

STATEMENT OF REASONS

REVOCACTION OF BRIGHT ENERGY (NI) LIMITED LICENCE TO SUPPLY ELECTRICITY AND APPOINTMENT OF A SUPPLIER OF LAST RESORT

On 14 January 2022 the Utility Regulator ("UR") published notice of the fact that it had decided to revoke the electricity supply licence (the **Licence**) of Bright Energy (NI) Limited ("**Bright Energy**"). The revocation takes effect from 0.01 hours on 13 February 2022.

On 02 February 2022 the UR published notice that it had decided to appoint Power NI as the Supplier of Last Resort ("**SoLR**") in relation to the customers of Bright Energy following the decision to revoke the Licence. The decision is reflected in a SoLR direction issued to Power NI under Condition 22 of the Power NI supply licence. The SoLR direction takes effect (like the revocation) from 0.01 hours on 13 February 2022.

The described decisions are connected. The reasons for making them are set out as follows

REASONS

1. Under Schedule 2 of the Licence, the UR is entitled to revoke the Licence in the event that Bright Energy agrees (in writing) with any proposal of the UR that the Licence be revoked.
2. By letter of 7 January 2022 Bright Energy informed the UR that it may not be in a position to serve the interests of its customers from the end of February 2022. It asked that the Licence be revoked.
3. The UR was satisfied (having considered this correspondence) that a SoLR might well have to be made to protect the interests of Bright Energy's remaining customers. That SoLR direction would ensure continuity of supply for those customers. It would be a pre-requisite to the making of any SoLR direction that the previous supplier (in this case Bright Energy) had had its supply licence revoked.
4. The UR decided that it was appropriate to revoke the licence and give appropriate consideration to the making of a complementary SoLR direction (so as to appoint a SoLR). A notice of revocation was duly issued to Bright Energy on 12 January 2022.
5. The notice of revocation provided that the Licence would stand revoked from 0.01 hours on 13 February 2022: Schedule 2 of the Licence providing that not less than 30 days' notice be given to Bright Energy in circumstances where there had been an agreed revocation of the Licence.
6. Having issued the notice of revocation the UR went on to decide the issue of the making of a SoLR direction so as to appoint Power NI as the SoLR under Condition 22 of Power NI's electricity supply licence.
7. The UR was satisfied that, in the circumstances described, it was entitled to and should make a SoLR direction under Condition 22 of the Power NI supply licence appointing Power NI as the SoLR: with that SoLR direction taking place at the same time as the related revocation (namely, 0.01 hours on 13 February 2022) and ending 6 months later.
8. The question of whether or not to exercise each of these powers (revocation and appointment of a SoLR by a SoLR direction under Condition 22 of the Power NI licence) entailed the making of two legally separate, but closely related, decisions.

9. The UR was required to take each decision in accordance with its principal objective and general duties under Article 12 of the Energy (Northern Ireland) Order 2003. It considered that the following aspects of its objective and duties were particularly relevant to the decisions –

- a. the objective of protecting the interests of consumers,
- b. the objective of promoting effective competition,
- c. the duty to have regard to the need to secure that all reasonable demands for electricity are met,
- d. the duty to have regard to the need to protect the interests of certain groups of vulnerable customers.

10. Regard was had, in particular, to the following facts and matters –

- a. It was important to ensure that there was no risk to the continuation of supply of electricity to the customers of Bright Energy, particularly bearing in mind the fact that the agreed revocation would be effective in winter.
- b. A proportion of the customers of Bright Energy likely relied on keypad (prepayment) meters. At least some of those customers could be expected to fall into one or more of the vulnerable customer categories, and it was essential that they be able to continue to top-up their meters.
- c. Bright Energy's letter of 7 January 2022 made it clear that a bulk transfer of its remaining customers (in the absence of an agreed revocation) had been explored but was not considered feasible.
- d. If Bright Energy were to cease to provide services to its customers there was a risk (in the absence of the protection afforded by the appointment of a SoLR following a revocation of the Licence) that if any customers suffered an interruption in supply that could be expected to potentially undermine the confidence of consumers generally in the competitive market in electricity in Northern Ireland.

11. The UR was further satisfied (in making the SoLR direction appointing Power NI as the SoLR) that

- (a) Power NI had adequate resources to act as SoLR in relation to the customers of Bright Energy, and without disruption to supply to its existing customers so that the conditions set out in Condition 22(1)(b) of the Power NI supply licence were fulfilled
- (b) Existing industry arrangements in place with both Power NI and Northern Ireland Electricity Networks ensured that both companies had systems and procedures, being both agreed and tested, designed to ensure a smooth transition of customers – including in particular prepayment meter customers – to Power NI as part of the SoLR process

12. Having regard to all of these considerations, the UR decided to make the connected decisions to revoke the Licence and direct the appointment of a SoLR by the making of a suitable SoLR direction under Condition 22 of the Power NI Supply licence.