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14 December 2023

Dear Colleague

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

On 7 September 2023, Shell Energy Retail Limited ("SERL") 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 GoTo Energy (UK) Limited ("GoTo").

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 SERL 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 GoTo, SERL will be required to repay **£2,356,731.18**, which we have decided is the Excess under the True-up Agreement between SERL and Ofgem. The Final Repayment Direction that we make under the True-up Agreement with SERL 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;
- financing costs incurred on becoming a SOLR.

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, SERL entered into a True-up Agreement with Ofgem. Under the True-up Agreement between SERL 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 SERL and Ofgem will cease to have effect on the date that SERL 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 SERL'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/contents)

## 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 21 October 2021, we appointed SERL as the SoLR for GoTo gas<sup>7</sup> and electricity<sup>8</sup> 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 SERL as the SoLR to those customers in our decision letter published on 29 November 2022.<sup>9</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 such cases, the amount specified by Ofgem must be treated as the relevant amount

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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: [Direction to Appoint Shell Energy Retail Limited as Gas Supplier of Last Resort to Goto Energy \(UK\) Limited](#)

<sup>8</sup> Link: [Direction to appoint Shell Energy Retail Limited as Electricity Supplier of Last Resort to Goto Energy \(UK\) Limited](#)

<sup>9</sup> Link: [Appointment of Shell Energy Retail Limited as Supplier of Last Resort for Goto Energy \(UK\) Limited](#)

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>10</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>11</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 SERL, its own knowledge of the energy markets, and responses to consultation on the minded-to position on this claim.

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<sup>10</sup> <https://www.ofgem.gov.uk/sites/default/files/2022-09/Decision%20on%20the%20last%20resort%20levy%20claims%20true-up%20process.pdf>

<sup>11</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. SERL 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 SERL 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 SERL methodology for each cost item claimed. This included determining how each total cost item was calculated based on data sent to us by SERL and ensuring these costs were in line with commitments SERL 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 and working capital in accordance with the 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 SERL's claim

SERL indicated at the time of our SoLR appointment process that it would not waive its right to make a claim for LRSP for wholesale, credit balances and working capital costs, save where SERL made and subsequently honoured specific commitments to bear a proportion of costs themselves.

The Initial Levy Claim was consented to on 17 December 2021.<sup>12</sup> The Subsequent Levy Claim was consented to on 20 December 2022.<sup>13</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 SERL 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 GoTo, SERL will be required to repay **£2,356,731.18**, which we have decided is the Excess under the True-up Agreement between SERL 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	Subsequent Claim Approved	This claim	Minded-to Position	Decision on this claim
1	Wholesale	£13,017,472.11	£9,221,837.50	£0	-£1,269,258.44	-£1,242,012.19
2	Working capital	£0	£2,227,225.36	£0	-£1,116,752.14	-£1,114,718.99
<b>Total:</b>					<b>-£2,386,010.58</b>	<b>-£2,356,731.18</b>

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

We received two responses to our minded-to consultations, 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 outstanding amounts for any potential unclaimed cheques at the point that these are no longer claimable via SoLR levy, e.g. after five years.

<sup>12</sup> <https://www.ofgem.gov.uk/publications/faster-solr-levy-process-consents-last-resort-supply-payments>

<sup>13</sup> <https://www.ofgem.gov.uk/publications/decision-last-resort-levy-true-claims>

In response to this query, which is relevant for other claims from other SoLRs, we note that claims can continue to be made as long as the True-up Agreement remains open, which may be beyond the default five-year time period for claims set out in SLC 9.3. Where cheques remain uncashed, we would 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.

In the particular circumstances of this claim, and in line with the relevant licence conditions, we consider it appropriate to allow for the additional and otherwise unrecoverable costs summarised in Table 1 to be recovered via a LRSP. We consider it to be in the interest of current and future consumers to allow this claim to ensure that the safety net provided by the SoLR process remains viable into the future, and the stability of the retail energy market is not further undermined to the detriment of all consumers.

## **Cost category: Wholesale**

In our decision published in December 2022 on SERL's subsequent claim for GoTo we consented to £9,221,837.50 in wholesale costs, but due to the complexity of the claim we noted that we would need to undertake further analysis in a true-up claim in 2023.

### Work undertaken since December 2022

Since the decision on SERL's subsequent claim, SERL has provided additional evidence. We have carried out further analysis of SERL's claim and engaged with SERL further on this matter. In this analysis, we considered adjustments to the amount of wholesale costs that SERL could claim by the following categories:

1. Initial Demand Forecast
2. Churn Adjustments
3. Misallocation of Customers
4. Combined Claim for Shipper Trades and Forward Trades

In addition, using the additional information we have received and analysed since the December 2022 we considered adjustments to the amounts previously allowed for:

5. Backwardation Costs
6. CfD Costs

### Decision

Following the assessments described above, and having not received any specific comments on our minded-to position in relation to this claim, we consider that the amount claimed to date in LRSPs for wholesale costs is not consistent with our criteria, and we have decided to make the following deductions and other adjustments:

*Table 2: Summary of claims*

Item	Cost	Initial Claim Approved	Subsequent Claim Approved	True Up Claim: Deduction categories	Minded-to position on True-up Claim	Final position on claim
1	Wholesale	£13,017,472.11	£9,221,837.50			
				Initial Demand Forecast /Misallocation of Customers	- £1,311,093.48	- £1,311,093.48
				Combined claim for Shipper Trades and Forward Trades	-£8,743.29	-£8,743.29
				Backwardation	£50,578.33	£77,824.57
<b>Total:</b>					- <b>£1,269,258.44</b>	- <b>£1,242,012.19</b>

### Initial Demand Forecast

### Summary of minded-to position

In our minded-to decision, we explained that our understanding is that, on average, over its SoLR portfolio, [REDACTED]

[REDACTED] purchases were made when wholesale prices were higher, which, if those additional costs were accepted would result in a higher than necessary cost to consumers.

[REDACTED]

[REDACTED]

#### Methodology for this adjustment

The volume of purchases SERL executed in the later window between [REDACTED] and [REDACTED] [REDACTED] has been estimated as the residual volume of all trades executed in that window after deducting modelled net purchase volumes for churn (see section on churn below) and for trades which were deemed to have been made for misallocation of customers (see relevant section below).

In our calculations, this residual volume has been disallowed, and instead added to the hedges executed prior to the window. This has been done by adding an equivalent volume to the earlier traded volumes while leaving prices unchanged. This differs slightly from the approach taken in the December 2022 decision, in which average prices through October were used as alternative prices.

The associated value deduction represents the difference between the claimed value of the residual volume and the value which would have been claimed had that volume been executed at prices achieved by SERL prior to the window.

In our analysis we took into consideration the following points:

- Whether to account for a liquidity premium for the additional volume which is modelled as being purchased prior to the window. We consider that the appropriate level of such a premium would be extremely difficult to calculate, given that SERL would have had many options for the timing of its purchases, for example spreading purchases over one or more different days. We note that SERL's volume requirements are relatively low compared with daily liquidity.
- Whether to adjust for peak and baseload prices. [REDACTED]

[REDACTED]

We also consider that to account for peak prices would be to introduce a claim for shaping which would change the nature of SERL's claim and would need to be assessed against our published policy position in relation to shaping<sup>1</sup>.

### Misallocation of Customers

#### Summary of minded-to position

SERL has confirmed in its evidence that in the December forecast revisions it had difficulty allocating customers to specific suppliers, including duplicating customers in its forecasting database.

SERL has stated in evidence presented in 2022 that for GoTo, EAC and AQ values were over-corrected [REDACTED]  
[REDACTED] The effect of including these [REDACTED] hedges and their corresponding sales would be to increase SERL's claim.

#### Methodology

[REDACTED] Ofgem has attributed this to misallocation of customers or [REDACTED]  
[REDACTED]  
[REDACTED] Purchases and sales up to this volume, where submitted, have been disallowed.

Because the subsequent decision issued in December 2022 did not separate the impact of Initial Demand Forecast and Misallocation of Customers, we can only provide an adjustment to the December 2022 values for the combined impact.

We were minded-to deduct £1,311,093.48 from the amount claimed to date for the combined effect of the Initial Demand Forecast and the Misallocation of Customers: £1,137,395.43 for gas and £173,698.05 for electricity.

#### Summary of consultation responses

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

#### Reasons for decision

We have decided to deduct an amount for SERL's claim to reflect the combined effect of Initial Demand Forecast and Misallocation of Customers, for the reasons set out in our minded-to position.

We have decided to deduct £1,311,093.48 from the amount claimed to date for the combined effect of Initial Demand Forecast and Misallocation of Customers: £1,137,395.43 for gas and £173,698.05 for electricity.

## Churn Allowances

### Summary of minded-to position

SERL has claimed for the [REDACTED] This is the 'unexpected demand' or reduced 'churn' of customers away from SERL. The effect of this change would have been to increase the number of customers for which SERL needed to buy energy for Q1 2022 delivery. SERL has not made an explicit claim for a specific amount for the impact of updating its churn assumptions.

[REDACTED]

[REDACTED]

[REDACTED]

We note that the changes in forecast customer numbers were not positive for all of the suppliers for whom SERL acted as SoLR. Where customer number changes were negative, we have offset these against the positive values allowed.

We were minded to allow trades for churn of net claim value £1,153,160.56. This forms part of the overall claim; this does not represent an additional amount that we were minded toward SERL as part of this decision.

### Summary of consultation responses

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

### Reasons for decision

We have decided to allow trades for churn of net claim value £1,153,160.56 for the reasons set out in the minded-to position. This forms part of the overall claim; this does not represent an additional amount that we are awarding SERL as part of this decision.

### Combined claim for shipper trades and forward trades

### Summary of minded-to position

SERL claimed for costs associated with "shipper trades": trades which were carried out by the original third-party shippers of the failed supplier for whom SERL was appointed as a SoLR. SERL's evidence suggests that SERL had no option but to use these third-party arrangements in the early stages of their SoLR responsibilities.

In the decisions on SERL's subsequent claims made in December 2022, Ofgem allowed SERL's claims for costs relating to shipper trades, noting that: "*the treatment of SERL's shipper trades could be amended as part of [our 2023 review into SERL's hedging costs], given interactions between these two sets of costs.*" We have discussed with SERL the fact that SERL claimed for forward purchases and shipper trades [REDACTED]

[REDACTED]

Our understanding is that all shipper trades executed beyond the initial balance of month at the start of each SoLR agreement fall into the same category. On this basis, we have included all shipper trades beyond the initial balance of month in our calculated deduction.

We were minded-to deduct £8,743.29 from the amount claimed to date for the impact of shipper trades on SERL's claim, due to these exceeding the required volumes.

#### Methodology for this deduction

The amount deducted is the claim value of the shipper trades made for all suppliers after their initial balance-of-month period.

#### Summary of consultation responses

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

#### Reasons for decision

We have decided to deduct £8,743.29 from the amount claimed to date for the impact of shipper trades on SERL's claim, due to these exceeding the required volumes, as set out in the minded-to position.

#### 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.

We calculated the relevant deduction for each supplier in our decision in the subsequent claim (our December 2022 decision), 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 had more detailed data from SERL for their customer numbers and demand forecast assumptions, and revisited the calculations made for the December 2022 decision using similar methodology.

For GoTo, this resulted in a minded to position of an additional allowance of £50,578.33 towards its claim.

### Summary of consultation responses

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 minded-to consultation, we requested further updated data from SERL to reflect the actual retrospective backwardation allowances received from April 2022 to September 2023.

SERL have provided updated data for the period up to September 2022 and we have used those values to calculate actual retrospective backwardation allowances received by SERL from April 2022 to September 2022. For the period from September 2022 to September 2023 we used the latest data provided by SERL for customer numbers and annual consumption per customer to calculate revised estimates of the allowances received.

For GoTo, this results in an overall allowance of £77,824.57 towards its claim.

### **Cost category: Working capital**

When a SoLR is appointed, it incurs costs associated with taking on the new customers which need to be financed. There are a range of ways in which a SoLR can finance this activity. Regardless of the finance option used, there is a cost in doing so. Under Supplier SLC 9.4(a) a SoLR may claim total costs reasonably incurred in supplying premises under the Last Resort Supply Direction, which includes the interest on working capital.

Our published policy decision on last resort levy claims True-up process<sup>14</sup> sets out the requirements for SoLRs seeking to claim financing or working capital costs.

### Decision

Ofgem consented to SERL claiming £2,227,225.36 for working capital costs in our 20 December 2022 decision on its claim for costs incurred in acting as SoLR for GoTo. In that decision, we said that we would work with SERL on a further decision to true-up working capital costs this year.

As part of its claim this year, SERL provided an adapted working capital model that allows us to review and quantify the deductions that have been made across the cost

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<sup>14</sup> [Decision on last resort levy claims true-up process | Ofgem](#)

categories claimed, and to verify that these are accounted for in the working capital calculations.

Following the recalculations as part of the wholesale cost element to this claim, as set out in the wholesale section above, our decision is to require SERL to repay **£1,114,718.99** for working capital costs. We set out our rationale for this decision below.

*Table 3: Summary of claims and decision for working capital*

Item	Cost	Initial Claim Approved	Subsequent Claim Approved	True-up Claim Submitted	Minded-to position on True-up Claim	Decision on this claim
2	Working capital	£0	£ 2,227,225.36	£0	-£1,116,752.14	-£1,114,718.99

*Summary of minded-to position*

On 7 October 2022, SERL submitted a further levy claim as part of the temporary multiple claim process established in December 2021. This included a claim for the cost of working capital. As set out in our minded-to position in November 2022, we requested that SERL resubmit the working capital claim taking into account our minded-to deductions in the other cost categories, as we consider that working capital is only claimable through the levy in relation to costs that meet our overarching criteria for levy claims.<sup>14</sup>

Although an adapted model was submitted to Ofgem on 9 December 2022, which took a similar approach to the one Ofgem had set out in the templates provided to suppliers, we were unable to conclude our assessment of SERL's evidence in support of its claim for wholesale and working capital costs within the timeframe for consenting to the 2022 LRSP claims. As a result, for the purposes of determining a value allowable for working capital for a LRSP claim in that year, we decided to consent to a working capital claim of £2,227,225.36 for GoTo on 20 December 2022. However, our consent did not represent agreement with the approach taken by SERL for the calculation of their working capital claim, and we committed to continuing our assessment of the claim and engagement with SERL to reach an adapted working capital model, on which we based our minded-to position and this decision.

In the adapted model submitted to Ofgem on 7 September 2023, the interest rate at which working capital costs have been calculated remained consistent with the previous claim. As in our decision in December 2022, we considered that the interest rate applied by SERL is consistent with our overarching criteria and reasonable in this case. Our decision is on the reasonableness of the rate applied by SERL in this case, and for this purpose only. We may take a different view as to what is a reasonable rate, or approach to financing for other purposes in other cases.

The adapted model allowed us to unilaterally recalculate the working capital element of the claims, taking into account our minded-to changes to the allowable wholesale costs.

As a result, we were minded-to require SERL to repay £1,116,752.14 for working capital costs.

### Summary of consultation responses

We received no consultation response in response to the working capital element of this claim, or any working capital elements of minded-to positions we consulted in the same time period.

### Rationale for decision

We consider that the adapted model SERL submitted to Ofgem on 7 September 2023 allows us to verify that only allowed costs were used in the calculation of the working capital cost element and that the interest rate has been applied appropriately. Our assessment of the adapted model has found that it aligns with the requirements set out in our September 2022 policy decision on working capital costs. We have also decided that the interest rate applied to the relevant costs is consistent with our assessment criteria and is reasonable in this case and in this case only.

Following our re-assessment of SERL's claim for wholesale costs, our decision is to allow a total claim for working capital costs of £1,112,506.37. Taking into account our decision on this claim in December 2022 to allow ££2,227,225.36, our decision is a recovery of an overpayment of £1,114,718.99.

### **Recovery of Excess**

The True-up Agreement entered into by Ofgem and SERL 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, SERL is required to repay the determined Excess of **£2,356,731.18**, 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**