

# Unite response to the House of Lords Industry and Regulators Committee inquiry into independence and accountability of UK regulators.



## 1. Introduction

- 1.1. This submission is made by Unite, the UK's largest trade union with over one million members across all sectors of the economy, including manufacturing, financial services, transport, food and agriculture, construction, energy and utilities, information technology, service industries, health, local government and the not for profit sector. Unite also organises in the community, enabling those who are not in employment to be part of our union.
- 1.2. Of particular relevance, to this submission, Unite represents almost 31,000 engineers and technicians in the Energy and Utilities sector carrying out every task from the most menial to the most highly skilled engineers and scientists in the country. Unite members in this sector are those who work in every area of the water industry and every aspect of energy generation & transmission.
- 1.3. Although Unite operates in almost every other aspect of the UK economy, this response is solely limited to the views of Unite over the actions of Ofgem and Ofwat.

## 2. General observations

- 2.1. Unite is of the opinion that both Ofgem and Ofwat have seriously failed in their responsibility to ***“protect consumers, especially vulnerable people, by ensuring they are treated fairly and benefit from a cleaner, greener environment”<sup>1</sup>***.
- 2.2. Ofwat have stood by and allowed the Water industry to be drained of resources and while building a debt mountain that rivals some of the smaller nations on this planet, currently standing at over £61 billion! This has caused the necessary investment to not materialize but instead they have stood by while the money has been syphoned off to pay dividends to the rich. Instead our some areas they do not have enough water reserves to supply the populous without hosepipe bans in the summer and the dumping of untreated waste water into our rivers and seas.
- 2.3. Ofgem have assisted the energy companies to ignore the pleas of new renewable developers who wish to provide the nation with additional power, who cannot do so due to the additional work and bill just to connect to the grid. There is a waiting list of schemes that want to provide cheap green energy, many of whom have simply given up, taking their investment money elsewhere as it is too expensive to connect to the UK grid.
- 2.4. Despite these offers to supply power, the suppliers of power to homes are replacing meters in properties so that the customer has to prepay for electricity and gas or have their supplies terminated. The companies in some cases do not have to enter the home to do this, merely enter some code and remotely convert a smart meter to one requiring pre payments. The tariffs these customers pay is also enhanced so that they are paying more than customers on direct debit despite their impoverished situation. The number of people in fuel poverty has grown dramatically.
- 2.5. The concept of 'fuel poverty' had not been in currency within government prior to the 1997 election, though earlier official publications alluded to the related idea of 'affordable warmth' as an aim of government policy on home energy efficiency. Parliamentary interest in fuel poverty grew and the Government committed to bring forward a strategy to end fuel poverty 'as far as reasonably practicable' within a maximum of 15 years. The 2001 Fuel Poverty Strategy defined being fuel poor as needing to spend in excess of 10% of household income on fuel use to achieve satisfactory heating. It set out action on the three drivers of fuel poverty:

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<sup>1</sup> Words taken from the OfGem website found by [clicking here](#)

- low incomes
- poor energy efficiency in homes
- energy prices.

2.6. Since taking office the Conservative government has decoupled income rises from the RPI measure of inflation and yet increased prices for everyday items such as regulated rail fares and the charges for power and water by this measure increasing the numbers who faced working for lower and lower incomes. Comparing the various measures of inflation with AWE under the last Labour government and since clearly shows that while the standard of living increased under Labour it has fallen ever since making fuel poverty a greater possibility.

	RPI	CPI	AWE	Total Earnings including Bonuses & Arrears
April 1997 till April 2010	42.5%	27.8%	65.3%	63.9% <sup>2</sup>
April 2010 till September 2023	69.8%	48.0%	48.9%	50.6%

Clearly this policy decision of government is beyond the scope of the regulators.

2.7. On energy efficiency, standards have been introduced to tackle insulation standards in new properties and there have been a limited number of schemes to tackle insulation in other properties. The problem in some cases is that the wrong insulation solutions have been applied making properties a fire trap as was highlighted in the Grenfell Tower fire of 2017. In order to meet the challenge of net zero by 2050 all fossil fuel heating systems have to be replaced and over 95% of UK homes are heated by either gas, coal or fuel oil. This is especially the case in Northern Ireland where the majority does not have a mains gas supply. To remedy this each home will require a replacement heating system involving a hydrogen boiler or a heat pump plus remedial work to improve home insulation. Although insulation of a typical 2 bedroom home may cost only £225 the cost of moving to a new heating system is unaffordable by most, costing from £8,000 for a bottom of the range Air source heat pump to as much as £45,000 for a ground source heat pump (plus instillation)<sup>3</sup>. Again the pricing of insulation is only tangentially part of the role of the Ofgem to require the energy company to ensure there is a fund to assist the consumer with the price of insulation.

2.8. The Energy Compliance Obligation (ECO) scheme is an energy efficiency programme that was first introduced in 2013. The ECO Scheme replaces two previous programmes: the Carbon Emissions Reduction Target (CERT) and the Community Energy Saving Programme (CESP)<sup>4</sup>. The issue with these schemes is that they do not get enough publicity, nor do they have enough funding behind them to encourage the investment into new heating systems or insulation. It is the role of Ofgem to manage these schemes but unless you are looking for the obligations it is doubtful that the general public was totally aware of what savings they could achieve and how quickly the initial investment could be recovered in reduced bills.

2.9. Then there is the burning issue of energy prices, which are the core duties of Ofgem in their role to protect consumers. As we all know in this country these prices have grown substantially in recent years. According to ONS figures in of the average daily price of gas and electricity the daily prices have shot up in recent times<sup>5 6</sup>. What is evident from the data is that the price reaches its peak in

<sup>2</sup> The reporting of Total earnings changed from 01-01-2000 with a different reference year changing from January 1982 to January 2000. Consequently, to convert from one to the other the reference year to the figure was divided by 3.225. to provide the total increase.

<sup>3</sup> [Click here](#) to go to the government website on relative heat pump prices.

<sup>4</sup> [Click here](#) to download a pdf file on this scheme

<sup>5</sup> Based on the daily System Average Price (SAP) data compiled by the ONS on the daily price of gas and electricity. [Click here](#) to see the data set on gas pricing and [click here](#) to see the dataset on the price of electricity.

<sup>6</sup> (see Appendix 1 for the average maximum and minimums per quarter).

the late summer of each year as suppliers hedge their bets and buy the gas or electricity ahead of times for delivery in the winter. These prices do not reflect the actual price paid by the consumer which are generally far higher due to the profits and administration costs of the providers. Ofgem is supposed to place limits on this level of profiteering and ensure that the price is not greater than the ability of the consumer to pay. In France the Government's energy regulator was faced with the same call from Électricité de France (EDF) with respect to huge price rises to manage the costs of increased wholesale prices which it wished to pass on to the consumer. Instead of buckling to pressure the French said "Non" They allowed only a 4% rise to protect the consumer, but they also added to the burden of EDF by asking it to fund even more nuclear fission power stations. Whilst EDF made a net loss of € 21 billion<sup>7</sup> in the year this debt was underwritten by the French government which increased their previous debts from €42.77 billion to €64.80 billion as of June 2023<sup>8</sup>. The cost of the UK government support amounts to £78.2 billion<sup>9</sup> of which the government claimed to recover from windfall taxes<sup>10</sup>.

- 2.10. Even with the government actions last winter, initiated by the invasion of Ukraine by Russia, to financially support the payment of their bills. It would have been cheaper for the nation to renationalize the industry during this time<sup>11</sup>. And yet we have seen, returns from the likes of SSE plc dividends were paid exceeding £1 billion<sup>12</sup> as they made £2.529 billion<sup>13</sup> in the year till March 2023. At the same time it has been estimated that the total number of households across the UK in fuel poverty increased from around 4 million in summer 2020 to 6.7 million in October 2022 and they expect it to reach 7.5 million households April 2023. This is more than double the official estimate for England<sup>14</sup>. The Government estimates 8.8 million households could be classified as fuel poor. Clearly Ofgem have failed to "**protect consumers, especially vulnerable people, by ensuring they are treated fairly**" instead favouring the multitude of large and small providers.
- 2.11. On Ofgem's record to "**benefit from a cleaner, greener environment**" they have overseen a move to decarbonize the supply by attempting to phase out coal fired power plants, but they have at the same time they have seen a greater dependence on natural gas power plants especially if the output from renewables fails to deliver due to the too little or too much wind or cloud cover now that the nuclear fleet is slowly being decommissioned. Whilst some reactors have been thrown a lifeline this is stretching the life of these facilities' way beyond their planned lifespans. The UK only owns one wind turbine with the rest operated by private companies, meaning that they are in a dominant position to demand a higher strike price. And how are the employees of power stations being treated if the station has to close. There does not appear to be any efforts made to retain these skilled individuals and as a result their skills will be lost to the wider economy if power generation or transmission opportunities appear in the wider economy. There also appears to be a lack of coordination in the transition of workers from offshore oil and gas production, to offshore wind, even if their roles and skill sets are very similar (if not identical).
- 2.12. Ofgem is technically the party who is meant to act on behalf of the Gas and Electricity Markets Authority who has this duty, as it is they who are given powers by statute to make decisions about enforcement action. The Authority delegates decisions on many matters including breaches or infringements, the use of enforcement powers and the imposition of penalties or consumer redress payments to Ofgem. And yet it would appear that Ofgem are allowing the tail to wag the dog by capitulating to the demands of the energy industry.

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<sup>7</sup> [Click here](#) for the 2022 EDF financial report

<sup>8</sup> See page 34 of the half year report by [clicking here](#)

<sup>9</sup> across 2022-23 and 2023-24

<sup>10</sup> [Click here](#) to see international support packages

<sup>11</sup> [Click here](#) to read the peer reviewed Unite report into the energy cost savings that could be made through renationalisation of the energy sector

<sup>12</sup> On page 79 of the [SSE plc financial returns for 2022-2023](#) it states in March 2023 they paid out 96.7p per share up from 85.7p a share in the financial year till March 2022. As they had 1,090,300,000 shareholders in March 2023 and 1,067,600,000 shareholders in 2022 this means a dividend of £1.054 billion in 2023 and £0.915 billion in 2022

<sup>13</sup> See page 2 of the above SSE plc returns.

<sup>14</sup> [Click here](#) to see the report from the House of Commons Library

- 2.13. Ofgem is in a position, to ensure that companies are running on a sound financial basis, however, in 2021 Ofgem allowed 29 companies to hold supplier licenses, who became bankrupt as a result of the energy crisis and the war in Ukraine. Ofgem's failure to police the sector cost the British taxpayers an estimated 2.7billion<sup>15</sup>. This figure does not include the cost to bail out Bulb Energy. In this case MP's accused Ofgem of "*being too slow to act*" and make sure that the companies were financially resistant, yet they forgot that the duty is to the consumer, to ensure they are treated fairly. MP's wanted Ofgem to introduce competition and yet complained when that competition caused a business to take too many risks so it could undercut the competition. Yes, Ofgem should have prevented those high-risk gambles from being taken, but at the time the gamble was based on years of relatively stable market conditions. The gamblers did not expect Russia to cause the price of gas to rocket over threats of supplies being severed.
- 2.14. While some of the blame for the failures of Ofgem can be associated with the high risk and reward nature of the spirit of competition that the conservative government is obsessed with. Ofgem should have assessed the market and set a floor price for energy so that customers would not face steep increases in bills and being locked into the default supplier because the company they selected, because they offered the lowest price on the market went bust. Ofgem allowed this gambling to happen Why couldn't the consumer simply choose their own alternative provider if they were too slow to react?
- 2.15. Moving forward Unite would like to see Ofgem taking a more progressive stance, ensuring that energy supply companies do not gamble with public money.
- 2.16. The lesson of how to upgrade the energy and utilities industry is not rocket science. We have seen repeated examples from the roll out of smart meters to the renewals of wiring in central London in from 2011<sup>16</sup>, when the grid literally exploded into flames<sup>17</sup> due to more and more demand being squeezed onto a network never designed to cope. Whilst UK Power Networks blamed heavy rainfall during what was the driest summer on record. Ofgem have done very little to shower themselves in glory during that investigation either<sup>18</sup>, with the regulator thinking more of the impact on bills than human lives.

#### OfWat

- 2.17. The responsibilities of Ofwat are set out as part of their legal duties to work as the economic regulator of the water sector as laid down in sections 2 and 3 of the Water Industry Act 1991 (WIA91) as amended. As defined, the role of the regulator is to become "***the water undertaker or sewerage undertaker for any area of England and Wales***". to prevent the suppliers from charging more than a set amount for drinkable water, the removal of waste and its treatment.
- 2.18. As the regulator, Ofwat should be acting to ensure that pipework is correctly inspected, and leaks prevented. The regulator needs to ensure that the infrastructure is there to deliver their services. When the water industry was privatised, there was zero debt and large tracts of land that had been set aside for the creation of new reservoirs, to store rainwater. The water systematically been capable of paying its shareholders dividends funded by selling assets and accumulating debt. The debts of Thames water for example are so large that they struggle just to pay the interest.
- 2.19. Staffing levels have been cut to the bone and the gaps between inspections of pipework progressively increased. Under the nationalized water industry there were no such thing as a fat berg as inspections would discover the seeds of such blockages rather than requiring drills to break up these obstructions.

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<sup>15</sup> [Click here](#) to read coverage that appeared in the Guardian

<sup>16</sup> [Click here](#) to read the London Assembly investigations

<sup>17</sup> [Click here](#) to see a video and further details of the 60 plus incidents across the capital.

<sup>18</sup> [Click here](#) to read the BBC coverage that explains that Ofgem had refused a £30 million project to improve the quality of the electrical supply in Central London as they did not think it was value for money as it would impact customer electrical prices.

- 2.20. Leaking pipework can cause the creation of sink holes in the middle of busy carriageways, cause extensive property damage and years of misery for homeowners. There can be little worse than living in a bungalow flooded with untreated wastewater as the pipeline has collapsed due to its age. Replacing one section of main can cause the neighbouring section to collapse especially if the pipe was laid at the same time. Ofwat have stood by and simply allowed old infrastructure to collapse before it scheduled to be replaced. Such a renewal programme would cost but in all likelihood be cheaper and far less distressing than losing possessions due to a tsunami of untreated human waste and the stress of claiming on the insurance.
- 2.21. What is worse, any fines levied simply are added to the steadily growing debt mountain that some of the water companies have accumulated that will, in all likelihood, end up being part of national debt if the individuals who own these companies are not held personally responsible. In some water companies the debt has grown so large that to invest in the necessary infrastructure a wholly separate company has to come into existence paid for with the addition of a small increase in local water bills<sup>19</sup>. The investment model of Tideway could be used elsewhere but Ofwat do not appear to be assisting water companies - This debt mountain has been accumulated to ensure that huge dividends are paid to shareholders and bonuses and remunerations paid to board members. And where has Ofwat been during this?
- 2.22. The Water industry is one of the largest single users of electricity, using 275.24 terawatt-hours of power in 2022 to the purify the water and to run pumps allowing gravity fed delivery to homes and businesses. Therefore, Ofwat should help reduce consumers bills and solve another need going forward. Hydrogen is going to be one of the key ingredients that the UK will be short of according to the Committee on Climate Change (CCC)<sup>20</sup>.
- 2.23. According to German company Graforce<sup>21</sup> it is possible to harness the excess wastewater and convert it, far faster than the 72 hours of a normal treatment works (and avoid its associated methane releases) by converting it to Green Hydrogen and in the process, convert the carbon waste to black carbon powder. This form of carbon can then be sold on to create anything from industrial diamonds, Graphene, and carbon fibre to the leads in pencils.
- 2.24. Such innovation could therefore help solve the issue of where to obtain the graphitized carbon anode in a lithium-ion battery and reduce the volume of hydrogen that will need to be imported to meet demand. Human waste can also contain traces of gold, silver and platinum at levels that would be seen as commercially viable by traditional prospectors<sup>22</sup>. Finally, the water that does emerge has been purified to drinkable standards.
- 2.25. Despite the potential of the Graforce, modified pyrolysis<sup>23</sup> process, and other innovations like the precast permeable pavements, (to reduce rain water runoff into sewers), like them, there could be massive benefits to the UK in its battle with Climate Change, Ofwat does encourage innovation to meet the challenges facing us all but the fund on offer when split amongst the number of winners is not that great at just £200 million in 2023<sup>24</sup> is no where near enough to turn ideas into reality.
- 2.26. David Black, CEO, Ofwat said *"It's no secret the water sector is facing tough challenges, and difficult choices, related to climate change, the wider environment, and society. As the regulator, it's our responsibility to help the sector to find new ways to overcome these pressing challenges. "Water affects all industries, so with the Water Discovery Challenge we wanted to cast our net outside the sector, and see what those in adjacent industries propose to help us maintain a safe and sustainable supply"*.

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<sup>19</sup> [Click here](#) to find out more about the Thames Tideway tunnel

<sup>20</sup> [Click here](#) to download the June 2023 assessment report.

<sup>21</sup> [Click here](#) for coverage of this companies' treatment.

<sup>22</sup> [Click here](#) for a paper on how sewage sludge could contain millions.

<sup>23</sup> [Click here](#) to find out more about Pyrolysis

<sup>24</sup> [Click here](#) to see this years ideas

- 2.27. Unite, would argue that there are 'supporting fledgling ideas' with fine words and there are activities supporting fledgling ideas with money, and/or requiring them to become a reality and the required norm". Unite would argue Ofgem's approach has been far to much the former than the latter. Unite would agree that the water industry, and wider economy is facing some tough future challenges, but it is far harder to achieve goals with a debt mountain far larger than some first world nations on your back. Ofwat, have overseen the systematic debt mounting growth and now should oversee the systematic repayment of that growth with far tougher penalties if they attempt to syphon off moneys to parent companies to pay dividends.

### 3. Conclusion

- 3.1. Unite favour the return to public ownership and a street-by-street assessment and overhaul of the water, electrical, telecommunications, broadband, gas, pipes, drains and wastewater system to bring each area up to standards capable of withstanding future demand and at the same time tackle the poor road surfaces. Unite believe in investment in the future technology starting in the less affluent north and working south which should help the country to level up far quicker than an uncoordinated arrangement where engineers and the workforce spend the majority of their time, travelling from job to job. With the addition of a carbon capture pipeline to assist small businesses achieve net zero emissions and embedded EV charging points installed in one go would minimize transport disruptions. Working together it is within the power of the regulators to work in harmony rather than in silos to protect the consumer from the greatest threat of climate change.
- 3.2. Ofgem and Ofwat were supposed to be the guiding hand that could intervene to prevent exploitation of the consumers from the then new privatised public services. Instead, all too often, the protectors of consumers have failed with the regulator duties, siding with big business, in order to preserve competition and a race to the bottom with only minimum standards achieved. This then allows these companies to make obscene amounts of profits while the public suffer. How can a regulator like Ofgem standby and allow these companies to pay massive dividends, bonuses and remuneration to senior management and directors while so many face fuel poverty?
- 3.3. Similarly, Ofwat may be told by companies that they are not paying dividends but then under perfectly legal accountancy rules funnel profits from the water company to its parent company through internal loans with eye watering interest rates or over charge for administration expenses or hikes in the cost of sales so that the parent company or individual can reap the benefits and pay dividends. At the same time these same water companies are seeing the natural habitat of wildlife destroyed by the illegal discharge of untreated waste. These companies are running a water and waste removal network maintained by a skeleton crew meaning that pipe bursts and leaks are not even inspected on a regular basis let alone fixed in a timely manner.
- 3.4. Regulators are meant to be there to protect the consumer and prevent profiteering and yet they have stood by and allowed it to happen. Unless Ofgem brings the water companies to heel their debt mountains will continue to grow until they cannot manage them and they walk away leaving the government and taxpayer to pick up the pieces.

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#### Appendix 1 Energy Prices

<u>Date</u>	SAP Natural Gas			SAP Electricity		
	Average	Minimum	Maximum	Average	Minimum	Maximum
<u>2018</u>	2.08	1.55	12.72			
<u>2019</u>	1.20	0.67	2.07			
<u>2020</u>	0.86	0.30	1.96			
<u>Qtr1</u>	0.86	0.61	1.06	2.08	-16.91	12,789.79
<u>Qtr2</u>	0.45	0.30	0.60	32.30	0.73	2,939.68
<u>Qtr3</u>	0.72	0.41	1.23	24.32	-16.91	2,212.74
<u>Qtr4</u>	1.38	1.05	1.97	35.58	14.62	3,273.55
<u>2021</u>	3.90	1.37	14.51	47.43	8.05	4,363.82

<a href="#">Qtr1</a>	1.71	1.37	2.64	112.48	28.27	41,055.84
<a href="#">Qtr2</a>	2.20	1.60	3.05	61.20	28.27	5,508.03
<a href="#">Qtr3</a>	3.98	2.82	6.98	74.68	=39.80	6,795.61
<a href="#">Qtr4</a>	7.64	4.87	14.50	123.70	57.42	11,380.06
<a href="#">2022</a>	7.12	0.43	19.38	188.83	77.12	17,372.14
<a href="#">Qtr1</a>	7.78	1.52	17.25	200.09	2.36	73,034.66
<a href="#">Qtr2</a>	4.83	0.43	9.72	197.98	2.36	17,817.86
<a href="#">Qtr3</a>	9.97	5.36	19.39	152.43	26.49	13,870.74
<a href="#">Qtr4</a>	5.88	0.82	13.08	276.60	126.00	25,447.00
<a href="#">2023</a>	3.47	1.92	6.16	172.82	36.01	15,899.06
<a href="#">Qtr1</a>	4.63	3.24	6.16	97.24	-9.34	30,728.05
<a href="#">Qtr2</a>	2.89	1.92	4.03	132.40	20.43	11,916.20
<a href="#">Qtr3</a>	2.84	1.97	3.60	87.70	-9.34	7,981.10
<a href="#">Qtr4</a>	3.64	2.30	4.57	75.58	-4.90	6,953.47