RETAIL ENERGY CODE

This document is classified as **WHITE**.
Information is for public, unrestricted dissemination and publication.

REFERENCE	1.0
STATUS	For Information

R0057 CLARIFICATION OF SUPPLIER OF LAST RESORT OBLIGATIONS UNDER THE REC

SOLUTION OPTIONS PAPER FOR PRELIMINARY CHANGE REPORT

BY ELISE HANDY

1 PROPOSED SOLUTION

1.1 SOLUTION OPTION 1 – CONTEXT CONSIDERATION IN THE REC

This solution was discussed within the Switching Programme and was raised by the proposer as a potential solution to this Change Proposal.

New legal text is introduced into Schedule 6 – Performance Assurance, which would enable the Performance Assurance Board (PAB) and Code Manager to take into account the context of a SoLR when considering the use of Performance Assurance Techniques or Performance Charges against the Replacement Supplier.

A new definition will be created for the "Supplier of Last Resort Transitional Period" (SoLR Transitional Period), which will refer to the period from the date and time in the Last Resort Supply Direction and the time that a Replacement Supplier has fully onboarded the accounts associated with the SoLR.

Pros	Cons
Simple change to legal text	Leaves much to interpretation
The change gives proportionate assurance and considers the dynamic nature of the SoLR process	All effort is on PAB to determine outcomes of non-compliance

Proposed legal text for this solution can be found in appendix 1 of this document.

2 ALTERNATIVE SOLUTIONS CONSIDERED

All other solutions considered also require the introduction of the new definition for the SoLR Transitional Period.

2.1 SOLUTION OPTION 2 – REPLACEMENT SUPPLIER PERFORMANCE ASSURANCE PLAN

This solution will require the Replacement Supplier to submit a plan for the fulfilment of their REC obligations, detailing the steps to be achieved until they are able to achieve complete compliance.

This plan needs to be submitted together with their plan to Switch all Registrable Measurement Points (RMPs) as set out in Schedule 19 – Market Exit and Supplier of Last Resort.

This solution may require a guidance document or template to be produced to aid Replacement Suppliers in completing this report correctly.

Pros	Cons
Allows flexibility in the length of the plan, which is cognisant of the variation of SoLRs	Additional administration for both the Replacement Supplier and Code Manager
There is already precedent for plans to be submitted to the Code Manager by the Replacement Supplier	It is not possible for the Replacement Supplier to foresee compliance issues at the time of acquisition

Proposed legal text for this solution can be found in appendix 2 of this document.

2.2 SOLUTION OPTION 3 - DEROGATIONS

This solution is in effect a 'do nothing' option. A review of the current derogations process will need to be undertaken to understand what (if any) alterations or guidance documents need to be developed to apply for a derogation within the SoLR process.

Additional information regarding this solution can be found in appendix 3 of this document.

2.3 SOLUTION OPTION 4 – PRINCIPLES BASED

This solution will amend the description of how a Replacement Supplier deals with its obligations currently to provide principles that must be followed.

These principles shall hold Consumer outcomes at their core but will allow a degree of leniency against other obligations.

Proposed legal text for this solution can be found in appendix 4 of this document.

During solution development, the Code Manager concluded that solution option 4 was not a viable mechanism as it did not provide the required clarity to address the problem statement.

3 APPENDICES

3.1 APPENDIX 1 – SOLUTION OPTION 1 PROPOSED LEGAL TEXT

Insert following text into Schedule 1 – Interpretations to define the period that REC Obligations will differ for the Replacement Suppliers for those Consumers associated with the failed Supplier.

Term	Acronym	Definition
Supplier of Last Resort Transitional Period	SoLR Transitional Period	means the period starting from the date and time set out in the Last Resort Supply Direction until the time the Replacement Supplier has successfully Switched all Consumers related to that Last Resort Supply Direction to their systems and processes.

This solution adds the following text into Schedule 6 – Performance Assurance Section 6.

6.12. Matters of non-compliance of a Replacement Supplier during the SoLR Transition Period the REC PAB shall consider the Replacement Suppliers' ability to fulfil the REC obligation related to those SoLR Consumers, and where appropriate, will use discretion when applying Performance Assurance Techniques related to non-compliance.

3.2 APPENDIX 2 – SOLUTION OPTION 2 PROPOSED LEGAL TEXT

Insert the following text into Schedule 1 – Interpretations to define the new reporting to be provided by a Replacement Supplier. Also, to define the plan period that REC Obligations will differ for the Replacement Suppliers for those Consumers subject to the SoLR direction.

Term	Acronym	Definition
Replacement Supplier Obligation Performance Plan	RSOPP	means a plan submitted to the Code Manager by a Replacement Supplier as set out in Schedule 19 – Market Exit and Supplier of Last Resort.
Supplier of Last Resort Transitional Period	SoLR Transitional Period	means the period starting from the date and time set out in the Last Resort Supply Direction until the time the Replacement Supplier has successfully Switched all Consumers related to that Last Resort Supply Direction to their systems and processes.

Insert following text into Schedule 6 – Performance Assurance section 4.2 to ensure monitoring of plans set out by Replacement Suppliers by the Code Manager; and

> (d) monitor agreed Replacement Supplier Obligation Performance Plans to ensure that activities are delivered against agreed timescales, and issues are escalated to the REC PAB where necessary;

Insert the following text into Schedule 19 – Market Exit and Supplier of Last Resort section 5.3. To obligate the Replacement Supplier to submit the plan for the fulfilment of their obligations alongside the other required plans to the Code Manager. This will then be picked up by section 5.7 which tells the Code Manager to monitor these plans and escalate concerns to the PAB or Authority.

5.3. The Replacement Supplier shall provide to the Code Manager a plan for completing the following activities: …

> (d) performance against obligations within this Code assigned to the Replacement Supplier, or its Supplier Agents during the Supplier of Last Resort Transitional Period, where the Replacement Supplier believes it will not be able to fulfil that obligation. This is to be known as a Replacement Supplier Obligation Performance Plan.

Insert the following text into Schedule 19 – Market Exit and Supplier of Last Resort section 5. This provides the timescale for provision of the new report.

5.7 The Replacement Supplier shall complete the requirement set out in Paragraph 5.3(d) within 5 Working Days after it has been provided with a Last Resort Supply Direction.

3.3 APPENDIX 3 – SOLUTION OPTION 3 PROPOSED LEGAL TEXT

Progressing Solution Option 3 is the insertion of the following definition which will allow a recognition of the period a Replacement Supplier may not be able to fulfil 100% of its obligations, which could be used in a derogation.

Insert following text into Schedule 1 – Interpretations to define the period that REC Obligations will differ for the Replacement suppliers for those Consumers associated with the failed Supplier.

Term	Acronym	Definition
Supplier of Last Resort Transitional Period	SoLR Transitional Period	means the period starting from the date and time set out in the Last Resort Supply Direction until the time the Replacement Supplier has successfully Switched all Consumers to their systems and processes.

3.4 APPENDIX 4 – SOLUTION OPTION 4 PROPOSED LEGAL TEXT

Insert following text into Schedule 1 – Interpretations to define the period that REC Obligations will differ for the Replacement suppliers for those Consumers associated with the failed Supplier.

Term	Acronym	Definition
Supplier of Last Resort Transitional Period	SoLR Transitional Period	means the period starting from the date and time set out in the Last Resort Supply Direction until the time the Replacement Supplier has successfully Switched all Consumers to their systems and processes.

Insert new paragraph to section 5, *perhaps the new 5.3*.

5.3 circumstances may arise where a Replacement Supplier is unable to fulfil all obligations for which they are responsible under this Code, during the Supplier of Last Resort Transitional Period. In these cases, the following principles must be followed by the Replacement Supplier:

(a) all actions taken must make efforts to achieve a positive Consumer outcome.

(b) breaches to this Code must not be done with intent.

(c) all actions taken must not materially impact other Market Participants.