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Gas Supplier of Last Resort

Dear Neil

Thank you for the opportunity to comment on the Utility Regulator's 'Gas Supplier of Last Resort: Guiding Considerations for Implementation' consultation document.

Phoenix Supply Ltd (**Phoenix Supply**) supported the introduction of the Gas (Supplier of Last Resort) Regulations (Northern Ireland) 2009 which provides the legal basis for the appointment of a Supplier of Last Resort (**SOLR**). SOLR arrangements are important to safeguard, not only the interests of natural gas customers, but also the wider natural gas industry as a whole. Supplier failure which results in natural gas customers being left without a supply of natural gas is to be avoided and we recognise the consultation paper seeks to identify the issues to be resolved in order to have in place the necessary SOLR arrangements.

We have addressed each of the questions raised in the consultation paper in turn in the remainder of our response.

Proposed Duties of the SOLR

The obligation to obtain meter readings for each customer category should be on a reasonable endeavours basis. This is to take account of the fact that it may not be necessary to gain access to customers premises and therefore any supplier could not give an assurance that a meter reading would definitely be obtained within the timescales outlined in the consultation paper.

The proposals suggest that a meter reading is obtained for daily metered customers within two days of the SOLR being appointed. It is our view that this requirement should be to obtain a meter reading within two business days as suppliers may not have arrangements in place to read meters on weekends or bank holidays (as this is not currently a requirement of the Network Code or other supplier obligations).





There is also a requirement for the SOLR to write to customers within five days. In terms of timescales we believe that a requirement to write to affected customers within ten business days would be more appropriate. This is because there may be a significant number of affected customers which would require the commissioning of external printers and in our experience a period of 10 business days would be more appropriate (provided the customer data can be provided from the previous supplier in electronic format). Should there be a significant number of customers requiring to be transferred to a SOLR and this data is provided in hard copy format it may take a period significantly in excess of ten business days to write to affected customers.

While not explicitly stated in the consultation paper it will be a requirement of the Utility Regulator to obtain and provide to the SOLR the appropriate customer data in a format which permits the customers to be appropriately transferred. This data would also need to contain details of the customer category in order for the SOLR to determine the appropriate meter reading timescale for the customer.

It is our view that the automatic transfer of affected customers to the existing tariffs of the SOLR after a period of six months is not appropriate as this may not reflect the actual costs incurred by the SOLR. It may be the case that the existing customers of the SOLR are benefiting from a tariff which has been set for a year and therefore it would not be appropriate to transfer affected customers to the existing tariff of the SOLR as the SOLR may not be able to purchase additional gas for these customers based on the assumptions underpinning the SOLR's existing tariff rates.

Information Supplied to Customers

Phoenix Supply considers that the Utility Regulator must write to each customer affected by supplier failure and therefore to be transferred to a SOLR to inform them of what has occurred and the actions to be taken. The customer will have been supplied by the failing supplier for a period of time and would be rightly suspicious of an alternative gas supplier writing to them and informing them that they are now the supplier of the customer. As a minimum the Utility Regulator should write to the affected customers and inform them what has occurred, who has been appointed as the SOLR and that the customer should expect to receive communication from the SOLR in the near future. We believe this would greatly enhance the SOLR arrangements and would be of assurance and benefit to the customers affected.

It is not clear to us what purpose would be served by providing customers affected by a failing supplier with a range of tariffs which are not available to them. Therefore, at the point of transferring to the SOLR the customer should be provided with the tariff applicable to their circumstances. At the point this tariff is no longer applicable the customer can then be provided with the range of alternative tariffs from which they can choose, if relevant.

In order to minimise customer confusion we do not believe it should be the responsibility of the SOLR to inform customers of other gas suppliers in the marketplace, particularly as the customer may not be able to transfer supplier to these other suppliers.





Duration of SOLR

There should be a lock in period for a number of reasons not least to allow the SOLR to recover the costs associated with performing the role of SOLR. If a supplier acting as a SOLR is not allowed to fully recover the costs associated with acting as SOLR then there will be an unwillingness for suppliers to act as SOLR.

The SOLR may also have committed to wholesale gas costs in order to supply the transferring customers and they must be allowed to recover these costs from these customers.

In addition, an extended period may be required in order to physically transfer and set-up customers on alternative IT systems and embed the management of the customer account to 'normal' operations. It could be that the reason the SOLR action was necessary was due to supplier failure to manage accounts for an extended period of time. A minimum period of supply by the SOLR provides a degree of certainty for affected customers after what will have been an unsettling and concerning period of time for the customer.

Phoenix Supply believes that a lock in period of a minimum of six months is appropriate for customers transferring under SOLR arrangements.

Appointment Criteria for SOLR

It is highly likely that the circumstances giving rise to the appointment of a SOLR will be required to be completed within a very short period of time. We are therefore unsure as to the practicality of a proposed SOLR providing all the data contained in Appendix 3 within timeframes which would ensure the prompt appointment of a SOLR and the commencement of the significant work associated with acting as SOLR.

When considering the appointment of the SOLR the Utility Regulator will need to take into account the credit support required by a gas supplier to purchase natural gas and also provide the necessary credit support to those levying conveyance charges. In our experience, assessing the level of credit support required and putting this in place is a lengthy process and while a supplier may be willing to act as SOLR it may not be possible to do so within the timescales envisaged by the Utility Regulator.

We are not aware of all the issues associated with transferring Pay-As-You-Go (**PAYG**) customers (e.g. ordering of new payment cards, etc.) which may result in customers being left without supply for a period of time. The operational aspects associated with transferring these customers needs to be considered further by the Utility Regulator.

In considering which supplier to appoint as a SOLR the Utility Regulator will need to take into account the relevant Moffat capacity held by suppliers. It will be highly unlikely that any supplier will hold sufficient capacity at Moffat to supply customers transferring under SOLR arrangements and therefore the Utility Regulator will need to ensure capacity at Moffat can be transferred to the SOLR. This may involve





discussing arrangements with National Grid and Ofgem which will need to occur well in advance of requiring to utilise SOLR provisions. These discussions should commence as soon as possible.

As a general point we would suggest that prior to any supplier confirming if they wish to be considered as the SOLR they will need firstly to be provided with all the details included in Appendix 2.

Cost Recovery

Phoenix Supply believes that the customers directly affected by the failing supplier should be required to bear the increased costs associated with a supplier acting as SOLR.

As a general principle it is unlikely that any supplier will act as SOLR if they do not have a reassurance that the significant costs associated with acting as SOLR can be recovered. This would be in keeping with the Utility Regulator's duty to ensure suppliers can finance their activities.

Information from Failing Supplier

In respect of the information from failing suppliers we have the following comments.

The Utility Regulator should give consideration to the circumstances where the data outlined in Appendix 2 is not available as it is likely in the event of supplier failure there will be little incentive for a supplier or receiver to provide this information.

We are unsure as to what or who the Meter Asset Manager is in the context of the SOLR arrangements.

In addition to the items included within Appendix 2 Phoenix Supply believes the failing supplier should be required to confirm the amount of any capacity held at Moffat and who holds this as part of the information provided to ensure SOLR arrangements can be effectively implemented.

The failing supplier should be required to make data available in a readily accessible and widely recognisable electronic format to ensure the efficient operation of SOLR procedures and ensure the customer transfer can be implemented efficiently.

We trust you have found these observations useful and should you wish to discuss any aspect of our response in further detail please do not hesitate to contact us.

Yours sincerely

Stephen English
Gas Trading Manager

