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14 December 2023

Dear Colleague

### **Last Resort Supply Payment Claim from Yu Energy Retail Limited**

On 24 October 2022, Yu Energy Retail Limited ("Yu Energy") gave notice to Ofgem of its claim for a Last Resort Supply Payment (LRSP) in relation to acting as Supplier of Last Resort (SoLR) to customers of the former AmpowerUK Limited ("Ampower").

Under Standard Licence Condition (SLC) 9.1 of the Supply Licence, SoLRs are entitled, provided Ofgem consents, to make a claim for a LRSP from each Relevant Gas Transporter and Electricity Distribution Operator. The claim from Yu Energy included its calculation of the claim amount and information to support the calculation (outlined in Table 1).

On 20 October 2023 Ofgem published a minded to position for consultation in relation to that claim and our intention that this would lead to the termination of the underlying True-up Agreement.<sup>1</sup> In addition to reviewing consultation responses, we undertook further internal assurance of our minded to position.

Summaries of the responses to the minded-to position consultation, including any relevant general representations made in response to the consultations on other SoLR claims, can be found within this document.

### **Decision**

After taking into consideration the consultation responses and the results of our internal assurance process, we have decided that, in order to true-up all the claims made in respect of acting as SoLR for customers of Ampower, Yu Energy will be required to repay **£110,867.70**, which we have decided is the Excess under the True-up Agreement between Yu Energy and Ofgem. The Final Repayment Direction that we make under the True-up Agreement with Yu Energy will, in addition, include the amount of interest to be paid on this Excess.

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<sup>1</sup> [Last Resort Supply Payment claims minded-to positions 2023 | Ofgem](#)

This letter is the notice of reasons for Ofgem's decision on the final True-up claim for the costs incurred in complying with a Last Resort Supply Direction in relation to:

- Additional wholesale costs incurred as a result of commitments to supply energy to SoLR customers.

We have assessed this LRSP claim in accordance with our policy published 21 September 2022,<sup>2</sup> and consistent with our published *Guidance on supplier of last resort and energy supply company administration orders*.<sup>3</sup> In addition, in making this decision, we have had regard to Ofgem's principal objective of protecting the interests of current and future energy consumers<sup>4</sup>, the public sector equality duty<sup>5</sup> relevant licence provisions, and the particular circumstances of the case.

As part of the temporary multiple-claim levy process introduced in December 2021, Yu Energy entered into a True-up Agreement with Ofgem. Under the True-up Agreement between Yu Energy and Ofgem, Subsequent Levy Claims may be made following the Initial Levy Claim and before a final True-up claim. Clause 2.2 of the True-up Agreement sets out when the agreement will terminate:

*"This Deed shall continue in force (and the undertakings contained herein shall be irrevocable) until the earlier of:*

- (a) Where any Valid True-up Amount is an Excess, the date upon which the SoLR has repaid in full the total of any Excess resulting from the True-ups of all Last Resort Supply Directions covered by this Deed;*
- (b) Where any Valid True-up Amount is a Deficit, the date of the last of the Valid Final Levy Claim(s) covered by this Deed; and*
- (c) The date of termination specified in any notice of termination of this Deed issued by the Authority."*

As set out in our minded-to position for this claim, we consider that the claim meets the requirements of a True-up claim described in clause 5 of the True-up Agreement. The True-up Agreement between Yu Energy and Ofgem will cease to have effect on the date that Yu Energy has repaid the total Excess determined in this final True-up decision to be the Valid True-up Amount.

Nothing in this decision should be taken as setting a precedent for any future claims, which would also be considered on their merits and on a case-by-case basis, taking into account all relevant circumstances.

An overview of Yu Energy's LRSP claim together with the reasons for decision with respect to this claim are set out below.

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<sup>2</sup> <https://www.ofgem.gov.uk/publications/decision-last-resort-levy-claims-true-process>

<sup>3</sup> [https://www.ofgem.gov.uk/system/files/docs/2016/10/solr\\_revised\\_guidance\\_final\\_21-10-2016.pdf](https://www.ofgem.gov.uk/system/files/docs/2016/10/solr_revised_guidance_final_21-10-2016.pdf)

<sup>4</sup> s4AA Gas Act 1986 and s3A Electricity Act 1989

<sup>5</sup> Equality Act 2010 Part 11 Sections 149 to 157 [Equality Act 2010 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2010/15/section/149)

## Background

### The SoLR process

Electricity and gas supply is a competitive activity in Great Britain. While competition has the potential to bring many benefits to consumers, in a competitive market, companies that are not operating efficiently may fail. This applies as much in relation to the gas and electricity supply markets as it does to other markets.

It is Ofgem's statutory duty to protect customers' interests when suppliers fail. When a supplier fails, our focus is to ensure continuity of supply for its customers and to minimise wider negative impacts on the market.

Ofgem can ensure continuity of supply to the failed supplier's customers and minimise these wider negative effects by appointing a SoLR, which is issued with a Last Resort Supply Direction requiring it to supply the failed supplier's customers at very short notice.<sup>6</sup>

### Failed Supplier event

On 7 November 2021, we appointed Yu Energy as the SoLR<sup>7</sup> for AMPower gas and electricity customers, following its announcement that it had ceased trading. This followed an appointment process aimed at getting the best deal for consumers. We outlined the material factors behind our decision to appoint Yu Energy as the SoLR to those customers in our decision letter published on 23 June 2022<sup>8</sup>.

### Last Resort Supply Payment

Under SLC 9.1, SoLRs are entitled, with Ofgem's consent, to make a claim for a Last Resort Supply Payment ("LRSP") from each Relevant Gas Transporter and Electricity Distribution Operator ("network operators").

SLC 9.4 provides that the total amount of the LRSP must not exceed the amount by which the total costs (including interest on working capital) reasonably incurred by the SoLR in supplying customers under the Last Resort Supply Direction and a reasonable profit plus any sums paid or debts assumed by the SoLR to compensate customers in respect of any customer credit balances plus any additional (actual or anticipated) interest and finance costs associated with a financing arrangement approved under SLC 9.7C are greater than the total amounts recovered by the SoLR through charges for that supply.

SLC 9.6 makes clear that Ofgem may determine that an amount other than the one calculated by the SoLR is a more accurate calculation of the relevant amount and, in

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<sup>6</sup> The obligation for a supplier to comply with a LRSD derives from standard licence condition 8 of each supplier's gas and electricity supply licences and is intended to ensure a universal service for Great British energy consumers (for further information on this universal service, see Articles 3(3) of the EU Directives 2009/72/EC and 2009/73/EC).

<sup>7</sup> Link: [Ofgem appoints new suppliers for customers of CNG Energy and CNG Electricity, MA Energy, Omni Energy, Bluegreen Energy, Zebra Power and Ampower | Ofgem](#)

<sup>8</sup> Link: [Appointment of Yü Energy Retail Limited as Supplier of Last Resort for Ampoweruk Ltd | Ofgem](#)

such cases, the amount specified by Ofgem must be treated as the relevant amount when the licensee submits its claim to each relevant electricity or gas network licensee in accordance with SLC 9.8.

LRSPs are paid for by the relevant network operators, who then recover the cost through charges to suppliers. SLC 38B of the Electricity Distribution Licence and Standard Special Condition A48 of the Gas Transportation Licence set out the details of this.

### Multi-stage claims

During winter 2021/22 we introduced a number of changes to the process for making LRSP claims, which were designed to ensure that the SoLR process continues to protect consumers in the current market conditions. The changes included the temporary introduction of a faster, multiple-claims process whereby SoLRs are able to submit more than one claim in relation to each Last Resort Supply Direction.

This involves SoLRs submitting an 'initial claim' for costs incurred in serving SoLR customers (typically wholesale commodity costs) in the period immediately after appointment. SoLRs may then follow this claim with an additional claim (or claims) in accordance with SLC 9. We refer to these additional claims as either a Subsequent claim or a final True-up claim. SoLRs entered into a 'True-up Agreement' with Ofgem to support the faster process. The Initial, Subsequent and True-up claim consents are conditional on SoLRs meeting the requirements of the True-up Agreement. The true-up process is intended to reconcile suppliers' initial and subsequent claims with actual costs incurred and determine any additional payments or repayments that should be made.

Following consultation, on 21 September 2022<sup>9</sup> we published our policy on our approach to these claims. In December 2022, Ofgem consented to SoLRs making Subsequent levy claims totalling £405m on the condition that these claims be treated as Subsequent levy claims under the True-up Agreements, and that the Agreements remain in place until a valid final True-up claim is made. As a result, SoLRs that submitted claims in 2022 under their True-up Agreements were still required to submit to Ofgem a final True-up claim for each Last Resort Supply Direction in respect of which they have a True-up Agreement.

In May 2023, we set out in an open letter our expectations for SoLRs' final True-up claims following the LRSP claims that were approved in December 2022 under the temporary multiple claim process.<sup>10</sup>

### Decision-making process

Under SLC 9.5, Ofgem must decide whether it is appropriate in all the circumstances of the case for the SoLR to make the claim notified to it in accordance with Standard Licence Condition 9.3. In making this decision Ofgem has considered evidence provided by Yu Energy, its own knowledge of the energy markets, and responses to consultation on the minded-to position on this claim.

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<sup>9</sup> <https://www.ofgem.gov.uk/sites/default/files/2022-09/Decision%20on%20the%20last%20resort%20levy%20claims%20true-up%20process.pdf>

<sup>10</sup> [Update on the last resort claim process for 2023 | Ofgem](#)

In exercising this decision-making function Ofgem has had regard to the interests of current and future consumers of gas and electricity and has considered the public sector equality duty.

Ofgem published a minded-to position on this claim on 20 October 2023 and invited consultation responses. Yu Energy was offered the opportunity to meet with us to clarify aspects of the minded-to position during the consultation period. In reaching its decision Ofgem has taken into consideration any additional evidence provided by Yu Energy during the consultation period and any consultation responses received in relation to the published minded-to position.

In reaching its decision Ofgem carried out:

- a. A quantitative check of Yu Energy methodology for each cost item claimed. This included determining how each total cost item was calculated based on data sent to us by Yu Energy and ensuring these costs were in line with commitments Yu Energy made at the time of its SoLR appointment;
  - b. A true-up and cross check of any evidence that may result in a change to the initial claim or subsequent claim made by the SoLR;
  - c. Undertaking validation of some assumptions with other data sources, where appropriate;
  - d. Review and audit of the calculations made in the published minded-to position; and
  - e. A qualitative and quantitative assessment of the claim for costs related to wholesale costs in accordance with relevant licence conditions, and/or our criteria and methodology set out below.
- **Additional:** whether the costs claimed are additional to the costs to the SoLR of existing customers. In addition, we consider whether these costs would have been expected at the time of the SoLR's bid and whether any commitments were given in relation to these costs in their competitive SoLR bid.
  - **Directly incurred as part of the SoLR role:** whether the costs were incurred as a result of taking on customers in an emergency situation as opposed to normal customer acquisition routes.
  - **Otherwise unrecoverable:** whether the SoLR could have recovered the costs through other means. It would not be appropriate for us to allow the SoLR to claim for costs it could have recovered – or reasonably be expected to recover – through the administration process or customer charges, for example.
  - **Economic:** whether the SoLR had made all reasonable efforts to avoid the cost in the first instance or absorb the cost.

### Overview of Yu Energy's claim

Yu Energy indicated at the time of our SoLR appointment process that it would not waive its right to make a claim for a LRSP.

The Initial Levy Claim was consented to on 17 December 2021.<sup>11</sup> The Subsequent Levy Claim was consented to on 20 December 2022.<sup>12</sup> Consistent with the terms of the LRSP consents and the True-up Agreement between the SoLR and Ofgem, we have taken those claims into consideration in reaching our decision on this claim.

### **Summary of decision**

Based on the information available and consideration of the circumstances in which the claims for LSRPs by Yu Energy were consented to, we have decided that, in order to true-up all the claims made in respect of acting as SoLR for customers of Ampower, Yu Energy will be required to repay **£110,867.70**, which we have decided is the Excess under the True-up Agreement between Yu Energy and Ofgem

The reasons for the decision are set out below. This decision should not be taken as setting a precedent for any future claims, which would also be considered on their merits and on a case-by-case basis, taking into account all relevant circumstances.

*Table 1: Summary table of initial claim, subsequent claim, true-up claim minded-to position and final decision on deductions and amounts.*

| Item   | Cost      | Initial Claim Approved | This claim | Minded-to Position | Decision on this claim |
|--------|-----------|------------------------|------------|--------------------|------------------------|
| 1      | Wholesale | £124,305.61            | -£976.80   | -£110,867.70       | -£110,867.70           |
| Total: |           |                        |            | -£110,867.70       | -£110,867.70           |

### **General points raised in consultation**

We received two responses to our minded-to consultation, one from a supplier and one confidential response that was not specifically related to our minded-to positions.

The supplier supported the minded-to positions on its claims and flagged that updated data had been submitted as requested in our minded-to positions. The supplier also queried how we will treat claims for customer credit balances refunded to customers by cheques that remain unpresented - for example, cheques that have not been cashed after five years from issue.

In response to this query, we note that further LRSP claims (subsequent claims and true-up claims) can continue to be made by a SoLR as long as the True-up Agreement remains open, which may be beyond the default five-year limitation period in SLC 9.3.

<sup>11</sup> <https://www.ofgem.gov.uk/publications/faster-solr-levy-process-consents-last-resort-supply-payments>

<sup>12</sup> <https://www.ofgem.gov.uk/publications/decision-last-resort-levy-true-claims>

Where customer credit balance cheques remain uncashed, we encourage SoLRs to be proactive in following-up with customers where appropriate.

## **Reasons for decision**

### General

Ofgem's general preference is for a SoLR not to make a claim for a LRSP for costs it has incurred carrying out its role. However, we do recognise that circumstances may exist which would justify a departure from this general rule. We recognise that the costs of this claim will ultimately be paid by consumers. In our assessment of the claim, consideration has been given to the interests of current and future consumers, particularly those in more vulnerable circumstances.

## **Cost category: Wholesale**

In our policy published in September 2022<sup>13</sup> we explained that all SoLRs appointed in the period from September – December 2021 should be able to recover additional and otherwise unrecoverable wholesale costs reasonably incurred as part of the SoLR role relating to energy delivered up until 31 March 2022 or until the end of their six-month SoLR direction, whichever is later. The bulk of these costs were considered in the December 2021 initial claim, by which time most initial wholesale energy purchases had taken place.

In considering this True-up claim we analysed the information provided by Yu to:

- Assess whether costs being claimed are consistent with our criteria (set out earlier in this letter) and our policy published in September 2022
- Assess the reasonableness of assumptions made and decisions taken (including, for example, demand forecasting and hedging strategies) against our criteria
- Assess the specifics of the reported wholesale market trades, including trade date, contract type, price, and volume. Specifically, we considered whether trade prices are consistent with market benchmarks and price assessments
- Assess cost per MWh and cost per customer to facilitate comparisons between claims
- Assess the amounts deemed to have been recovered from customer charges, including the applicability of various price cap allowances, and hence offset against the wholesale costs incurred.

Yu submitted one claim covering costs relating to energy delivered until the end of March 2022, which was in line with our September policy.

### Decision

The Yu True-up claim for Ampower, submitted on 24 October 2022, includes -£976.80 in wholesale costs. Following the above assessments, we consider that the calculation of this over-recovery is not fully consistent with our criteria, and our decision is that the

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<sup>13</sup> [Decision on Last Resort Levy Claims True-up Process \(ofgem.gov.uk\)](https://www.ofgem.gov.uk/decision-on-last-resort-levy-claims-true-up-process)

correct amount of overpayment to be recovered is £110,867.70. This reflects the following:

- A deduction of £3,362.79 for the revenue received from SoLR customers in respect of the Backwardation allowances in the price cap. Backwardation allowances were set out in our decision on the potential impact of increased wholesale volatility on the default tariff cap in February 2022<sup>14</sup> ("February 2022 Decision") and our decision on possible wholesale cost adjustment in August 2022<sup>15</sup> ("August 2022 Decision"). The deduction has been calculated based on a value of £14 per typical dual fuel customer, our best estimate of SoLR customer numbers during the period of recovery, and the forecast annualised gas and electricity demand of these SoLR customers.
- A deduction of £3,782.96 for the revenue received from SoLR customers in respect of the Contracts for Difference (CfD) Interim Levy Rate (ILR) allowance in the price cap in cap period 7. The deduction has been calculated based on a Demand weighted ILR of £6.88/MWh in cap period 7, multiplied by the claimed electricity supply volume for SoLR customers in cap period 7.
- A deduction of £78,731.61 for incorrect demand forecasts. The claim included hedged volumes demand forecasts for 412 customers. 155 of these were subsequently found to be non-domestic customers. This left only 257 domestic customers (combining both gas and electricity). Only the hedges for domestic customers are recoverable through the SoLR Levy Claim process. The deduction has been calculated by recalculating the demand forecasts that would have been used had all customers been accurately identified.
- A deduction of £1,647.15 for corrections to which prices and price comparators were used in the initial levy claim.
- A reduction of £22,366.38 for the increased cost of hedging after the initial hedging period. This has been calculated by repricing volumes (specifically those for delivery from 1 January 2022 to 31 March 2022) traded after the initial hedge, at the average of prices in the market on the date of the initial hedge, for delivery in the relevant delivery period.

The total amount to be deducted from the amount claimed by Yu is £109,890.90 leading to an excess of £110,867.70 to be repaid by Yu in accordance with the True-up Agreement. When taking into account the initial claim made in December 2021, the total wholesale costs that we have consented to Yu claiming is £13,437.

*Table 2: Summary of claims and decision on wholesale costs*

| Item      | Initial Claim | True-up claim | True Up Claim Categories | Minded-to position on True-up claim | Decision on true-up claim | Overpayment to recover |
|-----------|---------------|---------------|--------------------------|-------------------------------------|---------------------------|------------------------|
| Wholesale | £124,305.61   | -£976.80      | Backwardation            | -£3,362.79                          | -£3,362.79                |                        |
|           |               |               | Contracts for Difference | -£3,782.96                          | -£3,782.96                |                        |

<sup>14</sup> [Price Cap - Decision on possible wholesale cost adjustment \(ofgem.gov.uk\)](#)

<sup>15</sup> [Price Cap - Decision on possible wholesale cost adjustment \(ofgem.gov.uk\)](#)

|              |  |  |                                      |             |             |                            |
|--------------|--|--|--------------------------------------|-------------|-------------|----------------------------|
|              |  |  | Overestimated Demand Forecast        | -£78,731.61 | -£78,731.61 |                            |
|              |  |  | Incorrect price and price comparator | -£1,647.15  | -£1,647.15  |                            |
|              |  |  | Re-pricing of trade                  | -£22,366.38 | -£22,366.38 |                            |
| <b>Total</b> |  |  |                                      |             |             | -£110,867.70 <sup>16</sup> |

### Backwardation

### Summary of minded-to position

In February 2022 Ofgem introduced a retrospective allowance into the default tariff cap to allow suppliers to recover the systematic and unrecoverable backwardation cost for suppliers incurred in cap period seven, beyond the normal basis risk inherent in the cap. An amount of £8 per customer (at typical consumption) was included within the cap for the year starting 1 April 2022, applied via an increase to the additional wholesale risk allowance component of the cap. In August 2022 a further allowance of £6 per customer was introduced, to be recovered in the year from 1 October 2022.

These allowances would be recovered from all customers, SoLR and non-SoLR. Given this, we considered that the revenues collected by suppliers under this allowance should be deducted from claims made by SoLRs in relation to the costs of hedging SoLR customers' demand subsequent to it taking on the customers of the failed supplier. In other words, the costs of purchasing wholesale energy for these customers should be reduced because suppliers were allowed to recover approximately £14 per customer through higher bills in later periods.

When we assessed the other SoLR true-up claims last year, we calculated the relevant deduction for each supplier based on our best view (given the information submitted by the supplier as part of its claim) of (a) the number of SoLR customers that remained with that supplier as of the end of winter 2021/22 and (b) the annualised demand of those customers. We used the same approach this year to reach our minded-to position on Yu's claim, and were minded to make a deduction of £3,362.79 for retrospective backwardation.

### Summary of Consultation Responses

We did not receive any specific comments on our minded-to position on wholesale costs, in relation to this claim.

<sup>16</sup> This number is 1p higher than the sum of the Yu True-up claim and the deductions. This is because the "True-up deduction amounts" column displays rounded values, but the final calculation uses unrounded values.

### Reasons for Decision

During the minded-to consultation, we invited Yu to provide updated data to reflect the actual retrospective backwardation allowances received from April 2022 to September 2023. Yu did not provide the updated data, so we determined that it remained reasonable to use the data that informed the minded-to position for the final decision. This is consistent with the approach we have taken with other claims, where we have used the best data available to calculate the allowances received. Therefore, our final decision on the retrospective backwardation adjustment is to make a deduction of £3,362.79. This is unchanged from the minded-to position.

### Allowances for supplier charges in relation to the Contracts for Difference (CfD) scheme

#### Summary of minded-to position

The default tariff cap relating to electricity customers includes an allowance for costs incurred in relation to the CfD scheme, which is a government scheme aimed at supporting low carbon electricity generation. The charges that suppliers face under the CfD scheme depend on wholesale electricity prices, with higher prices resulting in lower costs (all else equal). The allowance included in the price cap is based on Low Carbon Contract Company (LCCC) forecasts of the relevant charges as had existed prior to the cap being set, which are in turn based on forward prices observed at that time of the forecast<sup>6</sup>.

The increases in wholesale prices which followed the price cap for winter 2021/22 being set in August 2021 led to SoLRs paying prices for wholesale electricity which were well in excess of the direct fuel allowances included in the cap - this cost has comprised the majority of SoLRs' claims. However, increases in wholesale electricity prices also resulted in CfD costs that were significantly lower than the relevant allowance in the cap.

As we set out in our February 2022 price cap decision<sup>17</sup> on the potential impact of increased wholesale volatility on the default tariff cap, for non-SoLR customers, this benefit was not realised in most cases, as suppliers had hedged their CfD exposure earlier in 2021, when wholesale prices were lower. However, we consider that this is unlikely to apply to SoLR customers. This is because, where a supplier hedged their CfD exposure for SoLR customers, this would have been at much higher wholesale prices given the timing of the SoLRs, locking in a lower CfD cost than included in the cap. And where a supplier did not hedge, it would have realised the outturn CfD cost – which given high Day Ahead wholesale prices would have been a net payment back to the SoLR in question through the CfD scheme.

Given this, to avoid SoLRs over-recovering in relation to wholesale costs of their SoLR customers, we were minded to deduct an amount from claims equivalent to the demand-weighted interim levy rate component of the default tariff cap for period 7, on the basis that the revenue generated under the CfD allowance would have offset the wholesale costs incurred by suppliers. Where a supplier considered that it incurred a CfD cost in relation to SoLR customers, we said that it should provide evidence - setting out the cost

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<sup>17</sup> [Price Cap - Decision on possible wholesale cost adjustment \(ofgem.gov.uk\)](#)

incurred versus the allowance included in the price cap – and that we would take this into account in our final decision.

We calculated our minded-to deduction based on forecast volumes and were minded-to make a deduction of £3,782.96 for CfDs.

### Summary of Consultation Responses

As noted above, we did not receive any specific comments on our minded-to position on wholesale costs, in relation to this claim.

### Reasons for Decision

During the consultation period, we asked Yu to provide outturn demand for the domestic SoLR customers.

We engaged with Yu on this matter and determined that it remained reasonable to use the data that informed the minded-to position for the final decision. Therefore our decision on the CfD adjustment is unchanged from the minded-to and we have reduced the claim by £3,782.96 to reflect that the revenue generated under the CfD allowances offset wholesale costs incurred.

### Overestimated Demand Forecast

#### Summary of minded-to position

In its initial claim, Yu claimed an amount for the volume of gas and electricity it initially hedged. To calculate how much of this was to be apportioned to domestic SoLR customers, Yu used classifications of the meters that was provided by Ampower (the failed supplier). This listed 412 domestic meters (304 electricity meters, 108 gas meters). It was subsequently discovered that many of these meters were non-domestic, leaving just 257 domestic meters (169 electricity meters, 88 gas meters). As non-domestic customers are not subject to the price cap, the wholesale costs incurred by the SoLR are otherwise recoverable. To account for this in the absence of additional evidence from Yu, we needed to calculate a volume that would have been appropriate for the actual domestic customer numbers. To recalculate the demand forecasts that would have been used if the meters had been correctly classified at the time of the SoLR, we used the following methodology:

1. First, we took the list of domestic customers that Yu provided to us (on 12/09/2023). We matched the meter numbers to the meter numbers provided by Ampower at the time of the SoLR process. This Ampower data included EAC/AQ values for each meter. Combined, we had a list of the 257 domestic meters (down from 412), along with their corresponding estimated annual demand for gas and power.
2. From this new dataset, we calculated the *average* estimated annual demand of the domestic SoLR customers. We then converted this into estimated monthly demand, using a monthly demand profile based on typical demand consumptions for PC1 customer profiles for electricity, and non-PPM customer profiles for gas.

3. We then created an estimate of what demand forecasts Yu would have generated for the claim period if it had used just the domestic numbers. To do so, we used the monthly demand profiles, the new average annual demand figures, the new customer numbers, and the churn rate Yu used in its initial claim.

Combined, this gave us a new volume of gas and electricity that was in line with the data for the domestic meters. We assumed that Yu would have hedged for this exact volume. Finally, to calculate the deduction on the claim, we recreated the claim using these new volumes in place of the original hedged volumes.

We were minded-to make a deduction of £78,731.61 to reflect this adjustment.

#### Summary of Consultation Responses

As noted above, we did not receive any specific comments on our minded-to position on wholesale costs, in relation to this claim.

#### Reasons for Decision

For the reasons set out in the minded-to position, we have deducted £78,731.61 from the claim to reflect the correction to the demand forecasts used.

#### Incorrect Prices and Price Comparator

##### Summary of minded-to position

When we assess a claim for wholesale costs, we consider the prices that the SoLR pays for gas and electricity, along with the volume purchased. In Yu's case, the prices it had used in calculating its claim were higher than the trade prices it had provided evidence for. The prices used in the claim calculation had been uplifted for UIG and line losses.

We use a price cap comparator to determine the amount of revenue that a supplier is expected to reclaim from customers through the wholesale portion of the price cap. The difference between the wholesale costs submitted by the supplier and the price cap comparator is the amount we consider is 'otherwise unrecoverable', which is one part of the test we apply to assess what costs are reasonable for suppliers to claim for under the SoLR Levy.

The price comparator that Yu used included allowances for shaping and imbalance, along with an uplift for UIG and line losses. For the minded to position, we used the actual traded prices, along with the raw price index comparator (before uplifting for any allowances or UIG) to calculate the claim.

Uplifts for UIG and line losses are to account for the fact that suppliers need to purchase more gas and electricity than the volume that gets delivered to customers, as some of it is lost in the process of delivery. However, in this case, Yu would be claiming for volumes greater than those evidenced in its submission. We considered that it was more appropriate to calculate the claim using the actual volumes purchased by Yu, along with a price comparator equal to the raw price index.

To calculate the deduction, we recreated Yu's claim using its traded prices, and the direct fuel cost component of the price cap without any uplifts. We calculated this deduction with our revised volumes (described above), to prevent over-deducting.

We were minded-to make a deduction of £1,647.15 to reflect this adjustment.

#### Summary of Consultation Responses

As noted above, we did not receive any specific comments on our minded-to position on wholesale costs, in relation to this claim.

#### Reasons for Decision

For the reasons set out in the minded-to position, we have deducted £1,647.15 from the claim to reflect the correction to the prices and price comparator used.

#### Re-Pricing of Trade

##### Summary of minded-to position

On 5 November 2021, at the time of being appointed SoLR, Yu carried out hedges for gas for the entire claim period. For electricity, however, Yu hedged its position for only part of the claimed period on this date. For electricity to be delivered in the period 1 January to 31 March 2022, Yu waited until 25 November 2021, at which time it hedged the entire baseload volume for the three-month period. This delay meant that the price paid for the energy was significantly higher than it would have been had it executed the trade on 5 November.

To calculate the deduction, we undertook a further re-calculation of Yu's claim. To do so, we re-priced the trade in question (executed on 25 November 2021) as if it had been executed on 5 November along with the other hedges. We used the ICIS Mid price to provide a fair re-pricing of the trade. We calculated this deduction with both our revised volumes and revised prices (described above) to prevent over-deducting.

We were minded-to make a deduction of £22,366.38 to reflect this adjustment.

#### Summary of Consultation Responses

As noted above, we did not receive any specific comments on our minded-to position on wholesale costs, in relation to this claim.

#### Reasons for Decision

For the reasons set out in the minded-to position, we have deducted £22,366.38 from the claim to reflect the impact of re-pricing this trade.

## Recovery of Excess

The True-up Agreement entered into by Ofgem and Yu Energy sets out the process for repaying any Excess:

*7.1 Where any Valid True-up Amount is an Excess, the Authority shall, acting reasonably, determine that the SoLR must repay an amount equal to the Excess including any interest accrued. Where it so determines and acting reasonably, the Authority shall provide a draft direction setting out the time, method and amount of any such repayment, together with the rate of interest, where relevant, and shall provide such draft to the SoLR and other relevant stakeholders, consulting where appropriate (a Draft Repayment Direction).*

*7.2 The Authority will consider any representations received from the SoLR, and, if relevant, any consultation on the Draft Repayment Direction and will issue a final repayment direction setting out the time, method and amount that the SoLR will be required to repay, including any interest (a Final Repayment Direction).*

As a result of this decision, Yu Energy is required to repay the determined Excess of **£110,867.70** plus the relevant amount of interest specified in the Final Repayment Direction. The specific amounts to be paid to each relevant licensed gas and electricity network operators will be set out in the Final Repayment Direction, which will be issued to the SoLR in respect of this claim following the publication of this decision letter.

Yours faithfully,

**Rohan Churm**  
**Director, Financial Resilience and Controls**