

Decision

SoLR Levy Offset: Decision

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As part of our wider work to strengthen the financial resilience of the retail energy market and mitigate the impact of supplier failures on consumers, in February 2024 we launched a policy consultation on introducing the 'SoLR Levy Offset'. This was followed by a statutory consultation in September 2024.

The SoLR Levy Offset will place an obligation on suppliers to enter a deed of undertaking to pay to the networks the amount of any SoLR levy claim if the supplier failed.

We believe the SoLR Levy Offset can achieve significant benefits for consumers and so are now implementing the required changes to the gas and electricity supply licences, and the gas transporter and electricity distributor licences.

These will take effect on and from 1 October 2025.

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Foreword

The energy crisis of winter 2021/2022 and the supplier failures that followed exposed significant weaknesses in the financial resilience of the retail energy market. In response to the costs and other impacts caused by the crisis, we have developed and implemented a broad package of policy measures. These measures are designed to deliver a combination of benefits and tackle one or more consumer harms. Today we are announcing our decision to implement an additional measure – the Supplier of Last Resort Levy Offset, or SLO.

If a supplier fails, one option open to Ofgem is to appoint a 'Supplier of Last Resort', or SoLR. This safety net makes sure that customers' gas and electricity supplies are not disrupted. Customers do not need to find a new supplier as Ofgem will switch their accounts to a new supplier without any interruption. It also ensures that if domestic customers' account balances are in credit, they will get back the credit they held with their old supplier. During the energy crisis in 2021 and 2022, 30 retail energy suppliers failed and had SoLRs appointed for their customers.

The SoLR takes on the customers of the failed supplier and may incur costs in onboarding and supplying energy to these customers. SoLRs can claim for these costs through the 'Last Resort Supply Payment' process, often referred to as the 'SoLR levy claims' process. SoLR levy costs are initially paid to SoLRs by the distribution networks, but through adjustments to network charges the costs are ultimately paid for by domestic energy customers. The cost of ensuring continued energy supply to the domestic customers of those suppliers that failed in 2021 and 2022 has amounted to £2.3 billion.¹

At the same time, an insolvency officeholder will typically realise the assets of the failed supplier. The value of these assets will usually be used to pay creditors and the costs of the insolvency process. Where there is remaining value in a company, this remainder is usually distributed to the failed supplier's shareholders. This means that consumers meet the costs associated with supplier failure, even where there is still value held by the failed supplier. In our view, any value held by the supplier should be used to meet the costs of failure ahead of any payout to shareholders.

¹ The total cost of these claims is not yet finalised as we are continuing to process claims from Suppliers of Last Resort appointed during this period. [Decision letter faster levy process \(ofgem.gov.uk\)](https://www.ofgem.gov.uk/decision-letter-faster-levy-process). We are also processing returns of funds from SoLRs who have been successful in claiming Customer Credit Balances from the failed supplier. This figure does not include the cost of the Bulb Special Administration.

The SLO will place an obligation on suppliers to enter a deed of undertaking to pay to the networks the amount of any SoLR levy claim if the supplier fails².

A new obligation will also be placed on the distribution networks to take all reasonable steps to recover the amounts owed to them under this deed, by making a claim in the insolvency process of the failed supplier. The networks' claims will be paid alongside other unsecured creditors and before shareholders receive a return. Any money successfully claimed by the networks would then be returned to consumers, through reduced network charges.

This document summarises the statutory consultation responses and the decision made to implement the SoLR Levy Offset.

² Excluding Customer Credit Balances, which can already be claimed by the SoLR.

Executive Summary

Proposed Changes

The energy crisis of 2021/2022 and the supplier failures that followed exposed significant weaknesses in the financial resilience of the retail energy market. In response to the costs and other impacts caused by the crisis, we have developed and implemented a broad package of policy measures. These measures are designed to deliver a combination of benefits and tackle consumer harms.

We have already established an enhanced Financial Responsibility Principle,³ changing the culture of reporting by placing the onus on suppliers to identify issues early, mitigate their business-specific risks, and look longer-term as to how they will comply with their obligations.

We also introduced requirements for suppliers to have sufficient capital so that they have a financial buffer to absorb significant but plausible shocks.⁴ In addition, we introduced a requirement for suppliers to ringfence their Renewables Obligation receipts attributable to domestic supply,⁵ ensuring these receipts are insolvency remote to reduce the cost of mutualisation in the event of failure. We introduced new rules to allow for the ringfencing of Customer Credit Balances (CCBs) in certain circumstances to further enhance suppliers' financial resilience and reduce the amount of money at risk of mutualisation in the case of a supplier at risk of failure.

In addition, we introduced rules requiring suppliers to own or have sufficient control over their material economic and operational assets.⁶ This was designed to remove a likely impediment in the case of a supplier failure resulting in a Special Administration Regime where key assets needed to run the business may not be available, and reduce the amount of any mutualised cost in the event of a Supplier of Last Resort being appointed to take on the customers of a failed supplier.

Our recent Transparency Report, published in May 2025⁷, provided an update on the performance of the sector against our financial resilience measures.

To supplement the package of measures we have implemented, we first consulted on proposals to introduce the SoLR Levy Offset or SLO in February 2024⁸ followed by a statutory consultation on the required licence changes in September 2024⁹. The proposal

³ [Decision on Strengthening Financial Resilience \(ofgem.gov.uk\)](https://www.ofgem.gov.uk/decision-on-strengthening-financial-resilience)

⁴ [Strengthening Financial Resilience- Minimum Capital Requirement and Ringfencing CCBs by Direction \(ofgem.gov.uk\)](https://www.ofgem.gov.uk/strengthening-financial-resilience-minimum-capital-requirement-and-ringfencing-ccbs-by-direction)

⁵ [Decision on Strengthening Financial Resilience \(ofgem.gov.uk\)](https://www.ofgem.gov.uk/decision-on-strengthening-financial-resilience)

⁶ [Decision on licence requirements for supplier control over material assets](https://www.ofgem.gov.uk/decision-on-licence-requirements-for-supplier-control-over-material-assets)

⁷ [Financial resilience transparency report](https://www.ofgem.gov.uk/financial-resilience-transparency-report)

⁸ [SoLR Levy Offset Consultation February 2024 \(ofgem.gov.uk\)](https://www.ofgem.gov.uk/solr-levy-offset-consultation-february-2024)

⁹ [SoLR Levy Offset Statutory Consultation | Ofgem](https://www.ofgem.gov.uk/solr-levy-offset-statutory-consultation)

in the consultations set out how electricity and gas network companies would effectively be inserted into the insolvency waterfall as unsecured creditors and be able to recover available value from a failed supplier, with this value ultimately being returned to consumers.

To better understand the tangible benefits of the SLO, we also assessed what recovery could potentially have been achieved under the SLO for previous supplier failures and found that in the majority of cases, an amount would have been recoverable.

We appreciate the feedback provided to our statutory consultation, which closed on 17 October 2024 and received 27 responses from a wide range of stakeholders.

Based on the rationale underpinning our original proposals and having considered the views and evidence we have received in response to both the policy and statutory consultations, as well as an assessment of potential benefits, we have decided to proceed with implementing the SLO.

We are now confirming the required changes to the licences to implement this. Some amendments to the licence changes consulted on have been made in response to consultation feedback and others have been made to aid clarity.

The new rules will take effect on and from 00:00 1 October 2025.

Decision

We carefully considered the responses to the policy and statutory consultations and impacts on different stakeholders. We have decided to implement the SLO as we think it is strongly in consumers' interests.

This decision document confirms that we will modify:

- Electricity distributor standard licence:
Condition 38B, Last Resort Supply Payment Claims 38B.2, 38B.9, 38B.10, 38B.11
- Electricity distributor special licence:
Chapter 6: Pass-through expenditure - Special Condition 6.1 Pass-through items - Part A: Formula for calculating the pass-through items (PTt)
- Gas transporter standard licence:
Condition 48, Last Resort Supply: Payment Claims and Accounting 1(a), 1(b), 3, 7B, 7C, 7D, 7E, 11, 11(f), 14
- Gas transporter special licence
Condition A48, Last Resort Supply: Payment Claims and Accounting 1(a), 1(b), 3, 7B, 7C, 7D, 7E, 11, 11(f), 14
- Electricity supply standard licence
Condition 9: Claims for Last Resort Supply Payment, 9.1, 9.4, 9.4(c) 9.4 (d), 9.5, 9.7ZA, Condition 9A
- Gas supply standard licence
Condition 9: Claims for Last Resort Supply Payment, 9.1, 9.4, 9.4(c) 9.4 (d), 9.5, 9.7ZA, Condition 9A

Our decision-making process

Date	Stage description
09/02/2024	Stage 1: Policy consultation open
06/04/2024	Stage 2: Policy consultation closed; responses reviewed
19/09/2024	Stage 3: Statutory consultation published
18/10/2024	Stage 4: Statutory consultation closed; responses reviewed
04/08/2025	Stage 5: Final decision published

General feedback

We believe that consultation is at the heart of good policy development. We are keen to receive your comments about this report. We'd also like to get your answers to these questions:

1. Do you have any comments about the overall quality of this document?
2. Do you have any comments about its tone and content?
3. Was it easy to read and understand? Or could it have been better written?
4. Are its conclusions balanced?
5. Did it make reasoned recommendations?
6. Any further comments

Please send any general feedback comments to stakeholders@ofgem.gov.uk

Implementation

After reviewing the responses to our statutory consultation, we have decided to implement the licence modifications consulted on, with changes made to reflect the feedback received, as set out below in Section 4 and Appendix 1.

The changes to all licences set out in this decision will take effect on and from 00:00 on 1 October 2025.

1. Introduction

In this chapter we set out the cost of recent supplier failures and the role of the SoLR process, and set out how the SoLR Levy Offset, or SLO, will work. The SLO creates a contractual debt due from the failed supplier to the networks for the costs of the SoLR levy claim made by the incoming SoLR. The networks would claim as a creditor of the failed supplier in any insolvency process, with the claim being paid alongside other unsecured creditors and before shareholders receive a return on their investment.

The 2021/2022 energy crisis and our response

- 1.1 During the energy crisis in 2021 and 2022, 30 retail energy suppliers failed and had SoLRs appointed for their customers. The cost of ensuring continued energy supply to the domestic customers of those failed suppliers has amounted to £2.3 billion.¹⁰ This does not include the cost of the Bulb Special Administration, the final costs of which are yet to be determined.¹¹
- 1.2 In response to the costs and other impacts caused by the crisis, we have since developed a broad package of policy measures. These measures are designed to deliver a combination of benefits and tackle consumer harms. Firstly, they are aimed at tackling the 'moral hazard' whereby owners and shareholders of suppliers were incentivised to adopt risky business models knowing that consumers would carry the burden of risk in the event of a supplier failing. Secondly, the measures should ensure that suppliers are more financially resilient and better placed to manage future shocks. Thirdly, the measures are designed to reduce the amount of money at risk of ending up as cost that is mutualised across consumers in the event of a supplier failing.
- 1.3 We have already introduced the following measures:
 - An enhanced 'Financial Responsibility Principle' placing stronger obligations on suppliers to ensure they manage their finances in a responsible way ¹²

¹⁰ The total cost of these claims is not yet finalised as we are continuing to process claims from Suppliers of Last Resort appointed during this period. [Decision letter faster levy process \(ofgem.gov.uk\)](#). We are also processing returns of funds from SoLRs who have been successful in claiming Customer Credit Balances from the failed supplier.

This figure does not include the cost of the Bulb Special Administration.

¹¹ committees.parliament.uk/publications/44731/documents/222220/default/

¹² [Decision on Strengthening Financial Resilience \(ofgem.gov.uk\)](#)

- Capital adequacy requirements meaning that suppliers must hold sufficient capital within their business ¹³
- Requirements for suppliers to protect Renewables Obligation receipts attributable to domestic supply ¹⁴
- Powers to direct suppliers to ringfence their Customer Credit Balances in certain circumstances ¹⁵
- Licence conditions requiring suppliers to have ownership or sufficient control over their material economic and operational assets ¹⁶

1.4 In addition to these measures, we have been developing the SoLR Levy Offset or SLO. We are now implementing the SLO as an additional measure to protect consumers.

The SoLR process

- 1.5 When suppliers want to exit the retail energy market, we expect them to do so in an orderly fashion (in line with Standard Licence Condition 4B¹⁷). They will usually attempt to transfer their customers to another supplier through a trade sale in the first instance.
- 1.6 Where suppliers leave the market in an urgent or unplanned way, for example due to serious financial difficulties and where a trade sale cannot be achieved, we have powers we can use to step in and protect consumers. These powers include appointing a Supplier of Last Resort or 'SoLR', which is another licenced supplier that takes on the customers of the failed supplier.
- 1.7 A SoLR can make a claim to us for the otherwise unrecoverable costs it incurs when taking on the customers of a failed supplier. These claims are known as a Last Resort Supply Payment (LRSP) claim, often referred to as a 'SoLR levy claim'. Once we have assessed and consented to the claim, the costs are initially covered by the electricity and gas distribution networks (referred to as 'the networks' in this document). However, ultimately domestic energy consumers in Great Britain pay for SoLR levy costs. This is because the costs initially paid by

¹³ [Decision on introducing a minimum capital requirement and ringfencing customer credit balances by direction | Ofgem](#)

¹⁴ [Decision on Strengthening Financial Resilience | Ofgem](#)

¹⁵ [Decision on introducing a minimum capital requirement and ringfencing customer credit balances by direction | Ofgem](#)

¹⁶ [Decision on statutory consultation on supplier control over material assets | Ofgem](#)

¹⁷ See the [Gas Supply Standard Licence Conditions \(ofgem.gov.uk\)](#) and [Electricity Supply Standard Consolidated Licence Conditions \(ofgem.gov.uk\)](#)

the networks are subsequently recovered through increases in network charges that appear on consumers' energy bills.

- 1.8 At the same time, an insolvency officeholder (the administrator and/or liquidator) will typically realise the assets of the failed supplier. The value of these assets will usually be used to pay creditors and the costs of the insolvency process. Where there is remaining value in a company, this remainder is typically distributed to the failed supplier's shareholders.
- 1.9 This scenario – where shareholders benefit from surplus value held by a failed supplier – reflects the moral hazard associated with consumers rather than shareholders carrying the burden of risk associated with a supplier failure. It means that consumers meet the costs associated with supplier failure, even where there is still value held by the failed supplier which should, in our view, be used to meet these costs instead.

The SOLR Levy Offset

- 1.10 To address these issues and supplement the package of measures we have already implemented, we first consulted on proposals to introduce the SLO in February 2024¹⁸, followed by a statutory consultation on licence changes in September 2024¹⁹. We have now decided to implement the licence changes consulted on, with some amendments to reflect the feedback received.
- 1.11 The licence changes require suppliers to enter into arrangements that create an obligation on the failed supplier to pay the networks the amount of the SoLR levy claim (except Customer Credit Balances²⁰) if the supplier fails and a SoLR has to be appointed. The licence changes also require the networks to take all reasonable steps to recover the sums due to them under the deed. Any money successfully claimed by the networks would then ultimately be returned to consumers through reduced network charges.

¹⁸ [SoLR Levy Offset Consultation February 2024 \(ofgem.gov.uk\)](https://www.ofgem.gov.uk/consult/condocs/solr/solr-levy-offset-consultation-february-2024/)

¹⁹ [SoLR Levy Offset Statutory Consultation | Ofgem](https://www.ofgem.gov.uk/consult/condocs/solr/solr-levy-offset-statutory-consultation/)

²⁰ This is because, as noted in the Executive Summary, CCBs can already be claimed by SoLRs in the administration process. To avoid the potential for SoLRs and the networks to duplicate claims, we are proposing that CCBs would not be included in the networks' creditor claim.

2. SoLR Levy Offset Statutory Consultation

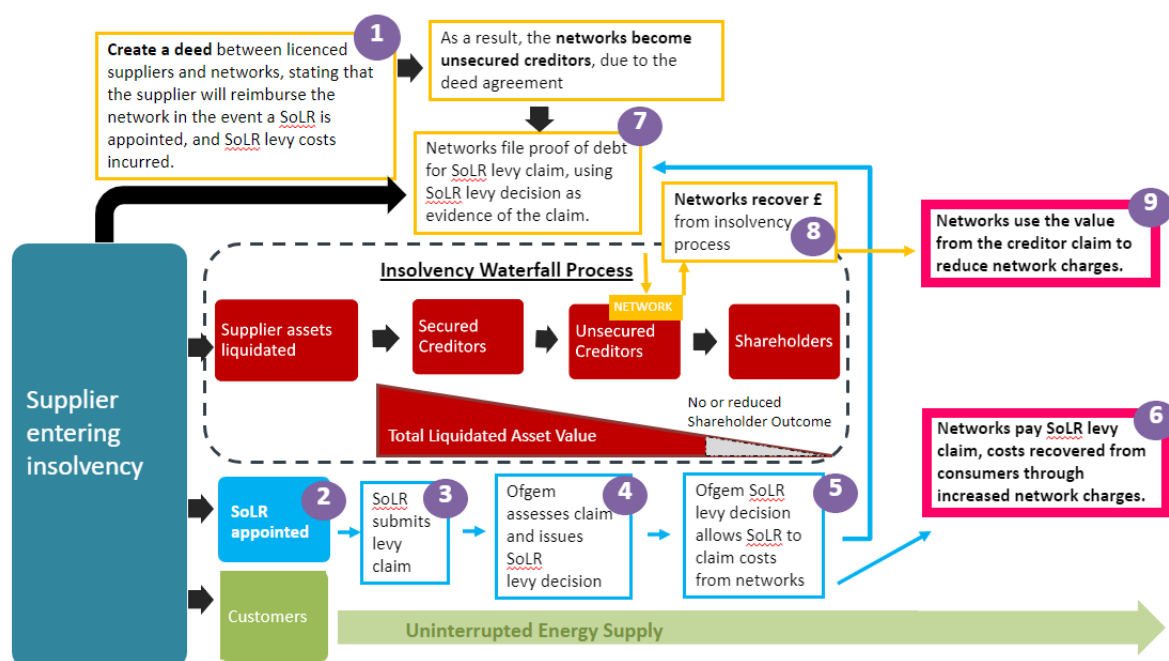
What we consulted on

- 2.1 In February 2024, we published a policy consultation on the SLO²¹. The proposals set out a way for gas transporter and electricity distributor networks to recover funds from a failed supplier through the insolvency process. We explained that any amount recovered from the failed supplier would be returned to consumers through lower future network charges, resulting in lower energy bills than would otherwise be the case.
- 2.2 To give the arrangements effect we need to introduce new licence conditions for both suppliers and networks. These licence changes were the subject of the September 2024 statutory consultation²².
- 2.3 In the statutory consultation we explained that the new supplier licence conditions would require all suppliers to enter into a deed under which the supplier would agree (by way of an undertaking) to pay to the networks the amount of SoLR levy costs claimed from the network by a SoLR. As CCBs can already be claimed by SoLRs in the administration process and to avoid the potential for SoLRs and the networks to duplicate claims for CCBs, we proposed that CCBs would not be included in the networks' creditor claim. These new licence conditions would apply to all current and future licenced suppliers.
- 2.4 We also set out that the new network licence conditions would create a duty for the networks to take all reasonable steps to recover the costs due to them under the deed of undertaking entered into by the failed supplier. The conditions would also provide for money recovered under the SLO to be returned to consumers through a reduction of network charges.
- 2.5 Alongside consulting on licence changes needed to implement the SLO, the statutory consultation also asked for feedback on ancillary changes needed to formalise amendments to the SoLR Levy process. These changes included proposals to formalise and make permanent the process for multiple claims to be made and obligations and protocols for suppliers to follow to repay excess claims.
- 2.6 We published proposed licence changes and invited feedback on these.

²¹ [SoLR Levy Offset Policy Consultation February 2024](#)

²² [SoLR Levy Offset Statutory Consultation September 2024](#)

Figure 1: SoLR Levy Offset



Summary of consultation responses

- 2.7 We received 27 responses to our September 2024 statutory consultation. Five responses were from consumers, eleven from networks, six from suppliers, two from consumer groups and two from other organisations. We are grateful for all those that took the time to respond to the consultation. We provide more detail on the responses received, and our conclusions, in this section.
- 2.8 The vast majority of responses were supportive of the policy intent. Respondents across the different stakeholder groups all recognised the impact of SoLR levy costs on consumers and the need to mitigate these. They also agreed with the principle that suppliers should carry more responsibility for the costs if they fail.
- 2.9 Network and supplier feedback on the proposed licence changes included helpful suggestions to improve clarity and to adopt more standardised terminology. In addition, wider comments were made on the general implementation of the policy and the role of network operators as creditors.

Decision

- 2.10 After reviewing all the responses to the statutory consultation, we have decided to proceed with the licence changes required for SLO implementation, subject to several refinements in response to consultation feedback and to improve clarity and consistency. We continue to believe that the potential benefits to consumers

through reducing the moral hazard and the potential to recover mutualised costs will outweigh the possible costs and impacts.

High level feedback received in response to the statutory consultation

Expected benefits of the SLO

- 2.11 In our statutory consultation we explained that we had assessed what recovery could potentially have been achieved under the SLO for previous supplier failures and found that in the majority of cases, an amount would have been recoverable²³. We explained that we considered our analysis indicated that the SLO could play an important role in mitigating the impact of supplier failure on consumers and could lead to the recovery of significant sums of money.

Feedback received

- 2.12 Two networks and one supplier raised that an additional creditor would dilute all claims. In addition, one network raised that they felt that the analysis of potential recoveries did not recognise what they considered 'structural inefficiencies' of the process. We understand that this refers to the SLO requiring each network to claim in the insolvency.

Our decision

- 2.13 We understand and agree with the point raised that the SLO would add another unsecured creditor claim and that this would dilute the distribution to all unsecured creditors; we acknowledged this point in our statutory consultation. However, our analysis indicates that in the majority of supplier failures, unsecured creditors have received or will receive an amount. The amount that may be recovered in future supplier failures is uncertain and will depend on the specifics of each individual supplier failure. However, the benefit of the SLO is that it provides a route to recover some costs from the failed supplier that are currently fully borne by consumers.
- 2.14 We note the point raised that the SLO requires each network to claim in the insolvency, and that this creates additional cost compared to a single creditor claiming. However, we remain of the view that the administrative costs are likely to be minimal, and the networks will be able to recover any reasonable costs they

²³ Further findings of this analysis are provided in paragraphs 2.47 to 2.53 of the statutory consultation. [Statutory Consultation: SoLR Levy Offset](#)

incur as creditors. Further, our view remains that networks are best placed to be creditors, as explained in paragraphs 2.32 to 2.35.

Likelihood of success

Feedback received

- 2.15 Two networks expressed concern that claims may be challenged by an insolvency administrator, or another party. One network specifically queried whether claims for costs which will crystallise on or immediately after the insolvency event occurs would be accepted by the relevant insolvency practitioner as the SoLR Levy costs are incurred as a consequence of the insolvency event rather than being debts of the failed supplier.

Our decision

- 2.16 We have considered the points raised carefully. The supplier's obligation in respect of (the non-CCB) SoLR levy costs will come into existence upon providing the deed of undertaking to networks. We therefore consider that, as a matter of law, the claim arising pursuant to that obligation (whether on or after the insolvency event occurs) should be a provable debt in the insolvency of the failed supplier. This would be the same if someone else were the recipient of the deed of undertaking, instead of networks. No alternative to the deed of undertaking has been identified (by the courts or otherwise) for non-CCB SoLR Levy costs to be a debt of the failed supplier.

Claims for CCBs

- 2.17 In our statutory consultation, we explained that CCBs can already be claimed by SoLRs in the administration process²⁴. To avoid the potential for SoLRs and the networks to duplicate claims, we explained that our intention was that CCBs would not be included in the networks' creditor claim.

Feedback received

- 2.18 One supplier asked us to revisit our position on CCBs. It felt that if networks are considered to be the best party to be creditor for other SoLR levy costs, then they should also be the best party to be creditor for CCBs.

²⁴ Following the case of *Croxen & Others v GEMA & Others* [2022] EWHC 2826.

Our decision

- 2.19 We understand and considered the point raised, but we maintain the position set out in our statutory consultation²⁵ that SoLRs should continue to have responsibility for claiming CCBs
- 2.20 This is because the basis on which the SoLRs claim for costs is already in place, as noted above. The claim that SoLRs have for CCBs is on a different basis to the claim that networks would have for other types of costs. A SoLR has a claim against the failed supplier under the legal principle of unjust enrichment as a consequence of the SoLR honouring the failed supplier's obligations to customers in respect of their CCBs, giving the SoLR a subrogated claim against the failed supplier for CCBs. The law already recognises the SoLR as a creditor for CCBs. The nature of the SoLR's claim for CCBs is therefore different to the claim we are implementing for other SoLR levy costs (such as for wholesale costs, or administrative costs), which is based upon a contract (the deed of undertaking) that will be a requirement of licence conditions. Seeking to include CCB costs as a claim from the networks through this contractual arrangement would also have the effect of creating duplicate claims from the SoLR and networks, because the law would still recognise the SoLR's claim for CCBs. How the claims arise in practice also differs: once the SoLR has honoured a CCB, it can submit a claim to the administrator or liquidator. With the non-CCB SoLR levy costs, the SoLR would need to wait until Ofgem had issued a decision, before then submitting a claim to the administrator or liquidator; in this way, the non-CCB claim is dependent on the SoLR levy decision.
- 2.21 We consider that it would be unnecessary to make changes to an already established creditor claim from SoLRs for CCBs. There are already established routes for cost recovery of CCBs, and the SLO would provide a new mechanism for costs that cannot currently be recovered from the failed supplier.
- 2.22 In addition, we note that SoLRs may submit claims to the insolvency for CCB costs which the SoLR has not submitted a claim for under the SoLR levy. SoLRs may cover some or all of the CCB costs themselves, and we consider that introducing a network claim for CCBs, which may run alongside a SoLR claim for CCBs, would not be practically beneficial or feasible.

²⁵ See paragraphs 2.37-2.39 [Statutory Consultation: SoLR Levy Offset](#)

Timings

- 2.23 In our statutory consultation, we explained that the failed supplier's insolvency process would be taking place in parallel with the SoLR levy claim process. This is set out in Figure 1 at page 15 above.
- 2.24 We explained that the SoLR would need to submit a claim in good time to allow the networks to use the SoLR levy decision as proof of debt to submit to the insolvency officeholder.

Feedback received

- 2.25 Three network stakeholders raised concerns that the SoLR levy process and insolvency timelines do not necessarily align. They were concerned that the SoLR would need to submit a SoLR levy claim in good time for a decision to be issued, and the networks to claim the same amount in the insolvency. Networks also highlighted that we need to consider the impact of the multi-claims process, and set out what would happen with the networks' claim in the insolvency when more than one claim is made by the SoLR.

Our decision

- 2.26 We understand the concerns raised about the timings of the SoLR levy process and the SLO, and recognise the importance of making sure that timings are aligned for the SLO to work. We intend that the SoLR levy and SLO processes operate in such a way that these timing issues do not arise.
- 2.27 Licence conditions provide for SoLR levy claims to be made within five years, or within a time otherwise specified by Ofgem. We recognise the concern raised that if claims take up to the full five years to be made, there is a risk that the failed supplier's insolvency process will have come to an end and/or asset realisations will have been distributed to creditors by the insolvency officeholder, meaning that there will be no assets from which the networks' claims can be paid.
- 2.28 To account for this, we may need to request SoLRs submit an initial claim within a set period. At this point, we would expect that SoLRs would claim for most costs incurred. Ensuring that an initial claim is received in a short timeframe should avoid any risk of delay to the networks submitting a claim to the insolvency officeholder.
- 2.29 However, we know that SoLRs may not always be able to evidence all costs, and/or may not have incurred all costs, by the point at which they need to submit further claim or claims later, for any costs they are unable to evidence in the initial claim. This provides another opportunity for SoLRs to claim for costs

incurred, so that they are not disadvantaged if we request that they submit an initial claim before they are able to evidence all costs incurred. This would be in line with the 'multi-claims' process we introduced in 2021 for SoLR levy claims, which as we explain below (paragraphs 3.3 to 3.8) we have decided to make permanent.

- 2.30 In the event that any subsequent claims are made by the SoLR, this would increase the claim made by the networks, if the insolvency process was still ongoing. This will require networks to update the proof of debt with any additional amount claimed by the SoLR and consented to by us.
- 2.31 In our experience the majority of SoLR levy costs can be evidenced and claimed at an early stage. However, we recognise that there may be occasions where the insolvency process concludes before all claims are received. In this situation, the networks' claim would not represent the full SoLR levy claim. On balance we consider that the SLO provides a route for networks to claim for the majority of the (non-CCB) SoLR levy costs, and that this is of clear benefit to consumers, even if not all costs can be claimed in every situation.

Role of Networks

- 2.32 In both of our consultations, we set out proposals for the networks to be creditors of the failed supplier and be able to make a claim as such in the failed supplier's insolvency process.

Feedback received

- 2.33 Five networks raised points about their role and responsibilities under the SLO, including reiterations of points raised in response to the policy consultation. Points raised broadly fell into the following categories:
- That networks should not be creditors in the SLO, as they contend that this would not be as efficient or as likely to achieve benefits for consumers as with an alternative party as creditor. The feedback included concerns that it would be inefficient for the networks to be creditors as each network would need to submit a claim to the officeholder of the failed supplier. Each network would need to manage the administration around claiming and returning any money received back to consumers. Networks felt that this would incur greater costs for consumers than compared to a model where only one party was creditor, which they felt would be more efficient.

- That in principle, networks should not be creditors. This feedback included broad points about networks' role and whether it is appropriate for networks to act as creditors in the context of a policy which is primarily targeted at the retail energy sector. Some concerns were raised that this role would require networks to take on some risks and costs from the retail sector. Some networks argued that the SLO created a risk of 'cross-contamination' across sectors. Some networks also felt that the SLO would require them to record a debt owed to them (the SLO debt) and this could impact their credit ratings; they felt it was not appropriate for them to carry this risk.

2.34 Networks elaborated on the second bullet point in paragraph 2.33 above, with reference to concerns about a perceived change in responsibilities and an extension to their existing roles. Networks repeated an argument that was made in response to our policy consultation, that the proposal could contravene Article 18 of the EU Regulation 2019/943 ("Article 18").²⁶ The relevant part of this Regulation provides that:

"Charges applied by network operators for access to networks, including charges for connection to the networks, charges for use of networks, and, where applicable, charges for related network reinforcements, shall be cost-reflective, transparent, take into account the need for network security and flexibility and reflect actual costs incurred insofar as they correspond to those of an efficient and structurally comparable network operator and are applied in a non discriminatory manner. Those charges shall not include unrelated costs supporting unrelated policy objectives."

Some of the networks contented that the SLO could represent "unrelated policy costs".

Our decision

2.35 Our view remains that networks are the best candidate for creditor under the current SoLR levy arrangements and based on the current regulatory framework and market structure. We have revisited the analysis we undertook for the policy consultation²⁷ on alternative parties that could be creditor. Having considered all

²⁶ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019R0943&from=EN>

²⁷ See paragraphs 3.17-3.24 of the policy consultation [SoLR Levy Offset Policy Consultation | Ofgem](#)

consultation responses, we do not think that any other party represents a preferable option as creditor compared to the networks:

- Firstly, with any other party as creditor, any funds recovered would need to be redistributed to consumers through the networks, essentially a reverse of the mechanism through which SoLR levy costs are paid for. There is currently not a feasible alternative to using network charges to return any amounts recovered through the SLO to customers. This means that if any other party were to be creditor, an additional administrative step would be required (and create inefficiencies in the process), as any amounts recovered under the SLO would need to be transferred to networks to ultimately be passed on to customers. It also means that with any other party as creditor, the networks would still need to be engaged and would still have a key role to play.
- In addition parties, such as Ofgem, or the National Energy System Operator, (NESO) do not have the power currently to undertake the role. Relevant permissions and/or legislation change would be needed. In addition, bodies such as Ofgem or NESO are subject to Managing Public Money guidance, which means they would require HM Treasury approval to undertake the role of creditor, which may not be feasible²⁸.
- We carefully considered the option of the SoLR being creditor. However, this would require all suppliers to enter into a deed with every other supplier. All suppliers would then need to sign a new deed whenever a new supplier entered the market. This would add a layer of complexity and regular additional administrative burden, as well as increase the risk of non-compliance. In addition, it remains possible that a SoLR could itself fail meaning that any sums recovered for the intended benefit of consumers could be lost. A key benefit of the networks being creditor is that in comparison to suppliers, the networks have a greater level of continuity.

2.36 We have considered the feedback from networks, but have not seen any clear evidence that the SLO would create cross-contamination of risks between sectors. We have designed the SLO to minimise the risks taken on by the networks. The process has been designed to be cost-neutral for networks. This includes by ensuring that there are mechanisms for networks to recover reasonable costs

²⁸Treasury approval is required for non-statutory commitments which are novel, contentious or repercussive, as set out in Managing Public Money [Managing Public Money.pdf](#)

they incur in acting as creditors. We have also advised networks that the SLO does not require them to wait until the outcome of a claim to an insolvency officeholder is known to recover the SoLR levy costs from consumers through network charges – this will take place according to the same timescales as it currently does. Lastly, we do not think that the networks need to record debt for the SLO in such a way that will impact their credit ratings or introduce other accounting or tax related risks. We cover these points in more detail below at paragraphs 2.42 to 2.60.

- 2.37 With respect to Article 18 of Regulation (EU) 2019/943 we note that the SoLR levy claim mechanism has been in place since 2001. Having a SoLR process is an indispensable element of a functioning energy market that is trusted by consumers. Within that process, networks play an established and integral part in maintaining security of supply for customers whose supplier has failed by ensuring an efficient distribution of the costs of supplier failure. The SLO complements the existing SoLR levy claim process by reducing the overall costs of supplier failure ultimately paid for by customers. In our view, any costs resulting from the SLO to networks, including costs resulting from claiming in the administration of a failed supplier, are (a) expected to be outweighed by the benefits / sums recovered (and thus not result in a net cost); (b) necessary to ensure that the SoLR claims process, which networks are already integral to, operates in the best interest of energy consumers by securing continuity of supply at the least possible cost to all.

Gas Act 1986

- 2.38 Three responses to the statutory consultation suggested that the proposed licence changes could conflict with the Gas Act 1986²⁹.
- 2.39 Two distinct points were made:
- That Section 7B(5)(b) of the Gas Act 1986 could prohibit gas distribution networks from decreasing network charges, as would be required under the SLO; and
 - That the proposal that the networks should perform this role gives rise to responsibilities that are not generally compliant with the Gas Act 1986.

²⁹ The Gas Act introduced the licencing regime for gas suppliers and transporters: [Gas Act 1986](#)

Our decision

- 2.40 The SLO would require networks to decrease network charges to return any recovered funds to consumers. Our view is that whilst the wording of section 7B(5)(b) of the Gas Act 1986 expressly permits licence conditions to provide for increases in network charges, it does not prevent licence conditions which provide for decreases in network charges, in particular given the wide discretion granted to Ofgem by section 7B(4)(a) for introducing licence conditions.
- 2.41 On the wider point about the responsibilities of networks as set out in the Gas Act 1986, our view is that by acting as a vehicle for recovering funds from failed suppliers for the benefit of consumers, the SLO protects the interests of existing and future gas consumers in accordance with Ofgem's principal objective under section 4AA of the Gas Act 1986 and is capable of being given effect using the power to introduce licence conditions in section 7B(4)(a) of the Act.

Impact on networks: costs and interest

- 2.42 We set out in the statutory consultation that we intended that the SLO process would be 'cost neutral' for networks. That is, the networks should be able to recover the administrative and legal costs they reasonably incur when playing their role in the SLO.
- 2.43 We explained that our intention was that any reasonable costs incurred by gas networks can be recovered using the existing miscellaneous pass-through mechanism. For electricity networks, we proposed amendments to the relevant licence conditions to allow the electricity networks to recover costs incurred.

Feedback received

- 2.44 Six networks raised concerns that the licence drafting, and policy, contained insufficient guarantees that all new costs associated with the role of creditor will be recoverable by networks.
- 2.45 In addition, some feedback noted that interest would be accrued on insolvency claims. This is expected to happen as these sums will be held until network charges can be adjusted to return the money recovered to consumers – due to regulatory processes, there is a delay until charges can be adjusted. Networks asked us to indicate to what extent interest earned by networks must be passed on to consumers, including how interest is to be calculated.

Our decision

- 2.46 We agree that the SoLR Levy Offset process should be cost neutral, and in the statutory consultation we confirmed that this is our intention. We think however, that it is appropriate to place a limit on what networks can recover; rather than guaranteeing that networks can recover 'all' costs, it is fair and in consumer interests to all networks to recover 'reasonably incurred' costs. This places checks and balances on the costs incurred and means that if a network has incurred unreasonable costs, it will not be able to recover these.
- 2.47 There is agreement between networks and Ofgem that interest accrued by networks on claims should be returned to consumers, and a process for establishing the quantum and means of returning this money needs to be defined.
- 2.48 There are already established means for networks to calculate interest for other purposes and we are proposing that these existing methods are employed for SLO calculations. For example, networks recover the shortfall in their allowed or calculated revenue through a mechanistic regulatory mechanism ('k correction' or a revenue adjustment) in the Price Control Financial Model (PCFM) that calculates interest at nominal Weighted Average Cost of Capital (WACC) or Sterling Over Night Indexed Average (SONIA) +1.15%. In the past, Ofgem has also used a mixture of nominal WACC and a proxy of "short term debt costs" for items such as price control true ups. We propose using these existing methods to calculate any interest on sums recovered by the networks under the SLO.
- 2.49 To summarise, therefore, the licence conditions allow for networks to recover all efficient costs incurred in their role under the scheme.

Impact on networks: accounting

- 2.50 We set out in our policy consultation that we were not expecting networks to wait until the insolvency process is complete before they can adjust network charges to recover SoLR levy costs.
- 2.51 In response to the policy consultation, some networks raised concerns that they would have to record the SoLR levy costs as a 'debt' on their books, leading to unintended consequences. Further, networks asked whether this would be considered a 'bad debt', and potentially have broader unintended impacts, such as a negative impact on their credit rating.
- 2.52 In the statutory consultation we explained that our view was that the networks would not need to enter the SoLR levy debt into their accounts until and if an

amount is received from the insolvency of the failed supplier. In the period between receiving the amount and reducing their allowed revenue by the same amount, networks would set up a creditor in the balance sheet. This creditor would be released to revenue when the allowed revenue is reduced. This would mean that total revenue remains the same and there is no effect on profit in any accounting period

- 2.53 In our view, a bad debt expense would only arise if the network company had previously recorded the debt and was then unable to recover it in full. We do not think that the networks need to record debt in such a way for the SLO.

Feedback received

- 2.54 One network queried whether using the SoLR levy decision as proof of debt would be acceptable under 'statutory governing insolvency processes' and 'statutory accounting of bad debt'. It also queried our position that networks could not record the debt in their accounts until a recovery is made.
- 2.55 This network also suggested that there could be a timing challenge, in regard to the notice period for tariff publication or amendment of already published tariffs. It argued that if there is any timing mismatch between a credit and debit in the accounts, this would counter the expectation of cost neutrality.

Our decision

- 2.56 As the entirety of the sums recovered will be returned to consumers, there will not be a profit impact from these. As the receipt of any sums through the SLO brings an obligation to reduce network charges at a future date, the cost of that obligation should be recorded as a liability at the time the sum is received, and the creditor released to revenue in the year in which the network charges are adjusted. Therefore there should not, even temporarily, be any effect on networks' profits.
- 2.57 We therefore remain of the view that the SLO will be cost neutral for networks.

Impact on networks: tax

Feedback received

- 2.58 One network raised concerns around the potential tax implications if a distribution was received through the insolvency process in one tax year, but the amounts were returned to consumers through network charge reductions in the subsequent tax year.

Our decision

- 2.59 We are of the opinion that since networks will be passing on exactly the amounts that they receive from the insolvency process, there will be no profit impact and hence no tax impact.
- 2.60 As we set out in paragraph 2.56, we do not think the SLO will have an impact on networks' profit. From a tax perspective, the general principle would be to follow the accounts in the first instance. The timing of the actual receipt of sums from the failed supplier does not take precedence over the recognition of the amounts in the profit and loss account. As the accounting analysis results in a net nil profit, then tax is unaffected in either period.

Requirement on networks to submit a claim

- 2.61 Two networks requested additional clarification on the expectation on them to submit a claim. They were concerned that there may be circumstances in which it would not be beneficial to pursue a claim in the insolvency of the failed supplier – namely where the amount that could be recovered was expected to be less than that spent on pursuing the claim.

Our decision

- 2.62 For clarity, our expectation is that networks will submit a claim. The new licence conditions place an obligation on the networks to make a claim (see paragraphs 4.8 to 4.20).
- 2.63 However, we agree with the networks that there may be situations in which it is not in consumer interests for networks to submit or progress a claim. We recognise that there may be cases where a SoLR levy claim is so small that it may not be in the interests of consumers for networks to submit a claim in the insolvency. We also understand that there may be scenarios in which as a claim progresses, it becomes apparent that the costs incurred by networks are expected to outweigh the sums recovered.
- 2.64 We expect to have regular dialogue with the networks and we will consider the risks and benefits networks claiming or pursuing a claim. The licence conditions set out that we can direct the networks not to claim, so we expect to use this power to manage scenarios where it is not in consumer interests to claim.

Implementation

Feedback received

- 2.65 Three networks requested further clarity and guidance on their roles under the SLO. One network requested template documents to support the networks' claim to the administrator of the failed supplier. One network also asked us to consider issuing guidance. Some networks were concerned that there is a risk that different networks could achieve different outcomes from their claims, and that guidance might help to mitigate this risk.

Our decision

- 2.66 We will engage further with networks and suppliers following the publication of this final decision to ensure that networks are clear on their role. We are open to issuing further guidance in the future if needed.

Deed of undertaking

Feedback received

- 2.67 In the policy consultation and statutory consultations, we provided a copy of the draft deed of undertaking. Suppliers would complete this deed to pay to the network the amount of SoLR levy costs claimed from the network by a SoLR in the event the supplier failed.
- 2.68 One network queried whether the deed was intended to apply to all networks as a singular entity, or individually.
- 2.69 One network and one supplier suggested that the wording in the draft deed could be understood as creating an obligation on the supplier to pay each network the full SoLR levy costs (minus CCBs), rather than the portion of the SoLR levy costs each network had paid.
- 2.70 One network requested that we amend the wording to make it clearer that the deed covers non-CCB costs only.
- 2.71 One supplier requested guidance on entering into the deed, including whether only networks where a supplier's customers are located need to be named in the deed, as well as a query on what role independent networks would play in the SLO³⁰.

³⁰ An Independent Distribution Network Operator (IDNO) takes care of a smaller part of the network, covering a specific area.

Our decision

- 2.72 We have made some changes to the drafting of the deed to enhance clarity. These changes address the points noted above and make it clearer that the deed places an obligation on suppliers to pay each network the proportion of SoLR levy costs each network had paid. The changes also make it clearer that CCBs are not included in this obligation. These changes and the updated final deed of undertaking are shown in Appendix 2.
- 2.73 For clarity, to comply with new licence conditions, all suppliers will need to sign the deed of undertaking, and return a copy of the signed deed to Ofgem by the date the licence conditions come into effect. We are engaging with suppliers to support this.
- 2.74 In response to the supplier's query about which networks should be named in the deed, and whether only networks where a supplier's customers are located needed to be named, we can confirm that all networks (excluding independent networks) will be named in the deed. This is because SoLR levy claims are paid by all networks (excluding the independent networks), and through increases to network charges, mutualised across all consumers. The SLO seeks to return any sums recovered to the same consumers that initially paid for the corresponding SoLR levy costs.

3. SoLR Levy Claims Process

- 3.1 In our statutory consultation, as well as consulting on licence changes needed to implement the SLO, we also consulted on ancillary changes needed to formalise amendments to the SoLR Levy claim process. These changes included proposals to make permanent the process for multiple claims, as well as protocols for suppliers to follow to repay excess claims.
- 3.2 We have decided to implement the changes consulted on.

Multi-claims process

- 3.3 In the statutory consultation we explained that we introduced a 'multi-claim process' in autumn 2021 to ensure that the SoLR process could continue to protect consumers through extremely challenging market conditions. The multi-claim process means a SoLR can submit an initial claim to facilitate the faster recovery of costs incurred, followed by subsequent claims for any further costs. As part of this, the SoLR enters into a true-up agreement with us. This ensures that once all claimed costs that meet with our criteria have been assessed and consented to, the final amount recovered reflects the true costs incurred for acting as a SoLR.
- 3.4 As noted in the policy and statutory consultations, as part of introducing the SLO, we consider that the multi-claim process needs to be made permanent. This is because requiring SoLRs to submit a single SoLR levy claim within a set timeframe, to allow a proof of debt to be submitted in the insolvency process, introduces the risk that SoLRs would not be able to evidence the full otherwise unrecoverable costs incurred (and would therefore not be able to successfully claim for those costs through the SoLR levy process). The multi-claims process mitigates this risk by providing a route for SoLRs to submit additional claims if needed.
- 3.5 We therefore proposed formalising this process by making amendments to the licence conditions.

Feedback received

- 3.6 One supplier asked for more details on the multi-claims process, including the timeframes that SoLRs would be required to follow when submitting an initial claim.

Our decision

- 3.7 We have decided to implement the licence changes required to make the multi-claims process permanent. Some minor amendments have been made to the relevant licence conditions, as set out in Appendix 1.
- 3.8 We will work with suppliers, including any supplier appointed as SoLR, to provide guidance on the timings of claims. Decisions on timing of initial claim will need to be made on a case-by-case basis, considering factors such as the progression of the insolvency process of the failed supplier and complexity of the SoLR levy claim. Our overall expectation is that an initial claim would be required in most cases within six to nine months from appointment.

Recovery of excess

- 3.9 As part of the temporary multi-claim process, established during a period of market volatility, SoLRs submit an initial claim. This can be followed by subsequent claims before a final true-up claim. In a less volatile environment, we expect that multiple claims will be less necessary than seen for the 2021 and 2022 appointed SoLRs. If a SoLR has received an excess payment in any of these claim submissions or as a result of a creditor dividend from the failed supplier, the SoLR must repay an amount equal to the excess to consumers. The excess repayment will be subject to interest. The requirement to repay any excess with interest has been included in the true-up agreement entered into by Ofgem and SoLRs. The mechanism for repaying is via distribution networks in a reverse of the process in which SoLRs receive levy payments.
- 3.10 In the statutory consultation, we proposed to formalise and clarify the process for making excess repayment through changes to the licence conditions. These changes set out a requirement for the repayment of excess claims including interest. We drafted licence conditions to retain flexibility over the time period for repayments on a case-by-case basis. This is due to differing amounts of money that will be required to be repaid, which may necessitate different approaches.
- 3.11 On interest to be applied to the return of any excess payment, we set out our position that we believe that in terms of the interest rate to be applied there should be a 'no gain, no detriment' principle.

Feedback received

- 3.12 One supplier asked us to consider that the 'no gain, no detriment' principle we apply to SoLR appointments and levy claims means that it may not be appropriate to charge SoLRs interest on repayments in every case.

- 3.13 One supplier also asked us to consider allowing SoLRs to repay any Excess in a single payment.
- 3.14 Another supplier asked us to clarify the approach that would be taken to the treatment of excess funds in circumstances where an appointed SoLR's business had been taken over by a different supplier.

Our decision

- 3.15 We have decided to implement the licence changes required to formalise the requirement for suppliers to repay any excess payment, as well as any interest determined to be appropriate.
- 3.16 As set out in the statutory consultation, we will work on a case-by-case basis with SoLRs and networks on repayment of excesses to achieve the optimum outcome for consumers and the most practical approach when it comes to the scheduling of excess repayments.
- 3.17 We recognise that interest rates are constantly changing and that each SoLR is appointed in different circumstances. Therefore, we are of the view that instead of setting a fixed interest rate applying to all cases, we will work on a case-by-case basis.. We recognise that as with other components of the SoLR Levy Claims process a degree of flexibility is required to ensure the best outcome for consumers, while also best allowing for the 'no gain, no detriment' principle to be met. However, where there is interest to be applied to an excess, SoLRs should consider what evidence can be supplied to support the application of a particular interest rate.

Other feedback received

- 3.18 In addition, one supplier raised a query about our policy on uncashed cheques. Domestic customers' credit balances (CCBs) are protected through the SoLR process. SoLRs process refunds of CCBs to consumers through different payment methods including cheques. As some cheques are not cashed by recipients, the supplier asked for clarity on the obligation on them to honour uncashed cheques beyond the time at which these could be claimed under the levy³¹.
- 3.19 Our policy on uncashed cheques was not the subject of the statutory consultation. In previous SoLR levy decisions we have encouraged SoLRs to be proactive in following up with customers where there are outstanding uncashed cheques. This helps to ensure that funds due to consumers are returned to them wherever

³¹ Licence conditions provide for SoLR levy claims to be made within five years.

Decision –SoLR Levy Offset: Decision

possible and reduces the likelihood of funds being claimed after the True Up agreement has been finalised.

4.Feedback on licences

- 4.1 In this section, we explain the substantive feedback received on the licence conditions consulted on and the subsequent changes we have made. Where we received non-substantive feedback, such as to highlight typographical errors, or minor issues such as inconsistent terminology, we have not discussed these below. We have however included all changes in the tables shown in Appendix 1.
- 4.2 In addition to changes made as a result of feedback, we have also made changes where we have identified typographical errors, as well as changes required to improve consistency, clarity and readability. These changes do not reflect any change in policy. These are shown with all other changes in Appendix 1.

Electricity and Gas Supply Licences

Feedback received

- 4.3 One supplier provided feedback on Condition 9.4(d) of the gas and electricity supply licences, indicating that references to 'other supplier' were not clear, and the term 'former electricity supplier' and 'former gas supplier' should be used instead.
- 4.4 A similar point was raised by a network on Condition 9A(a) in the gas supply licence, suggesting the use of 'relevant gas transporter' rather than 'licensed distributor'.
- 4.5 No other feedback was received on the supply licence changes consulted on.

Our decision

- 4.6 With regards to the use of the term 'other supplier' we have not changed this. This is because 'other supplier' is used elsewhere in the licences to refer to the failed supplier. We have therefore decided to remain consistent with existing licence conditions.
- 4.7 We have changed the terminology in Condition 9A.1(a) in the gas supply licence, to refer to the 'relevant gas transporter' in line with the feedback received.

Electricity distribution and gas transportation licences

Obligations placed on networks to claim in the insolvency.

- 4.8 In the statutory consultation we set out a change to licence conditions which placed obligations on the networks to claim in the insolvency for the amount owed to them under the deed of undertaking.

- 4.9 We consulted on wording for both the gas transporter standard and special licences (Condition 48, 7C and Condition A48, 7C respectively) and electricity distributor standard licence (Condition 38B.9). The wording consulted on for the gas transporter standard and special conditions was:

Unless the Authority directs otherwise, the licensee shall take all reasonable steps to recover sums due to them under an undertaking given by a relevant supplier to the licensee under standard condition 9A (Undertakings to Transporters in relation to Last Resort Supply Payments) of the standard conditions of gas suppliers' licence as incorporated into that gas suppliers' licence and, following recovery of any such sum, shall make a consequential decrease to its transportation charges in the year in which such sum was recovered or as soon as practicable.

Feedback received

- 4.10 We received feedback from ten networks on the wording of this draft licence change.
- 4.11 Some networks requested that we consider changing the wording to put the onus on Ofgem to direct the networks to submit a claim. In other words, rather than the assumption being that the networks submit a claim unless directed not to, the networks would not claim unless directed to. This would require Ofgem to make a decision and then inform the networks to take action accordingly. Networks argued that this would be a better approach as:
- Ofgem would likely have more information about the insolvency process, including the potential distributions to networks, as unsecured creditors, that may be made.
 - Placing the onus on Ofgem would help ensure consistency across the networks, which would mitigate the risk of different networks taking different actions.
- 4.12 Networks also suggested changing 'all reasonable steps' to 'reasonable steps'. Some networks felt that 'all reasonable steps' was too strong an obligation. They were concerned that compliance action could be taken against them if they did not progress a claim, for example if they considered that it was not financially feasible to, or if on balance it was not expected to be in consumers' interests.
- 4.13 One network also raised that the drafting of the licence conditions indicated that there would be a corresponding reduction in network charges in the immediately following year the sum was recovered through the SLO. However, this network

noted that there may be a lag before a reduction in charges could be made, due to the cycle of setting network charges.

- 4.14 One network also asked us to clarify the expectation placed on the network, if a supplier had not signed the deed of undertaking.

Our decision

- 4.15 We understand that there may be some cases in which we expect that the SoLR levy claim may be small, or may only cover CCBs. In such cases we may take a decision early on to direct networks not to make a claim to the officeholder of the failed supplier.

- 4.16 However, outside of the circumstances set out above, we think the assumption should be that networks will make a claim to the officeholder of the failed supplier. We do not think that Ofgem is in a better position than networks to estimate the distributions that may be made by the officeholder. At the time when claims are submitted by networks to the officeholder, the amounts to be distributed to unsecured creditors are likely to be unknown. To ensure the best outcomes for consumers, we think that the correct approach is that the licence conditions place an obligation on networks to submit a claim. Our view is that this should be the default position and networks should be prepared to submit a claim once the initial SoLR levy claim has been submitted and consented to (under the multi-claims process).

- 4.17 We recognise that as the insolvency process progresses, it may become clear that it is not in consumers interests to progress the claim. This may be because, for example, no distribution is expected to be made to unsecured creditors. If this is the case, we will direct networks not to progress their claim to the officeholder.

- 4.18 We understand but do not agree with the argument that changing the requirement so that networks only claim following a direction from Ofgem would mitigate the risk set out, namely that some networks choose to claim and others do not. All networks should claim 'unless directed not to' as set out in the licence condition consulted on. If a scenario arose where it did not make sense to pursue a claim, Ofgem would likely choose to direct all networks not to claim, unless there were compelling reasons for some to claim and others not to.

- 4.19 We agree with the feedback received regarding the timing of adjustments to network charges, and as a result we have made amendments to the wording of the licence conditions, as set out in Appendix 1, to reflect that there may be a lag before charges can be adjusted.

- 4.20 Lastly, to confirm, if a supplier has not signed the deed of undertaking, then no obligation is placed on the networks. All suppliers will be under obligation to sign the deed of undertaking. If a supplier fails to comply with its licence condition to provide the deed of undertaking, Ofgem will consider taking enforcement action against that supplier in accordance with Ofgem’s published guidelines on enforcement.

Guidance

- 4.21 In the statutory consultation we set out a requirement in the electricity distributor standard licence (Condition 38, 7D) 1 and gas transporter standard and special licences (Condition 48, 7D and Condition A48, 7D) that networks should ‘have regard to’ such guidance that Ofgem may publish about the obligation on networks to take all reasonable steps to recover sums due to it under the SLO (as discussed in paras 4.8 to 4.20 above).

Feedback received

- 4.22 Six networks raised queries about the status of such guidance. This included what governance arrangements would exist around the guidance, and whether Ofgem would consult on the guidance.
- 4.23 In addition, an issue was noted on the electricity licences; the requirement had been duplicated in error. Further, the wording of the duplicated paragraph for electricity (set out at Condition 38, E.1(c)) placed a more stringent requirement on electricity networks, using the term ‘must adhere to’.

Our decision

- 4.24 We agree that there was an error in the electricity licences by including the requirement twice. Further, we confirm that the intention, and final wording, of the requirement is that networks should ‘have regard to’ the guidance. The erroneous paragraph in the electricity network licences has been removed.
- 4.25 To confirm, at this stage we do not intend to issue guidance. We will however keep this position under review. If we decided that it would be beneficial to issue guidance in the future, we would consult on the draft guidance.

Electricity distribution standard licence

Feedback on terminology

Feedback received

- 4.26 Three networks provided feedback on Section 38E.1 of the draft electricity distributor standard licence. The relevant section was:

The licensee is authorised to adjust network charges to recover any costs reasonably incurred in fulfilling its obligations under Condition 38D.1. This authorisation is subject to the following provisions.

- 4.27 Two networks had concerns about the use of the term 'authorised' in this section; both considered that this was not a commonly used term in the licences.
- 4.28 One also suggested that the term 'network charges' should be changed to 'Use of System Charges'.

Our decision

- 4.29 We agree with feedback received on the term 'authorised' and have changed this to 'may' adjust.
- 4.30 We agree with feedback received on the term 'network charges' and have changed these references to 'Use of System Charges'.

Costs incurred

Feedback received

- 4.31 Four networks provided feedback on Condition 38E.1:

(a) Should the costs incurred be anticipated to exceed the amounts recovered, the licensee must seek direction from the Authority.

- 4.32 Networks were concerned that they may not be able to recover costs if they are higher than the amounts recovered through the SLO. They considered this scenario may occur if for example they had to challenge the decision of an administrator. Networks also made the point that they may not be able to predict that costs incurred may be higher than the amounts recovered.

Our decision

- 4.33 We understand the point raised by networks, and wish to assure networks that we expect to engage with them during the process. As part of this engagement, we would anticipate that networks will be able to raise any concerns they have, such as if costs incurred start to escalate. This will allow us to consider next steps

and to discuss these with the networks. The licence conditions refer to 'anticipated' costs, which reflects that networks will not necessarily know for certain what costs will be. In addition, we have made minor changes to the wording (now referenced as 38B.10) to account for the feedback received; the updated drafting sets out our expectation that networks should seek guidance from Ofgem if they anticipate that costs will exceed the amounts that will be recovered under the SLO.

Requirement to submit a statement

- 4.34 In Condition 38E.1 (b) we set out that to recover the costs incurred as creditor under the SLO, the networks would be required to provide statements on the costs incurred:

The licensee is required to submit a detailed statement to the Authority, providing a comprehensive account of the costs incurred.

Feedback received

- 4.35 Four networks queried the wording of the obligation placed on networks to submit this statement. They felt that the use of the words 'detailed' and 'comprehensive' placed too high a burden on them. They also requested greater clarity around whether the requirement could make clearer when, and how often, statements would need to be submitted.

Our decision

- 4.36 We understand the feedback and have made changes to this Condition to address this and improve clarity. We anticipate that we would provide guidance to the networks on what information should be included in their statement. This condition now reads:

The licensee must submit a statement to the Authority, in a form acceptable to the Authority, providing an account of the costs incurred.

Electricity distribution special licence

Changes to SLRt and SRCt formulae

- 4.37 We proposed changes to the SLRt and SRCt formulae in the electricity distributor special licence, Chapter 6: Pass through expenditure. The change to the SLRt formula was intended to account for adjustments to a SoLR's total 'valid claim'. The change to the SRCt formula was intended to account for payments received

from the failed energy supplier and to allow networks to recover costs incurred when acting in their role as creditor under the SLO.

Feedback received

- 4.38 Five networks provided feedback on the changes to the SLRt formula. Responses were concerned that the current drafting did not work as intended to allow networks to pass-through costs incurred when acting in their role as creditor.
- 4.39 The same networks raised a query about the wording of the SRCt formula. Networks were concerned that the drafting was not sufficiently clear regarding the type of payments that would be covered. The draft consulted on referenced payments that may be received from the failed supplier, but networks were concerned that the wording may not cover payments received from the officeholder of the failed supplier. Networks asked for greater clarity in the drafting.
- 4.40 We also received feedback on the terminology used in the draft licences, namely to ensure that the defined terms 'electricity supplier' and 'electricity supply licence' are used.

Our decision

- 4.41 In line with the feedback received, we have made changes to the SLRt formula to make it clearer that networks can recover costs incurred when acting in their role as creditor.
- 4.42 We have also changed the SRCt formula to increase clarity regarding the payments that may be received by networks under the SLO, referencing that payments may be received from the officeholder of the failed supplier.

Gas transportation standard and special licences

CCBs as part of the 'valid claim'

- 4.43 In the gas standard (Condition 48, 7B) and special (Condition A48, 7B) transporter licences, we set out an expectation that networks adjust their licence charges to reflect any adjustments to the SoLR's 'valid claim'. An adjustment to a Valid Claim may occur where the SoLR has recovered an amount from the administration process of the failed supplier for CCBs³². If such a recovery leaves the SoLR in a position of 'excess' (see paragraphs 3.9-3.17) it must pay this back

³² As explained above at paragraphs 2.20 to 2.22 the SoLR can claim CCBs as a subrogated creditor in the failed supplier's insolvency. The networks claim under the SLO process will be for SoLR levy costs excluding CCBs.

to the networks, who must adjust network charges to return this amount to consumers.

Where the valid claim is to be subject to adjustment after payments under paragraphs 4 and 5(a) have been made and the claimant repays to the licensee any part of such payments, the licensee shall, during the following year, decrease the transportation charges referred by an amount equal to the repayment together with interest thereon.

Feedback received

- 4.44 We received feedback from one network, which asked that the wording clarified that CCBs are not part of the 'Valid Claim'.

Our decision

- 4.45 We think that the feedback may represent a misunderstanding. To clarify, the relevant licence condition and term 'valid claim' refers to the claim that a SoLR can make for SoLR Levy costs incurred which therefore includes CCBs. To exclude CCBs from the 'valid claim' would have the result of preventing SoLRs from claiming for CCBs under the levy.

Appendix 1 – Index of licence changes

Licence	Page
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Gas supply and electricity supply standard licences

Reference in Electricity Supply Licence	Reference in Gas Supply Licence	Change made since statutory consultation	Reason
Condition 9, 9.1	Condition 9, 9.1	Included the pre-existing 'a' in the licence condition, which this decision will remove.	To correct a typographical error in version consulted on.
Condition 9, 9.1	Condition 9, 9.1	Removed brackets from claim(s).	To improve clarity.
Condition 9, 9.1	N/A	Changed reference to condition 38B.	To correct the title of condition.
Condition 9, 9.4	Condition 9, 9.4	Changes to the numbering, formatting and structure of the condition and inclusion of terms 'the total of' and 'plus' 'from the other supplier'.	To make the calculation set out in the licence condition clearer.
Condition 9, 9.4 (ba) (as consulted on) 9.4 (c) (as finalised)	Condition 9, 9.4 9.4 (ba) (as consulted on) 9.4 (c) (as finalised)	Change 'clause' to 'paragraph'	To improve consistency with terminology used elsewhere in licence conditions.
Condition 9, 9.4 (c) (as consulted on) 9.4 (d) (as finalised)	Condition 9, 9.4 (c) (as consulted on) 9.4 (d) (as finalised)	Changed full stop for comma.	To correct a typographical error in version consulted on.
Condition 9, 9.7ZA	Condition 9, 9.7ZA	Changes to the numbering, structure and formatting of the condition, and inclusion of 'and' in two places.	To make the calculation set out in the licence condition clearer.
Condition 9, 9.7ZA (a)	Condition 9, 9.7ZA	Change 'paragraph' to 'sub-paragraph'.	To improve clarity and consistency with terminology used elsewhere in licence conditions.
Condition 9, 9.7ZA (b)	Condition 9, 9.7ZA (b)	Change 'was' to 'is'.	To improve clarity.
Condition 9, 9.7ZA (b)	Condition 9, 9.7ZA (b)	Add in word 'total'.	To make the requirements set out

Reference in Electricity Supply Licence	Reference in Gas Supply Licence	Change made since statutory consultation	Reason
			in the licence condition clearer.
Condition 9, 9.7ZA (b)	Condition 9, 9.7ZA (b)	Change 'in such manner as the Authority shall direct' to 'in such a manner as the Authority directs'.	To improve clarity.
Condition 9, 9.7ZA (b) (c)	Condition 9, 9.7ZA (b) (c)	Change term 'shall' to 'must'.	To improve consistency with terminology used elsewhere in licence conditions.
Condition 9, 9.7ZA (d)	Condition 9, 9.7ZA (d)	To include wording to require the licensee to provide the information detailed in the condition 'soon as reasonably practicable'	To improve clarity on process.
Condition 9, 9.7ZA (d)	Condition 9, 9.7ZA (d)	Changes to the numbering and formatting and layout of the sub-paragraph.	To make the requirements set out in the licence condition clearer.
Condition 9, 9.7ZA (e)	Condition 9, 9.7ZA (e)	To reference sub-paragraphs (a) to (d).	To make the requirements set out in the licence condition clearer.
Condition 9, 9.7ZA (e)	Condition 9, 9.7ZA (e)	Changes to term 'shall give' to 'must provide to' in sub-paragraph (e)	To improve consistency with terminology used elsewhere in licence conditions.
Condition 9A 9.1A (as consulted on) 9A.1 (as finalised)	Condition 9A 9.1A (as consulted on) 9A.1 (as finalised)	Changes to numbering in condition.	To correct reference should be 9A.1 rather than 9.1A
Condition 9A 9.1A(a) (as consulted on) 9A.1(a) (as finalised)	Condition 9A 9.1A(a) (as consulted on) 9A.1(a) (as finalised)	Include requirement for suppliers to provide a copy of deed of undertaking.	To improve clarity on process.

Reference in Electricity Supply Licence	Reference in Gas Supply Licence	Change made since statutory consultation	Reason
Condition 9A 9.1A(a) (as consulted on) 9A.1(a) (as finalised)	Condition 9A 9.1A(a) (as consulted on) 9A.1(a) (as finalised)	Change 'to the Licenced Distributions' to 'to each Licenced Distributor'.	To improve clarity.
Condition 9A 9.1A(c) (d) (as consulted on) 9A.1(c) (d) (as finalised)	Condition 9A 9.1A(c) (d) (as consulted on) 9A.1(c) (d) (as finalised)	Add in word 'mentioned' to sub-paragraphs (c) and (d).	To improve clarity.
Condition 9A 9.1A (b) (c) (d) (as consulted on) 9A.1 (b) (c) (d) (as finalised)	Condition 9A 9.1A (b) (c) (d) (as consulted on) 9A.1 (b) (c) (d) (as finalised)	Add in clearer references to sub-paragraph 9A.1 (a).	To improve clarity.
Condition 9A N/A (as consulted on) 9A.1(e) (as finalised)	Condition 9A N/A (as consulted on) 9A.1(e) (as finalised)	Add in sub-paragraph (e).	To improve clarity with reference to defined term.
N/A	Condition 9A 9.1A(a) (as consulted on) 9A.1(a) (as finalised)	Change 'licensed distributor' to 'relevant gas transporter'.	To improve clarity and consistency by using defined term.

Electricity distribution special licence

Reference in electricity distributor special licence	Change made since statutory consultation	Reason
Chapter 6, 6.1.3 SLRt	Addition of 'plus any costs recoverable in accordance with Standard Condition 38B.10'.	To reflect policy intent to allow networks to recover reasonable costs incurred in being creditors under the SLO.
Chapter 6, 6.1.3 SLRt	Addition of 'by the Authority'.	To improve clarity.
Chapter 6, 6.1.3 SLRt	Changed term 'supplier' to 'Electricity Supplier'.	To improve consistency with terminology used elsewhere in licence conditions.
Chapter 6, 6.1.3 SLRt	Changed term 'supply licence' to 'Electricity Supply Licence'.	To improve consistency with terminology used elsewhere in licence conditions.
Chapter 6, 6.1.3 SLRt	Amendment of title of Condition 9.7ZA to include 'Condition' and 'Reconciliation of Claims'.	To improve clarity, and consistency with terminology used elsewhere in licence conditions.
Chapter 6, 6.1.3 SLRt	Removal of colon in 'Last Resort Supply: Payment Claims'.	To correct a typographical error in version consulted on.
Chapter 6, 6.1.3 SRCt	Inclusion of '(or an office-holder in respect of a Former Electricity Supplier)'.	To improve clarity. In response to feedback received, to make it clearer that payments from the office-holder of the failed supplier are included in this formula.
Chapter 6, 6.1.3 SRCt	Removal of colon in 'Last Resort Supply: Payment Claims'.	To correct a typographical error in version consulted on.
Chapter 6, 6.1.3 SRCt	Changed 'Electricity Supplier's licence' to 'Electricity Supply Licence'.	To improve consistency with terminology used elsewhere in licence conditions.

Electricity distribution standard licence

Reference in electricity distributor standard licence	Change made since statutory consultation	Reason
Paragraph 38B.2	Changed 'the Last Resort Supply Payment must be made in accordance with the adjusted Valid Claim' to 'the licensee must make the Last Resort Supply Payment in accordance with the adjusted Valid Claim.	To improve clarity.
Paragraph 38D.1 (as consulted on) Paragraph 38B.9 (as finalised)	Changed numbering from 38D.1 to 38B.9	To improve clarity.
Paragraph 38D.1 (as consulted on) Paragraph 38B.9 (as finalised)	Changed 'shall' to 'must'	To improve consistency with terminology used elsewhere in licence conditions.
Paragraph 38D.1 (as consulted on) Paragraph 38B.9 (as finalised)	Removed 'standard conditions of electricity suppliers licences as incorporated into the'	To improve clarity.
Paragraph 38E.1 (as consulted on) Paragraph 38B.10 (as finalised)	Changed 'is authorised to' to 'may'.	To improve clarity.
Paragraph 38E.1 (as consulted on) Paragraph 38B.10 (as finalised)	Changed 'network charges' to 'Use of System Charges'.	To improve consistency with terminology used elsewhere in licence conditions.
Paragraph 38E.1 (as consulted on) Paragraph 38B.10 (as finalised)	Changed reference to Condition 38D.1 to updated reference, paragraph 38B.9.	To improve clarity.
Paragraph 38E.1 (as consulted on) Paragraph 38B.10 (as finalised)	Removed 'this authorisation is' and removed the full stop and replaced with a comma to join the two sentences in 38B.10.	To improve clarity.
Paragraph 38E.1 (as consulted on) Paragraph 38B.10 (as finalised)	Changed 'amounts recovered' to 'sums expected to be recovered'.	To improve clarity.

Reference in electricity distributor standard licence	Change made since statutory consultation	Reason
Subparagraph (a)		
Paragraph 38E.1 (as consulted on) Paragraph 38B.10 (as finalised) Subparagraph (a)	Changed 'direction' to 'guidance'.	To improve clarity.
Paragraph 38E.1 (as consulted on) Paragraph 38B.10 (as finalised) Subparagraph (b)	Changed 'is required to submit' to 'must submit'.	To improve clarity.
Paragraph 38E.1 (as consulted on) Paragraph 38B.10 (as finalised) Subparagraph (b)	Removed words 'detailed' and 'comprehensive'.	In response to feedback received, we agreed that the requirement as drafted was too stringent.
Paragraph 38E.1 (as consulted on) Paragraph 38B.10 (as finalised) Subparagraph (b)	Added 'in a form acceptable to the Authority'.	To provide greater clarity on process, by allowing for a format to be agreed.
Paragraph 38E.1 (as consulted on) Paragraph 38B.10 (as finalised) Subparagraph (c)	Removed subparagraph.	This requirement was erroneously duplicated in the draft consulted on. This has now been removed.
Paragraph 7D (as consulted on) Paragraph 38B.11 (as finalised)	Changed 'shall' to 'must'.	To improve consistency with terminology used elsewhere in licence conditions.
Paragraph 7D (as consulted on) Paragraph 38B.11 (as finalised)	Updated references to paragraphs.	To reflect changes in numbering of referenced paragraphs.

Gas transportation standard licence and gas transportation special licence

Reference in gas transporter standard licence	Reference in gas transporter special licence	Change made since statutory consultation	Reason
Condition 48, paragraph 1.	Condition A48, paragraph 1.	Changed 'shall' to 'must'	To improve consistency with terminology used elsewhere in licence conditions.
Condition 48, paragraph 1 and subparagraphs (a) and (b).	Condition A48, paragraph 1 and subparagraphs (a) and (b).	Removed 'increase or decrease its transportation charges in order' in paragraph 1, and added reference to increasing and decreasing charges in subparagraphs (a) and (b) respectively.	To increase clarity.
Condition 48, paragraph 1. Subparagraph (b).	Condition A48, paragraph 1. Subparagraph (b).	Added 'receipts from a claimant under standard condition 9.7ZA of the gas supply licence'.	To improve clarity.
Condition 48, paragraph 1. Subparagraph (b).	Condition A48, paragraph 1. Subparagraph (b).	Changed reference to 'standard conditions of the gas suppliers licence' to 'gas supply licence'.	To improve consistency with terminology used elsewhere in licence conditions.
Condition 48, paragraph 3.	Condition A48, paragraph 3.	Added the word 'transportation' before the word 'charges' to 'which necessitates an increase in charges'.	To improve consistency with terminology used elsewhere in licence conditions.
Condition 48, paragraph 7B.	Condition A48, paragraph 7B.	Changed 'is to be subject to adjustment' to 'is adjusted pursuant to condition 9.7ZA of the gas supply licence'.	To improve clarity.
Condition 48, paragraph 7B.	Condition A48, paragraph 7B.	Changed 'shall' to 'must'.	To improve consistency with terminology used elsewhere in licence conditions.
Condition 48, paragraph 7B.	Condition A48, paragraph 7B.	Included 'or if that is not possible then as soon as practicable thereafter'.	To clarify requirement; based on feedback received and to recognise that due

Reference in gas transporter standard licence	Reference in gas transporter special licence	Change made since statutory consultation	Reason
			to the process for networks to adjust charges, it may not be possible to adjust charges 'the following year'.
Condition 48, paragraph 7B.	Condition A48, paragraph 7B.	Removed 'the' from 'the transportation charges'.	To improve clarity.
Condition 48, paragraph 7B.	Condition A48, paragraph 7B.	Removed 'referred'.	To improve clarity.
Condition 48, paragraph 7C.	Condition A48, paragraph 7C.	Changed 'shall' to 'must'.	To improve consistency with terminology used elsewhere in licence conditions.
Condition 48, paragraph 7C.	Condition A48, paragraph 7C.	Changed 'them' to 'it'.	To improve clarity.
Condition 48, paragraph 7C.	Condition A48, paragraph 7C.	Changed reference to 'standard conditions of the gas suppliers licence' to 'gas supply licence'.	To improve consistency with terminology used elsewhere in licence conditions.
No reference in draft consulted on. Condition 48, paragraph 7D (as finalised).	No reference in draft consulted on. Condition A48, paragraph 7D (as finalised).	Added this paragraph.	To make clearer requirement that networks reduce charges in line with any amounts recovered under the SLO.
Condition 48, paragraph 7D (as consulted on). Condition 48, paragraph 7E (as finalised).	Condition A48, paragraph 7D (as consulted on). Condition 48, paragraph 7E (as finalised).	Updated the numbering from 7D to 7E.	Numbering changes to the addition of the new 7D above.
Condition 48, paragraph 7D (as consulted on). Condition 48, paragraph 7E (as finalised).	Condition A48, paragraph 7D (as consulted on). Condition 48, paragraph 7E (as finalised).	Changed 'shall' to 'must'.	To improve consistency with terminology used elsewhere in licence conditions.

Reference in gas transporter standard licence	Reference in gas transporter special licence	Change made since statutory consultation	Reason
Condition 48, paragraph 7D (as consulted on). Condition 48, paragraph 7E (as finalised).	Condition A48, paragraph 7D (as consulted on). Condition A48, paragraph 7E (as finalised).	Changed reference from 7B to 7C.	To reflect changes to numbering.
Condition 48, paragraph 11.	Condition A48, paragraph 11.	Added references to 7B and 7D.	To reflect changes to numbering due to the addition of the new 7D above.
Condition 48, paragraph 11. Subparagraphs (c) and (d).	Condition A48, paragraph 11. Subparagraphs (c) and (d).	Changed comma and full stop to semicolons.	To improve clarity.
Condition 48, paragraph 11. Subparagraph (f).	Condition A48, paragraph 11. Subparagraph (f).	Changed reference to 7C to 7D.	To reflect changes to numbering due to the addition of the new 7D above.
Condition 48, paragraph 14.	Condition A48, paragraph 14.	Change reference to paragraph 11 to reference all of the paragraph.	To ensure that all subparagraphs in 11 are referenced, including new subparagraphs (d) to (e).

Appendix 2: Deed of undertaking

DEED OF UNDERTAKING TO GAS TRANSPORTERS/ELECTRICITY DISTRIBUTORS

[two separate deeds required for gas/electricity supply]

Executed for the purpose of Standard Licence Condition [] of the [Gas/Electricity] Supply Licence.

This DEED OF UNDERTAKING is entered into on.....

By [] (the “**Supplier**”) a company registered in England and Wales/Scotland under company registration number [] and whose registered office is at []

In favour of each of:

1. []
2. []
3. []

(each a [“**Gas Transporter**”/“**Electricity Distributor**”] and together the [“**Gas Transporters**”/“**Electricity Distributors**”]))

WHEREAS

Pursuant to standard licence condition [] of the [gas/electricity] supply licence the Supplier is required to give the [Gas Transporters/Electricity Distributors] a binding undertaking in the specified terms.

NOW THIS DEED WITNESSES as follows:

1. **Interpretation**

1. For the purposes of this Deed:

Authority means the Gas and Electricity Markets Authority

Customer Credit Balances has the meaning in SLC 9 (claims for last resort supply payment).

Condition means the giving of a Last Resort Supply Direction.

Insolvency Process means the Supplier entering into administration under schedule B1 of the Insolvency Act 1986 or being wound up (whether voluntarily or by order of the court), having a receiver appointed over any of its assets (including administrative receiver), a company voluntary arrangement under Part 1 of the Insolvency Act 1986, a restructuring plan or scheme of arrangement under Parts 26 and 26A of the Companies Act 2006 or entering into a procedure in any jurisdiction with a similar effect to any of these processes.

Last Resort Supply Direction means a direction given by the Authority that specifies or describes the premises or persons to be supplied with [gas/electricity] in accordance with SLC 8 where such premises or persons were, prior to such direction taking effect, supplied with [gas/electricity] by the Supplier.

Last Resort Supply Payment Liability means the aggregate amount of any Valid Claims made by a SoLR excluding the amount of any Valid Claim which is the SoLR's cost of refunding Customer Credit Balances.

SLC means standard licence condition of the Supply Licence and incorporated in the Supply Licence by reference in it and "**SLCs**" shall be construed accordingly.

SoLR means the holder of a Supply Licence to whom a Last Resort Supply Direction has been given.

Supply Licence means a licence granted by the Authority pursuant to [section 7A(1) of the Gas Act 1986/section 6(1)(d) of the Electricity Act 1989] to a person authorising it to supply [gas/electricity] to premises.

Valid Claim(s) has the meaning in SLC 9 (claims for last resort supply payment).

2. Unless the context otherwise requires
 1. any reference to SLCs is a reference to that SLC as modified, supplemented, transferred or replaced from time to time.
 2. any reference to any document is to be construed as a reference to that document as it may have been or may in the future be amended, varied, supplemented, restated or novated.
 3. any reference to any statute or statutory instrument includes any enactment replacing or amending it or any instrument, order or regulation made under it and also includes any past statutory provisions (as from time to time modified or re-enacted) which such provision has directly or indirectly replaced.
 4. clause headings are for reference only and shall not be taken into consideration in interpretation.

2. Undertaking

1. The Supplier undertakes to each [Gas Transporter/Electricity Distributor] that, upon the occurrence of the Condition, the Supplier will pay to the [Gas Transporter/Electricity Distributor] the amount of any Last Resort Supply Payment Liability allocated to that [Gas Transporter/Electricity Distributor] [pursuant to the Authority's consent under SLC 9.5].
2. This Deed will continue in force notwithstanding any Insolvency Process.
3. Subject to paragraph 2.5, the undertaking in paragraph 2.1 is irrevocable until and unless the supplier gives each of the [Gas Transporters/Electricity Distributors] a replacement binding undertaking in compliance with any requirement under SLC [].
4. Subject to paragraphs 2.3 and 2.5, the undertaking in paragraph 2.1 is irrevocable both before and after the occurrence of any Insolvency Process in relation to the Supplier.
5. If the Supplier ceases to hold a Supply Licence in circumstances where a Last Resort Supply Direction is not made as consequence of such cessation, the undertaking will cease to have effect.
6. All sums payable by the Supplier under this Deed shall be paid free and clear of any deductions, withholdings, set-offs or counterclaims.

3. Miscellaneous

1. The Supplier shall be liable under this Deed as a sole principal debtor and not as surety, and it shall not be discharged and its liability shall not be affected by anything which would discharge it or affect its liability as surety.
2. This Deed is in addition to any security or surety in favour of a [Gas Transporter/Electricity Distributor] and may be enforced without first having recourse under any such security or surety.
3. No failure or delay by a [Gas Transporter/Electricity Distributor] in exercising any right, power or remedy in connection with this Deed will operate as a waiver of it, and no single or partial exercise of it will preclude any other or further exercise of it or the exercise of any other such right, power or remedy.
4. The right, powers and remedies provided in this Deed are cumulative and not exclusive of any other rights, powers or remedies.

5. No waiver, compounding or compromise of any liability of, or time or indulgence given to the Supplier by a [Gas Transporter/Electricity Distributor] (in its absolute discretion) shall prejudice or affect a [Gas Transporter's/Electricity Distributor's] rights against the Supplier.
6. Except as otherwise provided herein this Deed contains the whole agreement between the parties relating to the subject matter of this Deed at the date hereof to the exclusion of any terms implied by law which may be excluded by contract.
7. No variation of this Deed shall be effective unless in writing and signed by or on behalf of each of the parties and agreed in advance by the Authority in writing.
8. Subject to paragraph 3.9, this Deed is personal to the parties and the rights and obligations of the parties may not be assigned or otherwise transferred.
9. A [Gas Transporter/Electricity Distributor] may assign its rights under this Deed to another [gas transporter/electricity distributor] with the agreement in writing of the Authority.]
10. The Deed shall be governed by and construed in accordance with English law; and courts of England are to have exclusive jurisdiction in relation to any dispute arising out of or in connection with this Deed.

[Execution Block] EXECUTED AS A DEED.....