

## The Electricity Act 1989 and Gas Act 1986

### Notice of proposal to confirm Provisional Order

**Proposal of the Gas and Electricity Markets Authority (“the Authority”) to confirm a Provisional Order pursuant to section 26(1) of the Electricity Act 1989 (“Electricity Act”) and section 29(1) of the Gas Act 1986 (“Gas Act”).**

**31<sup>st</sup> May 2018**

#### **1 Summary**

- 1.1 On 27 March 2018 under section 25(2) of the Electricity Act and section 28(2) of the Gas Act the Authority issued a Provisional Order to Iresa Limited (company number 08186664) having its registered office at The Quadrant Business Centre, Nuart Road, Beeston, Nottingham, NG9 2NH (“Iresa”), the holder of a licence granted under section 6(1)(d) of the Electricity Act and a licence granted under section 7A(1) of the Gas Act on 27 March 2018. The Provisional Order was issued in respect of contraventions or likely contraventions of:
  - a. Standard Licence Condition (“SLC”) 0.2;
  - b. SLC 0.3 c); and
  - c. SLC 0.3 d) (Treating Domestic Customers Fairly).
- 1.2 A copy of the Provisional Order issued on 27 March 2018 (‘the Provisional Order’) and the document setting out the reasons for issuing the Provisional Order dated 28 March 2018 can be found at:  
[https://www.ofgem.gov.uk/system/files/docs/2018/03/iresa\\_provisional\\_order\\_27\\_march\\_2018.pdf](https://www.ofgem.gov.uk/system/files/docs/2018/03/iresa_provisional_order_27_march_2018.pdf) and  
[https://www.ofgem.gov.uk/system/files/docs/2018/03/iresa\\_provisional\\_order\\_reas ons\\_for\\_issue\\_dated\\_28\\_march\\_2018.pdf](https://www.ofgem.gov.uk/system/files/docs/2018/03/iresa_provisional_order_reas ons_for_issue_dated_28_march_2018.pdf).
- 1.3 The Authority now proposes to confirm the Provisional Order without modifications as it is satisfied that Iresa is contravening or is likely to contravene the requirements of SLC 0.2, 0.3 c) and 0.3 d). The Authority proposes to confirm the Provisional Order in the form set out in the Annex to this notice.
- 1.4 Pursuant to sections 25(4) of the Electricity Act and section 28(4) of the Gas Act, the Authority shall confirm a Provisional Order with or without modifications if:
  - a. The Authority is satisfied that the regulated person to whom the order related is contravening or is likely to contravene any condition or relevant requirement; and
  - b. The provision made by the order is requisite for the purpose of securing compliance with that condition or requirement.

- 1.5 The Authority has had regard to the matters set out in section 25(4A), (4B), (5) and (5A) and section 26 of the Electricity Act and section 28(4A) (4B), (5) and (5A) and section 29 of the Gas Act<sup>1</sup>.
- 1.6 Prior to confirming a Provisional Order, in accordance with section 26(1) of the Electricity Act and section 29(1) of the Gas Act, the Authority hereby gives notice that:
- a. SLC 0.2, 0.3 c) and 0.3 d) are the relevant conditions and requirements for the purpose of the Provisional Order;
  - b. The acts or omissions which, in the Authority's opinion, constitute or would constitute contraventions of those conditions and requirements, and other factors which in the Authority's opinion justify the confirmation of the Provisional Order are those set out at paragraph 4 below.
  - c. Any representations or objections with respect to the proposed confirmation may be made to the Authority by 21 June 2018 (see paragraph 6 below).

## **2 Background**

- 2.1 The background to the making of the Provisional Order is set out in the Reasons Notice.

## **3 Reasons for the Authority's decision to propose to confirm the Provisional Order**

- 3.1 Based on the information received by the Authority from Iresa, Citizens Advice Consumer Service (including the Vulnerable Extra Help Unit), the Energy Ombudsman and complaints raised to Ofgem's Consumer Affairs team, the Authority is satisfied that Iresa is contravening or is likely to contravene the following relevant conditions and requirements (as applicable):
- SLCs 0.2, 0.3 c) and 0.3 d).
- 3.2 Iresa has not demonstrated that it has discharged its obligations in relation to these SLCs.
- 3.3 The Authority is therefore minded to confirm the Provisional Order on the grounds that it is satisfied that the acts and omissions of Iresa as described in section 4 of this Notice continue to constitute a contravention of SLCs 0.2, 0.3c), 0.3d) and consequently the provisions made by the Provisional Order are still requisite for the purpose of securing compliance with the relevant conditions and requirements cited at paragraph 3.1.

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<sup>1</sup> Section 25(5) of the Electricity Act 1989 and Section 28 (5) of the Gas Act 1986 refer to the Authority's principal objective as set out in in section 3 (A) of the Electricity Act and section 4AA of the Gas Act respectively, including the duty on the Authority to have regard to the need to secure financeability.

## **4 The facts surrounding the Authority's decision on contraventions**

4.1 The Authority has considered information obtained since the Provisional Order was made. The particular behaviours of concern relate to Iresa's customer service arrangements, specifically their telephony and email/web customer services. Call waiting times have started to reduce<sup>2</sup>, which is encouraging, however this has not been for a consistent period and the reductions have coincided with times when call levels were low. A new 'queue call-back' Interactive Voice Response (IVR) function has been implemented but the IVR function that has been installed does not comply with the provisions of paragraph 1.b. of the Provisional Order. Iresa's email and web ticket processes (daily emails and backlog) remain at an unsatisfactory level. The Authority also have concerns that Iresa cannot provide an exact number of outstanding emails in its backlog. A new complaints and vulnerable customer process has been implemented, however, the Authority do not yet have any evidence to suggest that this will be beneficial for customers. The Authority continue to have concerns regarding the validity of the data provided in relation to compliance with the provisions of the Provisional Order.

### **Customer Service Arrangements**

4.2 SLC 0.3<sup>3</sup> relates to achieving the Standards of Conduct. The Standards of Conduct are that the licensee and any Representative:

c) in relation to customer service arrangements:

- i. Make it easy for a Domestic Customer to contact the licensee;
- ii. Act promptly and courteously to put things right when the licensee or any Representative makes a mistake; and
- iii. Otherwise ensure that customer service arrangements and processes are complete, thorough, fit for purpose and transparent;

4.3 SLC 0.3 c) i. requires the licensee to have customer service arrangements in place which make it easy for a Domestic Customer to contact the licensee. Iresa's customers continue to experience long call waiting times. Average call waiting times since the Provisional Order took effect have reduced, however, not to the standard we would expect to see to secure compliance with the Provisional Order on a sustainable basis. The average call waiting time of five minutes required by the Provisional Order has been met on sixteen occasions<sup>4</sup> of which, five were Saturdays. Iresa receive significantly lower call numbers at weekends. There is still a high number of calls being 'dropped' which may leave customers frustrated and having to call back. This failure to answer or respond to calls in a timely manner also fails to meet the requirement at paragraph 1.i. of the Provisional Order, specifically the Standard of Conduct to make it easy for a Domestic Customer to contact the licensee (SLC 0.3c). Additionally, from the data Iresa has provided it appears that when call volumes increase above (around) 650 calls per day<sup>5</sup> Iresa's ability to

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<sup>2</sup> Call reports dated 30/4/18 to 6/5/18 (Hit target on four days, one was a Saturday), 7/5/18 to 13/5/18 (7 May was a bank holiday, hit target every day that week), 14/5/18 to 19/5/18 (Hit target four days, one was a Saturday). On the days the targets were met the highest number of calls was 669. When call numbers rise, the average call waiting time increases.

<sup>3</sup> A copy of the relevant condition can be found on the Ofgem website at

<https://www.ofgem.gov.uk/licences-industry-codes-and-standards/licences/licence-conditions>.

<sup>4</sup> Out of 42 days.

<sup>5</sup> Weekdays only – weekend call volumes are significantly less.

answer calls diminishes and the call waiting times rise. Any significant increase in calls is currently unmanageable.

- 4.4 Further to the above, paragraph 1.b. of the Provisional Order required Iresa to put an Interactive Voice Response (“IVR”) in place by 3 April 2018 to deal with large volumes of customer calls and long call waiting times. An IVR system was put in place by 30 April. The information supplied by Iresa indicates that the service the customer will receive is limited and is not in compliance with paragraph 1.b. of the Provisional Order. The service that this IVR provides puts the customer back into a call queue, it does not arrange a ring back per se: an essential component of the IVR required by the terms of the Provisional Order. Iresa has not advised the Authority (despite requests for clarification from the Authority) on what its process is for managing this service, leaving the Authority unclear as to what time of the day a call is put back into the queue and whether this will comply with the requirements of the Provisional Order (which require the IVR to return calls within certain time frames at paragraph 1.b.) and whether the IVR will address the customer’s needs. For this reason, the Authority is satisfied that Iresa has not taken (or will take) sufficient steps to make it easy for customers to contact Iresa and it is likely Iresa will continue to contravene this provision.
- 4.5 In addition to the requirement to make it easy to contact the licensee described above, SLC 0.3 c) ii. requires the licensee to act promptly and courteously to put things right when the licensee or any Representative makes a mistake. Iresa is unable to demonstrate that it has responded to all emails within five working days and resolve emails within 10 working days in accordance with the requirements of paragraph 1.e. of the Provisional Order. The first three weeks of email reports were incorrect (the error was highlighted by the Authority to Iresa). The revised reports received by the Authority from Iresa do not show any significant improvement in response times or resolutions. In a recent email report received by Iresa, which represents 10 May 2018 – 17 May 2018, it shows that the percentage of emails responded to within five working days has marginally increased from 61.8% to 62.4% and the percentage of emails resolved within 10 working days has fallen from 58.2% to 54.8% - i.e. neither the five nor the 10 working days’ targets were met. Since the Provisional Order was made, Iresa’s progress to resolve emails has stagnated and percentages remain around 60%.
- 4.6 Iresa has been unable to ensure that all outstanding emails received prior to 27 March 2018 have received a response by 30 April 2018 (in accordance with paragraph 1.g. of the Provisional Order). After various attempts by the Authority to obtain an update on this provision from Iresa, some information has been received. However this information appears to be either incorrect, not in the format requested by the Authority or still under review by Iresa<sup>6</sup>. Iresa’s lack of consistent and robust information shows that it cannot confidently confirm the number of outstanding emails in its backlog. On the evidence available to the Authority, the Authority has concluded that Iresa has not complied with, and will not comply with the requirements of paragraph 1.g. of the Provisional Order.

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<sup>6</sup> Information was provided on 16 May however it was not in the format requested by the Authority and further to analysing this data it does not provide an accurate view of what was requested e.g. Iresa indicated that it was still removing duplicates etc. from the data when provided to the Authority.

- 4.7 For these reasons, the Authority is satisfied that Iresa has not taken sufficient or all steps to ensure that it has adequate customer service arrangements which enables it to act promptly and courteously to put things right in the event it makes a mistake and it is likely that Iresa will continue to contravene SLC 0.3 c) ii).
- 4.8 SLC 0.3 c) iii. requires the licensee to have customer service arrangements and processes which are complete, thorough, fit for purpose and transparent. There has been regular inconsistent reporting of complaints and expressions of dissatisfaction. The data/reports received by the Authority from Iresa have contained errors and provided different results for the same timeframes depending on when they were generated. The method of calculating resolution timeframes for complaints is questionable due to the difficulty with which Iresa continue to encounter in flagging a customer interaction as a complaint in the first instance, which means staff cannot manage complaints in accordance with the requirements of paragraphs 1.h (i) and (ii) of the Provisional Order. The Authority does not currently have sufficient information to enable it to assess compliance with paragraphs h) iii) and h) iv) of the Provisional Order”.
- 4.9 Based on the data/reports received by the Authority and further clarification questions to Iresa, it is clear that Iresa has no consistent means of identifying complaints<sup>7</sup>. Iresa advised that a new complaints recording function had been implemented on 11 May 2018 and supporting documentation was supplied. The new complaints report provides data on open and resolved complaints from 21 March 2018 to an unspecified date. However, as the data does not cover complaints prior to 21 March 2018, it is difficult to gain a comprehensive picture of the true volume of open complaints submitted to the Authority. There were some inaccurate values detailed in the report which demonstrates that Iresa is still having issues with aggregating data for reports. Given that the new complaints system has been recently installed (with further technical processes still to be implemented) there is no evidence to show that it will work effectively. For these reasons, the Authority is satisfied that Iresa does not yet have customer service arrangements and processes in place which are complete, thorough, fit for purpose and transparent and it is likely that it will continue to contravene provision SLC 0.3 c) iii.

### ***Vulnerable Customers***

- 4.10 SLC 0.3 requires that:
- d) in relation to Domestic Customers in Vulnerable Situations the licensee and any Representative
- i. seek to identify each Domestic Customer in a Vulnerable Situation, in a manner which is effective and appropriate, having regard to the interests of the Domestic Customer; and
  - ii. when applying the Standards of Conduct in paragraphs (a) to (c) above, do so in a manner which takes into account any Vulnerable Situation of each Domestic Customer identified with (d)(i) above or otherwise.

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<sup>7</sup> E.g. no unique complaint reference number in use and two separate methods of flagging a customer interaction as a complaint.

- 4.11 The term Vulnerable Situation is defined as the personal circumstances and characteristics of each Domestic Customer create a situation where he or she is:
- a) significantly less able than a typical Domestic Customer to protect or represent his or her interests; and/or
  - b) significantly more likely than a typical Domestic Customer to suffer detriment or that detriment is likely to be more substantial.

Iresa has failed to provide sufficient evidence to demonstrate that it has met the requirement to implement a process to identify Domestic Customers in a Vulnerable Situation in accordance with paragraph 1.i. and 1.j of the Provisional Order.

- 4.12 On 15 May Iresa informed the Authority that it has contacted customers over the age of 60 by email offering to register them on the Priority Services Register ("PSR"), however, no evidence of these emails has been provided. Iresa updated its website to advise customers how to register on the PSR on week commencing 21 May 2018, around 4 weeks after the provision was due to be met.
- 4.13 On 14 May 2018 the Authority received updated information to say that Iresa has changed its call scripts for call handlers. Customers will now be informed about the Priority Services Register and will be asked if they require vulnerability support. The Authority recognises that this is a positive step, however this is the first time that this service has been offered to customers. Iresa have provided limited evidence to confirm that all customer accounts have been reviewed as required by the Provisional Order. Additionally, the evidence provided was inconsistent and sometimes incorrect. For these reasons, the Authority is satisfied that Iresa does not have an adequate process in place to identify a Domestic Customer in a Vulnerable Situation in a manner which is effective or appropriate and it is likely that it will continue to contravene this provision.

### ***The Customer Objective***

- 4.14 SLC 0.2 provides "The licensee must, and must ensure that its Representatives, achieve the Standards of Conduct in a manner consistent with the Customer Objective".
- 4.15 The Customer Objective is set out in SLC 0.1. The term fair and other cognate expressions is defined at SLC 0.9 as:

The licensee or any Representative would not be regarded as treating a Domestic Customer Fairly if their actions or omissions give rise to a likelihood of detriment to the Domestic Customer, unless the detriment would be reasonable in all the relevant circumstances.

- 4.16 The Authority's overall assessment of the data provided to us to date leads us to believe that it is requisite to retain paragraph 2 of the Provisional Order in order to ensure Iresa complies with SLC 0.2:
- a. There is a causal connection between the demands for one-off payments and increases in direct debits and the poor customer service arrangements experienced by Iresa's customers. For example, there are spikes in telephone and email traffic immediately following a notification of one-off payments.

- b. Further to the above, Iresa is still not in a position to anticipate or manage significant call and/or email traffic from its customers.
- c. Given the issues we have identified with managing call volumes and/or email traffic and the fact that Iresa has been unable to clear its outstanding backlog of emails, we have concerns around its ability to ensure that the customer: will be billed correctly; is not in payment difficulty; has had their vulnerability needs registered and addressed; is not disputing the charges on their account.

## **5 Conclusion**

- 5.1 For the reasons set out in paragraph 4 of this notice, the Authority is satisfied that Iresa has not taken adequate steps to meet the requirements of the Provisional Order and in failing to do so it is unable to achieve the Standards of Conduct in a manner which is consistent with the Customer Objective. As a result, the Authority believes Iresa's actions and omissions give rise to a likelihood of detriment to domestic customers which, in the Authority's view is not reasonable in these circumstances, and it is likely that the licensee will continue to contravene this provision.
- 5.2 The Authority is therefore satisfied that Iresa is contravening or is likely to contravene the relevant conditions or requirements. For these reasons, the Authority proposes that it is minded to confirm the Provisional Order in the form set out in Annex 1 to this notice.

## **6 Representation or Objections**

- 6.1 The Authority invites representations or objections. Any representations or objections with respect to the proposed notice to confirm the Provisional Order must be made in writing on or before 21 June 2018 (being not less than 21 days from the date of issue of this notice) and sent to Heather Swan, Senior Manager, Ofgem, Floor 3, Commonwealth House, 32 Albion Street, Glasgow G1 1LH or by email to [Heather.Swan@ofgem.gov.uk](mailto:Heather.Swan@ofgem.gov.uk).
- 6.2 If a respondent does not wish its response or part of its response to be published, it should clearly mark its response or the relevant parts "not for publication" and give reasons.
- 6.3 Any representations or objections which are duly made within the timeframe specified above and not withdrawn will be duly considered by the Authority.

**Dated: 31 May 2018**

Signed

**Sarah Cox  
Chief Operating Officer  
Duly authorised on behalf of the Gas and Electricity Markets Authority**

## **Annex 1:**

### **Proposed Provisional Order for confirmation**



#### **The Electricity Act 1989 and Gas Act 1986 Provisional order under section 25(2) of the Electricity Act 1989 and section 28(2) of the Gas Act 1986**

**To:** Iresa Limited (company number 08186664) having its registered office at The Quadrant Business Centre Nuart Road, Beeston, Nottingham, NG9 2NH, ('Iresa'), the holder of a licence granted under section 6(1)(d) of the Electricity Act 1989 ('the Electricity Act') and a licence granted under section 7A(1) of the Gas Act 1986 ('the Gas Act').

#### **WHEREAS:**

- A. The Gas and Electricity Markets Authority ('the Authority') has received information regarding Iresa's compliance with its obligations under the standard conditions of the gas and electricity supply licences (collectively referred to as 'SLC').
- B. Based on the information received by the Authority and our engagement with Iresa, it appears to the Authority that Iresa is contravening or is likely to contravene SLC 0.2, 0.3 c) and 0.3 d) (Treating Domestic Customers Fairly).
- C. Having had regard to the matters set out in section 25 of the Electricity Act and section 28 of the Gas Act, the Authority considers it is requisite to make a provisional order in exercise of the powers in section 25(2) of the Electricity Act and section 28(2) of the Gas Act.

#### **NOW THEREFORE:**

The Authority, pursuant to section 25(2) of the Electricity Act and section 28(2) of the Gas Act, and for the purpose of securing compliance with SLC 0.2, 0.3 c) and 0.3 d), makes a provisional order requiring Iresa:

##### **1. Customer Service Arrangements**

- i. Not to act in contravention of SLC 0.2, 0.3 c) and 0.3 d);
- ii. In particular (but without prejudice to the broader requirements of (i) above):
  - a. By 9 April 2018, to extend the opening hours of Iresa's in-house call centre so that a telephone contact service is provided:
    - i. from 8am to 6pm on a Saturday; and
    - ii. from 8am to 8pm Monday to Friday.
  - b. By 3 April 2018, to ensure there is "ring back" or an "Interactive Voice Response" system in place to return calls to customers. Where a customer requests the ring back service before 2pm, Iresa shall return the call within the same working day, where the



customer makes a request for the ring back service after 2pm, Iresa shall contact the customer by no later than 5pm the next working day. Where the customer requests the ring back service on a Saturday, the next working day will be Monday.

- c. By 9 April 2018 to ensure the average call waiting times, as defined in the Annex to this notice, are not longer than 5 minutes.
- d. To produce and submit to the Authority weekly reports of the total number of calls received from the day after the date of service of this notice, the average call waiting times and the number of calls which have dropped out of the call queue or have been disconnected. The first report shall be submitted by 13:00 hours on 9 April 2018. Each subsequent report shall be submitted on the Monday of each week after 9 April 2018 by 13:00 hours.
- e. By 3 April 2018 to have a process in place to respond to all emails (web or email route) from customers, including emails containing any expression of dissatisfaction from customers, in a timely and efficient manner. In particular, all emails received by Iresa must be:
  - i. responded to within 5 working days from the date of receipt; and
  - ii. if the subject matter of the email cannot be resolved within 10 working days from the date of receipt, Iresa must provide the customer with an explanation and date for resolution.
- f. To produce and submit to the Authority reports in respect to the following:
  - i. the total number of emails received from customers from the day after the date of service of this notice;
  - ii. the total number of those emails which received a response within 5 working days of receipt;
  - iii. the total number of those emails where the subject matter was resolved within 10 working days;
  - iv. the total number of those emails where the subject matter was not resolved within 10 working days and 5 randomly selected email samples of such correspondence with the customer;
  - v. the first report shall be submitted on 13 April 2018 and all subsequent reports shall be submitted on a weekly basis. Each subsequent report shall be submitted on the Friday of each week after 13 April 2018 by 13:00 hours.
- g. To ensure that i) all outstanding emails which have not been responded to by the date of the service of this notice receive a response by 30 April 2018 and ii) each such response addresses the subject matter of the outstanding email it is responding to.
- h. To ensure that it has customer service arrangements and processes which are complete, thorough, fit for purpose and transparent. In particular, Iresa must:
  - i. record all expressions of dissatisfaction and resolution in a timely and efficient manner;

- ii. monitor the workload of its customer service function to allocate and maintain adequate resources for complaints handling;
    - iii. where the customer has raised a complaint, direct the customer to the Citizens Advice Consumer Advice Service for independent advice; or
    - iv. direct the customers to the Ombudsman if the customer has informed Iresa that the customer is not happy with the manner in which the complaint has been dealt with or the expression of dissatisfaction is over 56 days old.
  - i. By 16 April 2018, to implement a process to identify in a manner which is effective and appropriate all new and existing Domestic Customers in a Vulnerable Situation as defined in SLC 0.9
  - j. To review all customer accounts by 23 April 2018 to ascertain whether any customer is a Domestic Customer in a Vulnerable Situation in a manner which is effective and appropriate having regard to the interests of the of each Domestic Customer in a Vulnerable Situation. Iresa must contact any customer identified as a Domestic Customer in a Vulnerable Situation and offer to register their details on the Priority Services Register.
2. For the purpose of securing compliance with SLC 0.2, 0.3 c) and 0.3 d) from the day after the date of service of this notice and until Iresa has satisfied the Authority that it has implemented the above measures, Iresa shall:
- i. not acquire any new customers, or add any customer accounts by upgrading to dual fuel;
  - ii. not issue any new demands for one off payments for the supply of gas and/or electricity where the customer is not in default with the agreed payments plan under the terms of their contract; and
  - iii. not increase the amount of the Direct Debit agreed with each customer under the terms of their contract for the supply of gas and/or electricity

This order shall cease to have effect on 27 June 2018 unless confirmed by the Authority on or before that date.

**Dated: 27 March 2018**

Signed

**Martin Crouch**  
**Senior Partner, Improving Regulation**  
**Duly authorised on behalf of the Gas and Electricity Markets Authority**

## **ANNEX**

### **Meaning of term**

average call waiting times: means the average time taken to answer all calls received during the period from 8am Monday to 6pm Saturday for the week prior to each relevant reporting deadline specified in this notice, excluding requests for ring back service.