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Submitted via email to: [Licensing@ofgem.gov.uk](mailto:Licensing@ofgem.gov.uk)

8 October 2018

Dear Lesley,

### **Modifications to Supplier of Last Resort (SoLR) Supply Licence Conditions**

Energy UK is the trade association for the GB energy industry with a membership of over 100 suppliers, generators, and stakeholders with a business interest in the production and supply of electricity and gas for domestic and business consumers. Our membership encompasses the truly diverse nature of the UK's energy industry – from established FTSE 100 companies right through to new, growing suppliers and generators, which now make up over half of our membership.

Our members turn renewable energy sources as well as nuclear, gas and coal into electricity for over 27 million homes and every business in Britain. Over 730,000 people in every corner of the country rely on the sector for their jobs, with many of our members providing long-term employment as well as quality apprenticeships and training for those starting their careers. The energy industry invests £12bn annually, delivers £88bn in economic activity through its supply chain and interaction with other sectors, and pays £6bn in tax to HMT.

The comments below represent a high-level industry view in response to Ofgem's Statutory Consultation, and Energy UK's members may hold different views on particular issues.<sup>1</sup> We would be happy to discuss any of the points made in further detail with Ofgem or any other interested party if this is considered to be beneficial.

Energy UK retains its support for the intent of Ofgem's proposed amendments, recognising the rationale for a SoLR to be able to recover costs associated with honouring credit balances for customers who have switched away from the failing supplier. However, Energy UK has a number of concerns with the specific proposals being put forward by Ofgem in its Statutory Consultation to meet that policy intent.

#### Amended Timeframes

Energy UK agrees with Ofgem's aim of increasing the flexibility for a SoLR to claim a Last Resort Supplier Payment (LRSP). However, Energy UK believes that Ofgem has not provided sufficient rationale for its decision to use five years as a backstop or reassurance that it will not become the default. In addition, it would be unreasonable for suppliers if Ofgem were to rely upon that backstop due to the uncertainty in costs it would create. Instead, Ofgem should be committed to, and provide reassurance

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<sup>1</sup> Npower has indicated that it does not support Energy UK's position put forward in this response.

#### **Energy UK**

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that it intends to decide upon a reasonable timeframe for applications for each SoLR event, rather than relying upon the backstop as the default.

Energy UK agrees with Ofgem's intention of not being unduly restricted by the current three-month deadline by which the Authority must consent or propose an alternative figure for a claim. However, the current proposal risks creating a lack of certainty for an undetermined period of time which could have impact upon suppliers' ability to effectively plan financially. Such impacts could be exacerbated by the upcoming implementation of the default tariff cap. As such, Ofgem should provide for a longer backstop period and an express obligation for it to decide within a reasonable timeframe.

#### Definition of "Credit"

Energy believes that the proposed definition of "credit" is too narrow. Ofgem should reassess its decision to dismiss including an explicit provision within the definition for goodwill payments. In not doing so, Ofgem could risk confusion for both consumers and suppliers further along in the SoLR process.

#### Industry Levy Claims

The methodology for calculating how the costs will be spread across the sector is something that has an impact on all suppliers and remains a concern for Energy UK. In particular, there is a risk associated with reopening Distribution Use of System (DUoS) tariffs in order to levy the SoLR charge, which overrides the principle of providing suppliers with 15 months' notice for DUoS tariffs. We would like to take this opportunity to reiterate that this is an important topic for Energy UK members and we urge Ofgem to consider the impact upon suppliers and engage with stakeholders on this matter.

#### Regulatory Oversight of the Administrator

Energy UK retains its concern over the lack of regulatory oversight of the administrator and the risk that the administrator will chase affected customers for debits up to the date of the handover. This could put customers at risk of a debt recovery process without regard for typical industry protections that exist for vulnerable customers or in relation to backbilling. As such, Energy UK would urge Ofgem to reassess its dismissal of the proposal to work with BEIS to review the scope for the possible use of the Energy Company Supply Administration process.

#### Market Entry & Monitoring

Finally, Energy UK welcomes Ofgem's commitment to bring forward a consultation following a review of its approach to market entry and ongoing monitoring. As outlined in our response to Ofgem's open letter of 13 June, Energy UK believes that the increasing occurrence of SoLR events highlights the importance of improved market monitoring processes. This importance could be further heightened by the implementation of the default tariff cap and any impacts it may have on market participants or new entrants. Energy UK is, therefore, concerned that Ofgem is still yet to publish its consultation on this matter, which Ofgem had previously indicated would be published this summer. Energy UK would urge Ofgem to take forward this work as a priority and we look forward to engaging positively with any proposals.

**If you would like to discuss the above or any other related matters, please contact me directly on 020 7747 2931 or at [steve.kirkwood@energy-uk.org.uk](mailto:steve.kirkwood@energy-uk.org.uk).**

Yours sincerely,

**Steve Kirkwood**  
Policy Manager, Energy UK