

Gas and Electricity Suppliers,
Electricity Distribution Network
Operators,
Gas Transporters and all other
interested parties

Email: solrlevyteam@ofgem.gov.uk

27 September 2024

Last Resort Supply Payment Claim from British Gas Trading Limited

On 29 July 2024, British Gas Trading Limited (“British Gas”) 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 Neon Reef Limited (“Neon Reef”) and Social Energy Supply Limited (“Social Energy”).

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 British Gas included its calculation of the claim amount and information to support the calculation.

This letter sets out the reasons why we are minded-to recover **£368,778.94** from British Gas in relation to this claim.

We are minded-to recover the costs incurred in complying with a Last Resort Supply Direction¹ relating to:

- protecting the credit balances owed to former customers of Neon Reef and Social Energy

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. As part of that faster multiple-claim levy process, each of the SoLRs entered into a true-up agreement with us. Under this True-up Agreement between British Gas and Ofgem, Initial, Subsequent and final True-up Claims may be made.

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

¹ [Direction to Appoint British Gas Trading Limited as Electricity Supplier of Last Resort to Neon Reef Limited | Ofgem](#); [Direction to Appoint British Gas Trading Limited as Gas Supplier of Last Resort to Social Energy Supply Ltd | Ofgem](#); [Decision to appoint British Gas Trading Limited as Electricity Supplier of Last Resort to Social Energy Supply Ltd | Ofgem](#)

- (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 are minded-to consider this claim for Neon Reef and Social as a Final 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 specified Excess in our final decision.

The True-up Agreement addresses 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 7.1 of the True-up Agreement following consultation on this claim. We are minded-to require that the method of repayment be through British Gas making payments to the relevant Gas Distribution Networks (GDNs) and the relevant Distribution 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 consider any representations before making our final decision.

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 will be reflected in our final decision.

We expect to make our final decision in November 2024.

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 notice².

Failed Supplier event

On 21 November 2021, we appointed British Gas as the SoLR³ for Neon Reef and Social Energy gas⁴ and electricity⁵ 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 British Gas as the SoLR to those customers in our decision letter published on 22 November 2021⁶.

British Gas claim

British Gas indicated at the time of our SoLR appointment process that it would not waive its right to make an LRSP claim and that any claim would include the cost of customer credit balances. The initial claim was consented to on 17 December 2021,⁷ a first subsequent claim was consented to on 20 December 2022⁸, with a second subsequent claim consented to on 14 December 2023.⁹ Consistent with the terms of those consents and the True-up Agreement between the SoLR and Ofgem, we have taken those claims into consideration in reaching our minded-to position on this claim.

² 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).

³ [Ofgem appoints British Gas to take on customers of Neon Reef Limited and Social Energy Supply Ltd | Ofgem](#)

⁴ [Direction to Appoint British Gas Trading Limited as Gas Supplier of Last Resort to Social Energy Supply Ltd | Ofgem](#)

⁵ [Direction to Appoint British Gas Trading Limited as Electricity Supplier of Last Resort to Neon Reef Limited | Ofgem](#)

[Decision to appoint British Gas Trading Limited as Electricity Supplier of Last Resort to Social Energy Supply Ltd | Ofgem](#)

⁶ [Ofgem appoints British Gas to take on customers of Neon Reef Limited and Social Energy Supply Ltd | Ofgem](#)

⁷ 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](#)

⁸ [Decision on last resort levy true-up claims | Ofgem](#)

⁹ [Decisions on Last Resort Supply Payment Claims 2023 | Ofgem](#)

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

Item	Cost	Initial Claim approved	Subsequent Claims approved	This Claim as Submitted	Minded-to position on this Claim
1	Wholesale	£7,963,351.81	£130,214.51	-	-
2	Credit Balances	£0	£4,509,976.84	£657.94	- £368,778.94
3	Working Capital	£70,024.69	£145,396.14	-	-
4	Other costs	£8,693	£144,836.57	-	-

Summary of our minded-to decision

Based on the information available and consideration of the circumstances in which the claims for LSRPs by British Gas were consented to, and in accordance with the True-up Agreement in relation to customers of the former Neon Reef and Social Energy, Ofgem is minded-to recover £368,778.94. This does not include interest accrued by British Gas, but in line with the True-up agreement, SoLRs must repay an amount equal to the Excess including any interest accrued.

Under the Supplier SLCs we are required to consider on a case-by-case basis whether in the circumstances it is appropriate for a SoLR to make a claim for a LRSP. We have set out below our reasons for our minded-to 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.

Reasons for our minded-to decision

Cost category: Credit balances

Under SLC 9.4(b) a SoLR can claim 'any sums paid or debts assumed by the licensee to compensate any Customer in respect of any Customer Credit Balances'.

Decision:

British Gas's claim includes £657.94 for credit balances repaid to former customers of Neon Reef. British Gas have informed us that they have received creditor dividends from the administrators of both Neon Reef and Social. Respectively these amounts are £368,335.64 and £1,101.24. As British Gas have already claimed LRSP payments for CCBs relating to both these failed suppliers, British Gas recognise that these amounts are required to be repaid to consumers. As such British Gas included these amounts in the overall claim. We consider that the claimed amount is consistent with the definition of Customer Credit Balances in SLC 9.4(b) and are minded-to consent to the claim. We have set out our rationale for this position below.

Table 2: Summary of claims and minded-to position for credit balances

Item	Cost	Claimed to date	This Claim	Creditor dividends	Minded-to position on This Claim
2	Credit Balances	£4,509,976.84	£657.94	£369,436.88	- £368,778.94

Rationale for decision:

As part of our assessment of the closed account credit balances, our position is that costs incurred by SoLRs as a result of credit balance refunds being made by cheque should only be recovered by the supplier through the levy once that cheque is cashed. This is to avoid consumers bearing the cost of compensation for credit balances that are yet to be received or not cashed by customers of the failed supplier and to ensure the SoLR does not benefit from a situation where some cheques are never cashed.

British Gas has submitted evidence as part of its claim demonstrating instances where uncashed cheques have since been cashed by former customers of Neon Reef. We have therefore accounted for these within our calculations.

British Gas has now recovered £369,436.88 in creditor dividends through the Neon Reef and Social liquidation processes. These creditor claims were made to the administrator of the failed suppliers for CCBs. As the administration and liquidation process of failed suppliers can take an unknown length of time, we allow SoLRs to include CCB claims as part of an LRSP claim. However, as stated in previous LRSP decisions, we have made consenting to CCBs conditional. That is, the SoLR must pay back to consumers any creditor claims relating to CCBs received from the administrator of the failed supplier. Therefore, as British Gas have included these amounts in the overall claim we are minded-to approve the claimed amount of CCBs minus the creditor dividends and recover **£368,778.94** from British Gas.

Requirements for final True-up claim

The True-up Agreements set out the requirements for final True-up claims. We are content that the claim for Neon Reef and Social 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 the claim.

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

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 18 October 2024. Responses should be emailed¹⁰ to solrlevyteam@ofgem.gov.uk.

We normally publish all responses on our website. However, if you do not wish your

¹⁰ Although we prefer responses in electronic format, responses can be posted to the address below.

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 British Gas' claim. We expect to make our final decision in November 2024.

Yours faithfully,

David Hall
Deputy Director, Financial Resilience and Controls