

Approved by the Gas and Electricity Markets Authority on 23 September 2010

**Rules of Procedure of the
Gas and Electricity Markets Authority**

INTERPRETATION

1. In these rules:-

“the Authority” means the Gas and Electricity Markets Authority.

“executive member” means a member who is either the Chief Executive or a managing director of Ofgem.

“member” means a member of the Authority.

“non-executive member” means the Chairman and any member who is not an executive member.

“ordinary resolution” means a resolution that is passed by a simple majority of such members as are entitled to vote on that resolution.

“reserved function” has the meaning given to that phrase in paragraph 13 below.

MEETINGS

2. Subject to the provisions on notice (paragraph 4) the Chairman or any three members may convene a meeting of the Authority.
3. Meetings may take place other than at the Authority’s usual place of business.

NOTICE OF MEETINGS

4. Fourteen days’ notice of any meeting of the Authority shall be given to each member in writing (including transmission of a written notice by facsimile or electronic mail) and shall specify the time and place of the meeting and seven days notice shall usually be given of the business to be conducted.
5. A meeting called on shorter notice will be valid only if ratified at that meeting by an ordinary resolution.
6. Failure of a member to receive notice of a meeting does not invalidate that meeting or any business transacted at it.

PROCEEDINGS

7. The quorum for a meeting of the Authority shall be two executive members and three non-executive members present, save that in relation to paragraph 3 in the Schedule of reserved functions the quorum shall be three non-executive members.
8. Members may attend meetings of the Authority by telephone or video conferencing facility. Members so attending shall be considered to be present at that meeting.
9. If the Chairman is not present at a meeting of the Authority those members present shall appoint one of the non-executive members present to act as chairman of that meeting.
10. Decisions of the Authority shall be made by ordinary resolution. Only members present may vote.
11. In the case of an equality of votes the Chairman or in his absence the member appointed pursuant to paragraph 9 shall have a second or casting vote.
12. Any ordinary resolution may be passed by written resolution. Any such written resolution shall be deemed passed when it is signed as approved by a majority of the members entitled to vote.

DELEGATION AND COMMITTEES

13. The functions of the Authority listed in the Schedule are reserved to the Authority (the "reserved functions").
14. All functions of the Authority that are neither reserved functions nor functions delegated to a Committee of the Authority shall be exercisable:
 - (a) where they have been delegated by HM Treasury to the Accounting Officer of the Department i.e. Ofgem, by the Accounting Officer and
 - (b) in any other case, by the Chairman.

The Accounting Officer and the Chairman may each delegate the performance of those functions to members or employees of the Authority as each determines to be appropriate. Any such delegation shall be deemed to be given by the Authority.

15. There shall be a committee of the Authority known as the Audit Committee to consider matters relating to risk management and internal financial control of the Authority.
16. The Audit Committee shall consist of members who shall be appointed by ordinary resolution of the Authority for a term of not more than one year. Members may be re-appointed.

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- 16A. There shall be a committee of the Authority known as the Remuneration Committee to review and approve the pay award and level of any bonus for executive members and consider other matters relating to the pay of Ofgem staff.
- 16B. The Remuneration Committee shall consist of non-executive members who shall be appointed by ordinary resolution of the Authority for a term of not more than one year. Members may be reappointed.
17. The Authority may, by ordinary resolution, establish such other Committees as it may consider appropriate and the terms of reference and procedures of those Committees.
18. The Authority shall specify the extent, if any, to which any Committee established under paragraph 15, 16A or 17 has delegated authority to exercise any function of the Authority (whether a reserved matter or otherwise).
19. The membership of any Committee established under paragraph 17 shall
 - (a) consist only of members or employees of the Authority;
 - (b) consist of a majority of non-executive members and have a non-executive member as its chairman; and
 - (c) be appointed by the Chairman,

Provided that any Committee which does not have delegated powers under paragraph 18 may also include other persons, and Provided that a Committee may comprise two persons where one person is a non-executive member and one person is an executive member or Senior Partner of Ofgem and that in the case of an equality of votes the non-executive member shall have the casting vote.

CONFLICTS OF INTEREST

20. Before he/she becomes involved in taking a decision or participating in a discussion on any matter each member should ensure that there are no conflicts of interest that, in the opinion of a fair-minded and informed observer, would suggest a real possibility of bias and shall have due regard to any guidance on conflict of interest from time to time issued to the Authority by the Chairman.
21. If a member has directly or indirectly an interest or duty which is material and relevant or may be relevant to any matter being considered by the Authority or any Committee of the Authority he/she shall declare that interest or duty before that matter is discussed.
22. Where a member has made a declaration in accordance with paragraph 21, he/she shall not vote at a meeting of the Authority or of a Committee of the Authority on any resolution concerning a matter to which the declaration relates or be present during any discussion of that matter.
23. A member shall not be counted for the purpose of determining a meeting quorate in relation to a resolution on which he/she is not entitled to vote. Nothing in this

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paragraph or paragraph 22 shall affect the validity of anything done by the Authority.

24. The Authority may, by ordinary resolution, suspend or relax to any extent either generally or in respect of any particular matter any provision of these Rules prohibiting a member from participating in any discussion or voting at a meeting of the Authority or of a Committee of the Authority.
25. Any question as to the right of a member to participate in any discussion or vote that arises shall be referred to the Chairman, or in his absence the chairman of the meeting, who may consult the Authority if appropriate, for determination.

THE SEAL

26. The Authority shall have a seal. The seal shall be kept by the Chairman or by such other person as he may nominate.
27. Any member is authorised to authenticate the application of the seal to a statutory instrument.
28. Any member or employee nominated by the Chairman is authorised to authenticate the application of the seal to any other document.

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SCHEDULE

The following matters are reserved for a decision of the Authority, and may not be delegated other than pursuant to and in accordance with the terms of an ordinary resolution of the Authority or to a committee of the Authority established for that purpose in accordance with the Rules of Procedure:

Management Issues

1. The approval of the Authority's financial statements
2. The policy in relation to the strategy and programme for internal audit and the actions required as a result of external and internal audit reports.
3. The approval of the annual performance pay award and the level of any bonus payment for any employee in Senior Civil Service Pay Band 3 or above.
4. The approval of any forward work programme to be published under Section 4 of the Utilities Act 2000 and the operating budget of the Authority.
5. Any changes to the Authority's Rules of Procedure.
6. The terms of reference of any Committee of the Authority.
7. The undertaking of any Major Capital Projects (those costing in excess of £250,000).
8. The entering into of any material contracts in the ordinary course of business (those which involve a liability exceeding £1,000,000).
9. The entering into of any contracts not in the Authority's ordinary course of business.

Regulatory Issues

10. The policy informing proposals to modify significantly any condition in a licence issued under the Gas Act 1986 or the Electricity Act 1989 where the principal purpose of that condition is to control or limit the charges or revenue of the licensee or to insert or modify significantly any incentive regime in relation to the activities of the licensee.
11. The exercise of powers in relation to reference to the Competition Commission contained or referred to in Section 36A of the Gas Act 1986 and Section 43(2A) of the Electricity Act 1989.
12. The exercise of powers in relation to references to the Competition Commission in respect of licence modifications contained in Section 24 of the Gas Act 1986 and Section 12 of the Electricity Act 1989.
13. The issue of a notice under Section 28(6) of the Gas Act 1986 or Section 56B of the Electricity Act 1989 and the exercise of powers in relation to references to the Competition Commission in respect of an alteration of licensable activities contained in Section 41E of the Gas Act 1986 and Section 56C of the Electricity Act 1989.
14. The issuing of a notice under Section 28(6) of the Gas Act 1986 or Section 25(6) of the Electricity Act 1989 where no enforcement order is to be made and the giving of notice to make a final order or confirm a provisional order as required by Section 29(1) of the Gas Act 1986 and Section 26(1) of the Electricity Act 1989.
15. The giving of notice to make a final order or confirm a provisional order with modifications as specified in Section 29(4) of the Gas Act 1986 and Section 26(4) of the Electricity Act 1989.
16. The decision not to confirm a provisional order made pursuant to Section 28 of the Gas Act 1986 and Section 25 of the Electricity Act 1989.
17. The giving of notice to revoke a final order or a confirmed provisional order with or without modifications as required by Section 29 of the Gas Act 1986 and Section 26 of the Electricity Act 1989.
18. The revocation of a final order or a confirmed provisional order with or without modifications as required by Section 29 of the Gas Act 1986 and Section 25 of the Electricity Act 1989.
19. A decision that a contravention of a relevant requirement or relevant condition or failure to achieve a standard of performance has been established in connection with, and the imposition of a financial penalty pursuant to, Section 30A of the Gas Act 1986 and Section 27 of the Electricity Act 1989.
20. The proposal to make decisions in relation to agreements and in relation to conduct pursuant to Section 31 of the Competition Act 1998 and the giving of directions in relation to such agreements pursuant to Section 32 of the Competition Act 1998 and the giving of directions in relation to such conduct pursuant to Section 33 of the Competition Act 1998.

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21. The making of an application to court concerning the enforcement of the directions pursuant to Section 34 of the Competition Act 1998.
22. The proposal to reach a decision and give directions for interim measures pursuant to Section 35 of the Competition Act 1998.
23. The making of any statutory instrument.
24. The publication of a statement of policy with respect to the imposition of penalties and the determination of their amount under Section 30B of the Gas Act 1986 or Section 27B of the Electricity Act 1989.
25. The decision that the Authority will bring a prosecution under:
 - Section 5, 17(11) or 38(2) or (3) of the Gas Act 1986;
 - Section 4, 28(4) or (5) or Schedule 7 paragraph 3 of the Electricity Act 1989;
 - Section 105 of the Utilities Act 2000;
 - Section 245 of the Enterprise Act 2002; and
 - Sections 42, 43 and 44 of the Competition Act 1998.
26. The imposition of a penalty under Section 36 of the Competition Act 1998.
27. The decision to apply under section 204 of the Enterprise Act 2002 to the court seeking an order for the disqualification of directors of companies which have infringed the Chapter I / Chapter II prohibitions of the Competition Act 1998 and/or the prohibitions under Article 81 / Article 82 of the EC Treaty.
28. The decision to exercise the duty under sections 11 and 205 of the Enterprise Act 2002 to respond with a reasoned response to a super-complaint made by a designated consumer body that a feature(s) of a market in the UK for goods or services is or appears to be significantly harming the interests of consumers.
29. The decision to exercise enforcement powers under Part 8 of the Enterprise Act 2002 in relation to certain consumer legislation.
30. Any other function of the Authority specified in an ordinary resolution.