

## **Electricity Act 1989**

### **Section 6**

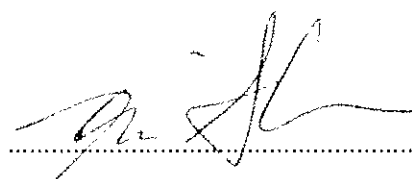
#### **Notice of revocation of licence**

#### ***Whereas***

- A. Electricity 4 Business Limited (company registered no. 05064028) ("the licensee") is the holder of a licence ("the licence") authorising the licensee to supply electricity to premises and treated as granted under section 6(1)(d) of the Electricity Act 1989 ("the Act").
- B. Section 6(8) of the Act provides that a licence granted or treated as granted under the Act may be revoked in accordance with any term contained in it. The terms of the licence (as set out in Schedule 2) provide that the Gas and Electricity Markets Authority ("the Authority") may at any time revoke the licence on giving not less than 24 hours notice where, inter alia, the licensee has an administrator appointed in respect of all or part of its business (which expression shall include an administrative receiver within the meaning of section 251 of the Insolvency Act 1986) of the whole or any material part of its assets or undertaking appointed.
- C. In an email dated 22 October to Neil Barnes of the Office of the Gas and Electricity Markets it was confirmed by insolvency practitioners that they had been formally appointed as administrators in accordance with Schedule B1 of the Insolvency Act 1986 in respect of the licensee company.
- D. The Authority has decided that revocation of the licence shall take place for the reasons set out in the statutory Notice under section 49A(1)(a) of the Act accompanying this Notice.

#### ***Notice of Revocation***

The Authority hereby gives notice that with effect from 00.01hrs on 24 October 2008 the licence shall be revoked.

.....22 October 2008

**Duncan Sinclair, Legal Director (Ofgem)**

**Duly authorised to act on behalf of the Authority.**

## NOTICE PURSUANT TO SECTION 49A(1)(a) ELECTRICITY ACT 1989

### **Reasons for the decision of the Gas and Electricity Markets Authority revoking the Licence treated as granted under Section 6(1)(d) Electricity Act 1989 ("the Act") to Electricity 4 Business Limited**

The Gas and Electricity Markets Authority ("the Authority"<sup>1</sup>) was informed by Electricity 4 Business Limited ("E4B") (a company registered in England and Wales under company registration no. 05064028) ("the Licensee") that it has gone into administration.

#### **Decision**

The Authority has decided to revoke the Licence authorising E4B to supply electricity to premises as granted under section 6(1)(d) of the Act with effect from **00.01hrs on 24 October 2008**.

Notice of Revocation was issued to the Licensee on **22 October 2008**.

#### **Reasons for Decision**

Ofgem was informed in the morning of 20 October 2008 that E4B was trading at a loss and without an injection of funds was likely to become insolvent in a matter of days. E4B disclosed that whilst it was holding preliminary talks with insolvency practitioners it nevertheless hoped to achieve a trade sale of some if not the whole of the business in the coming days.

Ofgem recognizes that a trade sale is preferable to the appointment of a Supplier of Last Resort ("SoLR").<sup>2</sup> However, by the morning of 21 October 2008, though it was still unclear that insolvency was unavoidable, and following further discussion with E4B, Ofgem took the view that it was increasingly likely. As a result, Ofgem alerted a number of industry participants to a "potential insolvency situation" and the process for any SoLR situation that may arise. Whilst Ofgem did not wish to act prematurely in a manner which may have jeopardized a trade sale prior to administration, we decided, bearing in mind our duty to the consumer, that we should prepare to discuss a potential SoLR situation with third party suppliers given the increasing likelihood of an insolvency situation.

By the afternoon of Tuesday 21 October, E4B confirmed that a trade sale could not be achieved, that it was preparing to go into administration and therefore requested that Ofgem move to invoke the SoLR arrangements as soon as possible. Ofgem concluded that the appointment of a SoLR was the only regulatory route available to protect consumers, both

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<sup>1</sup> The final decision was taken by the Authority under delegated powers. In practice, members of the Office of the Gas and Electricity Market (Ofgem) dealt with the relevant parties.

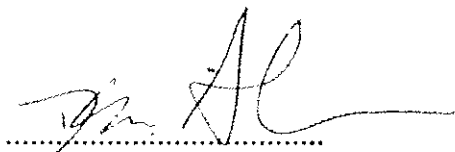
<sup>2</sup> As set out in its 2003 Guidance document.

directly and indirectly by reducing the level of potential "smeared" costs across industry resulting from the failure of E4B.

Ofgem proceeded to issue formal information requests to a number of relevant industry participants and suppliers by late afternoon Tuesday 21 October.

While the decision to appoint a SoLR has yet to be finalized, appointment of a SoLR requires as a first step the revocation of the supply licence of E4B. This has been requested by the Licensee. Consequently and light of the above, the decision was taken that consumers are best served by the revocation of this licence, and for such revocation to take place within a short timeframe.

**Signed:**

A handwritten signature in black ink, appearing to read 'D. Sinclair', written over a horizontal dotted line.

**Duncan Sinclair, Legal Director (Ofgem)**  
**Duly authorised on behalf of the Authority**

**22 October 2008**