



3rd Floor North
200 Aldersgate Street
London EC1A 4HD
Tel: 03000 231 231

citizensadvice.org.uk

11 July 2018

Dear Lesley,

Proposed modifications to SoLR supply licence conditions

This submission was prepared by Citizens Advice. Citizens Advice has statutory responsibilities to represent the interests of energy consumers in Great Britain. This document is entirely non-confidential and may be published on your website. If you would like to discuss any matter raised in more detail please do not hesitate to get in contact.

We broadly support the proposals on amendments to the Supplier of Last Resort (SoLR) supply licence conditions.

As a supplier approaches failure (and ultimately goes into the SoLR process), prices may rise and customer service standards may fall. These changes will in turn drive customers to switch away from the supplier. If these customers do not receive prompt refunds (which a failing supplier is likely to want to delay) then they are currently at risk of losing their closed account credit if the supplier subsequently fails. This is unfair, and could act as an incentive for consumers to remain with a supplier they are unhappy with, if they know a supplier failure is imminent. We therefore support the change to enable SoLR claims to include closed account credit balances. We strongly support Ofgem's view that while this should be possible, future SoLR suppliers should seek to limit their use of the levy as much as possible.

Ofgem is separately consulting on new Guaranteed Standards in relation to switching, one of which would require suppliers to pay £30 compensation if they do not refund credit balances within 2 weeks of a switch.¹ This should incentivise suppliers to provide prompt refunds, and reduce the risk that a large amount of closed credit balances is built up ahead of a supplier failure. We would expect that suppliers taking over customers during a SoLR would not themselves be subject to

¹<https://www.ofgem.gov.uk/publications-and-updates/supplier-guaranteed-standards-performance-consultation-switching-compensation>

this requirement, but Ofgem should clarify that that the new supplier will be liable for any Guaranteed Standards compensation owed by the old supplier before the SoLR event.

We are also concerned however by the definition of Credit used in the draft licence condition which refers only to payments made by the customer to the former supplier. However, a customer's credit balance could also include payments by the supplier - for example, goodwill payments or deductions for other purposes. Ofgem should clarify that in such cases SoLR suppliers should consider these payments by the previous supplier as a reduction to the outstanding Charges.

In some cases, the closed credit balance may be under dispute by the consumer, including within the auspices of the Ombudsman Services: Energy (OSE) or the Extra Help Unit. As part of the wider work on licensing this year Ofgem and OSE should set out how open cases at the point of the SoLR should be dealt with.

While the proposed change should provide further protection to consumers with credit balances, no changes are currently proposed to support customers who owe money to the failed supplier. In particular circumstances it could be that a failed supplier has built up large customer debts in advance of failure, for example, if a provisional order has been in place preventing increases to customer direct debits.

In recent SoLR events there have been two approaches taken to customers in debt. In one case the SoLR supplier took on the failed supplier's debt book and dealt with these debts in accordance with the rules set out in the supply licence. In the other the debt book remained with the administrator, and it was left to them to collect these debts, with no regard to the rules that normally protect energy consumers. We are concerned that the latter approach puts consumers at risk - for example, in it is unclear if consumers affected by the most recent SoLR who are disputing their bills will be able to benefit from the normal protections against back billing or inappropriate repayment terms for debts. We believe that the SoLR supplier should take on the debt book, or alternatively that there should be Ofgem oversight of the administrator in relation to these activities. This issue should be addressed by Ofgem in its wider licensing review, and in any SoLR events in the interim Ofgem should give due regard to bids which include the debt book being transferred.

We support the other changes proposed by Ofgem. More flexibility around the length of the SoLR direction will give suppliers more time to recover costs from administrators, and therefore potentially reduce the size of any levy claims. We also support Ofgem having more flexible timeframes to make decisions on levy claims,

although we would consider it good practice to resolve these promptly. A longer backstop period, rather than removal of a backstop altogether, could provide more certainty, and ensure that suppliers remain willing to make good bids during the SoLR process.

We also support the change to collect levy claims more evenly, rather than based on the geographic coverage of the failed supplier. As set out by Ofgem, the SoLR protections cover all consumers, and so it is fair that the cost is shared across all consumers too. Ofgem's consultation refers to these costs being recovered from 'all network users', but it is our current understanding that independent distribution network operators (iDNOs) and independent gas transporters (iGTs) are currently excluded from these payments.² In its decision on a derogation related to the Last Resort Supply Payment Claim from Co-operative Energy, Ofgem committed to work with iDNOs and iGTs to review this process.³ This should continue as part of the wider licensing review, to ensure that all consumers contribute fairly to SoLR levy costs.

Please let me know if you would like to discuss any aspect of this response further,

Yours sincerely,

Alex Belsham-Harris,

Senior Policy Researcher

²<https://www.ofgem.gov.uk/publications-and-updates/last-resort-supplier-payment-claim-co-operative-energy-final-decision>

³<https://www.westernpower.co.uk/docs/system-charges/Misc-Charges/2018/All-DNO-SoLR-derogation-decision.aspx>