

The Company Secretary

Pure Planet Limited  
Northgate House  
2<sup>nd</sup> Floor  
Upper Borough Walls  
Bath  
BA1 1RG

Date: 18 December 2019

Dear Sir/Madam,

### **Default tariff charge restriction: Directions for alternative compliance assessment**

This letter sets out the decision of the Gas and Electricity Markets Authority<sup>1</sup> to issue Pure Planet Limited (Company number 9735688; the “**Licensee**”) temporary directions pursuant to standard licence condition (“**SLC**”) 28AD.32 and SLC 28AD.33 of its electricity supply licence and SLC 28AD.31 and SLC 28AD.32 of its gas supply licence.

We can provide directions from certain SLCs in the supply licence to relieve a licensee from obligations to comply with certain licence conditions in specific circumstances and to a specified extent. We consider the use of directions only in limited circumstances and we will carefully consider the implications for the policy area. When considering a request for an extension, we will consider the Licensee’s performance and compliance during the period of the existing derogation.

The directions are attached to this letter and we will publish them on our website. They are effective from 1 January 2020 until 30 September 2020, unless revoked earlier or varied in writing by the Authority. If the Licensee complies with all the conditions set out in these directions, we are happy to consider a further extension. Any change in circumstances relevant to the directions must be reported to the Authority without delay.

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 licence conditions of gas and electricity supply licences.

#### *Background to the direction request*

The Authority received a written application from the Licensee on 5 December 2019 for directions concerning the compliance of its dual fuel Tariff and single fuel Tariffs (for both electricity and gas) with the default tariff Charge Restriction. The Licensee requested an extension to the existing directions, which end on 31 December 2019.<sup>2</sup> The structure of the Licensee’s Tariffs is such that the Charges for Supply Activities at certain low consumption levels would exceed the Relevant Maximum Charge. The Licensee’s business model is to pass through wholesale costs and network costs without including a profit margin, and to solely include their profit margin in the standing charge. This in turn, leads to a higher standing charge than allowed by the current level of the default tariff Charge Restriction.

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<sup>1</sup> The terms “the Authority”, “we” and “our” are used interchangeably in this document.

<sup>2</sup> Ofgem (2019) [Decision to issue Pure Planet Limited temporary directions for alternative compliance assessment for the default tariff price cap](#)

### *The Authority's Decision*

Based on the information provided by the Licensee, and having regard to our principle objective and statutory duties, we have decided to issue the requested directions for the following reasons:

- We have based our assessment on the evidence submitted by the Licensee and our experience from the past 12 months where the Licensee has benefitted from a direction we issued prior to the default tariff Charge Restriction entering into effect.
- As part of the directions granted on 1 January 2019, there were three conditions set which the Licensee had to comply with. These concerned the number of customers affected, the reimbursement of customers within 30 days of the end of a Charge Restriction Period and signposting affected customers to other potentially more suitable tariffs. The Licensee has provided evidence on their performance against the conditions.
- Only a very small number of customers with very low consumption levels have been affected and the level of overcharging of these customers has been very limited. We are therefore satisfied that this condition has been met.
- We are not sufficiently satisfied that the Licensee has refunded customers within the respective time period of 30 days following the end the relevant Charge Restriction Periods. Nor are we satisfied that they have signposted customers to other tariffs that might be more suitable.
- Because of the Licensee's performance over the last 12 months against the conditions set out in the previous directions, we have decided to only allow for a limited extension of the directions, subject to the same conditions as the existing directions. This gives the Licensee the opportunity to show full compliance for the current Charge Restriction Period (period 3 from October 2019 to March 2020). The directions will automatically expire after the fourth Charge Restriction Period (30 September 2020). This will give the Licensee sufficient time to amend their tariff to comply with the default tariff cap conditions, as set out in the gas and electricity Standard Supply Licences, if they cannot show compliance with the requirements of the directions. If the Licensee is compliant with the requirements of the directions, we can consider a further extension. We expect the Licensee to apply for a further extension, should it want one, by 1 June 2020.

Under these directions, the Licensee must inform the Authority without delay about whether any Relevant 28AD Customer has in fact incurred Charges for Supply Activities in excess of the Relevant Maximum Charge, at the end of each Charge Restriction Period.

We have issued a temporary direction effective from 1 January 2020 until 30 September 2020, but would consider a request from the Licensee to extend the directions if the Licensee has complied with all the conditions of the directions. As part of any future assessment, the Authority would take into consideration data on impact, up to and including the Charge Restriction Period ending 31 March 2020. Whilst we have provided a time-limited direction, we have not assessed whether the Licensee's tariffs provide good value to consumers.

If you have any questions about this decision, please contact Ofgem's Derogations team, at [Derogations@ofgem.gov.uk](mailto:Derogations@ofgem.gov.uk) .

Yours faithfully,

**Anthony Pygram**  
**Director**  
**Conduct and Enforcement**

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

The Company Secretary  
Pure Planet Limited  
Northgate House  
2<sup>nd</sup> Floor  
Upper Borough Walls  
Bath  
BA1 1RG

### **Direction issued by the Gas and Electricity Markets Authority under standard condition 28AD of the electricity supply licence granted or treated as granted under section 6(1)(d) of the Electricity Act 1989 to Pure Planet Limited**

#### **To: Pure Planet Limited (Company Number 9735688 (“the Licensee”))**

1. Under section 1(1) of the Domestic Gas and Electricity (Tariff Cap) Act 2018 (the ‘2018 Act’), the Gas and Electricity Markets Authority (the ‘Authority’)<sup>3</sup> gave notice on 6 November 2018 (the ‘Notice’) of its decision to modify the standard conditions, incorporated in supply licences by virtue of section 8 of the 1986 Act or section 8A of the 1989 Act, by introducing standard condition 28AD.
2. Standard condition 28AD includes conditions (‘tariff cap conditions’) that impose a cap on all standard variable and default rates that may be charged by the holders of supply licences for the supply of gas or electricity under domestic supply contracts.
3. Paragraph 32 of standard licence condition 28AD (“SLC 28AD.32”) of the Electricity Supply Licence (“the Licence”) provides that the licensee may apply to the Authority to request a direction concerning the compliance of a particular Tariff with the Charge Restriction where, due to the structure of the relevant Tariff, the Charges for Supply Activities at certain consumption levels would exceed the Relevant Maximum Charge, but the licensee can provide evidence to the reasonable satisfaction of the Authority that it is unlikely that Relevant 28AD Customers subject to such Tariff will have a consumption level which would cause them to incur Charges for Supply Activities in excess of the Relevant Maximum Charge.
4. The Authority issues this temporary direction pursuant to SLC 28AD.32 and SLC 28A.33 of the electricity supply licence granted under section 6(1)(d) of the Electricity Act 1989 to the Licensee in respect of the Licensee’s electricity Tariff named “100% green” (the “Relevant Tariff”), subject to the following terms.
5. Capitalised terms used in this Direction which are not defined in this Direction shall have the meaning given to them in the standard conditions of electricity supply licences.
6. The Authority directs that the compliance provisions of SLC 28AD.33 shall apply in respect of the Relevant Tariff instead of the ex ante compliance mechanism described in SLC 28AD.2. Accordingly, the notification and rebate requirements of SLC 28AD.33 shall apply in respect of the Relevant Tariff in the event that the Licensee determines that any Relevant Customer on the Relevant Tariff has incurred Charges for Supply Activities in excess of the Relevant Maximum Charge.

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<sup>3</sup> The terms “the Authority”, “we” and “us” are used interchangeably in this document.

7. The considerations and rationale of the Authority's decision are set out in the accompanying letter to the Licensee, dated 1 January 2020 and the directions we issued to the Licensee on 1 January 2019.
8. The Licensee is required to report any change of circumstances relevant to this direction to the Authority without delay.
9. This Direction shall take effect on and from 1 January 2020 and shall remain in force up to and including 30 September 2020, unless revoked earlier or varied in writing by the Authority.

Dated: 18 December 2019

**Anthony Pygram**

**Director, Conduct and Enforcement**

Signed on behalf of the Authority and authorised for that purpose.

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

The Company Secretary  
Pure Planet Limited  
Northgate House  
2<sup>nd</sup> Floor  
Upper Borough Walls  
Bath  
BA1 1RG

### **Direction issued by the Gas and Electricity Markets Authority under standard condition 28AD of the Gas supply licence granted or treated as granted under section 7A (1) of the Gas Act 1986 to Pure Planet Limited**

#### **To: Pure Planet Limited (Company Number 9735688 (“the Licensee”))**

1. Under section 1(1) of the Domestic Gas and Electricity (Tariff Cap) Act 2018 (the ‘2018 Act’), the Gas and Electricity Markets Authority (the ‘Authority’)<sup>4</sup> gave notice on 6 November 2018 (the ‘Notice’) of its decision to modify the standard conditions, incorporated in supply licences by virtue of section 8 of the 1986 Act or section 8A of the 1989 Act, by introducing standard condition 28AD.
2. Standard condition 28AD includes conditions (‘tariff cap conditions’) that impose a cap on all standard variable and default rates that may be charged by the holders of supply licences for the supply of gas or electricity under domestic supply contracts.
3. Paragraph 31 of standard licence condition 28AD (“SLC 28AD.31”) of the Gas Supply Licence (“the Licence”) provides that the licensee may apply to the Authority to request a direction concerning the compliance of a particular Tariff with the Charge Restriction where, due to the structure of the relevant Tariff, the Charges for Supply Activities at certain consumption levels would exceed the Relevant Maximum Charge, but the licensee can provide evidence to the reasonable satisfaction of the Authority that it is unlikely that Relevant 28AD Customers subject to such Tariff will have a consumption level which would cause them to incur Charges for Supply Activities in excess of the Relevant Maximum Charge.
4. The Authority issues this temporary direction pursuant to SLC 28AD.31 and SLC 28AD.32 of the gas supply licence granted under section 7A(1) of the Gas Act 1986 to the Licensee in respect of the Licensee’s gas Tariff named “100% green” (the “Relevant Tariff”), subject to the following terms.
5. Capitalised terms used in this Direction which are not defined in this Direction shall have the meaning given to them in the standard conditions of gas supply licences.
6. The Authority directs that the compliance provisions of SLC 28AD.32 shall apply in respect of the Relevant Tariff instead of the *ex ante* compliance mechanism described in SLC 28AD.2. Accordingly, the notification and rebate requirements of SLC 28AD.32 shall apply in respect of the Relevant Tariff in the event that the Licensee determines that any Relevant Customer on

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<sup>4</sup> The terms “the Authority”, “we” and “us” are used interchangeably in this document.

the Relevant Tariff has incurred Charges for Supply Activities in excess of the Relevant Maximum Charge.

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8. The Licensee is required to report any change of circumstances relevant to this direction to the Authority without delay.
9. This Direction shall take effect on and from 1 January 2020 and shall remain in force until up to and including 30 September 2020, unless revoked earlier or varied in writing by the Authority.

Dated: 18 December 2019

**Anthony Pygram**

**Director, Conduct and Enforcement**

Signed on behalf of the Authority and authorised for that purpose.