

**To: All holders of a gas supply licence**

**MODIFICATION OF THE STANDARD CONDITIONS OF THE GAS SUPPLY LICENCE UNDER SECTION 23 OF THE GAS ACT 1986**

**NOTICE OF REASONS FOR THE DECISION TO MODIFY THE STANDARD CONDITIONS OF THE GAS SUPPLY LICENCE UNDER SECTION 38A OF THE GAS ACT 1986**

**WHEREAS:**

1. Each of the companies to whom this modification is addressed holds a gas supply licence granted, or treated as granted, pursuant to section 7A(1) of the Gas Act 1986 (the "Act").
2. In accordance with section 23(3) and (4) of the Act, the Gas and Electricity Markets Authority (the "Authority"):
  - (a) gave notice on 26 June 2009 (the "Notice") that it proposed to modify the standard conditions of the gas supply licence;
  - (b) published the Notice in the manner that it considered appropriate;
  - (c) sent a copy of the Notice to the relevant licence holders, the Secretary of State and the Council.
3. The Authority did not receive a direction from the Secretary of State not to make the proposed licence modifications before the relevant date specified in the Notice.
4. The Authority received six representations in relation to the proposed licence modifications before the relevant date specified in the Notice, and one further representation after the relevant date. No representations were withdrawn. The Authority has carefully considered all representations made in relation to the proposed licence modifications and not withdrawn.

All non-confidential representations made in relation to the proposed licence modifications are available free of charge from the Ofgem Research and Information Centre, 9 Millbank, London SW1P 3GE or from the Ofgem website at [www.ofgem.gov.uk](http://www.ofgem.gov.uk).
5. No notice of objection to the proposed licence modifications was given to the Authority by a relevant licence holder before the relevant date specified in the Notice.
7. The reasons for the modifications have been published by the Authority in the following documents:
  - (a) Ofgem. 26 June (2009) *Addressing undue discrimination* Decision Document, Ref 72/09;
  - (b) Ofgem. 26 June (2009) *Addressing undue discrimination* Final Impact Assessment, Ref 73/09;
  - (c) Ofgem. 15 April (2009) *Energy Supply Probe- proposed retail market remedies* Consultation, Ref 41/09;
  - (d) Ofgem. 15 April (2009) *Addressing undue discrimination* Final Proposals, Ref 42/09;
  - (e) Ofgem. 15 April (2009) *Addressing undue discrimination* Impact Assessment, Ref 43/09;
  - (f) Ofgem. 08 January (2009) *Addressing unfair price differentials* Consultation, Ref 01/09;
  - (g) Ofgem. 06 October (2008) *Energy Supply Probe- Initial Findings Report* Consultation, Ref 140/08.

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7. In accordance with Condition 25A.4 of Schedule 2 to this modification, the Authority's *Guidelines on Cost Reflective Payment Methods and the Prohibition of Undue Discrimination in Domestic Gas and Electricity Supply Contracts* have been published on the Ofgem website at [www.ofgem.gov.uk](http://www.ofgem.gov.uk).

**THEREFORE:**

In accordance with section 23 of the Act, the Authority hereby modifies the standard conditions of the gas supply licences in accordance with Schedule 1 and 2 to this modification, with effect on and from 00:00 hours on 01 September 2009.

This document constitutes a notice of reasons for the decision to modify the standard conditions of the gas supply licences under section 38A of the Act.

**Andrew Wright**  
**Managing Director, GB Markets**  
**Ofgem**  
**Authorised on behalf of the Authority**

**07 August 2009**

**SCHEDULE 1**

**MODIFICATION OF THE STANDARD CONDITIONS OF GAS SUPPLY LICENCES UNDER  
SECTION 23 OF THE GAS ACT 1986**

**Condition 27. Payments, Security Deposits and Disconnections**

*After paragraph 27.2 of Condition 27, insert:*

"27.2A Any difference in terms and conditions as between payment methods for paying Charges for the Supply of Gas shall reflect the costs to the supplier of the different payment methods.

27.2B In this condition, "terms" means all terms on which a supply of gas is offered or provided, including terms as to price, which significantly affect the evaluation of that supply."

## SCHEDULE 2

### MODIFICATION OF THE STANDARD CONDITIONS OF GAS SUPPLY LICENCES UNDER SECTION 23 OF THE GAS ACT 1986

#### Condition 25A. Prohibition of undue discrimination

*After Condition 25, insert:*

#### **“Condition 25A. Prohibition of Undue Discrimination in Supply**

##### **Prohibition of undue discrimination**

- 25A.1 This condition applies in relation to the supply of gas by the licensee under a Domestic Supply Contract or a Deemed Contract for the supply of gas to Domestic Premises.
- 25A.2 Subject to paragraph 25A.3, the licensee must ensure that in supplying or offering to supply gas, the Principal Terms on which it does so do not discriminate without objective justification between one group of Domestic Customers and any other such group. For the purposes of this condition it shall be for the Authority to decide whether there is any such objective justification.
- 25A.3 The licensee shall only be in breach of this condition if and to the extent that the nature of the discriminatory terms offered and/or their impact on any Domestic Customers is material in any respect.

##### **Compliance with this condition**

- 25A.4 This licence condition shall be interpreted and enforced in accordance with guidance issued by the Authority and until such guidance is published this licence condition shall not be enforceable.
- 25A.5 The Authority may from time to time revise the guidance referred to in paragraph 25A.4 with a view to:
- (a) removing or reducing inconsistencies between Gas Suppliers in their interpretation and application of its provisions; and
  - (b) clarifying how the licensees' compliance with the obligations imposed by this condition will be monitored and enforced.
- 25A.6 Before revising guidance under paragraph 25A.5, the Authority shall give Notice that it proposes to do so to:
- (a) Gas Suppliers in whose licences Section B of the standard conditions is effective;
  - (b) the National Consumer Council; and
  - (c) such other persons as the Authority considers it appropriate to consult in relation to the proposal.
- 25A.7 A Notice given by the Authority under paragraph 25A.6 must:
- (a) state that the Authority proposes to issue the revised guidance and specify the date on which it intends that this should take effect;
  - (b) set out the text of the guidance and the Authority's reasons for proposing to revise it; and

- (c) specify the time (which must not be less than a period of 28 days from the date of the Notice) within which representations or objections with respect to the proposal may be made,

and the Authority must consider any representations or objections which are duly made and not withdrawn.

- 25A.8 The licensee is not required to comply with this condition if it supplies gas to fewer than 50,000 Domestic Customers or such other number as may from time to time be directed by the Authority.

**Termination of this provision**

- 25A.9 This condition will cease to have effect on 31 July 2012."