



Secretary of State, Holders of
Gas Supply and Electricity Supply
Licences, consumers and their
representatives and other
interested parties

*Promoting choice and value for
all gas and electricity customers*

Your Ref:
Our Ref:
Direct Dial: 020 7901 7277
Email: sarah.harrison@ofgem.gov.uk

Date: 23 November 2010

Dear Colleagues,

**NOTICE OF PROPOSED MODIFICATIONS OF THE STANDARD LICENCE CONDITIONS
OF:**

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

On 10 August 2010, the Gas and Electricity Markets Authority (the "Authority") consulted under section 11A of the Electricity Act 1989 and section 23 of the Gas Act 1986 on a proposed modification *Standard Licence Condition 21A 'Provision of the annual statement of supply to participants of the CRC Energy Efficiency Scheme'*. At the same time the Authority also consulted on a guidance document to the proposed modification.

The consultation closed on 21 September 2010. We received several responses to the consultation about the draft guidance accompanying the proposed modification. Following further clarification of these issues, including from the Department of Energy and Climate Change, we have decided not to proceed with the modification but instead to amend the guidance notes and consult again on the modification proposal.

Today we are opening a new consultation on the proposed modification (which is not materially changed) and at the same time issuing revised guidance to clarify the requirements of the proposed modification as set out by Section 63 of the Order. While opening another consultation delays the insertion of the licence condition we think it is warranted for clarity and transparency and to make certain suppliers are fully aware of their legal obligations under the proposal.

For the reasons set out in this letter and in accordance with section 11A of the Electricity Act and section 23 of the Gas, Act the Authority is proceeding with a fresh statutory consultation on the proposed insertion of a new standard licence condition to the standard conditions of electricity and gas supply licences.

Proposed modification

Subject to consideration of any representations or objections to the notices of proposed modifications the Authority proposes to modify the standard conditions of the electricity and gas licences as per accompanying notices by:

- a) Inserting new Standard Licence Condition 21A ('Provision of the annual statement of supply to participants of the CRC Energy Efficiency Scheme') to the standard conditions of electricity supply licence

- b) Inserting new standard condition 21A ('Provision of the annual statement of supply to participants of the CRC Energy Efficiency Scheme') to the standard conditions of gas supply licence

The proposed standard licence conditions for electricity and gas suppliers are set out in the schedules of the relevant notices. Alongside this letter, we are also publishing revised guidance notes on the requirements of the proposed modification.

Reasons for the proposed modifications

The Carbon Reduction Commitment Energy Efficiency Scheme (CRC) was introduced in April 2010. It is a new mandatory scheme to improve energy efficiency in large public and private sector organisations. The Environment Agency administers the CRC on behalf of the Department for Energy and Climate Change and the Welsh Ministers, and the Scottish Environment Protection Agency (SEPA) on behalf of the Scottish Ministers¹.

The "CRC Energy Efficiency Scheme Order 2010"² (CRC Order) came into effect on 1st April 2010. The CRC Order places requirements on licensed energy suppliers to provide an annual statement of supply to participants of the CRC scheme covering the year from 1 April to 31 March.

The Government decided this requirement on licensed energy suppliers should be a condition in the gas and electricity supply licences, and that enforcement of this obligation should be by the Gas and Electricity Markets Authority in accordance with its powers under sections 28 to 30F of the Gas Act 1986 and sections 25 to 28 of the Electricity Act 1989.

Next steps

Any representations or objections to the proposed licence modifications must be made in writing (preferably in electronic form) on or before 23 December 2010³, to:

Anna Kulhavy
Senior Economist
Ofgem
9 Millbank
London
SW1P 3GE

or by email to anna.kulhavy@ofgem.gov.uk

Although any person may make representations, only those licensees who are "relevant licence holders" under paragraph section 11A(10) of the Electricity Act 1989 and under paragraph section 23(12) of the Gas Act 1986 may register a formal objection to any proposed modification.

All responses will normally be published on Ofgem's website and retained in the Ofgem Research and Information Centre. However, if respondents do not wish their response to be made public then they should clearly mark their response as confidential.

¹ Guidance for Participants of the CRC is available at www.environment-agency.gov.uk

² S.I. 2010/768. The CRC Order is available online at: [CRC Energy Efficiency Scheme Order 2010 \(No. 768\)](http://www.legislation.gov.uk/uksi/2010/768)

³ Relevant licensees are able to lodge objections against any proposed licence modification. The level of objections will be measured against a blocking-minority threshold of 20 per cent that was prescribed by the Secretary of State in an Order dated 15 July 2003. The Order states that:

- if the number of relevant licence holders that object to a collective licence modification proposal is equal to or greater than 20 per cent of the total number of relevant licence holders, or
- if the market share of objectors is equal to or exceeds 20 per cent,

the proposed modification may not be made (except via the Competition Commission).

Please contact Anna Kulhavy (anna.kulhavy@ofgem.gov.uk or 0207 901 7390) should you have any queries.

Yours faithfully,

Sarah Harrison
Senior Partner
Sustainable Development

NOTICE OF PROPOSED MODIFICATION PURSUANT TO SECTION 11A OF THE ELECTRICITY ACT 1989 OF THE STANDARD CONDITIONS OF THE ELECTRICITY SUPPLY LICENCES GRANTED TO TREATED AS GRANTED UNDER SECTION 6(1)(d) OF THE ELECTRICITY ACT 1989

WHEREAS:

1. Each of the companies to whom this notice is addressed holds an electricity supply licence granted, or treated as granted, pursuant to section 6(1)(d) of the Electricity Act 1989 (the "Act")
2. In accordance with section 11A(3) and (4) of the Act, the Gas and Electricity Markets Authority (the "Authority") gives notice ("Notice") that it proposes to modify the standard conditions of the electricity supply licence by:
 - a. Inserting new Standard Licence Condition 21A ('Provision of the annual statement of supply to participants of the CRC Energy Efficiency Scheme') to the Standard conditions of electricity supply licence
3. The proposed new licence condition is set out in the schedule to this Notice.
4. The reasons why the Authority proposes this licence modification have been published by the Authority in the following documents:
 - a. Ofgem's covering letter dated 23 November 2010; and
 - b. the Guidance Document which was published alongside this letter.
5. These documents are available free of charge from the Ofgem Research and Information Centre, 9 Millbank, London, SW1P 3GE (020 7901 7003) or from the Ofgem website (www.ofgem.gov.uk).
6. Any representations or objections to the proposed modifications may be made before 23 December 2010 and sent to: Anna Kulhavy, Senior Economist, Ofgem, 9 Millbank, London SW1P 3GE or by email to anna.kulhavy@ofgem.gov.uk
7. Although any person may make representations, only those licensees who are "relevant licence holders" under paragraph section 11A(10) of the Act may register a formal objection to any proposed modification.
8. All responses will normally be published on Ofgem's website and retained in the Ofgem Research and Information Centre. However, if respondents do not wish their response to be made public then they should clearly mark their response as confidential

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Sarah Harrison
Senior Partner
Sustainable Development
Duly authorised on behalf of the Authority

23 November 2010

SCHEDULE 1

ELECTRICITY SUPPLY

Standard condition 21A: Information required under the Carbon Reduction Commitment Energy Efficiency Scheme

Condition 21A. Provision of the annual statement of supply to Participants of the CRC Energy Efficiency Scheme

21A.1 Where a Participant requests in writing for it to do so, a licensee must provide in Writing the information specified in paragraph 21A.2. within 6 weeks of the end of the Year of the Phase to which the information relates.

21A.2 The information referred to in paragraph 21A.1 is:

- (a) the amount of electricity supplied (in kWh) by the licensee to the Participant in the Year in which the request is made;
- (b) how much (in kWh), if any, of the electricity supply has been estimated by the licensee, and the period to which such an estimate relates;
- (c) the premises to which the supply was made;
- (d) the Meter Point Administration Number (MPAN) of the Electricity Meter that measured any such supply.

21A.3 The Authority may issue, and may from time to time revise, guidance regarding the interpretation of this licence condition.

21A.4 In this condition:

“Participant” has the same meaning as that set out in Article 3 of the CRC Energy Efficiency Scheme Order 2010 (S.I. 2010/768)

“Phase” has the same meaning as that set out in Articles 2 and 3 of the CRC Energy Efficiency Scheme Order 2010 (S.I. 2010/768)

“Year” has the same meaning as that set out in Article 3 of the CRC Energy Efficiency Scheme Order 2010 (S.I. 2010/768)

NOTICE OF PROPOSED MODIFICATION PURSUANT TO SECTION 23 OF THE GAS ACT 1986 OF THE STANDARD CONDITIONS OF THE ELECTRICITY SUPPLY LICENCES GRANTED TO TREATED AS GRANTED UNDER SECTION 7A(1) OF THE GAS ACT 1986.

WHEREAS:

1. Each of the companies to whom this notice is addressed holds a gas supply licence granted, or treated as granted, pursuant to section 7A(1) of the Gas Act 1986 (the "Act").
2. In accordance with section 23(3) and (4) of the Act, the Gas and Electricity Markets Authority (the "Authority") gives notice ("Notice") that it proposes to modify the standard conditions of the gas supply licence by:
 - a. Inserting new Standard Licence Condition 21A ('Provision of the annual statement of supply to participants of the CRC Energy Efficiency Scheme') to the Standard conditions of gas supply licence
3. The proposed new licence condition is set out in the schedule to this Notice.
4. The reasons why the Authority proposes this licence modification have been published by the Authority in the following documents:
 - a. Ofgem's covering letter dated 23 November 2010; and
 - b. the Guidance Document which was published alongside this letter.
5. These documents are available free of charge from the Ofgem Research and Information Centre, 9 Millbank, London, SW1P 3GE (020 7901 7003) or from the Ofgem website (www.ofgem.gov.uk).
6. Any representations or objections to the proposed modifications may be made before 23 December 2010 and sent to: Anna Kulhavy, Senior Economist, Ofgem, 9 Millbank, London SW1P 3GE or by email to anna.kulhavy@ofgem.gov.uk
7. Although any person may make representations, only those licensees who are "relevant licence holders" under paragraph section 23(12) of the Act may register a formal objection to any proposed modification.
8. All responses will normally be published on Ofgem's website and retained in the Ofgem Research and Information Centre. However, if respondents do not wish their response to be made public then they should clearly mark their response as confidential

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Sarah Harrison
Senior Partner
Sustainable Development
Duly authorised on behalf of the Authority

23 November 2010

SCHEDULE 1

GAS SUPPLY

Standard condition 21A: Information required under the Carbon Reduction Commitment Energy Efficiency Scheme

Condition 21A. Provision of the annual statement of supply to Participants of the CRC Energy Efficiency Scheme

21A.1 Where a Participant requests in writing for it to do so, a licensee must provide in Writing the information specified in paragraph 21A.2. within 6 weeks of the end of the Year of the Phase to which the information relates.

21A.2 The information referred to in paragraph 21A.1 is:

- (a) the amount of gas supplied (in kWh) by the licensee to the Participant in the Year in which the request is made;
- (b) how much (in kWh), if any, of the gas supply has been estimated by the licensee, and the period to which such an estimate relates;
- (c) the premises to which the supply was made;
- (d) the Meter Point Reference Number (MPRN) of the Gas Meter that measured any such supply.

21A.3 The Authority may issue, and may from time to time revise, guidance regarding the interpretation of this licence condition.

21A.4 In this condition:

"Participant" has the same meaning as that set out in Article 3 of the CRC Energy Efficiency Scheme Order 2010 (S.I. 2010/768)

"Phase" has the same meaning as that set out in Articles 2 and 3 of the CRC Energy Efficiency Scheme Order 2010 (S.I. 2010/768)

"Year" has the same meaning as that set out in Article 3 of the CRC Energy Efficiency Scheme Order 2010 (S.I. 2010/768)