churn rate Yu used in its initial claim.

Combined, this gave us a new volume of gas and electricity that was in line with the data for the domestic meters. We assumed that Yu would have hedged for this exact volume. Finally, to calculate the deduction on the claim, we recreated the claim using these new volumes in place of the original hedged volumes.

Incorrect Prices and Price Comparator

When we assess a claim for wholesale costs, we consider the prices that the SoLR pays for gas and electricity, along with the volume purchased. In Yu's case, the prices it had used in calculating their claim were higher than the trade prices it had provided evidence for. The prices used in the claim calculation had been uplifted for UIG and line losses^{17,18}. We use a price cap comparator to determine the amount of revenue that a supplier is expected to reclaim from customers through the wholesale portion of the price cap. The difference between the wholesale costs submitted by the supplier and the price cap comparator is the amount we consider is 'otherwise unrecoverable', which is one part of the test we apply to assess what costs are reasonable for suppliers to claim for under the SoLR Levy.

Alongside this, the price comparator that Yu used included allowances for shaping and imbalance, along with an uplift for UIG and line losses. Our proposed approach is to use the actual traded prices, along with the raw price index comparator (before uplifting for any allowances or UIG) to calculate the claim.

Uplifts for UIG and line losses are to account for the fact that suppliers need to purchase more gas and electricity than the volume that gets delivered to customers, as some of it is lost in the process of delivery. However, in this case, Yu would be claiming for volumes greater than what it had evidenced in their submission. We therefore think it is more appropriate to calculate the claim using the actual volumes purchased by Yu, along with a price comparator equal to the raw price index.

To calculate the deduction, we recreated Yu's claim using its traded prices, and the direct fuel cost component of the price cap without any uplifts. We calculated this deduction with our revised volumes (described above), to prevent over-deducting.

¹⁷ Unidentified Gas: the gas lost from the system for a number of reasons including theft and unregistered supply points.

¹⁸ Line Losses: the difference between the electricity entering the distribution network and that leaving it, arising for technical and other reasons.

Re-Pricing of Trade

On 5 November 2021, at the time of being appointed SoLR, Yu carried out hedges for gas for the entire claim period. For electricity, however, Yu hedged its position for only part of the claimed period on this date. For electricity to be delivered in the period 1 January to 31 March 2022, Yu waited until 25 November 2021, at which time it hedged the entire baseload volume for the three-month period. This delay meant that the price paid for the energy was significantly higher than it would have been had it executed the trade on 5 November.

To calculate the deduction, we have undertaken a further re-calculation of Yu's claim. To do so, we have re-priced the trade in question (executed on 25 November 2021) as if it had been executed on 5 November along with the other hedges. We used the ICIS Mid price to provide a fair re-pricing of the trade. We calculated this deduction with both our revised volumes and revised prices (described above) to prevent over-deducting.

Requirements for final True-up claim

The True-up Agreements set out the requirements for final True-up claims, which provide that True-up claims must at a minimum contain certain things, including:

- a calculation with supporting evidence showing the total actual or committed additional costs incurred by the SoLR in complying with that Last Resort Supply Direction, including those costs already claimed for under the Valid Initial Levy Claim(s) and any Valid Subsequent Levy Claim(s) and showing whether those costs exceed or are less than the LRSP claims already made; and
- evidence for additional LRSPs not already claimed; and
- indication of any changes to circumstances relevant to previously approved claims, including changes to assumptions about wholesale costs; and
- evidence that all costs have been audited with due rigour and signed off by the company secretary or a director of the SoLR; and
- a declaration from the SoLR's board of directors or the financial director, where authorised by the SoLR's board of directors, that the information provided in the True-up is true, accurate and not misleading in any material respect.

In compliance with our published policy¹⁹ Yu Energy undertook an independent internal audit to assess the accuracy of the true-up claims.

We are content that the claim meets all the requirements under the True-up Agreement for a final True-up claim, and that the internal audit and declaration provides sufficient assurance of the accuracy of the information provided to us to support Yu Energy's claim.

We propose to treat this claim as a Valid Final Levy Claim so that the True-up Agreement will cease to have effect when the SoLR has repaid the total of any Excess in our final decision.

¹⁹<https://www.ofgem.gov.uk/sites/default/files/2022-09/Decision%20on%20the%20last%20resort%20levy%20claims%20true-up%20process.pdf>

Next steps

The purpose of this letter is to provide the SoLR and interested parties with an opportunity to make any representations to us, ahead of us making our final decision on this LRSP claim. We invite any representations by 17 November 2023. Responses should be emailed²⁰ to solrlevyteam@ofgem.gov.uk.

We normally publish all responses on our website. However, if you do not wish your response to be made public then please clearly mark it as not for publication. We prefer to receive responses in an electronic form so that they can be placed easily on our website.

We will take into account all relevant information, including any representations we receive, and the results of our internal assurance of our assessment process in reaching our final decision on Yu Energy's claim. We expect to make our final decision in mid-December.

Yours faithfully,

Rohan Churm
Director, Financial Resilience and Controls

²⁰ Although we prefer responses in electronic format, responses can be posted to the address below.