

# **NIAUR's Consultation on Supplier of Last Resort in Electricity**

NIE Energy Supply's Response

11 June 2009



## **Introduction**

NIE Energy Supply (NIEES) welcomes the opportunity to respond to NIAUR's consultation on Supplier of Last Resort ("SoLR") in Electricity in Northern Ireland. NIEES is wholly supportive of putting a process in place for the appointment of a SoLR and development of suitable arrangements required to provide for the transfer of customers of a failed retailer, and the continued provision of electricity supply to these customers, following a formal SoLR Direction.

## **General comments**

NIEES recommends that a Last Resort Supply Direction should go beyond Article 3.3 of EU Directive 2003/54/EC and apply to all customer classes not just domestic customers and small enterprises. A Direction applying to all customers of a failing supplier would avoid any uncertainty and potential confusion about which customers were covered by the SoLR process.

Licence condition 22 requires all suppliers to be able to undertake a SoLR Direction and to provide arrangements for all customer classes. NIEES does not consider that there are any material circumstances to justify changing the scope of the existing condition.

NIEES notes NIAUR's proposals to carry out an auction process for the selection of a SoLR. However, NIEES recommends that NIAUR considers a pre-qualification process to identify a short list of preferred SoLR suppliers. This pre-qualification should include a commitment on the supplier to participate in end-to-end tests and audits of SoLR processes to prove a supplier's readiness to perform the role successfully. The short list of preferred SoLR suppliers could be reviewed at regular intervals.

It is well documented that there is a lack of liquidity in the hedging market which can place unique constraints on a SoLR procuring energy outside the annual auction process for the customers of a failed supplier. NIEES therefore believes that until reasonable levels of liquidity in the hedging market are available then the period for SoLR Direction should be set at a maximum of 12 months which would allow the SoLR Direction to coincide with the period until the next annual auction.

NIEES recommends that the SoLR should be required to treat all customers equally including those of a failed supplier and to charge the prevailing standard rates for the period from appointment until customers have switched on to a replacement contract with the SoLR or another supplier of their choice, or the period of SoLR appointment expires, whichever is earlier.

## **Duties of SoLR and NIE**

It is the view of NIEES that a SoLR should be provided with the highest possible degree of certainty regarding its obligations under a SoLR Direction. To this end, NIEES recommends that NIAUR defines in detail the roles and duties of both the SoLR and NIE, the Common Services provider with responsibility for market related services including meter reading. NIEES would encourage NIAUR to consider placing an obligation on NIE to use all reasonable endeavours to support a SoLR to register customers affected, obtain meter readings and to partake in testing that SoLR arrangements are fit for purpose.

NIEES does not believe that there are any benefits to be gained from lock-in periods or opt-out arrangements for a SoLR event. Such proposals have the potential to introduce unnecessary complexity at a difficult time for the customers affected and could inadvertently delay or prolong the SoLR process. Instead, NIEES advocates development of a SoLR process that is simple and easy to implement and one that is capable of providing a high degree of certainty to a SoLR and customers of a failed supplier. NIEES believes that keeping the SoLR process simple and easy to implement will offer NIAUR the best possible protection for customers and the market against the risks of a failing supplier.

## **Cost recovery**

NIEES believes it is appropriate that all reasonable costs incurred by a supplier undertaking a SoLR Direction should be fully recovered. Typically, these are costs associated with procuring energy, providing new credit lines and additional operational costs associated with the registration of customers of a failed supplier.

NIEES is of the opinion that the PSO mechanism is the most equitable and effective way to channel the recovery of SoLR costs. This in effect will mean that all customers share the burden of additional and acceptable level of costs associated with a SoLR event.

NIAUR should not under estimate the impact of a SoLR event on the banking sector which may become anxious as a result of a supplier failure, leading to potential consequences for the SoLR in obtaining the mandatory letters of credit to comply with additional credit cover for additional volumes in SEM. NIEES suggests that NIAUR could consider the use of the PSO as security for a possible mechanism to provide 'start up' credit cover to the SoLR, until such time as the banking sector settles down, if such an event should occur.

## **Dealing with Supplier Failure and Customer Notification**

For the SoLR process to be effective, NIE must provide appropriate and timely information of the defaulting supplier's customers, meter configurations, volumes and meter readings in order that the SoLR can make adequate arrangements for energy purchases, credit cover and customer registrations.

NIEES recommends that a notification period of five days should take effect from the date of receipt of appropriate and properly formatted data from NIE and that the information should be sufficiently detailed for advising customers of a SoLR Direction. Failure to adhere to these basic requirements is likely to materialise in significant additional costs to the SoLR for handling customer enquiries and associated rework and may lead to increased bad debt.

It is suggested that a SoLR Direction may not be required for a failing Supplier which has a small number of customers and that it would be acceptable for the customers affected to seek an alternative supplier. NIEES does not believe it is feasible to assume that all customers affected will find an alternative supplier, primarily because the premises will remain energised throughout the SoLR process and this is likely to limit any incentive on customers to proactively find a new supplier. NIEES believes that a SoLR Direction should apply to all customers.

Question	Comments
<p>1. Will any Last Resort Supply Direction apply to all customer classes, or just Domestic and small enterprises as stated in the Directive?</p>	<p>NIEES recommends that a Last Resort Supply Direction should go beyond Article 3.3 of EU Directive 2003/54/EC and apply to all customer classes not just domestic customers and small enterprises. A Direction applying to all customers would avoid any uncertainty and potential confusion about which customers are covered by the SoLR process.</p>
<p>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?</p>	<p>NIEES does not believe that it is feasible to assume that every customer of a small customer portfolio associated with a failed supplier will be able to find an alternative supply by themselves. Also, there is no guarantee that customers affected will proactively seek a new supplier, particularly as the site will remain energised making incentives to prompt immediate action to find a new supplier difficult to achieve.</p> <p>NIEES strongly believes that the interests of customers and market participants is best served through a well structured and explicit SoLR process that is applicable to all customers irrespective of the numbers or class of customer affected.</p>
<p>3. Are the duties of the SoLR relevant and are there any other duties the SoLR should perform?</p>	<p>NIEES believes that the SoLR duties, as described in the consultation, are appropriate and relevant. Clearly defined and understandable duties will serve to provide the SoLR with a high degree of certainty regarding its obligations and what preparations are needed to transact a successful SoLR outcome.</p> <p>However, the role of the Common Services provider is equally paramount for a SoLR event to be successfully transacted. For example, suppliers rely heavily on NIE Common Services to provide accurate meter readings, a key activity in the SoLR process.</p>
<p>4. Is the five day window for notifying customers sufficient and is it reasonable to try and secure a meter reading within 14 days?</p>	<p>NIEES believes that a notification period of five days should take effect from the date of receipt of appropriate and properly formatted data from NIE and that the information should be sufficiently detailed and fit for purpose for advising customers in writing of a SoLR Direction. For clarification, appropriate data refers to relevant information pertaining to affected customers and their related premises including correspondence addresses where appropriate.</p> <p>In addition, NIEES recommends notification to customers should be based on all reasonable endeavours and that the SoLR should not be held liable for any failings in the postal delivery arrangement.</p> <p>NIEES fully supports NIAUR's objective to obtain meter readings within 14 days of a SoLR Direction which is in keeping with requirements for SEM settlement. However, NIAUR will be aware that the duty of meter reading rests</p>

Question	Comments
	<p>with NIE T&amp;D. We propose that the role and duties of NIE T&amp;D as Common Services provider should be clearly documented and explicitly set out in a contractual relationship with the SoLR.</p> <p>NIEES recommends NIAUR places an obligation on NIE to use all reasonable endeavours to support a SoLR to obtain meter readings and to partake in testing these arrangements as an integral part of the SoLR process.</p>
<p>5. Should there be a lock-in period? How long should it last?</p>	<p>NIEES notes that by transferring the wholesale liability for the defaulting supplier to the SoLR quickly and effectively it will protect the overall market.</p> <p>NIEES does not believe that there are any benefits to be gained from lock-in periods or opt-out arrangements for a SoLR event. Such proposals have the potential to introduce unnecessary complexity at a difficult time for the customers affected and could inadvertently delay or prolong the SoLR process.</p> <p>NIEES advocates development of a SoLR process that is simple and easy to implement and one that is capable of providing a high degree of certainty to a SoLR and customers of a failed supplier.</p> <p>NIEES believes that keeping the SoLR process simple and easy to implement will offer NIAUR the best possible protection for customers and the market against the risks of a failing supplier</p>
<p>6. Should there be a customer opt-out period? How long should it last?</p>	<p>NIEES believes that a customer opt-out period could delay unnecessarily the SoLR process and create customer confusion, particularly with regard to the operation of market procedures and the timing of customer registration with an alternative supplier.</p> <p>NIEES believes that an opt-out arrangement could adversely impact NIAUR's proposal for a 5 day notification period and a 14 day window for collecting valid meter readings. Customer choice during a SoLR event is a laudable objective. However, NIEES would argue whether this is practicable and achievable considering the SoLR dependencies for informing customers and the very tight timescales to implement.</p>
<p>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?</p>	<p>NIEES finds it difficult to comprehend the suggestion that some suppliers may be better suited to serving different classes of customers. Licence condition 22 requires all suppliers to be able to undertake a SoLR Direction and to provide arrangements for all customer classes. NIEES does not consider that there are any material circumstances to justify changing the existing arrangements.</p>

<p>8. Is there any further information that the Customer Notice should contain?</p>	<p>NIEES considers the information suggested in the consultation paper as the minimum acceptable to be able to inform customers of a SoLR event. It would be desirable to be able to advise customers on the best possible tariff at the time of writing which would require access to meter configuration details.</p> <p>It is likely that customers may have questions about the SoLR event which only NIAUR would be in a position to answer. NIEES believes that the customers affected should have access to the fullest possible information regarding the SoLR event and how it affects them.</p> <p>NIEES recommends that the notification to customers should include contact information for NIAUR.</p>
<p>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?</p>	<p>Condition 22 clearly places an obligation on suppliers to undertake a SoLR Direction. However, arrangements for such an event in Northern Ireland have never been tested and whilst this may suggest a degree of risk it seems sensible in today's economic climate to make the best possible plans to protect customers and the market against any risks associated with a SoLR event.</p> <p>NIEES recommends NIAUR considers a pre-qualification process to identify a short list of preferred SoLR suppliers. This pre-qualification should include a commitment on the supplier to participate in end-to-end tests and audits of SoLR processes to prove a suppliers readiness to perform the role successfully. The short list of preferred SoLR suppliers could be reviewed at regular intervals.</p> <p>An integral stage in NIAUR's appointment process should be the verification of a supplier's readiness to undertake a SoLR Direction including comprehensive tests and audits of end-to-end processes spanning the responsibilities of both NIE and the SoLR.</p>
<p>10. How should SoLR costs be recovered? How should SoLR tariffs be set?</p>	<p>NIEES believes that it is appropriate that all reasonable costs incurred by a supplier undertaking a SoLR Direction should be recovered. Typically, these are costs associated with procuring energy, providing new credit lines and additional one off operational costs for registration.</p> <p>Regarding SoLR tariffs, NIEES would advocate equal treatment of customers irrespective of whether they arise through a SoLR event or through the suppliers own marketing. NIEES recommends that the SoLR should be required to transfer the affected customers to the prevailing standard tariff offering most appropriate for the customer's circumstance.</p> <p>The current lack of liquidity in the hedging market limits opportunities to procure energy and CFDs outside the annual auctions creating significant potential risk and exposure to pool price volatility. The SoLR should be entitled to recover the additional costs incurred for the</p>

	<p>continued provision of electricity supply to customers of a failed supplier. For clarification this means the additional costs associated with servicing the affected customers on a standard tariff offering.</p> <p>NIEES is of the opinion that the PSO mechanism is the most equitable and effective way to channel the recovery of SoLR costs. This in effect will mean that all customers will share the burden of additional and acceptable level of costs for a SoLR event.</p> <p>NIAUR should not under estimate the impact of a SoLR event on the banking sector which may become anxious as a result of a supplier failing leading to potential consequences for the SoLR in obtaining the mandatory letters of credit to comply with additional credit cover for additional volumes in SEM. NIEES suggests that NIAUR consider the use of the PSO as a possible mechanism to provide 'start up' credit cover security for the SoLR until such time as the capital market settles down, if such an event should occur.</p>
<p>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?</p>	<p>For the SoLR process to be effective NIE must provide detailed and timely information on the defaulting suppliers customers, meter configurations, volumes and meter readings in order that the SoLR can make adequate arrangements for energy purchases, credit cover and customer registrations. The information provided by NIE must be complete, accurate and presented in an agreed format. Failure to adhere to these basic requirements is likely to materialise as significant additional costs on the SoLR for handling customer enquiries and associated rework and may lead to increased risk of bad debt.</p> <p>NIE should be required to provide full details of the defaulting supplier, a comprehensive list of information on the customers affected including customer name, premise address, correspondence addresses, meter point configurations, EACs, AACs, SoLR change of supplier meter readings and date and readings of the last actual meter reading by the first day of a SoLR Direction.</p> <p>It would be desirable for the SoLR to have access to summary customer information and high level volumes in advance of the SoLR Direction.</p>