

1. Do you think the proposed package of reforms will help to reduce the likelihood of disorderly market exits, and the disruption caused for consumers and the wider market when suppliers fail? Are there other actions you consider we should take to help achieve these aims?

While we appreciate that in a competitive market supplier failures will occur, we feel that the current arrangements make prudent suppliers financially responsible for the risky business models of their competitors. We therefore welcome the Supplier Licensing Review, and would thank Ofgem for the opportunity to respond.

In general we feel that the package of reforms goes some way to averting disorderly market exits which do not paint the industry or the regulator in a good light. We would however say there are other actions possible that we would urge Ofgem to consider.

- Enforce that suppliers bill their customers in arrears. We appreciate that there are many different business models in the market, and we do not wish to stifle innovation. However, we do not see it as correct or proper that certain suppliers use the credit balances of their customers as working capital. In a scenario where a supplier seeks finance in order to grow their operations, a robust business model should be able to attract investor funding. Sophisticated investors understand their capital is at risk. Consumers are not investors, but are treated like them by some suppliers, but the risk is being borne by solvent suppliers through mutualisation.

The industry has seen a proliferation of suppliers enter the market in the past 5 years who take money from new customers before any service is provided. We welcome the proposal to force suppliers to hold 50% of the credit balances they hold in an escrow account, but we would view banning advance collections in the first place as a more suitable action to minimise the risk of large credit balances being held at the point of failure. The scale of some 'risky' suppliers means that even 50% of their credit balances would still deliver a shock to the energy system with adverse knock on impacts.

We would point out to Ofgem that many of the failures we have seen in the market over the last 3 years have been preceded by suppliers offering extremely low tariffs to the market in an attempt to win large volumes of customers quickly. They can bill in advance and use the money to solve their short term cash flow issues, to the detriment of long term business operations. This cash flow model means customers never see their savings even with the additional securities you are proposing. The cash is locked up in the supplier. It should be very apparent that responsible suppliers should not be held accountable for such reckless market activities.

- It is our opinion that Ofgem is aware of those suppliers who are in trouble and at risk of failure. If it is not then we would urge Ofgem to demand annual accounts from all licensed suppliers. If a supplier is making a loss Ofgem should seek urgent clarifications as to why and what is being done to rectify the situation. If losses are part of the plan, what cash reserves do they have to call upon?

Most of the large costs encountered by suppliers are in arrears, for example the RO, TNUoS, DUoS, Capacity Payments etc. Where a supplier shows a gross loss in their annual accounts we would propose that their large costs should be forecast (and agreed by the counterparty) and pre-paid. This would massively reduce the impact on industry parties of supplier failure. We all realise the costs of these failures are passed back to the consumer so mitigating risk would enable prudent suppliers to reduce customers' bills, and would be to the benefit of consumers as a whole.

This would also bring the energy industry in line with other industries where credit is earned based on the strength of a company's balance sheet, not automatically given.

- It is very difficult for suppliers to grow at the rates we are seeing some suppliers now achieving whilst maintaining a consistently high level of customer service. Suppliers already report on their customer numbers to Ofgem via the Social Obligation Reporting which is submitted on a quarterly basis. We believe that Ofgem should open a dialogue with those suppliers growing at the fastest % rates each quarter. Ofgem should be seeking guarantees on customer service levels and performance, especially where suppliers are growing at such rates due either in total, or in part, to loss leading tariffs.

The price cap means Ofgem is aware of the price points at which the most efficient suppliers break even. Where suppliers are consistently selling below this rate the first element of the business which usually struggles due to being under resourced is customer service. This is not in the consumers interests, and should be an early warning sign to Ofgem that action may be necessary to slow or halt growth rates.

2. Do you agree with the outputs of our impact assessment?

In general yes

3. What further quantitative data can industry provide to inform the costs and benefits of the impact assessment, particularly for cost mutualisation protections?

N/A

4. Do you agree with the assumptions used to calculate the costs and benefits in our impact assessment? If not, please provide evidence to support further refinement.

N/A

- 5. Do you agree with our proposed option to cost mutualisation protections? Are there other methods of implementing this proposed option? Please provide an explanation and, if possible any evidence, to support your position.**

Green Energy is not in a position to analyse the Ofgem proposals to an extent we can provide evidence to support or denounce the proposed approach. What we do appreciate is that SOLR activities damage the industry both financially and reputationally. We would be keen to understand if Ofgem has scoped out the potential costs and benefits of an industry wide insurance policy (equivalent to ABTA) which would cover all costs which would otherwise be mutualised. The costs of such a policy are likely to be low if the policy is taken up by the whole of the market. This would also have the advantage of suppliers knowing the costs that have to be covered by the policy when they are setting their tariffs, rather than after the event. We note that Insurance packages are one form of protection Ofgem is proposing for cost mutualisation protections, but on an individual basis. We would see a market wide policy as more appropriate, with membership of the scheme a license requirement. Where a supplier fails to renew their membership or pay their premium enforcement must be swift and conclusive.

- 6. Do you agree with our proposal to introduce new milestone assessments for suppliers? Do you think the milestones we have proposed and the factors we intend to assess are the right ones? Are there additional factors we should consider to help us to identify where suppliers' may be in financial difficulty?**

We agree with Ofgem that further discourse between Ofgem and suppliers should occur and the milestones proposed seem reasonable. We would however urge Ofgem not to burden the majority of suppliers with an increased regulatory framework due to the actions of the few. We would therefore propose that Ofgem should be able to assess suppliers at any point based on their audited accounts and their performance on differing customer service and enforcement matrix. The aim must be to ensure the best outcomes for consumers, and there is a risk (much like with the ECO obligation) that suppliers will purposely slow down their growth so as not to hit milestones if they know they are not in a position to adequately complete a milestone assessment.

For the majority, suppliers staff should be acting in the interest of their customers, not proving to the regulator that they are doing so. As such we would say that any supplier whose annual accounts show a loss would have to undergo an assessment irrespective of scale, potentially with the exception of the first year from their license being granted.

- 7. Do you agree with our proposal to introduce an ongoing fit and proper requirement? Are there additional factors, other than the ones we have outlined, that you believe suppliers should assess in conducting checks?**

Yes we agree that there should be an ongoing fit and proper persons requirement. We also believe that financial transactions relating to senior figures in other companies in the lead up to failure should be investigated. Furthermore the fit and proper persons test should be applied to the board and management of Parental Companies even though they may not sit on the board of the licensed vehicle.

8. Do you agree with our proposal to require suppliers to produce living wills? What do you think we should include as minimum criteria for living will content?

While we support the notion of organised and orderly market exits where necessary, we do not believe Living Wills will have the desired effect. While it is prudent for board level members of staff to assess the risks to their business on a regular basis, the first thing a supplier will do in the event of impending failure is to call in consultants. At this point the directors of that company have 'done their duty', and the consultants will look for methods to cut costs. It is our opinion that these actions will supersede any requirements laid out in a Living Will, bills will go unpaid and customer facing staff will be reduced. As such the Living Will will not be fit for purpose at the point of failure.

9. Do you agree with our proposed scope for independent audits? Please provide rationale to support your view.

Our belief is that an independent audit may be helpful to Ofgem, however if it is imposed onto a failing supplier at the last moment the costs of it are likely to at best bring on the suppliers failure, at worst go unpaid and be mutualised. We would ask Ofgem to publish a set of standards which can be given to suppliers regular auditors to be completed as part of their routine activities. We feel this would minimise the costs and regulatory burden. Should Ofgem have particular concerns about a supplier or auditor they can then request additional work to be carried out by their own appointed auditor at the cost of that supplier.

10. Do you agree with the near terms steps we propose to take to improve consumers' experience of supplier failures? Are there other steps you think we should be taking?

Supplier failure inevitably leads to a poor consumer experience and in our opinion nothing in the documentation will change this. Supplier failure will inevitably lead consumers to question the wisdom of switching to suppliers outside of the established main players in the market. As such, the focus must be on not allowing poorly run businesses to operate in the industry via a stricter fit and proper persons requirement on market entry. We also need Ofgem to garner the necessary regulatory powers to enable them to stop suppliers from trading at the point it becomes obvious the business in question is irrevocably flawed. Examples of this would be failure to pay the RO costs. Currently suppliers are allowed to continue trading far too long after it is clear they do not have the capital to meet their costs. In this scenario the first costs cutting exercise is generally to the customer facing teams, and as such consumers face poor service followed by the supplier failing. This obviously hurts the consumer, but the extra time afforded to the supplier to put their house in order allows them to accrue further costs and run up bills which will also be mutualised on failure.

11. Do you think there is merit in taking forward further actions in relation to portfolio splitting or trade sales? What are your views of the benefits of these steps? Are there any potential difficulties you can foresee?

The SoLR process should also allow for the break up of customers into tranches and awarded to different suppliers as we believe that this could result in better outcomes for consumers. For example a supplier may not opt to engage in the SoLR process due to the volume of

PPM's or SMETS1 meters indicated in the SoLR RFI, however have the ability to provide the best option for vulnerable or credit customers in that same portfolio.

Ofgem should demand to be notified and hold the right to approve or veto all trade sales. This would ensure the best interests of customers are being taken into account in the sale process. This should prevent consumers being negatively impacted multiple times, as was the case with one recent high profile trade sale.

12. Do you think our draft supply licence conditions reflect policy intent?

In part, however, Ofgem should be mindful of increasing the regulatory burden on suppliers who can easily demonstrate they operate profitable and well run companies. The industry is already heavily regulated and, as demonstrated by the price cap, does not have large margins with which to employ numerous staff to correspond with Ofgem. Staff employed to ensure compliance with regulation means that suppliers cannot employ staff who are on the 'front line' helping and aiding consumers.