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NON-CONFIDENTIAL CONSOLIDATED CONSULTATION RESPONSES

R0057 – CLARIFICATION OF SUPPLIER OF LAST RESORT OBLIGATIONS UNDER THE REC

On 25 November 2022 the Code Manager issued an impact assessment to industry to seek feedback on the solution options for R0057.

The purpose of this document is to consolidate the responses as well as answer any questions raised within those responses.

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RESPONSIBLE COMMITTEE	Change Panel
LEAD ANALYST	Elise Handy

DATE IMPACT ASSESSMENT ISSUED	25/11/2022
RESPONSE DEADLINE	16/12/2022

Questions 1:	Do you agree with that when acting as a Replacement Supplier there is a risk to the fulfilment of your obligations under the REC?	
RESPONDENT DETAILS	**RESPONSE**	**CODE MANAGER COMMENTS**
British Gas (Energy Supplier)	No SoLR supplier cannot be responsible for any Code obligations that relate to the failed supplier	Noted.
EON Next (Energy Supplier)	Yes, there is a risk to fulfil the obligations under REC. As a Replacement Supplier you would not get visibility of any activities that happened in the Transitional Period while you are registering these customers to yourself. Therefore, any REC obligations should not apply to the Replacement Supplier can neither access nor resolve any issues/processes that have been raised prior to the customer being on the Replacement Suppliers systems.	Noted.
SSE Business Energy (Energy Supplier)	Yes	Noted.
EDF (Energy Supplier)	Yes, we agree. Replacement suppliers have very limited control over the failed supplier and how they meet they REC Obligations. Our experience as a Replacement Supplier is that we have engaged with the failed supplier and/or their administrator to gain assurance that they will continue to operate their systems and processes and comply with code obligations in the transition period – only to find out after the event that hasn't been the case.	Noted.

Questions 2:	At what point during a Supplier of Last Resort Transition Period would a Replacement Supplier become aware of any compliance issues they may have with the SoLR Consumers? (i.e., would you be able to apply for a derogation ahead of the issue occurring) Please provide rationale for your answer.	
RESPONDENT DETAILS	**RESPONSE**	**CODE MANAGER COMMENTS**
British Gas (Energy Supplier)	Na	
EON Next (Energy Supplier)	There is no mechanism for a replacement supplier to gain awareness of compliance issues. The transitional period will potentially be quite short with the introduction of faster switching so any derogation would need to be applied for and reviewed very quickly for it to be of any benefit.	Noted that derogations will be difficult without awareness of compliance issues ahead of time.
SSE Business Energy (Energy Supplier)	A supplier would be unaware of whether there would be compliance issues until the transfer of the portfolio on to their systems. There should be a mechanism to provide suppliers with better quality data at the point of the RFI which would enable the supplier to apply for derogations ahead of the transfer such as, Prepayment customers. We have experienced SoLR's (prior to the sale of our Domestic business) whereby the portfolio expected was purely domestic, however at the point of acquisition, there were several non-domestic sites contained within that portfolio. Should data be provided which provides a full view of the portfolio split, Suppliers will be in a better position to apply for derogations ahead of any performance assurance reviews.	Noted that more data would be required to submit plans or derogations ahead of time.
EDF (Energy Supplier)	The portfolio transition into the Replacement Supplier during the Supplier of Last Resort is a dynamic process which requires the Replacement Supplier to undertake a number of activities to ensure the compliance with the obligations and best customer experience for customers transitioning into the Replacement Supplier.	The application of the derogations process or plans ahead of time will not consider the dynamic nature of the SoLR process. This will be considered within the solution taken forward.

	The Derogation application process needs to be assessed by the REC and PAB prior to it being granted, it follows a leaner governance which is not fit for purpose for the dynamic and ad hoc activities associated with the Supplier of Last Resort. It requires the Replacement Supplier to predict whether the failed supplier will fail to meet their REC obligations, which is not possible. Moreover, as the risk of the Replacement Supplier fulfilling their obligations under REC is during the transition is a general risk which may be quantified depending on number of factors – to name a few: - The data quality of the SolR supplier - The amount of inflight industry processes such as Erroneous Transfers at the point of the SolR supplier creasing to exist. - The Replacement Supplier visibility/ access to the SolR Supplier's billing systems. As the Replacement Supplier' capability to fulfil the obligations under REC can vary depending on the accuracy of the SolR supplier portfolio, we believe that flexibility in the Replacement Supplier's performance review on case-by-case basis would allow REC PAB and the supplier determine the risks and best course of action for the impacted customers.	

Questions 3:	Which solution option presented within this document is your preferred solution? Please provide your rationale.	
RESPONDENT DETAILS	**RESPONSE**	**CODE MANAGER COMMENTS**
British Gas (Energy Supplier)	option 1 will insert legal text that means there is a 'SoLR Transition Period'. This transition period allows the REC to use their discretion when targeting performance assurance techniques. Meaning the REC shouldn't penalise us for the failed Suppliers poor performance whilst we onboard onto BG systems.	Noted.
EON Next (Energy Supplier)	Based on the information provided, option 1 would be the easiest option to implement. It allows PAB and the Replacement Supplier to work together without the need for additional support documents.	Noted.
SSE Business Energy (Energy Supplier)	Our preferred solution is Option 1, this should already be in place at a minimum whereby the PAB will use their discretion, however a hybrid of Option 1 and 3 could be sought. As per our response to Q2, if the supplier is provided quality data ahead of the transfer, they can apply for a derogation for the obligations in which they feel they would be unable to meet immediately. The PAB could then apply their discretion as to compliance whereby for example, the supplier is experiencing issues with obtaining the required consumer data.	Noted. The derogations process may already be fit for this purpose; however the Code Manager could explore additional guidance for its use by Replacement Suppliers.
EDF (Energy Supplier)	Our preference is Option 1. This option allows the PAB to take mitigating factors into account **if** a non-compliance occurs, the problem with the other two options is that they effectively assume that there will be a problem and place an additional administrative burden on the Replacement Supplier to submit documentation for a failure or issue that may not occur.	Noted.

Questions 4:	Do you believe there is a solution not listed within this document that the Code Manager should consider? Please provide details.	
RESPONDENT DETAILS	**RESPONSE**	**CODE MANAGER COMMENTS**
British Gas (Energy Supplier)	NA consideration The SoLR process can be a very complex process when onboarding customers we believe they should be treated case by case with regular updates provided to the Retail Energy Code.	Noted.
EON Next (Energy Supplier)	Yes - a combination of option1 and option 2. It is important that the Replacement Supplier has a robust plan in place and shares this with the REC. There will be some Suppliers that will not have been appointed as the Replacement Supplier previously and some guidance from REC on what a plan could look like would be beneficial. Along with this guidance from PAB on how performance will be monitored would also help Replacement Suppliers understand potential risks to being compliant under REC.	Noted.
SSE Business Energy (Energy Supplier)	As per Q3. A hybrid of Option 1 and 3 could be sought.	Noted.
EDF (Energy Supplier)	No – the proposer covered all the feasible options. This option allows for consideration for the Replacement Supplier in the event of challenges with obligations impacted by the failing supplier/administrator when they have very little control over this. It also allows for review and discretion to performance measures in a Supplier of Last Resort event for the replacement Supplier, rather than mandated requirements that sit in the other options.	Noted.

1.1 SOLUTION OPTION 1 – REC PAB CONSIDERING CONTEXT

Questions 5:	Do you agree this solution resolves the problem statement? Please provide rationale.	
RESPONDENT DETAILS	**RESPONSE**	**CODE MANAGER COMMENTS**
British Gas (Energy Supplier)	Yes as per question 3.	Noted.
EON Next (Energy Supplier)	Yes option 1 partially resolves the issues raised in the problem statement. It is unclear how long the transitional period would be in the statement. Consideration should be given to the length of time the transitional period needs to be on a case by case basis and any solution should be proportionate and reasonable. By including the wording “where appropriate will use discretion when applying performance assurance techniques related to non compliance” it leaves it open to interpretation on what may or may not be included or reviewed by REC PAB. With this, how will the PAB ensure that each supplier is being measured and treated fairly? It would be beneficial if there were some specific guidance on what performance assurance measures will be monitored by PAB.	Noted.
SSE Business Energy (Energy Supplier)	Yes, this solution affords the replacement supplier time to discover potential impacts on their REC obligations while focussing on fulfilling their obligations under the SoLR Direction.	Noted.
EDF (Energy Supplier)	Yes, we agree that Option 1 resolves the problem statement.	Noted.

Questions 6:	As a Replacement Supplier, what effort/cost would this solution cause? (minor, moderate, significant)	
RESPONDENT DETAILS	**RESPONSE**	**CODE MANAGER COMMENTS**
British Gas (Energy Supplier)	Minor	Noted.
EON Next (Energy Supplier)	Based on our own experiences Option 1 would be minor and would not add significant cost or effort to implement. It would allow the Replacement Supplier and PAB to work together.	Noted.
SSE Business Energy (Energy Supplier)	Minor	Noted.
EDF (Energy Supplier)	Option 1 would result in minor effort in comparison to the Option 2 and 3.	Noted.

Questions 7:	Do you have any other comments on this proposed solution?	
RESPONDENT DETAILS	**RESPONSE**	**CODE MANAGER COMMENTS**
British Gas (Energy Supplier)		

EON Next (Energy Supplier)	N/A	
SSE Business Energy (Energy Supplier)	As per our response to Q3, we believe this should be in place as a minimum.	Noted.
EDF (Energy Supplier)	N/A	

1.2 SOLUTION OPTION 2 – PERFORMANCE ASSURANCE PLANS

Questions 8:	Do you agree this solution resolves the problem statement? Please provide rationale.	
RESPONDENT DETAILS	**RESPONSE**	**CODE MANAGER COMMENTS**
British Gas (Energy Supplier)		
EON Next (Energy Supplier)	No, we do not feel that this option resolves the problem statement. This option is more prescriptive than option 1, it addresses more of the concerns that were raised in the original change request that was raised by EDF but it would require far more effort to implement. By making this an obligation to submit the compliance plan on top of the "Switch plan" in line with Schedule 19 it is creating additional work for both PAB and the Replacement Supplier. We can see the benefit this option would bring to supporting Replacement Suppliers who have not been through the SOLR process before as there is more structure to the approach.	Noted.
SSE Business Energy (Energy Supplier)	No, as at the point of acquisition, a Supplier wouldn't necessarily know what their compliance issues are.	Noted.

EDF (Energy Supplier)	No, we believe that Option 1 best addresses the problem statement.	Noted.

Questions 9:	As a Replacement Supplier, what effort/cost would this solution cause? (minor, moderate, significant)	
RESPONDENT DETAILS	**RESPONSE**	**CODE MANAGER COMMENTS**
British Gas (Energy Supplier)		
EON Next (Energy Supplier)	Based on the information provided for option 2 we would consider this to have significant effort for both parties to implement and maintain. Costs could vary from party to party depending on what suppliers are failing on and what systems they decide to use to support the customers they are gaining from the SOLR process.	Noted.
SSE Business Energy (Energy Supplier)	Significant	Noted.
EDF (Energy Supplier)	This option will require moderate to significant effort. This option effectively assumes that there will be a problem and place an additional administrative burden on the Replacement Supplier to submit documentation for a failure or issue that may not occur.	Noted.

Questions 10:	Do you have any other comments on this proposed solution?	
RESPONDENT DETAILS	**RESPONSE**	**CODE MANAGER COMMENTS**
British Gas (Energy Supplier)		
EON Next (Energy Supplier)	N/A	
SSE Business Energy (Energy Supplier)	This risks Suppliers having another 'tick box' exercise in which they are putting plans in place but are unaware of the compliance risks they face which in turn will reduce the meaning of the proposal. We do not believe this is a suitable mitigation to the problem statement.	Noted.
EDF (Energy Supplier)	N/A	

1.3 SOLUTION OPTION 3 – DEVELOP CURRENT PROCESSES

Questions 11:	Do you agree this solution resolves the problem statement? Please provide rationale.	
RESPONDENT DETAILS	**RESPONSE**	**CODE MANAGER COMMENTS**
British Gas (Energy Supplier)		

EON Next (Energy Supplier)	No, we don't feel that this option resolves the issues raised in the change request. It is unclear how long the Supplier of last resort transitional period is going to be and with faster switching timescales this period could be fairly short and will require a significant amount of effort from REC PAB and the Replacement Supplier for little gain. Option 1 offers an opportunity for the Replacement supplier and PAB to work together more collaboratively and come to the same conclusion without the need for a formal derogation process. There is also no guarantee that a derogation would be granted.	Noted.
SSE Business Energy (Energy Supplier)	Yes	Noted.
EDF (Energy Supplier)	No, we believe that Option 1 best addresses the problem statement.	Noted.

Questions 12:	As a Replacement Supplier, what effort/cost would this solution cause? (minor, moderate, significant)	
RESPONDENT DETAILS	**RESPONSE**	**CODE MANAGER COMMENTS**
British Gas (Energy Supplier)		
EON Next (Energy Supplier)	Based on the information provided and the current derogation process we consider this option to require significant effort without a guarantee of a derogation being granted.	Noted.
SSE Business Energy (Energy Supplier)	Moderate	Noted.
EDF (Energy Supplier)	This option will require moderate to significant effort.	Noted.

	This option effectively assumes that there will be a problem and place an additional administrative burden on the Replacement Supplier to submit documentation for a failure or issue that may not occur.	

Questions 13:	Do you have any other comments on this proposed solution?	
RESPONDENT DETAILS	**RESPONSE**	**CODE MANAGER COMMENTS**
British Gas (Energy Supplier)		
EON Next (Energy Supplier)	Whilst we recognise that REC obligations are for suppliers and not for shippers, we have observed that where a shipper fails that is also not a supplier this creates other issues which may or may not impact a Replacement Suppliers obligations under REC and perhaps should be considered within this impact assessment.	Noted.
SSE Business Energy (Energy Supplier)	As we have alluded to in previous questions, if Suppliers were provided greater quality data ahead of any acquisition, they could apply for derogations against their REC obligations.	Noted.
EDF (Energy Supplier)	The current derogation application process could be used by a Replacement Supplier where they know in advance that a non-compliance will occur, so this option should be available to Replacement Suppliers. However, this would be as well as, rather than in place of, Option 1.	Noted.