

**NOTICE OF DECISION TO IMPOSE A FINANCIAL
PENALTY PURSUANT TO SECTION 30A(3) OF THE GAS
ACT 1986 AND 27A(3) OF THE ELECTRICITY ACT 1989**

Date: 9 April 2020

Decision of the Gas and Electricity Markets Authority to impose a financial penalty, following an investigation into Ovo Gas Limited and Ovo Electricity Limited (collectively referred to as “Ovo”) and its compliance with its obligations under the gas and electricity supply licences (Standard Licence Conditions 31A, 25C/0, 22C (31I), 26, 27 and 28A).¹

1. Summary

- 1.1. Ovo has admitted systems and compliance failings that resulted in the majority of its customers receiving inaccurate or incomplete information. This was hard for customers to detect, and led to multiple instances of customers being over or under-charged. Although Ovo was aware of these failings, it did not self-report the majority of the issues uncovered by Ofgem’s investigation. The Authority concludes that Ovo failed, as it grew, to develop a culture of compliance with regulatory requirements. The Authority welcomes Ovo’s admission and correction of these breaches, the compensation paid, and the investments Ovo has made to ensure compliance in the future.
- 1.2. The Gas and Electricity Markets Authority (“the Authority”) has decided to impose a financial penalty on Ovo Gas Limited and Ovo Electricity Limited (“Ovo”) following an investigation by the Authority into Ovo’s compliance, in the context of its domestic supply business, with a number of relevant conditions and requirements set out in the Standard Licence Conditions (“SLCs”) of Ovo’s gas and electricity supply licence. The SLCs set out the rules on how Licensees must operate within the terms of their gas and electricity supply licences.

¹ The SLCs considered within this Notice have similar wording in the Gas and Electricity Supply Licences and are interpreted by the Authority in a consistent manner. In this document, a reference to an SLC by number refers to the identical condition in both licences. All terms used in this Notice are deemed to have the same definitions as those in the Electricity and Gas Supply Licences, unless indicated otherwise.

1.3. The Authority found that Ovo breached the following licence conditions:²

- SLC 31A.9(b),(c) and (d): this SLC relates to cost and consumption information provided to customers on their annual statement. The Authority found that this SLC was breached between July 2015 and February 2018.
- SLC 31A.9: this SLC obligates licensees to provide customers with an annual statement once per year. Ovo failed to send annual statements to its white label and prepayment (“PPM”) customers. The Authority found that this SLC was breached between April 2015 and December 2018.
- SLC 31A.2(c), (d) and (e): this SLC requires licensees to provide cost, consumption and savings information on bills, annual statements and statements of account. Ovo failed to upload a seasonal weighting co-efficient that led to the issue of documents that contained inaccurate information. The Authority found that this SLC was breached between October 2016 and June 2017.
- SLC 22C.3(viii) and (ix): this SLC requires licensees to provide cheapest tariff messaging on a Statement of Renewal Terms (“SoRT”). As Ovo had failed to upload the seasonal weighting co-efficient it impacted on the cheapest tariff messaging customers received on their SoRT. The Authority found that this SLC was breached between September 2016 and June 2017.
- SLC 22C.4(a) to Feb 2019 (SLC 22C.3 and SLC31I.1 from Feb 2019): this SLC required licensees to send a SoRT between 42 and 49 days before a fixed term tariff was due to end. Ovo failed to send SoRTs for some customers and they remained on their historic tariff rate. As such, the Authority found that SLC 22C.4 was breached between May 2015 and 30 September 2019 and SLC 31I was breached between February 2019 and 30 September 2019.
- SLC 27.18: This SLC requires licensees to provide customers with a corrected final bill within a reasonable amount of time after becoming aware of the need for a

² “Relevant condition” has the meanings set out in section 28(8) of and in Schedule 4B to the Gas Act 1986, and in section 25(8) of and in Schedule 6A to the Electricity Act 1989.

correction. The issues with the seasonal co-efficient impacted the accuracy of final bills of customers who left supply during a specific period and Ovo took, in the Authority's view, an unreasonable amount of time to correct the issue after becoming aware of it. The Authority found that this SLC was breached between March 2017 and July 2018.

- SLC 27.17: this SLC requires licensees to provide final bills to all customers including prepayment ("PPM") customers within 6 weeks of leaving supply. Ovo did not issue final bills to its PPM customers as it did not have the functionality within its billing system to do so. The Authority found that this SLC was breached between November 2013 and January 2020.
- SLC 28A1-3: this SLC relates to the PPM price cap which obligates licensees to cap the maximum charge it can levy for energy. The formula for calculating the maximum charge takes into account, among other things, geographical location. There were PPM customers on the periphery of location boundaries who were charged incorrect tariff rates for their geographical location. There were also PPM customers who had not received a SoRT at the end of their fixed term and remained on historic tariff rates above those permitted by the cap. The Authority found that this SLC was breached between April 2017 and October 2019.
- SLC 22C.8: this SLC requires licensees to issue a SoRT within a specified period before a fixed term tariff expires and thereafter move customers onto the tariff of their choice or the relevant cheapest evergreen tariff. After receiving their SoRT some PPM customers had experienced a SoRT failure. They were not moved onto their tariff of choice or relevant cheapest evergreen tariff. The Authority found that this SLC was breached between August 2014 and 30 September 2019.
- SLC25C/0: this is the Standards of Conduct and relates to how licensees deal with customers. In particular Ovo provided its customers with incorrect information and did not act promptly to rectify mistakes. The Authority found that this SLC was breached between August 2014 and 30 September 2019.

1.4. Ovo has admitted that it breached the licence conditions as set out above. Ovo made improvements to its practices during the course of the investigation and ended the

majority of the breaches while the investigative phase was ongoing. Ovo committed to rectify the issues with the SoRT breaches and implement ongoing fixes by 30 September 2019 and this was achieved. Ovo also committed to start issuing PPM final bills by mid-January 2020.

- 1.5. The scope of the investigation included SLC 26 which sets out the requirements of the Priority Services Register ("PSR"). The Authority made no finding of breach in respect of this SLC.
- 1.6. The Authority took into account Ovo's co-operation with the investigation, its willingness to settle the investigation and make a voluntary redress payment into a fund approved by the Authority. The Authority also noted the progress Ovo had made during the course of the investigation to identify customers who had suffered detriment and to provide refunds and compensation as appropriate. Had Ovo not taken such steps the penalty in this investigation would have been significantly higher.
- 1.7. The Authority considered that a voluntary redress payment would be of more benefit to consumers than the imposition of a financial penalty. Accordingly, the Authority considered it appropriate to impose a financial penalty of £2³ provided Ovo pays the sum of £8,876,500 (less £2) in voluntary redress. If Ovo had not agreed to make these payments the Authority would have considered it appropriate to impose a higher penalty.
- 1.8. The Authority takes the breaches set out above very seriously. It was evident from the investigation that Ovo failed to take its regulatory obligations seriously and deprioritised dealing with breaches as and when they were discovered. Additionally, it was also evident that Ovo did not have sufficient policies, procedures and governance in place to ensure the timely identification of issues. This led to issues not being contained and they then spread into other areas resulting in further regulatory breaches and more detriment to customers. The Authority found this approach to regulatory compliance unacceptable.
- 1.9. Applying the criteria in section 3 of this Notice, the Authority considered it appropriate to issue a penalty for the contraventions. The penalty takes into account all the breaches and

³ Penalty of £1 per licensee

their respective breach periods as set out above. In determining the amount of the penalty, the Authority took into consideration the factors set out in section 4 of this Notice. The Authority considered the penalty to be reasonable in the circumstances of this case.

1.10. In these circumstances the Authority hereby gives notice under s27A(3) of the Electricity Act 1989 and s30A(3) of the Gas Act 1986 of its decision to impose a penalty of £2 on Ovo in respect of the contraventions set out above. This is subject to Ovo paying £8,876,500 (less £2) into the Voluntary Redress Fund.⁴ These payments are to be made by 31 May 2020.

2. The Authority's Decision on the Contraventions

2.1. The Authority considered the evidence gathered during the course of the investigation in coming to its decision. The Authority is satisfied that Ovo committed the following breaches:

- Breach 1 relates to the accuracy of information presented in annual statements. In particular cost, consumption and savings information. Ovo provided incorrect information to its customers (SLC31A.9(b),(c) and (d)).
- Breach 2 relates to providing customers with an annual statement once in a 12 month period. Ovo failed to achieve this for their white label and PPM customers (SLC31A.9).
- Breach 3 relates to cost, consumption and savings information provided to customers on their bills, annual statements and statements of account. Due to

⁴ The Authority's Voluntary Redress Fund was established on 24 August 2017. The Voluntary Redress Fund ingathers and distributes funding in the consumer interest. Further details are available at <https://www.ofgem.gov.uk/publications-and-updates/ofgem-appoints-energy-saving-trust-distribute-payments-rule-breaking-energy-companies-charities>

issues with seasonal co-efficients Ovo provided customers with inaccurate information in this respect (SLC31A.2 (c),(d) and (e)).

- Breach 4 relates to the fact that the seasonal co-efficient issue had an adverse effect on the cheapest tariff messaging contained on SoRTs (SLC 22C.3(viii) and (ix)).
- Breach 5 relates to the fact that Ovo failed to issue credit customers SoRTs within specified timeframes and these customers remained on historic tariff rates (SLC 22C.4(a) to February 2019, SLC 22C.3 and SLC31I.1 from February 2019).
- Breach 6 stems from the seasonal co-efficient issue. Some customers who left supply were final billed to an estimate that was generated using the incorrect seasonal co-efficient. This meant that some customers were undercharged and others overcharged. Ovo did not correct these accounts in a reasonable period of time (SLC 27.18).
- Breach 7 relates to the fact that Ovo did not have the functionality to issue a final bill to its PPM customers (SLC 27.18).
- Breach 8 is partly linked to the SoRT issues. Some PPM customers remained on historic tariff rates that were higher than the maximum permitted by the PPM price cap at the end of their fixed term tariff. Other customers were charged more than the permitted maximum for their geographical location due to being incorrectly assigned to the wrong geographical region (SLC 28A1-3).
- Breach 9 is also related to the SoRT issues. Some customers received a SoRT but thereafter did not move onto the default tariff or tariff of their choosing and instead remained on their existing (historic) tariff rate (SLC 22C.8).
- Breach 10 relates to the Standards of Conduct. This breach is linked to the other breaches where there was evidence of Ovo providing customers with incorrect information and also where it did not act promptly to rectify mistakes (SLC25C/0).

Breach 1 – SLC 31A.9(b), (c) and (d) - Inaccurate Annual Statements (July 2015 to February 2018)

- 2.2. Under SLC 31A.9 a licensee is required to provide its customers with an annual statement (“AS”) containing information such as tariff information, annual consumption details and estimated annual costs. Additionally, a graph, diagram or other infographic was required that displayed information about a customer’s consumption.
- 2.3. On examination of the evidence the Authority found that between July 2015 and February 2018 Ovo did not comply with the requirements of SLC31A.9.
- 2.4. A review of the evidence revealed that Ovo had issues producing accurate annual statements during this period. Initial problems began in July 2015 with incorrect tariff rates and contract end dates. As a result, the sending of annual statements was withdrawn until the problems were addressed. In January 2017 a further problem was identified with the Annual Statement Annual Consumption Calculation but it was not fully rectified.
- 2.5. In April 2017 a customer complained about the consumption information in their annual statement and suggested it may have been a widespread issue. Ovo did not conduct any further analysis on other customer accounts. The issue was also not escalated for a more thorough investigation despite it being a known problem.
- 2.6. In September 2017 Ofgem received a customer complaint about the issue. Ofgem’s compliance team requested further information on the matter and in October 2017 the issue was escalated to Ovo’s senior management. The issue was traced back to an IT error. Consumption was calculated using invoice data and was being incorrectly allocated into the wrong quarters or not allocated at all leading to both under and overcharging. Ovo confirmed in February 2018 that over 500,000 credit customers had received at least one incorrect annual statement. Thereafter a sample of 370,000 annual statements revealed 77% displayed consumption that was too low and 22% displayed consumption that was too high.
- 2.7. The evidence also showed that Ovo had no record of decision making in respect of the issue, who it was escalated to and why the issue was not fully addressed on detection or

when the customer complained about it. The issue was also not properly escalated to Ovo's compliance team. The evidence also showed that Ovo failed to conduct a review of the requirements of SLC31A until November 2017, which was after Ofgem's compliance team had initiated enquiries. Ovo also did not self-report this issue to the Authority.

2.8. The Authority noted Ovo deployed a permanent fix to the problem in February 2018, effectively ending the breach. The Authority considers that the provision of incorrect information to customers may have led to some customers making incorrect switching decisions, both in terms of customers who switched away from Ovo and those who decided to remain.

2.9. The issue stems from not having suitable policies, procedures, processes and governance to ensure regulatory compliance; that includes not only suitable management oversight but also compliance oversight. Regulatory compliance must be considered in all areas of the business, regardless of the size of the business or its stage of development. The Authority did not consider it was reasonable for Ovo not to build in suitable regulatory compliance arrangements to ensure a core function was discharged correctly; nor to fail to act when it was evident the issue was leading to inbound customer contact. The Authority therefore viewed this breach as serious.

Breach 2 – SLC31A.9 – Failure to provide annual statements to PPM and white label customers

2.10. As outlined above, SLC31A.9 required licensees to provide their customers with an annual statement once per year.⁵ At the start of the investigative phase,⁶ the Authority found evidence that Ovo had not sent any annual statements to its PPM and white label customers. There was historic evidence that attempts had been made to send annual statements to white label customers, however, there were issues that led to a suspension of this activity. When asked to explain why the documents were not being

⁵ The version of SLC31A.9 that was in force at the time stated "The licensee must provide to every Domestic Customer at least once in respect of every 12 Month Period at the Relevant Time a Written document (hereafter referred to as an "Annual Statement") which has the title "Your Annual Electricity Summary" and which, subject to the requirements of Schedule 4 of this standard condition and without prejudice to the SLC 31A Exempt Information, only contains the following information.....".

⁶ The issue was explored in Information Requests 1 and 2

issued, Ovo stated that it did not have the IT functionality to produce PPM and white label statements. Ovo did, however, state it was addressing the matter.

2.11. Ovo explained that it hoped to send the first PPM and white label statements in May 2018. However, due to complexities within the billing system and competing demands for resource, the annual statement production was delayed. The first white label annual statements were sent in November 2018 and the first PPM annual statements in December 2018.

2.12. Ovo revealed that in excess of 580,000 PPM and 63,000 white label annual statements were never issued between April 2015 and December 2018. The Authority considers this to be the breach period. Ovo's failure to issue annual statements to PPM and white label customers resulted in customers not receiving a particular switching prompt for a considerable period of time. Ovo may have gained by retaining some of these customers who may otherwise have switched; and also saved the costs associated with the production of the annual statements that were never issued.

2.13. The Authority did not accept that resourcing constraints was an acceptable excuse for deprioritising the rectification of this issue. Compliance with SLCs is a requirement for a licensee to engage in licensable activities and is not optional. It is for a licensee to ensure that it has adequate resources in place to achieve full regulatory compliance. It is also for licensees to determine that its systems and processes are fit for purpose and that purpose includes compliance with SLCs. Ovo chose an IT system that did not contain functionality to produce documents that were mandatory and deferred the costs of full regulatory compliance.

Breach 3 – SLC31A.2(c),(d) and (e) – Winter estimation issue; inaccurate bills, annual statements and statements of account

- 2.14. SLC31A.2⁷ specified information that is to be included in bills, annual statements and statements of account. This includes a customer's annual consumption details, estimated annual costs and information on cheapest tariffs and associated savings.
- 2.15. Suppliers commonly apply a seasonal weighting to any bills produced that are not based on actual meter readings. In essence suppliers assume that customers will use more energy in winter than in summer and estimate consumption accordingly. This information is used to invoice a customer account and produce a bill.
- 2.16. Due to a human error, Ovo failed to load seasonal weightings past September 2016. The September 2016 weighting was then repeated for each subsequent month until the issue was detected in March 2017. The issue was detected when invoice amounts did not match settled costs. In March 2017 Ovo uploaded the updated co-efficients and conducted an impact analysis that was completed in June 2017. Ovo stated 1.35m bills and around 650,000 statements had been impacted by this issue and were incorrect. As a result customers had been both over and undercharged.
- 2.17. In June 2017 Ovo had completed initial remedial action and it is at this point the Authority considered the breach ended. To rectify the situation Ovo decided that it would write off undercharging for customers who had left its supply and sub £100 undercharging for customers still on supply. Ovo decided to rebill existing customers who had been undercharged more than £100. Ovo also started issuing refunds to overcharged customers. Ovo did not impermissibly backbill⁸ any customers.
- 2.18. However Ovo decided to not proactively issue refunds/credits⁹ below £10 for any past or present customers. Ovo explained that it did not believe it was an efficient use of resources to process 120,000 small value refunds/credits. Ovo proposed to use the monies to write off debts of former customers. At that point the total residual amount

⁷ This SLC was removed on 11 February 2019. The prescriptive format of a number of communications was discontinued at this point and a principles based approach to customer communications was introduced. Further information on this is available via the following letter:
https://www.ofgem.gov.uk/system/files/docs/2018/12/final_decision_-_customer_communications_rule_changes.pdf

⁸ For further information on backbilling and associated rules see
https://www.ofgem.gov.uk/system/files/docs/2018/03/backbilling_final_decision_policy_document_-_march_5_-_website.pdf

⁹ A credit to a customer account would apply where the customer is still on supply. It could also apply for former customers who still have a debit balance on their account.

was in the region of £310,000. Ovo did later start issuing refunds to customers who requested it and by July 2019 this figure had reduced to around £290,000. Ovo did not carry out any analysis to determine what impact their decision to withhold these refunds/credits would have on their customers.

2.19. Ovo also did not issue any corrected historic annual statements. The Authority noted that at that late stage the corrected documents would have been of little value to customers and so did not criticise Ovo's decision in this regard.

2.20. Ovo's failure to issue accurate documents may have resulted in some customers making decisions to switch or remain with Ovo based on inaccurate information. These customers may have suffered detriment in missed savings opportunities. Ovo may have gained by retaining these customers. Ovo also saved the costs associated with the production of the annual statements that were never issued.

2.21. The Authority was particularly concerned that Ovo did not issue sub £10 refunds, even when significant numbers of customers due a refund were still on supply and the amount could be credited to their account. These monies did not belong to Ovo but to the customers impacted by Ovo's mistake. However the Authority noted that Ovo wrote off debt of customers who had underpaid and so did not seek to recover those lost revenues. Despite this action, the Authority viewed this as particularly serious.

Breach 4 – SLC22C.3(c)(viii) and (ix) – SoRTs containing incorrect cheapest tariff messaging

2.22. SLC22C.3¹⁰ states the information that is to be included in a customer SoRT. This includes cost, savings and tariff information. During the course of the investigation Ovo was asked if SoRTs contained incorrect estimated annual costs or any incorrect

¹⁰ This SLC was amended on 11 February 2019. The version in force at the time stated:
"The licensee must prepare a statement (hereafter referred to as an "SLC 22C Statement of Renewal Terms") which:
(c) without prejudice to SLC 22C Exempt Information only contains the following information:(viii) the Exact Tariff Name of the Domestic Customer's Relevant Cheapest Tariff and the Domestic Customer's Estimated Annual Savings based on the premise that the Domestic Customer is now subject to either the Relevant Cheapest Evergreen Tariff or a Relevant Fixed Term Default Tariff, as applicable; and
(ix) the Exact Tariff Name of the Domestic Customer's Alternative Cheapest Tariff and the Domestic Customer's Estimated Annual Savings based on the premise that the Domestic Customer is now subject to either the Relevant Cheapest Evergreen Tariff or a Relevant Fixed Term Default Tariff, as applicable;....."

information regarding the Customer's Estimated Annual Costs in the event that the customer became subject to either the Relevant Cheapest Evergreen Tariff or a Relevant Fixed Term Default Tariff. At that stage Ovo indicated it believed both these areas had been impacted but it had been unable to quantify that impact. Following this admission the scope of the investigation was widened to include SLC22C.

2.23. Following the scope widening, Ovo revealed that it had been aware of this issue since January 2018, as it had been confirmed in an audit. Senior management had been informed but the issue was not self-reported to Ofgem. Ovo investigated the issue further and stated that the Estimated Annual Cost fields of the SoRTs were correct but that the cheapest tariff messaging (CTM) was not. The CTM was incorrect as it relied on invoice data that had been impacted by the winter estimation issue.

2.24. Ovo stated that around 160,000 customers were shown incorrect cheapest tariff messaging and associated savings information on their SoRTs. Ovo did not issue any corrected SoRTs to replace those issued at the time. The Authority noted that at that late stage the corrected documents would have been of little value to customers and so did not criticise Ovo's decision in this regard.

2.25. The Authority considered that the duration of this breach was the same as the winter estimation issue; September 2016 until June 2017. Following the uploading of the correct co-efficients the breach was rectified and accurate information issued to customers.

2.26. Again, Ovo's failure to issue accurate documents may have resulted in some customers making decisions to switch or remain with Ovo based on inaccurate information. These customers may have suffered detriment in missed savings opportunities. Ovo may have gained by retaining some customers who would have otherwise switched away.

Breach 5 – SLC22C4.(a)11 (SLC22C.3 and SLC31I.1 from Feb 2019) – failure to issue SoRTs

¹¹ This SLC was in force until February 2019 but was superseded by a newer version of SLC 22C and the new SLC31I from February 2019. The version of SLC22C referred to stated: "22C.4 The licensee must: (a) provide a Domestic

- 2.27. During the course of the investigation Ovo provided information on its billing system. Within this was information on known issues that were being addressed. This identified an issue whereby some credit customers had not received a SoRT at the end of their fixed term agreement and had thereafter remained on their historic tariff. The issue was caused by missing end of contract dates in the system and thus there was no prompt to issue a SoRT at the appointed time. The evidence indicated that Ovo was aware of the issue and was addressing it.
- 2.28. Ovo provided further information that indicated the issue had been ongoing since May 2015¹² and that approximately 10,000 customers had been impacted. Around 3,000 customers had been overcharged by a total of circa £267,000 and around 7,000 customers had been undercharged by around £687,000. Ovo had identified the cause of the issue and proposed to rectify it and the customer accounts by December 2018. Overcharged customers had the overcharge refunded, undercharged customers had the undercharge written off. All customers were also issued a SoRT and placed in a switching window. Ovo also wrote to undercharged customers to explain the issue and the amount of undercharging. Whilst the lowest amount of overcharge was 1p the highest amount was in excess of £4,500. Ovo also confirmed that it had not issued any compensation to impacted customers.
- 2.29. The date for the permanent fix slipped from December 2018. Ovo also identified a further 2,700 accounts had been impacted. Ovo explained the reason for the delay was the supplier of last resort ("SoLR") activity, whereby it had acquired former Spark and Economy Energy customers. It was also delayed due to developing measures to comply with the requirements of Switching Compensation.
- 2.30. The Authority was concerned that the rectification had been delayed and that further customers could be impacted by the issue if it was not fully rectified. In July 2019 Ovo

Customer with a copy of the SLC 22C Statement of Renewal Terms which complies with paragraph 22C.3 no earlier than 49 days and no later than 42 days before the fixed term period of their Fixed Term Supply Contract is due to end;...."

¹² The Authority requested further information on this issue in November 2018.

provided a commitment to rectify the issue by September 2019, which it fulfilled, thus ending the breach.

2.31. The failure to issue SoRTs to these customers meant that these customers missed a switching prompt and were held on historic tariff rates. This led to both under and overcharging and these customers were not able to access the available tariffs when their switching window should have opened. Undercharged customers may have suffered bill shock when they eventually moved onto an available tariff. Overcharged customers were denied the benefits of the disposable income that should have been available to them at that time. The failure to rectify at the time also meant the overcharge amount increased until Ovo thereafter rectified the issue and the accounts.

2.32. The Authority did not accept Ovo's explanation for the delay in rectifying the issue and found it unacceptable that a known issue causing detriment to customers was allowed to continue for over four years. No analysis was conducted to ascertain how a delay in issue rectification was affecting customers. For example, to ascertain if customers were in debt, in payment difficulty or vulnerable.

2.33. The issue was known at the time Ovo submitted their SoLR bids. The matter also became the focus of an investigation and was still allowed to continue without reasonable justification. Licensees must have adequate resources to comply with all SLC requirements at all times, and should not offer themselves as a SoLR if they are not in a position to act as one without jeopardising compliance with other regulatory obligations.

Breach 6 – SLC 27.18 – delayed final bills

2.34. During the course of evidence gathering for breach 3 it became apparent that some of the bills impacted by the winter estimation issue were final bills. The issue occurred when customers leaving supply were final billed using an estimated read. When the case was widened in September 2018 it was widened to include SLC 27 in respect of final bills. Specifically SLC 27.18 stipulates that a licensee must issue a corrected final bill as soon as reasonably practicable after information becomes available to correct an error.

2.35. Once the case was widened the Authority gathered information to ascertain the volume of impacted final bills, the levels of over and undercharging involved and how long it

took Ovo to rectify the issue. Around 36,000 final bills had been impacted. In the region of 4,500 customers had been overcharged a total of around £205,000, an average of approximately £45 per customer. Analysis revealed that it took Ovo, on average, 460 days to detect the error and issue any refunds, if applicable. Undercharged customers had the amount written off. Over 90% of this corrective action took place between June and July 2018. Ovo did not issue any compensation to affected customers.

2.36. The Authority considered that over one year was an unacceptably long time to issue a corrected final bill. Ovo was aware in March 2017 that winter estimation had impacted bills, including final bills, but took no action to rectify the situation. Steps taken to address this issue were taken long after the investigation was initially opened and evidence was gathered about the extent of the impact of the winter estimation issue. The delay in rectifying the matter meant that customers due a refund had to wait a long time for the monies that were owed to them. Undercharged customers may have suffered bill shock when they moved supplier, as their consumption may have been more than they originally thought.

2.37. Ovo issued refunds to customers, however, it did not issue any corrected final bills. Whilst SLC 27.18 requires a licensee to issue a corrected final bill as soon as reasonably practicable, the Authority noted that a significantly delayed final bill was of little value to a former customer. Therefore the Authority proposed to treat the breach as having ended in July 2018, when the last refund/credit was issued and customer detriment thereafter ceased. The Authority also noted that Ovo made a cost saving by not issuing corrected final bills, and has reflected this when estimating gain and detriment in paragraph 4.15 below

2.38. The delay in rectifying the issue was again of concern to the Authority. The issue was a known issue at the point the investigation was opened. Rectification activities took place when evidence was being gathered about the nature and extent of the winter estimation issue. This was an issue known to Ovo before the investigation was opened, but Ovo delayed dealing with it without reasonable excuse. This delayed action was detrimental to customers and the Authority viewed this as serious.

Breach 7 – SLC27.17 – failure to issue final bills to PPM customers

2.39. SLC27.17 states that when a customer changes supplier or terminates a contract a licensee must take all reasonable steps to send a final bill within 6 weeks of the termination of the contract or supplier transfer.

2.40. During the course of the investigation Ovo was asked to provide an update on progress on its efforts to produce final bills for PPM customers. At this point Ovo admitted it was unable to produce final bills for its PPM customers and that this functionality did not exist within its billing system. Ovo had never issued a PPM final bill. Ovo explained that it had grown rapidly since entering the market in 2009 and that a decision had been made by senior management to deprioritise issuing PPM final bills.¹³ Ovo's approach was based on its opinion that a historic bill to a customer who has paid in advance was of almost no practical use or benefit to the customer, and Ovo's desire to focus on developing its PPM proposition, which it considered to deliver more meaningful benefits for those customers. Ovo stated that PPM final bill functionality would be delivered in Q1 2019. Ovo stated that it could produce a PPM final bill on demand, if a customer requested it, but that it received very few such requests from PPM customers for final bills and therefore argued that customers generally consider them to be unnecessary and of no practical use. Ovo did however acknowledge that it was an SLC requirement. Ovo stated that there had been around 584,000 PPM final bills that had never been produced for customers.

2.41. Ovo did not meet the Q1 2019 deadline for implementing PPM final bills and cited difficulties attributed to the SoLR acquisition of customers. Ovo then revised the timeline to the end of Q2 2019. The Authority was concerned that the rectification of another ongoing breach had been deprioritised and that resource constraints had again been cited. Ovo thereafter committed to rectify this by the end of 2019.

2.42. The Authority did not accept Ovo's argument that PPM final bills are unnecessary. Further evidence obtained in the course of the investigation revealed a separate issue whereby tariffs had not been updated on some PPM meters and that consumption was being charged at an incorrect rate leading to under and overcharging. This had impacted 3,400 customers. Such an inconsistency would be detected if a customer was leaving

¹³ This has also included white label final bills but this issue was rectified in November 2018

supply and the credit applied to an account did not match consumption. This would be evident if a final bill had been produced and provided to a customer.

2.43. A final bill provides reassurance to a customer that their account has been settled in full. It can also provide a prompt for a customer to contact their supplier if there has been an issue on the account. A billing error may also lead to a complaint if that customer is unhappy with the situation. Final bills also provide valuable information on tariff and consumption. Ovo failed to provide this information to customers despite it being mandatory. Compliance with license conditions is not optional and licensees must comply with all obligations. Should a licensee disagree with the need for an obligation it can raise that with the Authority and request that it be changed.

2.44. The Authority was also concerned that the rectification of this issue was repeatedly deprioritised, particularly in the full knowledge it was a matter in scope of the current investigation. The Authority viewed Ovo's attitude to an ongoing non-compliance issue as serious.

Breach 8 – SLC28A1-3 – Failure to comply with the PPM price cap

2.45. SLC28A1-3 obligates licensees to adhere to the prepayment charge restriction between 1 April 2017 to 31 December 2020. Essentially this means that there is a maximum charge that can be levied for energy. This maximum charge varies by geographic region.¹⁴

2.46. In April 2019 Ovo submitted a compliance report to the Competition and Markets Authority (CMA) to advise that it had breached the PPM price cap. Ovo reported that around 600 customers had been charged above the level of the cap from 1 April 2019. The root cause of the breach was traced back to an incorrect application of historic tariff rates and a regional mismatch issue, whereby customers were assigned to the wrong geographical region for the purposes of the PPM cap.

¹⁴ For further information see <https://www.ofgem.gov.uk/gas/retail-market/market-review-and-reform/implementation-cma-remedies/prepayment-meter-price-cap>

- 2.47. The issue was similar to the SoRT issue, where credit customers remained on their historic tariff rates. The PPM price cap breach was discovered whilst Ovo were rectifying this. Ovo discovered some PPM customers had not received a SoRT and remained on tariff rates higher than those permitted by the PPM price cap. Ovo initially identified 60 customers who fell into this category. Ovo did not inform Ofgem at this time.
- 2.48. The PPM price gap assigns maximum levels of gas and electricity charges based on regions aligned to electrical grid supply points. Ovo's billing system, however, aligned electrical tariffs with electrical regions and gas tariffs with gas local distribution zones instead of the electrical grid supply points. This resulted in around 550 customers being incorrectly charged above permitted levels.
- 2.49. In June 2019¹⁵ Ovo revised the number of impacted customers from 600 to 1400. This then rose to 15,900 customers and an overcharge of around £184,000. In July 2019 Ovo stated that 9,500 former Spark PPM customers had been affected by the regional mismatch issue, due to separate issues within the Spark system that existed prior to Ovo being appointed the SoLR for Spark Energy. This resulted in the total overcharge rising to £211,000.
- 2.50. Ovo then embarked on a program of refunds and compensation for impacted customers and steps to rectify the root cause. Ovo committed to fix the root cause on both the SoRT and regional mismatch issues by 30 September 2019. Ovo thereafter provided an update on 1 November 2019 stating that 6 Boost customers' accounts had been fixed on 2 October 2019 and would be refunded and compensated for any overcharging. Ovo also stated that it had identified a further circa 3,300 Boost customers who had been impacted by the regional mismatch issue. These customers had not been discovered previously due to an assumption about regional settings on traditional meters that later was found to be incorrect. Ovo rectified the issue on 14 October 2019 and committed to refund and compensate impacted customers by the end of November 2019. The Authority considered the breach ended when the issue was rectified on 14 October 2019.

¹⁵ This was when Ofgem was informed of the issue

2.51. The Authority considered this breach to be serious. The PPM price cap was introduced to protect customers, particularly vulnerable customers, from paying too much for their energy. Ovo's failure to ensure the PPM price cap was applied correctly resulted in financial detriment to the very customers it was designed to protect.

Breach 9 – SLC22C.8 – SoRT failure

2.52. SLC22C.8¹⁶ requires licensees to place customers on their relevant cheapest evergreen tariff or relevant cheapest fixed term tariff at the end of a fixed term period, if the customer does not indicate they want to move onto another tariff or supplier.

2.53. Following discovery of the PPM price cap issue, further information indicated the PPM SoRT issue had pre-dated the introduction of the PPM price cap. This resulted in around 7,800 customers being overcharged. This issue was separate from the other SoRT issues, as these customers had been sent a SoRT, however, Ovo had failed to move these customers onto the cheapest default tariff or tariff of their choice at the end of their fixed term period. Instead these customers remained on their existing tariff.

2.54. As a result these customers were overcharged by around £750,000 between August 2014 and 31 March 2017. However fluctuations in prices also meant almost 6,000 customers had been undercharged by £525,000 in the same period. Therefore the net overcharge was around £225,000.

2.55. When Ovo rectified the underlying SoRT root cause issues the breach effectively ended. This was achieved by 30 September 2019.

¹⁶ The version in force at the time stated:

"Without prejudice to paragraph 22C.2 of this condition and paragraph 24.9 of standard condition 24, if at the end of any fixed term period the licensee continues to supply a Domestic Customer, it must do so on the basis of:

- (a) the Relevant Cheapest Evergreen Tariff or a Relevant Fixed Term Default Tariff which is provided for by the terms of the Fixed Term Supply Contract in accordance with paragraph 22C.7;
- (b) a new Evergreen Supply Contract which has been entered into with the express agreement of the Domestic Customer;
- (c) a new Fixed Term Supply Contract which has been entered into with the express agreement of the Domestic Customer and which complies with standard condition 22C; or
- (d) a further fixed term period in relation to an existing Fixed Term Supply Contract in circumstances where that Fixed Term Supply Contract and that further fixed term period complies with standard condition 22C."

2.56. The issue resulted in customers being incorrectly charged for prolonged periods of time. The Authority considered this to be a serious failing on Ovo's part.

Breach 10 – SLC25C/0 – Standards of Conduct (SoC)

2.57. SLC 25C (Domestic Consumers) was introduced on August 2013 and was replaced by SLC 0 on 10 October 2017. SLC 25C required a licensee to take all reasonable steps to achieve the Standards of Conduct (SoC) and ensure that it applies and interprets the SoC in a manner consistent with the Customer Objective. In this investigation there are breaches that fall wholly within SLC 25C and SLC 0. There are also breaches that started when SLC 25C was in force and continued when SLC 0 came into force. The breaches fall under two main categories: provision of incorrect information to customers; and failing to promptly and courteously to put things right for customers. Both these areas are linked to other breaches in the investigation.

2.58. The Authority considered that the SoC breach overall started when Ovo failed to rectify the SoRT issues and erroneously held customers on historic tariff rates. The breach ended when the SoRT issues were fully rectified on 30 September 2019. Other breaches and actions committed within this period also breached SoC.

SLC25C

2.59. Under SLC 25C, a Licensee is required to take all reasonable steps to achieve the SoC and ensure that it interprets and applies the SoC in a manner consistent with the Customer Objective. This SLC includes the principle that suppliers treat customers fairly.

2.60. SLC 25C introduced SoC in August 2013. This SLC adopts a principles based approach, which differs from other prescriptive regulations adopted under other SLCs. Ofgem has therefore adopted a bespoke approach to the enforcement of SLC 25C when assessing the supplier's actions and omissions and the seriousness of any breach. Given the fact-sensitive nature of any such enforcement action, the approach adopted to the assessment of Ovo's actions and omissions in this case should not be taken as precedent.

2.61. The approach taken in this investigation reflected the nature of the evidence that Ofgem gathered. The Authority found a broad root-cause systemic failure, with multiple knock-on issues, resulting in customers not being treated fairly. These arose because of Ovo's failure to have systems in place to detect, escalate, prioritise and adequately deal with issues.

2.62. The Authority considered three factors within SLC 25C.5 in assessing whether Ovo breached this provision. These factors are as follows: (1), relevant behaviours (actions or omissions) that infringe the SOC set out in SLC 25C.4 are identified on the evidence as being engaged. (2) consideration is given to whether those identified behaviours were "fair" within the meaning of SLC25C.3. (3) in relation to any identified actions and omissions which were not "fair" within that meaning, it is necessary to establish whether a supplier took "all reasonable steps" to achieve the SoC and that in doing so had interpreted and applied the SoC in a manner consistent with ensuring that each domestic customer was treated fairly.

2.63. The Authority found that the following actions/omissions exemplify how Ovo failed to meet the requirements of SLC 25C.

SLC25C.4(b)(i): Providing inaccurate information

Breach 1 – July 2015 to 9 October 2017¹⁷

Breach 3 – October 2016 to June 2017

Breach 4 – October 2016 to June 2017

SLC25C.4(c)(ii): Failed to rectify mistakes and put things right promptly for customers

Breach 3 – October 2016 to June 2017

Breach 5 – April 2015 – 9 October 2017¹⁸

Breach 6 – March 2017 – 9 October 2017¹⁹

¹⁷ SLC25C was replaced by SLC0 on 10 October 2017 – this breach was ongoing at that point

¹⁸ See footnote 17

¹⁹ See footnote 17

Breach 8 – April 2017 – 9 October 2017²⁰

Breach 9 – August 2014 – 9 October 2017²¹

2.64. The Authority found that Ovo did not comply with the requirements of SLC 25C because:

Stage 1: Behaviours and Fairness.

Providing inaccurate information to customers

2.65. As has been outlined in breaches 1, 3 and 4 Ovo, provided inaccurate information to its customers for a considerable period of time, which is likely to have impacted customers' switching and budgeting decisions. The Authority noted that Ovo refused to thoroughly investigate the annual statement issue when brought to its attention by a customer. This had been a known issue to Ovo since April 2015, but it decided to concentrate its efforts on other areas of the business, even when it was now apparent that it was impacting customers and inbound contact was likely. Ovo took no action to mitigate that risk and instead continued to issue inaccurate information to its customers. Such information is used by customers to make switching decisions and as such some customers were misinformed.

2.66. In the case of the breaches linked to the Winter Estimation issue, the matter was only fully detected when income and expenditure were compared. Ovo did not inform customers of the potential problem and explain what impact it was likely to have had on the information presented to them. Ovo also did not offer any advice to customers on what to do next. Ovo did not have systems, processes and governance in place that identified issues and escalated them for further action, particularly those that indicated potential regulatory non-compliance. Ovo admitted that its processes were ad-hoc and a number of compliance issues were only detected when specific questions or issues were raised and investigated. Ovo's actions were delayed and reactive.

Failed to rectify mistakes and put matters right for customers

²⁰ See footnote 17

²¹ See footnote 17

2.67. The Authority noted a number of issues with Ovo's reaction to the mistakes it had made and the impact it was having on customers. We were concerned with the approach taken in issuing refunds for customers impacted by the winter estimation issue. Whilst Ovo has issued credits/refunds to some overcharged customers, and written off much of the undercharged bills, it has opted not to process sub £10 refunds for customers. Ovo indicated that there was no cut off figure where the processing of the refund would not be cost effective. Ovo then stated it would not be an efficient use of resources to process 120,000 small value refunds and instead wanted to use the residual monies to write off bad debt. Ovo did not consider the benefits to customers the refund or credit would bring. Ovo should have made the effort to return monies to these customers, a large majority of whom were still on supply.

2.68. The Authority was similarly concerned with how Ovo dealt with the SoRT issues. The issues had been known to Ovo for a considerable period of time and had been ongoing since April 2015. Ovo only started to address the issue after the investigation was opened and the full extent of the winter estimation issue was realised. This then highlighted further issues with PPM price cap and SoRTs that had failed. Ovo's actions to address these were delayed, before eventual rectification in November 2019. Ovo stated that it did not have sufficient resource to deal with this other business critical activities. One of the business critical activities cited was the PPM price cap, which was also an area of breach. Ovo also cited needing resource for SoLR activities.

2.69. Ovo was aware that there were billing issues in March 2017 and that included final bills. Ovo took no action to immediately identify impacted customers and issue corrected bills. These corrected final bills would have triggered refunds for overcharged customers. Ovo did not issue refunds until June / July 2018, nor was any interest applied or proactive compensation payments made. The Authority did not consider that this delay was reasonable.

Stage 2: Ovo's actions or omissions did not ensure that customers were treated fairly

2.70. Under SLC 25C.2 the objective of the licence condition is for the licensee to treat each Domestic Customer fairly. SLC 25C.3 provides that a Licensee would not be regarded as treating its customers fairly if its actions or omissions (a) significantly favour the

interests of the Licensee and (b) give rise to a likelihood of detriment to the Domestic Customer.

Ovo's actions and omissions significantly favoured its interests

2.71. We considered that the following actions and omissions exemplify how Ovo would have been significantly favoured in relation to the two SoC breaches:

- Some customers were not provided with accurate consumption information on key communications that could be used to make a switching decision. Therefore some customers may have made decisions to remain with Ovo based on this inaccurate information. Ovo may have gained by retaining these customers.
- Some customers were not provided with any annual statements at all. This information could have prompted some customers to switch away from Ovo. Again Ovo may have gained by retaining these customers.
- Ovo avoided the costs of sending delayed annual statements and corrected final bills to impacted customers. Whilst a very delayed annual statement or corrected final bill is of little value to a customer, there are still the associated costs of producing documents and making them available to customers. Ovo avoided these costs.
- Ovo delayed issuing refunds to customers who had been overcharged by the various issues. By retaining these monies for extended periods of time Ovo benefitted from an improved financial position and had access to monies it should not have retained. A particular example of this was the sub £10 refund pot.

Ovo's actions and omissions gave rise to a likelihood of detriment to its customers

2.72. We considered that the following actions and omissions exemplify how Ovo would have caused detriment to customers in relation to the two SoC breaches:

- Some customers were provided with inaccurate information on bills, annual statements and statements of account. Therefore these customers may have

made switching and/or renewal decisions based on this inaccurate information (which included consumption and cheapest tariff messaging). These customers may have missed out on potential savings that may have been available.

- Some customers did not receive annual statements at all and therefore missed a prompt to switch. Again these customers may have missed out on potential savings that may have been available to them.
- Inaccurate consumption information on communications may have led to customers making poor budgetary decisions, not just in regards to their energy expenditure.
- Undercharged customers may have suffered 'bill shock' when they received a catch up bill for more than £100. In the case of undercharged customers who switched away from Ovo, these customers may have suffered similar bill shock when they received their first bill from their new supplier as it was likely to reflect higher consumption.
- Overcharged customers did not receive refunds in a timely manner. Whilst Ovo pays interest on credit balances, it did not adjust the amount of refund to compensate for this or any other form of interest payment lost as a result of the delayed refund. Some customers were denied the benefit of a punctual return of funds.
- In the case of the PPM price cap breach, vulnerable customers were overcharged. This breach harmed the customers the introduction of the price cap was designed to protect. Overcharging of any vulnerable customer from any of these breaches may have placed these customers in financial difficulty. Some customers may have also found themselves in debt.

Stage 3: Reasonable steps

2.73. The Authority found that in relation to identified actions and omissions which were not fair within the meaning of SLC 25C.3, Ovo did not take all reasonable steps to achieve the SoC or ensure that it interpreted and applied the SoC in a manner consistent with

the Customer Objective. It is not the Authority's role or wish to prescribe appropriate actions but some steps that could have been adopted are described below.

- 2.74. Ovo could have invested more in policies, procedures and processes in respect of billing, annual statements and statements of account. The Authority found that Ovo lacked in these areas. Where relevant policies, procedures and processes were in place, these could have been reviewed more frequently to ensure they were compliant with the requirements of the SLCs. At the very least these should have been reviewed when problems arose or when SLCs were introduced or amended. The failure to adopt this approach meant Ovo did not carry out a documented review on SLC 31A until after this investigation was opened.
- 2.75. The relevant policies, procedures and processes could have been supported by IT systems that also delivered full regulatory compliance. These should have included a PPM final bill capability and annual statement capability for all customers. The availability of this from the outset would have significantly reduced the risk of the breaches that occurred in these areas.
- 2.76. Ovo also could have developed suitable governance procedures that ensured when problems arose they were properly highlighted, escalated and decisions sought and documented both from senior management and the compliance function. The Authority found evidence that the reasons for investigations or root cause analysis were not always properly documented and decisions were not always examined by the compliance function to ensure they remained compliant with SLCs.
- 2.77. Ovo could have invested in sufficient resource to deal with the impact of the failures and maintain business as usual activities. That resource could have been temporary to deal with increased demand, such as the processing of refunds and dealing with the ongoing SoRT issues. In the absence of additional resource Ovo could have allocated existing resource onto dealing with resolving SLC breaches and ongoing detriment to customers. Ovo could have also recognised that it did not have sufficient resource to onboard new customers acquired by the SoLR process and have either uplifted resource or not bid for additional customers at all. We reiterate that licensees must have sufficient resource to ensure regulatory compliance with all SLCs.

2.78. Ovo could have processed all refunds, even if below £10. In the event that this was difficult the amounts could have been rounded up to an amount that was more efficient to process or processed via other means. Ovo state it is processing these refunds if a customer requests it. Ovo could therefore publicise the existence of the unclaimed monies and encourage customers to claim, i.e. via the MyOvo²² app, e-mail etc. In the event that the customers cannot be traced or do not claim, the residual amount could be deposited in the Ofgem Voluntary Redress Fund. This will ensure that monies are directed to those most in need and not retained by Ovo to write off bad debt. Such monies may have had to be written off as uncollectable dependant on the circumstances of the debtor in any event.

SLC 0 breaches

2.79. SLC 0 was introduced on 10 October 2017 and provides that a licensee must, and must ensure that its Representatives, achieve the SoC in a manner consistent with the Customer Objective.

2.80. Under SLC 0.1, the objective of the licence condition is for the licensee and any Representative to ensure that each Domestic Customer, including each Domestic Customer in a Vulnerable Situation, is treated Fairly (i.e. the Customer Objective). The term 'Fair' (and cognate expressions) is to be interpreted in accordance with SLC 0.9. The fairness test no longer takes into account whether the licensee's acts or omissions have significantly favoured its interests. The revised test sets out that the licensee or any Representative would not be regarded as treating a Domestic Customer Fairly if their actions or omissions give rise to a likelihood of detriment to the Domestic Consumer, unless the detriment would be reasonable in all the relevant circumstances. The all reasonable steps threshold has also been removed so that the measure of whether a consumer is being treated fairly is based on the consumer outcomes a supplier has delivered, rather than its attempts to secure compliance.

2.81. As result of the revisions outlined above, a simplified two stage approach is applied for the purposes of determining compliance with SLC 0, as follows:

²² Ovo's online account management system

Stage 1 - Identify the relevant areas of behaviour (actions or omissions) by a licensee that Ofgem considers do not achieve the SoC, identifying which Standards are engaged on the facts of the case.

Stage 2 - Consider whether the identified behaviours were not Fair; i.e. (a) did such actions or omissions give rise to a likelihood of detriment to the Domestic Customer; and (b) if so, was the detriment reasonable in all the relevant circumstances?

2.82. We assessed that the following sections of SLC 0 were breached via the breaches outlined in this notice during the stated periods:

SLC0.3(b)(i): Providing inaccurate information

Breach 1: 10 October 2017 to February 2018

SLC0.3(c)(ii): Failed to rectify mistakes and put things right promptly for customers

Breach 5: 10 October 2017 – 30 September 2019

Breach 6: 10 October 2017 – July 2018

Breach 8: 10 October 2017 – 30 September 2019

Breach 9: 10 October 2017 – 30 September 2019

Stage 1: Behaviours and Fairness

2.83. Similar behaviours were evident in respect of all issues following the introduction of SLC0. For example, Ovo still provided incorrect annual statements and did not address the ongoing detriment caused by the SoRT breaches and final bills issues, despite being aware of their existence. The failure to act quickly on the historic SoRT breaches led to a delay in detecting the PPM price cap breaches. These particular behaviours have already been considered under SLC25C and are based on the same facts. These have been explained in paras 2.65 to 2.69.

Stage 2 (a) Give rise to a likelihood of detriment

2.84. The detriment is also similar to that outlined in para 2.72. Customers continued to receive inaccurate information on their annual statement. This could have been used to make a switching decision. Therefore, some customers may have benefited from switching tariff and/or supplier, but did not have the accurate information required to make an informed choice.

2.85. Customers who had remained on historic tariff rates and had not been issued SoRTs were not aware of undercharging and overcharging (as applicable). They also did not have access to a key piece of information required to make an informed switching decision. The subsequent delay to the issuing of the SoRT also led in delays to a refund/credit, if applicable. Customers who were overcharged on their final bills also found themselves in a similar situation. The customers due monies were inconvenienced and did not have access to the funds that they were entitled to.

2.86. Customers charged above the PPM price cap have been overcharged for a considerable period of time and have not had the benefit of the monies that would have been available had they been charged correctly. They have also had delayed refunds as a result of the issue taking a long time to resolve. The situation is similar for customers who received their SoRT, but who thereafter did not move onto the correct tariff.

Stage 2 (b) detriment is considered reasonable in the relevant circumstances

2.87. The revised fairness test focuses on whether an act or omission would give rise to a likelihood of detriment unless the detriment would be reasonable in all the circumstances. The following paragraphs outline the Authority's view that the assessment of detriment is not reasonable in all the relevant circumstances.

2.88. The information that was presented to customers in annual statements was inaccurate for a considerable period of time. We noted that there have been changes to SLC31A in respect to how information is presented. The issue Ovo experienced was not a matter of how it was presented, it was *what* was (and was not) presented. We considered providing customers information about their consumption a basic and fundamental requirement. We did not consider that Ovo's inability to provide customers with this basic information to be reasonable in the circumstances.

2.89. We found that around 10,000 customers had been impacted by the SoRT issue (breach 5) to varying degrees and that the highest amount of refund/credit due was c£4500, a significant sum of money. We found no evidence that Ovo had carried out any form of assessment to establish if any of those customers that had been overcharged were in financial difficulty, on the PSR, or otherwise vulnerable. There was no evidence of any assessment of any impact on any customers. Additionally, we did not consider it reasonable to fail to address a known issue that was resulting in financial detriment to customers.

2.90. We had a similar view regarding the PPM price cap breach (breach 8) and the SoRT failure breach (breach 9). In particular, the PPM price cap is designed to protect those who are particularly vulnerable and the level of overcharging and periods involved were not acceptable.

2.91. Similarly, we did not consider it reasonable in the circumstances to delay the correction activity in relation to final bills. Again no exercise was conducted to assess the impact on affected customers and to assess the resultant lost benefit a timely refund may have had.

2.92. For the reasons outlined above, the Authority found that Ovo breached SLC0.

3. The Authority's decision on whether to impose a financial penalty

3.1. In deciding whether to impose a penalty, and in determining the amount of any penalty, the Authority is to have regard to its statement of policy most recently published at the time when the contravention or failure occurred. The 2003 Penalty Statement was introduced in October 2003 ("the 2003 Penalty Statement"). In November 2014, the Authority introduced a new policy ("the 2014 Penalty Statement"), which the Authority must have regard to when deciding whether to impose a financial penalty, and determining the amount of any such penalty, in respect of any contravention which occurred on or after 6 November 2014. In such cases, the 2014 Penalty Statement applies instead of the 2003 Penalty Statement.

3.2. Under section 27A of the Electricity Act 1989 (EA 1989) and section 30A Gas Act 1986 (GA 1986) the Authority may not impose a penalty in respect of a breach later than 5

years from the date of the breach unless an IR²³ issued under s.28(2) EA 1989 or s.38 GA 1986 is served on the regulated person. The case team sent a statutory IR under s.28(2) EA 1989 and s.38 GA 1986 in respect of the breaches at issue on 5 November 2018. In summary, our evidence shows that Ovo has breached all the SLCs cited in the table below.

SLC	Breach area	Duration
SLC 31A.9(b),(c) and (d)	Providing incorrect AS	July 2015 – Feb 2018
SLC 31A.9	Failure to provide PPM and white label AS	Apr 2015 – Dec 2018
SLC 31A.2 (c), (d) and (e)	Provision of incorrect AS, bills and statements of account	Oct 2016 – Jun 2017
SLC 22C.3(c)(viii) and (ix)	SoRTs containing incorrect CTM	Sept 2016 – Jun 2017
SLC 22C.4(a) to Feb 2019, SLC 22C.3 and SLC 31I.1 from Feb 2019	Failure to issue SoRTs and customers remaining on historic tariff rates	SLC 22C: May 2015 – 30 Sept 2019
		SLC31I: Feb 2019 – 30 Sept 2019
SLC 27.18	Delayed final bills	May 2017 – July 2018
SLC 27.17	Failure to issue PPM final bills	Nov 2013 ²⁴ - January 2020
SLC 28A	PPM default tariff cap	April 2017 – October 2019
SLC 22C.8	SoRT failure	August 2014 ²⁵ – 30 Sept 2019
SLC 25C.4(b)(i) (SoC)	Providing incorrect information	SLC25C: Apr 2015 – 9 Oct 2017
SLC 0.3(b)(i)		SLC0: 9 Oct 2017 – Feb 2018

²³ Information request

²⁴ Part of this breach falls under the 2003 Penalty Policy (Nov 13 – Nov 14)

²⁵ Part of this breach falls under the 2003 Penalty Policy (Aug 14 – Nov 14)

SLC	Breach area	Duration
SLC 25C.4(c)(ii)	Not acting promptly and courteously to put things right	Apr 2015 – 9 Oct 2017
SLC 0.3(c)(ii)		9 Oct 2017 – 30 Sept 2019

3.3. The 2014 Ofgem Penalty Policy came into force on 6 November 2014, replacing the existing 2003 Penalty Policy. The breaches listed above mostly fall under the 2014 policy but both the 2003 and 2014 Penalty Policies apply to certain breaches. Therefore, the case team analysed the periods in which each of the breaches occurred and considered the extent to which the two penalty policies should be applied to each breach. The 2014 Penalty Policy is applicable to all breaches; and both the 2003 Penalty Policy and the Chairman’s letter apply to the failure to issue PPM annual statements breach and the SoRT failure breach.

3.4. The Chairman’s letter dated 27 March 2014²⁶ lays out that the Authority decided to place greater emphasis on deterrence when imposing penalties for future breaches. This is likely to mean a substantial increase from the levels of penalty that the Authority has typically imposed prior to this letter. The Chairman’s letter also states that the Authority will continue to recognise the value of companies promptly reporting to Ofgem and putting right any non-compliance that they have identified.

3.5. The Authority has considered that the PPM final bills breach and SoRT failure breaches partially fall under the 2003 Penalty Policy. However, as the portion under the 2003 policy is just over a year for PPM final bills breach, (but falls mainly under the 2014 policy) this will not be considered when calculating the level of penalty. The breach in relation to SoRT failure started when the 2003 policy was in force, but was only discovered when the 2014 policy was in place. The 2003 Penalty Policy also only applies for a 3 month period, which portion will not be considered when calculating the level of penalty. The penal element of the penalty will therefore be calculated using the 2014 Penalty Policy only.

²⁶ <https://www.ofgem.gov.uk/publications-and-updates/letter-stakeholders-about-authority-s-position-imposing-financial-penalties>

3.6. The Authority is required to carry out all its functions, including the taking of any decision as to the imposition of a penalty, in the manner which it considers is best calculated to further its principal objective, having regard to its other duties.

3.7. In deciding whether it is appropriate to impose a financial penalty, the Authority has considered all the circumstances of the case including, but not limited to, the specific matters set out in the 2014 Penalty Statement and representations made by Ovo. These matters are examined in detail below.

General Criteria for the Imposition of a Penalty

3.8. The Authority is required to take into consideration all of the particular facts and circumstances of the contravention or failure, and has done so. We set out the criteria below that apply in this particular case.

Factors tending to make the imposition of a financial penalty more likely

The contravention or failure damaged, or could have damaged, the interests of consumers and/or other market participants

3.9. The Authority considered that the breaches had a significant detrimental impact on some of Ovo's customers. Many documents were incorrect or not sent. The documentation would in some cases have been a factor in switching decisions. Decisions could therefore have been made on inaccurate information or not made at all. Where Ovo's actions resulted in incorrectly charging customers they were slow to take steps to rectify this. This led to lengthy delays for refunds for overcharged customers.

3.10. The Authority considered that the interests of the wider market have been damaged by the contraventions. Customers expect that the information they are provided with is accurate and that when mistakes are made they can trust their supplier to promptly put things right. Trust in suppliers is vital to maintain a healthy energy market.

A penalty and/or a consumer redress order is necessary to deter future contraventions or failures and to encourage compliance

3.11. It was evident to the Authority that a recurring theme in this investigation was Ovo's lack of effective regulatory compliance mechanisms and generally poor attitude to compliance. Regulatory compliance was often disregarded or deprioritised in favour of other business activities. It was also not adequately factored in to Ovo's growth plans. All licensees must take their regulatory obligations seriously and factor in suitable arrangements in that are commensurate with the growth of the business. The Authority considered that both general and specific deterrence are important factors in this case.

The circumstances from which the contravention or failure arose were or should have been within the control of the regulated person under investigation / the contravention was deliberate or reckless

3.12. Many of the issues under investigation stemmed from IT glitches or poor handovers that were not fully rectified, as and when they were encountered. Ovo was aware of the historic tariff rate SoRT issue in April 2015 and did not take steps to rectify it at the time. This led to further SoRT issues, which eventually led to a PPM price cap breach. Ovo also utilised an IT system that could not initially produce annual statements for PPM and white label customers and it was also never capable of producing a PPM final bill, all of which were or are linked to SLC obligations. Ovo has since rectified these issues. It was well within Ovo's ability to take the steps they deployed during the course of this investigation much earlier. Such steps would have reduced the impact the breaches had on their customers. Some breaches may also have been avoided entirely. It should also have been apparent that the continued deprioritising of issue rectification would ultimately result in breaches of licence conditions. We regarded this behaviour as reckless.

The contravention or failure (or possibility of it) would have been apparent to a regulated person acting diligently

3.13. The Authority considered that it should have been apparent to Ovo that if did not have IT systems that could deliver the full suite of documents stipulated in the SLCs then a breach would have been almost certain. Indeed, the evidence showed that Ovo was well aware of several of the breaches.

A lack of effective remedial action after the contravention or failure becomes apparent to the regulated person

3.14. The Authority was concerned with Ovo's lack of urgency to rectify known issues. Customers complained to it about issues relating to the annual statements and winter estimation issues. Ovo did not react to this, despite it knowing there was a problem with annual statements. The initial SoRT breach was known to Ovo, not rectified and led to further breaches. The solution to this and to the PPM final bills breach were repeatedly deprioritised to the extent that the Authority had to seek commitments from Ovo to rectify them. The Authority was particularly concerned that, not only was remedial action slow after the issue became known to Ovo, it was also slow after it became known to the regulator.

Factors tending to make (a) the imposition of a financial penalty and/or (b) the making of a consumer redress order less likely include:

The contravention or failure is of a very minor nature

3.15. The Authority did not consider the contraventions to be minor or trivial. The contraventions impacted many customers over long periods of time and led to significant financial detriment in some cases. Many of the breaches were also interlinked leading to an escalation in severity and impact of the issues overall.

The contravention or failure (or possibility of it) would not have been apparent to a regulated person acting diligently.

3.16. As already explained, Ovo had been aware of some of the issues for a long time and not acted to rectify or contain them. The Authority also obtained evidence that Ovo's overall compliance oversight was lacking in several areas and that areas of the business did not have adequate policies and procedures in place. Regulatory non-compliance would therefore have been an obvious risk to a regulated person.

4. Criteria relevant to the level of financial penalty

4.1. In accordance with section 270 of the Electricity Act 1989 and section 300 of the Gas Act 1986, the Authority may impose a financial penalty of up to ten per cent of the turnover of the relevant licence holder. Turnover is defined in an Order made by the Secretary of State.²⁷ The Authority is satisfied that the penalty does not exceed ten per cent of Ovo's turnover.

2014 Penalty Statement

4.2. The 2014 Penalty Statement requires that a six step process is followed in order to determine the level of financial penalty:

1. Calculate the detriment to consumers and calculate the gain to the regulated person. Consider whether a consumer redress order is appropriate to remedy the consequences of the contravention identified or to prevent a contravention of the same or a similar kind from being repeated.
2. Consider the seriousness of the contravention or failure to determine the appropriate penal element.
3. Consider any aggravating and mitigating factors that may increase or decrease the penal element.
4. Consider the need for a deterrence uplift to the penal element, having regard to the principle that non-compliance should be more costly than compliance and that enforcement should deliver strong deterrence against future noncompliance.
5. Where a case is settled, apply a discount to the penal element.
6. Establish the total financial liability.

1 Calculate the gain and detriment

²⁷ <http://www.legislation.gov.uk/ukdsi/2002/0110394267/article/3>

4.3. The Authority noted the progress Ovo has made in addressing the detriment to customers and the amounts exclude any payments made to impacted customers. It is solely residual gain and detriment set out below. In most (but not all instances) the Authority recognised that Ovo would be unable to identify impacted customers and issue payments.

Customer detriment

4.4. The Authority considered that consumers suffered detriment in the following ways:

- Being overcharged
- Missing and inaccurate switching prompts
- Slow remedial action

Overcharging

4.5. The Authority's view is that there are three distinct areas where overcharging occurred: overcharging of PPM customers pre price cap (breach 9), overcharging of PPM customers post the introduction of the price cap (breach 8) and overcharging of customers as a result of the winter estimation issues (breach 3).

Overcharging of PPM customers pre price cap (breach 9)

4.6. Prior to the introduction of the PPM price cap Ovo indicated that around 7,800 customers had been overcharged around £752,000 in total. However approximately 5,900 of these customers had also experienced both an overcharge and an undercharge in the region of £526,000. Therefore the net detriment to customers is estimated at **£226,000**.

Overcharging of PPM customers post introduction of the PPM price cap (breach 8)

4.7. Breach 8 describes Ovo's non-compliance with the PPM price cap. Around 25,500 customers were overcharged for their energy. The total cost of the overcharge was in the region of £211,000. We noted the maximum overcharge was in excess of £790. Ovo has since refunded all monies to customers. As such residual detriment is nil.

Overcharging due to winter estimation issues (breach 3)

4.8. As a direct result of the Winter Estimation issue, some Ovo customers experienced detriment after they were overcharged for their energy consumption. Evidence indicates Ovo issued credits/refunds to the value of £3.2m to customers who experienced an overcharge. However, this approach fails to address any customers who were overcharged £10 or less. Ovo continues to retain this balance which is approximately **£289,000**. This is detrimental to those customers due a refund and is therefore included in the total. Whilst the Authority welcomes schemes to help customers in payment difficulty we do not believe that these schemes should be funded via refunds that could be returned to customers, particularly existing customers.

Missing and inaccurate switching prompts

4.9. The Authority's view is that there are a number of areas where customers lost the opportunity to switch effectively. These are:

- Credit customers receiving inaccurate switching prompts on their annual statements & bills
- PPM and white label customers missing switching prompts when they did not receive annual statements
- Credit customers missing switching prompts due to not receiving a SoRT
- Inaccurate switching prompts when SoRTs contained inaccurate information

4.10. It has not been possible to determine the exact detriment to customers as a result of missed and inaccurate switching prompts. The Authority acknowledges that not every instance of a missed or inaccurate communication would have led to a switch from Ovo.

4.11. Therefore the Authority has estimated the financial value of lost switching opportunities based on a combination of (in simplified terms) representative sampling, calculating the numbers of customers who would have switched based on the different types of communication, applying the rate to the total number of inaccurate or missed communications and thereafter multiplying this figure with the potential missed savings (utilising market tariff data).

4.12. Using this methodology the Authority has estimated the detriment to customers as follows:

- Credit customers receiving inaccurate switching prompts on their annual statements & bills - **£375,000**.
- PPM and white label customers missing switching prompts when they did not receive annual statements - **£485,000**
- Credit customers missing switching prompts due to not receiving a SoRT - **£190,000**

4.13. We have been unable to quantify the detriment (or gain to Ovo) caused by inaccurate SoRTs. This is based on the assumption that any indicated savings a customer may have seen were, in reality, not available. We do, however, acknowledge that customers may have made inaccurate budgetary decisions based on anticipated savings.

Slow remedial action

4.14. We have again been unable to quantify the detriment to customers as a result of having to wait for Ovo to rectify matters. This would have impacted the customers who were held on historic tariff rates, were overcharged and had to wait on a refund and similarly for customers who were overcharged on their final bill and had to wait on a refund. We have not made any adjustment to the detriment total in this regard.

Areas of Supplier Gain

Avoided costs

4.15. These costs are comprised of the savings made by Ovo in not sending particular documents and an underinvestment in the compliance function over the past 5 years. The total costs are **£218,000**²⁸ for the failure to issue the documents and a **£73,000** underspend on the compliance function.

²⁸ This includes production costs and postage (where applicable)

Deferred Costs

4.16. These costs relate to delayed expenditure on Ovo's IT system to rectify the issues. This has been calculated by applying an adjustment to the expenditure to compensate for the time when it was spent compared to when the Authority believes it should have been spent. We have calculated this amount as **£32,000**.

4.17. Therefore the total gain and detriment is assessed to be **£1,888,000**.

2 Assess seriousness

4.18. In assessing seriousness,²⁹ the Authority considered the nature, impact and whether or not the breaches were deliberate or reckless. The Authority has concluded that some of the contraventions are particularly serious. Ovo expanded rapidly, but did not adequately prepare for the demands of such an expansion. This included having suitable governance and procedures in place, an IT system that was capable of delivering for all customers and incorporating regulatory compliance at the heart of the business. We regard these as systemic failures that led to poor customer outcomes.

4.19. A number of Ovo's problems were linked but not contained. Hundreds of thousands of documents were either inaccurate or not sent at all. Ovo's senior management were aware of the issues and in some cases considered it disproportionate to prioritise. Instead efforts were concentrated on other areas of the business which Ovo considered would improve customer experience. This deprioritisation resulted in customers having inaccurate information or no information for extended periods of time, overcharging and delayed refunds. The risk of customer detriment and regulatory non-compliance should have been apparent to Ovo. We view this conduct as reckless. Progress on rectification was only made after the investigation was opened and the nature and extent of the issues became known to the Authority. The contraventions started in November 2013 and have taken a considerable time to resolve.

²⁹ Outlined in paragraphs 5.10 to 5.14 in the 2014 Penalty Policy

4.20. We also noted that the lack of action on Ovo's part to address the SoRT issues in April 2015 led to subsequent yet avoidable breaches. This included the PPM price cap breach. The PPM price cap is designed to protect disengaged and vulnerable customers. Ovo's failings meant that these customers received inaccurate information or no information at all, impacting on the quality and frequency of information, that could have assisted these customers to make informed choices about switching. For customers who did not switch, the PPM price cap is designed to protect them. Instead the PPM price cap breach resulted in these customers being overcharged and may have impacted their budgetary decisions. In short, Ovo's failure to adequately address a known issue, when discovered, resulted in serious repercussions for vulnerable customers.

3 Consider aggravating or mitigating factors

4.21. The Authority considered that there were four (and one partial) aggravating factors and one partial mitigating factor. These are explained below.

Factors tending to increase the penal element

Continuation of the contravention or failure after becoming aware of it

4.22. As highlighted, Ovo was aware of a number of issues and decided to deprioritise dealing with them in favour of other developments to its operations and customer offerings. This was particularly applicable to the failure to rectify the historic tariffs SoRT breaches and the PPM final bills breach. The PPM final bills breach was ongoing and the SoRT breaches were only very recently rectified. Therefore this factor applies, and the Authority viewed it as particularly serious in the circumstances.

The involvement of senior management in any contravention or failure

4.23. It was clear that Ovo senior management were aware of non-compliance issues. Senior management did not factor in sufficient compliance oversight commensurate with an expansion of the business and as a result Ovo did not have adequate policies procedures and governance in place. An example of this was the delayed review of SLC31A. In turn, this created a culture that permitted breaches to occur. More generally, Ovo's senior management have displayed a poor attitude to the company's regulatory obligations,

which led to a corporate culture in which regulatory obligations seem to have been viewed as optional or unimportant. Senior management were also responsible for decisions to prioritise other business initiatives ahead of regulatory compliance and the remediation of ongoing contraventions of licence conditions. This was entirely unacceptable. Therefore this factor applied, and in the Authority's view, was particularly serious in this instance.

A lack of sufficient senior management involvement to prevent the contravention or failure

4.24. While it was clear Ovo senior management understood that it was obligated to comply with SLCs it took a selective approach to which SLCs to follow and which ones to disregard. It was evident that senior management were aware of the requirement (for example) to issue annual statements to white label and PPM customers and to issue PPM final bills. It failed to develop systems to ensure regulatory compliance with these SLCs. Additionally there were insufficient systems in place to flag up potential non-compliance issues and deal with them effectively. Therefore this factor applied.

The absence of any evidence of internal mechanisms or procedures intended to prevent contravention or failure / the absence of any evidence that such internal mechanisms and procedures as exist within the regulated person have been properly applied and kept under appropriate review by senior management

4.25. Ovo has acknowledged that there was a lack of sufficient compliance oversight embedded into its procedures. Particular examples included where a customer highlighted a potential non-compliance issue with their annual statement and it was not investigated further or brought to the attention of the compliance team. Ovo has also admitted a lack of documented policies and procedures underpinning certain customer service functions. Additionally, a number of the breaches were caused by poor administrative processes. Therefore this factor applied.

Withholding relevant evidence and/or submitting it in a manner that hinders the investigation (whether, for example, it is late, incomplete and/or inaccurate).

4.26. There were delays obtaining some information requested and during the course of the investigation there were some changes to numerical data that had been already been

provided. There were also difficulties providing detailed customer data sets to the extent that sampling was used instead. These difficulties delayed the progress of the investigation. Therefore, this factor partially applied. To avoid doubt, the Authority does not suggest bad faith or deliberate obstruction by Ovo personnel.

Mitigating Factors

Evidence that the regulated person has taken steps to review its compliance activities and change them as appropriate in the light of the events that led to the investigation at hand

4.27. The Authority noted that Ovo has made a number of investments and improvements in this area, however, as compliance activities were initially limited, progress towards achieving a fully functional compliance function is ongoing. Therefore, this factor applied to a limited extent.

4.28. In conclusion, considering that there were four (and one partial) aggravating factors and one partial mitigating factor. The Authority considered it appropriate to adjust the initial penal element upwards.

4 Consider an adjustment for deterrence

4.29. The Authority considered that an upward adjustment for deterrence to the penal element was appropriate in this case. The Authority considered the levels of penalties imposed in other similar investigations. The Authority also considered the 2014 Penalty Policy which indicated that the Authority would place a greater emphasis on deterrence when imposing subsequent financial penalties. The Authority determined that, after the upward adjustment had been applied, £10m was an appropriate overall penal element under the 2014 Penalty Policy.

5 Apply a discount in settled cases

4.30. The Authority noted that Ovo agreed to settle in the early settlement window thus attracting a 30% reduction on the penal element of this penalty. With this discount applied the penal element was reduced to £7m.

4.31. Additionally, in cases under the 2003 Penalty Policy the discount was also applied to the gain and detriment element of the penalty. The Authority applied this discount to the gain and detriment associated with the two relevant breaches proportionately over the period that the breaches occurred. This equated to a discount of £11,500.

6 Establish the total financial liability

4.32. The Authority established the total financial liability of Ovo under the 2014 Penalty Statement by adding the final penal element of £7m to the gain and detriment of £1,876,500, resulting in a total financial liability of £8,876,500.

4.33. The Authority has imposed a financial penalty of £2 (£1 on each licensee) on the condition that Ovo pays the balance of the £8,876,500 to the Authority's Voluntary Redress Fund. The Authority considered the penalty to be reasonable in all the circumstances of the case.

5. Representations on the proposed penalty and the Authority's Decision

5.1. The Authority received one representation in response to the notice of intention to impose a financial penalty issued pursuant to 27A(3) of the Electricity Act 1989 and section 30A(3) of the Gas Act 1986 (the Notice of Intention). The respondent submitted that:

- They were an Ovo customer and had concerns with metering (including SMART metering), complaint handling, tariffs and charges and customer service. The respondent also stated that they believed they had been incorrectly charged between October 2017 and March 2019.
- The respondent welcomed the penalty and the findings of breach. However the respondent believed that the Penalty Notice had shown evidence that Ovo had been maximising profits at the expense of its customers and was guilty of offences under the Fraud Act 2006 and the Companies Act 2006. The respondent believed that Ovo should be reported to the Serious Fraud Office.

- 5.2. In response to the issues experienced by the respondent, the Authority notes the concerns raised, including the difficulties the respondent has had in resolving them. We would emphasise that there are customers who have been overcharged and who have not been refunded (or credited) by Ovo. We would recommend that if any past or present Ovo customer believes they are due a credit or a refund then they should raise the matter with Ovo directly. A similar approach should be taken if a customer is unhappy with any aspect of the service provided by Ovo. Should any customer be dissatisfied with Ovo's response to their query then they should complain. If Ovo thereafter fails to resolve that complaint to a customer's satisfaction or resolve it within 8 weeks then the matter should be referred to the Ombudsman Services: Energy (OS:E).
- 5.3. We note that the respondent has concerns that Ovo has committed a criminal offence. We would highlight that the Authority gathered information using its sectoral powers for the purposes of investigating breaches of SLCs and did not undertake a criminal investigation. The Authority can share information with other bodies in order for them to carry out their functions. In this instance the Authority did not identify any matters of concern for onward referral to any other body. This however does not prevent the respondent raising their concerns directly with an appropriate body if they wish.
- 5.4. The Authority is satisfied that the representation does not alter the findings of breach and the application of the relevant penalty statement. Therefore, the Authority is satisfied that in determining the level of the financial penalty it has applied the 2003 and 2014 Penalty Statements appropriately. The Authority is satisfied that the level of penalty is commensurate with the seriousness of the contraventions.
- 5.5. The Authority finds that Ovo breached the SLCs as cited in the table at para 3.2 of this Notice. The Authority has imposed a penalty of £2 on Ovo which it considered to be reasonable in the circumstances of the case.
- 5.6. The penalty took into account that Ovo will pay £8,876,500 (less £2) into the Voluntary Redress Fund and such payment will be made by 31 May 2020.
- 5.7. The Authority took the following relevant factors under the 2014 Penalty Policy into consideration when imposing this penalty:

- The fact that many customers were supplied with incorrect information and incorrectly charged for extended periods of time.
- Ovo's lack of adequate governance, policies and procedures and failure to factor in suitable regulatory compliance arrangements commensurate to a growing business, including the avoidance of the cost of such arrangements.
- The serious nature of the breaches.
- The financial harm suffered by customers as a result of the contraventions.
- Ovo's delay in rectifying the breaches and correcting the financial harm suffered by customers.
- The four (plus one partial) aggravating factors and one partial mitigating factor, including in particular the involvement of senior management in the contraventions.

5.8. The Authority hereby gives notice under section 27A(3) of the Electricity Act 1989 and section 30A(3) of the Gas Act 1986 of its decision to impose a penalty of £2 on Ovo in respect of the contraventions set out above.

5.9. Ovo has agreed to settle the investigation on the basis of paying a financial penalty of £2 and to pay the sum of £8,876,500 (less £2) by way of voluntary redress.