

Delta Gas and Power Limited

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

To: Delta Gas and Power Limited (formerly known as Lily Energy Supply Limited) (“Delta”), (company number 09933244) of 344-354 Gray's Inn Road, London, England, WC1X 8BP, 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) Delta 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) Standard Licence Condition (“SLC”) 4A of the gas and electricity supply licenses requires Delta to have and maintain robust internal capability, systems, and processes to enable it to serve its customers efficiently and effectively and comply with its regulatory obligations and relevantly provides:

4A.1 The licensee must ensure it has and maintains robust internal capability, systems, and processes to enable the licensee to: (a) efficiently and effectively serve each of its Customers; (b) efficiently and effectively identify likely risks of consumer harm and to mitigate any such risks; and (c) comply with relevant legislative and regulatory obligations.

C) Standard Licence Condition 4B of the gas and electricity supply licenses requires licensees to at all times manage responsibly costs that could be Mutualised¹, and relevantly provides:

¹ Has the meaning given to it as SLC 1 of the gas and electricity supply licences.

4B.1 The licensee shall at all times manage responsibly costs that could be Mutualised and take appropriate action to minimise such costs.

Meeting the financial responsibility principle

4B.2 The licensee shall at all times have adequate financial arrangements in place to meet its costs at risk of being Mutualised.

- D) On 11 July 2022 the Authority issued a Request for Information (“RFI”) seeking the provision of information relating to Delta’s financial management, position, and arrangements (“Stress Testing RFI”).
- E) On 8 August 2022, Delta submitted its response to the Stress Testing RFI and the Authority responded by letter dated 18 August 2022 to highlight several material errors and omissions in that response.
- F) On 14 September 2022, the Authority issued a further letter to Delta which contained queries regarding Delta’s financial management, position and arrangements and, in response, Delta submitted revised information relating to these queries and those in the Stress Testing RFI.
- G) On 11 October 2022, representatives of the Authority met with representatives of Delta to highlight key concerns and to provide Delta an opportunity to make representations and, following that meeting, Delta submitted a letter to the Authority dated 18 October 2022 providing further information with regard to its financial management, position and arrangements.
- H) Based on Delta’s conduct to date, it appears to the Authority that Delta is contravening or likely to contravene SLC 4A because it does not appear to have the internal capability, processes and systems to respond accurately and in a timely fashion to requests for information from the Authority and therefore to comply with its relevant legislative and regulatory obligations.
- I) Based on the information Delta has provided to the Authority in its response to the Stress Testing RFI, in other correspondence, and based on other information the Authority has obtained in its engagement with Delta, it appears to the Authority that Delta is contravening or is likely to contravene SLC 4B.

- J) Having had regard to the matters set out in section 25 of the Electricity Act and section 28 of the Gas Act, the Authority considers it is requisite to make a Provisional Order in exercise of the power in section 25(2) of the Electricity Act and section 28(2) of the Gas Act.

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 SLC 4A and SLC 4B, makes a provisional order requiring Delta to:

1. Not to act in contravention of SLC 4A and SLC 4B.
2. By 5 December 2022 take steps to improve its operational capability such that it can respond accurately and on time to any Requests for Information from the Authority in relation to its financial position and arrangements or otherwise.
3. By 5 December 2022 improve its financial position such that it can operate effectively under low, central and high financial stress test scenarios set out in the Stress Testing RFI.
4. By not later than 5pm on 7 December 2022, provide the Authority with a report confirming Delta's compliance with paragraphs 1, 2 and 3 above. Said report must be accompanied by supporting documentation to evidence the assertions made by Delta in the report.
5. Until the terms of the order are met:
 - a. Refrain from all sales, marketing and customer acquisition activity, including the acquisition of any new non-domestic customers or upgrading of all existing non-domestic customers to dual fuel;
 - b. Refrain from making any payment, providing any loan or transferring any asset to any third party unless that payment, loan or transfer is one that Delta: i) is required to make by virtue of a legal requirement and said payment is approved in writing by the Authority; ii) is essential to Delta's operation as a supplier of gas and electricity to consumers; or iii) is otherwise approved in writing by the Authority.

Pursuant to section 27(7) of the Act 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 Delta.

Internal Only

This provisional order will lapse on 7 February 2023 unless confirmed by the Authority on or before that date.

Dated: 7 November 2022

Signed

Charles Hargreaves

Deputy Director, Enforcement

Duly Authorised on behalf of the Gas & Electricity Markets Authority.

Internal Only