

LAST RESORT SUPPLY DIRECTION

Direction made by the Gas and Electricity Markets Authority under standard condition 29 of the electricity supply licence granted or treated as granted under section 6(1)(d) of the Electricity Act 1989 to London Energy Plc

To: London Energy Plc (company registered number 2228297) ("London Energy")

Whereas

- (A) The Gas and Electricity Markets Authority ('the Authority'), has the principal objective under section 3A(1) of the Electricity Act 1989 ('the Act'), to protect the interests of consumers in relation to electricity conveyed by distribution systems, wherever appropriate by promoting effective competition between persons engaged in, or in commercial activities connected with, the generation, transmission, distribution or supply of electricity, and has a duty under section 3A(2)(a) of the Act to secure that all reasonable demands for electricity are met.
- (B) Circumstances have arisen which would entitle the Authority to revoke the electricity supply licence of Utility Link Limited (company registered no. 03478538) ('Utility Link').
- (C) London Energy ('the Licensee') is the holder of an electricity supply licence ('the Licence') granted or treated as granted under section 6(1)(d) of the Act.
- (D) It appears to the Authority that the Licensee could comply with this 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 electricity.

1. Direction

- 1.1 Pursuant to paragraph 1 of standard condition 29 ('the Condition') of the Licence, the Authority hereby directs the Licensee to supply electricity to the customers of Utility Link at such premises as are specified or described in the

Schedule to this direction, and otherwise in accordance with the terms of this direction, the terms of the Condition and in accordance with the terms included in its written response to Ofgem in respect of the potential appointment of a supplier of last resort in respect of Utility Link.

1.2 This direction shall take effect from 00.00 hours on 19th January 2006, and shall continue until 00.00 hours on 19th July 2006.

2. **The Schedule**

2.1 Premises supplied by meters with a Meter Point Administration Number registered on a distribution licensee's Metering Point Administration Service ("MPAS") Systems to Utility Link.

Signed 

Duncan Sinclair

Authorised on behalf of the
Gas and Electricity Markets Authority

Dated: 18th January 2006

NOTICE PURSUANT TO SECTION 49A(1)(c) OF THE ELECTRICITY ACT 1989

Reasons for the last resort supply direction issued by the Gas and Electricity Markets Authority under standard condition 29 of the electricity supply licence granted or treated as granted under section 6(1)(d) of the Electricity Act 1989 to London Energy Plc

1. Introduction

- 1.1 The Gas and Electricity Markets Authority ('the Authority'), has the principal objective under section 3A(1) of the Electricity Act 1989 ('the Act') to protect the interests of consumers in relation to electricity conveyed by distribution systems, wherever appropriate by promoting effective competition between persons engaged in, or in commercial activities connected with, the generation, transmission, distribution or supply of electricity, and has a duty under section 3A(2)(a) of the Act to secure that all reasonable demands for electricity are met.
- 1.2 Standard condition 29 of the electricity supply licence ('the Licence') granted or treated as granted to London Energy Plc ('the Licensee') contains provisions pursuant to which the Authority may direct the Licensee to supply electricity to the customers of another electricity supplier.
- 1.3 By Notice of 17th January 2006 (accompanied by a Notice of reasons) the Authority revoked the electricity supply licence of Utility Link Limited ("Utility Link").
- 1.4 It appears to the Authority that the Licensee could comply with a 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 electricity.
- 1.5 By way of background, reference is made to the reasons for revocation document of 18 January 2006. As set out in that document, Ofgem took steps to ensure transparency given the almost unique position of Utility Link's business model and the potential impact of the failure of Utility Link and a subsequent appointment of a Supplier of Last Resort on agents of Utility Link

whose brands appeared on contracts with Utility Link's customers (and thereby the risk of some potential confusion for consumers). In light of that background and the appointment of London Energy in this case, we would like to make it clear for the avoidance of doubt that it is an offence to supply customers without a licence and Ofgem will prosecute any party doing so. Such former customers of Utility Link as have not to date been transferred to an alternative licensed supplier will (and must as a matter of law) be supplied by London Energy (and London Energy alone) in accordance with the direction of the Authority. Such customers may of course themselves decide whether to remain in a contractual relationship with London Energy or switch to an alternative licensed supplier.

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 electricity to the customers of Utility Link at such premises as are specified or described in the Schedule to the direction, and otherwise in accordance with the terms of the direction, the terms of the Condition and in accordance with the terms included in its written response to Ofgem in respect of the potential appointment of a supplier of last resort in respect of Utility Link.

3. Reasons for the Direction

- 3.1 The Authority has decided to revoke Utility Link's electricity licence and appoint the Licensee as supplier of last resort pursuant to its powers under standard condition 29 of the Standard Licence Conditions for Electricity Supply, in order to ensure continuity of supplies of electricity to Utility Link'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 Utility Link and subsequently sent information requests to 7 companies holding licences for the supply of electricity 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. 6 licensees had responded at the time of making a final decision, and there was no indication that the remaining party intended to respond within the timescale set.

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 licensees responding, 4 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 both waived the right to subsequently apply for a levy. Indeed, the only significant distinguishing feature between the two responses related to pricing.
- Across all of the relevant measures of pricing that Ofgem was able to assess from the information provided and in the period of time available, London Energy offered lower prices (virtually all cases) or at least comparable prices (taking one metric).
- For reasons of confidentiality the precise differences in the figures will not be revealed in this document. However, the following points can be made. First, in respect of Domestic Customers (accounting for two thirds of the portfolio by number) London Energy was significantly cheaper for pre-payment customers (approximately 500 customers); secondly, across Domestic Customers as a

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.

whole London Energy was offering a lower average price (taking a standard consumption figure which is itself used as an industry standard²).

- In respect of I&C customers comparison was a little more difficult, but suggested the second party may have been *marginally* cheaper in certain geographical areas but equally, marginally more expensive in approximately the same number of other areas. This was the only metric upon which the two parties in question may have been said to be comparable. London Energy's particular advantage was that its standing charge was very significantly lower (to a factor of over 10, leading to a difference of many hundreds of pounds). This was assessed across customer profiles 1-4 and 1-8 (as it is estimated these cover the vast majority of the portfolio). The impact of a high standing charge would operate to the detriment of any consumer, but in particular to a disproportionate extent on the lower customer profiles.

3.4 While every other criteria was essentially equivalent, London Energy had provided a better offer in terms of price across the portfolio, and indeed across both Domestic and non-Domestic customer parts of the portfolio if examined individually. 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 London Energy as supplier of last resort was decided upon.

Signed.....



Duncan Sinclair

Authorised on behalf of the
Gas and Electricity Markets Authority

Dated: 18th January 2006

² This method makes comparison of domestic pricing simpler than any comparison of non-domestic prices – the latter difficulty had been alluded to in previous SOLR appointment documents.