

NOTICE PURSUANT TO SECTION 38A(1)(c) OF THE GAS ACT 1986

Reasons for the last resort supply direction made by the Gas and Electricity Markets Authority under standard condition 29 of the gas supply licence granted or treated as granted under section 7A(1) of the Gas Act 1986 to BGT Ltd

1. Introduction

- 1.1 The Gas and Electricity Markets Authority ('the Authority'), has the principal objective under section 4AA(1) of the Gas Act 1986 ('the Act'), to protect the interests of consumers in relation to gas conveyed through pipes, wherever appropriate by promoting effective competition between persons engaged in, or in commercial activities connected with, the shipping, transportation or supply of gas, and has a duty under section 4AA(2)(a) of the Act to secure that all reasonable demands for gas are met.
- 1.2 Circumstances have arisen which would entitle the Authority to revoke the gas supply licence of Reepham Limited (company registered no. 03077135 "Reepham")
- 1.3 BGT LTD (Co No.3078711) ('the Licensee') is the holder of a gas supply licence ('the Licence') granted or treated as granted under section 7A(1) of the Act.
- 1.4 It appears to the Authority that the Licensee could comply with the last resort supply direction without significantly prejudicing its ability to continue to supply its customers and to fulfil its contractual obligations for the supply of gas.

2. Direction

- 2.1 Pursuant to paragraph 1 of standard condition 29 ('the Condition') of the Licence, the Authority has directed the Licensee to supply gas to the customers of Reepham at such premises as are specified or described in the Schedule to this direction, and otherwise in accordance with the terms of the direction and the terms of the Condition.

2.2 The direction shall take effect from 00.00 hours on 21st December 2005, and shall continue until 00.00 hours on 21st June 2006.

3. **Reasons for the Direction**

3.1 The Authority has decided to revoke Reepham's gas licence and appoint BGT Ltd as supplier of last resort pursuant to its powers under standard condition 29 of the Standard Licence Conditions for Gas Supply, in order to ensure continuity of supplies of gas to Reepham's customers, and payment of appropriate charges.

3.2 In accordance with its 2003 Guidance relating to the appointment of Suppliers of Last Resort (SoLR), the Authority collected information from Reepham and subsequently sent information requests to 7 companies holding licences for the supply of gas relating to their willingness to act as an SoLR, the capability to supply the customers, the proposed terms of any proposed deemed contracts and other related issues set out in the Guidance. 5 licensees had responded at the time of making a final decision, and there was no indication that the other 2 intended to respond.

3.3 In accordance with the guidance, a Panel was established to assess the information provided. The Panel discussed the material differences between offers by assessing them against the criteria as set out in appendix 5 to the 2003 Guidance. In the case of many criteria there were no material differences. Following clarification of certain aspect of the bids, the following points were established as material differences when assessed against the criteria in the Guidance:

- Of the 5 licensees responding, 3 replied that they were not willing to act as SoLR (though would if required¹). Ofgem's Guidance points out that it would prefer to appoint a willing party as this is likely to be in the interests of customers.
- Of the two willing parties, one responded that it would wish to retain the possibility of applying for a levy. As this is a somewhat open-ended process, with

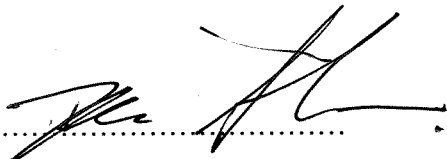
¹ Indeed, while the Authority would prefer to appoint a willing supplier, it does have the power to appoint an SoLR without its consent or agreement.

some potential distortion of incentives in terms of final pricing, this point counted strongly against them. The point was discussed with them, and they were unwilling to waive the right to apply for a levy at a later stage.

- Prices and more specifically pricing structure varied to some extent such that any precise comparison across a portfolio of customers was difficult. It was considered that individual customers would be affected in different ways by the appointment of different suppliers (in short, there would most likely be some customers better off than others under any single appointment arrangement when compared to any other appointment arrangement and no single appointment that would clearly benefit every customer).

3.4 BGT Ltd was one of only two licence holders that had sought to be appointed (and was thus one of the parties that would be a willing participant), of those two was one of only two that had ruled out the ability to raise a levy, and out of those remaining two its prices were broadly equivalent to any other potentially acceptable offer². Following an assessment against the criteria in Ofgem's Guidance, BGT had therefore provided an outstanding offer. In light of this, and viewed more generally in light of the Authority's principal duty to protect the interests of consumers, the appointment of BGT as supplier of last resort was decided upon.

Signed.....



Duncan Sinclair

Authorised on behalf of the
Gas and Electricity Markets Authority

Dated: 20th December 2005

² Once again, a precise comparison was impossible, and indeed individual customers would be affected differently by different potential SoLR's. Further, the application of a levy could have unquantifiable effects on costs incurred (which would need to be assessed ex post – likely some 6 months or so subsequent to appointment). Given at least broad comparability of up-front figures, the Authority placed greater weight on the remaining distinguishing factors.