

July 2000

**Categories of gas and electricity customers who should
continue to benefit from certain regulatory safeguards**

A Consultation Paper

Executive Summary

This consultation paper seeks views on the extent of the class of customers requiring certain regulatory safeguards. In both gas and electricity it has been the practice to extend certain types of safeguard only to smaller customers. That is appropriate where markets are developing or where customers have little bargaining power. As competition develops, the groups needing additional protection may change. In this consultation paper we refer to these various groups, collectively, as 'small customers'.

There are existing definitions of small customers to whom certain safeguards apply. However, these definitions are different for electricity and gas supply. The additional safeguards therefore apply to different groups of customer. Keeping the definitions as they are would mean a customer's receiving additional protection in respect of one fuel, but not the other. These differences seem increasingly anomalous in a dual-fuel market. Ofgem therefore proposes that there should be a common definition, and that it should be 'a customer who lives in premises occupied wholly or mainly for domestic purposes'

The types of regulatory protection concerned are:

- price controls;
 - determination of disputes;
 - service levels (including codes of practice and standards of performance);
 - the duty to supply (including such things as contract terms and marketing);
- and
- 'supplier of last resort' arrangements.

A main aim of the Utilities Bill, currently before Parliament, is to align gas and electricity regulation, where possible. The Bill makes no size distinction between customers, and

will largely remove such distinctions from existing legislation. However, as currently drafted, the gas and electricity legislation and licensing regimes will still contain different 'small customer' definitions.

In creating the primary regulatory duty to protect the interests of customers, the Bill lists specific groups to whose interests the regulator should have particular regard. These are all domestic customers¹. The 'small customer' definition should contribute to a focus of regulatory protection on those in genuine need of it. A simpler, common definition of 'small customer' would make the identification of protected customers easier.

In both gas and electricity, price controls now apply only where competition is not, or cannot be, fully established. Competition is already proving to be the most significant driver of customer prices. Limiting additional protection to those smaller customers who genuinely need it would accord with Ofgem's policy of reducing the scope of regulatory intervention, as competition becomes established. It could reduce costs, and improve comprehensibility.

This paper draws attention to the areas of regulatory activity that would be affected by changing the 'small customer' definitions. These include, supplier of last resort arrangements, resale price directions, determination of disputes, codes of practice, standards of performance, the duty to supply, and the terms of supply contracts.

Obviously, there is a range of interested parties whose views and comments on these topics would be helpful to us. Chapter 1 sets out the background, while Chapter 2 explains the purpose of the consultation. The recommendation and the justification for the proposed approach are in Chapter 3. Chapter 4 looks at the various areas to which

¹ The Bill lists individuals who are: disabled or chronically sick; of pensionable age; in receipt of low incomes; or resident in rural areas.

the small customer definitions are relevant. In Chapter 5, we identify the stakeholders and the information and views that we should be particularly interested to receive from them. Finally, Chapter 6 explains what the timetable for the consultation will be, and how we shall handle the responses.

The deadline for responses to this consultation is Friday, 1 September 2000. We plan to reach decisions on the various issues set out here, before the publication of the final draft, standard licence conditions.

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1. Introduction and background

Introduction

- 1.1 The aim of this consultation paper is to seek views on the extent of the class of gas and electricity customers requiring certain regulatory safeguards under Statutory Instruments and licence conditions.
- 1.2 There are a number of existing obligations that apply only to small users of gas and electricity. A fundamental question is to what extent, in a fully competitive supply market, customers still require additional protection. This consultation paper considers each of the existing obligations, suggesting how they might be applied in future. It also explores the possibility of achieving greater consistency across the gas and electricity industries

Background

- 1.3 In both gas and electricity regulation it has been the practice to extend certain types of protection only to smaller customers. This is appropriate where competitive markets are developing, or in circumstances where small customers, who have little bargaining power, are obliged to take services from natural monopolies. In the gas industry, the term 'domestic customer' appears, at present, in statute and in the licences. In electricity, the term 'designated customer' is used similarly. Differences between the two fuels, and differences of custom and practice in the two industries have produced different small customer definitions.

- 1.4 Section 15A(10) of the Gas Act 1986 defines a 'domestic customers' as a person who is supplied by a gas supplier with gas conveyed to particular premises at a rate which is reasonably expected not to exceed 2,500 therms (73,200 kWh) per year. Some domestic customers are, therefore, not regarded as 'domestic customers' under the Act, because their gas consumption exceeds the threshold. In electricity supply, the corresponding definition is in the licences. They define 'designated customers' as including all those resident in premises used wholly or mainly for domestic purposes, plus customers expected to use less than 12,000 kWh per year. There is no obvious correlation between the electricity and gas consumption thresholds.
- 1.5 Many small business customers have protection in one market, but not in the other. In a dual-fuel market, that does not appear to be a sensible pattern for the future. While the balance of advantage seems to lie with reducing the regulatory burden, and restricting additional protection to premises used wholly or mainly for domestic purposes, such a move would mean that some small business customers lose protection that they have hitherto enjoyed.
- 1.6 Impending legislation on the structure and regulation of the gas and electricity utilities makes this an appropriate time for Ofgem to consult on the definition of small customers.

- 1.7 Among the main objectives of the Bill are: the separation of electricity distribution and supply into separate Companies Act companies; the fusion of the gas and electricity regulators into a new Gas and Electricity Markets Authority ('the Authority'); and the alignment (as far as practicable) of the regulation of the gas and electricity industries. There will be new duties and powers for the new regulatory body, and a new system of electricity licensing, based on the present gas model of standard licence conditions.
- 1.8 At the time of drafting, the Bill has not completed its passage through Parliament, but it should receive Royal Assent by the end of July. The majority of its provisions, together with new licences for both the gas and electricity industries, will probably come into force in early 2001.
- 1.9 When Ofgem consulted on the draft standard licence conditions, on behalf of the Secretary of State, it was the DTI's intention that the Secretary of State would make a Statutory Instrument, defining 'small customer', and possibly aligning the definitions for electricity and gas. That expectation has since changed, as DTI decided that statute was not the most appropriate place for the definitions. The alternative of putting them in licence conditions will give greater flexibility. Condition 26 in the proposed gas and electricity standard supply licences will require change, to remove the reference to a Statutory Instrument.

1.10 The Utilities Bill makes no size distinction between customers. The Bill currently amends existing gas legislation to remove most such distinctions². As a consequence, the definition of small customers to whom special protection would be given will have to take effect through licence conditions.

² Some references to the 2,500 therm (73,200 kWh) threshold will remain in the Gas Act 1986. These are in sections 7A (power to grant licences), 10(10) (written connection agreements) and in Schedule 2B, paragraph 14 (failure to maintain shipping arrangements).

2. Purpose of the consultation

Introduction

- 2.1 The purpose of this consultation is to seek views on which groups of smaller gas and electricity customers might continue to need certain regulatory safeguards, and whether these should be the same groups in both gas and electricity, taking account of wider developments in the relevant markets.

Why are 'small customers' an important topic just now?

- 2.2 By 1999, all small customers had gained the ability to choose their supplier in the gas and electricity markets. Increasingly, small customers have been choosing to take both gas and electricity from the same 'dual-fuel' supplier. The different small customer definitions applying in gas and electricity seem increasingly anomalous in a dual-fuel market. Moreover, the existing definitions could confuse customers to whom it will not be apparent why different rules should apply to different aspects of their energy supply with a single supplier. In a dual-fuel market, it seems important that the same customer groups are protected in both parts of the market. The existing dichotomy will seem increasingly odd as the new legislation removes many of the other differences between electricity and gas regulation.

Small customers and the Authority's principal objective

- 2.3 The new legislation will give the Secretary of State and the Authority a principal objective of carrying out their statutory functions in such a manner as to protect the interests of consumers in relation to the supply of gas and electricity, wherever appropriate by promoting effective competition. This implies that competition is likely to be the best way to protect the customer interest and that,

where competition is established, regulation should be either reduced or eliminated.

- 2.4 To keep regulatory controls in place after the satisfactory establishment of a competitive market risks market distortion, restriction on innovation and competition, and barriers to new entrants. A central theme of Ofgem's policy, as with its predecessor organisations, is withdrawal from direct regulation, as competition becomes established.
- 2.5 The clauses in the Utilities Bill setting out the principal objective specifically list those groups to whose interests the Authority should have special regard. These are individuals who are disabled, chronically sick, pensioners, those in receipt of low incomes, or resident in rural areas. These all fall within the definition of domestic consumers occupying premises wholly or mainly for domestic purposes. The definition of small customers should contribute to establishing a focus of regulatory activity on those in genuine need of protection.
- 2.6 Regulation would, of course, continue to afford protection to all customer groups. Those defined as small customers would receive additional protection, in certain respects. It seems appropriate that domestic customers (i.e. premises used wholly or mainly for domestic purposes) receive this additional protection. A problem with the existing domestic gas customer definition is that it excludes some domestic customers whose consumption of gas exceeds the prescribed threshold. It is sometimes less affluent customers whose consumption is large. Ofgem is aware of instances of pensioner households and large families excluded from the protection they need. The former should have access to special needs registers,

while the latter may need protection from disconnection for non-payment.

Another question is whether some small, non-domestic customers have a continuing requirement for additional protection.

The development of competition as a protection for customers

2.7 By the end of March 2000, more than 8 million customers had changed their gas supplier, and almost 6 million had changed electricity supplier³.

2.8 Approximately 18% of small businesses (about 380,000) have signed contracts with a new electricity supplier. That figure could rise to 1.25 million sites within the next two years. It has been estimated that more than 60% of small businesses in Great Britain will switch electricity supplier by the end of 2002.

2.9 Separation of the gas transmission business from the gas supply business resulted in benefits for customers⁴ that would not otherwise have been realised.

Separation of the electricity distribution and supply businesses will promote competition in electricity markets, further benefiting small customers.

Additionally, in relation to small customers, Ofgem will be pressing forward with work on competitive meter and data services, including meter provision, operation, and reading in both gas and electricity.

Reduction of regulatory intervention

2.10 We have removed price controls for all domestic direct debit customers and have committed to removing them, subject to the development of competition, for

³ These figures are for gas customers using less than 2,500 therms (73,200 kWh) per year and for electricity customers with a maximum demand less than 100kW.

other domestic customers from 2001 in gas and 2002 in electricity. We are about to consult on the possible removal of the non-discrimination conditions from gas and electricity licences, because of the development of competition. While the new principal objective clearly indicates that certain domestic customers should continue to enjoy additional protection, the reduction of regulatory intervention remains a guiding principle.

- 2.11 Limiting additional protection to those small customers who genuinely need it would accord with Ofgem's policy of reducing the scope of regulatory intervention. Reducing the activities of monitoring compliance with additional safeguards would contribute significantly to lowering the direct cost of regulation. Removing reporting requirements for some classes of small customer would mean savings for many licensees, too. A simpler, common definition of the 'small customer' would make identification of protected customers easier for most licensees⁵. There would be less need to explain simplified regulatory arrangements to customers.

Protection in residual monopoly areas

- 2.12 As the supplier is the prime, and usually the only, point of contact for smaller customers, this consultation concentrates on the supply function. The regulation of services provided by monopoly businesses (e.g. electricity distribution) would not necessarily support a distinction between large and small customers. There may be a stronger case here for continuing to extend an appropriate degree of protection to all customers.

⁴ The National Audit Office recently estimated that these benefits have amounted to some £1 billion annually.

'Designated premises'

- 2.13 The 'designated premises' definition in electricity licences currently ties in with a number of electricity licence conditions containing references to small customers. These include conditions on: the duty to supply smaller customers⁶; principal terms of contracts⁷; and marketing obligations⁸. Full lists of such references are at Annexes A and B to this consultation paper. It should be borne in mind that the versions of the standard licence conditions referred to in this paragraph were drafted in the expectation of a Statutory Instrument defining small or designated customers. There will now be no such Statutory Instrument.

Industry agreements

- 2.14 A change of definition of small customer would necessitate some changes to industry agreements. It would be particularly helpful to have views on the extent of those changes, and whether any significant difficulty would attach to making them.

Registration systems

- 2.15 A change to the small customer definitions would have implications for the supply point administration system operated by Transco and for the metering point administration systems operated by the PES distribution businesses. The electronic records would probably require some sort of flag, indicating domestic premises. Such a flag exists in the PES registration system (profile classes 01 and

⁵ Domestic customers already have to be identified, for VAT purposes. New arrangements flowing from the legislation will, in any event, necessitate some changes. A changed definition would, depending on the functionality required, add others.

⁶ Condition 29 in the proposed supply licences, for gas and electricity.

⁷ Condition 46 in the proposed supply licences, for gas and electricity.

⁸ Condition 52 in the proposed supply licences, for gas and electricity.

02 relate to domestic customers) but there is no equivalent in the gas registration system. Any necessary changes to registration systems would probably have to be implemented by about the end of the first quarter of 2001.

- 2.16 Ofgem understands that the existing Transco system could be modified to recognise domestic customers. Suppliers would need to be able to pass the relevant information to Transco, via the shippers. Ofgem would welcome views on the practicality of this approach.
- 2.17 We should particularly welcome views on registration issues. Are there any problems not identified here? What would be the likely time implications of modifying systems to accommodate the sort of common, simplified definition envisaged in this consultation paper? What obligations should there be on suppliers (and gas shippers) to pass on the necessary updated information to the registration system operator?

3. Recommendation and justification

Recommendation

- 3.1 Ofgem considers there to be merit in producing a simple, common definition of 'small customer' for both gas and electricity markets. The present consumption-threshold definitions⁹ mean that many customers using both gas and electricity benefit from different supplier obligations in respect of each of the two fuels. Given the drawbacks of the existing consumption-threshold approach, an appropriate definition would cover those customers resident in premises used wholly or mainly for domestic purposes.

Justification

- 3.2 The present gas definition of 'domestic customers' is misleading in that it includes small business users and excludes domestic premises where consumption is greater than 73,200 kWh per year. The electricity definition of 'designated customers' incorporates a definition of domestic customers that has been used for some time. It covers those taking supply at premises used wholly or mainly for domestic purposes, and also non-domestic customers with a consumption of 12,000 kWh per year.
- 3.3 There is no apparent relationship between the 73,200 kWh and 12,000 kWh thresholds. It is not clear that alignment could be based on more justifiable thresholds, and, in any event, the result would still be different levels of protection for gas and electricity customers. A consumption threshold would not achieve this satisfactorily. There are dangers in setting arbitrary thresholds that

⁹ In electricity 'designated customers' are those occupying premises wholly or mainly for domestic purposes, and those with an anticipated usage of less than 12,000 kWh per year. In gas, 'domestic customers' are those whose likely consumption is less than 73,200 kWh per year.

may cause apparent injustice at the margin, and that may lose their relevance, over time, as the market and pattern of fuel use change.

- 3.4 Small non-domestic customers are more likely to switch supplier than are domestic customers. They would generally be better equipped to negotiate and understand contracts.
- 3.5 Moving to a simple, domestic definition, similar to that of 'premises used wholly or mainly for domestic purposes' (as currently used in electricity licences) would:
- make protected customers more readily identifiable;
 - reduce, overall¹⁰, the scope of regulation, lowering associated costs (at least in electricity supply);
 - contribute to simplification and comprehensibility; and
 - be consistent with Ofgem's policy of reducing regulation as competition becomes established.
- 3.6 It seems sensible to keep the existing, different definitions in the residual supply price controls, and to give all customers access to determination of disputes. Depending on the views received during consultation, it might also be sensible to preserve the existing universal coverage of maximum resale prices for gas (See paragraph 4.3). However, this would not align with the existing electricity resale prices, which do not apply to business premises. Ofgem will be consulting separately on standards of performance. However, it might be appropriate for

¹⁰ Some high-consumption, domestic gas customers would be brought within its scope.

guaranteed standards of performance for electricity distributor activities¹¹ to apply to all customers.

- 3.7 Ofgem recognises the implications for Transco' supply point administration system and the PESs' metering point administration systems (see paragraphs 2.15 to 2.17)

¹¹ These standards include those covering supply restoration, provision of connection, notice of supply interruption, and voltage complaints.

Analysis of affected areas

Introduction

- 4.1 This section of the consultation paper addresses those areas to which a definition of small customers is relevant. It suggests how, in the absence of a statutory definition, it might be possible to adopt a simple, common definition for both gas and electricity. The activities concerned are mostly supplier activities.

Pricing

- 4.2 **Price control.** Ofgem presently envisages disapplication of the residual gas supply price control in April 2001, and of the electricity supply price control a year later, following an assessment of the state of competition. In view of the legal and financial consequences of changing definitions in the controls before those dates, Ofgem is of the view that it would be better not to amend the definitions in the supply price controls. Ofgem therefore proposes to leave the existing licence definitions in place, for this purpose.
- 4.3 **Resale prices.** In Section 37 of the Gas Act 1986, there is a regulatory duty to fix resale prices. Section 44 of the Electricity Act 1989 gives the Director General of Electricity Supply a power to set resale prices. Neither of these provisions places any restriction on the size of customer to which resale price directions may apply. Resale prices are presently set for all gas customers, although electricity resale prices have been fixed only for domestic supplies¹². The new legislation will give the Authority a power (not a duty) to fix resale prices. There has been little call for resale prices to be set for industrial and commercial electricity customers, and it is not clear that industrial and commercial gas customers really need such

¹² i.e. supplies to domestic premises.

protection. We should be interested to have views on the desirability of restricting future gas resale price directions to a simple definition of domestic customers.

- 4.4 ***Advance notice of tariff changes.*** Existing gas and electricity licence conditions require advance notification of certain tariff changes. The obligation takes effect where a licensee is dominant in a particular market. It is for consideration whether the final version of the licences should restrict this obligation to those prices available to customers resident in premises used wholly or mainly for domestic purposes. However, Ofgem is consulting separately on the non-discrimination obligations attaching to dominance. We shall look at this issue again, in the light of that separate consultation.

Determination of disputes

- 4.5 Section 27A of the Gas Act 1986 presently restricts the regulator's power to determine disputes to the existing gas definition of domestic customers. The new legislation will extend the determination power to all gas customers. Determination is an important protection for customers, and one that non-domestic electricity customers have regularly requested in respect of connection charges, for example. Determinations can also be valuable in setting out regulatory policy and in clarifying the interpretation of licence conditions. Ofgem's initial view is that determination of disputes should be available to all customers. We should welcome views on this question.

Service levels

- 4.6 ***Codes of practice.*** Electricity licence conditions currently require suppliers to produce codes of practice if they supply designated electricity customers, and to

comply with those codes. The original Gas Suppliers' Licence contained less rigorous requirements, but, following agreement to new conditions under the Social Action Plan, arrangements are currently in hand to produce a suite of gas codes similar to those established in electricity supply. Ofgem considers that there may now be a good case for limiting the obligation to issue codes of practice to those suppliers supplying domestic customers (on the proposed, simple definition of that term). An alternative would be to treat some codes (e.g. site access¹³ and energy efficiency) differently from the rest. We should be interested in views as to whether codes of practice should relate to a wider group and, if so, which codes and which groups of customers.

4.7 ***Guaranteed standards of performance.*** Section 39 of the Electricity Act 1989 currently refers to guaranteed standards of performance for tariff customers. Section 33A of the Gas Act 1986 refers to domestic customers. The new legislation will remove the references to 'tariff' and 'domestic', leaving the Authority to decide on coverage. We shall be consulting separately on standards of performance, but Ofgem's initial view is that those guaranteed standards applying to distributor and transporter activities (arguably the most important standards) should apply to all customers. It may be appropriate for the remainder, being obligations on suppliers, to apply only to domestic customers. Suppliers in a competitive market may wish, and should perhaps be encouraged, to introduce voluntary performance standards for non-domestic electricity and gas supply.

4.8 ***Energy Efficiency Standards of Performance.*** Section 41 of the Electricity Act 1989 and Section 33BB of the Gas Act 1986 provide for the regulator to set

¹³ There is, as yet, no Code of Practice requirement on site access in gas licences.

energy efficiency standards of the performance for public electricity suppliers and gas suppliers. The existing energy efficiency standards of performance relate to schemes in respect of premises owned or occupied by domestic gas or designated electricity customers, on the existing definitions. The schemes will last until 2002, after which the energy efficiency obligations envisaged in the Utilities Bill will be imposed by the Secretary of State. Ofgem does not intend to change the small customer definitions used in the existing energy efficiency standards performance.

Duty to supply

- 4.9 Existing supply licences impose a duty to supply designated (electricity) and domestic (gas) customers, in the sense that suppliers are required to offer terms, on request. If the customer accepts the terms, the supplier is required to supply the premises in question, on those terms. Changing the definitions would obviously change the composition of the groups to whom the duty to supply is owed.
- 4.10 Once a supplier has expressed the intention to supply small customers, as currently defined, the appropriate section of his supply licence is activated. In electricity supply, for example, this section of the supply licence contains additional obligations in respect of codes of practice, contract terms, and marketing practices. In gas supply, this section of the licence currently provides also for SOLR arrangements. After the Utilities Bill becomes law, both electricity and gas licences will contain a section incorporating the protection for small customers. Changing the small customer definition will alter the classes of small customer to whom these conditions apply.

Supplier of last resort (SOLR)

- 4.11 In the eventuality of a supplier's ceasing trading, Ofgem considers that there must be a robust mechanism to ensure that customers continue to receive electricity and gas, under properly-structured arrangements, while they enter into a contract with a supplier of their choice. Other industry players will want the assurance that customers cannot continue to take supply without having a contractual obligation to pay for it.
- 4.12 In the gas industry, the potential problem of supplier failure has been addressed by a mechanism under which customers are deemed to have a contract with an interim supplier nominated by the regulator¹⁴. At present, there are deemed contracts for domestic gas customers (i.e. up to 2,500 therms/73,200 kWh), and where the supplier so elects, up to 75,000 therms.
- 4.13 Until the provisions of the Utilities Bill are implemented, there are presently no deemed contracts in electricity supply, although the supply licence provides that the Director General of Electricity Supply may require a supplier to inform, and to offer terms, to the customers of a supplier whose licence is about to be revoked. These arrangements rely on the customer's taking action to agree a new contract. There is, therefore, a good case for giving electricity customers and distributors a better level of protection against supplier failure.

¹⁴ Under paragraph 8 in Schedule 2B to the Gas Act 1986, and in Standard Conditions 4 and 5 of the Gas Supplier's Licence.

- 4.14 Under the new legislation, deemed contracts for SOLR purposes will apply to all electricity and gas customers, irrespective of size. The legislation will remove the consumption threshold from paragraph 8 in Schedule 2B to the Gas Act. This will allow the Authority to set the size criterion for compulsory SOLR arrangements, in the licences. The size criterion is important because it is intended that security ('bond') arrangements, of the sort already specified in gas supply licences¹⁵, would only apply to small customers. They would be expensive if they covered larger customers, and might constitute a barrier to entry.
- 4.15 The Authority will have the power to direct a supplier to be a SOLR for any group of customers. Ofgem considers that SOLR arrangements should recognise two categories of customer. As in the current gas licence, suppliers should be under an obligation to maintain a bond that would provide funds for the unrecoverable costs faced by the SOLR. The bond would relate only to domestic customers¹⁶. Domestic customers, moreover, should have additional protection under the terms offered by the SOLR, in their deemed contracts, which would provide protection against charges by a SOLR which, in the view of the Authority, would cause hardship to those customers. This protection would extend to the terms of the contract and, perhaps, to prices¹⁷.

¹⁵ Standard Condition 9 of the Gas Supplier's Licence ('Security for payments where last resort directions are given')

¹⁶ The simple definition of domestic customers, being those resident in premises used wholly or mainly for domestic purposes.

¹⁷ The Authority could invoke a licence condition requiring the SOLR to reduce its SOLR deemed contract price to that of its other deemed contracts.

- 4.16 Where the bond proves insufficient, for domestic customers, the SOLR will be able to claim against a levy recoverable from distribution and transportation charges.
- 4.17 Industrial and commercial customers will not have the price protection enjoyed by domestic customers. Industrial and commercial customers will pay the full costs of the SOLR's making a supply available. However, the SOLR may still have unrecoverable costs (e.g. bad debt). The SOLR will be able to claim these costs from distributors who, in turn, will use the levy facility to recover the costs via distribution charges. The levy will mitigate the financial risk faced by suppliers in taking on the SOLR role.

Transitional licensing arrangements

- 4.18 A change to the simple definition of domestic customers would mean that those gas suppliers who have licence to supply only industrial and commercial customers would be committing an offence in continuing to supply domestic customers using more than 73,200 kWh. It will be necessary, therefore, to provide for some transitional arrangements, to cover such case. However, as such customers may be relatively few, it remains to be seen whether the industrial and commercial suppliers concerned would wish to extend their licences to cover domestic supply.
- 4.19 In instances where industrial and commercial suppliers decide not to extend their licences to cover domestic supply, one option might be to allow affected suppliers to continue supplying their existing > 73,200 kWh customers on existing industrial and commercial terms, until such time as their supply contracts

are re-negotiated or they switch suppliers¹⁸. On the other hand, such an arrangement might have the anti-competitive effect of tying those customers to the supplier. Views are welcome on the need for, and on the appropriateness of, such a transitional arrangement.

4.20 While domestic gas customers outside the existing threshold would gain additional protection from the proposed definition, they would probably have to pay higher prices than they may enjoy in the industrial and commercial market. The reverse would be true for small business customers currently classified as domestic.

4.21 Electricity suppliers who have given a designated supply notice are authorised to supply any domestic customer. The change of definition would not appear to create a transitional licensing problem in electricity.

Matters for the Secretary of State

4.22 There might be a case for achieving consistency across all circumstances to which a small customer definition might be appropriate. Not all of them fall within the powers or duties attaching to the Authority. The new legislation provides that it is for the Secretary of State to make orders relating to uniform pricing in Scotland¹⁹ and to determine the scope of the reserve²⁰ power to help disadvantaged groups of customers.

¹⁸ This might be effected by means of a transitional class exemption order, under section 6A of the Gas Act 1986.

¹⁹ Clause 72 of the Utilities Bill (as amended in Committee in the House of Lords).

²⁰ Clauses 69 and 98 of the Utilities Bill.

5 Stakeholders

Introduction

5.1 The small customer definition touches on a number of areas of regulatory activity. It has implications for many stakeholders. Ofgem is therefore keen to have comments on this consultation from a wide range of organisations. In this section of the paper, we have set out whom we regard as the principal stakeholders, and, where appropriate, we have highlighted specific points on which it would be helpful to have comments from particular organisations.

The gas and electricity industries

- 5.2 We are seeking views from public electricity suppliers (PESs), second-tier electricity suppliers, gas transporters, gas shippers and gas suppliers (both domestic and industrial and commercial).
- 5.3 We should be particularly interested to receive the views of industry players on a move to a simple 'domestic customer' definition (i.e. premises used wholly or mainly for domestic purposes), and on its likely implications for:
- industry agreements;
 - arrangements for supplier of last resort;
 - codes of practice;
 - determination of disputes;
 - guaranteed standards of performance;
 - contract terms; and
 - transitional licensing arrangements.

Consumer representatives

- 5.4 The perceptions of consumer on the customer experience in the competitive gas and electricity markets is a key element of information in the decision-making process. Energy consumer representation is in a transitional stage, pending the formal establishment of the Gas and Electricity Consumer Council (GECC). We are consulting with the Gas Consumers' Council, the electricity consumers' committees, and the task force who are setting up the GECC. We are also consulting the Utility Buyers' Forum and the Confederation for Small Businesses.
- 5.5 We should particularly welcome comments from consumer representatives on:
- the degree of protection that competition presently affords to small, non-domestic customers;
 - the scope of maximum resale gas prices (see paragraph 4.3);
 - codes of practice (see paragraph 4.6); and
 - contract terms.

Department of Trade and Industry (DTI)

- 5.6 The decision not to include a definition of small customers in a Statutory Instrument means that the issues covered by this consultation paper a matter for standard licence conditions, on which Ofgem is consulting on behalf of the Secretary of State. As noted at paragraph 4.19, however, certain powers of the Secretary of State might be regarded as parallel to those under discussion here. The inclusion of DTI in this consultation is therefore essential.

Open government

- 5.7 Ofgem is committed to an open, consultative style of regulation. A press release will accompany the publication of this consultation paper, and we should welcome comments from any individual or organisation on the issues discussed here.

6. Future action

Handling of responses

- 1.1 In accordance with our normal practice, we intend to make responses to this consultation publicly available, through the Ofgem Library. However, if asked to do so, we shall respect the confidentiality of any response. Respondents wishing their responses to remain confidential should clearly mark the documents to that effect.

Timetable for the consultation

- 1.2 The deadline for responses is Friday, 1 September 2000.
- 1.3 We currently plan to issue our decision document at the same time as the next consultation on the standard licence conditions.
- 1.4 Responses to this consultation should be sent to:

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Draft Standard Licence Conditions
February 2000 Versions

Designated Customers/Premises
Gas

Transportation

C1	Definitions and Interpretation
C5A	Obligations as Regard Charging Methodology
C5B	Connection Charges etc.
C7	Emergency Services and Enquiry Service Obligations
C9	Provision and Return of Meters
C10	Network Code
C22	Arrangements in Respect of Powers of Entry
C23	Standards of Performance
C24	Transportation Business Complaint Handling Procedure
C26	Record of and Report on Transportation Business Performance
C27	Last Resort Supply: Payment Claim

Supply

C1	Definitions and Interpretation	C37	Arrangements in Respect of Powers of Entry
C3	Application of Section C	C37B	Exercise of Powers of Entry
C6	Prohibition of Discrimination in Supply	C38	Efficient use of Gas
C6A	Advance Notification of Tariff Changes	C39	Complaint Handling Procedure
C16	Security and Emergency Arrangements	C40	Record of and Report on Performance
C26	Designated Premises	C42	Information Given to Designated Customers
C29	Duty to Supply Designated Customers	C43	Terms of Supply of Gas Incompatible with Standard Conditions
C29A	Security of Supply – Designated Customers	C44	Designated Supply Contracts
C30	Deemed Contracts	C45	Contractual Terms – Methods of Payment
C31	Supplier of Last Resort	C46	Notification of Terms
C32	Last Resort Supply: Security for Payments	C47	Price Comparison
C32A	Metering Arrangements for Designated Customers	C48	Security Deposits
C33	Code of Practice on Payment of Bills and Guidance For Dealing With Customers in Difficulty	C49	Termination of Contracts on Notice
C34	Code of Practice on the use of Prepayment Meters	C50	Termination of Contracts in Specified Circumstances
C35	Provision of Services for Persons who are of Pensionable age or Disabled or Chronically Sick	C51	Payments Received in Relation to Standards of Performance
C35A	Persons not to have Supply of Gas Cut off in Winter	C52	Marketing of Gas to Designated Customers
C36	Provisions of Services for Persons who are Blind or Deaf	C52A	Transfer of Designated Customers of a Supply Business

Designated Customers/Premises
Electricity

Distribution

C1	Definitions and Interpretation
C24	Distribution Business Complaint Handling Procedure
C26	Record of and Report on Distribution Business Performance
C27	Last Resort Supply: Payment Claims

Supply

C1	Definitions and Interpretation	C43	Terms for Supply of Electricity Incompatible with Licence Conditions
C6	Prohibition of Discrimination in Supply	C44	Designated Supply Contracts
C3	Application of Section C	C46	Notification of Terms
C26	Designated Premises	C48	Security Deposits
C29	Duty to Supply Designated Customers	C49	Termination of Contracts on Notice
C30	Deemed Contracts	C50	Termination of Contracts in Specified Circumstances
C31	Supplier of Last Resort	C51	Payments Received in Relation to Standards of Performance
C32	Last Resort Supply: Security for Payments	C52	Marketing of Electricity to Designated Customers
C39	Complaint Handling Procedure		
C40	Record of and Report on Performance		
C42	Information Given to Designated Customers		

Ofgem will be consulting separately on Standards of Performance for all licensees and the draft Standard Licence Conditions may change as a result of this.

Annex B

Draft Standard Licence Conditions February 2000 Versions

Domestic Customers/Premises Gas

Transportation

There are no conditions in this licence referring to domestic customers.

Supply

There are no conditions in this licence referring to domestic customers.

Domestic Customers/Premises Electricity

Distribution

C1 Definitions and Interpretation

C21 Provision of Distribution Services for Persons who are of Pensionable Age or Disabled or Chronically Sick.

Supply

C1 Definitions and Interpretation

C33 Code of Practice on Payment of Bills and Guidance for Dealing with Customers in Difficulty

C34 Code of Practice on the use of Prepayment Meters

C35 Provision of Services for Persons who are of Pensionable Age or Disabled or Chronically Sick

C36 Provisions of Services for Persons who are Blind or Deaf

C45 Contractual Terms – Methods of Payment

C47 Price Comparison in Energy Marketing

