

**Statement by the Gas and Electricity Markets Authority, following an investigation into compliance by TXU Europe (AHGD) Limited's compliance with its obligations under Standard Licence Condition 30 of its Gas Suppliers Licence**

**19 July 2004.**

**Background**

1. TXU Europe (AHGD) Limited is a subsidiary of Powergen Retail Limited.  
Powergen Retail Ltd is a subsidiary of E.ON UK plc (formerly Powergen UK plc). The company was acquired by Powergen Retail Ltd on 21 October 2002, with customers being progressively transferred to contracts with Powergen Retail Ltd by the end of 2003.
2. Ofgem has conducted investigations into TXU Europe (AHGD) Limited's compliance with Standard Licence Condition 30 of its gas suppliers licence, specifically whether, when TXU Europe (AHGD) Limited has objected to the transfer of its customers, such objections have been consistent with the requirements of that licence condition.
3. At the time of a similar investigation into compliance by Powergen Retail Ltd, Ofgem also decided to investigate TXU Europe (AHGD) Limited's compliance with the terms of the standard licence condition. Between October 2003 and March 2004 Ofgem made enquiries in respect of TXU Europe (AHGD) Limited, exchanged correspondence and held meetings to establish the position with regard to compliance. Powergen Retail Limited estimated that during the period 1 January 2003 to 31 August 2003, 577 prepayment customer transfers were

incorrectly objected to, due to TXU Europe (AHGD) Limited's failure to apply the licence condition correctly.

4. Powergen Retail Ltd stated that letters were issued to prepayment customers who continued to use their former suppliers' rechargeable cards following transfer to TXU Europe (AHGD) Limited (resulting in so-called "misallocated payments"). However, these letters were not, according to Powergen Retail Limited, worded as demands for payment of the resulting debt incurred by use of the cards. Consequently that debt could not form the basis for an objection in the event of a later request for transfer to a third supplier.

### **Findings**

5. The Authority is satisfied that between, 1 January 2003 and 31 August 2003, TXU Europe (AHGD) Limited contravened Standard Licence Condition 30 of its gas suppliers licence
6. The Authority accepts the estimate that during the relevant period around 570 customers were incorrectly prevented from transferring to another supplier.

### **Enforcement**

7. If the Authority is satisfied that a licence holder is contravening, or likely to contravene any relevant condition requirement, section 28 (1) of the Gas Act 1986 requires the Authority, subject to subsections (2), (5) and (5A) of section 28 of the Gas Act 1986, by order, to make such provision as is requisite for the purpose of securing compliance with that condition or requirement.

8. Since the period of the breach all customers have been transferred to Powergen Retail Limited. Powergen Retail Limited has now introduced more rigorous manual checking procedures.
9. In the light of these developments the Authority will not make a final order or make or confirm a provisional order as it has no basis to conclude that TXU Europe (AHGD) Limited is contravening, or is likely to contravene, Standard Licence Condition of 30 of its gas suppliers licence.

### **Financial Penalties**

10. Section 30A (1) of the Gas Act 1986 states that where the Authority is satisfied that a licence holder has contravened or is contravening any relevant condition or requirement, the Authority may impose on the licence holder a penalty of such amount as is reasonable as in all the circumstances of the case.
11. The Authority took full account of the particular facts and circumstances of the contraventions, and in particular:
  - the scale of the breaches; and
  - these were customers Powergen Retail had just acquired, and were in the process of transferring their accounts to other licences and systems.

12. The Authority concluded that the imposition of a penalty is not appropriate in this case.

**Dr Robin Bidwell**

**For and on behalf of the Gas and Electricity Markets Authority**