

To: All holders of an electricity supply licence

**Electricity Act 1989
Section 11A(2)**

Notice of statutory consultation on a proposal to modify the standard conditions of all Electricity Supply Licences

1. The Gas and Electricity Markets Authority ('the Authority')¹ proposes to modify the standard conditions of all electricity supply licences granted or treated as granted under 6(1)(d) of the Electricity Act 1989 by amending standard licence conditions (SLC) under section 11A(1)(b) of the Act by introducing SLC 22B: "Requirements to make new tariffs available to existing customers" to all Electricity Supply Licences as set out in Appendix 1 to this notice.
2. We are proposing to introduce a new requirement on suppliers to ensure that subject to certain exceptions, all tariffs are available to, and are capable of being entered into by, both new and existing customers, and thereby mitigate the risks to consumers imposed by an unstable market.
3. This intervention would require a modification to the current Supply Licence Conditions, involving reintroducing the relevant parts of what was formerly SLC 22B, which was introduced in 2013 as part of the reforms under the Ofgem Retail Market Review (RMR) and later revoked in 2016, following a recommendation by the Competition & Markets Authority (CMA) as part of its Energy Market Investigation.
4. Our proposed modification aims to protect consumers from substantial losses if wholesale market volatility forces supplier exits, creating short and long-term costs to consumers and resulting in long-term reductions in competition. A detailed description of the reasons for and the effects of these licence modifications has been published by the Authority in the accompanying consultation, which can be found at:
 - <https://www.ofgem.gov.uk/publications/building-energy-market-resilience>
 - Alternatively, they are available from foi@ofgem.gov.uk.
5. Any representations with respect to the proposed licence modifications must be made on or before Monday 17th January 2022 to: Jennifer Karle, Office of Gas and Electricity Markets, 10 South Colonnade, Canary Wharf, London, E14 4PU or by email to retailpolicyinterventions@ofgem.gov.uk.
6. 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 However, if you do not wish your response to be made public then please clearly mark it as not for publication.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.
7. If we decide to make the proposed modifications, they will take effect not less than 56 days after the decision is published.

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

Neil Barnes
Deputy Director, Retail Policy & Innovation

Duly authorised on behalf of the
Gas and Electricity Markets Authority

15 December 2021

Appendix 1 - Proposed modifications to the standard conditions of all Electricity Supply Licences

New text is denoted by double underlining.

Condition SLC 22B. Requirements to make new tariffs available to existing customers:

22B.1 Subject to paragraph 22B.2, the licensee must ensure that all its Tariffs are available to, and are capable of being entered into by, both new and existing Domestic Customers.

22B.2 Paragraph 22B.1 does not apply to:

- a. A Closed Fixed Term Tariff;
- b. A Collective Switching Tariff;
- c. A Dead Tariff which complies with standard condition 22D; and
- d. Tariffs only offered to a particular group of Domestic Customers defined on the basis of criteria specified by the licensee, provided that the criteria do not in any way relate to whether or not the Domestic Customer is a new or existing Domestic Customer.

22B.3 In this condition:

“Collective Switching Tariff” means a Tariff for a Fixed Term Supply Contract which is entered into by a Domestic Customer only as a result of a Collective Switching Scheme.

“Collective Switching Scheme” means a scheme which the licensee is satisfied on the basis of the available evidence has:

- a. the primary purpose of seeking offers from more than one Gas Supplier for Tariffs, with a view to ensuring that at least one of those offers is likely to result in a bulk number of Domestic Customers transferring to that Tariff; and
- b. a process which has all of the following characteristics:
 - i) is organised and operated from time to time by a person that is not the licensee or an Affiliate;

- ii) is competitive and transparent, including by:
 - 1) having participation rules for Gas Suppliers that are clear, well publicised and otherwise available to any interested party at a reasonable period of time before the process begins;
 - 2) being open to all Gas Suppliers which are able to supply Domestic Customers to participate in;
 - 3) having participation criteria for Domestic Customers or particular groups of Domestic Customers which are well publicised at a reasonable period of time before the process begins and clear and easy to understand; and
 - 4) having an outcome which is made clear and which is well publicised;
- iii) a clearly defined start date; and
- iv) a clearly defined end date:
 - 1) by which Domestic Customers which have satisfied the participation criteria and which wish to enter into a new Domestic Supply Contract, must ultimately have entered into a Domestic Supply Contract for a Tariff offered by a participating licensee; and
 - 2) which is not longer than 6 months from the start date.

22B.4 SLC 22B will cease to have effect at 23:59 on 30 September 2022, or such later date, no later than 31 March 2023, as specified by the Authority publishing a statement in Writing.