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*Promoting choice and  
value for all customers*

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Date: 31 March 2010

Dear Mark,

**Energetics Electricity Ltd ['the Licensee'] - variation to alternative arrangements in place under amended standard licence condition BA3 (Credit Rating of Licensee) ['SLC BA3']**

1. This letter constitutes an update to the decision of the Gas and Electricity Markets Authority ['the Authority'] set out in its letter addressed to you and dated 4 November 2009. The letter was in response to the Licensee's request for a variation of the arrangements to which it has been subject under paragraph 1 of SLC BA3<sup>1</sup>. At that time the Authority decided to agree to a variation of those arrangements and set out its reasons for doing so.
2. The Licensee has requested a minor revision to the terms of the variation and the Authority has agreed to this. The revision is shown as bold (added) and strike-through (deleted) text in paragraph 3.3 below. The revision means that in making any payments out of the portion of escrow funds which relate to upstream distribution use of system charges, the escrow agent must make the payments in accordance with a schedule provided by the Licensee in its latest escrow return to the Authority, rather than in accordance with invoices he has received. This is intended to limit the responsibility of the escrow agent in making payments of this type to observance of the schedule referred to. The new arrangements are set out below; references to previous arrangements are to those described in an Ofgem letter dated 29 July 2004<sup>2</sup>.
3. The new alternative arrangements applicable to the Licensee are:

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.

<sup>1</sup> The 4 November letter can be accessed as an associated document using the link on the parent web page of this document. Please note that the 4 November letter incorrectly referred to SLC BA5 instead of SLC BA3.

<sup>2</sup> <http://www.ofgem.gov.uk/Networks/ElecDist/Policy/IDNOs/Documents1/7811-Alternative%20arrangements%20update%20final.pdf>

### 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)

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~~ **in line with the Licensee's latest six monthly return whose receipt has been acknowledged by the Authority.**

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. The Licensee is required to notify the Authority of any subsequent proposed changes to the arrangements in place.
- 5. 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.
- 6. 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 arrangements applicable to individual IDNOs could be varied.
- 7. If you have any questions regarding the new arrangements for the Licensee, please do not hesitate to contact either me or Daniel Rock on 0207 901 7481.

Yours sincerely



Rachel Fletcher  
Partner - Distribution  
For and on behalf of the Authority