

**GNERGY Limited**

**Electricity Act 1989**

**Final Order of the Gas and Electricity Markets Authority ("the Authority")**

**Made under section 25(1) of the Electricity Act 1989 ("EA89")**

To:

GNERGY Limited (company number 06993060) of 119 Wren Way, Farnborough, Hampshire, GU14 8TA, holder of an Electricity Supply Licence issued by the Authority under section 6(1)(d) of the EA89

**WHEREAS:**

A. GNERGY Limited is a designated electricity supplier ("supplier") subject to the requirement to discharge its Renewables Obligations ("RO") under the arrangements set out in the Renewables Obligation Order 2015 ("the ROO") and the Renewables Obligation (Scotland) Order 2009 ("the ROS");

B. Specifically, to meet the RO, article 7 of the ROO and article 5 of the ROS requires each supplier to produce to the Authority the number of Renewables Obligation Certificates (ROCs) determined in accordance with the ROO and ROS as applicable, in respect of each megawatt hour of relevant electricity that it supplies during an obligation period, before 1 September after the obligation period in question. An obligation period is defined in article 2 of the ROO and the ROS respectively as a period starting on 1st April 2016 and ending on 31st March 2017, or any subsequent period of 12 months ending with the period of 12 months ending on 31st March 2037. Article 7 is subject to articles 67 and 68 of the ROO, and article 5 of the ROS is subject to articles 43 and 44 of the ROS, whereby payments can be made to the Authority as an alternative to production of ROCs;

C. Under article 67 of the ROO and article 43 of the ROS, payments by a supplier, as an alternative to production of ROCs, are required to be made before 1 September after the obligation period in question;

D. Under article 68 of the ROO and article 44 of the ROS, where a supplier has failed (in whole or part) to discharge its RO, by production of ROCs or by payments, before 1 September after the obligation period in question there is a further period, ("the late payment period"). This lasts from 1 September to 31 October after that obligation period, and suppliers are able to use it to pay the outstanding sums which correspond to the UK ROCs due under their RO, together with interest on a daily basis at 5% above the Bank of England Base rate;

E. Under article 68(6) of the ROO and article 44(6) of the ROS, where a supplier has paid to the Authority the outstanding sums due, together with interest, it will be treated as having discharged its RO for the relevant period;

F. Under article 68(7) of the ROO and article 44(7) of the ROS, if, by the end of the late payment period, a supplier has not paid to the Authority the outstanding sums due, together with interest, the supplier will not have discharged its RO for the relevant period;

G. Under these arrangements, a supplier was required to discharge its RO for the obligation period of 1st April 2018 to 31st March 2019 in full, via the presentation to the Authority of valid ROCs and/or via making a payment (or balancing payment, taking into account the value of any ROCs produced) to the Authority;

H. GNERGY Limited failed to present sufficient ROCs and/or make payments to discharge its RO, for the 2018-2019 obligation period, by 1 September 2019 as required by article 7 and as provided for in article 67 of the ROO and the equivalent provisions of the ROS;

I. The Authority has engaged with GNERGY Limited and sought suitable assurances (for example, a bank guarantee, confirmation of undrawn credit facilities, or confirmation of support from a parent company or other investor) that GNERGY Limited will be in a position to make payment of the outstanding sums and interest as provided for under article 68 of the ROO and article 44 of the ROS in order to meet its RO within the late payment period in 2019;

J. GNERGY Limited has refused or failed to provide the Authority with satisfactory assurances that it will be able to make the necessary payment within the late payment period;

K. The ROO was made by the Secretary of State, and the ROS by the Scottish Ministers, inter alia, in exercise of the powers conferred by sections 32 to 32K, 32LA and 32M of EA89, which, pursuant to section 25 of and Schedule 6A to EA89, are provisions imposing obligations enforceable as "relevant requirements" by the Authority; and

L. The Authority is satisfied;

a) that GNERGY Limited is likely to contravene the ROO and/or the ROS, by failing to produce ROCs to the Authority, or to make payments as an alternative, sufficient to discharge its RO, which is an obligation enforceable by the Authority as a relevant requirement for the purposes of section 25 of EA89; and

b) that the inclusion of an obligation upon GNERGY Limited within a Final Order, made under section 25(1) EA89, to compel payment to the Authority of the outstanding monies including interest accrued within the late payment period (that is, by 31 October 2019), is requisite for the purpose of securing GNERGY Limited's compliance with that relevant requirement.

**NOW THEREFORE:** The Authority, pursuant to section 25(1) of the EA89 makes a Final Order requiring GNERGY Limited to:

- 1) make a payment to the Authority in full settlement of its RO, for the obligation period of 1 April 2018 to 31 March 2019, in the sum of £673,876.62 plus accrued interest by no later than 31 October 2019; and
- 2) notify the Authority by email to [Silvia.Mariani@ofgem.gov.uk](mailto:Silvia.Mariani@ofgem.gov.uk) of such payment immediately after it has been made.

Dated: 29 October 2019

**Enforcement Decision Panel**

**Duly authorised on behalf of the Gas and Electricity Markets Authority**