

E.ON Next Energy Limited: Notice of reasons under Section 49A of the Electricity Act 1989 and Section 38A of the Gas Act 1986 for the decision to make a Provisional Order under Section 25(2) of the Electricity Act 1989 and Section 28(2) of the Gas Act 1986

1. This Notice sets out the reasons why on 2 February 2023 the Gas and Electricity Authority (“the Authority”) made a Provisional Order in respect of likely contraventions by E.ON Next Energy Limited (“E.ON”), Company number: 03782443, having its registered office at Westwood Way, Westwood Business Park, Coventry, England, CV4 8LG.
2. E.ON is the holder of electricity and gas supply licences (“Licences”) granted by the Authority and is subject to the usual conditions thereunder, which are the “relevant conditions” for the purposes of the Electricity Act 1989 (“EA1989”) and the Gas Act 1986 (“GA1986”).
3. The Provisional Order was made as it appeared to the Authority that E.ON, is contravening or likely to contravene Standard Licence Conditions (“SLCs”) 0.3(c)(i) and (iii) of its Gas and Electricity Supply Licences.
4. The Authority’s Retail Compliance team conducted a Market Compliance Review (“MCR”) on the quality of all suppliers’ customer service, and the outcomes for consumers. As part of this review, suppliers were asked for additional Management Information on their customer service performance from the period of October – December 2022. This review assessed information relating to suppliers customer service arrangements including average call wait times, abandoned call rates and average call times.
5. The review found that there were significant failings in E.ON’s customer service performance, notably unacceptable average call waiting times and high abandoned call rates¹. On 26 January 2023, the Authority engaged with E.ON to discuss the findings of the MCR and requested updated information to demonstrate whether there had

¹ The performance data indicated there had been a notable decline in E.ON’s performance in comparison with the period April – June 2022.

been improvement in its call handling metrics. The Authority received the additional information on 27 January 2023. Following assessment of the revised metrics, whilst the Authority acknowledges there has been some improvement in E.ON's performance, given the slow progress and the fact that average call wait times and abandoned call rates are still high, the Authority continues to have significant concerns that E.ON is contravening or likely to contravene SLCs 0.3(c)(i) and (iii), of its Licences.

6. SLC 0.3(c)(i) and (iii) of the Licences relevantly provide:

0.3: The Standards of Conduct are that the licensee and any Representative

i. make it easy for a Domestic Customer to contact the licensee;.....

iii. otherwise ensure that customer service arrangements and processes are complete, thorough, fit for purpose and transparent;

7. Therefore, the Authority considers it requisite to issue a provisional order in respect of the contravention or the likely contravention of SLC 0.3(c)(i) and (iii) of E.ON's Licences.

8. The Provisional Order was made as it appeared to the Authority that E.ON is contravening or likely to contravene SLC 0.3(c)(i) and (iii) by virtue of the following:

a. The MCR found that there were significant failings in E.ON's customer service performance. This included unacceptably long call waiting times and high abandoned call rates.

b. On 26 January 2023, the Authority engaged with E.ON to discuss the findings of the MCR and requested further information to ascertain whether there had been improvement in its call handling metrics. Having received and reviewed the additional information on 27 January 2023, the Authority continued to have significant concerns that E.ON was contravening or likely to contravene SLCs 0.3(c)(i) and (iii).

9. The Authority considers that it is essential to uphold compliance with these conditions as failure to do so risks significant consumer harm. The current market conditions are challenging for consumers, with many facing financial difficulties attributed not just

to rising energy costs, but wider issues related the rising cost of living. As such, it is likely that customers will wish to contact their supplier urgently for various reasons including billing, payment options and payment difficulties, energy efficiency advice and debt². Some customers on the Priority Services Register ('PSR') may also need to discuss the range of priority services available to them. It is therefore imperative that a licensee has in place suitable customer service arrangements to meet the needs of its customers, and comply with its licence conditions. If a supplier fails to facilitate ease of contact with its customers, this increases the risk of consumers facing imminent and significant harm. As such, the Authority considers this to be a serious non-compliance issue requiring E.ON to take immediate corrective action.

10. Therefore, the Authority considers it requisite to issue a Provisional Order to E.ON, as it appears that E.ON is contravening or likely to contravene SLC 0.3(c)(i) and (iii) of its Gas and Electricity Licences.

11. The Authority has had regard to the matters in sections 25(3), (4A), (4B), (5), and (5A) and 26 of the EA1989 and the equivalent provisions of the GA1989. 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 the EA1989 and/or the GA1986 do not preclude Authority from making the Provisional Order ;
- c. It does not consider that the contraventions are trivial.

12. The Provisional Order requires E.ON to:

1. Not to act in contravention of SLC 0.3c(i) and (iii)
2. To ensure that it has Domestic Customer service arrangements and processes which are complete, thorough, fit for purpose and transparent for the purpose of securing compliance with SLC 0.3c (iii) and which make it easy for Domestic Customers to contact it for the purposes of securing compliance with SLC 0.3c(i), in particular (but without prejudice to the broader requirements of 1 above), E.ON shall:
 - 2.1. At all times, for the duration of this Provisional Order, ensure that it:
 - 2.1.1. Takes such steps and measures to make significant and sustained improvements to reduce the length of time taken by E.ON's Representatives

² There are specific SLCs relating to each of these areas

to answer Offered Calls placed by Domestic Customers, such that there is a there is a significant and sustained reduction to its Average Call Waiting Times³,

- 2.1.2. Takes such steps and measures to make significant and sustained improvements to its rate of answering Offered Calls⁴ such that there is a there is a significant and sustained reduction in the rate of Offered Calls abandoned by its Domestic Customers.
- 2.2. Provide the Authority with a remedial plan, to be agreed by the Authority, to address the customer service issues outlined in Part 2.1 of the Order,
 - 2.2.1. The plan must include targets for improvement, and clear timeframes when these will be achieved. However, these timeframes should not extend past 3 April 2023.
 - 2.2.2. An initial draft of the Remedial Plan is to be provided to the Authority for review by no later than Thursday 9 February 2023.
- 2.3. Produce and submit to the Authority weekly reports of the total number of telephone calls received along with the raw data from which they are derived. The first report shall be submitted by 13:00 hours on Monday 13 February 2023. Each subsequent report shall be submitted on the Monday of each week thereafter by 13:00 hours. These reports must also include the following data for each reporting week:
 - 2.3.1. the Average Call Waiting Times and the Maximum Call Waiting Times.
 - 2.3.2. the percentage of calls which have dropped out of the call queue or have otherwise been disconnected and the length of the call waiting times preceding the disconnection⁵.
 - 2.3.3. the maximum, minimum, average, median and standard deviation of call durations of calls which are answered by E.ON customer service agents (excluding calls connected as a result of a call back request);
 - 2.3.4. the number of call back requests⁶ and the day and time of the call back request, the day and time the Domestic Customer was called back and the length of time spent on the call with a E.ON customer service agent; and
 - 2.3.5. the numbers of Representatives⁷ answering calls on each day and the time periods for which those Representatives were answering calls on each day.
 - 2.3.6. The numbers of Representatives dealing with written customer callback requests on each day and the time periods for which those Representatives were dealing with written callback requests each day⁸.

13. The Provisional Order took effect on 2 February 2023.

³ As defined in the Annex to this Provisional Order

⁴ As defined in the Annex to this Provisional Order

⁵ This can also be provided as an absolute number in addition to a percentage rate

⁶ This includes call back requests made via digital channels (eg webchat, social media, online enquiry forms, instant messaging services and email).

⁷ As defined in SLC 1 of the Gas and Electricity supply licences

⁸ Written customer callback requests include those requests made via webchat, social media, online enquiry forms, instant messaging services, emails and letters). These Representatives may deal with other written correspondence in addition to processing callback requests.

14. The Authority will, in due course, consider whether to confirm the provisional order (with or without modifications). Unless earlier confirmed or revoked by the Authority, the Provisional Order will lapse on 2 May 2023.

15. 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 E.ON in relation to this breach.

Dated: 2 February 2023

Charles Hargreaves

Deputy Director, Enforcement

Duly Authorised on behalf of the Gas & Electricity Markets Authority