

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

Email: supplier@ofgem.gov.uk

Date: 26 November 2020

Dear colleague,

Last Resort Supply Payment Claim from EDF Energy Customers Limited

On 24 September 2020, we¹ published our minded-to position on EDF Energy Customer Limited's ("EDF") claim for a Last Resort Supply Payment ("LRSP") for additional costs incurred in acting as a Supplier of Last Resort ("SoLR")².

This letter confirms our decision to consent to EDF claiming a LRSP of up to £4.2m³. Our decision will allow EDF to recover the costs of protecting the credit balances owed to former customers of Solarplicity Supply Limited ("Solarplicity"), and certain other costs incurred in complying with the terms of the Last Resort Supply Direction ("LRSD")⁴.

In taking this decision, we have had due regard to Ofgem's principal objective of protecting the interests of current and future energy consumers, the relevant provisions of EDF's gas and electricity supply licences, Ofgem's "Guidance on supplier of last resort and energy supply company administration orders" (our "Guidance")⁵, the terms of the LRSD and the particular circumstances of compliance with the LRSD.

Background

The SoLR process

¹ References to the "Authority", "Ofgem", "we" and "our" are used interchangeably in this document. The Authority refers to GEMA, the Gas and Electricity Markets Authority. The Office of Gas and Electricity Markets (Ofgem) supports GEMA in its day-to-day work. This decision is made by or on behalf of GEMA.

² [Consultation on Last Resort Supply Payment Claim from EDF](#)

³ £4,197,625

⁴ [Direction to appoint EDF Energy Customers Limited as Electricity Supplier of Last Resort](#) and [Direction to appoint EDF Energy Customers Limited as Gas Supplier of Last Resort](#)

⁵ [Supplier of Last Resort: Revised Guidance 2016](#)

Electricity and gas supply is a competitive activity in Great Britain. While competition has the potential to bring many benefits to consumers, in a competitive market, companies that are not operating efficiently may fail. This applies as much in relation to the gas and electricity supply markets as it does to other markets.

It is Ofgem's statutory duty to protect customers' interests in light of supplier failure. When a supplier fails, our focus is to ensure continuity of supply for its customers and to minimise wider negative impacts on the market. These wider effects stem from the fact that if an energy supplier fails, its customers will continue to be physically supplied with gas and/or electricity, but the supplier will not be able to meet the costs of providing this energy. In these circumstances, the costs of procuring the necessary electricity will be smeared across all suppliers and the costs of procuring gas will fall to the relevant shipper. There is also the real risk that if a supplier fails without urgent intervention, consumer trust and confidence in the energy market would be materially damaged.

Ofgem can ensure continuity of supply to the failed supplier's customers and minimise these wider negative effects by appointing a SoLR to supply the failed supplier's customers at very short notice.⁶

Claim for Last Resort Supply Payment

As set out in the gas and electricity supply standard licence conditions, a supplier may make a claim for any additional costs they incur in complying with a LRSD.

As part of their competitive bid to become a SoLR, a supplier will include whether they expect to make a claim for a LRSP, or whether they wish to waive this right. As stated in our guidance⁷, our preference is for the SoLR not to make any claim, and we expect efficient SoLRs to be able to minimise their exposure to otherwise unrecoverable costs to reduce the costs smeared across the rest of the market.

In our guidance, we explain that we will decide on a case-by-case basis whether it might be appropriate for a SoLR to make a claim under these arrangements. We also explain that we would consider whether the amount of any claim or the reasons for any claim were reasonable. In that guidance, we note that, in certain circumstances, we may consider it appropriate to approve a claim where it relates to costs associated with the protection of customers who held a credit balance with the failed supplier.

⁶ The obligation for a supplier to comply with a LRSD derives from standard licence condition 8 of each supplier's gas and electricity supply licences and is intended to ensure a universal service for Great British energy consumers (for further information on this universal service, see Articles 3(3) of the EU Directives 2009/72/EC and 2009/73/EC). The duties of a SoLR are further described in our Guidance and the LRSD contains specific details of EDF Energy's obligations to supply Solarplicity Supply Limited's former customers.

⁷ [Supplier of Last Resort: Revised Guidance 2016](#)

The LRSP process

Once appointed, a SoLR may make a claim for a LRSP from relevant distribution networks where we have given our consent to the amount claimed. On 20 May 2020 EDF notified us of its intention to claim for a LRSP consisting of £4.5m⁸ consisting of the following elements:

Table 1: EDF's initial claim

Item	Cost	£
1	Credit balances	£3,665,205
2	Customer facing costs	£149,773
3	Operational costs	£303,091
4	Working capital	£395,059
	Total	£4,513,129

On 17 November 2020 EDF submitted a revised and final claim for £4.2m⁹, as shown in table 2 below. The claim includes a revised (lower) sum for the final cost of credit balances and a lower claim in relation to the cost of working capital.

Table 2: EDF's final claim

Item	Cost	£
1	Credit balances	£3,355,786
2	Customer facing costs	£149,773
3	Operational costs	£303,091
4	Working capital	£388,974
	Total	£4,197,625

Our decision

We are satisfied that the revised and final claim represents no more than the total cost incurred by EDF in complying with the LRSD. On balance, given all specific circumstances of this levy claim case and taking into consideration all information available to us, our decision is to consent to EDF recovering a LRSP of up to £4.2m¹⁰.

For the avoidance of any doubt, we consider on a case-by-case basis whether it may be appropriate for any SoLR to make a claim on the levy. We have set out below our

⁸ [Consultation on Last Resort Supply Payment claim from EDF](#)

⁹ £4,197,625

¹⁰ £4,197,625

reasons for decision in this case. This should not be taken as setting a precedent for any future claims, which would also be considered on their merits and on a case-by-case basis, taking into account all relevant circumstances of the particular case.

Reasons for our decision

Cost item: Credit balances

EDF's claim includes consent to recover £3.3m¹¹ for the cost of refunding credit balances to ex-customers of Solarplicity. Our published guidance sets out that we may in certain circumstances consider it appropriate to approve a claim associated with costs incurred in repaying credit balances to customers who had a positive credit balance with a failed supplier. We are satisfied in this case that (subject to the points discussed below) the claimed amount is consistent with the relevant criteria and in particular, is consistent with EDF's commitment at the time of its appointment as SoLR.

Credit balance costs for ex-customers of Solarplicity are additional to the costs that EDF would otherwise face as a supplier. We have considered whether the costs EDF is seeking to claim for credit balances are otherwise unrecoverable; it may still be the case that EDF is able to recover some of this claimed amount through the ongoing administration process for Solarplicity. EDF has, in accordance with the requirements of the LRSP process, submitted a subrogated creditor claim for the costs incurred in repaying credit balances. Given this, our decision is to consent to this element of the claim, subject to the outcome of the Solarplicity liquidation process. At this point, the final amount EDF can claim for credit balances would be adjusted to reflect any costs recovered through the liquidation process.

Customer-facing costs

EDF's claim seeks consent to recover £150k¹² for customer-facing costs. The bulk of the cost in this category is accounted for by work to handle enquiries and complaints from former customers of Solarplicity, with the balance largely related to credit balance related correspondence. In our letter of 24 September 2020 we explained why we were minded to allow EDF to recover these costs. Having considered all the evidence available to us our decision is to consent to EDF recovering these costs.

Operational costs

EDF is seeking consent to recover £303k¹³ for operational costs incurred in onboarding former customers of Solarplicity. These include costs relating to tariff pricing for SoLR

¹¹ £3,355,786

¹² £149,773

¹³ £303,091

customers, related business processes, data migration and data quality, credit balance related work, billing, metering issues and regulatory compliance. These are costs which EDF faced as a direct result of complying with the terms of the LRSD. Our decision is to consent to EDF recovering these costs.

Working capital

EDF's claim includes £389k¹⁴ for the cost of interest on working capital to finance the additional costs incurred as a result of acting as the SoLR. Having considered all of the evidence available to us, our decision is to consent to EDF recovering the cost of making capital available to fund the SoLR process.

Recovery of LRSP claim

EDF will be paid the amounts specified in the gas and electricity consents published alongside this decision, by the relevant licenced gas and electricity network companies. This will be recovered by the relevant gas and electricity distribution networks allocated in proportion to the total number of nationwide gas and electricity supply points. We consider this apportionment to best enable broad socialisation of the claim costs in line with the intent of the SoLR regime to protect all consumers in the market, for example, through limiting the extent of unpaid industry bills of a failing supplier.

As per the standard conditions of the gas and electricity supply licence regarding LRSP claims, EDF will be able to submit a claim to each relevant distribution network operator, based on the amount we have consented to and each network's share of the total premises served by the relevant networks, in each fuel respectively. We expect EDF to do this on the basis of the customer numbers contained within the network companies' regulatory reporting packs. This has the advantage of being a data source that is transparent and consistent as between gas and electricity.

Yours faithfully,

Lesley Nugent

Deputy Director, Retail Directorate

¹⁴ £388,974