



# Ofgem issues statutory consultation on SoLR levy offset

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| <b>Headline assessment</b>    |  |
| <b>Document:</b>              | <a href="#">Ofgem's consultation</a>   |
| <b>Consultation dates:</b>    | 19/09/24 – 17/10/24  |
| <b>Impact classification:</b> | <b>Medium:</b> Domestic Suppliers, Non-Domestic Suppliers, DNOs<br><b>Low:</b> Consumers |
| <b>Action if desired:</b>     | Respond to the consultation  |

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Hattie Lunn

# Author



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**Hattie Lunn**

*Senior Analyst*

[h.lunn@cornwall-insight.com](mailto:h.lunn@cornwall-insight.com)

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For more information about us and our services contact us on [enquiries@cornwall-insight.com](mailto:enquiries@cornwall-insight.com) or contact us on 01603 604400.

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# 1 Assessment and recommendation

On 19 September, Ofgem published a [statutory consultation](#) seeking views on the introduction of a Supplier of Last Resort (SoLR) levy offset mechanism. This will require suppliers to enter a deed of undertaking to pay to the networks the amount of any SoLR levy claim in the event that the supplier fails. Ofgem proposes some changes to the electricity and gas supply licences and the distribution licences for the mechanism to take effect.

We recommend that domestic suppliers, DNOs and gas transporters read the proposed changes and respond to the consultation if necessary, responses are requested by 17 October.

*Cornwall Insight comment: The proposals would lead to Distribution Network Operators taking on a larger role in this new process, with the potential to protect consumers from any further supplier exits from the market. This would further mitigate the risk of a rise in bills during a period where prices are already well over the historic norm.*

## 2 Background

Following the large number of domestic suppliers that exited the market in 2021, several claims were made by those who had been assigned as the SoLR for the failed suppliers through the Last Resort Supply Payment (LRSP) process. This enables them to recover costs that have been incurred as a result of onboarding many new customers and supplying energy to them, however this cost is recovered by DNOs adjusting the network charge element of the consumer bill. As a result, when the mass exit of suppliers occurred, claims totalling £2.3bn were made to recover these costs, meaning an approximate £83 was added to bills per household.

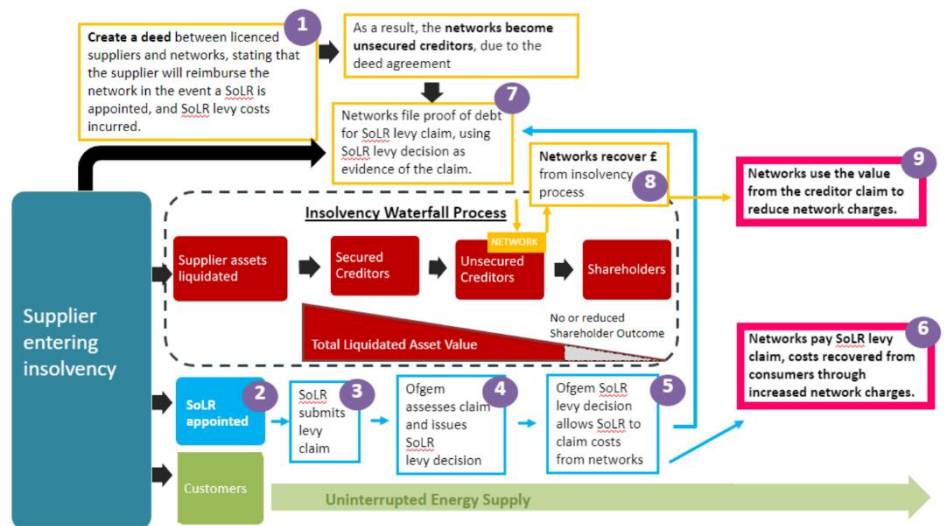
Ofgem outlined its view on the issues this current process can present. Where there is remaining value in a company, typically the remaining assets, during the insolvency process these will be used to pay back the creditors, meaning that remaining value is distributed back to the failed suppliers' shareholders. The regulator considers there is a moral hazard occurring whereby consumers are carrying the burden of risk associated with the supplier failure, not the shareholders.

Consequently, Ofgem issued a [policy consultation](#) in February 2024 to gather views on introducing a mechanism to tackle this issue. The consultation garnered generally positive responses toward the policy intent of the SoLR Levy Offset (SLO), though there was more mixed feedback on the detailed design of the mechanism. Taking this into account, Ofgem is continuing forward with its plan to introduce the SLO and is consulting on the specific Standard Licence Condition (SLC) changes that would be required.

## 3 Proposals

The SLO would create a contractual debt due from the failed supplier to the networks for the costs of the SoLR levy claim made by the incoming SoLR. The networks would claim as a creditor of the failed supplier in any insolvency process, with the claim being paid alongside other unsecured creditors and before shareholders receive a return on their investment. The process for this is provided in Figure 1.

Figure 1: SoLR Levy Offset



## 3.1 Suppliers

For suppliers, Ofgem is proposing SLC changes under SLC 9 which currently deals with the Claims for Last Resort Supply Payments and introducing SLC 9A Undertaking to Licensed Distributors in relation to Last Resort Supply Payments.

The modifications to SLC 9 introduce a new section focussing on reconciliation of claims, under SLC 9.7ZA, stating that after the supplier has made at least one valid claim:

- If the accumulated amount of valid claims made by the SoLR exceeds the total amount that the licensee is entitled to claim, Ofgem may amend the consent its given; the valid claim to which the consent relates will be deemed to be adjusted accordingly;
- If, at any time, LRSPs made to the SoLR exceed the amount that they were entitled to claim, the SoLR shall be liable to pay any excess to the relevant distributors, as directed by Ofgem;
- If the SoLR becomes aware that the accumulated amount of valid claims made by them exceed the total amount that they are entitled to claim, the SoLR shall as soon as reasonably practicable, give notice to the regulator of the excess;
- If any of the above points apply, the supplier will:
  - give Ofgem a calculation of each of the amounts showing any variation in such amounts from those included in the valid claim
  - provide Ofgem details of LRSPs received;
  - provide Ofgem such information and documentation as required to give an amended consent.
- The SoLR shall give Ofgem a calculation of each of the amounts with information to support that calculation no later than a date notified to it by the regulator and, in any event no later than five years after the date on which the Last Resort Supply Direction to which the claim relates stops having effect.

The new SLC 9A also sets out:

- Suppliers must give to the licensed distributors an undertaking to pay them the amount of any LRSP claim made to that distributor from a licensee.
- The amount of any LRSP claim must not include amounts in the claim relating to Customer Credit Balances.
- The undertaking in referred to above must be conditional upon a Last Resort Supply Direction being given in respect of the supplier's customers' premises.
- The undertaking must be in writing and in a form acceptable to Ofgem.

## 3.2 Networks

Within the standard distribution licences, other licence modifications have been proposed under SLC 38B, regarding LRSPs. There is an additional clause proposed for the requirement to make an LRSP, which states the distributor must adhere to a valid claim that is adjusted by the regulator.

It also introduces Part D under the licence, labelled as Recovery of LRSP claims from a former supplier. The proposed SLCs state:

- Unless Ofgem directs otherwise, the distributor shall take all reasonable steps to recover sums due to it under an undertaking given by a supplier to them in accordance with SLC 9A of the supply licence
- The distributor is authorised to adjust network charges to recover any costs reasonably incurred in fulfilling its obligations. This authorisation is subject to the following provisions:
  - Should the costs incurred be anticipated to exceed the amounts recovered, the distributor must seek direction from Ofgem.

- The distributor is required to submit a detailed statement to Ofgem, providing a comprehensive account of the costs incurred.
- The distributor must adhere to any guidance issued by the regulator from time to time regarding the obligations under this condition.

These changes are also reflected in minor proposed amendments to the special distributor licence conditions, for both gas and electricity.

## 4 Next steps

Views are sought on the proposed SLC modifications to enable the SLO, with the consultation closing for responses on 17 October 2024. Ofgem intends to publish a decision later this year, after which the changes will take effect 56 days on from the decision. It noted if the SLO is proceeded, it will, at the point of decision, liaise with suppliers to ensure that each supplier completes and returns a deed of undertaking, such that the SLO can take immediate effect.



CORNWALL INSIGHT

CREATING CLARITY

Cornwall Insight  
The Atrium  
Merchant's Court, St George's Street  
Norwich, NR3 1AB

T: 01603 604400

E: [enquiries@cornwall-insight.com](mailto:enquiries@cornwall-insight.com)

[cornwall-insight.com](http://cornwall-insight.com)

