

All interested parties

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Dear colleague

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Appointment of Co-operative Energy Limited as Supplier of Last Resort

On 29 November, we announced that we had appointed Co-operative Energy Limited (“Co-operative Energy”) as the new supplier for GB Energy Supply Limited’s (“GB Energy”) gas and electricity customers, following an earlier announcement that GB Energy had ceased trading and our decision to revoke GB Energy’s licences.¹

We appointed Co-operative Energy as the Supplier of Last Resort (SoLR) for GB Energy’s customers because their offer represented the best deal for customers. This letter summarises the background to this process, and the reasons² for our decision³ to appoint Co-op Energy.

Further information on Ofgem’s safety net to make sure customers are protected if their supplier goes out of business is available on our website.⁴

The SoLR process

The SoLR process ensures that customers of a failed energy supplier continue to be supplied in an orderly fashion through the appointment of another supplier (the SoLR) to take on responsibility for supplying those customers. This process also ensures that the credit balances of the failed supplier’s customers are protected.

We can direct any licensee to be a SoLR⁵ but to ensure we appoint the company we think is best placed to take on this role we ask companies interested in being the SoLR to provide us with information including the tariff they will put the customers on and how they will cope with the bulk increase in customer accounts. Where possible we also seek to appoint a company which has volunteered to act as a SoLR.

¹ <https://www.ofgem.gov.uk/publications-and-updates/gb-energy-supply-ltd-notice-revocation-electricity-supply-licence> and <https://www.ofgem.gov.uk/publications-and-updates/gb-energy-supply-ltd-notice-revocation-gas-supply-licence>

² This letter constitutes the notice of our reasons for the purposes of section 38A of the Gas Act 1986 and section 49A of the Electricity Act 1989.

³ <https://www.ofgem.gov.uk/publications-and-updates/direction-appoint-cooperative-energy-gas-supplier-last-resort> and <https://www.ofgem.gov.uk/publications-and-updates/direction-appoint-cooperative-energy-electricity-supplier-last-resort>

⁴ <https://www.ofgem.gov.uk/consumers/household-gas-and-electricity-guide/extra-help-energy-services/ofgem-safety-net-if-your-energy-supplier-goes-out-business>

⁵ In accordance condition 8 of the Standard Licence Conditions for gas and electricity supply, subject to Ofgem being satisfied that the licensee could comply with the Last Resort Supply Direction without significantly prejudicing its ability: (i) to continue to supply electricity to its Customers’ premises; and (ii) to fulfil its contractual obligations for the supply of electricity.

Background to this decision

In November 2016, GB Energy confirmed to us that it was in severe financial difficulties. We closely monitored the situation and made preparations to commence the SoLR process, to ensure consumers were protected.

In accordance with our standard process and published guidance⁶, we undertook the following steps leading up to the decision we announced on 29 November:

- we sought information from GB Energy on their customer base and arrangements for supply, for the purposes of running the SoLR process.
- we sent information requests⁷ to a number of licensed gas and electricity suppliers to submit offers for the terms on which they would be appointed a SoLR. Among other things, we asked suppliers for information on their willingness to act as a SoLR, their capability to supply the customers and the terms they proposed to offer customers if successful.
- we sought relevant information from network licensees and industry central systems bodies.⁸

We also gave notice of our decision to revoke GB Energy's licences.⁹

Our decision

On 29 November we announced our decision to appoint Co-operative Energy as the SoLR, in order to ensure continuity of supplies of gas and electricity to GB Energy's customers, and payment of appropriate charges under the industry arrangements.

Reasons for our decision

In line with our published guidance on the SoLR process we considered all bids submitted by suppliers against a set of criteria which we have replicated in the annex to this letter. All responses from suppliers contained confidential information. We have not released this information as to do so would be likely to prejudice future potential SoLR processes.

The decision to appoint a SoLR involves Ofgem making a judgement taking into account the full range of criteria and all the information provided by suppliers. In total, we received 11 submissions from suppliers, setting out the terms they would offer to customers if they were to be appointed as the SoLR. Below, we have set out the material factors on which we based our decision that Cooperative Energy's proposal was the best deal for customers.

Volunteers for the role of SoLR

As set out in our guidance, our preference is given to suppliers who volunteer to undertake the role of SoLR. Of the responses we received, the majority – including Co-operative Energy - confirmed they wished to volunteer for this role.

Honouring account balances

As per our guidance, Ofgem operates a safety net through the SoLR process which protects consumers' credit balances. We recognise that a key concern for customers of GB Energy¹⁰ would be whether their credit balances would be honoured. Indeed after ensuring safe

⁶ https://www.ofgem.gov.uk/system/files/docs/2016/10/solr_revised_guidance_final_21-10-2016.pdf

⁷ In accordance with condition 5 of the Standard Licence Conditions for gas and electricity supply.

⁸ Elxon for electricity, Xoserve for gas.

⁹ Revocation of the supply licence is necessary for the SoLR arrangements to come into effect. The notices to revoke GB Energy's licence are published on our website: <https://www.ofgem.gov.uk/licences-codes-and-standards/licences/notices/revocation-notices>. The licence revocations are effective as of 30 November 2016.

¹⁰ The vast majority of GB Energy paid by direct debit and so have a credit balance.

continuity of supply, protecting GB Energy consumers' money was a particularly important factor in our decision. Of the responses we received from suppliers, the majority – including Co-operative Energy - confirmed they would honour the credit balances for GB Energy customers.

Given the implications for overall consumer confidence, we also asked suppliers whether they would honour the credit balances of former GB Energy customers who had switched but were still due a credit refund. Again, the majority of suppliers – including Co-operative Energy confirmed they would honour these credit refunds.

Use of the industry levy

The gas and electricity supply licences allow the SoLR to recover reasonable costs incurred in taking on the failed supplier's customers through an industry levy or Last Resort Supply Payment; this includes open credit balances but not closed balances.¹¹ Our guidance states that our preference is for the SoLR to not make any claim under the levy (or to minimise the amount of such claim) as we expect them to be able to cover their own costs and we want to reduce the costs smeared across the rest of the market.

All of the suppliers who were willing to honour credit balances, indicated their intention to use the levy to cover some or all the costs of honouring open credit balances through the levy. Our considerations in this area took into account the proportion of credit balances that would be recovered through the levy, with Co-operative Energy proposing to recover proportionately less than the majority of suppliers who submitted responses.

Price

Our guidance states that the deemed tariff which the consumers of the failed supplier move to must not reflect more than the reasonable costs of supply (including costs attributable to the purchase of gas or electricity at short notice), together with a reasonable profit. We analysed each of the deemed contract prices put forward by the suppliers who submitted offers to be appointed the SoLR, and calculated a Typical Domestic Consumption Value (TDCV) annual bill figure. We took the prices being charged into consideration as a core part of the deal for customers, with a general preference of minimising additional charges that consumers might face. Co-operative Energy offered to honour the prices currently paid by GB Energy customers for the duration of their current contracts.

Customer service

It is to be expected that the customers of a failed supplier, who have been switched through the SoLR process, will have enquiries for their new supplier. Therefore it is important that the SoLR has a robust approach for managing this increase in customer enquiries. Bidders put forward a range of solutions to "onboarding" GB Energy's customers; we closely assessed each of these. We were satisfied that the specific arrangements Co-operative Energy proposed to put in place to handle these customers were likely to provide satisfactory levels of customer service.

We also gave due consideration to historic customer service problems with Co-operative Energy, related to an earlier roll-out of new IT systems. Co-operative Energy gave Ofgem assurances that adequate processes and systems are in place to ensure it meets its obligations and that it will provide the level of service that its customers should expect to receive.

¹¹ Electricity and gas suppliers' licences permit them (in some circumstances) to make a claim for the otherwise unrecoverable costs that they have incurred in being a SoLR. This would be paid by a "levy" on gas transporters' and electricity distributors' Distribution Use of System (DUoS) charges.

Sourcing gas and electricity

It is essential that the SoLR can comfortably manage the extra costs arising from sourcing the energy required to supply the failed supplier's customers without jeopardising supply to their existing customers. In making our decision we considered a range of relevant factors which indicated the ability of the suppliers to absorb these costs, including:

- the working capital of the bidder
- access to the relevant wholesale markets and products and management of wholesale energy trading and balancing
- the amount of headroom the bidder has – ie the degree to which they have already covered their liabilities (in terms of energy) for this winter and next year
- their strategy to cover the new energy they will need to buy to cover the demand of GB Energy consumers

We considered that Coop provided a sufficient explanation of its capacity to manage the purchasing requirements relating to GB Energy customers. In addition, they presented information to support the case set out in their bid that they are in a sufficiently sound financial position to mitigate risks to their existing customers arising from them being appointed as the SoLR.

Conclusion

Considering all of the above in the round and in line with our published guidance, and taking into account our statutory duties including our principal objective to protect the interests of consumers, we reached the judgement that it would be in customers' best interests for Co-operative Energy to be appointed the SoLR for GB Energy's customers.

Yours faithfully,

Rob Salter Church

Partner, Consumers and Competition

Annex 1: Summary of SoLR selection criteria

In our SoLR Guidance we set out the selection criteria we will use to determine which supplier to appoint as the SoLR. This annex sets out the questions asked of suppliers to gather the necessary information for us to consider in making the decision to appoint a Supplier of Last Resort.

General Preferences

1. *Other things being equal, we gave preference to:*
 - a. suppliers who volunteered for the role of SoLR
 - b. suppliers who agreed to honour, or compensate for, credit balances of the customers of the failing supplier
 - c. suppliers who stated that they will not make a claim for last resort supply payments pursuant to standard condition 9 of the supply licence.
 - d. suppliers who agreed to provide protection through ex-gratia payments to former GB Energy Supply customers with a closed credit account balance¹²

Core Criteria

We also took into consideration responses on the following issues.

Ability to supply and industry codes

2. SoLR should have arrangements in place to source the additional gas and electricity required for any customers acquired as part of a last resort supply direction, while enabling it to continue to supply its existing customers.
3. SoLR's shipper must have signed the appropriate Network Codes for the licensed gas transporters on whose networks the Licensee may be a SoLR.
4. The Licensee must have entered into Distribution Use of System Agreements with all distribution companies in whose areas it may be a SoLR.
5. SoLR or its shipper must be able to comply with current credit cover rules.

Customer engagement

6. The arrangements the SoLR proposed to make to deal with the customers of the failing supplier, including:
 - a. whether the SoLR will honour the failed supplier's tariffs, including any fixed term/ price deals
 - b. how customers will be informed about what has happened and provision of named contact details that customers transferring over can use to ask any questions
 - c. how customer's written and telephone enquiries will be dealt with
 - d. how it will be ensured that customers will receive a timely and accurate bill
 - e. how customers will be made aware of their options to sign up to a contract with the Licensee or another supplier.
 - f. Information on recent customer service standards and on any recent investigation or enforcement action in connection with customer service functions
7. SoLR must be able to operate the relevant change of supplier processes to minimise disruption to new and existing customers and other industry participants.
8. SoLR must have adequate arrangements in place to deal with customer queries (including both new and existing customers).

Deemed contract prices

9. The extent to which the SoLR deemed contract price is reasonable and offers the customers of the failing supplier value for money.

¹² Given the implications for overall consumer confidence, we also asked suppliers whether they would honour the credit balances of former GB Energy customers who had switched but were still due a credit refund