

## **Foxglove Energy Supply Limited**

### **Electricity Act 1989 (“the Act”)**

#### **Provisional Order under section 25(2) of the Electricity Act 1989**

To: Foxglove Energy Supply Limited (company number 09689035) of 16 North Mills, Frog Island, Leicester, Leicestershire, England, LE3 5DL (“Foxglove”).

#### **WHEREAS:**

- A. Foxglove is a designated electricity supplier (“supplier”) and the holder of a licence to supply electricity. As such, it is subject to the requirement to comply with the standard licence conditions (“SLCs”) of its electricity supply licence.
- B. Foxglove is a Voluntary Feed In Tariff (“FIT”) Licensee<sup>1</sup> and is required to comply with the conditions of SLC 33. SLC 33.3 provides that licensees shall comply with Part 3 of Schedule A (FIT obligations applicable to all licensees) with effect on and after 1st April 2010. Condition 3.1 of Part 3 of Schedule A to SLC 33 provides that licensees shall participate in the Levelisation Process as set out in Part 6 of the Feed-In Tariffs Order 2012, in accordance with the Authority’s instructions. Condition 3.1.2 of Part 3 of Schedule A, further provides that licensees will make FIT Levelisation Payments in accordance with the Authority’s instructions. SLC 33.5 states that Section C and Schedule A to Standard Condition 33 are “relevant conditions” for the purposes of section 25(8) of the Act and a non-complying licensee shall be subject to the enforcement powers of the Gas and Electricity Markets Authority (“the Authority”) under the Act.
- C. Where a supplier has failed to make a Levelisation Payment by a date specified by the Authority it will breach the requirements of SLC 33.3 and conditions 3.1 and 3.1.2 of Schedule A, Part 3 of SLC 33.
- D. Within FIT Year 9 (2018/2019) Foxglove failed to make its Quarter 2 Levelisation Payment on time. This resulted in the Authority taking alternative action against Foxglove

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<sup>1</sup> All the defined terms in this Order are defined by the SLCs

to resolve its late payment.<sup>2</sup> Foxglove was also late in making its Quarter 4 payment for FIT Year 9.

- E. For the current FIT Year 10, the deadline for FIT Levelisation Payments to be paid to the Authority for Quarter 3 (1 October to 31 December 2019) is 12 February 2020. Licensees are notified of the deadlines for payment and instructed to make payments as per the Feed-In Tariff Levelisation process Schedule 2019/2020<sup>3</sup>. The Authority instructed Foxglove on 29 January 2020 to make its Year 10, Quarter 3 Levelisation Payment of £602,930.63 by 12 February 2020.
- F. In early 2020 the Authority had requested assurances from Foxglove that it would be able to pay its Year 10, Quarter 3 Levelisation Payment. In those discussions Foxglove informed the Authority that it would be unable to make its Levelisation Payment for FIT Year 10 Quarter 3 by the 12 February 2020. At that time the Authority informed Foxglove that if it were unable to make the payment in full the matter would be referred to enforcement for consideration.
- G. It appears to the Authority that Foxglove is likely to contravene the requirements of SLC 33.3, conditions 3.1 and 3.1.2 of Schedule A, Part 3 of SLC 33 and the Feed-In Tariff Order 2012 by being unable to make its Levelisation Payment by the specified deadline of 12 February 2020. This is an obligation enforceable by the Authority as a relevant requirement for the purposes of section 25 of the Act. It is requisite to make a provisional order requiring Foxglove to make the required Levelisation Payment by the deadline of 12 February 2020.

## **NOW THEREFORE:**

The Authority, pursuant to section 25(2) of the Electricity Act 1989, makes a provisional order requiring Foxglove to pay the Levelisation Payment sum of £602,930.63 to the Authority by 12 February 2020. Please notify the Authority by email to [emma.lynch@ofgem.gov.uk](mailto:emma.lynch@ofgem.gov.uk) of such payment immediately after it has been made.

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<sup>2</sup> [https://www.ofgem.gov.uk/system/files/docs/2019/12/feed-in\\_tariff\\_annual\\_report\\_2018-19.pdf](https://www.ofgem.gov.uk/system/files/docs/2019/12/feed-in_tariff_annual_report_2018-19.pdf)

<sup>3</sup> [https://www.ofgem.gov.uk/system/files/docs/2019/02/levelisation\\_schedule\\_yr\\_10.pdf](https://www.ofgem.gov.uk/system/files/docs/2019/02/levelisation_schedule_yr_10.pdf)

This provisional order will cease to have effect on 11 May 2020 unless confirmed by the Authority on or before that date.

Dated: 11 February 2020

Signed:

Charles Hargreaves

Deputy Director, Enforcement

Duly Authorised on behalf of the Gas & Electricity Markets Authority