

Secretary of State, Consumers
and their representatives, gas
suppliers, electricity suppliers,
and other interested parties

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Date: 1 October 2008

Dear Colleague

Decision letter - Modification of Licences and Codes to reflect the abolition of the Gas and Electricity Consumer Council (energywatch) and its replacement with the National Consumer Council (NCC)

On 27 August 2008 Ofgem published a consultation¹ on our proposed licence and code modifications to reflect the role of the new NCC (Consumer Focus) and to make consequential amendments as a result of the abolition of energywatch and the introduction of the Consumer Complaints Handling Standards Regulations issued under the CEAR Act.

We also sought views upon changes in relation to industry code governance and broader licence changes through which it is proposed to replace current references to energywatch in industry codes and licences with references to the new NCC and changes to licence payment conditions, to enable the Authority to recover the costs of the new NCC and Consumer Direct.

This letter summarises the responses to the consultation and sets out our decision on the necessary licences and codes changes.

Industry Codes - Background

Industry codes underpin participation in Great Britain's gas and electricity industry. The arrangements are governed by panels comprising expert industry representation. Many of these panels provide an opportunity for consumers to be represented at their governance meetings. Historically this role has been fulfilled by energywatch.

With the abolition of energywatch under the CEAR Act, we consider it is important that consumer representation is maintained on the industry codes through the new NCC.

Summary of responses

Ofgem received 11 responses to the consultation. Non-confidential responses have been placed on the Ofgem website.

Respondents supported the change and identified additional references in the SPAA, DCODE, BSC and UNC.

¹ Consultation on Modification of Licences and Codes to reflect the abolition of the Gas and Electricity Consumer Council (energywatch) and its replacement with the National Consumer Council (NCC) – 126/08

Ofgem view

We agree that it is necessary to amend the codes to make the additional references to the Consumer Council in the SPAA, DCODE, BSC and UNC. We consider that these consequential changes can be made without additional consultation.

Next steps

The decision notices detailing the modifications that Ofgem is making to the: CUSC, DCUSA, BSC, UNC IGTUNC, DCODE and SPAA are attached as appendices and schedules to this letter.

Licence changes – Background

Definition of the Consumer Council

The establishment of the new NCC and the abolition of energywatch will require references to Consumer Council/energywatch in gas and electricity licences to be deleted. Currently licence conditions define the Consumer Council as meaning “the Gas and Electricity Consumer Council as defined under section 2 of the Utilities Act 2000”.

Although the replacement of energywatch with the new NCC is captured by the terms of the licence, we proposed that the definition of “Consumer Council” be amended in all licences using the powers in section 8(5) of the Utilities Act 2000 to ensure clarity that it refers to the new NCC.

Complaints handling standards

The CEAR Act requires the Authority to set complaints handling standards that are binding on regulated providers. There are a number of obligations relating to complaints handling in the gas and electricity supply licences, electricity distribution licence, and gas transportation licence. We proposed that the complaints handling requirements and existing obligations be removed from the licences to avoid duplication with the Consumer Complaints Handling Standards Regulations.

Summary of responses

Definition of Consumer Council

As noted above, Ofgem received 11 responses to its consultation of 27 August. Respondents supported the change and identified additional references to the Consumer Council in Standard Special Conditions D10(9) and D16(3)(a) of the Gas Transporter Licence. As noted above, the responses have been placed on the Ofgem website.

Complaints handling standards

Ofgem received 11 responses to the consultation, which have been placed on the Ofgem website. Respondents supported the changes and identified additional references to complaints handling in Standard Special Conditions D15, D13, D14, and D16 of the Gas Transporter Licence.

Ofgem view

Definition of Consumer Council

We agree that it is necessary to amend the additional references to the Consumer Council in Standard Special Conditions D10(9) and D16(3)(a) of the Gas Transporter Licence. We consider that these consequential changes can be made without additional consultation.

Complaints handling standards

We agree that it is necessary to delete the additional references to complaints handling in Standard Special Conditions D15, D13, D14, and D16 of the Gas Transporter Licence. We consider that these consequential changes can be made without additional consultation.

Next steps

Definition of Consumer Council

The statutory notices detailing the modifications that Ofgem is making to the: electricity supply; gas supply; electricity distribution; electricity generation; electricity transmission; gas shipper; and gas transporter SLCs; Standard Special Conditions for NTS and DN licensees; Standard Special Conditions applicable to all NTS licensees; Standard Special Conditions applicable to all DN licensees and Star Energy's amended Condition 23, under section 8(5) of the Utilities Act 2000 (as amended by the CEAR Act), are attached as appendices to this letter.

Complaints handling standards

The statutory notices detailing the modifications that Ofgem is making to the electricity supply and electricity distribution SLCs under section 11A(3) of the Electricity Act 1989, and the gas supply and gas transporter SLCs and SSC's under section 23(3) of the Gas Act 1986 are attached as appendices to this letter.

Payments by the licensee to the Authority - Background

The establishment of the new NCC, and the abolition of the three predecessor bodies – the current National Consumer Council, Postwatch and energywatch - will result in changes to the Standard Licence Conditions for Payments by Licensees to the Authority (SLC5 for Electricity Distribution, SLCA4 for Electricity Transmission and SLC3 for Gas Transportation), and consequent changes to the Ofgem licence fee cost recovery principles document.

The CEAR Act amends section 8(4) of the Utilities Act 2000, giving the Authority the ability to modify these payment conditions where it is necessary or expedient to do so in consequence of, or in preparation for, the establishment of the new NCC or the abolition of energywatch. Sections 8(2) and 8(3A) of the Utilities Act 2000 (as amended by the CEAR Act) make it clear that these conditions can require the payment by the relevant licence holders of certain expenses.

Summary of responses

Changes to payment conditions

As previously noted, Ofgem received 11 responses to its consultation of 27 August. The majority of respondents supported the changes. A single objection was received in relation to the proposed change to the Gas Transporters Licence. The objection was on the basis that the new paragraphs 3(2)(c) and 3(2)(g) make reference to electricity consumers only, rather than gas and electricity consumers.

One respondent identified that cross references within Standard Licence Condition 5 of the Electricity Distribution Licence, to the costs of Competition Commission referrals in new paragraphs 5.1(i)(i) and 5.1(i)(ii) had not been updated. In the new paragraph 5.1(i)(i),

the reference to 5.1(c) should be amended to 5.1(h). In the new paragraph 5.1(i)(ii), the reference to 5.1(c) should be amended to 5.1(h).

Ofgem view

Changes to payment conditions

We agree that these changes are necessary. We consider that these consequential changes can be made without additional consultation.

Next steps

Changes to payment conditions

The statutory notices detailing the modifications that Ofgem is making to the: electricity distribution; electricity transmission and gas transportation SLCs, under Section 8(5) of the Utilities Act 2000 (as amended by the CEAR Act), are attached as appendices to this letter.

The modifications to codes and licences in the attached notices will take effect on and from 1 October 2008.

Yours sincerely,



Mark Feather
Director, Industry Codes and Licensing