National Audit Office

REPORT

Investigation into Bulb Energy

Department for Energy Security & Net Zero

SESSION 2022-23
29 MARCH 2023
HC 1202

Key facts

£3.02bn	**£0.24bn**	**£Nil**
gross taxpayer funding for Bulb Energy Limited (Bulb) since November 2021 as of 31 January 2023[1,2]	estimated net taxpayer funding following repayments by Octopus Energy (Octopus)	expected final net cost to taxpayer because government anticipates recovering residual taxpayer funding from energy bill payers

third-largest energy supplier in Great Britain	based on Ofgem's retail market indicators, the new combined Octopus Energy Group will be the third-largest energy supplier
£2.96 billion	estimated amount to be repaid by Octopus (through HiveCo, the new energy supplier) for taxpayer funding for Bulb customers' energy costs for winter 2022 to March 2023
£1.06 billion	amount paid by the Department for Business, Energy & Industrial Strategy (BEIS) in December 2022 to assist HiveCo to build up collateral necessary for it to purchase energy supplies. The balance is expected to be generated from HiveCo's net trading income[2]
£0.40 billion	estimated accrued interest on loans from government to Bulb in Special Administration Regime (SAR)
£0.16 billion	taxpayer cash injected by BEIS to offset Bulb's remaining liabilities to leave HiveCo with net assets of £1 after Octopus paid £113 million for Bulb's customer book
£1	the net asset value of HiveCo at the date of the Energy Transfer Scheme (ETS)

Notes

1 All figures are as of 31 January and are subject to change. The final numbers will vary as government funding is dependent on wholesale energy price movements until 31 March 2023 when government will cease to fund energy costs for Bulb customers.

2 The expected final net cost of £nil to the taxpayer is because the Special Administration legislation enables the government to recover any shortfall to the exchequer via the shortfall mechanism placed on energy suppliers – see footnote 6 at page 6.

3 The estimated gross taxpayer funding at £3.02 billion is made up of: £1.09 billion for operating the SAR since November 2021; £1.22 billion paid by BEIS on 20 December 2022 when the ETS was implemented; and £0.71 billion for wholesale energy from 21 December 2022 to 31 March 2023.

What this investigation is about

1 In November 2021, Bulb Energy Limited (Bulb) announced that it could no longer continue trading and to protect consumers and ensure continued energy supply, Bulb was taken into Special Administration Regime (SAR) on 24 November 2021. Bulb's customers have now been transferred to a new provider (HiveCo) owned by the Octopus Energy Group (Octopus).[1] The SAR process is expected to cost the taxpayer an estimated £3.02 billion gross as of 31 January 2023, and the government expects to recover all the taxpayer funding. This report sets out the facts about this process.

2 The volatility in the energy market since 2021 led to a wave of retail energy supplier insolvencies, as described in our report on the energy supplier market published in June 2022.[2] Between July 2021 and May 2022, 29 suppliers (domestic and non-domestic) failed. Most of these failures were managed using the Supplier of Last Resort (SoLR) process whereby the customers of a failed supplier are moved to another supplier. However, the largest supplier to fail, Bulb, was taken into a SAR following a High Court order.[3] Ofgem applied to the High Court, with the consent of the Secretary of State for the Department for Business, Energy & Industrial Strategy (BEIS), to use the SAR based on its conclusion that SAR was the most appropriate route for protecting Bulb's 1.5 million customers.

3 BEIS identified five objectives in relation to Bulb: to ensure Bulb customers continue to be protected, minimise cost to the consumer, prevent or minimise negative impacts on the wider energy market, deliver the Mergers and Acquisition process and exit from the SAR as quickly as possible and ensure that all costs are recovered (that is, to avoid any permanent Exchequer funding).[4] BEIS assembled a cross-government team that included HM Treasury and Ofgem (as an observer) to monitor the Bulb process and approve relevant decisions and recommendations. On 7 February 2023, BEIS was abolished as part of wider machinery of government changes. The new Department for Energy Security & Net Zero (DESNZ) assumed responsibility for BEIS's energy portfolio, including the matters discussed in this report. This report considers BEIS's and subsequently DESNZ's progress in achieving these objectives.

1 The legal name of HiveCo is Octopus Energy Operations Limited (company registration 14415312); it was registered on 12 October 2022 as Bulb UK Energy Limited and changed its name on 17 March 2023.

2 Comptroller and Auditor General, *The energy supplier market,* Session 2022-23, HC 68, National Audit Office, June 2022.

3 A SAR as defined by the Energy Act 2011 is a mechanism used by government when it is unfeasible to use its SoLR powers, such as when it has doubts about the possibility of a viable SoLR, or there are practical problems with appointing one. A temporary special administrator continues running the failed company until it can be sold as a going concern, or the customers can be transferred to other suppliers.

4 In the rest of this report, we use sale process rather than Mergers and Acquisition.

4 The High Court appointed three individuals from Teneo UK Limited ('Teneo') as the joint energy administrators and, following an application by the administrators, directed they enter into a funding agreement with BEIS in November 2021.[5] This funding agreement was required to support the achievement of the joint energy administrators' statutory objective of ensuring continuity of supply to Bulb's customers at the lowest practicable cost until such a time as the company may be rescued, or the business transferred to another company. Bulb's parent company, Simple Energy (Simple), was taken into administration on the same date by its secured creditor.

5 In February 2022, Lazard (financial advisers appointed jointly by Bulb and Simple's administrators) launched a sale process for Bulb and Simple to identify a potential exit for Bulb from SAR. This sale process concluded with Teneo's recommendation to BEIS to progress the only final bid received for Bulb, from Octopus Energy Group Limited (Octopus), through to transaction completion.

6 In October 2022, Ofgem provided BEIS with its assessment of regulatory compliance regarding the proposed acquisition of Bulb by Octopus. The Secretary of State approved the Energy Transfer Scheme (ETS), a statutory process, utilised for the first time to protect Bulb's customers. The ETS transferred Bulb's supply licence and certain of its business assets, rights and liabilities, including the full customer book, to HiveCo, which was subsequently purchased by a wholly owned subsidiary of Octopus. Ofgem has an advisory or consultee role under statute and will be formally consulted on the plan to recover taxpayer funding for Bulb through a shortfall direction, which may see some of the funding recoverable from bill payers.[6] At the time of reporting, the consultation had yet to take place, but Ofgem has confirmed that it will provide responses when consulted.

7 Following approval of the ETS by the Secretary of State, the High Court ordered that the effective date for the ETS (the formal mechanism for transferring Bulb to HiveCo) to commence was 20 December 2022.

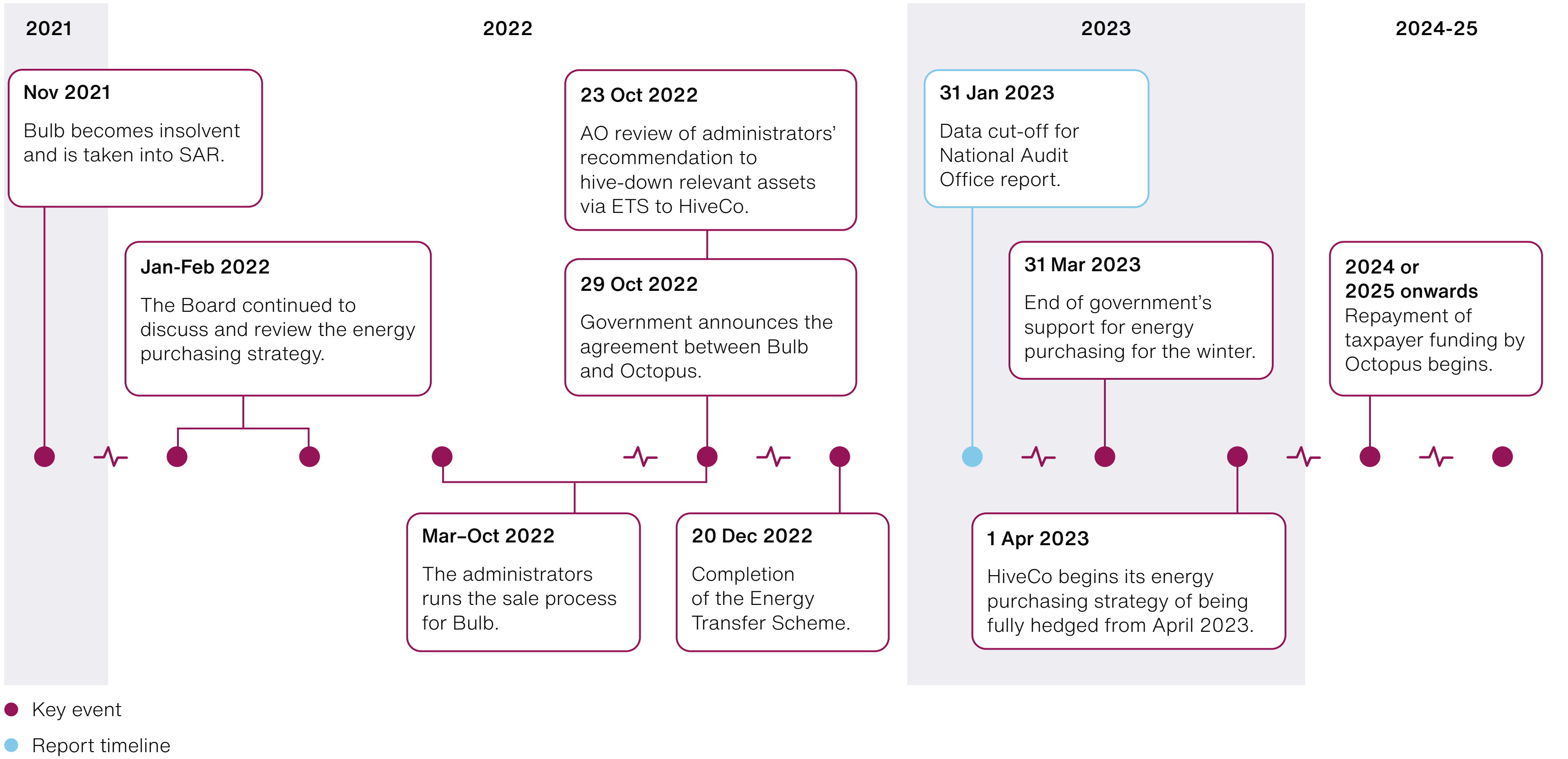
8 This report, while setting out the facts of the process, does not evaluate the decision to take Bulb into SAR or consider whether other approaches might have provided better value for money (**Figure 1**).

5 Teneo Financial Advisory Limited (company registration 13192958) is a financial advisory and insolvency company.
6 On 3 October 2022, BEIS wrote to the Business, Energy and Industrial Strategy Committee as follows: "The Special Administration legislation enables the Government to recover any shortfall to the exchequer via the shortfall mechanism placed on suppliers. It is the Government's intention that any shortfall will be recovered in this way, but the timing of when that recovery begins, and the period over which the shortfall is recovered, are decisions that will be taken in due course, and in light of all relevant factors at that time." Business, Energy and Industrial Strategy Committee, *Energy pricing and the future of the energy market: Responses to the Committee's Third Report of Session 2022-23*, Second Special Report of Session 2022-23, HC 761, October 2022.

Figure 1

Timeline of key events relating to the administration of Bulb Energy (Bulb) and its sale, 2021–2025

Bulb spent 13 months under special administration before its customers, certain business assets and liabilities were transferred to HiveCo in December 2022



Notes

1 The following abbreviations have been used: AO = accounting officer; the Board = Bulb Operations Board; BEIS = Department for Business, Energy & Industrial Strategy; HiveCo = new energy provider (HiveCo) owned by the Octopus Energy Group (Octopus); SAR = Special Administration Regime; ETS = Energy Transfer Scheme: a legal instrument that transfers property, rights, and liabilities from one body to another.

2 Repayment of taxpayer funding by Octopus may be deferred from 2024 to 2025 in some circumstances.

3 The SAR began in November 2021 and will continue until taxpayer funding for the transfer of Bulb to Octopus is repaid in full by Octopus from 2024 or 2025 onwards.

4 Teneo UK Limited ('Teneo') is Teneo Financial Services Limited.

5 The administrators refers to the three individuals from Teneo who were appointed by the High Court as the joint energy administrators.

Source: National Audit Office analysis of events surrounding Bulb

Summary

Key findings

Special Administration Regime (SAR)

9 **Government achieved its first objective of maintaining energy supplies to Bulb's customers throughout the SAR process**. The joint energy administrators from Teneo (Teneo) oversaw all operational decisions of Bulb. Data presented in Teneo's regular reports to the Department for Business, Energy & Industrial Strategy (BEIS) about Bulb's performance showed that Bulb maintained normal levels of operation during the SAR and Citizens Advice told us that no significant changes to services had been reported to it. The cumulative cost of fees for Teneo (for managing the administration of Bulb) and that of the sale and legal advisers it appointed were £52.7 million as of 31 January 2023. Teneo is expected to remain in place until the SAR is concluded (paragraphs 1.17, 1.20, 1.21, 2.3 and 2.4 and Figure 3).

10 **BEIS, supported by HM Treasury (HMT), instructed Teneo not to purchase energy in forward markets and instead buy energy from the day-ahead market. This exposed taxpayers to price volatility, although in the event this decision reduced the cost to the taxpayer by £240.7 million**. In November 2021, BEIS instructed Teneo to adopt an energy purchasing strategy, which required it to buy gas and electricity at the day-ahead wholesale price and expressly discouraged Teneo from entering into hedges or forward purchasing agreements, unless operational issues arose from this. DESNZ told us that it worked closely with HMT to ensure that all hedging decisions adhered to and complied with *Managing Public Money* (MPM) guidance and principles. DESNZ told us that it considered that using private sector financial instruments to manage risk was not good value for money under MPM guidance, as HMT would provide budgetary cover. This decision by BEIS, supported by HMT, was reached prior to the appointment of Teneo and exposed the taxpayer to the greater volatility in day-ahead wholesale energy prices. The policy was maintained despite Ofgem advising that BEIS and Teneo should adopt at least a partial hedging position to manage risk both on price and volume, in extraordinary market conditions. DESNZ has since told us that the risks were weighed and Ofgem's advice considered in the decision-making. Ofgem also observed that the volume of Bulb's purchasing could affect prices in day-ahead markets. BEIS did allow Teneo some hedging, where buying on the day-ahead markets would cause market movements. In January 2023, Teneo reported that the decision not to hedge between 1 December 2021 and 20 December 2022 saved an estimated £240.7 million (paragraphs 2.10 to 2.20, and Appendix Three).

11 **From November 2021 to December 2022, the cost to the taxpayer of running Bulb was £1.14 billion**. In November 2021, Teneo submitted an initial estimate of Bulb's cash requirements and the Secretary of State entered into an Administration Funding Agreement (AFA) with a limit of £1.7 billion**.** Teneo used the AFA to draw down cash of £1.14 billion for Bulb and to provide a £0.5 billion letter of credit (non-cash) to Macquarie to help it manage the credit risk from supplying Bulb. As at the date of the analysis used within this report, £0.92 billion of the funding had been used to offset Bulb's operating cash outflow, with the balance of £0.30 billion held in cash to cover future liabilities (paragraphs 2.5 to 2.9, and Figure 5).

Sale process and the agreement with Octopus

12 **BEIS supported Teneo's recommendation for the sale of Bulb over alternative options for ending the SAR, but there was limited interest from buyers, and it took 10 months to complete.** One of BEIS's objectives was to exit the SAR as quickly as possible. Lazard, appointed by Teneo to run the sale, communicated with 77 trade parties and financial investors in February 2022 to generate interest. Lazard then ran a two-phase sale process with final bids submitted by the end of June. Two parties submitted expressions of interest during the first phase, but neither ultimately made a final bid. The main reasons cited by other parties for their lack of interest during phase one were wholesale price volatility; difficulty accessing long-term hedging products; regulatory uncertainty; and that strategically it was the wrong time to invest in an energy retailer. In April 2022, Teneo and Lazard sought to re-engage with four parties, including Octopus, to gauge whether there was any further interest in the sale. By June, Octopus was the only bidder for Bulb and it offered to acquire specific assets, including Bulb's customer book. For the deal with Octopus to go ahead, Octopus sought support from Shell Energy (Shell), its wholesale provider, to supply Bulb's customer book. To achieve this, BEIS agreed a new funding arrangement with Bulb, which enabled Octopus to use net trading receipts to help build up working capital and cash collateral. The collateral allowed Octopus to secure a letter of credit from a mainstream lender to secure its credit exposure while it developed a hedged position for Bulb customers' energy requirements from 1 April 2023. Government announced the deal in October 2022, Teneo having advised that there were no other viable sale options at that time. The deal was completed on 20 December 2022 (paragraphs 3.2 to 3.19).

13 BEIS injected £1.22 billion into HiveCo and BidCo to facilitate the transfer of Bulb customers to HiveCo on 20 December 2022. The transfer of Bulb's customers and certain business assets and liabilities by a court-approved Energy Transfer Scheme (ETS) involved the creation of a new supplier (HiveCo) to receive the transferred assets and liabilities. HiveCo was a subsidiary of Bulb but was immediately bought by a newly created, wholly owned subsidiary of Octopus (BidCo). On 20 December 2022, Octopus paid £113 million for the Bulb customer book and in accordance with the ETS:

- BEIS injected £160 million cash into Bulb to offset its remaining liabilities transferred to HiveCo, including customer credit balances and renewables obligations, to value HiveCo's shares at £1; and
- as the completion of the deal was delayed, BEIS also made a one-off loan of £1.06 billion to BidCo to help HiveCo build the collateral needed to provide the letter of credit required by Shell. HiveCo is expected to generate the remaining collateral from net trading receipts.

Following the ETS, Octopus provided £108 million equity to increase HiveCo's net assets. HiveCo and BidCo formed a ringfenced entity within the Octopus Group. Teneo agreed several measures with Octopus to protect the taxpayer from potential loss of value and prevent leakage to other parts of the Octopus Group: Octopus will not pay management fees, issue inter-company loans, or make dividend payments from the ringfenced entity to the wider Octopus Group until it has repaid Bulb. Bulb will then pay this to BEIS (since 7 February 2023, the Department for Energy Security & Net Zero (DESNZ)) for the taxpayer funding (paragraphs 3.12 and 3.17 to 3.19).

14 BEIS agreed to pay for HiveCo's energy costs following the ETS until 31 March 2023. HiveCo has used net trading receipts to build working capital and fully hedge the cost of energy from 1 April 2023, thereby managing its exposure to future wholesale price volatility. BEIS agreed that it would pay for HiveCo's energy between 21 December 2022 and 31 March 2023, while HiveCo was building the working capital and hedge. As of 31 January 2023, Teneo estimated that the cost to BEIS for this energy would be £0.71 billion. However, the cost might change because of movements in the day-ahead price for wholesale energy in February and March 2023 (paragraphs 3.13, 3.19 and 4.7).

Taxpayer funding and recovery plans

15 **Reductions in the wholesale costs of energy since October 2022 mean that the estimated taxpayer funding for Bulb at the time of writing, is lower than originally forecast**. As of 31 January 2023, Teneo forecast that the total gross cost to taxpayers of funding Bulb from November 2021 to 31 March 2023 would be £3.02 billion:

- £1.09 billion for operating the SAR (paragraph 11);
- £1.22 billion paid by BEIS on 20 December 2022 when the ETS was implemented (paragraph 13); and
- £0.71 billion for wholesale energy for HiveCo from December 2022 to 31 March 2023 (paragraph 14).

This latest estimated gross cost is substantially lower than the £6.49 billion forecast by the Office for Budget Responsibility (OBR) in November 2022. The reduction in the estimate was mainly due to the reduction in wholesale energy prices, which the OBR forecast would be £4.14 billion for winter 2022 to 31 March 2023, compared with the latest forecast of £0.71 billion. BEIS's decision not to hedge exposed it to the risk of greater volatility of day-ahead market prices, but this meant that it benefited from wholesale price reductions during the SAR (paragraphs 2.13, 3.18, 3.19, 4.5 and 4.6).

16 **DESNZ must manage risks and uncertainties to recover taxpayer funding from Octopus**. As of 31 January 2023, Teneo estimated that Octopus (through HiveCo) would be due to pay £2.96 billion based on the wholesale cost allowance in Ofgem's price cap methodology.[7] This includes Octopus reimbursing the one-off payment of £1.06 billion made by BEIS on 20 December, and the £0.71 billion estimated wholesale costs of energy bought by BEIS and DESNZ between December 2022 and March 2023. DESNZ expects that HiveCo will pay this from 2024, but this may be delayed by a year in some circumstances. DESNZ is dependent on the continued commercial success of Octopus for the repayment of these funds. Ofgem reviewed the regulatory aspects and impacts on consumers of the proposed deal and noted that Octopus's rapid growth had resulted in Octopus having a weaker financial position than other large suppliers. Ofgem also identified risks around Octopus's low levels of investor support and its over-reliance on customer credit balances for working capital. Overall, Ofgem concluded that Octopus could manage the operational risks, but that the financial risks were more difficult to assess. However, Teneo assessed that the repayment risk could be partially mitigated by HiveCo and BidCo being set up as a ringfenced entity; HiveCo building a hedge for its wholesale energy purchased from 1 April 2023; and Octopus's desire to avoid reputational damage. Teneo also concluded that if HiveCo failed and a second SAR was imposed, the government should be in no worse position compared with a continuation of the current SAR (paragraphs 3.15, 4.3, 4.4 and 4.8).

7 The energy price cap level indicates how much consumers on their energy supplier's basic tariff would pay if the government's Energy Price Guarantee was not in place.

17 **If Octopus's repayment is insufficient to cover the total taxpayer support provided since the SAR commenced in November 2021, DESNZ expects to recover any shortfall directly from energy bill payers.** On 31 January 2023, Teneo estimated that the shortfall would be £246 million. The current estimated shortfall only arises because Teneo's forecast includes a non-cash interest charge of £404 million for the taxpayer support BEIS provided for the Bulb process since November 2021. The shortfall amount is likely to change, as it depends on three factors, all of which are uncertain: how much BEIS/DESNZ pays for wholesale energy until 31 March 2023; the cost of the remainder of the SAR; and the amount repaid by Octopus. DESNZ expects to use a shortfall direction to recover any difference. The Secretary of State is responsible for deciding whether to issue this direction and its terms. As of 31 January 2023, no final decision had been made (paragraphs 4.8 and 4.9).

Concluding remarks

18 Bulb's 1.5 million customers continue to be protected and the sale process, which lasted for 10 months, was concluded on 20 December 2022. The government has achieved its objectives to maintain supplies to Bulb customers and to complete the sale process.

19 It is too early to conclude on the achievement of the remaining objectives: to minimise cost to the consumer, prevent or minimise negative impacts on the wider energy market, deliver exit from the SAR quickly and ensure all costs are recovered. The government decided to take on the risks of rising and falling wholesale energy prices. This decision resulted in an unplanned taxpayer benefit from the reduction in wholesale energy prices from the peak in August 2022 to the prices in January 2023. Several risks remain to the recovery of taxpayer funding, which may ultimately be absorbed by household customers.