



Proposed modifications to SoLR supply licence conditions

1. We welcome Ofgem's review of its approach to licencing suppliers and ensuring appropriate protections are in place against poor customer service and financial instability, as stated in its open letter of 11 June 2018¹.
2. Ofgem has indicated that its review will take place in a phased fashion. Given that Ofgem's principle objective is to protect the interests of existing and future electricity and gas consumers, we would have anticipated that the first phase would be to review Ofgem's processes with regard to licensing new suppliers. Ensuring that new entrants to the market have the ability not only to function as a supplier but also to fund their regulatory obligations is vital. Whilst there is an SoLR process to ensure customers of a failed supplier continue to be serviced, customers of that supplier will still be inconvenienced, and industry claims will increase prices for all customers.
3. Many new entrants to the market take advantage of the 'supplier in a box' model, where they can obtain an off-the-shelf package with all the essential elements for an energy supplier start-up. Some organisations who provide these packages even provide a supply licence. Whilst we appreciate that this type of model has been very successful in growing the competitive market in energy, in granting a licence under such circumstances Ofgem is unable to assess the ability of a new entrant to finance regulated activities. We would strongly recommend that Ofgem addresses this issue urgently. One solution may be to have a two-tier licensing process, whereby a Part 1 licence can be issued on the basis of capability to operate effectively in the industry, but a Part 2 licence is also required and for which a business must be assessed by Ofgem for its ability to finance regulated activities.
4. We would urge Ofgem to consider a more radical change to processes for dealing with failed suppliers. Our preference would be that, where a trade sale was not possible, the supplier administration process be used for all supplier failures, not just for failures of larger suppliers. This would have less risk for other suppliers in the industry whilst providing protection and continuity for customers.
5. We are broadly supportive of Ofgem's proposals in its letter of 13 June 2018. However, we do have concerns about the overall processes Ofgem is addressing, which we detail below.
6. We are supportive of Ofgem's proposals to remove the requirement for industry claims to relate only to those regions where the failed supplier had customers. Socialising the costs of industry claims across all geographic areas provides a much fairer outcome for consumers. However, we understand there are some issues with respect to independent Distribution Network Operators (iDNOs) who have to reflect the host DNO costs, but because of rules under the Distribution Connection Use of System Agreement (DCUSA) they are unable to make changes to their charges without giving at least 15 months' notice. This issue needs to be resolved.
7. With respect to honouring credit balances: without full access to billing and payments information, including the debt book, we do not believe an SoLR could ensure that the correct

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https://www.ofgem.gov.uk/system/files/docs/2018/06/180611_supply_licensing_review_open_letter_for_publication.pdf

amount of credit is paid to the correct customers. We note from lessons learned by Co-op Energy as SoLR for GB Energy (which were shared with members of Energy UK and Ofgem), actual customer credit balances can only be calculated if the administrator agrees to hand over customer data. Co-op Energy achieved this by purchasing the debt book: however, there is no obligation for an administrator to make this available to an SoLR. We acknowledge it is not in Ofgem's powers to force an administrator to hand over a debt book; that would require a change in law. We recommend, therefore, that Ofgem should work with the Government to ensure an administrator of a failing energy supplier is required to provide the debt book to the SoLR.

8. Where a business has become insolvent before the debt book can be purchased, an SoLR would not have sufficient information to honour credit balances. Ofgem needs to allow for this in its processes and accept this fact.
9. Ofgem states that it would expect suppliers to claim the costs of honouring credit balances from the administrator wherever possible. Co-op Energy again found this a difficult process and need to use an "*arcane legal route*". It is probable that an SoLR would only be able to recover a small percentage of the outstanding credits from an administrator, and recovering even that amount could take a number of years. While a supplier could, eventually, make a claim for a Supplier of Last Resort Payment, in the meantime it would have incurred significant costs in maintaining customer communications, liaising with administrators, tracing customers who had moved address, etc. Those expenses represent lost investment opportunities and potentially could put the SoLR itself at jeopardy; there is not even any guarantee that Ofgem would approve any claim that was subsequently made.
10. The SoLR process, as it exists, is not an attractive proposition for suppliers, particularly those with more than 250,000 customers. The failed supplier was probably not large enough to be obligated under government schemes such as the Energy Company Obligation and Warm Home Discount and is likely to have offered very cheap prices into the market, which an SoLR is unlikely to be able to maintain in the medium to long term. There is therefore likely to be a high churn rate. There will be increased call demand in the early days from customers wanting to understand how they will be affected by being taken over by the SoLR and there will be many questions the SoLR will be unable to answer easily, not having details of customers' histories. The cost of acquiring these customers can therefore be more expensive than other acquisition methods and the customers may not stay for as long as a customer acquired through a fixed term contract. There are likely to be very high additional servicing costs for a short period and it is likely, as has been the experience of the two most recent SoLRs (Co-op Energy and Green Star Energy), that performance statistics will suffer significantly, possibly deterring customers from switching to the SoLR via normal acquisition routes.
11. We understand that Ofgem will be consulting on its review of licensing arrangements for suppliers by late summer. We hope this will include a full review of the SoLR process to enable a full and thorough discussion, with the aim of developing better ways of dealing with supplier failures.