

Utilita Energy Limited

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

To: Utilita Energy Limited ("Utilita"), company number 04849181, having its registered office at Hutwood Court Bournemouth Road, Chandler's Ford, Eastleigh, Hampshire, United Kingdom, SO53 3QB, 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) Utilita 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 Utilita regarding Utilita's 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 Utilita is contravening or is likely to contravene SLCs 26.4, 26.5(d), 27.8(b), 27A.5, 27A.6 and 27A.7 ("the relevant SLCs").

(C) The relevant SLCs provide the following:

26.4 The licensee must offer (and, if accepted, provide), free of charge, to any of its Domestic Customers which have been added to the Priority Services Register, such of the Priority Services as the Domestic Customer may reasonably require on account of his or her Personal Characteristics or vulnerable situation.

26.5 The Priority Services are appropriate mechanisms and arrangements to enable the following:

...

(d) functionality of the Domestic Customer's Prepayment Meter which is Safe and Reasonably Practicable in all the Circumstances of the Case.

27.8 The licensee must take all reasonable steps to ascertain the Domestic Customer's ability to pay and must take this into account when calculating instalments, giving due consideration to:

...

(b) where instalments will be paid using a Prepayment Meter, the value of all of the charges that are to be recovered through that meter.

27A.5 Subject to paragraph 27A.7, on each and every occasion on which a licensee identifies that a Domestic Customer who uses a Prepayment Meter and who is in a Vulnerable Situation has Self-Disconnected or is Self-Disconnecting and/or the licensee becomes aware or has reason to believe that a Domestic Customer who uses a Prepayment Meter and who is in a Vulnerable Situation has Self-Rationed or is Self-Rationing, the licensee must offer Additional Support Credit to that Domestic Customer in a timely manner in addition to the support offered in paragraph 27A.2.

27A.6 Where paragraph 27A.5 applies, on each occasion on which the licensee offers Additional Support Credit, the licensee must assess the sum of Additional Support Credit it offers to the Domestic Customer and calculate the instalments for the Domestic Customer to repay the Additional Support Credit it offers to the Domestic Customer in accordance with SLC 27.

27A.7 Should the licensee, acting reasonably and having fully considered and complied with its obligations in paragraph 27A.5 and 27A.6 (apart from actually offering the Domestic Customer Additional Support Credit), determine that the provision of Additional Support Credit to the Domestic Customer is not in the best interest of the Domestic Customer the licensee shall not be obliged to provide Additional Support Credit under SLC27A.5 to that Domestic Customer on that occasion, however, the licensee must provide alternative appropriate support to that Domestic Customer in accordance with SLC 0 and SLC 31G.2.

- (D) On 20th May 2022, the Authority contacted Utilita regarding concerns relating to the relevant SLCs and requested copies of Utilita's Additional Support Credit ("ASC") policy documents. The Authority received the requested information on 10th June 2022.
- (E) On 20th July 2022, having reviewed Utilita's ASC policy documents, the Authority requested that Utilita provide 70 call recordings of customer call during which the customer requested ASC. The Authority received the requested information on 12th August 2022.

- (F) Based on the information Utilita has provided to the Authority in response to the Authority's request, having reviewed the call recordings, and based on other information the Authority has obtained in its engagement with Utilita, it appears to the Authority that Utilita is contravening or likely to contravene the relevant SLCs outlined above.
- (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 the relevant SLCs makes a provisional order as follows.

(1) Utilita to immediately:

- a) Not act in contravention of the relevant SLCs.
- b) Cease use of the call script which tells customers that ASC is not a licence requirement and provide the advice required to consumers to satisfy the requirements of the relevant SLCs.
- c) Take a Domestic Customer's ability to pay into account for all repayment plan calculations to satisfy the requirements of SLC 27.8(b), and on each occasion ASC is offered, calculate the instalments for repayment in accordance with SLC 27A.6.
- d) Develop its ASC policy to ensure compliance with the relevant SLCs.

(2) By no later than 4pm on 30th September 2022, Utilita to:

- a) Review cases where customers are off supply to ensure it offers ASC where required and assess whether pre-payment remains a safe payment method in each circumstance to satisfy the requirements of SLC 26.5 (d).
- b) Contact all Priority Services Register (PSR) supply dependant customers and offer a credit mode meter that is safe and practicable in all circumstances of the case to satisfy the requirements of SLC 26.5 (d).
- c) Review all PSR customers' requests for ASC and engage proactively to ensure that functionality of the pre-payment meter is safe and reasonably practicable in all circumstances of the case to satisfy the requirements of SLC 26.5(d).

- d) 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 31st October 2022, provide the Authority with an independent audit report (commissioned at Utilita’s own expense and prepared by an independent professional acceptable to the Authority¹) confirming Utilita’s compliance with sections 1 and 2 above and identifying any areas in Utilita’s policy and processes that do not comply with its regulatory obligations alongside recommended areas for improvement.

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 Utilita.

This provisional order will lapse on 9 December 2022 unless confirmed by the Authority on or before that date.

Dated: 9th September 2022

[signed]

Charles Hargreaves

Deputy Director, Enforcement

Duly authorised on behalf of the Gas & Electricity Markets Authority

¹ Utilita must consult with the Authority’s responsible officer prior to engaging its proposed auditor.