



COMPETITION APPEAL TRIBUNAL

NOTICE OF APPEAL UNDER SECTION 70 OF THE SUBSIDY CONTROL ACT 2022

Case No: 1769/12/13/26

Pursuant to Rule 14 of the Competition Appeal Tribunal Rules 2015 (S.I. 2015 No. 1648) (the “Tribunal Rules”), the Registrar gives notice of the receipt of an application (the “Application”) on 17 March 2026, under section 70 of the Subsidy Control Act 2022 (the “SCA22”) by Zenobē Energy Limited (the “Applicant” or “Zenobē”). The Applicant is represented by Norton Rose Fulbright LLP, 3 More London Riverside, London SE1 2AQ (Ref: Susanna Rogers, Mark Mills, Jane Kluske and James Dempsey).

According to the Application, the Applicant, owns and operates lithium-ion battery energy storage systems (“BESS”) assets in the UK through subsidiaries, each of which either is the holder of an electricity generation licence granted under the Electricity Act 1989 (“EA89”) or operates under an exemption from the requirement to hold a licence.

The Respondent, GEMA, is a non-ministerial government department established under the Utilities Act 2000 and is the independent regulator of gas and electricity markets in Great Britain. Its day-to-day functions are carried out by the Office of Gas and Electricity Markets (“Ofgem”).

On 22 October 2025, Zenobē filed an earlier application (the “First Application”) under the SCA22 regarding a purported decision of the Gas and Electricity Markets Authority (“GEMA” or the “Respondent”) to make a subsidy scheme in respect of longer-duration energy storage (the “Scheme”) projects in September 2025 (the “2025 Decision”). Further details of the First Application and the Scheme are available on the Tribunal’s [case page](#) for Case No: 1754/12/13/25.

Zenobē’s primary case remains that a subsidy scheme was made by the 2025 Decision and that GEMA erred in law in making the 2025 Decision on the grounds set out in the First Application. This Application alleges that GEMA made a further decision to adopt the 2025 Decision on 18 February 2026 (the “2026 Decision”). Zenobē now also alleges that GEMA erred in making the 2026 Decision to adopt the 2025 Decision.

Since the 2026 Decision adopted all previous work done by GEMA including the 2025 Decision, it is alleged that the majority of Zenobē’s grounds of challenge to the 2025 Decision are equally applicable to the 2026 Decision. More specifically, Zenobē applies for review of the 2026 Decision on the grounds that GEMA has erred in law and/or acted in breach of the SCA22, as follows:

1. in failing, contrary to s.12(3) SCA22, to consider the subsidy control principles before making the Scheme; and in making the Scheme without reaching the view that the subsidies provided for by the Scheme will be consistent with those principles;
2. in failing, contrary to s.13(3) SCA22, to consider the energy and environment principles before making the Scheme; and in making it without reaching the view that the subsidies provided for by the Scheme will be consistent with those principles;
3. in failing, contrary to s.52(1)(a) SCA22, to request a report from the Competition and Markets Authority before making a subsidy scheme of particular interest, with the consequence that the Scheme is prohibited by virtue of s.33(1) SCA22;
4. in failing, contrary to s.33(1)(b) SCA22, to ensure that an entry in the subsidy database is made in respect of the Scheme;

By way of relief, the Appellant seeks:

1. A declaration that GEMA made a “subsidy decision”, within the meaning of s.70(1) and (7) SCA22, to make a “subsidy scheme”, within the meaning of s.10(1) SCA22.
2. A declaration that GEMA has breached its duty under s.12(3) SCA22 to consider the subsidy control principles before making a subsidy scheme.
3. A declaration that GEMA has breached its duty under s.13(3) SCA22 to consider the energy and environment principles before making a subsidy scheme.
4. A declaration that GEMA has breached its duty under s.52(1)(a) SCA22 to request a report from the CMA before making a subsidy scheme of particular interest.
5. A declaration that the Scheme is prohibited pursuant to s.31(1) SCA22.
6. A declaration that GEMA has breached its duty under s.33(1)(b) SCA22 to ensure that an entry in the subsidy database is made in respect of the Scheme.
7. An order quashing the 2026 Decision.
8. Such further or other relief as appropriate.
9. Costs.

The First Application has been listed for hearing on 28 April 2026 with a time estimate of two days, with one day held in reserve (the “Hearing”). The Tribunal currently intends to jointly

case manage this Application with the First Application given the overlap in legal issues and evidence, with both applications to be heard at the Hearing.

Any person who considers that they have sufficient interest in the outcome of the proceedings may make a request for permission to intervene in the proceedings, in accordance with rule 16 of the Rules. Pursuant to rule 14(3)(f) of the Rules, and given the need to deal with this Application expeditiously so that it can be heard at the Hearing, the President directs that any applications to intervene are to be filed within seven days of the publication of this notice.

Please also note that a direction of the President is currently in place as to the electronic filing of documents: see paragraph 2 of the [Practice Direction](#) relating to Covid-19 published on 20 March 2020. Therefore, a request for permission to intervene should be sent to the Registrar electronically, by email to registry@catribunal.org.uk so that it is received within seven days of the publication of this notice.

Further details concerning the procedures of the Competition Appeal Tribunal can be found on its website at www.catribunal.org.uk. Alternatively, the Tribunal Registry can be contacted by telephone (020 7979 7979) or email (registry@catribunal.org.uk). Please quote the case number mentioned above in all communications.

Charles Dhanowa CBE, KC (Hon)
Registrar

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