

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 5 April 2023 ('the Notice') that we propose to modify Standard Licence Condition 4B in the manner described in the "Decision on Introducing a Minimum Capital Requirement and Ringfencing Customer Credit Balances (CCBs) by Direction" accompanying this notice². We stated that any representations to the modification proposal must be made on or before 5 May 2023.
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 15 responses to the Notice, which we carefully considered. We have placed all non-confidential responses on our website. Our response to these comments is set out in the accompanying Decision Document letter.
5. It is necessary to make a number of minor alterations to the modifications set out in the Notice. These alterations are shown in the attached Schedule 1.
6. We are making these licence changes because we believe that setting a common minimum capital requirement for all domestic suppliers, along with introducing powers to direct ringfencing of CCBs (addressed in a separate notice accompanying this) will address some of the systemic challenges in the retail energy market that led to high levels of supplier failure and high mutualised costs for consumers.
7. Together with the accompanying notice to introduce SLC 4D (Protecting CCBs), the effect of the modifications will help deliver a retail energy market that is secure, sustainable, and therefore able to deliver the innovation and positive consumer outcomes needed in the future.
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 20 September 2023.

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



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Rohan Churm
Interim Director of Financial Resilience and Controls
Duly authorised on behalf of the
Gas and Electricity Markets Authority

26 July 2023

Schedule 1: Modifications to the standard conditions of all gas supply licences

We have included SLC4B below which shows the modifications that are being made alongside any changes to the proposed modifications made in April 2023. A key has been provided for ease of reference.

Key

- **No format** = current wording in the licence that is being kept
- **Strikethrough** = proposed modification to remove wording from licence that is being kept
- **Underlined** = proposed modification that is being kept
- **Underlined + strikethrough** = proposed modification but not being kept
- **Dashed underlined** = proposed to be removed but being reinstated now
- **Double underlined + yellow** = modification not previously proposed but being introduced now

- 4B.8 The licensee must notify the Authority in writing: (i) as soon as reasonably practicable but no later than 7 days after it becomes aware that there is a Material risk that any of the Trigger Points set out in sub-paragraphs (a) to ~~(e)~~ **(d)** will occur; and (ii) as soon as reasonably practicable but no later than 7 days after it becomes aware that any of the following Trigger Points have occurred:
- a) any reduction in the licensee's Access to Funds, where this may impact the licensee's ability to meet standard conditions 4B.1, 4B.2, 4B.3, 4B.4, 4B.5 and 4B.6;
 - b) any changes with respect to the licensee's contractual arrangements with counterparties, where this may impact the licensee's ability to meet standard conditions 4B.1, 4B.2, 4B.3, 4B.4, 4B.5 and 4B.6;
 - c) any change that could have a Material adverse effect in respect to the cash position of the licensee; or
 - d) **the licensee's monthly average Cash is less than 20% of the value of its Gross Customer Credit Balances from Fixed Direct Debit Customers Net of Unbilled**

Annual Adequacy Self-Assessment

- 4B.11 The Annual Adequacy Self-Assessment must set out how the licensee:
- a) has complied with standard conditions 4B.1, 4B.2, 4B.3, 4B.4, 4B.5, 4B.6 and 4B.16 over the previous 12 calendar months;
 - b) intends to comply with standard conditions 4B.1, 4B.2, 4B.3, 4B.4, 4B.5, 4B.6 and 4B.16 for the next 12 consecutive calendar months;
 - c) has met the Capital Target or has complied with standard condition 4B.18 and ~~4B.19~~ **4B.20** over the previous 12 calendar months; and
 - d) intends to meet the Capital Target or intends to comply with standard condition 4B.18 and ~~4B.19~~ **4B.20** over the next 12 consecutive calendar months.

Capital Floor and Capital Target

- 4B.16 If the licensee supplies to Domestic Premises, with effect from 31 March 2025, the licensee's Adjusted Net Assets must not be below the Capital Floor.

4B.17 The licensee must, with effect from 31 March 2025, notify the Authority in writing as soon as reasonably practicable, and not more than 7 days, after it becomes aware that its Adjusted Net Assets are below the Capital Floor or there is a Material risk that its Adjusted Net Assets will be below the Capital Floor.

4B.18 If the licensee supplies to Domestic Premises, with effect from 31 March 2025, where the licensee's Adjusted Net Assets exceed the Capital Floor but are below the Capital Target (the "Intermediate Position"), it must:

- i) Notify the Authority, as soon as reasonably practicable, and at most within 7 days, of being in the Intermediate Position, that it is in the Intermediate Position;
- ii) Notify the Authority at least 28 days before making any payment, providing any loan or transferring any asset to any third party unless that payment, loan or transfer is one that it is essential to the licensee's operation as a supplier of gas to consumers (with such payments and transactions together hereinafter referred to as "Non-essential Payments");
- iii) Adhere to Transition Controls until the Capitalisation Plan has been approved by the Authority in accordance with standard condition 4B.19 4B.20 ("Approved Capitalisation Plan"); and
- iv) Once the Capitalisation Plan has been so approved, adhere to the Approved Capitalisation Plan.

4B.19 Where a licensee uses Alternative Sources of Capital to meet the Capital Floor or Capital Target:

- i) the Authority must approve these Alternative Sources of Capital before they can take effect for the purposes of meeting 4B.16 and 4B.18.
- ii) Requests to utilise Alternative Sources of Capital to meet the Capital Floor or Capital Target must be notified to the Authority in writing 8 weeks before the date provided for in standard condition 4B.16 and in respect of new market entrants at least 28 days before the grant of the gas supply licence.
- iii) Licensees must notify the Authority of any changes to their Alternative Sources of Capital as soon as reasonably practicable and no later than 7 days of becoming aware of changes.

4B.20 ~~4B.19~~ Where the licensee is in the Intermediate Position:

- i) It must submit to the Authority a credible proposed Capitalisation Plan (the "Proposed Capitalisation Plan") as soon as reasonably practicable.
- ii) The Authority will consider the Proposed Capitalisation plan and confirm in writing to the licensee whether it is has been approved or rejected (where approved, this is the "Approved Capitalisation Plan").
- iii) Where the Authority approves the Proposed Capitalisation Plan the licensee must adhere to the Approved Capitalisation Plan in accordance with 4B.18(iv).
- iv) Where the Authority rejects the Proposed Capitalisation Plan, it will provide the licensee with reasons for its rejection. In those circumstances, the licensee must submit to the Authority a further Proposed Capitalisation Plan which the Authority will consider and either approve or reject with reasons.

4B.21 ~~4B.20~~ Where the licensee seeks to amend the Approved Capitalisation Plan:

- i) It must notify the Authority of the amendment(s) it proposes and the reasons for proposing the amendment(s) at least 28 days before the next Quarterly Progress Milestone.
- ii) After receiving notification, the Authority will consider, and either accept or reject, the proposed amendment(s). For the avoidance of doubt, the Authority will only accept the proposed amendment(s) where the licensee satisfies it that there is reason to do so.
- iii) If the Authority accepts the proposed amendment(s), the licensee must adhere to the amended Approved Capitalisation Plan.
- iv) If the Authority rejects the proposed amendment(s), it will provide the licensee with reasons for its rejection. Upon receiving notification from the Authority of rejection, the licensee will then have a further 14 days during which representations may be made on the Authority's decision to reject the proposed amendment(s).
- v) If, following any representations from the licensee, the Authority accepts the proposed amendment(s), the licensee must adhere to the amended Approved Capitalisation Plan.
- vi) If, following any representations from the licensee, the proposed amendment(s) are rejected, the licensee must continue to adhere to the (unamended) Approved Capitalisation Plan.

4B.22 ~~4B.21~~ Where the Authority seeks to amend the Approved Capitalisation Plan:

- i) It must notify the licensee of the amendment(s) to the Approved Capitalisation Plan it proposes and the reasons for proposing the amendment(s) at least 28 days before the next Quarterly Progress Milestone.
- ii) After receiving notification, the licensee will have 14 days to consider the proposed amendment(s) and a further 14 days during which representations may be made on the proposed amendment(s).
- iii) If, following any representations from the licensee, the Authority continues to proceed with amendment(s) to the Capitalisation Plan that it has proposed, the licensee must adhere to the amended Approved Capitalisation Plan.
- iv) If, following any representations from the licensee, the Authority decides not to proceed with the amendment(s) to the Approved Capitalisation Plan that it has proposed, the licensee must continue to adhere to the original Approved Capitalisation Plan.

Circumstances for directing ringfencing of Customer Credit Balances

4B.23 ~~4B.22~~ The Authority will direct the licensee to Protect a proportion of its Domestic Customer Credit Balances in accordance with standard condition 4D where ~~the Authority's Supervisory Financial Monitoring data, or any other relevant data that the Authority receives or obtains indicates that:~~

- i) the licensee does not have Cash equal to or greater than 20% of Domestic Customer Credit Balances (the "Cash Coverage Trigger"); or
- ii) From 31 March 2025 onwards, the licensee's Adjusted Net Assets are below the Capital Target (the "Capital Target Trigger"); or

- iii) There is a Material risk that, within the next 12-month period the licensee will hit ~~hit~~ be below the Cash Coverage Trigger or the Capital Target Trigger

~~except in circumstances where the licensee satisfies the Authority, the licensee satisfies the Authority is satisfied~~, in accordance with standard condition ~~4B.23~~ **4B.25**, that Protecting Domestic Customer Credit Balances in accordance with standard condition 4D would not be in the Consumer Interest (the "Consumer Interest Test").

4B.24 ~~4B.23~~ Before a direction is issued by the Authority in accordance with standard condition ~~4B.22~~ **4B.23**:

- i) The Authority must notify the licensee that it is minded to issue a direction in accordance with standard condition ~~4B.22~~ **4B.23**;
- ii) After receiving such notification from the Authority, the licensee will have 7 working days within which to make representations to the Authority on the Consumer Interest Test.

4B.25 ~~4B.24~~ Where the Authority issues a direction under standard condition ~~4B.22~~ **4B.23** the licensee must apply an Adjustment Percentage of 100% for the purposes of standard condition 4D.4 unless, in its review of the ~~Supervisory Financial Monitoring data that it has in relation to the licensee and any other relevant data that it has obtained or received from any other sources~~, the Authority considers that an Adjustment Percentage of 100% will have a Material adverse effect on the licensee's ability to finance its activities and in such a case the Authority will direct an Adjustment Percentage of less than a 100% but which ensures that the licensee has sufficient Working Capital to pay its employees and those suppliers whose goods or services are essential to the continued operation of its supply business and other essential monetary obligations (such as, but not limited to, meeting its tax liabilities): **not be in the Consumer Interest, in which case the Authority may direct an Adjustment Percentage of less than 100%.**

4B.26 ~~4B.25~~ The Authority will revoke a direction issued under standard condition ~~4B.23~~ where it is satisfied that the circumstances for issuing a direction under standard condition ~~4B.22~~ **4B.23** are no longer present.

Guidance

4B.27 ~~4B.26~~ The licensee must have regard to the Guidance issued on standard condition 4B which, following consultation, the Authority may issue and may from time to time revise.

4B.28 ~~4B.27~~ Definitions:

Adjusted Net Assets

~~Means Net Assets (fixed assets + current assets) — (current liabilities — non-current liabilities) as measured according to suppliers' internal accounting standards (e.g. IFRS or UK GAAP) and reported in suppliers' Financial Statements plus any~~

~~Alternative Source of Capital that has been approved by the Authority.~~

~~Requests to utilise Alternative Sources of Capital to meet the Capital Floor or Capital Target must be notified to the Authority in writing no later than 24 weeks before the date provided for in standard condition 4B.16 and in respect of new market entrants within 28 days of the grant of the electricity supply licence~~

Means Net Assets without intangible assets, as measured according to suppliers' internal accounting standards (e.g. IFRS or UK GAAP) and reported in suppliers' Financial Statements plus any Alternative Source of Capital that has been approved by the Authority.

Adjustment Percentage

~~Means the % the Authority directs in accordance with standard condition 4B.24~~
4B.25

Alternative Sources of Capital

Means one of the following which has been approved by the Authority:

- ~~• Unsecured shareholder loans, not subject to accelerated repayment conditions, with a minimum 12-month residual maturity~~
- ~~• Drawn Parent / Group Company Working Capital Facilities from a counterparty with a minimum credit rating of Baa3/BBB or equivalent, with a minimum 12-month residual maturity and not be subject to full repayment and/or cancellation.~~
- ~~• Undrawn Parent / Group Company Working Capital Facilities from a counterparty with a minimum credit rating of Baa3/BBB or equivalent, with a minimum 12-month residual maturity and repayment profile provided that it is not subject to cancellation and/or drawstop conditions.~~

- ~~Unconditional, quantifiable general guarantee from a related party with a minimum credit rating of Baa3/BBB, with a minimum 12-month residual tenor.~~
- Unsecured loans approved by the Authority which satisfy each of the following conditions; (i) the loan is not repayable within the following 12 months, and (ii) the relevant lender (nor agent for the lender) has no right to accelerate the loan (including on the licensee's insolvency or any other event of default or other event).
- The full value of a Parent / group company committed, unsecured, documented loan facility from a parent / group company to the licensee (drawn or undrawn), which satisfies the following conditions: (i) the parent/ group company providing such commitment maintains a minimum long-term credit rating of at least two of the following: BBB- by Standard and Poor's, BBB- by Fitch or Baa3 by Moody's; (ii) the commitment is fully committed under a legally binding commitment letter or facility agreement for at least the next 12 months, and is not subject to any conditions to drawing or payment, and (iii) the parent/ group company has no right to cancel its commitment.
- Unconditional, unsecured, quantifiable, legally-binding, guarantee from a parent or group company to the licensee to discharge liabilities of the licensee, which guarantee satisfies the following conditions: (i) the parent/ group company providing such guarantee maintains a minimum long-term credit rating of at least two of the following: BBB- by Standard and

Poor's, BBB- by Fitch or at least Baa3 by Moody's; (ii) the guarantee is legally binding for at least the next 12 months, and is not subject to any conditions to drawing or payment, and (iii) the parent/ group company has no right to cancel such guarantee, (iv) any counterindemnity or other obligation by the licensee to parent/ group company in relation to payments by the parent/ group company under such guarantee will comply with the conditions referred to in "unsecured loans" above.

Capitalisation Plan

Means a credible plan submitted by the licensee and accepted by the Authority in accordance with SLC 4B.19 SLC 4B.20. The plan must, at a minimum, include the following:

- The cause for the licensee being below the Capital Target
- The level of funds needed to meet the Capital Target
- How they intend to raise further funds
- How they intend to conserve existing funds, including limiting Non-essential Payments
- Whether core business functions will be affected
- The timeframe it would take to recover
- Assumptions on customer growth numbers and relevant commercial strategy
- Risks to recovering within the proposed timeframe
- The governance arrangements, including who is responsible for taking relevant decisions
- Quarterly Progress Deadline Milestones

<u>Capital Floor</u>	<u>Means licensee Adjusted Net Assets of £0 per Domestic Customer.</u>
<u>Capital Target</u>	<u>Means licensee Adjusted Net Assets of £65 per Domestic Customer £57.50 per Domestic Customer.</u>
<u>Cash</u>	<u>Means the total amount of money held at the bank by licensee in current or deposit accounts and which is included in the balance sheet under current assets.</u>
<u>Consumer Interest</u>	<u>Means the likely impact of any adjustments on Resilience, Prices, Quality and Standards, and Low-Cost Transition to Net Zero</u>
<u>Domestic Customer Credit Balance</u>	<u>Means, during any period, the aggregate amount by which payments to be made by Fixed Direct Debit Domestic Customers under or in accordance with the relevant Domestic Supply Contracts exceeds the total amount of Charges which are to become payable by Fixed Direct Debit Domestic Customers under those Domestic Supply Contracts during such period minus any amount refunded to the Domestic Customer during that period.</u>
<u>Fixed Direct Debit</u>	<u>Means an instruction from the customer to their bank or building society that authorises an organisation to collect a fixed amount from the customer's account at regular intervals, provided that advance notice of the amount and the dates of collection have been provided.</u>
<u>Low-Cost Transition to Net Zero</u>	<u>Means the ability of gas supply licence holders to take the appropriate steps, at lowest cost to consumers, toward an energy system which relies on renewable, zero-emission sources and to facilitate the use of zero emission technologies that are connected to the energy network.</u>

<u>Material</u>	<u>Means more than negligible (de minimus)</u>
<u>Net Assets</u>	<u>Means (fixed assets + current assets) – (current liabilities + non-current liabilities)</u>
<u>Prices</u>	<u>Means Charges for the Supply of Gas</u>
<u>Protect</u>	<u>Means to put in place and maintain in effect a Credit Cover Support Arrangement in respect of the Protected Amount that protects that sum of money in the event of the licensee’s insolvency or licence revocation. "Protecting" and "Protection" shall be construed accordingly.</u>
<u>Protected Amount</u>	<u>Means the Gross Credit Balance minus the Unbilled Consumption multiplied by the Adjustment Percentage</u>
<u>Quality and Standards</u>	<u>Means the extent of competition, innovation and level of customer service in the market</u>
<u>Quarterly Progress Milestone</u>	<u>Means the agreed quarterly deadline for the licensee to report to the Authority on: (i) the progress made towards achieving the Approved Capitalisation Plan; and (ii) in circumstances where the Capital Target Trigger has occurred and the Authority has not issued a direction under standard condition 4B.23 4B.8, whether and why Protecting Customer Credit Balances in accordance with SLC 4D is or is not in the Consumer Interest</u>
<u>Resilience</u>	<u>Means the proportion of the Market at Risk of Failure and the likely Mutualised cost that would result in the event of that failure occurring</u>
<u>Supervisory Financial Monitoring</u>	<u>Means the processes by which the Authority obtains information about the financial position of licence holders with such information including, but not limited to, licensee hedging position, the level of assets and liabilities held by the licensee, and the</u>

licensee's ability to meet its debts as they fall due.

Transition Controls

Means the controls in place where the licensee is in Intermediate Position but before there is an Approved Capitalisation Plan in place. These controls are that the licensee must:

refrain from all sales, marketing and customer acquisition activity, including the acquisition of any new domestic customers or upgrading of all existing domestic customer to dual fuel ("Sales Ban")

refrain from making any payment, providing any loan or transferring any asset to any third party unless that payment, loan or transfer is one that: i) is required to make by virtue of a statutory requirement, court order or by virtue of a contractual requirement where making that payment is essential to enable the licensee to run its business; ii) is essential to the licensee's operation as a supplier of gas to consumers; or iii) is otherwise approved in writing by the Authority ("Non-essential Payments Ban").

Trigger Point

Are indicators linked to supplier financial resilience in the three situations described in paragraphs a) to e) d) of standard condition 4B.8.

Working Capital

Means the capital used to cover differences between when goods and services are paid for by suppliers, and when customers pay their bills. This can also be considered as the net current assets/liabilities of a supplier.

Schedule 2: list of the relevant licence holders in relation to this modification

Gas Supply licence holders are listed at: [List of all gas licensees including suppliers | Ofgem](#)