

To: All holders of an electricity generation licence

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

**Notice of statutory consultation on a proposal to modify the standard conditions
of all electricity generation licences**

1. The Gas and Electricity Markets Authority ('the Authority')¹ proposes to modify the standard conditions of all electricity generation licences granted or treated as granted under 6(1)(a) of the Electricity Act 1989 by removing the licence condition 16B Financial information reporting (also known as the Consolidated Segmental Statements (CSS)) under section 11A (2).
2. This notice of statutory consultation is published alongside a consultation setting out our proposed modifications (Schedule 1 below) to the Electricity Generation Licence. A detailed description of the reasons for and the effects of these licence modifications has been published by the Authority in the accompanying document.
3. We are proposing these modifications because, compared with when it was introduced, the CSS covers fewer companies and therefore is less effective at providing a representative view of the sector's profitability. Our proposals are intended to provide transparency to the market with the aim of ensuring consumers are treated fairly and promoting competition.
4. The effect of these proposed modifications is to increase the market coverage of the CSS by removing the condition that a supplier must also hold a generation licence and reducing the customer number threshold based on meter points. We are removing the current requirement for suppliers to audit the CSS and instead request the CSS is reconciled with the company's audited statutory accounts and the CSS submission is aligned with those statutory accounts and published 9 months after a company's year-end. We will retain the right to request an audit if we consider the CSS has not been prepared in accordance with the licence conditions, guidelines and/or template. We are removing the requirement to state transfer pricing policies.
5. A copy of the proposed modifications and other documents referred to in this Notice have been published on our website (www.ofgem.gov.uk). Alternatively, they are available from information.rights@ofgem.gov.uk.
6. Any representations with respect to the proposed licence modifications must be made on or before 12 January 2024 to: Andrew Milligan, Office of Gas and Electricity Markets, 10 South Colonnade, Canary Wharf, London, E14 4PU or by email to css@ofgem.gov.uk.
7. 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.

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

8. If we decide to make the proposed modifications, they will take effect not less than 56 days after the decision is published.

Andrew Milligan

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**Deputy Director for Retail Market Intelligence and Stability
Financial Resilience and Controls**

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

30 November 2023

Schedule 1: proposed changes to gas supply licence

Note on licence drafting:

- Proposed text to be added is doubled underscored
- ~~Proposed text to be removed is strikethrough~~

~~Condition 16B. Financial information reporting~~

- ~~1. The Relevant Licensee must prepare and publish on its Website a Consolidated Segmental Statement in respect of information relating to the revenues, costs and profits of its activities in the generation and supply of electricity and the supply of gas to any premises taking account of the Guidelines.~~
- ~~2. Where applicable, the Relevant Licensee must prepare and publish the Consolidated Segmental Statement referred to in paragraph 1 in conjunction with any Affiliates.~~
- ~~3. The Relevant Licensee must, in conjunction with any Affiliates, prepare and publish a Consolidated Segmental Statement~~
 - ~~a. as soon as reasonably practicable and no later than four months after the end of the Relevant Licensee's financial year; or;~~
 - ~~b. no later than a date specified by the Authority, which can be no earlier than four months after the end of the Relevant Licensee's financial year.~~
- ~~4. Subject to complying with this paragraph the Relevant Licensee may, for the purpose of preparing the statement pursuant to paragraph 19A.3, prepare and compile the information according to the licensee's annual accounting procedures. The Relevant Licensee must include in every such statement an explanation of:~~
 - ~~f. how it defines the terms revenues, cost and profits;~~
 - ~~g. how the revenues and profits can be reconciled with its UK statutory accounts;~~
 - ~~h. or, if UK statutory accounts are not prepared or published, how the revenues and profits can be reconciled with audited figures (prepared under International Financial Reporting Standards) published in Group accounts;~~
 - ~~i. its transfer pricing methodology and how this relates to the revenues, costs and profit information published; and~~
 - ~~j. where individual business functions are captured in the Consolidated Segmental Statement, as specified by Appendix 2 of the Guidelines.~~
- ~~5. The Relevant Licensee must ensure that the information prepared and made public pursuant to paragraph 3 includes the cost of fuel used to generate electricity and its share of revenues, costs, profits and volumes of Joint Ventures and Associates.~~

~~6. Subject to complying with Paragraph 5 the Relevant Licensee must ensure that all the information prepared and made public pursuant to paragraph 3 is in all material respects consistent with the information prepared pursuant to paragraph 4 and the information is presented with a clear and full explanation.—~~

~~7. The Relevant Licensee must, for the purposes of ensuring the transfer pricing methodology is appropriate and up to date:~~

~~(a) keep transfer pricing policies and procedures under review; and~~

~~(b) ensure that the supporting information that supports the transfer pricing policies remains appropriate and up to date.~~

~~8. The Relevant Licensee must notify the Authority as soon as reasonably practicable of any material changes to transfer pricing policies.~~

~~9. (a) The Authority shall prepare Guidelines in relation to the requirements of this condition and may modify, in whole or in part, the Guidelines following consultation with the Relevant Licensees.~~

~~(b) The Authority shall modify the definition of Consolidated Segmental Statement as described in Appendices 1 and 2 of the Guidelines in accordance with section 11A of the Act.~~

~~10. Except and to the extent that the Authority otherwise consents, the Relevant Licensee must include in the Consolidated Segmental Statement a report from an Appropriate Auditor that gives an audited opinion as to the extent to which the Relevant Licensee has properly prepared the Consolidated Segmental Statement in accordance with this licence condition and the Guidelines.~~

~~11. For the purposes of this condition:~~

~~“**Affiliate**” means any holding company or subsidiary of a holding company of the Relevant Licensee, in each case within the meaning of sections 1159 and 1160 of the Companies Act 2006.~~

~~“**Appropriate Auditors**” means~~

~~d. in the case of a licensee which is a company within the meaning of section 1 of the Companies Act 2006, a person appointed as auditor under Chapter 2 of Part 16 of that Act;~~

- e. ~~in the case of any other licensee which is required by the law of a country or territory within the European Economic Area to appoint an auditor under provisions analogous to Chapter 2 of Part 16 of the Companies Act 2006, a person so appointed;~~
- f. ~~in any other case, a person who is eligible for appointment as a company auditor under sections 1212 and 1216 of the Companies Act 2006, or in relation to auditors appointed for financial years beginning before 6 April 2008, a person who is eligible for appointment as a company auditor under sections 25 and 26 of the Companies Act 1989.~~

~~“Associate” means an entity, including an unincorporated entity such as a partnership, over which the Relevant Licensee has significant influence and that is neither a subsidiary nor an interest in a joint venture.~~

~~“Consolidated Segmental Statement” means a statement as described in Appendices 1 and 2 of the Guidelines.~~

~~“Joint Venture” means a contractual arrangement whereby the Relevant Licensees and one or more parties undertake an economic activity that is subject to joint control.~~

~~“Relevant Licensee” means the holder of an electricity generation licence granted or treated as granted under section 6(1)(a) of the Act if it supplies or any of its Affiliates supply, either jointly or severally:~~

- ~~i. electricity to more than 250,000 domestic customers; or~~
- ~~ii. gas to more than 250,000 domestic customers; or~~
- ~~iii. electricity to more than 250,000 non-domestic customers; or~~
- ~~iv. gas to more than 250,000 non-domestic customers.~~

~~“Website” means a website controlled and used by the Relevant Licensee or an Affiliate for the purposes of providing information and communication.~~