Giulia Branzi,
Ofgem,
9 Millbank,
London,
SW1P 3GE

22nd June 2016

Dear Giulia,

**Consultation on supplier insolvency and impact on consumers**

Thank you for the opportunity to comment on the above consultation. Bristol Energy is a new entrant supplier with a mission to deliver social good to energy users in Bristol and beyond.

Executive Summary

Bristol Energy welcomes Ofgem's decision to look at the issue of customer credit balances in the event of a supplier failure. However, we are disappointed that Ofgem has not taken the opportunity to do a more holistic review of the whole Supplier of last resort (SoLR) and Energy supply company administration scheme (ESCAS).

Since the last review of the SoLR and the introduction of the ESCAS the market has fundamentally changed in nature. There are now several mid-tier suppliers in the market that could create significant ripples in the market should they fail. Suppliers are now also required to mutualise the FIT CFD supplier obligation, and the mutualisation of unpaid imbalance charges could be more significant given the reduction in PAR and move to single price imbalances. Add to this the proposal to consider compensating customers who lose credit balances, then the risk of a domino effect happening (i.e. the cost of the various mutualisation & compensation obligations cause other suppliers to fail, creating further costs on a shrinking market) has increased significantly.

We therefore call on Ofgem to work with DECC to undertake a more comprehensive impact assessment of supplier failure on the market as a matter of priority, and to complete this work before this winter so that the risks are better understood by Ofgem and DECC when making decisions on SoLR and ESCAS.

We have answered your specific questions below, expanding where necessary.

**Q1. Do you agree with the approach to SoLR and energy administration set out in our revised guidance?**

We are generally supportive of the approach set out in the guidance. In particular, we believe Ofgem's phased approach to SoLR in seeking to find voluntary SoLR before using its powers to direct an SoLR is the best solution. As a smaller supplier, we would face logistical difficulties in providing the information requested of us as part of this process, and the information is likely to be superfluous to requirements if other suppliers volunteer to be a SoLR. We therefore believe that Ofgem should take a two-phase approach where it seeks voluntary SoLRs in the first instance and only request information from all suppliers when none if forthcoming (or suitable).

**Q2. Do you agree with our preferred approach (option 1 – no further action, i.e. case-by-case use of SoLR powers) to protect consumers credit balances?**

Whilst we agree with the proposed approach in principle, we are disappointed that Ofgem appear to have looked at this issue in isolation from the other financial "mutualisation's" that take place when a supplier fails. For example, on supplier failure, other suppliers will be required to pick up any non-payment of the FIT CFD supplier obligation, unpaid imbalance costs and potentially any shortfall in the RO. In addition, certain costs of code administrators will also mutualised. We believe that since the last SoLR guidance was issued in 2008, the risk to all suppliers of a supplier failure, and in particular the risk of a domino effect happening (i.e. The costs incurred by the remaining suppliers by mutualisation, leads to another supplier's failure) has increased substantially. If Ofgem was to look at this on a case-by-case basis, then it should quantify the total cost of failure and its effect on other suppliers rather than just the cost of compensating credit balances.

There is also the additional issue of certain suppliers having tariffs where customers are encouraged to pay in advance, such as an annual upfront payment or monthly DD upfront. This would mean that their portfolio might have a significant credit balance, and in our view, the customers have opted to take that risk, perhaps in return for interest on their credit balance, and should not be included in any compensation solution.

It is not clear in your proposal whether this relates to domestic customers only, or includes business customers. A non-domestic supplier could have business customers with significant credit balances (and security deposits, which your proposals do not consider) and this could have an adverse effect on other suppliers if they require compensation to be borne by the remaining market participants.

If option 1 is adopted, then we believe Ofgem should request DECC to review the energy supply company administration scheme, so that Ofgem can provide DECC with a view of the overall risk of a supplier failure on the remaining market participants and not just on Ofgem's ability to procure a SoLR on reasonable terms. This is particularly important now as there are now several mid-tier suppliers in the market whereas the original scheme was set up in an era of six large and several small suppliers, with no mid-tier suppliers in existence.

Any claims for credit balance compensation should be limited to domestic customers and exclude any domestic tariffs that rewarded advanced payments to minimise the impact.

**Q3. Do you consider that there is other information which would help you decide whether to volunteer to be a SoLR and on specific terms? If so, what is this information and from whom should it be sought?**

At present any SoLR is likely to result in customers moving away from an Independent supplier back to a big6 incumbent, (unless a mid-tier supplier comes forward) as they are the most likely to be able to manage the process and any short term energy procurement to mitigate imbalance costs. Bristol Energy would consider volunteering to take part of a portfolio, just as, we suspect several other smaller suppliers would be equally willing to do so. To this end, we believe that when asking suppliers if they are willing to be a voluntary SoLR supplier, suppliers should be able to set a cap on the number of customers they are willing to take. Ofgem, should then, recognising its facilitating competition objective seek to divide the portfolio up between several willing suppliers rather than hand them over to a single supplier (especially an incumbent). If Ofgem however believes that a single SoLR is preferable, then it is unlikely Bristol Energy, at the current moment would volunteer unless the portfolio was acutely small irrespective of what data was available.

I hope this response is helpful. If you have any queries, please do not hesitate to contact me.

Kind regards,

Chris Welby

Chris Welby
Head of Regulation

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