

Representation - Modification UNC 0726 (Urgent)

COVID-19 Liquidity Relief Scheme for Shipper

Responses invited by: 5pm on 12 June 2020

To: enquiries@gasgovernance.co.uk

Please note submission of your representation confirms your consent for publication/circulation.

Representative:	Mark Jones
Organisation:	SSE Energy Supply Limited
Date of Representation:	12 June 2020
Support or oppose implementation?	Comments
Relevant Objective:	None

Reason for support/opposition: Please summarise (in one paragraph) the key reason(s)

SSE Energy Supply Limited ('SSE') recognises that Ofgem has asked energy network companies, through the Energy Networks Association (ENA), to develop schemes to provide relief to cash flow-constrained shippers and suppliers in a way that is financially viable for gas network companies. SSE considers that Ofgem is best-placed to determine whether this modification will protect the interests of consumers, having regard to the supplier financial information it receives on a weekly basis. SSE does not, therefore, support or oppose this modification, but considers that a number of issues should be taken into account prior to the implementation of this modification.

Implementation: *What lead-time do you wish to see prior to implementation and why?*

No comments at this time.

Impacts and Costs: *What analysis, development and ongoing costs would you face?*

SSE would not face any direct costs should this modification be implemented. However, SSE would be liable for a share of any bad debt incurred by the Gas Transporters as a result of this Liquidity Relief Scheme because it would subsequently be recovered from shippers.

Legal Text: *Are you satisfied that the legal text will deliver the intent of the Solution?*

No comments at this time.

Are there any errors or omissions in this Modification that you think should be taken into account? *Include details of any impacts/costs to your organisation that are directly related to this.*

1. Eligibility criterion need to reflect Ofgem's underlying intent

- The proposed eligibility criterion is that “Neither the shipper themselves, nor any member of their corporate group have an investment grade credit rating.”
- In Ofgem’s letter of 2 June 2020, setting out its decision on urgency, Ofgem confirms that “there would be certain eligibility criteria for shippers, and caps on relief available to them, so that the scheme targets support to those shippers **unable to access liquidity support by other means.**” Ofgem states that it “would expect shippers and suppliers with cash flow issues to seek to access commercial loans or the government's and Bank of England’s financial support facilities, but that it notes that “the eligibility criteria and loan value caps on the schemes may prevent some shippers and suppliers from being able to meet all their liquidity needs through them alone.”
- We note that the modification highlights that the “charging of interest is designed to act as a disincentive to those shippers who are in a position to access financial relief elsewhere and will help maintain the integrity of the fund and target relief only to those most in need.” Whilst we recognise that the interest rate is likely to act as a disincentive in some cases, its use as the sole disincentive assumes all borrowing decisions are based on interest rates alone. Based on the proposed eligibility criterion, it remains conceivable that a shipper may elect to defer their network charges when lower cost finance is available to them – particularly where it is a requirement of access to commercial finance that security (e.g. personal guarantees, floating charges, debentures, etc.) be provided.
- We do not consider that it was Ofgem’s intent that shippers should be free to disregard the liquidity support available to them by other means.
- We consider that shippers should be required to produce evidence, to the satisfaction of the Central Data Services Provider, that they have been unable to access liquidity support by other means.

2. Shipper warranty should be extended to cover suppliers

- The proposal confirms that “Eligible shippers will warrant that they will not pay dividends or executive bonuses until all the deferred charges plus interest are repaid.”
- However, the proposal also confirms that “The relief is being provided to shippers with the expectation that they will be able to pass the benefit to suppliers who it is envisaged will use it to provide relief to consumers.”
- We consider it would be reasonable to expect suppliers who receive this relief to also warrant that they will not pay dividends or executive bonuses until all the deferred charges plus interest are repaid.

3. Market participants need transparency to manage the risk

- The modification notes that “Should one of these shippers be unable to make the required payments at the end of the extended payment period the Gas Transporters (GTs) will incur bad debt that will be recovered from shippers in 2021/22. **Parties should be aware of this risk.**”
- It is important to note that shippers / suppliers continue to offer fixed term prices to consumers, and that this scheme represents an unexpected cost which will not have been factored into these prices.
- In order to ensure shippers / suppliers can effectively quantify and manage their potential exposure to this risk we consider that it is essential that there is adequate transparency relating to this scheme. This should include the total amounts drawn/repaid as a minimum, with consideration given to the merits of publishing additional information (e.g. details of recipients, amount of relief granted).

4. Alternative options should be assessed prior to relief being provided

- The modification notes that “were a significant number of suppliers to fail there would be a significant number of Supplier of Last Resort events to administer and this might disrupt the market and might expose vulnerable customers to risk.”
- It is our conclusion, therefore, that this scheme is expected to reduce the risk of multiple Supplier of Last Resort events occurring.
- However, it is important to recognise that Ofgem has the power to seek an energy supply company administration order under powers given to it by the Energy Act 2011 and that this regime is “intended to deal with situations where use of [Ofgem’s] SoLR powers would not be practicable.”¹
- Whilst we acknowledge the unprecedented nature of the Covid-19 pandemic, we also recognise that the modification confirms that the purpose of this scheme “...is not to support shippers or suppliers with liquidity problems that existed before COVID-19.”
- It is not evident from this modification how this test will be applied and we, therefore, believe it is important that there remains adequate ongoing regulatory oversight of the shippers that apply for the relief proposed by this modification, at the point of application and on an enduring basis.
- This is critical to ensure adequate consideration is given to the merits of extending this relief versus the use of the other regulatory powers at Ofgem’s disposal (i.e. appointment of a SoLR or use of an energy supply company administration order).

¹ Ofgem, Guidance on supplier of last resort and energy supply company administration orders, https://www.ofgem.gov.uk/system/files/docs/2017/09/solr_revised_guidance_final_21-10-2016.pdf

Please provide below any additional analysis or information to support your representation

No comments at this time.