

**Notice of proposal of the Gas and Electricity Markets  
Authority to revoke a confirmed provisional order pursuant to  
section 26(6) of the Electricity Act 1989 and section 29(5) of  
the Gas Act 1986**

## **Background**

1. **Delta Gas and Power Ltd** ("Delta"), (company number 09933244) having its registered office at 344-354 Gray's Inn Road, London 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").
2. Pursuant to section 25(2) of the EA89 and section 28(2) of the GA86, the Authority issued and served a provisional order to Delta on 7 November 2022 (the "Provisional Order") which required Delta to:
  - a) Not to act in contravention of SLC 4A and SLC 4B;
  - b) 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.
  - c) 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.
  - d) By not later than 5pm on 7 December 2022, provide the Authority with a report confirming Delta's compliance with paragraphs a, b and c above. Said report must be accompanied by supporting documentation to evidence the assertions made by Delta in the report.
  - e) Until the terms of the order are met:

- i. 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;
- ii. 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: a) is required to make by virtue of a legal requirement and said payment is approved in writing by the Authority; b) is essential to Delta's operation as a supplier of gas and electricity to consumers; or c) is otherwise approved in writing by the Authority.

The PO can be found at: [Delta Provisional Order November 2022 \(ofgem.gov.uk\)](https://www.ofgem.gov.uk/consult/condocs/delta/delta-prov-order-nov-2022)

3. Delta provided the Report to the Authority. Delta provided evidence to the Authority confirming that it has sufficient financial backing to operate effectively under the low, central and high financial stress test scenarios. As a result, the provisional order was no longer requisite to secure compliance with SLC 4B.
4. However, the updated financial forecasts provided by Delta on 5 December 2022 contained logic errors and used unrealistic assumptions, as did the earlier financial forecasts. On 16 December 2022, Delta told the Authority that it had appointed an expert third party to support them in responding to requests for financial information. No other steps were outlined.
5. The Authority's view was, therefore, that the Report and other information provided to the Authority did not evidence that Delta had the operational capability 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.
6. For these reasons, the Authority believed Delta was contravening or was likely to contravene the requirements of SLC 4A. As such, the Authority considered that it was requisite for the Provisional Order with modifications to be confirmed and to require Delta to comply with SLC 4A and to demonstrate that it can respond accurately and in a timely fashion to requests for information from the Authority. The Authority considered that this was proportionate and necessary in the circumstances given the risk of harm to consumers.
7. Therefore, the Authority published a notice of its proposal to confirm the Provisional Order with modifications on 11 January 2023 and invited representations and objections to the notice to be made to the Authority [Notice of Proposal - Delta \(ofgem.gov.uk\)](https://www.ofgem.gov.uk/consult/condocs/delta/delta-prov-order-nov-2022)

8. In response to the consultation, the Authority did not receive any representations to the notice of proposal to confirm the Provisional Order with modifications, which were due by 2 February 2023.
9. Based on the information received by the Authority directly from Delta and representations made to it, the Authority was satisfied that Delta was contravening or was likely to contravene SLC 4A. The provisional order with modifications was confirmed on 6 February 2023. Confirmed PO can be found here [Delta Gas and Power Limited \(ofgem.gov.uk\)](https://www.ofgem.gov.uk/consult/condocs/delta/delta_gas_and_power_limited_ofgem.gov.uk)
10. On 27 March 2023, Delta was issued with a Notice of Failure to comply with the confirmed provisional order.
11. For the reasons set out below, the Authority now proposes to revoke the Confirmed Provisional Order.

### **Reasons for the Authority's proposal to revoke the Confirmed Provisional Order**

12. Over the previous quarter Delta made a significant improvement with all submissions on time and only a few minor discrepancies between the stress test and monthly financial RFIs, which were corrected once they were alerted to them. Given this situation, we decided to wait and monitor them for a further quarter. Over the most recent cycle September to November 2023 all submissions were received in a timely manner as requested and the submissions have been to the standard required. As such they have significantly improved on the quality of their financial reporting.
13. As such, the Authority is now satisfied that the provision/s made by the Confirmed Provisional Order, dated 6 February 2023, are no longer requisite for the purpose of securing Delta's compliance with SLC 4A
14. Pursuant to section 26(6) of the EA89 and section 29(5) of the GA86, the Authority is satisfied that the Confirmed Provisional Order is no longer requisite for the purposes of securing compliance with SLC 4A.
15. The Authority hereby gives notice that it proposes to revoke the Confirmed Provisional Order.

### **Representations or objections**

16. The Authority invites representations or objections in relation to its proposal to revoke the Confirmed Provisional Order.
17. Any representations or objections with respect to this notice of proposal to revoke the Confirmed PO must be made in writing on or before 5pm on 11/01/2024 and sent via email to Erin Kyle at [Erin.Kyle@ofgem.gov.uk](mailto:Erin.Kyle@ofgem.gov.uk) or via post to OFGEM, 10 South

Colonnade, Canary Wharf, London, E14 4PU1. Should you have any questions about this notice, you can contact Erin Kyle at Erin.Kyle@ofgem.gov.uk.

18. Responses will normally be published on the Ofgem website. Should you wish your response or part of your response to be confidential please indicate this clearly by marking "not for publication" and give reasons. The Authority will consider such requests on case-by-case basis.
19. Any representations or objections which are made within the timeframe specified above and not withdrawn will be duly considered by the Authority.

Signed for and on behalf of:

Megan Forbes (Chair)

Ulrike Hotopp

Ali Nikpay

**Enforcement Decision Panel**

**Duly authorised on behalf of the Gas and Electricity Markets Authority**