

Scottish Power Energy Retail Limited

Provisional Order made under section 25(2) of the Electricity Act 1989 and 28(2) of the Gas Act 1986

To: Scottish Power Energy Retail Limited, Company number: SC190287 (trading under "Scottish Power" having its registered office at 320 St. Vincent Street, Glasgow, Scotland, G2 5AD; the holder of an electricity supply licence granted or treated as granted under section 6(1)(d) of the Electricity Act 1989 ("the Electricity Act") and holder of a gas supply licence granted or treated as granted under section 7A(1) of the Gas Act 1986 ("the Gas Act").

WHEREAS:

- (A) Scottish Power Energy Retail Ltd ("SP") is the holder of gas and electricity supply licences granted by the Gas and Electricity Markets Authority ("the Authority") and is subject to the usual conditions thereunder, which are "relevant conditions" for the purposes of the Electricity Act 1989 and the Gas Act 1986 ("the Acts").
- (B) Based on the information received by the Authority and its engagement with SP regarding its compliance with its obligations under the Standard Conditions of gas and electricity supply licences (collectively referred to as "SLC") it appears to the Authority that SP is contravening or is likely to contravene SLCs 27.8A(b), 27.8A(c) and 27.8A(d) ("the relevant SLCs").
- (C) The relevant SLCs provide the following:

27.8A –For the purposes of ascertaining a Domestic Customer’s ability to pay as set out in paragraph 27.8, the licensee must give due consideration to:

(b) Making proactive contact with customers, which includes:

- (i) Making early contact to identify whether a customer is in payment difficulty;*
- (ii) Regularly reviewing methods of proactive contact to ensure they meet the needs of customers;*
- (iii) Using every contact as an opportunity to gain more information about the customer’s ability to pay when the licensee becomes aware or has*

*reason to believe the customer is having or will have payment difficulty;
and*

(iv) Making customers aware of debt advice services when they raise concerns about their ongoing ability to pay, in accordance with Supply Licence Condition 31G.

(c) Understanding individual customers' ability to pay, which includes:

(i) Providing clear guidance and training for staff on how to elicit information on ability to pay and monitoring the effectiveness of this;

(ii) Providing appropriate channels for customers to quickly and easily raise concerns and facilitating conversations around customers' ability to pay when requested;

(iii) Making full use of all available information; and

(iv) Proactively exploring payment amounts and payment methods which are appropriate to the individual circumstances of each customer; this includes debt repayment schemes such as those by which payments may be deducted at source from a social security benefit received by that customer.

(d) Setting repayment rates based on ability to pay, which includes:

(i) Ensuring all available information is obtained and taken into account, including the customer's circumstances identified on a warrant or site visit or when installing a prepayment meter on a warrant;

(ii) Only setting default amounts when there is insufficient information to ascertain the customer's ability to pay and where default amounts are set, it should be made clear that the repayment rate may change based on information about the customer's ability to pay. In any event the levels of any default repayment rate should be reasonable; and

(iii) Not insisting on substantial upfront payments before reconnection.

(D) Based on information obtained by the Authority, it appears that SP is contravening and / or is likely to contravene the relevant SLCs outlined above, and that (in particular) SP does not consider its customer's ability to pay on a case-by-case basis and set debt repayment rates based on those individual circumstances.

(E) SP has engaged with the Authority over a considerable period of time and proposed to take some remedial actions that make progress towards addressing the Authority's

concerns. However, in the Authority's view, these actions need to be both more substantial and more timely to mitigate the risk of consumer harm.

- (F) It appears to the Authority that urgent intervention is required to address this situation and hence it is requisite that a provisional order be made.
- (G) Having had regard to the matters set out in section 25 of the Electricity Act 1989 and section 28 of the Gas Act 1986, the Authority considers it is requisite to make a Provisional Order in exercise of the power in section 25(2) of the Electricity Act 1989 and section 28(2) of the Gas Act 1986.

NOW THEREFORE:

The Authority, pursuant to section 25(2) of the Electricity Act and section 28(2) of the Gas Act, and for the purpose of securing compliance with SLCs 27.8A(b), 27.8A(c) and 27.8A(d) makes a provisional order as follows.

(1) SP to immediately, but no later than 5 October 2022:

- a) Not act in contravention of the relevant SLCs (meaning SLC 27.8A(b), 27.8A(c) and 27.8A(d)).
- b) Ensure that its call handling representatives ("Representatives¹") cease informing customers there is an automatic, default or automatic repayment amount, in contravention of SLC 27.8A(d).
- c) Pause all disconnections for those customers on any active, previously agreed or delinquent debt repayment plans of £5 per week, per fuel, or less until SP has carried out a reassessment of those customers' circumstances under part 2 of this Order below.
- d) Review, and amend, if necessary, its arrangements² for Representatives and ensure that there are no arrangements in place that incentivise, target, or otherwise encourage Representatives to set up payment plans at a specific amount.
- e) Perform an immediate review and update of all policies and procedures relating to customers in payment difficulty ("CPD") and debt collection practices as follows.

¹ As defined in SLC 1 of the Gas and Electricity Supply licences

² This includes, but is not limited to, remuneration packages; reward, bonus and incentive schemes; performance management schemes; disciplinary procedures; and terms and conditions of employment

Representatives must not engage in setting debt repayment plans that do not comply with the relevant SLCs, and must immediately complete the following:

- i. Training materials must be reviewed and rewritten to bring them in line with both SP's own internal governance policies on debt collection and compliance with the relevant SLCs;
 - ii. Remove all references to minimum, default or standard recovery amounts from any call guidance, scripts or training materials; and
 - iii. All Representatives are immediately to receive training following the new materials. This training must include (but is not limited to) content explaining that there is no minimum repayment amount and details of the debt repayment escalation process.
- f) SP to implement a regime of quarterly assurance and compliance reviews to ensure that Representatives are complying with all the provisions of the relevant SLCs when setting up repayment plans.
- g) SP are to provide the following to the Authority by no later than 4pm 5 October 2022:
- i. Copies of all updated policies, procedures and training materials revised as result of this Order;
 - ii. A letter of assurance, signed by a Director with responsibility for retail, stating that the training for all Representatives has been completed; Representatives understand the debt repayment escalation process and that there is no minimum amount for debt repayment plans; and that no untrained Representatives are involved in setting up repayment plans. Additionally, this letter must confirm that no Representatives are incentivised, targeted, or otherwise encouraged to set up payment plans at a specific amount. Assurances must also be provided that SP have implemented a regime of regular assurance and compliance reviews and as required in section (f) of this order and the form of these reviews.
- (2) By no later than 4pm on 26 October 2022, SP are to:
- a) Contact all customers on debt repayment amounts of £5 per week, per fuel, or below to gain information and assess whether the amount is based on each individual customer's ability to pay as required under SLC 27.8A(b) and SLC 27.8A(c). Where

customers indicate or express concerns that the amount is not affordable, SP must review the customer's individual circumstances and reset the debt repayment amount on a case-by-case basis as required under SLC 27.8A(c).

- i. SP must provide the Authority with the results of this exercise including raw data on how many customers were repaying £5 per week on 21 September 2022, how many customers were contacted, the number of reassessments, repayment plan rates before the exercise per customer and repayment rates after per customer.
- ii. If not all the customers that are repaying £5 per week were not contacted a justification why.
- iii. SP must provide this to the Authority as soon as reasonably practicable but no later than 4pm 31 October.

b) When contacting the customers set out in (a) above, ensure each customer has been made aware of all available support, as required in SLC 27.8A(b) and SLC 31G³

c) Fully engage with Citizens Advice Bureau, Citizen's Advice Scotland's Extra Help Unit and Ombudsman Services to ensure all referrals and off supply incidents are reassessed in line with the SLCs.

(3) By no later than 4pm on 31 October 2022, provide the Authority with an independent audit report (commissioned at SP's own expense and prepared by an independent professional acceptable to the Authority⁴ with a framework and remit also acceptable to the Authority⁵) confirming SP's compliance with sections 1 and 2 above and identifying any areas in SP's policy and processes that do not comply with its regulatory obligations (including the application and adherence to such policies and procedures) alongside a remedial action plan.

(4) The remedial plan actions are to be completed and a Director with responsibility for retail is to confirm completion in writing to the Authority no later than 21 November 2022.

³ SLC 31G provides that the licensee must provide the consumer with all relevant information in a form and at a frequency that is sufficient to enable them to make decisions. This includes information on how to access appropriate assistance and advice debt prevention and management (SLC 31G.2(b)).

⁴ Scottish Power must consult with the Authority's Senior Responsible Officer prior to engaging its proposed auditor.

⁵ Scottish Power must consult with the Authority's Senior Responsible Officer prior to providing its appointed auditor with remit for their audit. The Authority will provide Scottish Power with direction on the scope, data and performance metrics to be included in the report.

Pursuant to section 27(7) of the Electricity Act 1989 and section 30(8) of the Gas Act 1986, the Authority may seek to enforce the Order by application to the High Court for injunctive or other relief without further notice to SP.

This provisional order will lapse on 21 December 2022 unless confirmed by the Authority on or before that date.

Dated: 21 September 2022

[signed]

Charles Hargreaves

Deputy Director, Enforcement

Duly authorised on behalf of the Gas & Electricity Markets Authority