

To: All holders of an electricity generation licence

**Electricity Act 1989
Section 11A(1)(b)**

Modification of the standard conditions of all electricity generation licences

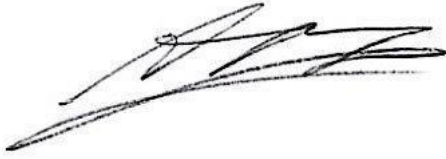
1. Each of the licensees to whom this document is addressed has an electricity generation licence which has been granted or treated as granted under 6(1)(a) of the Electricity Act 1989 (the Act).
2. Under section 11A(2) of the Act the Gas and Electricity Markets Authority ('the Authority')¹ gave notice on 11 December 2023 ('the Notice') that we propose to remove the standard condition 16B Financial information reporting (also known as the Consolidated Segmental Statements (CSS)). We stated that any representations to the modification proposal must be made on or before 12 January 2024.
3. A copy of the Notice was sent to the Secretary of State in accordance with section 11A(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 our decision document.
5. We are making these licence changes because compared with when it was introduced, the CSS covers fewer companies and therefore is less effective at providing a broadly representative view of the energy supply sector's profitability.
6. The effect of the modifications will be to increase the market coverage of the CSS by removing the condition that a supplier must also hold a generation licence and by reducing the customer number threshold based on meter points.
7. Where an application for permission to appeal our decision is made to the Competition and Markets Authority (CMA) under section 11C of the Act, Rule 5.6 of the Energy Licence Modification Appeals: Competition and Markets Authority Rules² 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 11A(10) of the Act sets out the meaning of 'relevant licence holder'.

Under the powers set out in section 11A(1)(b) of the Act, we hereby remove the standard licence condition 16B for all electricity generation licences in the manner specified in attached Schedule 1. This decision will take effect from 29 March 2024.

This document is notice of the reasons for the decision to modify the electricity generation licences as required by section 49A(2) of the Act.

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

² CMA70 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/655601/energy-licence-modification-appeals-rules.pdf



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Andrew Milligan
Deputy Director for Retail Market Intelligence and Stability
Financial Resilience and Controls

Duly authorised on behalf of the
Gas and Electricity Markets Authority

1 February 2024

Schedule 1: Licence Condition Modifications to Electricity Generation Licence

Note on licence drafting:

- Text to be added is doubled underscored.
- ~~Text to be removed is strikethrough.~~
- Changes from Stat Con version of proposed SLCs are as above but also highlighted in yellow.

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.—~~