

To: All holders of a Gas Supply Licence

**Gas Act 1986
Section 23(1)(b)**

Modification of the standard conditions of all Gas Supply Licences

1. Each of the licensees to whom this document is addressed has a gas supply licence which has been granted or treated as granted under 7A(1) of the Gas Act 1986 ('the Act').
2. Under section 23(2) of the Act the Gas and Electricity Markets Authority ('the Authority')¹ gave notice on 15 December 2021 ('the Notice')² that we propose to modify the standard conditions (SLC) under section 23(1)(b) of the Act by introducing a new SLC 22B: "Requirements to make all tariffs available to new and existing customers". We stated that any representations to the modification proposal must be made on or before 17 January 2022.
3. A copy of the Notice was sent to the Secretary of State in accordance with section 23(4)(b) of the Act, and we have not received a direction that the change should not be made.
4. We received 23 responses to the Notice, which we considered carefully. We have placed all non-confidential responses on our website. Our response to these comments is set out in the accompanying Decision document.
5. It is necessary to make two minor alterations to the modifications set out in the Notice by: (i) aligning the title of the condition to the substance of the condition, and (ii) introducing a derogation clause, allowing the Authority to grant derogations from this measure for specific tariffs, where appropriate. These alterations are shown in yellow highlight in the attached Schedule 1. The reasons for any differences between the modifications set out in the Notice and the modifications reflected in Schedule 1 are to clarify policy intent based on consultation responses.
6. We are inserting this licence condition on a temporary basis to ensure that all customers, in particular existing customers, can access all tariffs a supplier offers, including acquisition tariffs (typically only available to new customers). A more detailed description of the reasons and effects of these modifications can be found in our decision document:
 - Decision on potential short-term interventions to address risks to consumers from market volatility
<https://www.ofgem.gov.uk/publications/decision-short-term-interventions-address-risks-consumers-market-volatility>

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

² Statutory consultation (Statutory Consultation on potential short-term interventions to address risks to consumers from market volatility, December 15, 2021): <https://www.ofgem.gov.uk/publications/statutory-consultation-potential-short-term-interventions-address-risks-consumers-market-volatility>

7. In summary, the effect of the modifications will be to help further stabilise the retail market by addressing the risks posed to energy consumers by the current extraordinary market conditions.
8. Where an application for permission to appeal our decision is made to the Competition and Markets Authority (CMA) under section 23B of the Act, Rule 5.7 of the Energy Licence Modification Appeals: Competition and Markets Authority Rules³ requires that the appellant must send to any relevant licence holders who are not parties to the appeal a non-sensitive notice setting out the matters required in Rule 5.2. The attached Schedule 2 provides a list of the relevant licence holders in relation to this modification. Section 23(10) of the Act sets out the meaning of 'relevant licence holder'.

Under the powers contained in section 23(1)(b) of the Act, we hereby modify the standard licence conditions for all gas supply licences in the manner specified in attached Schedule 1. This decision will take effect from 14 April 2022.

This document is notice of the reasons for the decision to modify the gas supply licences as required by section 38A of the Act.

Neil Barnes
Deputy Director, Retail Policy and Innovation



Neil Barnes
Deputy Director, Retail Policy and Innovation

Duly authorised on behalf of the
Gas and Electricity Markets Authority

16 February 2022

³ CMA70 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/655601/energy-licence-modification-appeals-rules.pdf

Schedule 1 - Proposed modifications to the standard conditions of all Gas Supply Licences

New text is denoted by double underlining, deletions are shown in strikethrough and changes from the statutory consultation notice are highlighted in yellow

Condition SLC 22B. Requirements to make new all tariffs available to new and 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 Exception to compliance with condition 22B

The licensee is not required to comply with standard condition 22B to such extent and subject to such conditions as the Authority may from time to time direct.

22B.4 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.5 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.

Schedule 2 - List of the relevant licence holders

This modification is applicable to all Gas Supply (Domestic Only) licence holders as listed on our website:

<https://www.ofgem.gov.uk/publications/list-all-gas-licensees-including-suppliers>