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Dear Kenny,

Supplier of Last Resort in Electricity, Consultation Paper

The Consumer Council welcome the opportunity to respond to this consultation on Supplier of Last Resort Electricity (SoLR).

The Consumer Council supports the principle of having a Supplier of Last Resort in electricity and we are pleased to see that the process for achieving this is being consulted on. Electricity is fundamental to the Northern Ireland economy and society. It is an essential service that if interrupted will have a serious impact on both business and individuals. The Consumer Council believe that it is important that both domestic and small business customers can be confident that their supply will continue even if a supplier has their licence revoked.

The Consumer Council believe that the prime objective of the SoLR in Electricity is to minimise the impact to the consumer in the event of the failure of a supply company. In order to achieve this the process needs to ensure that there is:

- No interruption to supply;
- No deterioration in standard of service;
- No limit on choice or ability to exercise it;
- No increase in cost;
- Full protection of vulnerable customers;
- The provision of accurate and timely information;

- No supplier receiving an unfair competitive advantage or disadvantage as a result of the process;

Response to specific questions

1. Will any Last Resort Supply Direction apply to all customer classes, or just Domestic and small enterprises as stated in the Directive?

The Consumer Council seeks an explanation as to why all customer classes should not be covered by the Supplier of Last Resort proposals?

2. Should the SoLR direction be used in all instances or if only a small number of customers are involved should these customers be given an opportunity to find another supplier and transferred manually?

The Consumer Council believes that in order to maintain the principle of consumer choice it is appropriate that all customers be given an opportunity to find another supplier.

3. Are the duties of the SoLR relevant and are there any other duties the SoLR should perform?

The Consumer Council comments on this question are contained in our comments on question 4.

4. Is the five day window for notifying customers sufficient and is it reasonable to try and secure a meter reading within 14 days?

The duty placed upon the SoLR to write to all affected customers within five days should require further information than just informing them that the SoLR direction has been initiated. The opportunity should be used to provide information on how the SOLR will obtain a meter reading within 14 days and how the customer can provide their own meter readings, the tariff they will be placed on and how the customer can choose to switch to a contract with the SoLR or a new supplier if they so wish.

The duty on the SOLR to endeavour to secure a meter reading should be strengthened to become an obligation to take actual meter reads within 14 days or implement measures to obtain actual meter reads, e.g. advising customers how they can provide their own readings. This should not exclude the Utility Regulator (the Regulator) and other interested parties from reiterating this message through the media. As a customer facing organisation the Consumer Council would be keen to play a part in communicating this.

5. Should there be a customer opt-out period? How long should it last?

The Consumer Council believe that there should be no three month lock in period and therefore it will not be necessary to have an opt-out period.

6. Should there be a lock-in period? How long should it last?

The Consumer Council believe that there should not be a three month lock in period as it is not compatible with consumer choice and the ability to exercise it. We believe that this is a process driven requirement that does not serve the best interests of the consumer.

7. Should the same SoLR be used for all customer classes, or would it be more appropriate to have different customers transfer to different SoLRs?

Where it is clear that a particular supplier would suit a certain class of customer it would be appropriate that they transfer to different SoLR's. However, the procedure must not compromise the principle that there should be no limit on choice and that no supplier can gain an advantage over another. We believe that the Regulator should decide in an open and transparent manner against set criteria which company will be the SoLR and this should be reviewed on an annual basis.

8. Is there any further information that the Customer Notice should contain?

In addition to the information already stated in the consultation paper, the Customer Notice from the SoLR should contain the following:

- Terms and conditions that apply;
- A list of alternative suppliers;
- A brief explanation of why the change of supplier has taken place;
- A statement that the customer can change supplier at any time;
- A statement that after six months if the customer has not switched supplier or transferred onto a regular tariff of the SoLR they will automatically be transferred onto a regular tariff of the SoLR that is appropriate to their customer category (should the SoLR tariff be different from regular tariffs).

9. How should the SoLR be appointed (Obligation, Auction or case-by-case basis)? Is there any way these options can be improved? Are there any other available options?

It is the Consumer Council's view that it would be preferable if a company volunteers for the role of SoLR. A reluctant participant is less likely to deliver on price or customer care for a group of customers that it does not want. Whilst an auction system would draw out the lowest cost, it is important that the criteria are not based on price alone. We believe that rather than an auction system a tendering process could be used where the company demonstrates its ability to be a capable SoLR based on the criteria in section 9 of the consultation paper.

It is essential that the SoLR process ensures that there is no interruption to supply and minimal disruption, if any, to the customer. The bidding process

should be determined in advance of a SoLR event to ensure that the SoLR is well prepared.

10. How should SoLR costs be recovered? How should SoLR tariffs be set?

Tariffs should be capped at the level which the SoLR charges its existing standard tariff customers. A mechanism needs to be in place to allow the SoLR to recover any shortfall that could arise between the amount received from the new customers and the SoLR's costs in supplying them. This mechanism must not simply pass on these costs to consumers.

11. What information will be required from the defaulting supplier/NIE in respect of the customer base? What information will be required from potential SoLRs? Is the list of information in the Appendices relevant?

The information required from potential SoLR's should be obtained as part of a bidding process. There should be a requirement that this information is reviewed and updated by the Utility Regulator to ensure that the SoLR remains capable of undertaking the role.

In requesting information from a failing supplier the Utility Regulator should make clear how the information provided will be used and held within Data Protection law.

Other considerations

Monopoly supplier

The procedure assumes a range of suppliers will be available to step in as a SoLR. However, the procedure needs to identify how it will work in the current monopolistic situation that exists in the domestic supply market. The procedure will need to be reviewed if the market changes.

Time scales

To achieve minimum disruption to affected customers, in particular to ensure continuation of supply, as much notice as possible for all parties will be needed. The procedure will need to consider at what point the Regulator will contact the company facing revocation of its licence to request information and the SoLR to request and supply information and inform customers.

Vulnerable customers

The Regulator has a specific duty to have regard to the interests of vulnerable customers. Full consideration should be given to providing additional protection for this group. As the SoLR may charge a higher tariff than the failed supplier, vulnerable customers should be given price protection until they are able to switch supplier or transfer to a different tariff. Any information that is provided to customers must be presented in a manner that is clear,

accessible and appropriate to all customers. When applying to be the SoLR the company should demonstrate how they will achieve this.

I hope that these comments are helpful and are given due consideration. Please contact me if you require any clarification.

Yours Sincerely,

Richard Williams
Senior Consumer Affairs Officer