

To: All holders of an electricity distribution licence

MODIFICATION OF THE STANDARD CONDITIONS OF ELECTRICITY DISTRIBUTION LICENCES UNDER SECTION 97(1) OF THE ENERGY ACT 2008

WHEREAS:

- 1 Each of the companies to whom this Modification is addressed holds a licence under section 6(1)(c) of the Electricity Act 1989 (“the 1989 Act”) which, by virtue of section 8A of the 1989 Act, incorporates standard conditions (an “electricity distribution licence”).
- 2 Section 95 of the Energy Act 2008 (“the 2008 Act”) transfers certain functions (“the relevant metering functions”) of the Gas and Electricity Markets Authority (“the Authority”) to the Secretary of State. The relevant metering functions are conferred by Schedule 7 to the 1989 Act and by electricity meter regulations as defined in section 95(5) of the 2008 Act. They are connected with electricity meters, and include the appointment and remuneration of meter examiners.
- 3 Section 97(1) of the 2008 Act empowers the Secretary of State to modify electricity distribution licences for the purpose of enabling the Authority to recover from the holders of electricity distribution licences, and pay into the Consolidated Fund, amounts in respect of:
 - (a) payments relating to meter examiners made by the Secretary of State by virtue of paragraph 4(2) or (2A) of Schedule 7 to the 1989 Act; and
 - (b) other costs incurred by the Secretary of State in performing relevant metering functions.
- 4 Section 97 therefore enables the Secretary of State to modify electricity distribution licences so that holders of such licences continue to finance the carrying out of the relevant metering functions through their licence fee payments to the Authority, after those functions have been transferred from the Authority to the Secretary of State.
- 5 Section 97 of the 2008 Act came into force on 26th January 2009. Section 95 of the 2008 Act comes into force on 1 April 2009.
- 6 The National Weights and Measures Laboratory (“NWML”) is an executive agency of the Department for Innovation, Universities and Skills which will carry out the relevant metering functions on behalf of the Secretary of State for Innovation, Universities and Skills.
- 7 On 9 January 2009, NMWL issued a consultation document, in accordance with section 97(4) and (5) of the 2008 Act, proposing the making, under section 97(1) of the 2008 Act and with effect from 1 April 2009, of modifications, as set out in the Annex to this notice, to the standard conditions of electricity

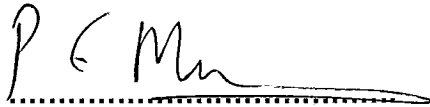
distribution licences. The consultation document¹ sets out the background to and reasons for the proposed modifications.

- 8 The consultation closed on 2 March 2009. No objections to the proposed modifications have been raised either with NWML or with the Office of Gas and Electricity Markets, which consulted in the same document on related changes to its Licence Fee Cost Recovery Principles Document.

THEREFORE:

In accordance with section 97 of the 2008 Act, the Secretary of State by this notice modifies the standard conditions of electricity distribution licences with effect on and from 1 April 2009 by replacing the current condition 5 with a new condition 5 as shown in the Annex to this notice.

This document constitutes a notice of reasons for the licence modification to which it relates for the purposes of section 49A of the 1989 Act.

A handwritten signature in black ink, appearing to read 'P E Mason', is written over a horizontal dotted line. The signature is cursive and extends to the right of the line.

Peter Mason

31 March 2009

Chief Executive, NWML

Authorised by the Secretary of State for Innovation, Universities and Skills

¹ The consultation document, with details of responses and the Government's response to the consultation, is available from NWML's website, <http://www.nwml.gov.uk>.

ANNEX: ELECTRICITY DISTRIBUTION LICENCE MODIFICATION

Condition 5: Licensee's payments to the Authority

Determination of amounts

- 5.1 In respect of each Regulatory Year at the beginning of which the licensee holds this licence, the licensee must pay to the Authority the total of:
- (a) an amount that is the Relevant Proportion of the Estimated Costs of the Authority during the year in question;
 - (b) an amount which is the Relevant Proportion of the Estimated Costs of the National Consumer Council during the year in question (including expenses which relate to its establishment but not expenses within paragraph (d)) that the Secretary of State considers is reasonable having regard to the functions exercisable by the National Consumer Council in relation to gas and electricity consumers;
 - (c) an amount which is the Relevant Proportion of the Estimated Costs of the Secretary of State which relate to the establishment of the National Consumer Council during the year in question that the Secretary of State considers is reasonable having regard to the functions exercisable by the National Consumer Council in relation to gas and electricity consumers;
 - (d) an amount which is the Relevant Proportion of any Estimated Costs of the National Consumer Council, the Secretary of State or the Gas and Electricity Consumer Council during the year in question which relate to a transfer scheme made in respect of the Gas and Electricity Consumer Council under section 35(2)(a) or (7) of the Consumers, Estate Agents and Redress Act 2007;
 - (e) an amount which is the Relevant Proportion of the Estimated Costs of the Secretary of State which relate to the abolition of the Gas and Electricity Consumer Council during the year in question;
 - (f) an amount which is the Relevant Proportion of the Estimated Costs of the Office of Fair Trading which relate to the expansion of Consumer Direct to enable it to cater for gas and electricity consumers;
 - (g) an amount which is the Relevant Proportion of the Estimated Costs of the Office of Fair Trading on, or in connection with, the support of Consumer Direct that the Secretary of State considers is reasonable having regard to the functions exercisable by the National Consumer Council in relation to gas and electricity consumers;

- (h) an amount that is the Relevant Proportion of the Estimated Costs of the Secretary of State during the year in question in respect of –
 - (i) payments made by the Secretary of State by virtue of paragraph 4(2) or (2A) of Schedule 7 to the Act (payments relating to meter examiners);
 - (ii) any other costs incurred by the Secretary of State in performing functions conferred by Schedule 7 to the Act or by electricity meter regulations (as defined in section 95(5) of the Energy Act 2008);
- (i) an amount which is the Relevant Proportion of the Estimated Costs incurred by the Competition Commission in the previous Regulatory Year in connection with any reference made to it with respect to this licence or any other licence granted under the Act or the Gas Act 1986; and
- (j) an amount which is the Relevant Proportion of the difference (being a positive or negative amount), if any, between:
 - (i) any costs estimated by the Authority in the previous Regulatory Year under sub-paragraphs (a) to (i); and
 - (ii) the actual costs of the Authority, the National Consumer Council, the Secretary of State and the Competition Commission (in connection with references of the type referred to in sub-paragraph (i)) for the previous Regulatory Year or, in the case of the Competition Commission, for the Regulatory Year prior to the previous Regulatory Year.

Payment of amounts

- 5.2 The total amount determined in accordance with paragraph 5.1 must be paid by the licensee to the Authority in two instalments:
- (a) the first of which must be paid by 30 June in each year, if the Authority gives the licensee Notice of the amount of that instalment by 31 May in the year; and
 - (b) the second of which must be paid by 31 January in each year, if the Authority gives the licensee Notice of the amount of that instalment by 1 January in the year.
- 5.3 If the Authority does not give the licensee Notice of the amount of the instalment by 31 May or (as the case may be) 1 January in the year, the licensee must pay the amount in question within 30 days after the date on which the Authority does give such Notice to the licensee.

5.4 If the licensee does not pay the amount determined in accordance with paragraph 5.1 within 30 days after the relevant payment date referred to in paragraph 5.2 or 5.3, it must with effect from that date pay simple interest on the amount:

- (a) at the rate which is from time to time equivalent to the base rate of NatWest Bank plc; or
- (b) if there is no rate equivalent to the base rate of NatWest Bank plc, the base rate of an equivalent institution designated by the Authority for this purpose.

Interpretation

5.5 For the purposes of this condition:

Estimated Costs means costs estimated by the Authority (after taking account, in the case of sub-paragraph (c), of any views of the Competition Commission) as likely to be or likely to have been:

- (a) the costs of the Authority calculated in accordance with principles that the Authority has determined for the purposes of this condition generally (after consulting the licensee and others likely to be affected by the application of such principles) and has notified to the licensee;
- (b) the costs of the National Consumer Council;
- (c) the costs of the Secretary of State; and
- (d) the costs incurred by the Competition Commission in connection with references to it in respect of this licence or any other licence granted under the Act or the Gas Act 1986.

Relevant Proportion means the proportion of the costs that are attributable to the licensee:

- (a) in accordance with principles that the Authority has determined for the purposes of this condition generally (after consulting the licensee and others likely to be affected by the application of such principles) and has notified to the licensee; or
- (b) in relation to the costs of the Competition Commission, in accordance with any direction given by the Competition Commission under section 177(3) of the Energy Act 2004 (or, in the absence of such a direction, in accordance with the principles referred to in sub-paragraph (a)).