



## **The Electricity Act 1989 and Gas Act 1986**

### **Notice of proposal to revoke provisions of confirmed Provisional Order**

#### **Proposal of the Gas and Electricity Markets Authority ("the Authority") to revoke provisions of a confirmed provisional order pursuant to section 26(6) of the Electricity Act 1989 ("Electricity Act") and section 29(5) of the Gas Act 1986 ("Gas Act")**

**12 November 2014**

#### **1 Summary**

1.1 The Authority issued a provisional order to Economy Energy Trading Limited (company number 07513319) having its registered office at 164 Stoneleigh Park, Warwickshire CV8 2LG ("Economy Energy"), the holder of a licence granted under section 6(1)(d) of the Electricity Act and a licence granted under section 7A(1) of the Gas Act on 14 February 2014, under section 25(2) of the Electricity Act and section 28(2) of the Gas Act in respect of contraventions or likely contraventions of:

- a. standard conditions 14, 14A, and 22 of the gas and electricity supply licences (collectively referred to as "SLC"); and
- b. Regulations 3, 4, 5, and 7 of the Gas and Electricity (Consumer Complaints Handling Standards) Regulations 2008 ("Complaints Handling Regulations").

1.2 A copy of the provisional order issued on 14 February 2014 and the document dated 21 February 2014 setting out the reasons for issuing the provisional order can be found at: <https://www.ofgem.gov.uk/publications-and-updates/economy-energy-provisional-order>.

1.3 On 25 March 2014, the Authority issued a notice of proposal to confirm the provisional order. The Authority subsequently confirmed the provisional order imposed on Economy Energy, with modifications, on 13 May 2014. A copy of these documents can be found at: <https://www.ofgem.gov.uk/publications-and-updates/economy-energy-provisional-order>.

1.4 The Authority confirmed the provisional order imposed on Economy Energy having been satisfied that Economy Energy was contravening or was likely to contravene the requirements of SLC 14, 14A and 22 and regulations 3, 4, 5 and 7 of the Complaints Handling Regulations.

1.5 The Authority now proposes to revoke the following provisions of the confirmed provisional order:

- (i) Paragraphs 1a(i), 1a(ii), 1b(i), 1b(ii), 1c, 1d, 1e(i), 1e(ii), 1f(i), 1f(ii), 1g(ii) and
- (ii) Paragraph 2.

1.6 Pursuant to sections 26(6) Electricity Act and section 29(5) Gas Act, the Authority is satisfied that Economy Energy has secured compliance with the provisions specified above and consequently those provisions are no longer requisite to secure compliance with Economy Energy's licence obligations and the relevant provisions of the Complaints

Handling Regulations. The provisions that the Authority proposes to revoke are set out in the Annex to this notice.

1.7 The remaining provisions of the confirmed provisional order:

- (i) Complaints Handling Regulations and SLC 22.3: Paragraph 1g(i).
- (ii) Transfer Blocking: Paragraph 3

(which are not the subject of this consultation) shall continue to remain in effect until such time as the Authority is satisfied that Economy Energy has achieved compliance with the said provisions.

1.8 Pursuant to sections 26(6) of the Electricity Act and section 29(5) of the Gas Act, before revoking a provisional order which has been confirmed, the Authority shall give notice:

- (a) stating that the Authority proposes to revoke the order and setting out its effect; and
- (b) specifying the period (not being less than 28 days) from the date of publication of the notice within which representations or objections to the proposed revocation may be made.

1.9 Prior to revoking the provisions specified in paragraph 1.5 of this notice, and in accordance with section 26(6) of the Electricity Act and section 29(5) of the Gas Act, the Authority hereby gives notice that:

- a. For the avoidance of doubt, SLC 14, 14A, and 22 and Regulations 3, 4, 5, and 7 of the Complaints Handling Regulations are the relevant conditions and requirements for the purpose of the confirmed provisional order;
- b. The acts or omissions which, in the Authority's opinion, constitute or would constitute compliance with or contraventions of those conditions and requirements, and other factors which in the Authority's opinion justify the revocation of the specified provisions of the confirmed provisional order, are those set out at paragraphs 3 and 4 below.
- c. Any representations or objections with respect to the proposed revocation may be made to the Authority by 11 December 2014 (see paragraph 5 below).

## **2 Background**

2.1 In November 2013, Consumer Futures<sup>1</sup> alerted Ofgem that it had received a significant number of complaints from Economy Energy customers<sup>2</sup>, a large proportion of which were prepayment customers. The nature of the complaints received included that some customers had difficulty contacting the supplier to resolve issues, including how to get back on supply when there were issues with their keys or meter. There were also reports of customers having difficulty switching away from Economy Energy when they made a request to do so.

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<sup>1</sup> Consumer Futures was a Non-Departmental Public Body. Within the legal framework of the National Consumer Council, it fulfilled its responsibilities of the statutory consumer body in energy and postal services in Great Britain, water services in Scotland and postal services in Northern Ireland; it also had a wider role in applying learning and insight across other regulated markets. On 1 April 2014, the functions of Consumer Futures transferred to Citizens Advice, Citizens Advice Scotland and the Consumer Council for Northern Ireland.

<sup>2</sup> Consumer Futures had a duty under Section 13 of the Consumers, Estate Agents and Redress (CEAR) Act 2007 to deal with cases where the consumer had been disconnected or had been threatened with disconnection, including prepayment off-supply cases. Consumer Futures also had powers under section 12 to deal with energy cases received from vulnerable consumers. The CEAR Act defines a vulnerable consumer as being someone that it is not reasonable to expect to pursue the complaint themselves.

2.2 Ofgem engaged in preliminary discussions with Economy Energy to try and assist Economy Energy's compliance with certain obligations imposed by its licence conditions and relevant requirements of the Gas Act and Electricity Act. Following this intervention, Economy Energy took steps towards improving its services; however, Ofgem continued to have concerns over the potential harm to consumers due to Economy Energy's contravention and likely contravention of certain obligations. As a result, Ofgem took the step of issuing a provisional order to Economy Energy on 14 February 2014 which set out clear steps Economy Energy needed to take within specified timescales to ensure compliance with its obligations<sup>3</sup>.

2.3 Economy Energy failed to demonstrate that it had discharged its obligations to the Authority's satisfaction and based on the information received from Economy Energy and Consumer Futures, the Authority was satisfied that Economy Energy was contravening or was likely to contravene the relevant conditions and requirements set out below:

- a. SLCs 14, 14A and 22.3 and
- b. Regulations 3, 4, 5, and 7 of the Complaints Handling Regulations.

2.4 The Authority therefore confirmed the provisional order imposed on Economy Energy with modifications on 13 May 2014 for the purpose of securing compliance with the said relevant conditions and requirements. This order continues to have effect until such time as it is revoked by the Authority in accordance with section 26 (6) of the Electricity Act and section 29 (5) of the Gas Act.

### **3 The facts surrounding the Authority's proposed decision to revoke provisions**

3.1 The Authority has considered information and evidence submitted by Economy Energy and is satisfied that Economy Energy has demonstrated compliance with the following SLCs and Complaint Handling Regulations. The Authority therefore proposes to revoke the provisions specified below. The remaining provisions shall continue to apply in full.

#### ***Complaints Handling Regulations and SLC 22.3; provisions 1a(i), 1a(ii), 1b(i), 1b(ii) and 1c of the confirmed provisional order***

3.2 Regulation 3 of the Complaints Handling Regulations requires that a regulated provider must at all times have a complaints handling procedure in place (which contains certain mandatory provisions) and that it must comply with that complaints handling procedure at all times.

3.3 SLC 22.3<sup>4</sup> requires a licensee to supply gas and/or electricity in accordance with the terms of the domestic supply contract offered.

3.4 Economy Energy has revised its processes and extended its call centre opening hours to ensure that off-supply customers are prioritised in call queues and dealt with more quickly. Economy Energy further provided information to show that customers who contacted Economy Energy about being off supply due to problems with their prepayment card, key or token were back on supply either the same day or the next day in over 95% of cases. Economy Energy provided data which demonstrated that it

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<sup>3</sup> Original Provisional Order is available at <https://www.ofgem.gov.uk/ofgem-publications/86089/economyenergyprovisionalorder14february2014.pdf> and reasons document available at <https://www.ofgem.gov.uk/ofgem-publications/86208/provisionalorderreasonsdocument21february2014.pdf>.

<sup>4</sup> A copy of the relevant condition can be found on the Ofgem website at <https://www.ofgem.gov.uk/licences-codes-and-standards/licences/licence-conditions>

answered calls in a timely and efficient manner. The Authority is satisfied that the measures taken resulted in customers being back on supply quickly and thus supplied energy in accordance with their contract.

3.5 The Authority considers that Economy Energy has taken sufficient steps to achieve compliance with provisions 1a(i), 1a(ii), 1b(i), 1b(ii) and 1c of the confirmed provisional order such that it is no longer requisite to have these provisions in effect.

***Complaints Handling Regulations and SLC 22.3; provision 1d of the confirmed provisional order***

3.6 Economy Energy has introduced and maintained both a standard geographic telephone number and a non-geographic telephone number.

3.7 The Authority considers that Economy Energy has complied with provision 1d of the confirmed provisional order such that it is no longer requisite to have this provision in effect.

***Complaints Handling Regulations and SLC 22.3; provisions 1e(i), 1e(ii), 1f(i) and 1f(ii) of the confirmed provisional order***

3.8 Economy Energy extended the opening hours of its in-house staffed call centre on a Saturday from 8am to 6pm and from Monday to Friday from 8am to 8pm. These steps bring Economy Energy into compliance with provision 1e of the confirmed provisional order. Economy Energy confirmed that its call centre was not open on a Sunday but that it had a contract in place with an out of hours call provider to handle calls for the periods required under provision 1f of the confirmed provisional order. Economy Energy provided evidence that calls had been taken by its call centre and its out of hours call provider since 13 May 2014.

3.9 The Authority considers that Economy Energy has complied with provisions 1e(i), 1e(ii), 1f(i) and 1f(ii) of the confirmed provisional order such that it is no longer requisite to have these provisions in effect.

***Complaints Handling Regulations and SLC 22.3; provisions 1g(ii) of the confirmed provisional order***

3.10 Regulation 7 of the Complaints Handling Regulations requires that regulated providers must receive, handle and process complaints in an efficient and timely manner. In addition, it requires that providers allocate and maintain adequate resources to do so.

3.11 Economy Energy provided evidence to show that it had a process in place to ensure complaint handling staffing levels are adequate. Economy Energy explained that this was an ongoing process and that staffing levels changed to meet the needs of the business. For the period May 2014 to August 2014, Economy Energy provided data showing the number of full time equivalent staff was sufficient to meet times of peak demand.

3.12 The Authority considers that Economy Energy has complied with provision 1g(ii) of the confirmed provisional order such that it is no longer requisite to have this provision in effect.

***Complaints Handling Regulations and SLC 22.3; provision 2 of the confirmed provisional order***

3.13 Economy Energy stated that it had not actively taken on any new customers or added any customer accounts by upgrading to dual fuel. It alerted Ofgem to an error, which came to Economy Energy's attention in late October 2014, that 338 gas customers had erroneously been registered to Economy Energy. Economy Energy confirmed that these customers would be registered back to the correct supplier and that Economy Energy had not set up accounts for these customers. The error had been the fault of a

third party and Economy Energy forwarded letters of explanation from the third party and correct supplier relating to the customers transferred in error.

3.14 The Authority notes that Economy Energy acquired new customers in error and that the third party has put checks in place to minimise the risk of this error recurring. The Authority notes that, apart from that occurrence, Economy Energy did not acquire any other new customers since 13 May 2014. The Authority notes that the prohibition on acquiring new customers or adding customer accounts had been placed on Economy Energy until the Authority is satisfied that Economy Energy has implemented and maintained compliance with regulations 3, 4, 5 and 7 of the Complaints Handling Regulations and SLC 22.3.

3.15 The Authority is satisfied (as set out above) that Economy Energy has implemented and maintained compliance with regulations 3 and 7 of the Complaints Handling Regulations and SLC 22.3 and has achieved substantial improvements in relation to regulations 4 and 5 of the Complaints Handling Regulations. It therefore proposes that provision 2 of the confirmed provisional order setting out the prohibition on acquiring new customers or adding customer accounts should also be revoked.

#### **4 The facts surrounding the Authority's decision to maintain provisions**

4.1 The Authority has considered information and evidence submitted by Economy Energy and has concluded that Economy Energy has not demonstrated compliance with the following SLCs and Complaints Handling Regulations. The Authority therefore proposes to maintain these provisions until such time as it is satisfied that Economy Energy has achieved compliance with the provisions specified below.

##### ***Complaints Handling Regulations and SLC 22.3; provision 1g(i) of the confirmed provisional order***

4.2 Regulation 4 of the Complaints Handling Regulations specifies the information that regulated providers must record upon receipt of a consumer complaint. Regulation 5 requires that regulated providers also record information about consumer complaints that are not resolved by the end of one working day after the complaint is received.

4.3 Economy Energy disclosed in conversations and in writing to Ofgem that it did not record all complaints it received in accordance with the requirements of regulations 4 and 5 of the Complaints Handling Regulations until August 2014. Despite being advised by Ofgem, on 20 May 2014 in a meeting held at Economy Energy's offices, of the definition of a complaint (as defined in the Complaints Handling Regulations), Economy Energy did not record all expressions of dissatisfaction as complaints until August 2014.

4.4 Ofgem is concerned that consumers may have suffered harm as, if their contact with Economy Energy was not logged correctly as a complaint, the consumers would not have been given important information as required by regulation 3 of the Complaints Handling Regulations, including information on how their complaint would be handled, what remedies were available, how their complaint could be reviewed internally as well as information on where they could receive independent help, advice or information.

4.5 Economy Energy submitted copies of its complaint handling procedures, dated 15 August 2013, and its new complaints department procedures, dated 15 September 2014. The Authority found that the submitted documents were not sufficiently detailed and were inaccurate in places. The Authority is concerned that complaints may not have been recorded as required by regulations 4 and 5 of the Complaints Handling Regulations.

4.6 The Authority therefore considers it appropriate to maintain provision 1g(i) in the confirmed provisional order requiring Economy Energy to comply with regulations 4 and 5 of the Complaints Handling Regulations.

***Transfer blocking; provision 3 of the confirmed provisional order***

4.7 SLC 14.1<sup>5</sup> requires that Economy Energy must not prevent a proposed supplier transfer except in specific circumstances outlined in the condition.

4.8 SLC 14A<sup>6</sup> places an obligation on licensees to complete a supplier transfer within three weeks.

4.9 Economy Energy confirmed that it blocked 14 customers from switching between 13 May 2014 and August 2014, submitting that the reasons for blocking these customers were in compliance with SLC 14.6. Economy Energy provided the dates that these customers had been sent letters informing them of the reasons for blocking their request to switch supplier, however, copies of the letters were not provided to Ofgem to evidence that these transfers had been blocked in accordance with SLC 14.6.

4.10 Economy Energy provided copies of its transfer blocking procedures before and after the document had been updated in September 2014. Prior to September 2014, Economy Energy's transfer blocking policy did not require that transfer blocking notices sent to domestic customers should offer advice on energy efficiency, debt management and alternative contracts as required by SLC 14.9 (b). Nor did the document set out the requirements of SLC 14.9 (c), that is; that a customer has 30 working days to pay any outstanding charges where the customer has notified the supplier of their intention to switch following notice from the supplier of a unilateral adverse variation of the customer's contract. Given the wording of its transfer procedure document at the time the 14 customers were blocked from transferring and the lack of evidence to show what these 14 customers had been advised in writing, the Authority has concluded that Economy Energy failed to demonstrate compliance with the requirements of SLC 14.1 and SLC 14A.

4.11 The Authority is concerned that some customers may have been unlawfully blocked from switching away from Economy Energy and could have suffered detriment by way of missing out on savings offered by another supplier. The Authority considers that it is therefore requisite to maintain provision 3 of the confirmed provisional order requiring Economy Energy to comply with SLC 14 and SLC 14A.

***Improvements made by Economy Energy***

4.12 The Authority notes the considerable improvements undertaken by Economy Energy across their business operations to ensure compliance with conditions and requirements set out in the confirmed provisional order. Nonetheless, there remain some areas of concern where Economy Energy has failed to demonstrate compliance, as set out above.

4.13 The Authority is satisfied that Economy Energy has taken the necessary steps to achieve compliance with the specified relevant conditions or requirements set out in paragraph 1.5 above but is concerned that it is still contravening or is likely to contravene the remaining conditions or requirements as set out in paragraphs 4.2 to 4.11 inclusive above. For these reasons, the Authority proposes that the provisions of the confirmed provisional order set out in paragraph 1.5 of this notice be revoked and the remaining provisions be maintained in the form set out in Annex 1 to this notice.

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<sup>5</sup> A copy of the relevant condition can be found on the Ofgem website at <https://www.ofgem.gov.uk/licences-codes-and-standards/licences/licence-conditions>

<sup>6</sup> A copy of the relevant condition can be found on the Ofgem website at <https://www.ofgem.gov.uk/licences-codes-and-standards/licences/licence-conditions>

## **5 Representations or Objections**

5.1 Any representations or objections in respect of this notice to revoke the specified provisions of the confirmed provisional order of 13 May 2014 must be made in writing on or before 11 December 2014 (being not less than 28 days from the date of the publication of this notice) and sent to, Andrea Gregory, Senior Manager, Ofgem 9 Millbank London SW1P 3GE or by email to [andrea.gregory@ofgem.gov.uk](mailto:andrea.gregory@ofgem.gov.uk).

All responses will be published on the Ofgem website and retained in the Ofgem Research and Information Centre. If a respondent does not wish its response or part of its response to be published, it should clearly mark its response or the relevant parts "not for publication".

5.2 Any representations or objections which are duly made within the timeframe specified above and not withdrawn will be duly considered by the Authority.

**Dated: 12 November 2014**

Signed

**Rachel Fletcher**

**Senior Partner**

Duly authorised on behalf of the Gas and Electricity Markets Authority

## **Annex 1:**

### **Proposed revocation of provisions of the Confirmed Provisional Order dated 13 May 2014**

The Authority, pursuant to section 26 (6) of the Electricity Act and 29 (5) of the Gas Act, hereby gives notice of its proposal to revoke the following provisions of the confirmed Provisional Order dated 13 May 2014.

#### **Complaints Handling and SLC 22.3**

**1.** For the purpose of ensuring that Economy Energy can adequately receive, handle and process any expression of dissatisfaction, including, but not limited to, customers being off-supply, comply with regulations 3, 4, 5, and 7 of the Complaints Handling Regulations, and comply and continue to comply with its obligations in relation to SLC 22.3 (Duty to offer and supply under Domestic Supply Contract). This is to be achieved by ensuring that the following steps are taken<sup>7</sup>:

a. In relation to any customer:

- i. who notifies Economy Energy, between 8am Monday and 4pm Friday, that they are currently off-supply or they will be imminently off-supply; and/or
- ii. who Economy Energy identifies, between 8am Monday and 4pm Friday, as being off-supply or will be imminently off-supply,

due to a pre-payment meter not operating so as to permit a supply of electricity and/or gas to the customer's premises, Economy Energy shall take whatever measures necessary so as to permit a supply of electricity and/or gas to the customer's premises, as soon as reasonably practicable, but by no later than the next business day.

b. In relation to any customer:

- i. who notifies Economy Energy, between 4pm Friday and 8am Monday, that they are currently off-supply or they will be imminently off-supply; and/or
- ii. who Economy Energy identifies, between 4pm Friday and 8am Monday, as being off-supply or will be imminently off-supply,

due to a pre-payment meter not operating so as to permit a supply of electricity and/or gas to the customer's premises, Economy Energy shall take whatever measures necessary so as to permit a supply of electricity and/or gas to the customer's premises, as soon as reasonably practicable, but by no later than the following Tuesday.

c. Ensure Economy Energy has a process in place to answer calls from customers, in a timely and efficient manner, and to prioritise calls from customers who have indicated that they are off-supply or who will be imminently off-supply.

d. Maintain options that allow customers to call Economy Energy using a standard geographic telephone number (that is, a telephone number prefixed with '01' or '02') and a non-geographic telephone number (prefixed with '0844').

e. Ensure the opening hours of Economy Energy's in-house staffed call centre so that an interactive service is provided:

- i. from 8am to 6pm on a Saturday; and

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<sup>7</sup> For the avoidance of doubt, it is proposed that sub paragraphs 1 a. to f. and g. (ii) are to be revoked.



ii. from 8am to 8pm Monday to Friday.

f. In addition to the requirements of 1 e) above, ensure that Economy Energy continues to provide an interactive call centre service, using third party call centre support as necessary:

i. from 8am to 11pm Monday to Friday; and

ii. from 8am to 11pm Saturday and Sunday.

g. Maintain robust policies, procedures and systems as are necessary to ensure that Economy Energy:

ii. monitors call centre workload to allocate and maintain adequate resources for complaints handling.

2. For the purpose of securing compliance with regulations 3, 4, 5, and 7 of the Complaints Handling Regulations and SLC 22.3, from the date the Authority serves and publishes the confirmed provisional order pursuant to section 25(6) Electricity Act and section 28(6) Gas Act until Economy Energy has satisfied the Authority that it has implemented and maintained compliance with the above measures Economy Energy shall not acquire any new customers, or add any customer accounts by upgrading to dual fuel.

### **Confirmed Order following proposed revocation**

The Authority, pursuant to section 26 (6) of the Electricity Act and 29 (5) of the Gas Act, hereby gives notice that the effect of the revocation of the provisions specified above is that the following provisions of that order shall remain in effect:

#### ***Complaints Handling and SLC 22.3***

**1.** *For the purpose of ensuring that Economy Energy can adequately receive, handle and process any expression of dissatisfaction, including, but not limited to, customers being off-supply, comply with regulations 3, 4 and 5, ~~and 7~~ of the Complaints Handling Regulations, and comply and continue to comply with its obligations in relation to SLC 22.3 (Duty to offer and supply under Domestic Supply Contract). This is to be achieved by ensuring that the following steps are taken:*

*g. Maintain robust policies, procedures and systems as are necessary to ensure that Economy Energy:*

*(ii) records all expressions of dissatisfaction and resolution.*

#### ***Transfer blocking***

**3.** *Economy Energy shall comply and continue to comply with its obligations in relation to SLC 14 (Customer transfer blocking) and SLC 14A (Customer transfer) by ensuring that it does not prevent a Proposed Supplier Transfer<sup>8</sup> except in accordance with the provisions of SLC 14.*

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<sup>8</sup> As defined by SLCs meaning 'in relation to any premises at which an Electricity and/or Gas Supplier is supplying electricity and/or gas, means the proposed transfer of responsibility for that supply from that Electricity and/or Gas Supplier to any other Electricity and/or Gas Supplier'.