



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1754/12/13/25

BETWEEN:

ZENOBĒ ENERGY LIMITED

(the “Applicant/ Zenobē”)

- v -

GAS AND ELECTRICITY MARKETS AUTHORITY

(the “Respondent/GEMA”)

REASONED ORDER (ABRIDGMENT)(STAY)

UPON the application for review of a subsidy decision dated 22 October 2025 under section 70 of the Subsidy Control Act 2022 by Zenobē (the “NoA”)

AND UPON the application by Zenobē dated 29 October 2025 requesting abridgment of the time period for the Respondent to file its defence (the “Abridgment Application”)

AND UPON GEMA’s response to the Abridgment Application dated 30 October 2025 (the “Response”), in which it also applied for a stay of these proceedings until 25 November 2025 and for the Applicant to be ordered to file an amended NoA (the “Stay Application”)

AND UPON reading Zenobē’s reply dated 31 October 2025 (the “Reply”)

IT IS ORDERED THAT:

1. The Abridgment Application is refused.
2. The Stay Application is refused.
3. Costs are reserved.
4. Liberty to apply.

REASONS

A. Summary of the parties' submissions

1. Under Rule 15(1) of the Tribunal Rules, parties are required to file any defence to a notice of appeal within six weeks of the date on which the respondent receives a copy of the notice of appeal. The Respondent was served with the NoA by the Registrar on 24 October 2025. By the Abridgment Application, Zenobē seeks an order that:
 - (a) by Friday 21 November 2025, GEMA shall file and serve its defence and any supporting evidence of fact; and
 - (b) by Friday 21 November 2025, GEMA shall provide Zenobē with copies of any documents required in order to comply with GEMA's duty of candour.

The dates for both subparagraphs of the proposed order are four weeks from the date of service of the NoA, rather than the usual six weeks.

2. The reasons provided for an abridgment of time are that:
 - (a) Ofgem has emphasised the importance of swiftness throughout the process of making the scheme the subject of the NoA;
 - (b) the issues in dispute are said to be narrow in scope; and

- (c) the issues in dispute are well known to GEMA, having been raised by Zenobē in consultation and correspondence over the past year.
3. The reasons provided for the order for disclosure of documents required under GEMA's duty of candour are that Rule 15(5) provides that, as far as practicable, written statements of all witnesses of fact and all documents on which the defendant relies shall be annexed to the defence. Zenobē also contends that GEMA should already have undertaken the searches necessary to comply with its duty of candour during the pre-action phase and that the provision of those documents should coincide with the service of the defence and supporting evidence .
4. GEMA opposes the Abridgment Request and submits that four weeks will not be a sufficient time for it to prepare pleadings and witness evidence, in what it characterises as complex and novel legal proceedings. No further detail is provided about why this is said to be the case. GEMA also suggests that abridgment is inappropriate in circumstances where the Applicant has, it says, delayed in bringing its appeal, and has filed a particularly voluminous NoA and supporting documents.
5. GEMA contends that the order sought by Zenobē is not reasonable or appropriate, and instead applies for an alternative order that:
- (a) the proceedings be stayed until 25 November 2025. This is said to be the date on which primary legislation will be enacted that will oblige Ofgem to provide the scheme that is the subject of the NoA. GEMA submits that this legislation will create a 'Statutory Bar' to these proceedings; and
- (b) Zenobē be required to file and serve an amended NoA by 25 November 2025, which properly addresses the Statutory Bar that GEMA claims will arise, and to provide further particulars of its case about the grounds on which the alleged subsidy is said to come from public resources.

GEMA has also suggested that, if Zenobē continues with these proceedings, it will likely apply for strike out on the basis of the Statutory Bar.

B. Analysis

6. In my view, none of the reasons provided by Zenobē adequately support an order for abridgement of time:
 - (a) Firstly, even if it is true that Ofgem has sought to move swiftly in making the scheme the subject of the NoA, it is not clear to me why this should lead to a conclusion that these proceedings be expedited. On Zenobē's case, the scheme that is said to constitute the alleged subsidy has already been made. According to the NoA, GEMA will undertake project assessment over the coming months, with finalisation of any license conditions (and therefore any subsidy payments) not occurring until at least summer 2026. There is no obvious case for expedition in these circumstances.
 - (b) Secondly, I am not satisfied that the issues in dispute are sufficiently narrow to justify expedition at this stage, particularly in circumstances where GEMA submits that the matters raised are complex and novel. By way of example, the Response suggests that the Statutory Bar may raise a complex issue of statutory overlay that will need to be determined alongside Zenobē's subsidy claim as articulated in the NoA.
 - (c) Finally, it does not seem relevant to me that GEMA may already be aware of the issues in dispute. In many legal proceedings, parties engage in lengthy and detailed pre-action correspondence. Without more, prior knowledge of likely issues in dispute does not seem a good reason to circumscribe a respondent's time to prepare its defence in light of the matters actually raised in a notice of appeal.
7. In light of the above, I will not abridge the time for GEMA to file its defence. It follows that I will also make no order regarding the disclosure of documents to satisfy GEMA's duty of candour, which was proposed to be aligned with the date for GEMA's defence.

8. In relation to GEMA's application for a stay, on the material before me, I am not in a position to conclude whether any Statutory Bar will arise, nor that it will be dispositive of these proceedings. If the Statutory Bar is to be raised in these proceedings, the position of the parties on its applicability and legal effect will need to be articulated in their pleadings, and any dispute will need to be the subject of legal argument. GEMA submits that it is not appropriate or proportionate for scarce public resources and money to be diverted to the preparation of detailed substantive response to Zenobē's appeal, in circumstances where it will very shortly be subject to the Statutory Bar. However, if GEMA is correct about the Statutory Bar, then it will be able to seek an order for payment of its costs. I am therefore not prepared to order a stay at this stage.
9. I also decline to order the Applicant to file and serve an amended NoA. In relation to the alleged Statutory Bar, if GEMA considers that this will be dispositive of these proceedings, it can articulate its position in its defence and apply for strike out in due course. Any request for further particulars will need to be the subject of a proper application which (given the apparent disagreement between the parties about the need for further particularity) will probably most conveniently be dealt with at the first CMC in these proceedings. I decline to order further particulars at this stage.

Mr Ben Tidswell

Chair of the Competition Appeal Tribunal

Made: 3 November 2025

Drawn: 3 November 2025