

NORTHERN IRELAND AUTHORITY FOR UTILITY REGULATION

PROVISIONAL ENFORCEMENT ORDER UNDER ARTICLE 42(2) OF THE ENERGY (NORTHERN IRELAND) ORDER 2003

To: The Company Secretary
EP NI Energy Limited (NI667118)
Kilroot Power Station,
Larne Road, Carrickfergus,
Co. Antrim,
United Kingdom, BT38 7LX

Whereas:

- (A) EP NI Energy Limited (the **Licensee**) is the holder of an electricity generation licence (the **Licence**) granted under Article 10(1)(a) of the Electricity (Northern Ireland) Order 1992 and authorising it to generate electricity at Kilroot Power Station (the **Station**). Terms used in the Licence shall have the same meaning when used in this order.
- (B) In order to maintain secure electricity supplies to consumers in Northern Ireland, the Transmission System Operator is responsible for dispatching generation sets such as those at the Station on a continuous basis inter alia through the acceptance of bids made by generators such as the Licensee into the wholesale electricity market operating on the island of Ireland.
- (C) Condition 17 of the Licence (the **Condition**) is designed to ensure that such bids are cost-reflective. To that end, the Condition requires that the Commercial Offer Data (**COD**) submitted by the Licensee to the market operator in respect of the generation set(s) at the Station for each Trading Day reflect Short Run Marginal Cost, with relevant cost-items being valued at their Opportunity Cost (as defined in the Bidding Code of Practice published by the Authority). Under paragraph 7 of the Condition the Authority may issue directions to the Licensee for the purpose of securing that the Licensee, in submitting its COD, complies with the requirements of the Condition and of the Bidding Code of Practice (**BCOP**) and provides that the Licensee shall comply with any such directions.
- (D) By letter dated 21 August 2025 the Licensee intimated its intention soon to begin increasing the value of certain components of the COD submitted in respect of certain generation sets at the Station by reference to a purported cost-item relating to certain risks of those units in the lead up to exhaustion of applicable emissions limits (the **Purported Cost-Item**).

- (E) Given doubts as to the entitlement of the Licensee to include the Purported Cost-Item in its COD and as to the Licensee's assessment of the Opportunity Cost of such Purported Cost-Item and given the implications for the wholesale market and to consumers of the intended increase in value of the relevant COD, the Authority issued directions dated 10 September 2025 (the **Directions**) to the Licensee under paragraph 7 of the Condition requiring that it not increase the value of any components of such COD with reference to the Purported Cost-Item except in accordance with the prior approval of the Authority (including, but not limited to, as to the methodology according to which such increase is to be calculated). The Directions also required the Licensee, for the purpose of obtaining such prior approval, to supply to the Authority a reasoned explanation of the proposed increase, together with supporting evidence sufficient to establish the consistency thereof with its obligations under the Condition and the BCOP.
- (F) In a letter sent by email to officials of the Authority on Sunday 21 September (at 17:51 hours) the Licensee provided an explanation of its proposals to increase the value of certain components of its COD by reference to the Purported Cost-Item accompanied by methodological, banking and insurance evidence. The letter, which states that it should not be considered to be a request to for approval under the Directions (the validity of which the Licensee claims to dispute), indicates that if the Authority's officials have questions regarding the methodology or calculation for the proposed increase they are encouraged to raise them with the Licensee in order to avail it of the ability to fairly and properly respond.
- (G) The Licensee's letter stated that if a response is not provided on behalf of the Authority by 16:00 hours on Monday 22 September 2025, the Licensee reserves its rights to proceed to increase the value of its COD by reference to the Purported Cost-Item without the approval of the Authority, notwithstanding that the Directions require prior approval of the Authority for any such increase and that compliance with the Directions is a requirement of paragraph 7 of the Condition. The Licensee has since written to the Authority (on 23 September 2025) calling on it to confirm its agreement with its proposals by 4:00pm today.
- (H) On this basis, it appears to the Authority that the Licensee is contravening, or is likely to contravene, the Condition; that it is requisite that this order be made; and that the provisions set out below are requisite for the purpose of securing compliance with such Condition.
- (I) In determining that it is requisite that this order be made, the Authority has had regard in particular (a) to the extent to which any person is likely to sustain loss or damage in consequence of anything which, in contravention of the Condition, is likely to be done, or omitted to be done, before a final order may be made; and (b) to the fact that the effect of the provisions of Articles 42 and 44 of the Energy Order is to exclude the availability of any remedy (apart from under those provisions or for negligence) in respect of any contravention of the Condition.
- (J) The Authority is satisfied that none of the duties imposed on it by Article 12 or 14 of the Energy

Order or Article 9 of the Electricity (Single Wholesale Market) (Northern Ireland) Order 2007 preclude the making of the order.

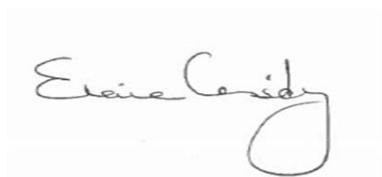
- (K) Before making this order the Authority has considered whether it would be more appropriate to proceed under the Competition Act 1998 and does not so consider.
- (L) The Authority is not satisfied (a) that the Licensee has agreed to take and is taking all such steps as it appears to the Authority for the time being to be appropriate for the Licensee to take for the purpose of securing or facilitating compliance with the Condition; or (b) that the apparent contraventions, or apprehended contraventions, by the Licensee are, of a trivial nature

Now therefore:

1. The Authority, pursuant to Article 42(2) of the Energy Order and for the purposes of securing compliance with the Condition, makes a provisional order in terms of which:
 - a. the Licensee shall, before increasing the value of any component of the COD submitted in respect of any generation set(s) at the Station by reference to the Purported Cost-Item, seek and obtain the approval of the Authority; and
 - b. the Licensee shall not, prior to obtaining such approval, increase any such component of such COD by reference to the Purported Cost-Item.
2. This order shall take effect from 18:00 hours on 24 September 2025 and lapses at 18:00 hours on 23 December 2025 unless confirmed by the Authority on or before that date.
3. Pursuant to Article 44(7) of the Energy Order the Authority may seek to enforce compliance with this order by application to the court for injunction or other appropriate relief.
4. The making of this order does not preclude the Authority from imposing a financial penalty for the same contravention(s) under Article 45(1) of the Energy Order within the time limit prescribed by Article 47(2) of the Energy Order.

Dated: 24 September 2025

Signed for and on behalf of the Authority:

A handwritten signature in black ink, appearing to read 'Elaine Cassidy', with a large, stylized loop at the end of the signature.