



Scottish Pensioners' Forum

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This response may be published with the name of our organisation

This response may be shared with other departments dealing with this consultation

We may be contacted again, if necessary, to discuss the details of our response

**Scottish Pensioners' Forum Consultation Response:
OFGEM: Supplier of Last Resort (SoLR) Offset Policy
solrlevyteam@ofgem.gov.uk**

The Scottish Pensioners' Forum (SPF) continues to assert that expecting the totality of consumers to pay for the failure of commercial enterprises is iniquitous, not least because recharging the associated costs as a Network Obligation is apportioned without regard to the ability of consumers to pay or the size of a household.

The following comments should be taken in this context.

- 1) The failure of the great tranche of suppliers who were under-capitalised or had insufficiently hedged, or were simply badly run with an inadequate business model, was an abject failure on the part of a regulatory regime more concerned with encouraging new entrants in to the energy supply market through a 'light-touch' approach which did not subject them to due scrutiny. Consumers are still being expected to pay for this failure in Regulation.
- 2) The SPF remains concerned that customer balances (some £8 billion in total) are still not adequately secured with only supplier performance being monitored rather than 'ring-fencing' being in place. Any nod towards 'ring-fencing' is half-hearted at best with the result that suppliers can continue to use said balances to shore up their capital adequacy and avoid the costs of alternative financing.
- 3) Supplier self-assessment of financial adequacy does not afford sufficient protection for consumer interests, especially in the prevention of a failure.
- 4) The proposals notably fail to protect the consumer interest in the longer term since consumers still remain to pick up the final bill in the case of supplier failure. In reality, consumers are major creditors, but this appears to be ignored.
- 5) Only when the whole process of administration is completed can the real costs be apportioned and any 'true up' sums applied. Meantime, the consumer who paid up front has to wait to receive a rebate. Administration fees are notoriously apt at substantially eating into any realisable proceeds.
- 6) Recovery of costs through the Network Operator rather than suppliers can be seen as providing the latter with a degree of commercial advantage. The SPF queries whether or not there is a potential conflict of interest since the Network Operator will be both creditor in its own right and litigant on behalf of wider interests.
- 7) Network Operators apportionment of their charges varies significantly from area to area with considerable disparities in electricity daily standing charges, meaning that consumers in different areas may bear a disproportionate share of SoLR costs. Single and small households are generally hit the hardest – they are those most likely to be living in fuel poverty. Will 'rebates' after final 'recovery' of excess costs be returned in the same manner?
- 8) The whole process being proposed still leaves a relatively complex web of potentially competing interests which together provide fertile feeding ground for the involvement of lawyers and accountants, with commensurate professional fees being accumulated, all adding to the costs of the process.

9) The impact of supplier failure is only evidenced after the event, by which time its causes are history. Failure may simply be the result of poor commercial decision-making, under capitalisation (masked by use of customer balances), ineffective or inadequate hedging, but some failures have been the result of grossly irresponsible, or even criminal behaviour on the part of directors, with excessive dividend / bonus awards and asset stripping before final collapse. It appears to the SPF that there are few, if any, penalties to sanction those 'guilty'. They have effectively been dealt with a 'Get Out of Jail Free' card on the back of the consumer picking up the bill.

10) The SPF cannot accept the notion that failed suppliers should only be responsible for some rather than all the costs of the process.

11) The SPF also notes that Network Operators, in whatever role, are only regarded as 'unsecured' creditors. Presumably customers with credit balances held by defunct suppliers are similarly categorised, if at all. They, surely, just as much as Network Operators, have a case to be regarded as 'secured' or 'priority' creditors.