



Holders of Gas Supply, Electricity Supply and/or Electricity Generation Licences, consumers and their representatives, and interested parties

Promoting choice and value for all gas and electricity customers

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Dear Colleagues

DECISION TO MAKE MINOR MODIFICATIONS TO THE STANDARD CONDITIONS OF

- **THE ELECTRICITY SUPPLY LICENCE UNDER SECTION 11A OF THE ELECTRICITY ACT 1989,**
- **THE GAS SUPPLY LICENCE UNDER SECTION 23 OF THE GAS ACT 1986, AND**
- **THE ELECTRICITY GENERATION LICENCE UNDER SECTION 11A OF THE ELECTRICITY ACT 1989**

Background

On 19 October 2009, the Gas and Electricity Markets Authority ('the Authority') published directions on the implementation of a package of licence modifications¹ to promote competition and protect consumers in the retail energy supply market. These measures had been developed in the course of the Energy Supply Probe, a study of the state of the retail energy supply markets in Great Britain.

On 4 February 2010, the Authority issued a statutory consultation on proposals to make certain minor amendments to standard conditions which were covered by (or which related to) the previous package of licence modifications, specifically:

- 1, 19A, 23, 25 & 31A of the electricity supply licence;
- 1, 14, 19A, 23, 25 & 31A of the gas supply licence, and
- 1.1 & 16B of the electricity generation licence.

The modification proposals were principally intended to improve the overall clarity of the licence conditions and, in some cases, to ensure consistency with the drafting of other licence conditions.

Consultation responses

In response to the 4 February 2010 consultation, the Authority received representations and qualified objections from Scottish Power in respect of the proposed modifications to paragraphs 9 and 11 of standard condition 25 of the gas and electricity supply licences.

In summary, the objections were qualified in terms of seeking further clarification on the effect of inserting the expression "Representative" or alternatively making drafting

¹ The modifications applied to standard conditions 1, 7A, 14, 19, 23, 25 and 31A of the gas and electricity supply licences and standard condition 16B of the electricity generation licence.

changes. In relation to paragraph 9 of standard condition 25, Scottish Power had potential concerns in respect of whether there could be a licence breach if the licensee or a different Representative provided follow-up information on estimates/comparisons instead of the Representative that originally made a sale. In relation to paragraph 11 of standard condition 25, Scottish Power had potential concerns with Representatives, rather than the licensee, deciding what information would be provided to a customer (i.e. "...information which the licensee or Representative reasonably considers that the Domestic Customer would need...").

On behalf of the Authority, Ofgem provided clarification to the effect that paragraph 9 of standard condition 25 is not intended to be interpreted in a way which would require the same person that undertook a sales activity to conduct follow-up action in respect of estimates/comparisons. Regarding paragraph 11 of standard condition 25, Ofgem highlighted that the concerns were unfounded on the basis that licensees are in a position to instruct Representative in respect of the information which needs to be provided to customers. Ofgem also provided general clarification to Scottish Power to the effect that both concerns were unfounded on the basis that licensees are responsible for managing their agents/sales staff and will ultimately be responsible for the actions of their Representatives.

Whilst Ofgem has provided clarification to Scottish Power which appears to have addressed these concerns, on this occasion, due to the fact that the clarification was provided after the close of the statutory consultation period, we do not consider that we were able to treat the qualified objections as withdrawn.

No objections or representations were received in respect of the proposals to modify other standard conditions of the gas and electricity supply licences (including the other modifications to standard condition 25), or standard conditions 1.1 & 16B of the electricity generation licence.

Decision

The Authority has decided to proceed with all the modifications proposed in the 4 February 2010 consultation without further amendment. The modifications will take effect on and from 00:00 hours on 4 May 2010.

Statutory directions modifying the standard conditions of all electricity and gas supply licences, and all electricity generation licences have today been issued to all relevant licensees. A list of licensees and a copy of the statutory directions can be found on Ofgem's website.

Please contact Stefan Bojanowski (0207 901 7068: energysupplymarketsp@ofgem.gov.uk) should you have any queries.

Yours sincerely

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