

Cathryn Scott
Director of Enforcement
Ofgem
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Sent via email: RetailFinancialResilience@ofgem.gov.uk

3 May 2022

Dear Cathryn

RE: Update to December Action Plan – Customer Credit Balances and Renewables Obligation Protection

I am writing to you regarding Ofgem's recent open letter to domestic energy suppliers, outlining how proposals to require suppliers to protect domestic customer credit balances and Renewables Obligation (RO) payments are developing. We have summarised our views on the updates provided in the open letter below, and would welcome further engagement with Ofgem if this would be beneficial.

Overview

Since the sharp increases in global gas prices in September 2021, we have seen 29 supplier failures, affecting almost 4 million customers at a cost of at least £2.6bn to households across Great Britain.¹ High and volatile energy costs, with a further increase in the default tariff cap anticipated this coming winter, also continue to place unprecedented pressure on the retail energy market and its customers. Energy UK is, therefore, supportive of Ofgem's financial resilience workstream and the need for financial and prudential reform to ensure that lessons are learned and implemented appropriately from the start of the gas price crisis.

When considering questions around financial resilience, it is important that the regulator recognises that many of the issues that contributed to supplier failure predate rapidly escalating and volatile wholesale gas prices. As previously highlighted by Citizens Advice, regulatory failings over the past decade unfortunately allowed unfit and unsustainable energy companies to enter and trade in an essential services market with little oversight or risk.² When these businesses subsequently collapsed, other suppliers and their customers have had to pick up the pieces and bear the cost of these regulatory failings. Furthermore, despite being aware of widespread problems in the market (and being alerted to poor practice by consumer groups and industry), Ofgem's actions to date (as part of its long-running supply licence review to improve financial resilience) ultimately occurred too late, proving to be insufficient and inadequate.

Credit Balance Proposals

Energy UK is supportive of Ofgem's proposals for tighter protections of customers' credit balances from misuse to minimise the risk of significant future mutualisation costs and to promote responsible business practices. We are aware that there is public support for reformed protections in the retail energy market

¹ Citizens Advice, '[Market Meltdown](#)', 10 January 2022

² *ibid*

to improve financial resilience, and we recognise that Ofgem has been considering options to reduce mutualisation costs since launching its Supplier Licensing Review in 2018.³

Energy UK members do, however, have differing views on the specific mechanism(s) and the timelines for implementing any such proposals. We anticipate that individual Energy UK members will be responding to Ofgem setting out their views and are best placed to provide detailed feedback on Ofgem's current thinking (to the extent that it has included details within the open letter).

We welcome the recent clarification we have received from Ofgem that it intends to publish an updated Impact Assessment alongside final proposals at the Statutory Consultation stage. While we recognise that Ofgem's open letter was not intended as a full consultation, as with all regulatory change a full Impact Assessment is crucial if proper scrutiny is to be undertaken.

Renewables Obligation (RO) Proposals

Energy UK continues to believe that robust action is needed to reduce the risk of supplier payment default in the RO scheme to the lowest level possible. We note that the cost of mutualisation of RO payments in total value has historically been considerably greater than that of credit balances.⁴ As such, we are disappointed that BEIS has refused to take legislative action in its recent consultation decision.⁵ We continue to believe that legislative action is the right option to address this issue. If BEIS continues to remain unwilling to address this significant risk through legislative provision and Ofgem is exploring options to introduce measures through the licence, Ofgem must carefully explore how any proposals interact with, and impact on the ROC trading market to ensure there are no unintended consequences.

We hope that these comments on Ofgem's update have been useful, and we would welcome the opportunity to engage further as it develops its thinking ahead of any Statutory Consultation.

Yours sincerely,

Dan Alchin

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³ Ofgem, [Supplier Licensing Review](#), 21 November 2018

⁴ Citizens Advice, ['Picking up the pieces'](#), 21 June 2019

⁵ BEIS, ['Addressing supplier payment default under the RO: consultation responses'](#), 20 April 2022