



Potential gas and electricity
licence applicants and any other
interested parties

*Promoting choice and
value for all customers*

Direct Dial: 020 7901 7458
Email: mark.cox@ofgem.gov.uk

Date: 4 March 2010

Dear Colleague

Amendments to Revocation Schedules of future licences.

This letter is to inform you of amendments to the Revocation Schedules of all future licences granted by the Gas and Electricity Markets Authority ("the Authority").

We consider that these amendments will result in greater accountability in the granting of licences by the Authority in line with our statutory duties¹ and consider it appropriate to make the following changes to all future gas and electricity licences granted by the Authority:

Delete existing paragraph 1(g) from Schedule 2 'Revocation' of all future licences

1(g) if the licensee is convicted of having committed an offence under section 43 of the Act in making its application for the licence.

In its place insert the following new provision as new paragraph 4:

4. The Authority may at any time revoke the licence by giving no less than 7 days notice in writing to the Licensee where the Authority is satisfied that there has been a material misstatement (of fact) by, or on behalf of the Licensee, in making its application for the Licence.

The amended drafting is set out in the schedule of the attached gas shipper licence at Appendix 1. Corresponding changes will be made to all other future gas and electricity licences. The above changes will be incorporated into all future licences granted from the date of this letter.

Yours faithfully,

Mark Cox
Associate Partner, Industry Codes and Licensing

¹ s4AA(5) of the Gas Act 1986 and s3A(5) of the Electricity Act 1989.

APPENDIX 1

SCHEDULE 2

REVOCAION

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 2 (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 28 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 30 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 30A 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 30E 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) ceases to carry on its business as a gas shipper; or
 - (ii) shall not have commenced business as a gas shipper within a period of 3 years from the date on which the licence takes effect;
- (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 43 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.

4 The Authority may at any time revoke the licence by giving no less than 7 days notice in writing to the Licensee where the Authority is satisfied that there has been a material misstatement (of fact) by, or on behalf of the Licensee, in making its application for the Licence.