



Making a positive difference  
for energy consumers

Secretary of State for Business,  
Energy and Industrial Strategy  
The Rt Hon Kwasi Kwarteng MP  
By email only

Date: 19 November 2021

Dear Secretary of State,

### **Bulb Energy Limited - Energy Supply Company Administration**

This letter relates to the proposed application by the Gas and Electricity Markets Authority (the "Authority")<sup>1</sup> in relation to the above-named company (the "Company").

As you are aware, one of the Authority's main objectives is ensuring the continued supply of gas and electricity to consumers whose energy supply company is in financial distress. Where the Authority is aware of an energy company in financial distress, the Authority will consider the appropriate course of action, including but not limited to revoking that energy company's supply licences and appointing a Supplier of Last Resort ("SoLR") or, with the consent of the Secretary of State, applying for an Energy Supply Company Administration Order ("ESCA Order").

An ESCA Order, if made by the court in relation to an energy supply company, directs that while the ESCA Order is in force the affairs, business and property of that energy supply company are to be managed by a person appointed by the court ("ESC Administration"). The purpose of ESC Administration is to ensure that if a large gas or electricity supply company is in financial difficulty, arrangements are in place to allow the company to continue operating until it is either rescued, sold, or its customers transferred to other suppliers. This will reduce the risk of financial failure spreading across the energy market, maintain market stability and therefore protect consumers.

An application for an ESCA Order may be made by the Authority only with the consent of the Secretary of State: Energy Act 2004 section 156(1) as applied by Energy Act 2011 section 96(1).

We consider that an application for an ESCA Order in respect of the Company is essential in the circumstances. The Company has been subject to the volatility in the wholesale energy markets and on 18 November informed Ofgem that its board of directors had reached the view that the Company needed to enter into a formal insolvency process. Given current market conditions, and the Company's large number of customers, the Authority does not consider that it would be feasible or in the best interests of consumers to use our SoLR powers.

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<sup>1</sup> References to the "Authority", "GEMA", "Ofgem", "we" and "our" are used interchangeably in this letter.

There are a number of reasons for reaching this conclusion and for seeking an ESCA Order. In brief:

1. Industry systems are already under considerable strain from managing the failure of over 20 energy suppliers in recent months. Transferring 1.6m additional customers will not only take a long time to complete in the normal course, but at this time, it will put the system under further strain and slow down transfer times for all customers seeking to switch energy supplier or for whom a supplier of last resort has been appointed. The time taken to transfer customers' accounts, raise final bills, calculate credit balances etc is likely to cause disruption to customers. As a large number of the Company's customers are on prepayment meters ("PPM"), the Authority has particular concerns about the risk of customers losing energy supplies. PPM customers are more likely to be vulnerable and "fuel poor" than customers using other payment methods, and there is a material risk that customers who are on a PPM could lose the ability to top up their PPM during a SoLR process. All of these problems can be avoided in an ESC Administration, since the business will carry on as usual and customers will not have to transfer.
2. Competition issues may arise in circumstances where the customers of a large supplier are transferred to another large supplier as SoLR. The SoLR process will also be less competitive as only very substantial existing players in the market would have the operational and financial capability to cope with such a transfer. An ESC Administration will provide time to consider these issues and manage them in the best interests of consumers.
3. A SoLR would be likely to give rise to a claim on the industry levy which would be passed on to the market in the next regulatory year (with further possible claims in the following regulatory year). The cumulative effect alongside supplier failures that have already occurred would place further financial stresses on the energy system and consumers, at the same time. In an ESC Administration although the funding will be repayable by the industry, this is only to the extent that there is a shortfall in the funds of the Company, and the recovery of that shortfall is subject to discretion on timing so that, for example, it could be spread across multiple years. It is therefore anticipated that an ESCA Administration will help avoid an excessive burden potentially falling at the same time onto other energy market participants and onto consumers.

In the present circumstances, and for the reasons explained above, we consider that an ESCA Order in respect of the Company would be the most appropriate route to ensure the continued safeguarding of the Company's customers, and consumers in general.

On behalf of the Authority, I am hereby requesting officials in the Department of Business Energy and Industrial Strategy seek the Secretary of State's written consent to an ESCA Order. In addition, we request the Secretary of State's consent to:

- a. the notice period required under rule 10(1) of the ESCA Rules being abridged;
- b. service of the application, this witness statement and the exhibits be effected by email and, if necessary, after the making of the ESCA Order; and
- c. service of any Orders granted by the Court in this application and related documents by email to [Energy\\_SAR@beis.gov.uk](mailto:Energy_SAR@beis.gov.uk)

We are requesting that notice be abridged so that we can provide reassurance to customers and staff once the insolvency of the company is known, and allow the Special Administrator to move quickly to stabilise the company's operations.

We would intend to put such written consent, if forthcoming, before the court as evidence of same.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'J Brearley', written in a cursive style.

**Jonathan Brearley**  
Chief Executive