



Supply licensees, consumers,  
consumer bodies and other  
interested parties

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*Promoting choice and value for  
all gas and electricity customers*

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Date: 26 March 2010

Dear Colleagues,

**Proposed amendments to gas and electricity supply licence conditions in relation to the disconnection of vulnerable customers**

As you may be aware, as a result of Ofgem's review of protection for vulnerable customers from disconnection, published in October 2009, we consulted on a number of amendments to the existing Standard Licence Conditions (SLCs) concerning disconnection<sup>1</sup>. Following consultation we are now proposing to proceed with changes to clarify that suppliers are expected to be proactive in taking all reasonable steps to ascertain the status of a customer and the occupants of any affected domestic premises before disconnection.

A draft of the proposed amended licence obligation is attached as an annex to this letter. Views are requested on the amended SLC by 7 May 2010.

**Context**

Ofgem's principal objective is to protect the interests of existing and future gas and electricity consumers, wherever appropriate by promoting effective competition. In carrying out our functions we must also have regard to, amongst other things, the interests of vulnerable consumers, including those who are disabled or chronically sick, of pensionable age, with low incomes, or residing in rural areas.

Ensuring that there is sufficient and appropriate protection in place to prevent vulnerable customers from being disconnected is critically important, particularly in these challenging economic times. With this in mind, Ofgem carried out a review of protection for vulnerable customers from disconnection jointly with Consumer Focus in October 2009. This review was part of a wider project on debt and disconnection, the second part of which, relates to suppliers' approaches to debt management.

Based on the October 09 review, whilst there is a large amount of good practice across suppliers and suppliers' policies and procedures to identify vulnerable customers and prevent them from being disconnected were largely satisfactory, we found some areas of weakness and inconsistencies between suppliers that need to be addressed. One of the ways in which we are addressing these is by clarifying suppliers' obligations under their licences with regard to disconnection.

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<sup>1</sup> 'Review of protection for vulnerable customers from disconnection', October 2009. This can be found at: <http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=139&refer=Sustainability/SocAction/Publications>

The existing licence conditions are as follows:

SLC 27.10 The licensee must not Disconnect, in Winter (defined in the licence as October – March), a Domestic Premises at which the Domestic Customer has not paid Charges for the Supply of Gas [Electricity] if it knows or has reason to believe that the customer is of Pensionable Age (as defined in the licence) and lives alone or lives only with persons who are of Pensionable Age or under the age of 18.

SLC 27.11 The licensee must take all reasonable steps to avoid Disconnecting, in Winter, a Domestic Premises at which the Domestic Customer has not paid Charges for the Supply of Gas [Electricity] if the occupants of the premises include a person who is of Pensionable Age, disabled or chronically sick and to whom paragraph 27.10 does not apply.

### **Ofgem's proposals**

Ofgem consulted on changes to the licence conditions<sup>2</sup>; in light of the responses to its consultation, Ofgem is minded to progress with its proposal to clarify that licensees are obliged to take all reasonable steps to ascertain the status of a customer and the occupants of any affected domestic premises before disconnection.

This change will make it clear to suppliers that they must be proactive in identifying vulnerability and, where necessary, make improvements in their practices to ensure this. We have provided guidance in the following section on the sort of proactive steps that we would expect suppliers to follow.

At this stage, we are not minded to proceed with proposals to introduce a specific requirement regulating reconnection of supply ahead of the winter. As a result of Ofgem's and Consumer Focus' 2009 review, the industry's code (the ERA Safety Net) has been strengthened, requiring reconnection within 24 hours if a vulnerable customer, having not previously been identified, has been disconnected. Further, our policy position (which we believe is implicit in the existing licence conditions) is that any vulnerable customer who falls within the scope of SLC 27.10 or 27.11 should not be without a supply of electricity or gas during the Winter and we will apply this in considering any cases of compliance with these licence conditions.

Finally, the proposed amendment to make it clear that suppliers must take all reasonable steps to identify the status of customers before disconnecting means that there is no longer any substantive difference between the levels of protection provided by the two existing licence conditions, and so we do not intend to proceed with any further consolidation of these obligations at this time.

A more detailed description of the changes and a summary of the responses to the consultation can be found in the following section<sup>3</sup>.

#### *Reasonable steps to identify the status of customers before disconnecting*

Consumer Focus welcomed the proposed change which it considered would make it clearer to suppliers that they are expected to be proactive in checking if a customer is covered by the Winter moratorium.

Most suppliers and the Energy Retail Association (ERA) considered that this proposal was unnecessary because, as part of the ERA Safety Net<sup>4</sup>, suppliers were already taking this

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<sup>2</sup> A summary of the licence amendments Ofgem consulted on is given in appendix 2.

<sup>3</sup> A list of respondents is included in appendix 3 to this letter. Non confidential versions of the responses have been published on Ofgem's website at the following link:

<http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=139&refer=Sustainability/SocAction/Publications>

<sup>4</sup> The ERA Safety Net is a self regulatory Code of Practice concerning disconnection which the six major suppliers (British Gas, EDF Energy, E.ON, npower, Scottish Power and SSE) have signed up to.

approach. In addition, one supplier argued that the “all reasonable steps” requirement in establishing the status of the customer is likely to make companies reluctant to disconnect even those whom it believes not to be vulnerable. However, most suppliers did accept that the clarificatory amendment was implicit in the licence condition and a couple of suppliers considered clarifying the requirements of the existing licence condition would be helpful.

Our policy intention is that suppliers should be proactive in seeking out information to determine the status of customers for the purposes of complying with SLCs 27.10 and 27.11. In our view this is already implicit in the requirement and reflects the approach generally taken by suppliers through the ERA Safety Net.

However, to aid understanding as to what Ofgem would take into account when considering whether suppliers were complying with SLCs 27.10 and 27.11, Ofgem considers the additional clarity this licence change will provide is helpful to suppliers. It is also important that suppliers not signatory to the ERA Safety Net are clear on their obligations.

The sort of proactive steps that we would generally expect suppliers to follow include:

- proactively seeking to ensure that all eligible customers are offered the opportunity to be registered on the Priority Services Register;
- reviewing all the notes on the customer's accounts to ensure that no vulnerability is recorded;
- making multiple attempts to contact the customer;
- undertaking at least one personal visit to the property which is at risk of being disconnected and completing a visual check of the premises looking for signs of vulnerability (for example using the good practice vulnerability checklist compiled by Consumer Focus);
- checking whether a property is temporarily or permanently unoccupied;
- checking whether there has been a change of occupancy to make sure that customers are not disconnected in error; and
- obtaining senior management authorisation prior to any disconnection being carried out.

Ofgem also considers that the revised wording to these SLCs will help clarify suppliers' obligations where a smart meter has been installed and remote disconnection is possible. In these circumstances the duty “to take all reasonable steps to identify” will help ensure that suppliers do not remotely disconnect vulnerable customers in error. Ofgem will be writing to suppliers shortly to set out its view on how suppliers' current obligations apply where they have the ability to disconnect remotely.

Ofgem is seeking views on its proposal to make this amendment in accordance with the draft wording in Appendix 1.

#### *Reconnection of vulnerable customers before Winter*

Consumer Focus and Age UK (the new name for Age Concern and Help the Aged) welcomed the proposal that suppliers be required to reconnect vulnerable customers ahead of Winter. Age UK said the risk that vulnerable customers would not be connected in time for Winter was an important reason why they thought suppliers should be banned from disconnecting these customers throughout the year.

Suppliers generally had more concerns about this amendment and there was some inconsistency between them on whether the licence conditions already required this. Nevertheless, suppliers considered that the addition that was made to the ERA Safety Net as a result of Ofgem and Consumer Focus' 2009 review specifying that, where vulnerability had not previously been identified, suppliers would reconnect a vulnerable customer as soon as possible and usually within 24 hours already covered this. Indeed this is a higher level of protection than Ofgem was proposing with this SLC amendment.

More specifically, a number of suppliers raised the issue of obtaining access to reconnect premises. These suppliers considered that in some cases a warrant would be needed to obtain entry to reconnect and there was some doubt that the courts would provide this in these circumstances. For some suppliers, this consideration meant the revised licence condition would amount to a ban on disconnections because they could not be sure of gaining access to reconnect. They argued this would therefore lead to an increase in bad debt costs which would be borne by all customers, including those on low incomes.

One supplier also considered the licence amendment went against Ofgem's intended purpose (to get the customer reconnected as soon as possible) because it suggested that a customer could be disconnected for any length of time as long as it was not during the Winter.

One supplier supported the principle that suppliers reconnect before Winter any Domestic premises which had been disconnected at a time of year other than Winter, however they were not comfortable with the proposed wording of the condition as they thought the obligation would not be achievable in practice in every case. Instead, they suggested introducing the concept of "reasonable endeavours" to reconnect the Domestic premises in the drafting of the licence condition.

It remains our policy position (which we believe is implicit in the existing provisions) that any vulnerable customer who falls within the scope of SLC 27.10 or 27.11 should not be without a supply of electricity or gas during the Winter and we will apply this in considering any cases of compliance with these licence conditions.

In line with this, we welcome the commitment from the six major suppliers in the Safety Net to go further than the current licence obligations by reconnecting any customer that is subsequently found to be vulnerable as soon as possible and usually within 24 hours. We also welcome the introduction into the Safety Net of a higher level of audit, giving a greater level of confidence that, if suppliers are not following this, it will be picked up and dealt with.

Given suppliers commitment to go further than our proposed licence amendment, we are proposing not to make the amendment at this time. However, Ofgem is also aware that not all suppliers are signatory to the Safety Net. Ofgem will be writing to suppliers that are not signatories to ensure they are aware of this consultation and our policy position on this issue.

#### *Consolidation of SLCs 27.10 and 27.11*

Consumer groups did not comment on this proposed amendment.

Most suppliers considered that the two licence conditions should not be consolidated and that the proposal was not justified by our findings in the report. A number of suppliers argued that there are differences between the two groups of customers in SLCs 27.10 and 27.11 which justify there being different licence conditions. They argued that giving the additional protection they considered was held in SLC 27.10 to those to which SLC 27.11 applies would increase costs to all customers. One supplier also considered it was not appropriate for the protection in SLC 27.10 to be reduced by taking what they considered was the less stringent wording in SLC 27.11.

One supplier was also concerned that a stricter requirement (as they considered was held in SLC 27.10) would take no account that the supplier may have no knowledge of the occupants in the premises. They were concerned that this would lead to suppliers having to prove that customers were not vulnerable before they could disconnect.

In addition, suppliers considered that any change in these licence conditions would make it more difficult to resolve debt problems promptly because the higher level of protection they considered was granted under SLC 27.10 would become applicable too widely.

However, one supplier said that the proposal to consolidate the two licence conditions was helpful as it would make the licence requirement clearer and simpler to understand.

At this stage, Ofgem is proposing not to consolidate the two licence conditions on the basis that our proposal to make it clear that suppliers are required to identify the status of customers and the occupants of any affected premises prior to disconnection means that there is no longer any substantive difference between the levels of protection provided by the two licence conditions.

### **Next steps**

Ofgem is inviting responses to this informal consultation by **7 May 2010**. Upon receiving responses it will then consider whether to proceed with a statutory consultation on the proposed change.

Responses should be sent to:

Liz Chester  
Social Policy Manager  
Ofgem  
9 Millbank  
London  
SW1P 3GE  
liz.chester@ofgem.gov.uk  
020 7901 7403

Unless marked confidential, all responses will be published by placing them in Ofgem's library and on its website at [www.ofgem.gov.uk](http://www.ofgem.gov.uk). Respondents may request that their response is kept confidential. Ofgem shall respect this request, subject to any obligations to disclose information, for example, under the Freedom of Information Act 2000.

Respondents who wish to have their responses remain confidential should clearly mark the document(s) to that effect and include the reasons for confidentiality. Respondents are asked to put any confidential material in the appendices to their responses.

If you have any questions regarding this letter please contact Liz Chester or Claire Tyler ([claire.tyler@ofgem.gov.uk](mailto:claire.tyler@ofgem.gov.uk); 020 7901 7331).

Yours sincerely,

**Maxine Frerk**  
**Partner, Sustainable Development**

## **Appendix 1: Standard Licence Condition 27**

The following shows the current licence condition with the proposed amendments underlined.

### **Standard Licence Condition 27. Payments, Security Deposits and Disconnections**

#### **Disconnection for unpaid charges**

27.10 The licensee must not Disconnect, in Winter, a Domestic Premises at which the Domestic Customer has not paid Charges for the Supply of Gas [Electricity] if it knows or has reason to believe that the customer is of Pensionable Age and lives alone or lives only with persons who are of Pensionable Age or under the age of 18.

27.11 The licensee must take all reasonable steps to avoid Disconnecting, in Winter, a Domestic Premises at which the Domestic Customer has not paid Charges for the Supply of Gas [Electricity] if the occupants of the premises include a person who is of Pensionable Age, disabled or chronically sick and to whom paragraph 27.10 does not apply.

27.11(A) The licensee shall, before it exercises any right it may have to Disconnect a Domestic Premises, take all reasonable steps to ascertain whether:

- (i) the relevant Domestic Customer falls within the scope of SLC 27.10; or
- (ii) the restriction on its right to disconnect in accordance with SLC 27.11 applies.

NB: This is the wording from the Standard Licence Condition of the gas supply licence with differences in the Standard Licence Condition of the electricity supply licence given in [square brackets].

## **Appendix 2**

The following licence amendments were proposed in Ofgem's review of the protection for vulnerable customers from disconnection:

- amendment of SLC 27.10 and SLC 27.11 to make it clearer that suppliers are obliged to take all reasonable steps to ascertain the status of a customer and the occupants of any affected domestic premises before disconnection
- inclusion of a requirement that where a supplier has disconnected a vulnerable customer's premises at a time of year other than Winter, the supplier should reconnect the premises before Winter
- consolidation of SLCs 27.10 and 27.11 with the aim of making the licence conditions clearer and simpler. We proposed taking the wording from SLC 27.10 (i.e. not knowingly to disconnect) but covering all groups of customer currently covered by SLCs 27.10 and 27.11.

## **Appendix 3: List of respondents**

Age UK (formally Age Concern and Help the Aged)  
British Gas  
Citizens Advice  
Consumer Focus  
EDF Energy  
Energy Retail Association (ERA)  
E.ON  
RWE npower  
Scottish and Southern Energy (SSE)  
Scottish Power