

**Reviewing the gas and electricity supply  
standard licence conditions**

**Consultation document – scope and  
timescale of the review**

February 2005      51/05

## Summary

Companies supplying gas and electricity to industrial, commercial and domestic customers in Great Britain are licensed by Ofgem. Electricity and gas supply licences contain a number of conditions that suppliers must comply with. Ofgem can investigate if a company fails to comply with a licence condition. Ofgem can then take enforcement action and may also impose a financial penalty for licence breach. The licences were first introduced when the industries were privatised. Since then, Ofgem has been granted further powers to address concerns about the behaviour of supply companies under general competition law and consumer protection law.

Ofgem's principle statutory duty is to protect customers' interests, where appropriate through the promotion of competition.

The electricity and gas supply markets are competitive markets. Ofgem no longer directly regulates the prices that suppliers charge – the last price controls on suppliers were removed in April 2002. Ofgem keeps the development of competition in these markets under regular review. In April 2004 it published a comprehensive review of domestic supply competition and concluded that competition continued to be effective in protecting customers' interests. Ofgem also reviewed the state of competition in the non-domestic market in June 2003 and concluded that it appeared to be broadly competitive.

Ofgem has also committed, through its corporate plan and strategy, to bringing best practice to all that it does and delivering value for money. Consistent with the principles of better regulation, Ofgem remains committed to withdrawing from regulation where appropriate. In July 2004, the Energy Act received Royal Assent. The Act places a new, additional duty on Ofgem to have regard to the principles of best regulatory practice in carrying out its functions under the Electricity Act and the Gas Act. This requires the Authority to consider an approach to regulation that is transparent, accountable, proportionate, consistent, targeted only at cases in which action is needed, and any other principles which appear to the Authority to represent best regulatory practice.

The current electricity and gas supply licences run to over 170 pages. Having considered this and against the background of both the competitive nature of this part of the supply chain and Ofgem's wider statutory duties and competition powers, Ofgem considers that it is appropriate to review the current supply licences. Energy suppliers and energywatch, the customer watchdog, support the principle of a review.

The review's main aims are to develop a set of clearly and effectively drafted licence conditions that:

- ◆ provide proportionate protection for the particular circumstances of the gas and/or electricity industry (in particular for vulnerable customers), given wider market developments and Ofgem's powers under competition and general consumer protection law
- ◆ make it easier for new companies to enter and compete in the electricity and gas markets, and
- ◆ provide a flexible framework within which the competitive markets can evolve without the need for sector-specific regulation of the domestic and non-domestic gas and electricity retail markets.

This consultation document seeks views on the most appropriate way to develop a supply licence that meets these aims. Ofgem is therefore seeking respondents' views on the overall objectives of any review, the basic principles that should underpin any review, the scope of any review and the timescale within which any review should be conducted.

# Table of contents

<b>1. Introduction.....</b>	<b>1</b>
Purpose of this document .....	1
Legal and regulatory framework.....	2
Background.....	3
<b>2. Impact Assessment - Objectives, principles and structure of the Review .....</b>	<b>13</b>
Overall objective.....	13
Issues – why a review is necessary .....	14
Options - proposed basic principles for the Review .....	15
Options – which SLCs should be included? .....	16
Options - how could a comprehensive review be conducted?.....	19
Risks and unintended consequences.....	21
Key uncertainties .....	23
Impact on competition .....	23
Costs and benefits .....	23
Environmental impacts .....	23
Security of supply.....	24
Distributional effects .....	24
Review and compliance .....	24
<b>3. Summary .....</b>	<b>25</b>
<b>Appendix 1 Example of a supply licence .....</b>	<b>26</b>
<b>Appendix 2 Current gas SLCs.....</b>	<b>38</b>
<b>Appendix 3 Current electricity SLCs .....</b>	<b>45</b>
<b>Appendix 4 Two possible timescales for the Review .....</b>	<b>52</b>

# 1. Introduction

1.1. This chapter explains the purpose of this consultation and the areas on which Ofgem<sup>1</sup> is seeking stakeholders' views. It also outlines the legal and regulatory framework within which the supply markets operate.

## ***Purpose of this document***

1.2. This consultation document seeks views on:

- ◆ whether it is appropriate to review the current gas and electricity supply standard licence conditions (SLCs)
- ◆ what the overall objectives of any Review should be
- ◆ the basic principles that should underpin any Review
- ◆ how any Review should be structured, and
- ◆ the timescale for any Review.

1.3. This initial document does not make any proposals about the way in which any of the current SLCs should be changed. Any discussion about the detail of such changes will take place if the Review proceeds.

1.4. Nor does this document make any proposals to review suppliers' Guaranteed Standards or Overall Standards<sup>2</sup>. Ofgem is currently considering whether it would be appropriate to put forward proposals to remove these. However that process can be carried out independently of any review of the supply licence conditions.

---

<sup>1</sup> Ofgem is the office of the Authority. The terms 'Ofgem' and 'the Authority' are used interchangeably in this document.

<sup>2</sup> Under the Utilities Act 2000, the Authority, with the consent of the Secretary of State, can make regulations for guaranteed standards of performance for electricity and gas suppliers. These are The Electricity (Standards of Performance) Regulations 2001(SI 2001 no 3265), The Electricity (Standards of Performance) (Amendment No.2) Regulations 2002 (SI 2002 No.742), The Gas (Standards of Performance) Regulations 2002 (SI2002 No. 474), and The Gas (Standards of Performance) (Amendment) Regulations 2002 (SI 2002 No.741)

## ***Legal and regulatory framework***

1.5. The principal objective of the Gas and Electricity Markets Authority (the Authority) in carrying out its functions is to protect the interests of consumers, wherever appropriate by promoting effective competition<sup>3</sup>. The Authority must carry out its functions in the manner it considers is best calculated to further that principal objective having regard to, amongst other things:

- ◆ the need to secure that so far as it is economical to meet them, all reasonable demands for gas are met, and all reasonable demands for electricity are met
- ◆ the need to secure that licensees can finance their activities which are the subject of obligations under the Utilities Act or, as the case may be, the Gas Act 1986 (the Gas Act) or the Electricity Act 1989 (the Electricity Act)
- ◆ the interests of particular customer groups such as those people who are disabled or chronically sick, people of pensionable age, those living on low incomes and those living in rural areas, and
- ◆ the promotion of efficiency and economy by licensees.

1.6. Ofgem is required to have regard to statutory guidance from government on social and environmental issues when discharging its functions. This includes contributing to the achievement of the government's fuel poverty and environmental targets.

1.7. The Energy Act 2004 introduced further statutory duties for the Authority:

- ◆ it is required to have regard to the principles of best regulatory practice in carrying out its functions under the Electricity Act and the Gas Act<sup>4</sup>. This requires the Authority to consider an approach to regulation that is transparent, accountable, proportionate, consistent, targeted only at cases

---

<sup>3</sup> Gas Act 1986 s4AA and Electricity Act 1989 s3A

<sup>4</sup> Energy Act 2004 s178

in which action is needed, and any other principles which appear to the Authority to represent best regulatory practice, and

- ◆ it must contribute to the achievement of sustainable development.

## ***Background***

### **Introduction of competition**

- 1.8. Competition was introduced in phases. For non-domestic gas customers, competition was introduced between December 1986 and May 1998; competition for non-domestic electricity customers was introduced between April 1990 and May 1999. Competition in the domestic gas sector was phased in between April 1996 and May 1998. For domestic electricity customers, competition was phased in between September 1998 and May 1999.

### **Price controls**

- 1.9. From privatisation, domestic prices were regulated through price caps. In gas, British Gas's gas prices were subject to relative price regulation which capped differences between BGT's combined prepayment and late pay prices and its prompt pay prices, and between its combined prepayment and late pay prices and monthly direct debit prices.
- 1.10. In electricity, ex-PESs' in-area electricity prices were subject to price caps. In April 2000, Ofgem removed price controls on ex-PESs' direct debit electricity prices. In April 2002 Ofgem lifted all remaining price controls.

### **Non-discrimination licence conditions**

- 1.11. Prior to the introduction of the current SLCs in October 2001, gas and electricity suppliers had non-discrimination licence conditions that imposed various obligations on them (for example not to show undue preference to any person or class of persons and not to exercise any undue discrimination against any person or class of persons). Following its consultation in July 2000<sup>5</sup> Ofgem decided that

---

<sup>5</sup> Gas and Electricity Supply Licences Proposals for Standard Non-discrimination Licence Conditions. Ofgem July 2000.

it was no longer appropriate to retain these conditions and that it should rely instead on its other powers including the new Competition Act 1998 to control anti-competitive behaviour in the gas and electricity supply markets.

### ***Competition Act 1998***

- 1.12. The Competition Act 1998 (as amended) (the Competition Act) confers on the Office of Fair Trading (OFT) and concurrently on the sectoral regulators, including Ofgem, in relation to their respective industries, powers to apply and enforce Articles 81 and 82 of the EC Treaty<sup>6</sup> as well as the Chapter I and II prohibitions of the Competition Act.
- 1.13. Article 81 and the Chapter I prohibition of the Competition Act prohibit agreements between undertakings, decisions by associations of undertakings and concerted practices (agreements) which have the object or effect of preventing, restricting or distorting competition. Article 81 applies to agreements which may affect trade between Member States in the EU. The Chapter I prohibition applies to agreements implemented or intended to be implemented in the United Kingdom (or a part thereof), which may affect trade within the United Kingdom.
- 1.14. Article 82 and the Chapter II prohibition of the Competition Act prohibit conduct by one or more undertakings which amounts to the abuse of a dominant position in a market (conduct). Article 82 applies to conduct within the common market in so far as it may affect trade between Member States. The Chapter II prohibition applies if the dominant position is held within the United Kingdom and the conduct in question may affect trade within the United Kingdom (or a part thereof).
- 1.15. The OFT, along with Ofgem and other sectoral regulators, has issued advice and information explaining how the Act will be applied and enforced. These guidelines were updated in December 2004 and are available on OFT's website at [www.offt.gov.uk](http://www.offt.gov.uk).

---

<sup>6</sup> The Treaty of Rome, establishing the European Community, as consolidated by the Treaty of Amsterdam.

## ***Licences***

### **Requirement for a licence**

- 1.16. The Gas Act and the Electricity Act introduced a system of licensing for gas and electricity suppliers which allows entry to the competitive supply markets. The supply of gas or electricity without a licence is expressly prohibited<sup>7</sup>. It is, therefore, an offence (with some limited exceptions) for any person to supply gas through pipes to any premises without a licence to do so.
- 1.17. Ofgem does not consider that any check that it could perform on a potential licensee at the time that it applies for a licence will provide continuing comfort about financial viability once the licensee commences operations. The failures of Independent Energy, Enron and TXU demonstrated the shortcomings of the previous *ex- ante* tests of financial viability. During the licensing process, these companies were subject to financial tests but still subsequently went into receivership. In the event that a trade sale does not take place when a supplier goes into receivership, Ofgem's power to appoint a Supplier of Last Resort for all groups of customers will help to ensure that they receive continuity of supply. The proposal to conduct this Review is therefore made in the context that there will continue to be entry to, and exit from, the domestic and non-domestic supply sector.
- 1.18. Parties apply for a licence from Ofgem in accordance with its published procedures<sup>8</sup>. Once a licence is granted by Ofgem, the licensee is bound by duties imposed by either the Gas Act or the Electricity Act, other relevant legislation and the conditions in the licence. Ofgem keeps the gas and electricity markets and the performance of licensees against their licence obligations under regular review. Ofgem can impose financial penalties of up to 10 per cent of the licensed entity's turnover on licensees that do not comply with their licence conditions.

---

<sup>7</sup> Gas Act 1986 s5(1) and Electricity Act 1989 s4(1)(c)

<sup>8</sup> <http://www.ofgem.gov.uk/ofgem/work/index.jsp?section=/areasofwork/licensing>  
Reviewing the gas and electricity supply standard licence conditions  
Office of Gas and Electricity Markets

## Standard Licence Conditions

- 1.19. Licences impose certain obligations on licensees. The majority of these obligations are set out in Standard Licence Conditions (SLCs) that apply to all licensees of a particular type. It should be noted that some licensees have special licence conditions included as part of their licence and some may have amended standard conditions but these are not the subject of the proposed Review.
- 1.20. There are currently 28 SLCs that apply to all gas suppliers and 33 SLCs that apply to all electricity suppliers. Gas and electricity suppliers who are licensed to supply domestic customers have, respectively, an additional 24 and 19 SLCs to comply with. In addition, the “ex-PES” licensees<sup>9</sup> have an additional 8 SLCs and British Gas has an additional 2 SLCs (known as the Supply Services Obligations).
- 1.21. Licences do not contain the actual text of the SLCs (a broad outline of the structure of a licence is set out below). They contain a table that indicates which SLCs are in effect in the licence. An example of a licence is in Appendix 1.

## Overview of the licence structure

- 1.22. Gas and electricity supply licences have a similar structure:
- ◆ Section A – Interpretation, Application and Payments

These SLCs apply to all licensees and, amongst other things, define terms used in other SLCs, provide a mechanism for activating the SLCs that only apply to domestic suppliers and specify how licence fees are to be paid to the Authority.
  - ◆ Section B – General

These SLCs apply to all licensees and, amongst other things, cover obligations relating to various industry codes and agreements, meters, cross-subsidies, deemed contracts and security of supply (for example Supplier of Last Resort).

---

<sup>9</sup> EdF, npower, Powergen, Scottish and Southern Energy and Scottish Power  
Reviewing the gas and electricity supply standard licence conditions  
Office of Gas and Electricity Markets

◆ Section C – Domestic Supply Obligations

These SLCs apply only to suppliers who are permitted to supply domestic customers. They include, amongst other things, the duty to offer terms to any domestic customer, the requirement to have Codes of Practice for various activities including services for vulnerable customers, contractual issues including the “28 day rule”<sup>10</sup>, and marketing.

◆ Section D – Supply Services Obligations

These SLCs apply only to the former monopoly suppliers<sup>11</sup> in their incumbent regions. They include, amongst other things, the provision of regulatory accounts and, in electricity only, issues concerning top-up, standby and exempt supply services as well as the provision of a prepayment meter infrastructure.

- 1.23. The obligations placed on licensees by the SLCs are explained briefly in Appendices 2 and 3.
- 1.24. Ofgem does not anticipate that the licence structure itself will change as a result of this Review since it seems likely that there will still be some additional obligations on domestic suppliers (for example in relation to vulnerable customers). However it is likely that following this Review each section will be considerably shorter than now.

### **Changes to licence conditions**

- 1.25. Ofgem is required to publish proposals for changes to licence conditions and to take account of representations made on the proposed change, including comments by customers or customer organisations. In addition to consulting licensees, Ofgem must also consult the Secretary of State, energywatch and the

---

<sup>10</sup> SLC46 “Termination of Contracts on Notice” allows any domestic customer to terminate their contract by giving 28 days’ notice, although in some circumstances they may be liable to pay a termination fee.

<sup>11</sup> In electricity these are EdF, npower, Powergen, Scottish and Southern Energy, and Scottish Power. In gas, British Gas.

Health and Safety Executive. The Secretary of State has the right to veto proposed changes.

### **Collective Licence Modifications**

1.26. If Ofgem wants to propose changes to SLCs as a result of this Review, there is a procedure for obtaining industry consent known as the Collective Licence Modification (CLM) process<sup>12</sup>. Ofgem has published Guidance on modifying SLCs<sup>13</sup>. In summary, the CLM process means that:

- ◆ relevant licence holders who are not content with a proposed modification will have to register their formal objection with Ofgem
- ◆ relevant licence holders who do not register their statutory objection will be deemed to have accepted the proposal, and
- ◆ numerical tests will determine the level of statutory objections to a proposal which will be measured against the blocking-minority thresholds prescribed by the Secretary of State.

1.27. The thresholds mean that if either:

- ◆ 20 per cent of relevant licence holders by number, or
- ◆ 20 per cent of relevant licence holders weighted by market share

register a statutory objection, the modification cannot be made except via successful reference to the Competition Commission or if it is deregulatory. Ofgem will always conduct the 'number of licences' test first, and carry out the market share test only if the first test does not indicate that a blocking minority exists in relation to a CLM proposal.

1.28. Ofgem can modify a SLC even if there is a blocking minority if it considers that:

- ◆ a SLC imposes a burden that affects relevant licence holders
- ◆ the modification would remove or reduce the burden, and

---

<sup>12</sup>Gas Act 1986 Section 23(1)(b) and Electricity Act 1989 section 11A

<sup>13</sup> Guidance on modifying the standard conditions of gas and electricity licences. Ofgem. September 2003. Reviewing the gas and electricity supply standard licence conditions  
Office of Gas and Electricity Markets

- ◆ no licence holder would be unduly disadvantaged in competing with licensees of the same type<sup>14</sup>.

1.29. In practice, in the context of the proposed review, Ofgem is only likely to use these powers following full consultation on the proposed licence changes.

1.30. Ofgem is currently working on a project that will provide electronic versions of all SLCs for all licence types and a process for keeping them updated when modifications are made. It plans to make this available on its website as part of its plans to provide an electronic version of the Public Register.

### ***Context***

1.31. Ofgem's most recent reviews of the domestic and non-domestic gas and electricity sectors<sup>15</sup> concluded that:

- ◆ the non-domestic supply markets appear broadly competitive. However Ofgem recognised there were some grounds for customers' concerns about certain issues. However Ofgem concluded that there was scope for customers to take greater initiative to address those aspects of the market where they are in a position to influence supplier behaviour, such as the provision of greater incentives to achieve better standards of service or improving the quality of tender responses and that this approach offered a more appropriate response than regulatory intervention, and
- ◆ the domestic supply markets are competitive but not yet mature. Incumbents continue to lose market share, although at a slower rate than in the early years of competition. The pattern of discounts available to customers who choose to switch is fairly stable over time. Analysis indicates that suppliers have passed reductions in electricity wholesale prices on to customers to broadly the same extent as price increases, but neither appears as a strong driver of retail prices. That may suggest that greater competition could drive prices down further. Analysis indicates that there is headroom for new entrants to enter both gas and electricity

---

<sup>14</sup> Gas Act 1986 s23 (10) and Electricity Act 1989s11A(8)

<sup>15</sup> Domestic Competitive Market Review. Ofgem 78/04 and Review of competition in the non-domestic gas and electricity sectors. Initial findings. Ofgem. 72/03

and operate profitably; new entry would help to increase competitive pressures on existing suppliers.

1.32. Since 1 June 2001 Ofgem has had powers to enforce a wide range of UK consumer protection laws. These powers were originally provided for in the Stop Now Orders (EC Directive) Regulations 2001, but were replaced and extended on 20 June 2003 by powers contained in Part 8 of the Enterprise Act 2002. Part 8 enables Ofgem to take enforcement action in relation to breaches of the following relevant consumer protection laws:

- ◆ the Trade Descriptions Act 1968
- ◆ the Consumer Protection Act 1987
- ◆ the Consumer Protection (Cancellation of Contracts Concluded away from Business Premises) Regulations 1987
- ◆ the Control of Misleading Advertisements Regulations 1988, and
- ◆ the Consumer Protection (Distance Selling) Regulations 2000.

In addition, since 1 October 1999 Ofgem has also had enforcement powers and duties under the Unfair Terms in Consumer Contracts Regulations 1999.

1.33. The above consumer protection laws have similar themes to some of the current SLCs (for example those concerning notification of terms (SLC 44) and Marketing (SLC 48)), although the detailed provisions are different. The enforcement regime for these consumer protection powers does not permit Ofgem to impose financial penalties.

1.34. Consistent with the principles of better regulation, Ofgem remains committed to withdrawing from regulation where appropriate. Given that competition is increasingly established in retail markets, Ofgem agrees with the respondents to its August 2004 consultation<sup>16</sup> who stated that it is now appropriate to consider the extent to which it is desirable for Ofgem to withdraw from regulating those markets, above and beyond the provision of general consumer protection law.

1.35. Ofgem is therefore seeking views as to whether it is now appropriate to put in place a set of SLCs that better reflect current and (likely) future requirements for protecting gas and electricity customers and on how such a Review should be undertaken.

### ***Structure of this document***

1.36. The rest of this document is structured in the following way:

- ◆ Chapter 2 discusses possible objectives, principles and structure for the review. It also outlines some of the issues that would need to be considered as part of an impact assessment for the review, and explains why a full impact assessment has not been conducted at this stage
- ◆ Chapter 3 summarises the main questions and the next steps
- ◆ Appendix 1 contains a draft supply licence
- ◆ Appendix 2 describes, at a high level, the obligations placed on suppliers by the current gas supply standard licence conditions
- ◆ Appendix 3 describes, at a high level, the obligations placed on suppliers by the current electricity supply standard licence conditions, and
- ◆ Appendix 4 outlines two possible timescales for a review.

### ***Responses to this consultation***

1.37. Responses should be sent by 20 May 2005 to:

Jo Witters

Markets Directorate

Ofgem

---

<sup>16</sup> Corporate Strategy Initial Consultation Letter. Ofgem. 189/04

9 Millbank

London

SW1P 3GE

or by email to [Jo.Witters@Ofgem.gov.uk](mailto:Jo.Witters@Ofgem.gov.uk) (Tel: 020 7901 7159)

1.38. Responses will normally be published on the Ofgem website and held electronically in Ofgem's Research and Information Centre unless there are good reasons why they must remain confidential. Respondents should try to put any confidential material in appendices to their responses.

1.39. Comments or complaints on the manner in which this consultation process has been conducted should be sent to:

Mick Fews

Head of Licensing

Ofgem

9 Millbank

London

SW1P 3GE

email [Michael.Fews@ofgem.gov.uk](mailto:Michael.Fews@ofgem.gov.uk)

Tel 020 7901 7085

1.40. Ofgem is happy to talk to interested parties on a bi-lateral basis about the issues discussed in this document. In addition, it plans to hold an open workshop on the proposed Review in April. Details will be announced soon.

## 2. Impact Assessment - Objectives, principles and structure of the Review

2.1. This chapter details what the overall objectives of a supply licence review should be. It provides proposals as to the basic principles which could underpin the Review. It also discusses what could be included within the scope of a Review and how a Review could be conducted.

### ***Overall objective***

2.2. Ofgem's overall objective in proposing this Review is to develop a set of clear and effectively drafted supply licence conditions that:

- ◆ provide proportionate protection for the particular circumstances of gas and/or electricity customers (in particular for vulnerable customers), given wider market developments and Ofgem's powers under competition and general consumer protection law
- ◆ make it easier for new companies to enter and compete in the electricity and gas retail markets, and
- ◆ provide a flexible framework within which the competitive markets can evolve without the need for sector-specific regulation of the domestic and non-domestic gas and electricity retail markets.

2.3. This objective should help to achieve the following:

- ◆ for vulnerable customers, all suppliers will offer tailored assistance, and meet a minimum standard, but details may vary between suppliers
- ◆ for the generality of customers, there would be greater variety between suppliers
- ◆ suppliers would continue with the practice of building customer protection into how they run their business, but licence compliance would no longer have to be a key issue in every business initiative, and

- ◆ for new entrants, a simpler regime would greatly reduce management overheads and free managers to concentrate on competing.
- 2.4. Ofgem would welcome views on whether these are appropriate objectives upon which to assess this Review.

### ***Issues – why a review is necessary***

- 2.5. Although the current SLCs were designated by the Secretary of State in September 2001 with the commencement of the Utilities Act 2000 (the Utilities Act), many of the obligations that they impose arise from measures imposed in the mid -1990s to facilitate and regulate competition (and some are even older). The Utilities Act entailed some modest revision to the obligations but licensees, Ofgem and DTI agreed in principle that any modifications should be limited to changes that were essential, rather than a full-scale review of what was desirable. Some SLCs that concern suppliers' obligations towards vulnerable customers have been changed as part of Ofgem's work on the Social Action Plan.
- 2.6. Ofgem's Corporate Plan<sup>17</sup> made a commitment to "review the supply standard licence conditions [...] using the principles of good regulation<sup>18</sup>, with the objective of improving the targeting and effectiveness of regulation of the gas and electricity supply sectors, and to reduce barriers to entry and expansion".
- 2.7. Ofgem considers there are a number of reasons why it is now appropriate to review the supply SLCs. These include the following:
- ◆ the content of some conditions (especially those SLCs that apply only to domestic suppliers) carries over pre-competition statutory obligations that are no longer appropriate in a competitive market
  - ◆ some obligations were created to secure effective market opening and the barriers to entry and expansion that they create are inappropriate in the context of competitive markets

---

<sup>17</sup> Ofgem Corporate Plan 2004-7. Ofgem. May 2004 109/04

<sup>18</sup> Proportionality, accountability, consistency, transparency and targeting.  
Reviewing the gas and electricity supply standard licence conditions  
Office of Gas and Electricity Markets

- ◆ it may be appropriate to consider whether it is still necessary for all domestic suppliers to be subject to the same licence obligations or whether certain types of supplier (for example small new entrants or suppliers who supply customers connected to distributed generation such as combined heat and power) should be exempt from some or all of any remaining licence conditions
- ◆ experience has shown that a number of the conditions are poorly drafted and do not achieve their objective
- ◆ some SLCs are unnecessarily complex
- ◆ compliance with licence conditions creates costs for suppliers which are passed on to customers – where these conditions may no longer be required it would be appropriate to remove these obligations
- ◆ the current SLCs do not provide sufficient flexibility to allow for market developments such as internet sales, e-billing, reverse auctions, suppliers ceasing to expect termination notices, automated meter reading, etc
- ◆ the current licence pre-dates much of the UK's non-sectoral consumer legislation and therefore overlaps much of it, and
- ◆ ongoing formal regulation is a disincentive to develop self-regulation, where this is appropriate.

### ***Options - proposed basic principles for the Review***

2.8. Ofgem considers that it would be helpful to agree some high level basic principles that would form the overall framework for the Review. Such principles will help to clarify the policies underlying the need for the Review and guide the way that a review proceeds.

2.9. Ofgem's initial view is that these basic principles could include the following:

- ◆ principle 1 – a licence condition or self-regulation (such as an industry-wide Code of Practice) is only necessary where there is a clear need for

additional protection for the particular circumstances of gas and/or electricity customers (or specific groups of them), over and above that provided by general consumer protection legislation

- ◆ principle 2 – notwithstanding principle 1, given the essential nature of gas and electricity, there is likely to be a continuing need to protect vulnerable customers by licence conditions and/or self-regulation
- ◆ principle 3 – licence conditions that relate to compliance with industry codes and agreements are only likely to be necessary if they do not themselves contain adequate sanctions for suppliers who breach them
- ◆ principle 4 – licence conditions that are considered necessary will be clearly drafted and will provide a flexible framework within which the maturing competitive market can evolve, and
- ◆ principle 5 – licence conditions should not restrict suppliers from differentiating themselves in the competitive market and be drafted in a way that will allow suppliers to implement any necessary changes at their own rate without having to move at the pace of the slowest. This means that suppliers who are able to comply quickly with the new licence conditions may be able to gain a competitive advantage over those that remain subject to the current SLCs<sup>19</sup>.

2.10. Ofgem would welcome views on whether these are appropriate basic principles upon which to form the overall framework for the Review.

### ***Options – which SLCs should be included?***

2.11. There are a number of ways in which the Review could be carried out. This section considers some of them and discusses the advantages and disadvantages of each approach. It proposes that there should be a full, comprehensive review of all the SLCs and that this should be carried out in tranches that cover the

---

<sup>19</sup> So until suppliers are in a position to comply with a new licence condition they would still be subject to the previous conditions. For example, Ofgem wants to avoid a situation of protracted discussions to develop industry-wide Codes of Practice. An alternative would be to agree key high level but non-prescriptive points that should be included in any Code and leave suppliers to develop their own. Once they had done this, they would no longer have to comply with the old relevant licence condition(s).

different themes in the current licence conditions. However Ofgem welcomes stakeholders' views on these proposals and the practicality of conducting the Review in this way.

### ***Do nothing***

- 2.12. Although Ofgem considers that the SLCs should be reviewed, it is possible that stakeholders do not agree. One option is, therefore, that the conditions should be left as they are, subject of course to any changes that may be carried out as a result of work in other policy areas.
- 2.13. While this is likely to be the least cost approach in the short term, the current SLCs do not necessarily comply with the better regulation principles. Nor would this approach remedy potential deficiencies already identified either in terms of customer protection or drafting/enforcement.

### ***Rectify gaps and overlaps, and a general 'tidy up'***

- 2.14. A "gaps and overlaps" analysis could help to highlight areas that are not currently regulated (but which nevertheless may require customers to be protected), or areas where the licence overlaps with other consumer protection legislation. However an overlap would not necessarily mean that there should no longer be a licence condition. It might be preferable to continue to regulate by means of the licence condition as it may offer superior enforcement provisions (in particular, the scope to impose financial penalties with their associated deterrent effect).
- 2.15. It would also be possible to carry out a simple tidy-up of the existing SLCs, culling those that have time-expired or, by the nature of their content, become outdated. This does not seem, of itself, a productive use of Ofgem's resources or those of stakeholders since these SLCs, by definition, do not provide any protection for customers, nor place any burdens on suppliers or new entrants. However as part of a full review Ofgem considers it would be appropriate to include this type of exercise, perhaps in the final phase.

2.16. A Review could be conducted that identified requirements for remedial redrafting. However trying to remedy ineffective drafting requires going back to first principles and considering what the condition was originally designed to achieve. Ofgem does not consider that this approach is appropriate since it focuses on past policy requirements rather than current and future ones.

### ***Review certain SLCs***

2.17. An alternative would be to identify particular conditions that Ofgem and stakeholders believe need to be changed. However this would require the development of criteria for identifying which SLCs should be reviewed (and this could take a considerable time). It is also likely to include at least some consideration of the past policy objectives that lay behind the SLCs and this would not necessarily help to establish what the current and future objectives should be.

### ***A comprehensive review***

2.18. A comprehensive review of all the issues that supply licence conditions should cover is likely to be resource-intensive, both for Ofgem and stakeholders. However Ofgem considers that a comprehensive review is more likely to meet the objective and principles it has proposed. This approach is also the one most likely to ensure that all aspects of customer protection are considered and to provide a flexible framework for the future of supply regulation.

2.19. Nevertheless there may be some current SLCs that it would be appropriate to omit from the Review. These are likely to be those where there has already been considerable work carried out by Ofgem and stakeholders. Ofgem considers that such exceptions should be kept to the minimum but that it may be appropriate to exclude the conditions concerning marketing<sup>20</sup> and theft<sup>21</sup>.

---

<sup>20</sup> SLC 48 "Marketing [...] to Domestic Customers"

<sup>21</sup> SLC 16 "Procedures for the Detection and Prevention of Theft or Abstraction of [Electricity/Gas], Damage and Meter Interference"

## ***Options - how could a comprehensive review be conducted?***

- 2.20. If a comprehensive review is to be carried out, agreement needs to be reached on the best way to manage the review process itself, given that there are 54 gas and 60 electricity licence conditions to consider (although many of them are similar). Various options are available and the advantages and disadvantages of each are discussed in this below.

### ***Work through the SLCs in numerical order***

- 2.21. This approach would mean starting at the first relevant licence condition and reviewing each of the SLCs in turn. The advantage of this approach would be that it could be easier to monitor progress (for instance a certain amount of time could be allocated to each SLC) and those suppliers without the domestic licence obligations would have a clear cut off point for their involvement (if they wished). However, in many cases, different SLCs relate to the same type of issues. For example, around 7 SLCs could be considered as falling into a broad heading of “customer contractual and information issues”<sup>22</sup>. In addition many SLCs contain cross-references to each other. Both these factors would make it difficult and time-consuming to ensure that, in working through the conditions in numerical order, any new SLCs adequately captured all the desired policy outcomes as comprehensively as possible.

### ***Review the licence section by section***

- 2.22. This approach would mean, for example, taking all the SLCs in Section B of the licence (those that apply to all suppliers) and reviewing them. Then all the SLCs in Section C (those that apply only to domestic suppliers) and then those in Section D (those that apply only to the former monopoly suppliers in their incumbent areas). The advantage of this approach would be that non-domestic suppliers could choose not to participate in all stages of the Review and would

---

<sup>22</sup> These might include SLC40, Information Given to Domestic customers, SLC 41, Terms for supply[...], SLC42 Domestic Supply Contracts, SLC 43 Contractual Terms – Methods of Payment, SLC 44 Notification of Terms, SLC 46 Termination of Contracts on Notice[...], SLC47 Termination of Contracts in Specified

therefore not need to devote so many resources to it. However, as with the option of reviewing the SLCs in numerical order, some SLCs that cover similar themes are found in both Section B and Section C<sup>23</sup>. This could make co-ordination of the Review on these issues difficult as some of the issues would require continual review at each stage of the process.

### ***Divide the Review into themed ‘tranches’***

- 2.23. This approach would mean developing three or four groups of SLCs that covered high level themes. For example, a theme of “industry codes and agreements” would consider whether it is appropriate to have licence conditions that require compliance with industry code and agreements, or whether those codes and agreements themselves should (or do) contain sufficient sanctions for non-compliance. If licence conditions were considered necessary the Review would explain the reasons why. A theme of “customer contractual and information issues” would consider what, if any, SLCs were needed in relation to contractual information that must be given to customers and other information that suppliers would be obliged to provide (for example on bills) together with a clear explanation of why a SLC was needed. Other themes might be “protection of vulnerable customers” and “tidying up and consequential changes”.
- 2.24. The advantage of this approach is that it would allow a discussion about the level of protection required for each broad policy area without the need to consider the detail of the current drafting. Once consensus had been reached, a new SLC (or SLCs) would be drafted to reflect the desired policy. This would remove the risk that a new set of SLCs merely reflects the current ones. However these broad headings cover a large number of issues and some would be more contentious than others. This could make it more difficult to judge how much time should be allocated to each tranche to ensure adequate discussion, while ensuring that the overall Review is completed within a reasonable timescale. It is also likely to entail all types of supplier being involved throughout the Review.

---

Circumstances

<sup>23</sup>For example SLC 28 Deemed contracts concerns deemed contracts for domestic customers  
Reviewing the gas and electricity supply standard licence conditions  
Office of Gas and Electricity Markets

- 2.25. Despite these potential difficulties, Ofgem considers that this approach offers the best prospect of the Review delivering, within a reasonable timescale, a new set of SLCs that are appropriate for a maturing market.
- 2.26. Ofgem would welcome views on these proposed options for how the Review may best be taken forward.

### ***Options – possible timetables for the review***

- 2.27. Ofgem will make the future consultations on the exact nature of the changes to SLCs as wide-ranging and inclusive as possible. However this needs to be balanced against the need to conclude the Review within a reasonable timescale to reduce the regulatory uncertainty that the Review will introduce and to make best use of Ofgem's and stakeholders' resources. Appendix 4 therefore outlines two possible timescales for completing the Review. Although these both divide the Review into tranches of related SLCs:
- ◆ Option 1 proposes to consult on each tranche consecutively; changes to SLCs would be made to each tranche before moving on to the next one. The timescale for this option is around 20 months, and
  - ◆ Option 2 also proposes to consult on each tranche consecutively; however changes to all SLCs would be made at the end of the project. The timescale for this option is around 12 months.

### ***Risks and unintended consequences***

- 2.28. Ofgem's informal discussions with suppliers and energywatch indicate that there is considerable support in principle for a review of the supply licence conditions. However there is a risk that these stakeholders will differ in their opinions about how the licence conditions should be changed, particularly over the provisions for domestic customers. For example, customer groups may be more likely than suppliers to prefer protection through licence conditions. In order to manage this risk, Ofgem has proposed that one of the principles underpinning the Review (see paragraph 2.9, principle 1) would be a requirement to show a clear need for additional protection for the particular

circumstances of gas and/or electricity customers (or specific groups of them), over and above that provided by general consumer protection.

- 2.29. There is a considerable risk that the complexity of the discussions and the number of stakeholders involved could mean that the project will over-run. In order to manage this risk, Ofgem is using this initial consultation to get stakeholders' views on the appropriate timescale for the Review. Once a timescale has been decided, this will help to mitigate the uncertainty that will be created by the Review itself (i.e. the fact that current and future suppliers' future licence obligations will not be known in full until the Review is complete – although of course in the interim all current licence requirements will remain in place).
- 2.30. Ofgem recognises that an additional risk to the project is “project creep”, where stakeholders (or Ofgem) would like to include issues that are not strictly part of the defined project. Examples of this could be proposals to include a review of Guaranteed and Overall Standards (see paragraph 1.4). In order to manage this risk, Ofgem proposes that this Review will only cover supply licence conditions.
- 2.31. A possible unintended consequence could be that the new supply licence contains insufficient customer protection. The proposed principle that requires evidence of a clear need for additional protection should help to focus on those areas where licence conditions are necessary. The principle that there will be a continuing need to protect vulnerable customers should help to provide specific protection for those customer groups. Clear and effective drafting of any new licence conditions should help to ensure that the protection they provide is appropriately targeted and enforceable. In addition, it may be appropriate at the end of each tranche of work, to cross-check back to the current licence conditions to ensure that no key issues have been omitted from consideration.
- 2.32. Ofgem would welcome views as to how best to mitigate these risks and unintended consequences as part of this Review.

## ***Key uncertainties***

- 2.33. A key uncertainty at this point is the level of resources that suppliers and customer groups will be able to commit to any Review. This will have an impact on the timescale within which the Review is carried out and/or could influence how comprehensive a Review could be. Responses to this initial consultation should help to assess this issue.

## ***Impact on competition***

- 2.34. Ofgem expects that, once the Review is complete, the outcome will have a positive impact on retail competition. By significantly reducing the barriers to entry and expansion that the current licence conditions create, the Review will make it easier for new suppliers to enter the market and all customers will benefit from more flexible licence conditions that allow suppliers greater opportunity to innovate and differentiate themselves.

## ***Costs and benefits***

- 2.35. At this initial consultation stage, Ofgem does not consider that a detailed assessment of the costs and benefits of a review can be quantified. It will be appropriate to carry out a more detailed analysis as part of the CLM process once new detailed licence conditions have been proposed.
- 2.36. However, at a high level, Ofgem considers that fewer licence conditions may help to reduce suppliers' compliance costs. It also means that Ofgem would have reduced costs (and therefore reduced staff requirements) in respect to carrying out its licence monitoring and enforcement work.

## ***Environmental impacts***

- 2.37. At this initial stage of the review, Ofgem does not consider that the commencement of this Review would have any impact on environmental issues. However, Ofgem is mindful of its wider duties to consider the impact on the environment and these issues will need to be carefully considered as part of any

impact assessment for introducing new licence conditions and removing or amending existing ones.

### ***Security of supply***

- 2.38. At this initial stage of the review, Ofgem does not consider that the commencement of this Review would have any impact on security of supply. However, Ofgem is mindful of its wider duties to consider the impact on the security of supply and these issues will need to be carefully considered as part of any impact assessment for introducing new licence conditions and removing or amending existing ones.

### ***Distributional effects***

- 2.39. At this initial stage of the review, Ofgem does not consider that there will be significant adverse distributional effects on any particular group of customers. However, Ofgem is mindful of its wider obligations to consider the distributional effects of its decisions and these issues will need to be carefully considered as part of any impact assessment for introducing new licence conditions and removing or amending existing ones.

### ***Review and compliance***

- 2.40. The review process itself will lead to a decision whether a licence condition or code of practice is required, together with an explanation of why the additional (ie over and above other consumer protection legislation) protection is necessary. The issue of compliance will be considered further as part of the impact assessment for any CLMs.

## 3. Summary

3.1. Ofgem considers that competition in the domestic and non-domestic gas and electricity markets is now sufficiently developed such that it is now appropriate to develop a set of clearly and effectively drafted supply licence conditions that:

- ◆ provide proportionate protection for the particular circumstances of gas and/or electricity customers (in particular for vulnerable customers), given wider market developments and Ofgem's powers under competition and general consumer protection law
- ◆ make it easier for new companies to enter and compete in the electricity and gas retail markets, and
- ◆ provide a flexible framework within which the competitive markets can evolve without the need for sector-specific regulation of the domestic and non-domestic gas and electricity retail markets.

3.2. This consultation document seeks views from as many stakeholders as possible on:

- ◆ whether it is appropriate to review the current SLCs
- ◆ what the overall objectives of any review should be
- ◆ the basic principles that should underpin any review
- ◆ how any review should be structured, and
- ◆ the appropriate timescale for any review.

3.3. Written responses should be submitted on or before 20 May 2005. In addition, Ofgem would be happy to meet individual stakeholders to discuss the issues raised in this document. Ofgem also intends to hold a workshop in April to discuss the review; details will be announced soon.

# Appendix 1 Example of a supply licence

- 1.1 This is an example of an electricity supply licence. The gas supply licence follows a similar format and structure.

## **ELECTRICITY ACT 1989**

### **SECTION 6(1)(d)**

## **ELECTRICITY SUPPLY LICENCE**

**FOR**

**CompName**

**NOTE**

The licence holder is subject to the environmental obligations set out in Schedule 9 (Preservation of Amenity and Fisheries) of the Electricity Act 1989

## PART I. TERMS OF THE LICENCE

1. This licence granted under section 6(1)(d) of the Electricity Act 1989 (“the Act”) authorises CompName (a company registered in CompRegCountry under company registration number CompRegNumber) (“the licensee”) whose registered office is situated at CompAddress1, CompAddress2, CompAddress3, CompTown, CompState, CompPostcode, CompCountry to supply electricity to premises in the area specified in Schedule 1 during the period specified in paragraph 3 below, subject to –
  - (a) the standard conditions of electricity supply licences referred to in -
    - (i) paragraph 1 of Part II below, which shall have effect in the licence; and
    - (ii) paragraph 2 of Part II below, which shall only have effect in the licence if brought into effect in accordance with the provisions of standard conditions 2 and 3,  
  
subject to such amendments to those conditions, if any, as are set out in Part III below (together “the conditions”);
  - (b) the special conditions, if any, set out in Part IV below (“the special conditions”); and
  - (c) such Schedules hereto, if any, as may be referenced in the conditions, the special conditions or the terms of the licence.
2. This licence is subject to transfer, modification or amendment in accordance with the provisions of the Act, the special conditions or the conditions.
3. This licence shall come into force on [date] and unless revoked in accordance with the provisions of Schedule 2 shall continue until determined by not less than 25 years’ notice in writing given by the Authority to the Licensee, such notice must not be served earlier than a date being 10 years after the Licence comes into force.
4. The provisions of section 109(1) of the Act (service of documents) shall have effect as if set out herein and as if for the words “this Act” there were substituted the words “this licence”.
5. Without prejudice to sections 11 and 23(1) of the interpretation act 1978, parts i to iv inclusive of, and the schedules to, this licence shall be interpreted and construed in like manner as an act of parliament passed after the commencement of the interpretation act 1978.
6. References in this licence to a provision of any enactment, where after the date of this licence -

- (a) the enactment has been replaced or supplemented by another enactment, and
- (b) such enactment incorporates a corresponding provision in relation to fundamentally the same subject matter,

shall be construed, so far as the context permits, as including a reference to the corresponding provision of that other enactment.

**The Official Seal of the Gas and**

**Electricity Markets Authority**

**hereunto affixed is authenticated**

**by:-**

.....  
**[INSERT NAME]**

**Authorised in that behalf by the  
Gas and Electricity Markets Authority**

**Date**

## PART II. THE STANDARD CONDITIONS

### 1. Standard conditions in effect in this licence

[DELETE COLUMNS AS APPROPRIATE]

**A AND B FOR ALL SUPPLIERS**

**A, B AND C FOR DOMESTIC SUPPLIERS**

**A, B, C AND D FOR SUPPLIERS WITH EX-PES OBLIGATIONS**

<b>Section A</b>	<b>Section B</b>	<b>Section C</b>	<b>Section D</b>
Standard condition 1	Standard condition 5	Standard condition 31	Standard condition 51
Standard condition 2	Standard condition 6	Standard condition 31A	Standard condition 52
Standard condition 3	Standard condition 7	Standard condition 31B	Standard condition 52A
Standard condition 4	Standard condition 8	Standard condition 31C	Standard condition 53
	Standard condition 8A	Standard condition 32	Standard condition 53A
	Standard condition 8B	Standard condition 33	Standard condition 53B
	Standard condition 9	Standard condition 35	Standard condition 53C
	Standard condition 10	Standard condition 36	Standard condition 54
	Standard condition 11	Standard condition 37	
	Standard condition 12	Standard condition 38	
	Standard condition 12A	Standard condition 39	
	Standard condition 12B	Standard condition 40	
	Standard condition 13	Standard condition 41	
	Standard condition 14	Standard condition 42	
	Standard condition 15	Standard condition 43	
	Standard condition 16	Standard condition 44	
	Standard condition 17	Standard condition 45	
	Standard condition 18	Standard condition 46	
	Standard condition 19	Standard condition 47	
	Standard condition 20	Standard condition 48	
	Standard condition 21	Standard condition 49	
	Standard condition 22	Standard condition 50	
	Standard condition 22A		
	Standard condition 23		
	Standard condition 24		
	Standard condition 25		
	Standard condition 26		
	Standard condition 27		
	Standard condition 28		
	Standard condition 29		
	Standard condition 29A		



Note: A copy of the standard conditions of electricity supply licences as determined by the Secretary of State together with subsequent modifications can be inspected at the principal office of the Authority. The above lists are correct at the date of this licence but may be changed by subsequent modifications to the licence.

**PART III. AMENDED STANDARD CONDITIONS PARTICULAR TO THIS  
LICENCE**

There are no amendments to the standard conditions

#### **PART IV. THE SPECIAL CONDITIONS**

There are no special conditions

**SCHEDULE 1**  
**SPECIFIED AREA**  
Great Britain

## SCHEDULE 2

### REVOCATION

1. The Authority may at any time revoke the licence by giving no less than 30 days' notice (24 hours' notice, in the case of a revocation under sub-paragraph 1(f)) in writing to the licensee:
  - (a) if the licensee agrees in writing with the Authority that the licence should be revoked;
  - (b) if any amount payable under standard condition 4 (Payments by the Licensee to the Authority) is unpaid 30 days after it has become due and remains unpaid for a period of 14 days after the Authority has given the licensee notice that the payment is overdue - provided that no such notice shall be given earlier than the sixteenth day after the day on which the amount payable became due;
  - (c) if the licensee fails:
    - (i) to comply with a final order (within the meaning of section 25 of the Act) or with a provisional order (within the meaning of that section) which has been confirmed under that section and (in either case) such failure is not rectified to the satisfaction of the Authority within three months after the Authority has given notice in writing of such failure to the licensee - provided that no such notice shall be given by the Authority before the expiration of the period within which an application under section 27 of the Act could be made questioning the validity of the final or provisional order or before the proceedings relating to any such application are finally determined; or
    - (ii) to pay any financial penalty (within the meaning of section 27A of the Act) by the due date for such payment and such payment is not made to the Authority within three months after the Authority has given notice in writing of such failure to the licensee - provided that no such notice shall be given by the Authority before the expiration of the period within which an application under section 27E of the Act could be made questioning the validity or effect of the financial penalty or before the proceedings relating to any such application are finally determined;
  - (d) if the licensee fails to comply with:
    - (i) an order made by the court under section 34 of the Competition Act 1998;
    - (ii) an order made by the Authority under Sections 158 or 160 of the Enterprise Act 2002
    - (iii) an order made by the Competition Commission under Sections 76, 81, 83, 84 and 161 of the Enterprise Act 2002

- (iv) an order made by the Secretary of State under Sections 66, 147, 160 or 161 of the Enterprise Act 2002.
- (e) if the licensee:
- (i) has not within 5 years after the date on which this licence comes into force, commenced the supply of electricity to any premises within the specified area in Schedule 1 to the licence; or
  - (ii) has ceased to supply electricity to all of those premises within the specified area in Schedule 1 for a period of 5 years;
- (f) if the licensee:
- (i) is unable to pay its debts (within the meaning of section 123(1) or (2) of the Insolvency Act 1986, but subject to paragraphs 2 and 3 of this schedule) or has any voluntary arrangement proposed in relation to it under section 1 of that Act or enters into any scheme of arrangement (other than for the purpose of reconstruction or amalgamation upon terms and within such period as may previously have been approved in writing by the Authority);
  - (ii) has a receiver (which expression shall include an administrative receiver within the meaning of section 251 of the Insolvency Act 1986) of the whole or any material part of its assets or undertaking appointed;
  - (iii) has an administration order under section 8 of the Insolvency Act 1986 made in relation to it;
  - (iv) passes any resolution for winding-up other than a resolution previously approved in writing by the Authority; or
  - (v) becomes subject to an order for winding-up by a court of competent jurisdiction; or
- (g) if the licensee is convicted of having committed an offence under section 59 of the Act in making its application for the licence.
2. For the purposes of sub-paragraph 1(f)(i), section 123(1)(a) of the Insolvency Act 1986 shall have effect as if for “£750” there was substituted “£100,000” or such higher figure as the Authority may from time to time determine by notice in writing to the licensee.
3. The licensee shall not be deemed to be unable to pay its debts for the purposes of sub-paragraph 1(f)(i) if any such demand as is mentioned in section 123(1)(a) of the Insolvency Act 1986 is being contested in good faith by the licensee with recourse to all appropriate measures and procedures or if any such demand is satisfied before the expiration of such period as may be stated in any notice given by the Authority under paragraph 1.

## Appendix 2 Current gas SLCs

Section/Condition	Title of section/condition	Brief explanation of the licence condition
SECTION A	<b>INTERPRETATION, APPLICATION AND PAYMENTS</b>	
Condition 1	Definitions and Interpretation	Defines most of the terms used in the licence
Condition 2	Application of Section C (Domestic Supply Obligations)	The procedure for extending a non-domestic licence to also supply domestic customers
Condition 3	Application of Section D (Supply Services Obligations)	The procedure for applying Section D (top up and standby charges and PPMiP). Currently applies to ex-PESs only.
Condition 4	Payments by the Licensee to the Authority	Procedure for licence fees, including any Competition Commission costs
<b>SECTION B</b>	<b>GENERAL</b>	
Condition 5	Not used	
Condition 6	Not used	
Condition 7	Not used	
Condition 7A	Code of Practice for Meter Reading etc.	Information to be given in relation to compliance with a designated code of practice for meter reading
Condition 8	Not used	
Condition 9	Not used	

Condition 10	Not used	
Condition 11	Not used	
Condition 12	Not used	
Condition 13	Change Co-ordination for the Utilities Act 2000	Must take measures to secure and implement changes to framework agreements for UA provisions
Condition 14	Security and Emergency Arrangements	Arrangements to deal with gas escapes and pipe-line system emergencies
Condition 15	Safety of Supplies	Must provide information to customers what to do if there is a gas escape
Condition 16	Exchange of Information Between Licensee and relevant Transporter and Shipper for Operation, Development or Maintenance of Pipe-line System and Detection and Prevention of Theft	Type of information, and circumstances in which it should be given, by a supplier to a gas transporter.
Condition 17	Reading, Inspection and Testing of Meters	Must read and inspect meters at least once every 2 years
Condition 17A	Adjustment of Charges where Meter has registered Erroneously	How to adjust charges when a meter under/over-registers consumption
Condition 18	Not used	
Condition 19	Provision of Information to the Authority	Procedure for giving information to Ofgem. Excludes information we need to carry out monitoring duty.

Condition 20	Not used	
Condition 21	Publication of Information to Customers	Must give customers name and address of gas transporter and meter number in a format specified by Ofgem
Condition 22	Domestic Premises	Transitional provision for customers who were previously defined as domestic (using the consumption level) but which become non-domestic under the premises definition.
Condition 22A	Restriction or Revocation: Securing Continuity of Supply	If licensee asks for licence to be restricted or revoked must make provision for continuity of supply.
Condition 22B	Undertaking to be Given by Licensee to a Relevant Transporter in Respect of Shipping Charges etc	Suppliers must undertake to pay the transporter's charges in the event that their shipper's arrangements with the transporter have been terminated
Condition 23	Payments Received in Relation to Standards of Performance	Compensation payments from shipper or transporter must be passed on to customers
Condition 24	Arrangements in Respect of Powers of Entry	Supplier must submit a statement of its arrangements to comply with SLC24A
Condition 24A	Authorisation of Officers	Lists the issues that must be covered in the statement on powers of entry
Condition 24B	Exercise of Powers of Entry	Supplier must use reasonable endeavours to avoid undue disturbance when it exercises powers of entry
Condition 25	Efficient Use of gas	Supplier must have a CoP on ways in which licensee will give energy efficiency advice to customers. Specifies certain things that must be included.
Condition 26	Record of and Report on Performance	Must record how it operates various CoPs under SLCs 24, 25, 35 – 39. Reports to be given to Ofgem and e/w and published.
Condition 27	Preparation, Review of and Compliance with Customer Service Codes	Must submit CoPs SLCs 24, 25, 35 – 39 to e/w before Ofgem. Must review codes if asked to by Ofgem. Sets out only way in which CoPs can be changed.

Condition 28	Deemed Contracts	Rules about deemed contracts
Condition 29	Supplier of Last Resort	May be directed to be a SoLR. Duties of a SoLR.
Condition 29A	Supplier of Last Resort Supply Payments	Provision for a SoLR to claim a “levy” from transporters
Condition 29B	Provision for Termination upon a Direction	All contracts must be terminable when SoLR takes over licensee’s customers
Condition 30	Non-domestic transfer blocking	Sets out the circumstances in which a supplier can object to a transfer for non-domestic customers
<b>SECTION C</b>	<b>DOMESTIC SUPPLY OBLIGATIONS</b>	
Condition 31	Interpretation of Section C	Defines terms used in Section C
Condition 32	Duty to Supply Domestic Customers	Licensee must offer terms to all domestic customers (with some exceptions) and must supply customer if terms are accepted.
Condition 32A	Security of Supply – Domestic Customers	Supplier must offset or pay to customers any amounts received as a result of a transporter’s failure to convey gas. Also rules for supply other than on Network Code terms.
Condition 33	Last Resort Supply: Security for Payments	Must provide a bond of amount specified by Ofgem
Condition 34	Metering Arrangements for Domestic Customers	Rules concerning metering.
Condition 34A	The Supply Point Administration Agreement	Supplier must be a party to, and comply with, the Supply Point Administration Agreement

Condition 35	Code of Practice on Payment of Bills and Guidance for Dealing with Customers in Difficulty	Must have CoP approved by Ofgem for customers having difficulty paying bills. Specifies certain things that must be included in the Code.
Condition 36	Code of Practice on the Use of Prepayment Meters	Must have CoP approved by Ofgem for PPM customers. Specifies certain things that must be included in the Code.
Condition 37	Provision of Services for Persons who are of Pensionable Age or Disabled or Chronically Sick	Must have CoP approved by Ofgem for these customers. Specifies certain things that must be included in the Code. Obligation to have a Priority Services Register.
Condition 37A	Pensioners Not to Have Supply of Gas Cut Off in Winter	Pensioners must not be cut off between 1 October and 31 March
Condition 38	Provision of Services for Persons who are Blind or Deaf	Must have CoP approved by Ofgem for these customers. Specifies certain things that must be included in the Code.
Condition 39	Complaint Handling Procedure	Must have a complaint handling procedure approved by Ofgem. Specifies certain things that must be included in the Procedure.
Condition 40	Information Given to Domestic Customers	Must give information about consumption – actual or estimated – and basis of calculation. Must provide most recent meter reading if requested, Must provide e/w contact details.
Condition 41	Terms for Supply of Gas Incompatible with Standard Conditions	Contract terms must comply with SLCs.
Condition 42	Domestic Supply Contracts	Contracts must, as far as possible be in a standard form, set out all terms and conditions and reflect termination provisions of SLC 46 & 47. Also a range of other issues concerning contracts.
Condition 43	Contractual Terms - Methods of Payment	Must provide, at a minimum, for payment by PPM, cash, cheque and a range of specified payment intervals. Plus other additional requirements.
Condition 44	Notification of Terms	Principal terms of the contract must be notified to the customer in advance. Process for notifying customer of proposed changes including price.
Condition 45	Security Deposits	Circumstances and amount that may be requested as a security deposit.

Condition 46	Termination of Contracts on Notice and Domestic Transfer Blocking	Rules for terminating contracts, includes 28 day rule, termination fees. Circumstances under which a transfer can be blocked.
Condition 47	Termination of Contracts in Specified Circumstances	Other circumstances and timescales in which contracts can be terminated
Condition 48	Marketing of Electricity to Domestic Customers	Rules for marketing
Condition 48A	Transfer of Domestic Customers of a Supply Business	Conditions under which domestic customers can be transferred to another licensee.
Condition 49	Assignment of Outstanding Charges	Assignment of debt between suppliers.
Condition 50	Modification of Provisions under Standard Condition 49 (Assignment of Outstanding Charges)	Process by which SLC 49 can cease to have effect in a supplier's licence – direction by the Authority
<b>SECTION D</b>	<b>SUPPLY SERVICES OBLIGATIONS</b>	
Condition 51	Not used	
Condition 52	Regulatory Accounts	Must provide regulatory accounts to Ofgem
Condition 52A	Change of Financial Year	Definition of 'financial year' can be changed in certain circumstances
Condition 53	Not used	
Condition 53A - C	Not used	

Condition 54	Not used	
--------------	----------	--

## Appendix 3 Current electricity SLCs

Section/Condition	Title of section/condition	Brief explanation of the licence condition
SECTION A	<b>INTERPRETATION, APPLICATION AND PAYMENTS</b>	
Condition 1	Definitions and Interpretation	Defines most of the terms used in the licence
Condition 2	Application of Section C (Domestic Supply Obligations)	The procedure for extending a non-domestic licence to also supply domestic customers
Condition 3	Application of Section D (Supply Services Obligations)	The procedure for applying Section D (top up and standby charges and PPMiP). Currently applies to ex-PESs only.
Condition 4	Payments by the Licensee to the Authority	Procedure for licence fees, including any Competition Commission costs
SECTION B	<b>GENERAL</b>	
Condition 5	Compliance with the Grid Codes	Comply with every Grid Code, but we can issue a direction that parts of the Code do not apply
Condition 6	Compliance with Distribution Codes	Comply with every Distribution Code, but Ofgem can issue a direction that parts of the Code do not apply (NB this is not the same as compliance with a DUoSA – there is no SLC for this)
Condition 7	Duty to Offer Terms for Meter Provision	If the licensee owns metering equipment it must offer terms to anyone who asks and enter into a contract if they accept the terms
Condition 7A	Not used	
Condition 8	Settlement Agreement for Scotland	Must comply with the SAS if licensee supplies, or offers to supply, premises in Scotland (licences can be restricted geographically so that supplier does not have to offer terms to customers in Scotland)

Condition 8A	Not used	
Condition 8B	Not used	
Condition 9	Compliance with CUSC	Must comply with CUSC if supplying in E&W
Condition 10	Balancing and Settlement Code and NETA Implementation	Must comply with BSC if supplying in E&W. Must comply with NETA implementation scheme.
Condition 11	Change Co-ordination for BSC	Must take all reasonable steps to implement modifications to the BSC
Condition 12	Not used	
Condition 12A	Prohibition of Discrimination in Selling Electricity	Supplier must not sell electricity to anyone on terms that are materially more or less favourable to some purchasers. (Does <u>not</u> include sale by way of supply to premises.)
Condition 12B	Prohibition of Cross-Subsidies	Can't give or receive a cross-subsidy from any related undertaking
Condition 13	Change Co-ordination for the Utilities Act 2000	Must take measures to secure and implement changes to framework agreements for UA provisions
Condition 14	Security Arrangements	Must comply with Fuel Security Code
Condition 15	Security and Safety of Supplies	Must provide information about Distribution Company's contact details to customers
Condition 16	Procedures for the Detection and Prevention of Theft or Abstraction of Electricity, Damage and Meter Interference	Must take reasonable steps to detect and prevent theft

Condition 17	Reading and Inspection of Meters	Must read meters at least once every 2 years if supplier to that meter for the 2 years
Condition 18	Licensee's Apparatus on Customers' Side of Meter	Maximum power consumed by a second meter
Condition 19	Provision of Information to the Authority	Procedure for giving information to Ofgem. Excludes information we need to carry out monitoring duty.
Condition 20	The Master Registration Agreement	Must comply with MRA.
Condition 21	Publication of Information to Customers	Must give customers meter number in a format specified by Ofgem
Condition 22	Domestic Premises	Transitional provision for customers who were previously defined as domestic (using the consumption level) but which become non-domestic under the premises definition.
Condition 22A	Restriction or Revocation: Securing Continuity of Supply	If licensee asks for licence to be restricted or revoked must make provision for continuity of supply.
Condition 23	Payments Received in Relation to Standards of Performance	Compensation payments from D/Cos must be passed on to customers
Condition 24	Code of Practice on Procedures with Respect to Site Access	CoP for access to customers' premises – lists certain procedures that must be included
Condition 25	Efficient Use of Electricity	CoP on ways in which licensee will give energy efficiency advice to customers. Specifies certain things that must be included.
Condition 26	Record of and Report on Performance	Must record how it operates various CoPs under SLCs 24, 25, 35 – 39. Reports to be given to Ofgem and e/w and published.
Condition 27	Preparation, Review of and Compliance with Customer Service Codes	Must submit CoPs SLCs 24, 25, 35 – 39 to e/w before Ofgem. Must review codes if asked to by Ofgem. Sets out only way in which CoPs can be changes.

Condition 28	Deemed Contracts	Rules about deemed contracts
Condition 29	Supplier of Last Resort	May be directed to be a SoLR. Duties of a SoLR.
Condition 29A	Supplier of Last Resort Supply Payments	Provision for a SoLR to claim a "levy" from D/Cos
Condition 29B	Provision for Termination upon a Direction	All contracts must be terminable when SoLR takes over licensee's customers
Condition 30	Not used	
<b>SECTION C</b>	<b>DOMESTIC SUPPLY OBLIGATIONS</b>	
Condition 31	Interpretation of Section C	Defines terms used in Section C
Condition 32	Duty to Supply Domestic Customers	Licensee must offer terms to all domestic customers (some exceptions) and must supply customer if terms are accepted.
Condition 33	Last Resort Supply: Security for Payments	Must provide a bond of amount specified by Ofgem
Condition 34	Not used	
Condition 35	Code of Practice on Payment of Bills and Guidance for Dealing with Customers in Difficulty	Must have CoP approved by Ofgem for customers having difficulty paying bills. Specifies certain things that must be included in the Code.
Condition 36	Code of Practice on the Use of Prepayment Meters	Must have CoP approved by Ofgem for PPM customers. Specifies certain things that must be included in the Code.

Condition 37	Provision of Services for Persons who are of Pensionable Age or Disabled or Chronically Sick	Must have CoP approved by Ofgem for these customers. Specifies certain things that must be included in the Code. Obligation to have a Priority Services Register.
Condition 38	Provision of Services for Persons who are Blind or Deaf	Must have CoP approved by Ofgem for these customers. Specifies certain things that must be included in the Code.
Condition 39	Complaint Handling Procedure	Must have a complaint handling procedure approved by Ofgem. Specifies certain things that must be included in the Procedure.
Condition 40	Information Given to Domestic Customers	Must give information about consumption – actual or estimated – and basis of calculation. Must provide most recent meter reading if requested, Must provide e/w contact details.
Condition 41	Terms for Supply of Electricity Incompatible with Licence Conditions	Contract terms must comply with SLCs.
Condition 42	Domestic Supply Contracts	Contracts must, as far as possible be in a standard form, set out all terms and conditions and reflect SLC termination provisions (SLC 46 & 47)
Condition 43	Contractual Terms - Methods of Payment	Must provide, at a minimum, for payment by PPM, cash, cheque and a range of specified payment intervals. Plus other additional requirements.
Condition 44	Notification of Terms	Principal terms of the contract must be notified to the customer in advance. Process for notifying customer of proposed changes including price.
Condition 45	Security Deposits	Circumstances and amount that may be requested as a security deposit.
Condition 46	Termination of Contracts on Notice	Process for terminating contracts, includes 28 day rule.
Condition 47	Termination of Contracts in Specified Circumstances	Other circumstances and timescales in which contracts can be terminated
Condition 48	Marketing of Electricity to Domestic Customers	Rules for marketing

Condition 49	Assignment of Outstanding Charges	Assignment of debt between suppliers.
Condition 50	Modification of Provisions under Standard Conditions 46 and 49	Process by which these SLCs can cease to have effect in a supplier's licence – direction by the Authority
<b>SECTION D</b>	<b>SUPPLY SERVICES OBLIGATIONS</b>	
Condition 51	Interpretation of Section D	Definitions for this Section
Condition 52	Regulatory Accounts	Must provide regulatory accounts to Ofgem
Condition 52A	Change of Financial Year	Definition of 'financial year' can be changed in certain circumstances
Condition 53	Basis of Charges for Top-up and Standby, Exempt Supply Services and Prepayment Meter Services: Requirements for Transparency	Licensee must provide statements in an approved form for these services and for charges for PPM services and method by which they have been calculated. Must be reviewed annually.
Condition 53A	Non-discrimination in the Provision of Top-Up or Standby, Exempt Supply Services and Prepayment Meter Services	Licensee must not discriminate in the provision of these services.
Condition 53B	Requirement to Offer Terms for Top-Up and Standby, Exempt Supply Services and Prepayment Meter Services	Licensee must offer terms for these services. Additional requirements for provisions for exempt services
Condition 53C	Functions of the Authority	The Authority can settle disputes arising under SLC53B
Condition 54	Duration of Standard Condition 53B	Licensee can apply to the Authority for SLC 53B to be dis-applied.



# Appendix 4 Two possible timescales for the Review

## Timescale 1

Activity	Approx start	Approx end	Description
Consultation – scope and timescale	February 2005	May 2005	Consultation on objectives, principles, structure and timescale for a Review
Ofgem decision on scope and timescale	June 2005	June 2005	Consideration of responses, Authority decision on objectives, principles, structure and timescale + decision document
Tranche 1 consultation (eg “industry codes and agreements”)	July 2005	October 2005	Consultation on what, if anything, needs to be included in the licence on this particular theme. Likely to involve one or two workshops and conclude with a final proposals consultation document followed by a decision document and CLM process
Tranche 2 consultation (eg “customer contractual and information issues”)	November 2005	February 2006	Process as for Tranche 1
Tranche 3 consultation (eg “vulnerable customers”)	March 2006	June 2006	Process as for Tranche 1
Tranche 4 consultation (eg “tidying up and consequential changes”)	July 2006	October 2006	Process as for Tranche 1
Final phase	November 2006	December 2006	Any remaining issues and CLMs

## Timescale 2

Activity	Approx start	Approx end	Description
Consultation – scope and timescale	February 2005	May 2005	Consultation on objectives, principles, structure and timescale for a Review
Ofgem decision on scope and timescale	June 2005	June 2005	Consideration of responses, Authority decision on objectives, principles, structure and timescale + decision document
Tranche 1 consultation (eg	July 2005	July 2005	Consultation on what, if

"industry codes and agreements")			anything, needs to be included in the licence on this particular theme. Likely to involve one workshop.
Tranche 2 consultation (eg "customer contractual and information issues")	August 2005	August 2005	Process as for Tranche 1
Tranche 3 consultation (eg "vulnerable customers")	September 2005	September 2005	Process as for Tranche 1
Tranche 4 consultation (eg "tidying up and consequential changes")	October 2005	October 2005	Process as for Tranche 1
Final phase	November 2005	February 2006	Final proposals for Tranches 1-4 followed by CLM process for all changes to SLCs. Wrap up of any remaining issues.