

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

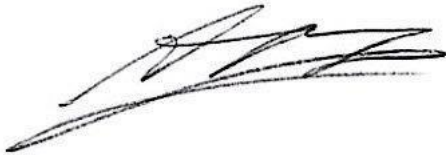
1. Each of the licensees to whom this document is addressed has a gas supply licence which has been granted or treated as granted under 7A(1) of the Gas Act 1986 ('the Act').
2. Under section 23(2) of the Act the Gas and Electricity Markets Authority ('the Authority')¹ gave notice on 11 December 2023 ('the Notice') that we propose to modify standard condition 19A 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 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 our decision document.
5. It is necessary to make a number of minor alterations to the modifications set out in the Notice. 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 correct minor typographical errors, address minor issues and corrections raised in consultation responses.
6. 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.
7. 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.
6. 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 5.6 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 23(10) of the Act sets out the meaning of 'relevant licence holder'.

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

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 29 March 2024.

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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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 Gas Supply 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 19A. Financial information reporting

19A.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 or the supply of gas to any premises taking account of the Guidelines.

19A.2. Where applicable, the Relevant Licensee must prepare and publish the Consolidated Segmental Statement referred to in paragraph 1 in conjunction with any Affiliates.

19A.3. The Relevant Licensee must, in conjunction with any Affiliates, prepare and publish a Consolidated Segmental Statement

- (a) **as soon as reasonably practicable** ~~in line with statutory accounts which is nine months after the end of the Relevant Licensee's financial year~~ and no later than ~~four~~ ten 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~~ nine months after the end of the Relevant Licensee's financial year.

19A.4. Subject to complying with this paragraph the Relevant Licensee may, for the purpose of preparing the statement pursuant to paragraph 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:

- (a) how it defines the terms revenues, costs and profits;
- (b) how the revenues and profits can be reconciled with its UK statutory accounts;
- (c) ~~or how~~, 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~~) in accordance with Generally Accepted Accounting Principles (GAAP) published in Group accounts; and
- ~~(d) its transfer pricing methodology and how this relates to the revenues, costs and profits information published; and~~
- (e) where individual business functions are captured in the Consolidated Segmental Statement, as specified by ~~Appendix 2 of~~ in the Guidelines.

19A.5. The Relevant Licensee **or any Affiliate** must ensure that the information prepared and made public pursuant to paragraph 19A.3 includes the **cost of fuel used to generate electricity and its** share of revenues, costs, profits and volumes of Joint Ventures and Associates.

19A.6. Subject to complying with Paragraph 19A.5 the Relevant Licensee must ensure that all the information prepared and made public pursuant to paragraph 19A.3 is in all material respects consistent with the information prepared pursuant to paragraph 19A.4 and the information is presented with a clear and full explanation.

- 19A.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.~~
- 19A.8. ~~The Relevant Licensee must notify the Authority as soon as reasonably practicable of any material changes to transfer pricing policies.~~
- 19A.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 23 ~~11A~~ of the Act.~~
- 19A.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. Where the Authority considers that the Relevant Licensee has not properly prepared the Consolidated Segmental Statement in accordance with this licence condition and the Guidelines and template, it may require the Relevant Licensee to commission and submit a report from an Appropriate Auditor or to submit a report from an Appropriate Auditor which it has already commissioned.~~
- 19A.11. **The Relevant Licensee may apply to the Authority to request a direction that this condition 19A does not apply and must provide any information required by the Authority in support of such application for consideration of whether to grant or refuse such an application.**
- 19A.12. 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

- (a) 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;
- (b) 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;
- (c) 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.

"Guidelines"

means the guidance and procedures in place for preparing the Consolidated Segmental Statements.

"Joint Venture"

mean 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 a supply licence granted or treated as granted under section 7A(1) of the Act if

- (a) it supplies, or it and any of its Affiliates jointly supply:
 - i. electricity to ~~more than 250,000~~ 50,000 or more domestic customers based on number of meter points; or
 - ii. gas to ~~more than 250,000~~ 50,000 or more domestic customers based on number of meter points; or
 - iii. electricity to ~~more than 250,000~~ 10 or more non-domestic customers based on number of meter points; or
 - iv. gas to ~~more than 250,000~~ 10 or more non-domestic customers based on number of meter points, respectively; and

~~(b) it or any of its Affiliates is a holder of an electricity generation licence granted or treated as granted under section 6(1)(a) of the Electricity Act 1989.~~

“Website”

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

