

## Minutes of a meeting of the Gas and Electricity Markets Authority

From: Jennifer Todd  
Secretary to the Authority

Date: 27<sup>th</sup> January  
2021

Location: Virtual

### GEMA meeting minutes for Wednesday 27<sup>th</sup> January 2021

#### 1. Chair's Opening Remarks and Matters Arising

1.1 The Chair welcomed all members and attendees to the meeting and noted that no conflicts of interest had been reported.

1.2 The Board were briefed on some of the Chair's recent engagements. This included:

- An introductory meeting with the new Energy Minister, the Rt Hon Anne-Marie Trevelyan MP;
- Virtual site visits to 'Bridgend Energy Projects' and Isle of Scilly 'Smart Islands Programme'; and
- Other meetings with stakeholders.

1.3 There were no comments on the minutes from the last meeting.

1.4 The Chair noted that, following the Board's discussion in November, the Board Effectiveness Review was scheduled to start in February and that observers would join Board and Committee meetings in February, March and April.

1.5 The Chair highlighted the 'for circulation papers' submitted for the Authority's attention.

#### 2. CEO Report

2.1 The CEO, noting that Authority members were apprised of his written report, provided a brief summary on several topics including:

- The impact of COVID on the energy consumers and the industry;
- Security of supply;
- The Review of GB System Operation; and
- The forthcoming update to the Default Tariff Cap.

#### 3. Enforcement guidelines, Penalty Policies and NIS Review

3.1 The Board considered a paper which provided a number of recommendations in relation to the Enforcement Guidelines and Penalty Policies.

3.2 The Board supported the recommendations set out in the paper, subject to consultation.

3.3 The Board agreed that decision-making arrangements for the Enforcement Decision Panel in cases under the Network and Information Systems Regulations would be considered separately and brought back to the Board at a later date.

3.4 Having considered the paper, the Board approved the Ordinary Resolution set out at Annex A to these minutes.

#### **4. Future of Voluntary Redress Payments**

4.1 The Board considered a paper which presented recommendations on the future of the Voluntary Redress Fund.

4.2 The Board endorsed the approach set out in the paper and agreed with the recommendation to delegate the decision to enter into a contract for the third party management of the fund to the Director of Enforcement and Emerging Issues as set out in the paper. Accordingly, the Board approved the Ordinary Resolution set out at Annex B to these minutes.

#### **5. Ofgem Strategy and Policy Statement**

5.1 The Board discussed a paper which sought to highlight key considerations in formulating a Strategy and Policy Statement (SPS) for Ofgem as noted in the context of the Energy White Paper.

5.2 The Board noted the importance of ensuring that the SPS is carefully drafted, and does not fetter the Authority's discretion.

5.3 The Board requested that key developments were brought back to the Board for further consideration.

#### **6. Risk Management Strategy**

6.1 The Board were asked to consider the refreshed Risk Management Strategy for approval.

6.2 The Board noted that, in addition to the Audit and Risk Assurance Committee regularly reviewing strategic risks, it would be helpful for the Board itself to consider the Risk Appetite Statement, the Risk Management Strategy and key strategic risks at regular intervals.

6.3 Following discussion, the Board agreed to approve the updated Risk Management Strategy.

## **7. E-Serve administration of a future energy efficiency scheme**

7.1 The Board considered a paper which provided an update on the Energy Company Obligation (ECO) scheme, noting that the current phase of the scheme is due to end in March 2022 and that BEIS intends to consult on the next phase of the scheme in Spring 2021.

7.2 Following discussion, the Board agreed with the recommendation that work to engage with BEIS on the development of the next phase of the scheme and scoping activities in preparation for a possible role administering the scheme should continue.

## **8. AOB**

8.1 The Chair expressed his thanks, on behalf of the Board, to Patricia Dreghorn for her work with E-Serve during her time at Ofgem. A welcome was also extended to Priya Brahmhatt-Patel, the new Director of Communications.

8.2 The Board reflected on the meeting, noting a number of matters for consideration for future meetings.

## **9. Information paper – RIIO-2 Strategic Innovation Fund**

The Authority noted the paper.

## **10. Information paper – Decision Logs**

The Authority noted the paper.

## **11. Information paper – GEMA Forward Look**

The Authority noted the paper.

## **12. Information paper – Communications Insights**

The Authority noted the paper.

## **13. Information paper – Draft Minutes of the Audit and Risk Assurance Committee, December 2020**

The Authority noted the paper.

## **14. Information paper – Half-hourly Settlement update: Timeline and Implementation**

The Authority noted the paper.

## **Apologies for absence**

Myriam Madden

## **Those present**

Martin Cave (Chair)

Jonathan Brearley

Paul Grout

Christine Farnish

Lynne Embleton

John Crackett

Barry Panayi

## **Those attending**

Neil Kenward

Stephanie Broadribb

Euan McVicar

Patricia Dreghorn

Akshay Kaul

Priya Brahmbhatt-Patel

## **Others present**

James Kilmartin (Principal Private Secretary)

Vickie Baker (Head of Governance and Secretariat)

Jennifer Todd (Senior Governance and Secretariat Manager)

Katharine Diamond (BEIS Open Board Scheme)

Mark Wiltsher (Head of Communications)

## ***For specific agenda items***

Heather Swan (Item 3)

Lynne Parker (Item 3)

Bruno Sheldon (Item 3)

Michal Frances (Item 3-4)

Jennifer Dalziel (Item 3)

Megan Pickard (Item 3)

Megan Forbes (Item 3-4)

Charles Hargreaves (Item 3-4)

Carola Geist-Divver (Item 3)

Sophia McGuigan (Item 4)

Sian Jeffries (Item 4)

James Crawford (Item 4)

Marcia Polleti (Item 5)

Chris Brown (Item 5)

Karen Boyle (Item 6)

Chris Mack (Item 7)

David Fletcher (Item 7)

Carmel Golden (Item 7)

## **ANNEX A Ordinary Resolution**

Having considered a paper relating to the Enforcement Guidelines and Penalty Policies at a meeting of the Authority on 27 January 2021 (the "GEMA paper"), the Gas and Electricity Market Authority ("the Authority") resolves as follows:

- a. That (subject to the condition at b) below) the reserved functions of the Authority set out in the Schedule to its Rules of Procedure and specified at c) below shall be delegated to the Director of Enforcement and Emerging Issues for the purposes of approving the publication of:
  - i. a statement of policy on the imposition of financial penalties under the Network and Information Systems Regulations ("NIS Regulations");
  - ii. a revised statement of policy on financial penalties and consumer redress under the Gas Act 1986 ("GA") and the Electricity Act 1989 ("EA"); and
  - iii. a revised statement of policy on financial penalties and restitution under the European Union Regulation 1227/2011 on wholesale market integrity and transparency ("REMIT")<sup>1</sup>,(together the "Penalty Policies") each as set out in the GEMA paper.
- b. That the Director of Enforcement and Emerging Issues shall return to the Authority should any material new issues arise during the course of the planned consultation and further engagement exercises contemplated in the GEMA paper necessitating the Penalty Policies to deviate substantially from the principles set out in the GEMA paper.
- c. The reserved functions referred to at a) above are those set out in paragraph 15 of the Schedule to the Rules of Procedure in relation to the decision to publish a statement of policy on the Authority's approach to the imposition of penalties or other sanctions, restitution or redress for breach of any licence condition, relevant requirements or any other provision enforceable by the Authority.<sup>2</sup>

The Authority also agreed that it will consider for approval any relevant changes to the Terms of Reference<sup>3</sup> of the Enforcement Decision Panel and Sectoral and Competition Settlement Committees at a future meeting or via a written resolution<sup>4</sup> pending the outcome of the planned consultation and further engagement exercises as set out in the GEMA paper.

### **Ordinary Resolution of the Gas and Electricity Markets Authority 27th January 2021**

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<sup>1</sup> Following the United Kingdom's departure from the European Union, this is retained under the European Union (Withdrawal) Act 2018 and amended by the Electricity and Gas (Market Integrity and Transparency) (Amendment) (EU Exit) Regulations 2019 (SI 2019/534).

<sup>2</sup> Paragraph 15 of the Rules of Procedure refers to the decision to publish a statement of policy under certain provisions of the GA, EA and regulation 27 of the Electricity and Gas (Market Integrity and Transparency) (Enforcement etc) Regulations 2013. For reasons of consistency, this shall include a statement of policy on the imposition of financial penalties under the NIS Regulations for the purposes of this Ordinary Resolution.

<sup>3</sup> In accordance with paragraph 6 of the Schedule to the Authority's Rules of Procedure.

<sup>4</sup> In accordance with paragraph 12 of the Authority's Rules of Procedure.

## **ANNEX B Ordinary Resolution**

The Gas and Electricity Markets Authority (the "Authority") resolves that:

- a) The reserved function of the Authority in the Schedule to its Rules of Procedure specified in b) below be delegated to the Director of Enforcement and Emerging Issues for the purposes of entering into a contract with a third party to manage and allocate the voluntary redress fund, where the liability under that contract exceeds £2,000,000.
- b) The reserved function delegated is that set out in paragraph 8 of the Schedule to the Rules of Procedure of the Authority in relation to the entering into of any material contracts in the ordinary course of business, which involve a liability exceeding £2,000,000.

### **Ordinary Resolution of the Gas and Electricity Markets Authority 27<sup>th</sup> January 2021**