



Making a positive difference  
for energy consumers

The Company Secretary  
Ovo Gas Limited  
Ovo Electricity Limited  
1 Rivergate, Temple Quay, Bristol  
United Kingdom  
BS1 6ED

29 January 2015

Dear Sir/Madam,

### **Request for derogation: Cheshire East Council Tariffs**

This letter sets out the decision of the Gas and Electricity Markets Authority (the "**Authority**") to grant Ovo Gas Limited (company number 06752915) and Ovo Electricity Limited (company number 06858121) (each a "**Licensee**" and collectively, "**Ovo**") derogations from sub-paragraph 22B.2(b) of standard licence condition (SLC) 22B of their respective gas and electricity supply licences. The derogations will enable Ovo to offer four additional tariffs on a regional basis through their partnership with, and under the brand of, Cheshire East Council (the **Cheshire East Council Tariffs**).

The relevant Directions are attached. These will be published and shall remain in force until 31 December 2015 in accordance with the terms of the Directions, unless revoked earlier or varied in writing by the Authority. Any change in circumstances relevant to the Directions must be reported to the Authority as soon as possible.

This letter constitutes the Notice, under section 49A of the Electricity Act 1989 and section 38A of the Gas Act 1986, of the reasons for the Authority's decision to issue the attached Directions. Capitalised terms used in this letter, which are not defined herein, have the meaning given to them in the standard conditions of Ovo's electricity and gas supply licences.

### **Background to Derogation Request**

Ovo Communities is a separate business unit of Ovo, set up to work with Local Authorities, Housing Associations and Community Groups with a view to partnering with them to directly supply energy to their residents and local population. Cheshire East Council is one of Ovo Communities' partners. In May 2014, Cheshire East Council (together with Peaks & Plains Housing Trust, Plus Dane Group and Wulvern Housing) launched a procurement process to identify a partner to supply energy to residents and businesses in their region. Ovo was awarded preferred bidder status on 23rd October 2014. Through the partnership with Ovo, Cheshire East Council aims to offer their own local tariffs, which will be available only within the region (defined by postcodes) covered by the partnership.

The Authority received a request from Ovo on 29 October 2014 for a derogation from sub-paragraph 22B.2(b) of SLC 22B of their gas and electricity supply licences. Ovo wish to

**The Office of Gas and Electricity Markets**

9 Millbank London SW1P 3GE Tel 020 7901 7000 Fax 020 7901 7066 [www.ofgem.gov.uk](http://www.ofgem.gov.uk)

introduce four additional tariffs to their existing four core tariffs for customers under the Cheshire East Council brand.

Paragraph 22B.2(b) of SLC 22B prohibits any supplier from offering more than four Core Tariffs to a Domestic Customer at any time and in any region throughout Great Britain, for any Metering Category.<sup>1</sup> However, paragraph 36 of SLC 22B provides that the Authority may issue directions relieving a licensee of its obligations to comply with SLC 22B to such extent and subject to such conditions as the Authority may direct. Without a derogation from SLC 22B.2(b), the proposed additional tariffs would be prohibited.

Ovo considers that the partnership will allow Cheshire East Council to provide more choice for consumers and better consider the needs of local people. They have indicated that Cheshire East Council will be able to design propositions that are more closely aligned with the needs of different local consumer groups, such as those in fuel poverty. They also consider that the partnership will increase consumer trust by allowing Cheshire East Council to engage with consumers who have low trust in the market as a whole but would have more trust in a local organisation to deliver benefits for their community.<sup>2</sup>

### **The Authority's Decision**

Having regard to our principal objective and statutory duties, including our duty to promote competition and protect consumer interests, and based on the information submitted by Ovo, we consider that the proposed partnership between Ovo and Cheshire East Council has the potential to benefit consumers in the area covered by the partnership.

The proposed partnership is similar to existing white label arrangements in the energy market, which operate under the temporary provisions of SLC 31D. We introduced these provisions as part of our Retail Market Review (RMR) reforms.<sup>3</sup> They applied only to white labels that already existed on 1 March 2013, allowing them to continue to operate while we consider the right regulatory framework for these arrangements.

We recognise that the benefits of these temporary provisions are currently not available to licensed suppliers with new white labels that did not exist before 1 March 2013. As such, in our September 2014 consultation on white label policy, we stated that we would consider granting derogations, akin to the temporary provisions, to any supplier with new white labels or existing ones not covered by the temporary provisions.<sup>4</sup>

The Authority, therefore, grants Ovo a temporary derogation from sub-paragraph 22B.2(b) of SLC 22B of their respective gas and electricity supply licences in respect of Cheshire East Council Tariffs. This will become effective from the date of, and subject to the terms of, the attached Directions. It will enable Ovo to benefit from the same temporary provisions of SLC 31D that apply to those suppliers with white labels in the market.

In terms of our clearer information rules, we welcome Ovo's proposal to apply the cheapest tariff messaging across both brands. This will ensure that both Ovo and Cheshire East Council customers are informed about the availability of a cheaper tariff regardless of which organisation they initially signed up to. Finally, we encourage Ovo to make sure it is clear to consumers that Cheshire East Council Tariffs will be available only to consumers in the

---

<sup>1</sup> This includes Metering Categories A and B for gas and A to E for electricity, as specified under SLC 22B.2(a) and defined under SLC 1 of both the gas and electricity supply licences.

<sup>2</sup> In this document, we use the term "market" as shorthand for referring to different segments of the energy sector. For the avoidance of doubt, this term is not intended to describe or otherwise suggest the approach that may be taken by Ofgem for the purposes of market definition in competition law investigations.

<sup>3</sup> See Ofgem's decision document "[The Retail Market Review – Implementation of Simpler Tariff Choices and Clearer Information](#)", 27 August 2013.

<sup>4</sup> See Ofgem's consultation document "[Treatment of white label providers in the domestic retail market](#)", 11 September 2014.

area covered by the partnership. To this end, they may need to work with any relevant third party intermediaries, including price comparison websites.

In terms of the enduring approach to white labels, we set out in our September consultation document that our aim is to facilitate white labels in a way that promotes consumer choice and engagement, while ensuring consistency with the aims of the RMR. We intend to publish a decision next month. On this basis, we expect to have the regulatory framework for suppliers with white labels in place in the first half of 2015 and plan to revoke the temporary provisions that are due to expire on 31 December 2015. This derogation would also be revoked at that stage.

If you would like to discuss any aspects of this letter, please contact Jibirila Leinyuy on 0207 901 7000 or [Derogations@ofgem.gov.uk](mailto:Derogations@ofgem.gov.uk).

Yours faithfully

**Neil Barnes**  
**Associate Partner, Retail Markets**

## **ATTACHMENT 1: Electricity Supply Licence**

The Company Secretary  
Ovo Electricity Limited  
1 Rivergate, Temple Quay, Bristol  
United Kingdom  
BS1 6ED

### **Direction issued to Ovo Electricity Limited (company number 06858121, the "Licensee") by the Gas and Electricity Markets Authority: Cheshire East Council Tariffs**

1. This Direction is issued by the Gas and Electricity Markets Authority (the "Authority") pursuant to Standard Licence Condition (SLC) 22B.36 of the electricity supply licence granted to the Licensee under section 6(1)(d) of the Electricity Act 1989 (the "Licence").
2. Capitalised terms used in this Direction which are not defined in this Direction shall have the meaning given to them in the Licence.
3. SLC 22B.36 of the Licence provides that the Authority may issue directions relieving the Licensee of its obligations to comply with SLC 22B to such extent and subject to such conditions as the Authority may direct.
4. The considerations and rationale of the Authority's decision are set out in the accompanying letter to the Licensee, dated 29 January 2015.
5. The Authority hereby directs that sub-paragraph 22B.2(b) of SLC 22B shall not apply to the Licensee's white label Tariffs which operate under the brand name of the Community Partnership (the "Community Energy Tariffs"), subject to paragraphs 6 to 8 of this Direction.
6. Subject to paragraph 7 of this Direction, the Licensee must ensure that no more than four (4) Community Energy Tariffs are available to a Domestic Customer at any time in relation to:
  - a. any Category A Metering Arrangement;
  - b. any Category B Metering Arrangement;
  - c. any Category C Metering Arrangement;
  - d. any Category D Metering Arrangement; or
  - e. any Category E Metering Arrangement.

The expression "available to" is to be read as including (but is not necessarily limited to) circumstances where a Domestic Customer is able to enter into a Domestic Supply Contract for, or be supplied on the basis of, a Community Energy Tariff.

7. Paragraph 6 does not:
  - a. apply to a Tariff for a Fixed Term Supply Contract once it becomes a Closed Fixed Term Tariff;
  - b. apply to a Collective Switching Tariff;
  - c. apply to a Dead Tariff which complies with standard condition 22D; and

- d. limit or otherwise affect the Licensee's obligations under paragraphs 27.1 and 27.2 of standard condition 27 in respect of offering a wide choice of payment methods.
8. In any Region, the Licensee must not use more than one Tariff Name for each Community Energy Tariff at any time.
9. The conditions in paragraphs 31D.2 to 31D.22 (inclusive) of SLC 31D shall apply to the Licensee in respect of the Licensee's Community Energy Tariffs, except that the phrase "White Label Tariffs" in such paragraphs shall be deemed for the purposes of this Direction to be substituted by the phrase "Community Energy Tariffs".
10. This Direction is granted on the condition that the material provided by the Licensee to the Authority in its application and related correspondence is accurate in all material respects. The Licensee must report any change of circumstances relevant to this Direction to the Authority.
11. This Direction shall take immediate effect and shall remain in force until expiry on 31 December 2015, unless it is revoked earlier or varied in writing by the Authority. It is the Authority's intention to revoke this Direction (if it has not already expired) once the enduring regulatory framework for suppliers with white label providers has been implemented.
12. For the purposes of this Direction, the term "Community Partnership" means a partnership between Cheshire East Council, Peaks & Plains Housing Trust, Plus Dane Group and Wulvern Housing, which uses its own brand name to market and offer the Licensee's Community Energy Tariffs to Domestic Customers.

Dated: 29 January 2015

**Neil Barnes**

**Associate Partner, Retail Markets**

Signed on behalf of the Authority and authorised for that purpose

## **ATTACHMENT 2: Gas Supply Licence**

The Company Secretary  
Ovo Gas Limited  
1 Rivergate, Temple Quay, Bristol  
United Kingdom  
BS1 6ED

### **Direction issued to Ovo Gas Limited (company number 06752915, the "Licensee") by the Gas and Electricity Markets Authority – Cheshire East Council Tariffs**

1. This Direction is issued by the Gas and Electricity Markets Authority (the "Authority") pursuant to Standard Licence Condition (SLC) 22B.36 of the gas supply licence granted to the Licensee under section 7A(1) of the Gas Act 1986 (the "Licence").
2. Capitalised terms used in this Direction which are not defined in this Direction shall have the meaning given to them in the Licence.
3. SLC 22B.36 of the Licence provides that the Authority may issue directions relieving the Licensee of its obligations to comply with SLC 22B to such extent and subject to such conditions as the Authority may direct.
4. The considerations and rationale of the Authority's decision are set out in the accompanying letter to the Licensee, dated 29 January 2015.
5. The Authority hereby directs that sub-paragraph 22B.2(b) of SLC 22B shall not apply to the Licensee's white label Tariffs which operate under the brand name of the Community Partnership (the "Community Energy Tariffs"), subject to paragraphs 6 to 8 of this Direction.
6. Subject to paragraph 7 of this Direction, the Licensee must ensure that no more than four (4) Community Energy Tariffs are available to a Domestic Customer at any time in relation to:
  - a. any Category A Metering Arrangement; or
  - b. any Category B Metering Arrangement.

The expression "available to" is to be read as including (but is not necessarily limited to) circumstances where a Domestic Customer is able to enter into a Domestic Supply Contract for, or be supplied on the basis of, a Community Energy Tariff.

7. Paragraph 6 does not:
  - a. apply to a Tariff for a Fixed Term Supply Contract once it becomes a Closed Fixed Term Tariff;
  - b. apply to a Collective Switching Tariff;
  - c. apply to a Dead Tariff which complies with standard condition 22D; and
  - d. limit or otherwise affect the Licensee's obligations under paragraphs 27.1 and 27.2 of standard condition 27 in respect of offering a wide choice of payment methods.

8. In any Region, the Licensee must not use more than one Tariff Name for each Community Energy Tariff at any time.
9. The conditions in paragraphs 31D.2 to 31D.22 (inclusive) of SLC 31D shall apply to the Licensee in respect of the Licensee's Community Energy Tariffs, except that the phrase "White Label Tariffs" in such paragraphs shall be deemed for the purposes of this Direction to be substituted by the phrase "Community Energy Tariffs".
10. This Direction is granted on the condition that the material provided by the Licensee to the Authority in its application and related correspondence is accurate in all material respects. The Licensee must report any change of circumstances relevant to this Direction to the Authority.
11. This Direction shall take immediate effect and shall remain in force until expiry on 31 December 2015, unless it is revoked earlier or varied in writing by the Authority. It is the Authority's intention to revoke this Direction (if it has not already expired) once the enduring regulatory framework for suppliers with white label providers has been implemented.
12. For the purposes of this Direction, the term "Community Partnership" means a partnership between Cheshire East Council, Peaks & Plains Housing Trust, Plus Dane Group and Wulvern Housing, which uses its own brand name to market and offer the Licensee's Community Energy Tariffs to Domestic Customers.

Dated: 29 January 2015

**Neil Barnes**

**Associate Partner, Retail Markets**

Signed on behalf of the Authority and authorised for that purpose