

To: All holders of an electricity distribution licence

**Electricity Act 1989
Section 11A(2)**

Notice of statutory consultation on a proposal to modify the standard conditions of all electricity distribution licences

1. The Gas and Electricity Markets Authority ('the Authority')¹ proposes to modify the standard conditions of all electricity distribution licences granted or treated as granted under 11A(2) of the Electricity Act 1989 by amending Condition 38B (Last Resort Supply Payment Claims), B.2, and inserting Part D, Recovery of Last Resort Supply Claims from a Former Electricity Supplier, 38D.1, E.1 and 7D.
2. The first modifications we are proposing are additional conditions required to implement the Supplier of Last Resort (SoLR) Levy Offset. The SoLR Levy Offset has been developed in response to the significant impacts on consumers of supplier failures after a number of failures in winter 2021.
3. The primary intended effect of this proposed addition is to reduce the mutualised costs associated with supplier failure.
4. The new Part D, 38D.1 would require networks to recover sums due to them under a "deed of undertaking" that suppliers would be required to enter into under the proposed new Condition 9A of the standard supply licence conditions. This "deed of undertaking" would create an obligation from the supplier to pay the electricity distributors the value of any Last Resort Supply Payment (LRSP) claim, in the event the supplier failed and a SoLR was appointed. The amount owed would be the value of the LRSP Claim, excluding Customer Credit Balances. The electricity distributors would be able to claim the amount owed under the deed in the insolvency process of the failed supplier. Any sums recovered would be returned to consumers through lower network charges.
5. Part D, 38D.1 requires the electricity distribution networks to make a claim in the insolvency process of the failed supplier, unless the Authority directs them not to, and to take all reasonable steps to recover the amount due to them under the deed. 7(d) requires the electricity distributors to have regard to relevant guidance published by the Authority.
6. The new 38E.1 would allow electricity distribution networks to recover costs reasonably incurred in fulfilling their obligations under Condition 38D.1. The new condition proposed would allow them to adjust network charges to recover these costs.
7. The intended effect of the next modification proposed is to make sure that where any adjustment is made to a SoLR's Valid Claim, under the 'multi-claims' process, the LRSP amount to be paid by (or due to) the network from the SoLR is correspondingly adjusted in the relevant year. Under the multi-claims process, SoLRs can submit more than one LRSP claim for the costs incurred relating to a failed supplier. Modifications to Condition 38B.2 confirms that an adjustment to the

¹ The terms "the Authority", "we" and "us" are used interchangeably in this document and may refer to either GEMA or Ofgem.

total Valid Claim may be made by the Authority before the LRSP has been made, and is so the LRSP should be made in line with any adjustments to the total Valid Claim.

8. A copy of the proposed modifications and other documents referred to in this Notice have been published on our website (www.ofgem.gov.uk). Alternatively, they are available from information.rights@ofgem.gov.uk.
9. Any representations with respect to the proposed licence modification/modifications must be made on or before 17 October 2024 to: SoLR Levy Team, Office of Gas and Electricity Markets, 10 South Colonnade, Canary Wharf, London, E14 4PU or by email to SoLRLevyTeam@Ofgem.gov.uk.
10. We normally publish all responses on our website. However, if you do not wish your response to be made public then please clearly mark it as not for publication. We prefer to receive responses in an electronic form so they can be placed easily on our website.
11. If we decide to make the proposed modifications they will take effect not less than 56 days after the decision is published.

David Hall, Deputy Director of Financial Resilience and Controls
Duly authorised on behalf of the Gas and Electricity Markets Authority
19th September 2024

Condition 38B. Last Resort Supply Payment claims

Introduction

38B.1 This condition sets out the circumstances in which the licensee must pay a Claimant a Last Resort Supply Payment.

Part A: Requirement to make a Last Resort Supply Payment

38B.2 Where the licensee receives a Valid Claim, the licensee must make a Last Resort Supply Payment in the Relevant Year in accordance with the Valid Claim or, where any Valid Claim is adjusted by the Authority before a Last Resort Supply Payment has been made in respect of it, the Last Resort Supply Payment must be made in accordance with the adjusted Valid Claim.

Part D Recovery of Last Resort Supply Payment Claims from a Former Electricity Supplier

38D.1 Unless the Authority directs otherwise, the licensee shall take all reasonable steps to recover sums due to it under an undertaking given by an Electricity Supplier to the licensee under standard condition 9A (Undertakings to Licensed Distributors in relation to Last Resort Supply Payments) of the standard conditions of electricity suppliers' licences as incorporated into the Electricity Supplier's Electricity Supply Licence.

38E.1 The licensee is authorised to adjust network charges to recover any costs reasonably incurred in fulfilling its obligations under Condition 38D.1. This authorisation is subject to the following provisions:

- (a) Should the costs incurred be anticipated to exceed the amounts recovered, the licensee must seek direction from the Authority.
- (b) The licensee is required to submit a detailed statement to the Authority, providing a comprehensive account of the costs incurred.
- (c) The licensee must adhere to any guidance issued by the Authority from time to time regarding the obligations under this condition.

7D The licensee shall have regard to such guidance as the Authority may, from time to time, publish about the obligation at paragraph 7B of this condition.