

Financial Resilience & Controls Team

Ofgem

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E14 4PU

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Dear Financial Resilience & Controls Team,

We are pleased to share with you the responses of 100Green regarding the SoLR Levy Offset consultation.

Our general view is that the consultation captures some important aspects of the overall issue, and the mechanism has the potential to deliver the aims of the consultation.

However, we have raised some concerns and points, and we would encourage Ofgem to make further considerations before proceeding with the implementation of these proposals in order to protect the current and future benefits of energy consumers.

If you have any questions or would like to discuss any of the concerns or points raised in our response, we would be keen to engage further.

Yours sincerely,

Antonis Lamaj

Energy Regulation & Compliance Manager

A handwritten signature in black ink, appearing to read 'Antonis Lamaj', written over a horizontal line.

1. Consultation questions

a. Do you agree with our problem statement?

We have carefully considered the problem statement and believe that it captures some important aspects of the situation. In general, we are supportive about all the actions taken in favour of all energy consumers when those actions are followed by all involved parties and not just a few.

However, we would like to point out that in the event of a supplier failure, there might be challenging situations where it won't be easy to recover some of the costs, due to the complexities that arise when a supplier goes bankrupt.

Bankruptcy and insolvency processes do have grey areas, and it is vital to ensure that the parties involved do not breach their responsibilities. This is crucial to prevent further downstream problems, which might result in failing to address the issue and not returning costs to consumers through lower network charges, etc., as per policy aims.

b. What are your overall views on whether the proposal would deliver on the aims of the SoLR levy Offset?

We have carefully reviewed and evaluated the proposal's alignment with the aims of the SoLR levy Offset, and it appears that a mechanism is introduced to allow gas and electricity distribution network companies to recover funds from a failed supplier which will result in lower bills for consumers.

The Standard License Conditions (SLC) will mandate all suppliers, both current and future, to enter into a deed. Under this deed, suppliers commit to covering the relevant costs claimed because of their failure. While we appreciate the overall proposals, we want to point out that the deed, in this instance, is effectively a promise to pay without any money behind it. We feel that this might not have the best outcome possible, as there won't be any money left in the company that has been bankrupted, and this may not be in the best interest of the consumer(s).

We appreciate the draft deed provided to us. However, we haven't received the SLCs, and we have no further comments on them at this time.

Some communication around the development of the SLCs has been conveyed to us through Ofgem's online events, and it appears that the SLCs aren't ready yet based on the information shared during those events.

In order for the industry to gain a better understanding of the proposals and conditions, it would have been more effective and transparent to share the SLCs alongside the consultation. This would allow everyone to have a complete and clear view of the overall proposal, as we currently have only been partially informed, and we aren't fully aware of any potential further impact(s) that we might face.

The proposed mechanism has the potential to deliver the proposals upon further consideration from Ofgem. It is significantly important though to further consider the impacts on each of the involved parties and how this would be beneficial for the best interests of current and future energy consumers.

Based on the provided information, we are not fully confident that this mechanism will achieve the intended outcomes, given the complexities surrounding the overall energy and bankruptcy landscape.

c. What are your views on the proposed option of network companies being creditors and do you think another classification would be more appropriate?

We are not qualified to respond to this specific question, and therefore, we do not have any view on the matter.

d. What are views on the creditor claim being contingent on a valid claim being made by a SoLR for a LRSP? Do you think that the creditor claim could be formulated or calculated in another way?

We are not qualified to respond to this specific question, and therefore, we do not have any view on the matter.

e. What are your views on the deed as it is currently drafted?

We welcome the opportunity that Ofgem circulated the draft deed with the industry. As mentioned throughout this document, the deed is effectively a promise to pay without any money behind it. We are unsure of the effectiveness these proposals would have in the event of a supplier going bankrupt.

We encourage Ofgem to further consider the effectiveness of this proposal in order to protect the current and future energy consumers' benefits.

f. What are your views on the proposed license changes for suppliers and networks? Please identify any factors relating to the drafting of license changes that we should consider at this stage?

The Standard License Conditions have not been shared in this consultation, Ofgem has communicated that it needs further consideration before circulating those with the industry.

Based on the information provided in this consultation, we can't provide a full view of the proposed changes due to not having access to the complete information.

Based on provided information, we are not fully confident that this mechanism will achieve the intended outcomes, given the complexities surrounding the overall energy landscape.

g. Have we identified the key impacts, risks, and benefits of the SoLR Levy Offset, and are there any impacts we should give further consideration to? Do you think that overall, this would be of benefit to consumers?

We have carefully reviewed, evaluated, and participated in online discussions that took place between Ofgem and the industry around this consultation. Based on the provided information and overall discussions, the mechanism has the potential to deliver the aims of the consultation, but we feel that further considerations must be taken into account before the implementation of these proposals.

Following the overall online discussions and consultation, it appears that suppliers won't be able to gain insight into the approval process of Ofgem, and they will not be aware of what Ofgem will agree to or not. This raises concerns about transparency and what will happen behind the scenes.

In addition to the above, the lack of sharing the SLCs alongside the consultation is not providing the industry with the right level of information to gain a better and clearer understanding of the new proposals.

The overall deed proposal won't be effective, as it's already mentioned that a deed is a promise to pay without any money behind it. We are not fully confident that this will achieve the outcomes that Ofgem is expecting.

The impression from the consultation and workshops between industry and Ofgem is that these proposals might be an attempt to obtain further security deposits from suppliers, which we believe will have some impacts on cash flow or charges/debentures.

We are also unsure of how Ofgem will administer these proposals. Will there be any RFIs requested by Ofgem? If so, that means an increase in the administrative burden and costs within suppliers, and it won't be a one-administrative activity as mentioned in the consultation.

After a supplier bankruptcy, directors would typically appoint an administrator in order to protect themselves legally. Taking into consideration the administrative process, we would like to encourage Ofgem to engage with administrators to gain a better insight into the overall process.

We believe that such engagement will provide valuable insights and minimize the risk of making potentially disadvantageous decisions related to this consultation that won't deliver the expected aims for energy consumers.

In summary, we see some potential in the proposed mechanism to achieve its aims. However, we believe further considerations must be made on the following key points by Ofgem before implementing these proposals.

key points:

- Transparency concerns arise from the lack of insight into Ofgem's approval process for suppliers.
- The absence of shared SLCs with the consultation hinders industry understanding.
- Doubts about the effectiveness of the overall deed proposal due to its nature as a promise without financial backing.
- The impression from consultations and workshops suggests a potential attempt to secure further security deposits, impacting supplier cash flow.
- Uncertainty regarding Ofgem's administration of proposals, including potential RFIs, may increase administrative burden and costs for suppliers.
- Encourage Ofgem to engage with administrative companies post-supplier bankruptcy for better insights and risk mitigation.

100Green is fully supportive of any steps taken to protect the current and future energy consumers. However, we would encourage everyone involved not to make quick decisions without in-depth consideration of the risks surrounding them. It's important for everyone involved to understand their roles and responsibilities and cooperate for the UK's ambitious plans towards net zero in the most cost-effective way.