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*Promoting choice and  
value for all customers*

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Date: 4 November 2009

Dear Mark,

**Application by Energetics Electricity Ltd ("the Licensee") to vary alternative credit rating arrangements – the Gas and Electricity Markets Authority's decision**

1. The Licensee has requested a variation of the alternative credit arrangements, specifically seeking a reduction in the amount of upstream use of system charges to be held in escrow or covered by on-demand bond from six months' worth to one month's worth. After careful consideration of the detailed proposal, and for the reasons specified below, the Gas and Electricity Markets Authority ("the Authority") has decided to agree to a variation in the alternative arrangements referred to in paragraph 1 of the Amended Standard Licence Condition BA5 (Credit Rating of Licensee).
2. The alternative arrangements which have been in effect until now ("the Previous Arrangements") are described in a letter of 29 July 2004<sup>1</sup>, which made provisions for smaller companies to satisfy the Credit Rating Condition of the electricity distribution licence despite not having an investment grade issuer credit rating.
3. The new alternative arrangements ("the New Arrangements") applicable to the Licensee, which will supersede the Previous Arrangements, are set out below.

**So long as the Licensee has fewer than 500,000 connected supply points**

Option 1

The Previous Arrangements (under option 1) shall endure.

Option 2

The Previous Arrangements (under option 2) shall endure.

Option 3

3.1 Obtain a keep well agreement with the parent company of the Licensee; and (if the parent company does not have an investment grade issuer credit rating)

<sup>1</sup> Available on the Ofgem website at:  
<http://www.ofgem.gov.uk/Networks/ElecDist/Policy/IDNOs/Documents1/7811-Alternative%20arrangements%20update%20final.pdf>

3.2 Hold funds in a solicitor controlled trust account of a value no less than the sum of:

- i. One month's upstream Distribution Use of System ("DUoS") charges; and
- ii. Six month's cash operating costs (excluding upstream DUoS charges); and
- iii. Six month's asset replacement expenditure.

3.3 The account facility referred to in 3.2 above is to include a restriction to the effect that the portion of the balance in respect of upstream DUoS may only be paid out to specified beneficiaries (being distribution network operators with whom the Licensee has a trading relationship under the DCUSA) in respect of upstream DUoS for invoices received by the solicitors.

3.4 The Licensee shall provide the authority with an undertaking, prior to the cessation of the Previous Arrangements, not to grant security over any current or future book debts or other amounts due to the Licensee as if they were covered by SLC26 (Disposal of relevant assets) of the Electricity Distribution License: Standard Conditions.

3.5 Note that the trigger event for the making of payments out of the solicitor controlled trust account will be a failure by the parent company to meet a call under the keep well arrangement. The Licensee is required to notify Ofgem as soon as a call is made on monies held in the solicitor controlled trust account. As soon as payments are made from the solicitor controlled trust account the parent company will be obliged to either (i) arrange for full re-instatement of the escrow account or (ii) put the Licensee (or its networks) up for sale and shall within three months of the date of the invitation accept the best offer made.

**So long as the Licensee (including any affiliated companies) has more than 500,000 connected supply points**

The Previous Arrangements shall endure.

4. For the avoidance of doubt, the New Arrangements apply solely to Energetics Electricity Limited.
5. In deciding to vary the alternative credit rating arrangements in the way mentioned in paragraph 3, the Authority has considered the particulars of the Licensee's financial position and the arguments presented in the correspondence between the Licensee and Ofgem, namely:
  - i. To some extent, DCUSA negates the need for additional security;
  - ii. The Licensee has a strong trading history over four years, as evidenced by correspondence from DNOs to Licensee submitted to Ofgem;
  - iii. The keepwell deed continues to be in place;
  - iv. The ultimate controller continues to be in place;
  - v. The Energy Administration Regime provides a mechanism to take control of a company's bank accounts, and hence to some extent decreases the need for additional security; and
  - vi. The proposed new arrangements will still include one month's upstream use of system costs.
6. The Authority accepts the proposal from the Licensee to change from an on-demand bond to a solicitor controlled trust account with effect from 1 January 2010.
7. The Licensee is required to notify the Authority of any subsequent proposed changes to the arrangements in place.
8. The Licensee is also reminded of its obligation under condition 30 (Availability of Resources) of the Electricity Distribution Licence to maintain the financial health of

the Licensee and for the avoidance of doubt this decision does not alter or prejudice that obligation.

9. Please note that the regime for alternative arrangements provided for under standard condition BA3 is subject to ongoing review which means that in the future, subject to appropriate consultation, the arrangement applicable to individual IDNOs could be varied.
10. If you have any questions regarding the New Arrangements for the Licensee, please contact Daniel Rock<sup>2</sup>.

Yours sincerely

A handwritten signature in black ink, appearing to read 'H. Nixon', is written over a faint, light blue circular watermark that contains the text 'Ofgem'.

Hannah Nixon  
Partner - RPI-X@20 and Regulatory Finance  
For and on behalf of the Authority

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<sup>2</sup> Daniel Rock, Manager, Regulatory Finance, email: [Daniel.rock@ofgem.gov.uk](mailto:Daniel.rock@ofgem.gov.uk), telephone: 0207 901 7481