

**UK Energy Incubator Hub Limited
Company number 09844783**

Notice of reasons under Section 49A of the Electricity Act 1989 and Section 38A of the Gas Act 1986 for the decision of the Gas and Electricity Markets Authority to make a Provisional Order under Section 25(2) of the Electricity Act 1989

1. This Notice sets out the reasons why, on 17th June 2022, the Gas and Electricity Authority (“the Authority”) made a Provisional Order in respect of continuing contraventions by UK Energy Incubator Hub (“UKEIH”), company number 09844783, of 20-22 Wenlock Road, London, N17GU, formerly known as Euston Energy Limited, of its gas and electricity supply licences.
2. UKEIH is the holder of gas and electricity supply licences (“Licences”) and as such is bound by the Standard Licence Conditions (“SLCs”) of those licences.
3. The Authority is the industry regulator and is charged by its enabling legislation with keeping the gas and electricity markets under review. In performing that function, it obtains information using a variety of sources and methods.
4. In particular, the Authority’s Action Plan dated 15 December 2021, on Retail Financial Resilience, outlined actions to strengthen the financial resilience of suppliers, so that risks are not passed on inappropriately to consumers. The Action Plan indicated the Authority would be making requests for information from suppliers on financial stress testing and their management control framework.
5. The Authority issued information requests (RFIs) pursuant to SLC 5 of the Licences to UKEIH (and to all other licensed domestic suppliers) on 25 February 2022 with a deadline of 11 April 2022.
6. UKEIH failed to comply with the information requests. It offered no explanation or excuse for this failure.
7. On 9 June 2022 Ofgem’s Head of Enforcement raised the outstanding information requests with UKEIH’s Director by email. UKEIH’s Director replied to the email, same day, saying that he would ‘assure compliance on short notice’. Ofgem’s Head of

Enforcement replied by return, seeking clarification as to a more precise timeline for submitting the outstanding RFI responses and noting that, in any event, responses should be submitted not later than 9am Monday 13 June 2022.

8. Ofgem's Head of Enforcement reminded UKEIH as follows:

"I would remind you that you are under an obligation to comply with these requests by the deadlines set. Should you consider that you would have difficulty in meeting any deadline(s), then you should contact the sender and discuss whether any extension can be allowed. It is not acceptable to simply ignore the request, as this will likely lead, as you are aware, to resource intensive enforcement action."

9. There was no further communication from UKEIH and the promised response to the RFIs did not materialise by 13 June 2022. Accordingly, the Authority has proceeded with further enforcement action.

10. A Provisional Order was made, as it is apparent to the Authority that UKEIH is contravening SLC 5 of the Licenses, by failing to respond to two requests for information issued to UKEIH on 25 February 2022, and UKEIH is likely to continue so to do so.

11. The Authority expects that the companies it regulates will cooperate with its enquiries and comply with the information requests it issues. To reiterate the Authority's position as outlined in an earlier Notice of Reasons of 1 April 2022¹, the Authority will always hear any concerns a supplier may have about an RFI it has issued or proposes to issue. Where the RFI causes difficulties for the supplier, the Authority may, in appropriate cases, be open to adjusting the scope of the RFI or extending the timeframe for compliance. Suppliers who fail to respond to RFI's within the timeframes set, however, (or who submit incomplete or inaccurate responses) can expect to be subject to increasingly robust compliance and enforcement action.

12. The Authority considers it requisite to issue a provisional order (rather than consulting on a final order) on this occasion as the information required is time sensitive. Although the deadline for compliance passed in April, the Authority is now processing and

¹ <https://www.ofgem.gov.uk/publications/uk-energy-incubator-hub-ltd-provisional-order>

analysing the information provided by each supplier in the whole industry and a further delay of four to six weeks for the making of a final order was considered unsatisfactory. The Authority was also mindful of UKEIH's poor compliance history more generally and the fact it had to seek injunctive relief in the High Court to compel compliance on a previous occasion.

13. The Authority has had regard to the matters in sections 25(3), (4A), (4B), (5), and (5A) of the Act. In particular:

- a. It does not consider that it would be more appropriate to proceed under the Competition Act 1998 (that Act has no application to the present circumstances);
- b. It is satisfied that the duties imposed on the Authority by sections 3A to 3C of the Act do not preclude Authority from making the provisional order (on the contrary, it considers that its duties require it to make the provisional order);
- c. It does not consider that the contraventions are trivial.

14. For the above reasons, the Authority decided that a provisional order to compel full and immediate compliance with the RFI was requisite on this occasion.

15. The Provisional Order is available at: <https://www.ofgem.gov.uk/publications/uk-energy-incubator-hub-ltd-provisional-order-june-2022>

16. Unless earlier confirmed or revoked by the Authority, the Provisional Order will lapse on 17 September 2022.

17. The issuance of the Provisional Order is without prejudice to any further or other enforcement action the Authority may decide to take, in relation to this or any other outstanding or future breaches. The Authority will consider whether it is appropriate to impose a financial penalty on UKEIH in relation to this breach.

Dated: 22 June 2022

Signed:

Charles Hargreaves

Deputy Director, Enforcement

Duly Authorised on behalf of the Gas & Electricity Markets Authority