



(by email)

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Dear Rob,

Consultation: our proposed approach to dealing with supplier insolvency and its consequences for consumers

Thank you for providing SSE with the opportunity to respond to the above consultation. I am pleased to enclose our response. We have provided a response to each of the questions posed within the consultation document below.

Q1: Do you agree with the approach to SoLR and energy administration set out in our revised guidance?

SSE is supportive of Ofgem's current approach to dealing with a supplier insolvency event. The current approach provides Ofgem and potential SoLR applicants with the necessary flexibility to consider any supplier insolvency on a case by case basis.

In relation to potential credit balances, the consultation document does not specifically clarify whether a supplier could be required by Ofgem, to adopt an approach whereby it attempts to refund such balances where this has not been offered during the SoLR selection process. SSE does not believe it is in the best interests of the wider customer base to oblige a supplier to refund potential credit balances. If not covered by the levy, these costs may need to be socialised across the supplier's existing customer base, which we would want to avoid for a number of reasons. It should be left to a supplier's own commercial assessment as to whether this is appropriate in all the individual circumstances of the situation. However, we

do agree that it is appropriate to take account a supplier's willingness to absorb these costs as a relevant factor in deciding which supplier to appoint as SoLR.

When deciding whether to voluntarily refund credit balances, we note that the consultation document makes reference¹ to the 'range of factors which affect balances' including the customer's payment method, time of year, meter readings etc. With due consideration to such factors, it will be difficult for a supplier to fully quantify the potential exposure without access to the insolvent supplier's billing system to determine the 'true' value of potential credit balances (see question 3). SSE would therefore recommend that the information Ofgem obtains from the failing supplier² should be extended to include information on the credit balances held by a consumer at the time the particular supplier becomes insolvent. Whilst this might not be practical in all circumstances, it would provide a potential SoLR with a clearer understanding of the potential cost of bearing the insolvent supplier's credit balances. It should be noted that the better the quality of information available to a potential SoLR, the more likely it will be willing to include a commitment to return credit balances. If the information required to make an informed assessment is unavailable, then potential SoLR's are more likely to consider that making such a commitment is too much of a risk.

The SoLR has the ability to claim certain costs for performing this role through the industry levy. In doing so, a SoLR is required to reserve the right to make such a claim when 'bidding' to become the SoLR. Upon appointment as a SoLR, a supplier is able to recover costs directly through the industry levy (which in turn could increase use of system charges) or through socialised energy costs. In either scenario, it is ultimately customers of another supplier, who would otherwise remain unaffected, bearing the cost following failure of another industry participant. SSE would therefore welcome more guidance against which claims made under the industry levy are likely to be accepted or approved.

SSE would also recommend that Ofgem consider whether the current process in applying for a gas or electricity supply licence is robust enough to protect consumers from the risk of supplier insolvency. Whilst SSE believes that the licence application process should not be more onerous than is necessary, we do think that Ofgem should ensure that any new entrant be required to demonstrate an appropriate level of financial standing and has a business plan that takes into account the needs of its future customers.

¹ Page 3, Paragraph 5

² 'Appendix 1 – Information from failing supplier' – Page 26

In relation to Ofgem's approach under a supply company administration order, SSE would agree with the stated position of a trade sale being more desirable than regulatory intervention.

Q2: Do you agree with our preferred approach (option 1 - no further action, i.e. case by case use of SoLR powers) to protect consumer credit balances?

We would be particularly interested in hearing your views on the following factors in relation to each option: effects on innovation and potential barriers to entry, increased regulatory burdens, impact on customer behaviour, proportionality.

Yes, SSE agrees with Ofgem's preferred approach. We do not envisage any additional protection for consumers through Option 2 or 3 (without additional administration costs) that is not already provided through the current approach. The introduction of ring-fencing, trust arrangements, insurance or bonding arrangements will add to the regulatory burden through ongoing costs and bureaucracy with little or no additional benefit. This could also introduce a potential barrier to entry for new or smaller suppliers (assuming the requirement to provide this type of cover begins from the initial customer gain).

SSE does not believe that the current approach introduces any potential barriers to entry or increased regulatory burden. The current SoLR framework is only enacted in the event of an industry participant becoming insolvent which is generally an uncommon occurrence. Ofgem note within the consultation document that the current process 'could be resource-intensive when we are called upon to exercise the power'³. Whilst SSE does not disagree with this statement, it is worth noting that the occurrence of SoLR is rare and does not, usually, happen for a sustained period of time.

Q3: Do you consider that there is other information which would help you decide whether to volunteer to be a SoLR and on specific terms? If so, what is this information and from whom should it be sought?

We agree with the information Ofgem would seek from a failing supplier as per Appendix 1 of the consultation document. However, as indicated within our response to question one, SSE believes that additional information relating to the level of credit balances held at the time of insolvency should also be requested. Whilst not practical in all circumstances, the more information a potential SoLR has in relation to the insolvent supplier the more equipped they will be when it comes to determining whether it could carry out the role



without prejudicing its ability to supply its own customers. Ofgem note that they will seek to obtain 'portfolio information, split by gas and electricity and domestic and non-domestic customers'. SSE would welcome further clarity on what Ofgem considers to be 'portfolio information'. In particular, SSE would welcome access to the following information (please note, this is not an exhaustive list):

- Average (kWh) consumption for both gas and electricity;
- Length of customer tenure;
- Tariff information;
- Payment method details;
- The supplier's position regarding consumer debt;
- Metering data; and
- Any additional information that is reasonable to obtain in order for a potential SoLR to make a full and informed decision as to whether to become a SoLR applicant.