

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 licence number:
 - a. Changes to definitions in SLC 1.3
 - b. Expanding coverage of SLC 0A
 - c. Moving of SLC 7A.10C to SLC 20.6
 - d. Addition of SLC 20.4A
 - e. Modification of SLC 20.5D
2. We are proposing these modifications as we have received numerous reports that the non-domestic market is not delivering to our expectations: with accounts of customers struggling to make contact with energy suppliers, poor customer service, and larger price increases than seem necessary.
3. Through engagement with suppliers and consumer groups, a call for evidence and a policy consultation we have identified and prioritised several key areas of consumer harm and developed a package of proposed policy measures, including standard licence modifications, to address these harms.
4. A copy of the proposed modification/modifications and other documents referred to in this Notice have been published on our website (www.ofgem.gov.uk). Alternatively, they are available from foi@ofgem.gov.uk.
5. Any representations with respect to the proposed licence modification/modifications must be made on or before 31st January 2024 to: Non-Domestic Retail team, Office of Gas and Electricity Markets, 10 South Colonnade, Canary Wharf, London, E14 4PU or by email to NonDomesticRetailPolicy@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 However, if you do not wish your response to be made public then please clearly mark it as not for publication.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 modification/modifications it/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.



.....
Jemma Baker
Deputy Director – Future Retail Market
Duly authorized on behalf of the
Gas and Electricity Markets Authority
[Date]

Schedule 1 – Draft of proposed modifications to the standard conditions of all electricity supply licences.

Draft Supply Licence conditions

Deletions are shown in strikethrough and new text is double underlined. We have only shown those licence conditions where modifications are proposed

Condition 1.3 Definitions in alphabetical order

Principal Terms means, in respect of any form of Contract or Deemed Contract, the terms that relate to:

(a) Charges;

(aa) where the licensee is relying on sub-paragraph 22C.11(a) of standard condition 22C or sub-paragraph 23.8(a) of standard condition 23, the method by which Charges for the Supply of Electricity fluctuate automatically;

(ab) where the licensee is relying on sub-paragraph 22C.11(b) of standard condition 22C or sub-paragraph 23.8(b) of standard condition 23, the precise variations to the Charges for the Supply of Electricity;

(ac) Where the licensee is relying on paragraph 22C.11B of standard condition 22C and paragraph 23.8A of standard condition 23:

i. moving a Domestic Customer from one payment method to another and the precise circumstances when that will occur; and

ii. the precise variations to the Charges for the Supply of Electricity and other terms and conditions which would occur as a result of the Domestic Customer being moved from one payment method to another;

(ad) Where the licensee is relying on paragraph 22C.11B of standard condition 22C but not paragraph 23.8A of standard condition 23, moving a Domestic Customer from one payment method to another and the precise circumstances when that will occur;

(b) any requirement to pay Charges through a Prepayment Meter;

(ba) in relation to a Domestic Supply Contract, any Credit Management which applies, including the Credit Limit;

(bb) in relation to a Domestic Supply Contract, any Load Limiting which applies, including the Load Limit;

(c) any requirement for a Security Deposit;

(d) the duration of the Contract or Deemed Contract (including, but not limited to, the duration of any fixed term periods and any arrangements for renewing or extending the duration of the Contract or any fixed term periods);

(e) the rights to end the Contract (including any obligation to pay a Termination Fee) or the circumstances in which a Deemed Contract will

end, and any other term that may reasonably be considered to significantly affect the evaluation by the Customer of the Contract under which electricity may be supplied to his premises including for the avoidance of doubt, in relation to ~~Micro-Business Consumers~~ Non-Domestic Customers, any Third Party Costs, required to be paid or due to be paid in respect of the full duration of a Non-Domestic Microbusiness Consumer Contract and to be presented as defined in condition 20.6B as monies (whether actual or where that is not possible, estimated amounts).

Small Business Consumer [This definition is subject to change following DESNZ consultation]

A non-domestic customer is defined as a small business if they: employ fewer than 50 employees (or their full time equivalent) and has an annual turnover no greater than £6.5 million or balance sheet total no greater than £5.0 million; or uses no more than 500,000 kWh of electricity per year; or uses no more than 500,000 kWh of gas per year.

Condition 0A. Treating ~~Microbusiness Consumers~~ Non-Domestic Customers Fairly **Customer Objective**

0A.1 The objective of this condition is for the licensee to ensure that each ~~Micro-Business Consumer~~ Non-Domestic Customer is treated Fairly ("the Customer Objective").

Achieving the Standards of Conduct

0A.2 The licensee must ensure it achieves the Standards of Conduct in a manner consistent with the Customer Objective.

0A.3 The Standards of Conduct are that the licensee:

- a. behaves and carries out any actions in a Fair, honest, transparent, appropriate and professional manner;
- b. provides information (whether in Writing or orally) to each ~~Micro-Business Consumer~~ Non-Domestic Customer which:
 - i. is complete, accurate and not misleading (in terms of the information provided or omitted);
 - ii. is communicated (and, if provided in Writing, drafted) in plain and intelligible language with more important information being given appropriate prominence;
 - iii. relates to products or services which are appropriate to the ~~Micro-Business Consumer~~ Non-Domestic Customer to whom it is directed; and
 - iv. in terms of its content and in terms of how it is presented, does not create a material imbalance in the rights, obligations or interests of the licensee and the ~~Micro-Business Consumer~~ Non-Domestic Customer in favour of the licensee;
- c. in relation to customer service arrangements:

- i. makes it easy for a ~~Micro-Business-Consumer~~ Non-Domestic Customer to contact the licensee;
- ii. acts promptly to put things right when the licensee makes a mistake;
and
- iii. otherwise ensures that customer service arrangements and processes are fit for purpose and transparent.

Scope of Condition

0A.4 Standard condition 0A applies to all Designated Activities in respect of a ~~Micro-Business-Consumer~~ Non-Domestic Customer.

0A.5 Apart from any matters relating to Deemed Contracts, standard condition 0A does not apply in respect of the amount or amounts of any Charges for the Supply of Electricity or any other type of charge or fee, applied or waived.

0A.6 Standard Condition 0A applies to the exercise of a licensee’s discretion to apply or waive any fee or charge.

0A.7 In the event of a conflict between this condition and paragraph 14.2 of standard condition 14, this condition will prevail.

Guidance

0A.8 The licensee must have regard to any guidance on standard condition 0A (including in respect of definitions which appear in standard condition 1) which, following consultation (which may be conducted before this condition takes effect), the Authority has issued, may issue and may from time to time revise (following further consultation).

Definitions

0A.9 For the purposes of this condition:

“Billing”	all matters relating to the provision of a Bill or statement of account to a Customer, including the content and calculations relating to such a Bill or statement of account and the collection and use of information relating to the consumption of electricity.
“Contractual Information”	includes the drafting and content of a Non-domestic Supply Contract or Deemed Contract and the provision of information relating to the Non-domestic Supply Contract or Deemed Contract that applies to a Micro-Business-Consumer <u>Non-Domestic Customer</u> which is being supplied by the licensee.
“Customer Objective”	Is to be interpreted in accordance with paragraph 0A.1.
“Customer Transfers”	includes, but is not limited to, any matters that relate to a Customer’s ability to change supplier and/or affect the timeframe for changing supplier (including related terms and conditions of a Non-domestic Supply Contract or Deemed Contract that applies to a Micro-Business-Consumer <u>Non-Domestic Customer</u>).

"Designated Activities"	mean each of the following: g. the accuracy of a Bill or statement of Account; h. the timeframe for a Micro-Business Consumer <u>Non-Domestic Customer</u> receiving a Bill or statement of account and the timeframe for the payment of a Bill; i. any written or oral communications regarding Billing or Contractual Information; j. Customer Transfers; k. any matters relating to Deemed Contracts; and l. any matters which fall within the scope of standard conditions 7A, 14, 14A and 21B (in so far as they relate to a Micro-Business Consumer) <u>any matters which fall within the scope of standards conditions 14, 14A and 21B (in so far as they relate to a Non-Domestic Customer)</u> .
"Fair" and cognate expressions	The licensee would not be regarded as treating a Micro-Business Consumer <u>Non-Domestic Customer</u> Fairly if their actions or omissions give rise to a likelihood of detriment to the Micro-Business Consumer <u>Non-Domestic Customer</u> , unless the detriment would be reasonable in all the relevant circumstances.
"Micro Business Consumer"	has the meaning given in standard condition 7A.
"Standards of Conduct"	Means one or more of sub paragraphs 0A.3 (a) to (c)

Condition 7A. Supply to Micro Business Consumers

~~Information on Third Party Costs~~

~~7A.10C.1 In addition to the requirement in condition 7A.9, where the licensee has entered into a Micro-Business Consumer Contract, the licensee must provide to the Micro-Business Consumer on request, information relating to any form of Third Party Costs paid or made, or due to be paid or made by the licensee, to a Third Party in respect of the full duration of that Micro-Business Consumer Contract;~~

~~7A.10C.2 The licensee must ensure that the information that the licensee is required to disclose by virtue of condition~~

~~7A.10C.1:~~

- ~~(a) is disclosed as monies, whether actual amounts or (if that is not possible) estimated amounts;~~
- ~~(b) enables a Micro-Business Consumer to understand the amount of those sums that it is due to pay which are, or are attributable to Third Party Costs due to the Third Party, as well as any Charges (so far as they are different) or other sums; and~~
- ~~(c) is drafted in plain and intelligible language.~~

7A.10C- not used

Condition 20. Enquiry service, Supply Number, advice information and dispute settlement – for Non-Domestic Customers

Advice Information

20.4A The licensee must keep each of its Small Business Consumers informed:

- a. that Citizens Advice consumer service can assist in providing information and advice to Small Business Consumers; and
- b. how to contact Citizens Advice and Citizens Advice Scotland

by providing that information at least annually.

Working with Third Party Intermediaries

Dispute settlement

20.5 The licensee must provide to each of its Non-Domestic Customers information concerning their rights as regards the means of dispute settlement available to them in the event of a dispute with the licensee or, in the case of a Small Business Consumer ~~Microbusiness Consumer~~, any Third Party by providing that information on any relevant Promotional Materials sent to the Non-Domestic Customer and on or with each Bill or statement of account sent to each Non-Domestic Customer in relation to Charges or annually if the licensee has not sent such a Bill or statement of account to them. Such information must include, but is not limited to, how the procedures under any Qualifying Dispute Settlement Scheme can be initiated.

20.5A The licensee must ensure that any Third Party is a member of a Qualifying Dispute Settlement Scheme.

20.5B The licensee must provide any information it holds or controls which, in the view of the provider of the relevant Qualifying Dispute Settlement Scheme, is relevant to a dispute between a ~~Micro-Business Consumer~~ Small Business Consumer and a Third Party, to the provider of the relevant Qualifying Dispute Settlement Scheme, on request.

20.5C The provisions in this Condition 20.6 insofar as they relate to dispute settlement between a Microbusiness Consumer and a Third Party shall take effect on and from 1 December 2022 a date specified by the Authority. The provisions in this Condition 20.6 insofar as they relate to dispute settlement between a Small Business Consumer and a Third Party shall take effect [8 months after the decision is published], a date specified by the Authority.

20.5D For the purposes of this Condition: **'Qualifying Dispute Settlement Scheme'** means any scheme of dispute settlement, resolution and/or redress operated by the Relevant Energy Ombudsman or such other organisation as demonstrably provides independent, fair, effective and transparent out-of-court dispute settlement relating to Relevant Third Party Activities and constitutes a Qualifying Dispute Settlement Scheme in accordance with any guidance issued by the Authority,

'Relevant Third Party Activities' means any activity undertaken by a Third Party in respect of a ~~Micro-Business~~ Non Domestic Consumer Supply Contract including (but without prejudice to the generality of the foregoing):

(a) any written or oral communications relating to the supply of gas to a Non-Domestic Customer ~~Micro-Business Consumer~~ including:

- (i) any pre-sales communications;
- (ii) any communications regarding Billing or Contractual Information; and
- (iii) for a Micro Business Consumer any matters falling within the scope of standard conditions 7A, 14, 14A and 21B (insofar as they relate to a Micro Business Consumer); and

(b) any processing of information relating to the supply of gas to a ~~Micro-Business Consumer~~ Non-Domestic Customer, together with any other Relevant Activities as the Authority may direct from time to time, following consultation.

Information on Third Party Costs

~~7A.10C.1 20.6~~ In addition to the requirement in condition 7A.9, where the licensee has entered into a ~~Micro-Business Consumer Contract~~, the licensee must provide to the ~~Micro-Business Consumer~~ Non-Domestic Customer on request, information relating to any form of Third Party Costs paid or made, or due to be paid or made by the licensee, to a Third Party in respect of the full duration of that ~~Micro-Business~~ Non-Domestic Customer Contract;

~~7A.10C.2 20.6A~~ The licensee must ensure that the information that the licensee is required to disclose by virtue of condition

~~7A.10C.1 20.6B~~:

- (a) for Micro Business Consumers is disclosed as monies, whether actual amounts or (if that is not possible) estimated amounts and as a cost per unit of energy or a cost per day (month) where it forms part of a daily (monthly) standing charge;
- (b) for Non-Domestic Customers who do not qualify as a Micro Business Consumer, is disclosed as a cost per unit of energy or a cost per day (month) where it forms part of a daily (monthly) standing charge.;
- (~~b~~ c) enables a ~~Micro-Business Consumer~~ Non-Domestic Customer to understand the amount of those sums that it is due to pay which are, or are attributable to Third Party Costs due to the Third Party, as well as any Charges (so far as they are different) or other sums; and
- (~~e~~ d) is drafted in plain and intelligible language.