

To: All holders of a gas and/or
electricity supply licence

Email: retailpriceregulation@ofgem.gov.uk

Date: 19 November 2021

Domestic Gas and Electricity (Tariff Cap) Act 2018

Notice of statutory consultation on a proposal to modify the standard conditions of all gas & electricity supply licences

1. The Gas and Electricity Markets Authority ('the Authority')¹ proposes to modify the standard conditions of all gas and electricity supply licences granted or treated as granted under section 6(1)(d) of the Electricity Act 1989 and section 7A(1) of the Gas Act 1986, pursuant to section 1 of the Domestic Gas and Electricity (Tariff Cap) Act 2018 ('the Act'), by amending Standard Licence Condition (SLC) 28AD, namely the conditions which impose a cap on all standard variable and default rates that may be charged by the holders of supply licences for the supply of gas or electricity under domestic supply contracts ('the tariff cap conditions'), subject to section 3 of the Act (exemptions from the tariff cap).
2. The Authority proposes to add one new paragraph to SLC28AD of all the gas and electricity supply licences and apply amendments to three existing paragraphs as consequential changes to the proposed new paragraph.
3. The tariff cap conditions allows the Authority to amend the methodology that underpins the tariff cap at any point in time where there has been significant and unanticipated change of circumstances. The Authority may then calculate the updated Benchmark Maximum Charges using the amended methodology for an upcoming 28AD Charge Restriction Period.
4. We are proposing to introduce modifications to SLC28AD of the gas and electricity supply licences in order to allow in-period adjustments within a 28AD Charge Restriction

¹ The terms "the Authority", "we" and "us" are used interchangeably in this document.

Period, where there are exceptional circumstances that may require the Authority to amend the methodologies that set the allowances and re-calculate the Benchmark Maximum Charges.² This recalculation could represent an increase or decrease from the existing cap level.

5. We therefore propose to make the modifications to SLC28AD of the electricity and gas supply licences set out in Appendix 1 and 2.
6. These proposed modifications have effect in relation to supply licences, whenever granted, and domestic supply contracts, whenever entered into.
7. A more detailed description of the reasons for and effects of this proposed licence modification can be found in the accompanying document to this Notice, which is available at: <https://www.ofgem.gov.uk/publications/price-cap-consultation-process-updating-default-tariff-cap-methodology-and-setting-maximum-charges>
8. A copy of the proposed modifications and other documents referred to in this Notice have been published on our website (<https://www.ofgem.gov.uk>) . Alternatively, you can request a paper copy by emailing library@ofgem.gov.uk.
9. Any representations with respect to the proposed licence modifications must be made on or before Friday 17 December 2021 to Leonardo Costa, Office of Gas and Electricity Markets, 10 South Colonnade, Canary Wharf, London E14 4PU, or by email to retailpriceregulation@ofgem.gov.uk.
10. We normally publish all responses on our website. However, if you do not wish your response to be made public then please clearly mark it as not for publication. We prefer to receive responses in an electronic form so they can be placed easily on our website.
11. If we decide to make the proposed modifications they will take effect not less than 56 days after the decision is published.

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Leonardo Costa
Duly authorised on behalf of the Gas and Electricity Markets Authority
19 November 2021

² We define an in-period adjustment as a recalculation of the cap level within a cap period.

Appendix 1 – Draft of proposed changes to modify the standard conditions of all electricity supply licences.

Deletions are denoted with a strike through and new text denoted with double underlining

Condition 28AD of the electricity supply licence

[INSERT NEW PARAGRAPH:]

28AD.21A In the event of exceptional circumstances, and the Authority taking steps set out in paragraph 28AD.16(a) in making amendments to the methodology set out in Annex 2, Annex 3, Annex 4, Annex 5, or Annex 8, the Authority may:

- (a) determine revised Benchmark Maximum Charges which shall apply for the remainder of a 28AD Charge Restriction Period j (for which the Authority has already published the Benchmark Maximum Charges pursuant to paragraph 28AD.19(c) or paragraph 28AD.21), replacing the Benchmark Maximum Charges previously published from a date specified by the Authority by way of a statement in Writing, by calculating such values in accordance with paragraph 28AD.7;
- (b) in so determining the revised Benchmark Maximum Charges which shall apply for the remainder of a 28AD Charge Restriction Period j from the date specified by the Authority pursuant to paragraph 28AD.21A(a), take into account any modification made to SLC 28AD, notwithstanding that any such modification may not have come into effect at the time of publication of the updated Benchmark Maximum Charges in accordance with paragraph 28AD.21(c), provided that any such modification has come into effect by no later than the date specified by the Authority pursuant to paragraph 28AD.21A(a); and
- (c) publish such Benchmark Maximum Charges so calculated in the format specified in Annex 6.

[AMEND EXISTING PARAGRAPH:]

28AD.11 For the purposes of paragraph 28AD.7, the Operating Cost Allowance in 28AD Charge Restriction Period *j*, at Benchmark Annual Consumption Level *k*, for Benchmark Metering Arrangement *l* and for Payment Method *p* shall be calculated as follows:

$$OC_{j,k,l} = (OC_{0,k,l} \times \frac{CPIH_j}{CPIH_0}) + SMNCC_{j,k,p}$$

where:

$OC_{0,k,l}$ means the Baseline Value for the Operating Cost Allowance at Benchmark Annual Consumption Level k , for Benchmark Metering Arrangement l , as published by the Authority by way of a statement in Writing pursuant to paragraph 28AD.17;

$CPIH_j$ means the value of the consumer prices index including owner occupiers' housing costs, series ID: L522 (the "CPIH Index"), published by the Office for National Statistics. The value used shall be chosen as follows:

- For the First Charge Restriction Period the value of $CPIH_j$ shall be calculated as:

$$CPIH_j = CPIH_{Jun\ j-1}$$

- For a Subsequent Charge Restriction Period beginning on 1 April of each year and ending on 30 September of the same calendar year, the value of $CPIH_j$ shall be calculated as:

$$CPIH_j = CPIH_{Dec\ j-1}$$

- For a Subsequent Charge Restriction Period beginning on 1 October of each year and ending on 31 March of the subsequent calendar year, the value of $CPIH_j$ shall be calculated as:

$$CPIH_j = CPIH_{Jun\ j-1}$$

- For the Final Charge Restriction Period the value of $CPIH_j$ shall be calculated as:

$$CPIH_j = CPIH_{Jun\ j-1}$$

$CPIH_0$ is the Initial Value of the CPIH Index, as published by the Authority by way of a statement in Writing pursuant to paragraph 28AD.17

$SMNCC_{j,k,p}$ is the value of the Smart Metering Net Cost Change in 28AD Charge Restriction Period j , at Benchmark Annual Consumption Level k , for Payment Method p comprising:

- the Smart Metering Pass-Through Net Cost Change, which the Authority will, subject to paragraph 28AD.15 and 28AD.16 below, determine and publish semi-annually in accordance with paragraph 28AD.19 or otherwise in accordance with paragraph 28AD.21A and in the format set out in Annex 5; and
- the Smart Metering Non-Pass-Through Net Cost Change, which the Authority will publish in the format set out in Annex 5 and:
 - following consultation, re-publish in the format set out in Annex 5 following a review of the Smart Metering Non-Pass-Through Net Cost Change which the Authority will undertake during the course of 2019, such re-publication to take effect for the 28AD Charge Restriction Period starting on 1 October 2019; and;
 - otherwise, and subject to paragraphs 28AD.15 and 28AD.16 below, re-publish in the format set out in Annex 5 where it appears to the Authority that it is necessary to do so, such re-publication not to take effect before the first day of the 28AD Charge Restriction Period immediately following the date on which it is published.

[AMEND EXISTING PARAGRAPH:]

28AD.19 For each Subsequent Charge Restriction Period, subject to paragraphs 28AD.20 ~~and~~ 28AD.21 ~~7~~ and 28AD.21A no later than the fifth Working Day of February in relation to a forthcoming 28AD Charge Restriction Period *j* starting on 1 April, or no later than the fifth Working Day of August in relation to a forthcoming 28AD Charge Restriction Period *j* starting on 1 October, the Authority will:

- (a) determine the updated Benchmark Maximum Charges which shall apply for any forthcoming 28AD Charge Restriction Period *j* by calculating such values in accordance with paragraph 28AD.7;
- (b) in so determining the updated Benchmark Maximum Charges which shall have effect from the first day of any forthcoming 28AD Charge Restriction Period *j*, take into account any modification made to SLC 28AD, notwithstanding that any such modification may not have come into effect at the time of publication of the updated Benchmark Maximum Charges in accordance with paragraph 28AD.19(c), provided that any such modification has come into effect by no

- later than the first date of any forthcoming 28AD Charge Restriction Period j;
and
(c) publish such Benchmark Maximum Charges so calculated in the format specified in Annex 6.

[AMEND EXISTING PARAGRAPH:]

Definitions for condition

28AD.40 In this condition:

'Benchmark Maximum Charge' means one of the benchmark maximum charge values (in pounds sterling and exclusive of value-added tax), which are unique to a specific Benchmark Annual Consumption Level, Charge Restriction Region, Benchmark Metering Arrangement and Payment Method, and are updated on a semi-annual basis by the Authority pursuant to paragraphs 28AD.18 to to 28AD.19 or otherwise in accordance with paragraph 28AD.21A;

Appendix 2 – Draft of proposed changes to modify the standard conditions of all gas supply licences.

Deletions are denoted with a strike through and new text denoted with double underlining

Condition 28AD of the gas supply licence

[INSERT NEW PARAGRAPH:]

28AD.20A In the event of exceptional circumstances, and the Authority taking steps set out in paragraph 28AD.15(a) in making amendments to the methodology set out in Annex 2, Annex 3, Annex, 4, Annex 5, or Annex 8, the Authority may:

- (a) determine revised Benchmark Maximum Charges which shall apply for the remainder of a 28AD Charge Restriction Period j (for which the Authority has already published the Benchmark Maximum Charges pursuant to paragraph 28AD.18(c) or paragraph 28AD.20), replacing the Benchmark Maximum Charges previously published from a date specified by the Authority by way of a statement in Writing, by calculating such values in accordance with paragraph 28AD.6;
- (b) in so determining the revised Benchmark Maximum Charges which shall apply for the remainder of a 28AD Charge Restriction Period j from the date specified by the Authority pursuant to paragraph 28AD.20A(a), take into account any modification made to SLC 28AD, notwithstanding that any such modification may not have come into effect at the time of publication of the updated Benchmark Maximum Charges in accordance with paragraph 28AD.20(c), provided that any such modification has come into effect by no later than the date specified by the Authority pursuant to paragraph 28AD.20A(a); and
- (c) publish such Benchmark Maximum Charges so calculated in the format specified in Annex 6.

[AMEND EXISTING PARAGRAPH:]

28AD.10 For the purposes of paragraph 28AD.6, the Operating Cost Allowance in 28AD Charge Restriction Period *j*, at Benchmark Annual Consumption Level *k*, for Benchmark Metering Arrangement *l* and for Payment Method *p* shall be calculated as follows:

$$OC_{j,k,l} = (OC_{0,k,l} \times \frac{CPIH_j}{CPIH_0}) + SMNCC_{j,k,p}$$

where:

$OC_{0,k,l}$ means the Baseline Value for the Operating Cost Allowance at Benchmark Annual Consumption Level k , for Benchmark Metering Arrangement l , as published by the Authority by way of a statement in Writing pursuant to paragraph 28AD.16;

$CPIH_j$ means the value of the consumer prices index including owner occupiers' housing costs, series ID: L522 (the "CPIH Index"), published by the Office for National Statistics. The value used shall be chosen as follows:

- For the First Charge Restriction Period the value of $CPIH_j$ shall be calculated as:

$$CPIH_j = CPIH_{Jun\ j-1}$$

- For a Subsequent Charge Restriction Period beginning on 1 April of each year and ending on 30 September of the same calendar year, the value of $CPIH_j$ shall be calculated as:

$$CPIH_j = CPIH_{Dec\ j-1}$$

- For a Subsequent Charge Restriction Period beginning on 1 October of each year and ending on 31 March of the subsequent calendar year, the value of $CPIH_j$ shall be calculated as:

$$CPIH_j = CPIH_{Jun\ j-1}$$

- For the Final Charge Restriction Period the value of $CPIH_j$ shall be calculated as:

$$CPIH_j = CPIH_{Jun\ j-1}$$

$CPIH_0$ is the Initial Value of the CPIH Index, as published by the Authority by way of a statement in Writing pursuant to paragraph 28AD.16.

$SMNCC_{j,k,p}$ is the value of the Smart Metering Net Cost Change in 28AD Charge Restriction Period j , at Benchmark Annual Consumption Level k , for Payment Method p comprising:

- the Smart Metering Pass-Through Net Cost Change, which the Authority will, subject to paragraph 28AD.14 and 28AD.15 below, determine and publish semi-annually in accordance with paragraph 28AD.18 or otherwise in accordance with paragraph 28AD.20A and in the format set out in Annex 5; and
- the Smart Metering Non-Pass-Through Net Cost Change, which the Authority will publish in the format set out in Annex 5 and:
 - following consultation, re-publish in the format set out in Annex 5 following a review of the Smart Metering Non-Pass-Through Net Cost Change which the Authority will undertake during the course of 2019, such re-publication to take effect for the 28AD Charge Restriction Period starting on 1 October 2019; and;
 - otherwise, and subject to paragraphs 28AD.14 and 28AD.15 below, re-publish in the format set out in Annex 5 where it appears to the Authority that it is necessary to do so, such re-publication not to take effect before the first day of the 28AD Charge Restriction Period immediately following the date on which it is published.

[AMEND EXISTING PARAGRAPH:]

28AD.18 For each Subsequent Charge Restriction Period, subject to paragraphs 28AD.19 ~~and 28AD.20~~ and 28AD.20A no later than the fifth Working Day of February in relation to a forthcoming 28AD Charge Restriction Period *j* starting on 1 April, or no later than the fifth Working Day of August in relation to a forthcoming 28AD Charge Restriction Period *j* starting on 1 October, the Authority will:

- (a) determine the updated Benchmark Maximum Charges which shall apply for any forthcoming 28AD Charge Restriction Period *j* by calculating such values in accordance with paragraph 28AD.6;
- (b) in so determining the updated Benchmark Maximum Charges which shall have effect from the first day of any forthcoming 28AD Charge Restriction Period *j*, take into account any modification made to SLC 28AD, notwithstanding that any such modification may not have come into effect at the time of publication of the updated Benchmark Maximum

Charges in accordance with paragraph 28AD.18(c), provided that any such modification has come into effect by no later than the first date of any forthcoming 28AD Charge Restriction Period j; and
(c) publish such Benchmark Maximum Charges so calculated in the format specified in Annex 6.

[AMEND EXISTING PARAGRAPH:]

Definitions for condition

28AD.33 In this condition:

'Benchmark Maximum Charge' means one of the benchmark maximum charge values (in pounds sterling and exclusive of value-added tax), which are unique to a specific Benchmark Annual Consumption Level, Charge Restriction Region, Benchmark Metering Arrangement and Payment Method, and are updated on a semi-annual basis by the Authority pursuant to paragraphs 28AD.17 to 28AD.18 or otherwise in accordance with paragraph 28AD.20A;