

Nabuh Energy Limited

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: Nabuh Energy Limited (company number 09812753) of 2 Pinfold Street, Sheffield, England, S1 2GU ("Nabuh")

WHEREAS:

- A. Nabuh 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. Nabuh 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 engaged with Nabuh in September 2019 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 it would 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. Nabuh provided such assurances to the satisfaction of the Authority at the time, but has subsequently refused or failed to make the said payments;
- 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. It appears to the Authority that Nabuh is likely to contravene the ROO, 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 that it is requisite to make a provisional order that it make the necessary payments forthwith.

NOW THEREFORE:

The Authority, pursuant to section 25(2) of the Electricity Act 1989, makes a provisional order requiring Nabuh to pay the sum of £880,582.111 to the Authority forthwith. Please notify the Authority by email to Silvia.Mariani@ofgem.gov.uk of such payment immediately after it has been made.

This provisional order will cease to have effect on 31 January 2020 unless confirmed by the Authority on or before that date.

Dated: 31 October 2019

Signed:

Charles Hargreaves

Deputy Director, Enforcement

Duly Authorised on behalf of the Gas & Electricity Markets Authority

¹ On 31 October 2019 Nabuh made a payment which fully discharged its ROS obligation and reduced the outstanding amount under the ROO to £650,582.11, inclusive of interest to 31 October 2019