



Secretary of State, Holders of
Gas and Electricity Supply
Licences, consumers and their
representatives, consumer bodies
and other interested parties

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

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30 June 2011

Dear Colleagues

Smart Metering Consumer Protections Package – Statutory Consultation

Following consideration of responses to our consultation 'Smart Metering Spring Package – Addressing Consumer Protection Issues', we are now launching a statutory consultation on a number of proposed modifications to the gas and electricity supply licences. The consultation closes on 12 August 2011. These modifications are designed to bolster existing protections for all domestic consumers - particularly vulnerable consumers - in light of early moves by suppliers to install smart meters. At the same time, we are providing further details of our work in other areas to ensure that consumers remain protected prior to the launch of the government's mandated rollout of smart meters in 2014.

Prepayment and remote disconnection for domestic consumers

Smart metering enables **remote switching** between credit and prepayment mode and **remote disconnection**. We want to ensure that suppliers only switch a meter to prepayment mode where it is safe and reasonably practicable for the customer to use a prepayment meter. We also want to ensure that suppliers take rigorous action in **identifying vulnerability** in a household when considering prepayment or disconnection. Our proposed licence modifications and accompanying guidance will enable suppliers to meet these objectives. Our guidance makes it clear that we would expect suppliers to have made every attempt to make personal contact with a customer, or to have conducted a site visit, before they remotely switch that customer to prepayment mode or disconnect them.

We believe that where any customer has been **wrongfully disconnected**, suppliers should act swiftly to reconnect their supply. The remote functionality provided by smart metering should enable suppliers to reconnect these customers much more quickly. We also want to see suppliers **compensate** customers who have been wrongfully disconnected. The six major suppliers have agreed to update their code (the ERA Safety Net) to enable these objectives to be met. The revised version of the Safety Net will commit the six major suppliers to rapid reconnection where a customer has been wrongfully disconnected, usually within 24 hours and significantly faster where a smart meter is installed. On compensation, the Safety Net will commit the six major suppliers to provide customers disconnected in error with a minimum guaranteed compensation payment of £50 or a higher amount appropriate to the circumstances of the case. We are working separately to obtain a parallel commitment from smaller suppliers and will monitor implementation of these new arrangements.

Load limiting functionality¹ may bring benefits to consumers. However, we are keen to ensure that the future introduction of load limiting functionality does not expose consumers to disconnection 'by the back door'. Our proposed licence modifications are designed to help achieve this objective.

We are also mindful of the need to understand more about how load limiting tariffs could work in practice before seeking to introduce further protections if they are needed. We welcome a commitment from the six major suppliers to discuss any plans to introduce load limiting tariffs with both Ofgem and Consumer Focus before they are launched. However we want to go further to ensure consumers' interests remain well protected in advance of load limiting functionality being introduced. We will therefore monitor developments in this area closely and review the position on load limiting issues in conjunction with suppliers, consumer groups and other interested parties in 12 months' time.

Prepayment and remote disconnection for non-domestic consumers

We received responses from consumer and business representative groups particularly around current supplier approaches for dealing with **disconnections at non-domestic premises**. We also note Consumer Focus' recent report on micro-business disconnection cases and will be looking at the evidence from this work, together with the consultation responses, in coming to a decision on remote functionality protections for non-domestic consumers.

Addressing these issues is part of wider work we are undertaking to protect the interests of non-domestic consumers, including work that forms part of the Retail Market Review and other activity on issues such as 'back billing'. In this context, we expect to provide a decision on the issues concerning remote disconnections for non-domestic consumers in the **autumn**.

Data privacy

The appropriate enduring **privacy framework** for smart meters is rightly a decision for Ministers and the DECC Smart Metering Programme. However, we want to ensure that **early movers** comply with existing legislation and that consumers are clear about their rights and options. We will protect customers' interests by enforcing **consumer protection law** where necessary. The Information Commissioner's Office can also enforce data protection law.

Under consumer protection law, suppliers offering smart meters must provide customers with all relevant information about new terms and conditions, the data which the supplier will collect and any rights which customers have to opt out of that data collection. Ultimately, customers who are not happy with the smart meter package on offer can choose not to accept it. Suppliers must ensure customers can make well-informed decisions in this regard.

As we noted in our February consultation, consumer groups had raised concerns about the lack of transparency in suppliers' current data privacy arrangements for those customers receiving smart meters ahead of the government's mandated rollout. Consumer Focus has been particularly active in working with suppliers in this area. British Gas has now made it clearer to customers what data it intends to collect and has given customers the right to opt-out of half-hourly data collection. It has also made it clearer that customers can opt-out of receiving direct marketing material. British Gas has also committed to taking clear and timely steps to bring these matters to the attention of customers whose smart meters have already been installed so that they too can make the same choices. We also understand that **other suppliers** are reconsidering their policies and we encourage all suppliers to review their arrangements to ensure they are adequate.

¹ Load limiting is also known as 'trickle disconnection' and is where customers are limited to a minimal flow of electricity

Commercial interoperability

We want to ensure that **consumers' rights to switch** suppliers continue to be upheld where smart meters are installed. At present where a smart meter is installed, there is a risk that when a customer switches supplier, some or all of the smart functionality may be lost. This may in turn impact on the practicality of the switching process. We recognise the complexities of dealing with this particular issue and will consult separately on this in the **summer**. In the meantime, before customers choose to have a smart meter installed, suppliers should explain that it does not affect their rights to switch supplier and make clear any issues that the customer may face in attempting to switch. Suppliers are already under an obligation to comply with existing **consumer protection legislation** in this regard.

Conclusion

These actions, and the other measures set out in our statutory consultation will help to ensure consumer protections, particularly for more vulnerable consumers, in light of early moves to install smart meters. We will, of course, continue to monitor developments and act swiftly in the coming months to ensure consumers remain protected as the smart metering environment evolves.

NOTICE OF PROPOSED MODIFICATIONS TO THE STANDARD CONDITIONS OF:

- **THE GAS SUPPLY LICENCE UNDER SECTION 23 OF THE GAS ACT 1986**
- **THE ELECTRICITY SUPPLY LICENCE UNDER SECTION 11A OF THE ELECTRICITY ACT 1989**

Ofgem's "Smart Metering Spring Package – Addressing Consumer Protection Issues", published in February 2011, consulted on a number of modifications to the existing gas and electricity Standard Licence Conditions (SLCs). These modifications relate to prepayment meters (PPMs) and disconnection². The consultation also sought views on the introduction of licence conditions for suppliers to offer terms of use for smart metering equipment.

Having considered the responses to our consultation and having regard to the principal objective and statutory duties of the Authority and for the reasons set out in this letter, the Authority is now proposing to proceed with a statutory consultation on the proposed modifications to the gas and electricity SLCs with regard to PPMs and disconnection.

Background

Ofgem's principal objective is to protect the interests of existing and future gas and electricity consumers. The interests of such consumers are their interests taken as a whole, including their interests in the reduction of greenhouse gas emissions and in security of the supply of gas and electricity to them. In carrying out our functions we must also have regard to, among 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.

The rollout of smart meters will bring significant benefits to consumers, helping them to manage their energy use and expenditure and reduce carbon emissions. Ofgem's proposals in the Spring Package set out how it will ensure consumer interests remain protected in response to early moves by suppliers to start installing smart meters ahead of the government's mandated rollout.

We consulted on consumer protections around remote switching to prepayment and remote disconnection, and commercial interoperability which is important in ensuring consumers can continue to switch supplier where they have a smart meter.

Proposals

Remote switching to prepayment and remote disconnection

Smart metering enables remote switching between credit and prepayment mode and remote disconnection. This has a number of benefits for consumers, including the ability to switch between payment methods easily. However, this also creates a number of new issues as there will no longer be an operational need to visit the premises to install a PPM or disconnect. Ofgem reviewed the existing licence conditions and proposed making changes to make it clear that existing consumer protections continued to apply to smart meters and to require suppliers:

- to have regard to guidance issued by the Authority in respect of considering whether it is safe and reasonably practicable for a customer to be offered prepayment and identifying whether the customer or occupants of premises are vulnerable before disconnection
- where they become aware or have reason to believe it is no longer safe and reasonably practicable for a customer to use prepayment, to offer alternative arrangements

² <http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=186&refer=Sustainability/SocAction/Publications>

- to provide information on how to use a PPM or smart meter in prepayment mode, including the methods of topping-up that are available to the customer.

Ofgem also asked the six major suppliers to update their 'Safety Net' arrangements to take account of smart metering developments. In particular, Ofgem asked suppliers to commit to rapid reconnection for all customers in cases of wrongful disconnection, and the provision of compensation to all customers disconnected in error. Ofgem sought similar commitments from smaller suppliers.

Commercial interoperability

The Spring Package considered whether when a customer has a smart meter and switches supplier, the installing supplier should have a licence obligation to offer transparent, reasonable and non-discriminatory terms to the incoming supplier for the use of the meter and any associated communications equipment.

It further suggested that any supplier installing a smart prepayment meter must have arrangements in place to enable an incoming supplier and the customer to use the meter in prepayment mode. The Spring Package also looked at whether there should be a threshold of suppliers' smart meters volumes above which these obligations would apply.

Summary of responses

Ofgem received 53 responses to the consultation from a range of parties including suppliers, consumer groups and trade associations.

Remote switching to prepayment

Identifying safe and reasonably practicable

Consumer groups and the majority of suppliers supported our proposal to issue guidance on identifying whether it is safe and reasonably practicable in the circumstances for a customer to use a prepayment meter. However, suppliers generally considered that it was not necessary to require them to have regard to this guidance through a licence modification as the Safety Net and existing protections in the SLCs suffice.

Notification

Suppliers agreed that the current notification periods for switching to a PPM are sufficient as these are included in the Gas and Electricity Acts. Consumer groups also shared this view but only on the basis that suppliers continue to follow their debt path procedures before providing customers with a seven day notification.

Information on PPMs

Suppliers agreed with our proposal to require them to provide customers with information on using a PPM ahead of switching them to prepayment mode and to allow suppliers to adopt a flexible approach based on the circumstances of the case. Consumer groups also agreed with our proposal and suggested that information should be communicated to customers in both a written and verbal format appropriate to a customer's needs. Other respondents agreed with our proposal and also considered that suppliers and their agents should be obliged to offer a 24-hour support service to customers.

Applying credit to the meter

The majority of suppliers considered that it was not necessary to explicitly require them to provide the ability to top-up by cash where payment is made through a PPM, partly because it is in their interests to offer customers a variety of payment methods. However one of the consumer groups felt that this requirement was necessary to ensure that this

service is maintained for certain customer segments. Some of the other respondents agreed with our proposal to explicitly require suppliers to provide the facility for cash top-up. However, others considered that this issue should be a matter for suppliers to consider and to seek the agreement of a customer before any installation of a system that may not be capable of enabling customers to pay by cash.

Remote disconnection

Identification of vulnerable customers

Some suppliers agreed with our proposal to issue guidance on identifying vulnerability prior to disconnection but considered that it was not necessary to require them to have regard to this guidance through a licence modification as the obligations introduced in SLC 27.11A and the Safety Net suffice. Consumer groups agreed with our proposal to issue guidance on identifying vulnerability and to require suppliers to have regard to this guidance via a licence modification. Some consumer groups considered that a site visit was necessary in order to ascertain information about customers' circumstances.

Disconnection in error

A number of suppliers felt that some customers may consider a mandated compensation scheme for customers disconnected in error as encouragement for avoiding contact with their supplier during the disconnection process. These suppliers favoured assessing circumstances for compensation on a case-by-case basis.

Consumer groups strongly agreed with our proposal and supported a mandatory approach if suppliers were not willing to provide this to customers on a voluntary basis. Other respondents agreed that suppliers should ensure rapid reconnection and provide compensation on a voluntary basis where any customer had been disconnected in error. One of these respondents also stated that suppliers should carry out a site visit for all gas reconnections.

Notification

Suppliers agreed that the current notification periods for disconnection are sufficient as these are included in the Gas and Electricity Acts. Consumer groups also shared this view but only on the basis that suppliers continue to follow their debt path procedures before providing customers with a seven day notification.

New approaches to disconnection

Some suppliers agreed with our proposal to explicitly set out in the supply licences that credit limiting and load limiting amount to disconnection in certain circumstances. However others did not support the proposal, stating that further work was needed to understand how credit limiting and load limiting will be introduced and the circumstances when it will be acceptable for customers to use. Suppliers asked Ofgem to review the situation in 18 months time with a view to providing additional clarity. Some consumer groups agreed with our proposals to include these protections in the licence conditions but felt that the proposals did not go far enough.

Non-domestics consumers

Suppliers considered that the existing protections regarding disconnection and prepayment for non-domestic customers are appropriate and do not require modification. One consumer group stated that consideration should be given to whether compensation levels in cases of wrongful disconnection should reflect any financial loss, including inconvenience, to a business that has been disconnected in error. The same consumer group also considered that disconnection of micro businesses should be handled in the same way as

domestic customers and voiced concerns that suppliers may use remote disconnection to encourage these customers to make payments in respect of disputed bills.

Other organisations raised issues relating to energy use across domestic and non-domestic premises and the importance of a continued supply in premises such as schools, care homes, secure units, sheltered housing and in the social housing sector. These organisations highlighted that remote disconnection of these non-domestic supplies will impact domestic customers but may not be immediately identifiable to a supplier of a non-domestic premises.

Conclusions

Remote switching to prepayment

Identifying safe and reasonably practicable

Having considered the responses to the Spring Package consultation, we have decided to proceed with the proposal to issue guidance on identifying when it is safe and reasonably practicable in the circumstances for a customer to use a prepayment meter and to require suppliers to have regard to this guidance³ through a licence modification inserting SLC 28.1B.

We have also decided to proceed with the proposal to require suppliers through a licence modification inserting SLC 28.1A, where they know or have reason to believe that prepayment is no longer safe and reasonably practicable for a customer, to offer an alternative payment method or take some other form of action to enable payment.

Notification

Following responses we have decided that the current seven day notification periods suppliers give customers when switching to a prepayment meter are sufficient at this time.

Information on PPMs

Having considered the responses, we have decided to proceed with the proposal to require suppliers to give customers information relating to the operation of the PPM and the methods by which the customer can pay in advance through the meter prior to or upon installation of the PPM. This will be achieved through a licence modification to SLC 28.1.

Applying credit to the meter

In light of responses, we have decided to proceed with a modification to SLC 27.1 to clarify the requirement on suppliers to offer payment by cash by adding that this includes circumstances when payment is made through a PPM.

Remote disconnection

Identification of vulnerable customers

Having considered the responses, we have decided to proceed with the proposal to reinforce the existing obligation by requiring suppliers to have regard to guidance⁴ issued by the Authority on what may constitute reasonable steps to identify the status of customers and occupants prior to disconnection. This will be achieved through a modification inserting SLC 27.11B.

³ See Appendix 2 of this document.

⁴ See Appendix 3 of this document.

Disconnection in error

The six major suppliers have voluntarily agreed to implement commitments relating to rapid reconnection and compensation through the ERA Safety Net for all customers who have been wrongfully disconnected⁵. We are working separately to obtain a parallel commitment from smaller suppliers.

Notification

Following responses, we have decided that the current seven day notification periods relating to disconnection are sufficient at this time.

New approaches to disconnection

Having considered the responses to the proposal to explicitly set out in the supply licences that credit limiting and load limiting amount to disconnection in certain circumstances, we have decided to proceed with our proposed licence modifications inserting SLC 27.9A. In addition, the six major suppliers have provided a commitment that they will consult both Ofgem and Consumer Focus ahead of introducing load limiting tariffs. We have also decided to review the situation concerning load limiting in conjunction with suppliers, consumer groups and other interested parties in 12 months time.

Non-domestic consumers

We received responses from consumer and business representative groups particularly around current supplier approaches for dealing with disconnections at non-domestic premises. We also note Consumer Focus' recent report on micro-business disconnection cases, and will be looking at the evidence from this work, together with the consultation responses in coming to a decision on remote functionality protections for non-domestic consumers.

Addressing these issues is part of a wider set of work we are undertaking covering non-domestic consumers, including work that forms part of the Retail Market Review and other activity on issues such as 'back-billing'. In this context we expect to provide a decision on the issues concerning remote disconnections for non-domestic consumers in the autumn.

Commercial Interoperability

We want to ensure that consumers' rights to switch suppliers continue to be upheld where smart meters are installed. At present where a smart meter is installed, there is a risk that when a customer switches supplier, some or all of the smart functionality may be lost. This may in turn impact on the practicality of the switching process. We recognise the complexities of dealing with this particular issue, and will consult separately on this in the summer. In the meantime, before customers choose to have a smart meter installed, suppliers should explain that it does not affect their rights to switch supplier and make clear any issues that the customer may face in attempting to switch. Suppliers are already under an obligation to comply with existing consumer protection legislation in this regard.

Proposed modifications

Subject to consideration of any formal objections to the notice of proposed modifications outlined above and attached, and having regard to the Authority's principal objective and statutory duties, the Authority proposes to modify the Licences as per the accompanying notices.

⁵ The revised version of the Safety Net will commit the six major suppliers to rapid reconnection where a customer has been wrongfully disconnected, usually within 24 hours and significantly faster where a smart meter is installed. On compensation, the Safety Net will commit the six major suppliers to provide customers disconnected in error with a minimum guaranteed compensation payment of £50 or a higher amount appropriate to the circumstances of the case.

The proposed licence modifications to amend SLCs 1, 27 and 28 are set out in Appendix 1 of this statutory notice detailing the modifications that Ofgem is proposing to make to the Gas and Electricity Supply SLCs under section 23(3) of the Gas Act 1986 and under section 11A(3) of the Electricity Act 1989 which accompany this letter.

As confirmed in the Notice, any formal objections should be made to Ofgem by 12 August 2011. Subject to any formal objections, Ofgem aims to modify the licence and bring the modifications into force by the end of the summer.

Any formal objections should be sent to:

Jonathan Blagrove
Senior Manager
Consumer Policy & Insight
Ofgem
9 Millbank
London
SW1P 3GE

If you have any comments or questions on this letter, please contact Jonathan Blagrove jonathan.blagrove@ofgem.gov.uk.

Yours faithfully

Sarah Harrison
Senior Partner
Sustainable Development

Appendix 1: Standard Licence Conditions 1, 27 and 28

The following shows the current licence conditions with the proposed modifications underlined. In relation to Condition 1, only new and amended definitions are shown.

Condition 1. Definitions for standard conditions

Definitions in alphabetical order

In this licence, unless the context otherwise requires:

<u>Credit Limiting</u>	means the practice by which the licensee limits the amount by which the total Charges for the Supply of Electricity [Gas] accrued by a Domestic Customer under a Domestic Supply Contract, may exceed the payments made by that Domestic Customer to the licensee under or in accordance with the relevant Domestic Supply Contract and related expressions must be read accordingly;
<u>Load Limiting</u> ⁶	means the practice by which the licensee limits the number of kilowatt hours supplied to a Domestic Premises in accordance with a Domestic Supply Contract and related expressions must be read accordingly;
<u>Prepayment Meter</u> ⁷	include any Electricity [Gas] Meter operating in a mode which requires a Domestic Customer to pay Charges for the Supply of Electricity [Gas] in advance, and reference to the installation or removal of a Prepayment Meter includes the switching of any Electricity [Gas] Meter to or from such a mode;
Principal Terms	means, in respect of any form of Contract or Deemed Contract, the terms that relate to: (a) Charges for the Supply of Electricity [Gas]; (b) any requirement to pay Charges for the Supply of Electricity [Gas] through a Prepayment Meter; (ba) <u>in relation to a Domestic Supply Contract, any Credit Limiting which applies, including the Credit Limit;</u> (bb) <u>in relation to a Domestic Supply Contract, any Load Limiting which applies, including the Load Limit</u> ⁸ ; (c) any requirement for a Security Deposit; (d) the duration of the Contract or Deemed Contract; (e) the rights to end the Contract (including any obligation to pay a Termination Fee) or the circumstances in which a Deemed Contract will end, and any other term that may reasonably be considered to significantly affect the evaluation by the Customer of

⁶ The definition of load limiting will only be inserted in the Electricity SLCs.

⁷ In each case where it occurs in the standard licence conditions, "prepayment meter" will be changed to "Prepayment Meter".

⁸ This paragraph will be inserted in the definition of Principal Terms in the Electricity SLCs only.

	the Contract under which electricity [gas] may be supplied to his premises;
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Condition 27. Payments, Security Deposits and Disconnections

Payment methods under Domestic Supply Contract

27.1 Where the licensee offers to supply electricity [gas] to a Domestic Customer under a Domestic Supply Contract under paragraph 2 of standard condition 22 (Duty to offer and supply under Domestic Supply Contract), it must offer the customer a wide choice of payment methods for paying Charges for the Supply of Electricity [Gas] and those methods must include (in each case, for the duration of the contract):

- (a) payment by cash:
 - (i) to a person and at a place that is reasonable in all the circumstances of the case, including circumstances where a Domestic Customer pays in advance through a Prepayment Meter; and
 - (ii) fortnightly or more regularly; and
- (b) payment in advance through a Prepayment Meter.

27.2 The licensee is not required to comply with paragraph 27.1:

- (a) if a Domestic Customer asks to use a particular payment method for paying Charges for the Supply of Electricity [Gas] and the licensee offers that method to him; or
- (b) if it supplies electricity [gas] to fewer than 50,000 Domestic Customers or such other number as may from time to time be directed by the Authority.

27.2A Any difference in terms and conditions as between payment methods for paying Charges for the Supply of Electricity [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 electricity [gas] is offered or provided, including terms as to price, which significantly affect the evaluation of that supply.

Security Deposits

27.3 A licensee must not require a Domestic Customer to pay a Security Deposit in relation to the supply of electricity [gas] to his premises:

- (a) if that customer agrees that the premises may be supplied through a Prepayment Meter and it is safe and reasonably practicable in all the circumstances of the case for the premises to be so supplied; or
- (b) if it is unreasonable in all the circumstances of the case to require that customer to pay a Security Deposit.

27.4 A Security Deposit must not exceed a reasonable amount.

Customers in payment difficulty

- 27.5 The licensee must offer each of the services set out in paragraph 27.6 when it becomes aware or has reason to believe that a Domestic Customer is having or will have difficulty paying all or part of the Charges for the Supply of Electricity [Gas].
- 27.6 The services referred to in paragraph 27.5 are:
- (a) the facility for a Domestic Customer to pay Charges for the Supply of Electricity [Gas]:
 - (i) by using, where available, a means by which payments may be deducted at source from a social security benefit received by that customer;
 - (ii) by regular instalments calculated in accordance with paragraph 27.8 and paid through a means other than a Prepayment Meter; and
 - (iii) by using a Prepayment Meter, where it is safe and reasonably practicable in all the circumstances of the case for the Domestic Customer to do so and where any instalments to be paid are calculated in accordance with paragraph 27.8; and
 - (b) the provision of information about how the Domestic Customer could reduce the Charges for the Supply of Electricity [Gas] that he must pay by using the electricity supplied to his premises more efficiently.
- 27.7 If a Domestic Customer, having agreed to make payments for Charges for the Supply of Electricity [Gas] using the service referred to in sub-paragraph 27.6(a)(i), is no longer in receipt of social security benefits from which payments can be deducted at source, the licensee must offer the services referred to in subparagraph 27.6(a)(ii) and 27.6(a)(iii).
- 27.8 The licensee must take all reasonable steps to ascertain the Domestic Customer's ability to pay and must take this into account when calculating instalments, giving due consideration to:
- (a) relevant information provided by third parties, where it is available to the licensee; and
 - (b) where instalments will be paid using a Prepayment Meter, the value of all of the charges that are to be recovered through that meter.

Disconnection for unpaid charges

- 27.9 The licensee must not Disconnect a Domestic Premises at which the Domestic Customer has not paid Charges for the Supply of Electricity [Gas] unless it has first taken all reasonable steps to recover those charges by means of the service referred to in sub-paragraph 27.6(a)(iii).

27.9A For the purposes of conditions 27.9, 27.10, 27.11 and 27.11A, Disconnection includes:

(a) Credit Limiting where:

- (i) it amounts to stopping the supply to the Domestic Premises; and
- (ii) the Domestic Customer does not pay Charges for the Supply of Electricity [Gas] by using a Prepayment Meter; and

(b) Load Limiting where:

- (i) the supply to the Domestic Premises is significantly constrained; and
- (ii) the Domestic Customer does not pay Charges for the Supply of Electricity [Gas] by using a Prepayment Meter or, where the Domestic Customer pays using a Prepayment Meter, that meter remains for the time being, in credit⁹.

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 Electricity [Gas] 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 Electricity [Gas] 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.

27.11A 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.

27.11B The licensee must have regard to guidance on the interpretation of conditions 27.9A to 27.11A which, following consultation, the Authority may issue and may from time to time revise.

Provision of information

27.12 The licensee must:

- (a) prepare a statement that sets out, in plain and intelligible language, its obligations under paragraphs 27.5 to ~~27.11~~ 27.11A;
- (b) publish that statement on and make it readily accessible from its Website (if it has one);
- (c) take all reasonable steps to inform each of its Domestic Customers, at least once each year, of that statement and how to obtain it; and
- (d) give a copy of that statement on request and free of charge to any person.

27.13 Paragraphs 14, 15 and 16 apply where a Domestic Customer pays the Charges for the Supply of Electricity [Gas] which are payable under its Domestic Supply Contract by way of regular direct debit payments of a fixed amount (which amount may be varied from time to time in accordance with the relevant Domestic Supply Contract).

27.14 The licensee must provide to each such Domestic Customer an explanation in clear, plain and intelligible language of the basis upon which a fixed amount (and any variation of that fixed amount) has been determined.

27.15 Save where a clear and express Principal Term of the relevant Domestic Supply Contract provide otherwise, the licensee must take all reasonable steps to ensure that the fixed amount of the regular direct debit payment is based on the best and most current information available (or which reasonably ought to be available) to the licensee, including information as to the quantity of electricity [gas] which the

⁹ This paragraph will only be inserted into the Electricity SLCs.

licensee reasonably estimates has been or will be supplied under the relevant Domestic Supply Contract.

- 27.16 Where any Credit has accumulated under a Domestic Supply Contract and the relevant Domestic Customer requests that the licensee do so, the licensee must, save where it is fair and reasonable in all the circumstances for the licensee not to do so, refund, in a timely manner any Credit which has accumulated under that Domestic Supply Contract to the relevant Domestic Customer. Where the licensee considers that it is fair and reasonable in all the circumstances for it not to refund any Credit which has accumulated under a Domestic Supply Contract in accordance with this provision, it must inform the relevant Domestic Customer of its view and of the reasons for holding that view.

In this condition, "**Credit**" means the amount by which the payments made by a Domestic Customer to the licensee under or in accordance with the relevant Domestic Supply Contract exceeds the total amount of Charges for the Supply of Electricity [Gas] which is due and payable by that Domestic Customer to the licensee under that Domestic Supply Contract.

Condition 28. Prepayment meters

Information about Prepayment Meters

- 28.1 If the licensee offers to enable a Domestic Customer to pay or a Domestic Customer asks to pay Charges for the Supply of Electricity [Gas] through a Prepayment Meter, the licensee must provide, prior to or upon the installation of that meter, appropriate information to that customer about:
- (a) the advantages and disadvantages of a Prepayment Meter;
 - (aa) information relating to the operation of the Prepayment Meter including information about the process for, and methods by which, the Domestic Customer can pay in advance through that meter;
 - (b) where he may obtain information or assistance if:
 - (i) the Prepayment Meter is not operating effectively; or
 - (ii) any device used to allow the Charges for the Supply of Electricity [Gas] to be paid through the Prepayment Meter is not operating effectively; and
 - (c) the procedures that the licensee will follow when removing or resetting the Prepayment Meter, including the timescale and any conditions for removing or resetting it.

Safety and reasonable practicability of Prepayment Meters

- 28.1A Where a Domestic Customer uses a Prepayment Meter and the licensee becomes aware or has reason to believe that it is no longer safe and reasonably practicable in all the circumstances of the case for the Domestic Customer to do so, the licensee must offer:
- (a) to alter the position of, or replace with one which has been specially adapted, the Prepayment Meter installed in the Domestic Premises, either in accordance with its obligations under Schedule 6 [Schedule 2B] of the Act or otherwise, if it would make it safe and reasonably practicable in all the circumstances of the case, for the Domestic Customer to continue to use the Prepayment Meter;

- (b) to make such other arrangements as are necessary to ensure that it would be safe and reasonably practicable in all the circumstances of the case, for the Domestic Customer to continue to use the Prepayment Meter; or
- (c) a facility for the Domestic Customer to pay Charges for the Supply of Electricity [Gas] through a means other than a Prepayment Meter, including, where condition 27.5 applies, the services referred to in condition 27.6(a)(i) and (ii).

28.1B The licensee must have regard to guidance on the interpretation of "safe and reasonably practicable in all the circumstances of the case" which, following consultation, the Authority may issue and may from time to time revise.

Resetting of Prepayment Meters

28.2 Where a Domestic Customer pays Charges for the Supply of Electricity [Gas] through a Prepayment Meter, the licensee must take all reasonable steps to ensure that the meter is reset within a reasonable period of time:

- (a) after 1 August 2007, if any change has been made to Charges for the Supply of Electricity [Gas] before that date and the meter has not been reset;
- (b) after any change is made on or after that date to Charges for the Supply of Electricity [Gas]; or
- (c) if payments are being made by instalments using the meter:
 - (i) after any change is made to the amount due in instalments; or
 - (ii) after instalments are no longer required.

Provision of information

28.3 The licensee must:

- (a) prepare a statement that sets out, in plain and intelligible language, its obligations under this condition and includes the information referred to in paragraph 28.1;
- (b) publish that statement on and make it readily accessible from its Website (if it has one);
- (c) take all reasonable steps to inform each of its Domestic Customers who pay Charges for the Supply of Electricity [Gas] through a Prepayment Meter, at least once each year, of the statement and how to obtain it; and
- (d) give a copy of the statement on request and free of charge to any person.

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

Appendix 2: Draft Guidance - Prepayment only where safe and reasonably practicable

The intention is that this guidance would apply in circumstances where the supplier offers a Prepayment Meter to a customer struggling to pay. It also applies where the supplier becomes aware that it is no longer safe and reasonably practicable for the customer to use a Prepayment Meter. Suppliers are also reminded that they cannot install a prepayment meter for any unpaid charges which are genuinely in dispute.

This guidance is not intended to be exhaustive, nor does it imply that these steps must be taken in each and every case, and it is ultimately for suppliers to determine the steps they need to take to meet their supply licence conditions. Suppliers should assess each individual case on its merit. These steps provide important protections, particularly for vulnerable consumers. Ofgem will take compliance with these very seriously and is likely to consider enforcement action to be a proportionate response to a single case of breach.

What is safe and reasonably practicable should be considered from the Domestic Customer's perspective. Relevant factors are likely to include:

- whether the customer is able to understand and operate the Prepayment Meter and visit top-up points to add more credit. (For example whether the customer has a physical or mental disability that prevents them from being able to appropriately use a Prepayment Meter.)
- whether the customer lives quite a distance from any top-up outlets. (What constitutes 'quite a distance' is likely to vary depending on the customer's circumstances. For example it may not be reasonably practicable to provide a Prepayment Meter if a Domestic Customer needs to travel over two miles to top up the credit and does not have a car.)
- whether the customer requires a continuous supply for health reasons, such as dependency on medical equipment requiring an electricity supply
- whether the Prepayment Meter is situated in a position (such as high on a wall) that means the customer could not operate the Prepayment Meter
- whether the Prepayment Meter would have to be situated outside or in a room to which the household does not have continuous access
- any advice/guidance received from the Health and Safety Executive (HSE).

Many of these circumstances may be addressed by technological innovations, particularly where a smart meter is installed, or some other form of initiative. Technical innovations addressing the issue of what is safe and reasonably practicable should only be adopted where suppliers are confident that the solution will enable them to provide a supply to the customer at all times. It is also possible that adults, other than the customer living in the premises, may be in a position to understand and operate the Prepayment Meter.

An example where it may be considered safe and reasonably practicable to switch the customer to prepayment mode even if the meter is inaccessible to the customer would be if the In Home Display unit or some additional device is accessible and allows all the necessary features of a PPM to be easily accessed by the customer, including the ability to re-enable supply.

Suppliers should also consider their obligation not to disconnect unless they have first taken all reasonable steps to recover charges through a Prepayment Meter. Given this requirement, in some circumstances it may be reasonable for measures to be taken which ensure it is safe and reasonably practicable for the customer to use the Prepayment Meter where the alternative is disconnection.

What is safe and reasonably practicable can also be considered from the supplier's perspective. However, there are likely to be limited circumstances where we considered it was not safe and reasonably practicable from the supplier's perspective, particularly where

the alternative for the customer is disconnection. An example of such a circumstance may be where the customer has had a history of theft of gas or electricity or meter tampering.

Identification of customers' circumstances

The sort of proactive steps that we would generally expect suppliers to consider in order to identify whether it is safe and reasonably practicable in all the circumstances of the case to offer a Prepayment Meter to a customer struggling to pay include:

- recording the location of the meter when installed or inspected
- reviewing appropriate notes on the customer's accounts to ascertain whether any vulnerability which would mean it was not safe and reasonably practicable for the customer to have a Prepayment Meter is recorded
- making multiple attempts to contact the customer by various means and at various times of day to discuss the option of paying through a Prepayment Meter
- where a discussion with the customer had not been possible or, if following discussion, there was still uncertainty about whether it would be safe and reasonably practicable for the customer to pay through a Prepayment Meter, the supplier should take reasonable steps to visit the customer at their premises
- checking whether there has been a change of occupancy
- attempting to check with any appropriate advice or other agency such as local authority or housing association
- obtaining authorisation of an appropriate seniority prior to moving a customer to a Prepayment Meter.

Post installation of a Prepayment Meter

The sort of proactive steps that we would generally expect suppliers to follow after putting a customer on a Prepayment Meter in order to ensure it is safe and reasonably practicable for the customer include:

- where technically feasible, monitoring whether the customer is self-disconnecting
- where it is identified that the customer is self-disconnecting, making multiple attempts to contact the customer by various means and at various times of day to understand the reasons for this.

Where it becomes apparent that the reason for self-disconnection is that it is not safe and reasonably practicable for the customer to use a Prepayment Meter, then the supplier should make alternative arrangements.

Appendix 3: Draft Guidance – identifying the status of customers prior to disconnection

The intention is that this guidance would apply with regard to taking all reasonable steps to ascertain whether the Domestic Customer or occupants of affected premises are of Pensionable Age, disabled or chronically sick prior to disconnection. Suppliers are also reminded that they cannot disconnect premises for any unpaid charges which are genuinely in dispute.

This guidance is not intended to be exhaustive nor does it imply that these steps must be taken in each case and it is ultimately for suppliers to determine the steps they need to take to meet their supply licence conditions. Suppliers should assess each individual case on its merit. These steps provide important protections, particularly for vulnerable consumers. Ofgem will take compliance with these very seriously and is likely to consider enforcement action to be a proportionate response to a single case of breach.

The sort of proactive steps that we would generally expect suppliers to consider to identify the status of customers and occupants include:

- reviewing appropriate notes on the customer's accounts to ascertain whether any vulnerability is recorded with regard to the customer or occupants at the premises
- reviewing written contact with customers struggling to pay to ensure that it is in plain English and that the customer is encouraged to ask for help and is also directed towards independent sources of help
- making multiple attempts to make personal contact with the customer by various means and at various times of day
- undertaking personal visits to the property which is at risk of being disconnected at various times of day and completing a visual check of the premises looking for signs of vulnerability¹⁰ of the customer or occupants at the premises.
- checking whether a property appears to be temporarily or permanently unoccupied
- checking whether there has been a change of occupancy
- attempting to check with any appropriate advice or other agency such as local authority or housing association
- obtaining senior management authorisation prior to any disconnection being carried out.

¹⁰ Suppliers may wish to consult Consumer Focus' vulnerability checklist for examples of signs of vulnerability.

NOTICE OF PROPOSED MODIFICATION OF THE STANDARD CONDITIONS OF THE GAS SUPPLY LICENCE UNDER SECTION 23(3) OF THE GAS ACT 1986

The Gas and Electricity Markets Authority ("the Authority") hereby gives notice pursuant to section 23(3) of the Gas Act 1986 ("the Act") as follows:

1. The Authority proposes to modify all gas supply licences granted or treated as granted under section 7A(1) of the Act by amending SLCs 1, 27 and 28 with regard to prepayment meters and disconnection.
2. The reasons why the Authority proposes to make these licence modifications is to clarify that existing consumer protections in relation to prepayment and disconnection continue to apply to smart meters; to require suppliers to have regard to guidance issued by the Authority in respect of considering whether it is safe and reasonably practicable for a customer to be offered prepayment and identifying whether the customer or occupants of premises are vulnerable before disconnection; where suppliers become aware or have reason to believe it is no longer safe and reasonably practicable for a customer to use prepayment, to require them to offer alternative arrangements; to require suppliers to provide information on how to use a prepayment meter or smart meter in prepayment mode, including the methods of topping-up that are available to the customer.
3. Relevant licence holders for the purposes of this Notice are all holders of a gas supply licence at the relevant time with Standard Conditions 1, 27 and 28 in force.
4. A pro forma that relevant licence holders may wish to use in order to register a statutory objection is appended to this notice.
5. A copy of the proposed modification(s) and other documents referred to in this notice are available (free of charge) from the Ofgem library (telephone 020 7901 7003) or on the Ofgem website (www.ofgem.gov.uk).
6. Any representations or objections to the proposed licence modifications may be made on or before 12 August 2011 to: Jonathan Blagrove, Consumer Policy & Insight, Office of Gas and Electricity Markets, 9 Millbank, London, SW1P 3GE or by email to jonathan.blagrove@ofgem.gov.uk
7. All responses will normally be published on Ofgem's website and held in the Research and Information Centre. However, if respondents do not wish their response to be made public then they should clearly mark their response as not for publication. Ofgem prefers to receive responses in an electronic form so they can be placed easily on the Ofgem website.

.....
Sarah Harrison

**Duly authorised on behalf of the
Gas and Electricity Markets Authority**

30 June 2011

NOTICE OF PROPOSED MODIFICATION OF THE STANDARD CONDITIONS OF THE ELECTRICITY SUPPLY LICENCE UNDER SECTION 11A(3) OF THE ELECTRICITY ACT 1989

The Gas and Electricity Markets Authority ("the Authority") hereby gives notice pursuant to section 11A(3) of the Electricity Act 1989 ("the Act") as follows:

1. The Authority proposes to modify all electricity supply licences granted or treated as granted under section 6(1)(d) of the Act by amending SLCs 1, 27 and 28 with regard to prepayment meters and disconnection.
2. The reasons why the Authority proposes to make this licence modifications is to clarify that existing consumer protections in relation to prepayment and disconnection continue to apply to smart meters; to require suppliers to have regard to guidance issued by the Authority in respect of considering whether it is safe and reasonably practicable for a customer to be offered prepayment and identifying whether the customer or occupants of premises are vulnerable before disconnection; where suppliers become aware or have reason to believe it is no longer safe and reasonably practicable for a customer to use prepayment, to require them to offer alternative arrangements; to require suppliers to provide information on how to use a prepayment meter or smart meter in prepayment mode, including the methods of topping-up that are available to the customer.
3. Relevant licence holders for the purposes of this Notice are all holders of electricity supply licence at the relevant time with Standard Conditions 1, 27 and 28 in force.
4. A pro forma that relevant licence holders may wish to use in order to register a statutory objection is appended to this notice.
5. A copy of the proposed modification and other documents referred to in this notice are available (free of charge) from the Ofgem library (telephone 020 7901 7003) or on the Ofgem website (www.ofgem.gov.uk).
6. Any representations or objections to the proposed licence modifications may be made on or before 12 August 2011 to: Jonathan Blagrove, Consumer Policy & Insight, Office of Gas and Electricity Markets, 9 Millbank, London, SW1P 3GE or by email to jonathan.blagrove@ofgem.gov.uk
7. All responses will normally be published on Ofgem's website and held in the Research and Information Centre. However, if respondents do not wish their response to be made public then they should clearly mark their response as not for publication. Ofgem prefers to receive responses in an electronic form so they can be placed easily on the Ofgem website.

.....
Sarah Harrison

**Duly authorised on behalf of the
Gas and Electricity Markets Authority**

30 June 2011

Suggested pro forma to register a statutory objection for statutory CLMs

Proposed Modification of Standard Licence Conditions 1, 27 and 28

Modification of SLCs 1, 27 and 28 in Gas and Electricity Supply Licences to require suppliers to have regard to guidance issued by the Authority in respect of considering whether it is safe and reasonably practicable for a customer to be offered prepayment and identifying whether the customer or occupants of premises are vulnerable before disconnection; where suppliers become aware or have reason to believe it is no longer safe and reasonably practicable for a customer to use prepayment, to offer alternative arrangements; to provide information on how to use a prepayment meter or smart meter in prepayment mode, including the methods of topping-up that are available to the customer.

In response to the statutory notice dated 30 June 2011 in respect of the above proposed modification, this notice constitutes a statutory objection to that proposal on behalf of **[state full name of each relevant licence holder making the objection]**. I confirm that I am duly authorised to give this notice on behalf of each of the above named companies.

[Signed]

Date:

[Address for acknowledgement, preferably including email address]