

**To: All holders of a gas supply licence who are in respect of any one or more modification relevant licence holders for the purposes of section 23(12) of the Gas Act 1986.**

**NOTICE OF PROPOSED MODIFICATION PURSUANT TO SECTION 23 OF THE GAS ACT 1986 OF THE STANDARD CONDITIONS OF THE GAS SUPPLY LICENCES GRANTED OR 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. amending sub-paragraphs 4(a), 4(b), 6(a) and 6(c) of standard condition 23 ('Notification of Domestic Supply Contract terms');
  - b. amending subparagraph 9(c) of standard condition 14 ('Customer Transfer Blocking'); and
  - c. amending paragraph 3 of standard condition 24 ('Termination of Domestic Supply Contracts').
3. Subject to responses to the statutory consultation, in the event that the Authority decides to proceed with the modifications, it is intended that the modifications will take effect one month after the date the Authority's decision is published.
4. The reasons why the Authority proposes these modifications have been published by the Authority in the following documents:
  - a. Final Impact Assessment: Proposed modifications of Standard Licence Condition 23 (SLC 23) of the Gas and electricity domestic supply licences and consequential proposals (14a/11), 9 February 2011;
  - b. Consultation on draft impact assessment of proposed modifications of Standard Licence Condition 23 of the gas and electricity domestic supply licences: period for notifying unilateral contract variations and other consequential issues (149/10), 01 December 2010;
  - c. Consultation on proposals for amending Standard Licence Condition 23 (127/10), 01 October 2010;
  - d. Consultation: Supply Licence Condition 23 - Period for notifying unilateral contract variations and related matters, 31 March 2010;
  - e. Energy Supply Probe - Proposed Retail Market Remedies (99/09), 07 August 2009;

- f. Energy Supply Probe – Proposed Retail Market Remedies (41/09), 15 April 2009;
- g. Ofgem’s published consultation letter titled “65 day notice period for unilateral contract variations”, 20 February 2009;
- h. Energy Supply Probe – Initial Findings Report (140/08), 06 October 2008.

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 at [www.ofgem.gov.uk](http://www.ofgem.gov.uk).

- 5. The effects of the proposed licence modifications are summarised as follows:
  - a. in relation to sub-paragraph 4(a) of standard condition 23, to require suppliers to give domestic customers direct notice of a unilateral contract variation at least 30 calendar days in advance of the date on which the variation has effect;
  - b. in relation to sub-paragraph 4(b) of standard condition 23, to make clear that the Notice given by a supplier in respect of a unilateral variation must inform the domestic customer that they may end a contract if a variation is not acceptable to them by changing supplier;
  - c. in relation to sub-paragraph 6(a) of standard condition 23, to ensure that once a domestic customer has become aware of a unilateral variation (by any means) they may satisfy one of the conditions to avoid being affected by the unilateral variation by notifying their supplier (that they are ending the domestic supply contract by changing their supplier) on or before the date on which the variation has effect;
  - d. in relation to sub-paragraph 6(c) of standard condition 23 and sub-paragraph 9(c) of standard condition 14, to ensure that where a domestic customer receives Notice that their supplier intends to prevent them from changing supplier due to outstanding charges, the domestic customer may still change their supplier without being affected by the variation if they pay those outstanding charges within 30 Working Days;
  - e. in relation to paragraph 3 of standard condition 24, to correct a drafting error by ensuring that reference is made to paragraph 6 of standard condition 23.
- 6. The envisaged text for each of the proposed modifications is set out in the schedule to this Notice.
- 7. Any representations or objections to the proposed modifications may be made on or before 14 March 2011 and sent to:
  - Meghna Tewari
  - Senior Economist
  - Retail and Market Processes
  - Ofgem
  - 9 Millbank
  - London SW1P 3GE

Or by email to [Meghna.tewari@ofgem.gov.uk](mailto:Meghna.tewari@ofgem.gov.uk)

8. Although any person may make representations, only those licensees who are “relevant licence holders” under section 23(12) of the Act may register a formal objection to any proposed modification. The table below sets out the relevant licence holders in relation to each modification:

<b><i>Proposed modification</i></b>	<b><i>Relevant licence holders</i></b>
Sub-paragraphs 4(a), 4(b), 6(a) and 6(c) of standard condition 23	All holders of a gas supply licence with Section B of the standard conditions in effect
Sub-paragraph 9(c) of standard condition 14	All holders of a gas supply licence with Section B of the standard conditions in effect
Paragraph 3 of standard condition 24	All holders of a gas supply licence with Section B of the standard conditions in effect

**Ian Marlee**  
**Partner, GB Markets**  
**Ofgem**  
**Authorised on behalf of the Authority**

**09/02/2011**

## SCHEDULE

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

#### 1. Proposed modifications to standard condition 23:

The text below which is highlighted by track changes constitutes the drafting changes envisaged in respect of the proposed modifications to paragraph 4 of standard condition 23 (insertions are shown by underlined text and deletions are shown by strikethrough text):

#### Notification of unilateral variation

- 23.3 If, in accordance with the terms of a Domestic Supply Contract with a Domestic Customer, the licensee unilaterally varies a term of the contract:
- (a) to increase the Charges for the Supply of Gas to a Domestic Premises; or
  - (b) in any other way that is to the significant disadvantage of the customer,
- the licensee must give Notice of that variation to the customer in accordance with paragraph 23.4.
- 23.4 The Notice referred to in paragraph 23.3 must:
- (a) be given either at least 30 days in advance of the date on which the variation has effect ~~or no later than the end of 65 Working Days after the date on which the variation has effect~~;
  - (b) inform the Domestic Customer that he may end the Domestic Supply Contract if the variation is unacceptable to him by changing his Gas Supplier; and
  - (c) inform the Domestic Customer where he may obtain impartial advice and information about changing his Gas Supplier;
  - (d) inform the Domestic Customer that where he has any Outstanding Charges, his Gas Supplier may be able to prevent a Proposed Supply Transfer; and
  - (e) explain the effect of paragraph 23.6.
- 23.5 The licensee must present the information required in paragraph 23.4 in a form that is clear and easy to understand and must place the information required in sub-paragraphs 23.4(b) and (c) in a prominent position on the Notice.
- 23.6 The licensee must treat the variation as ineffective and neither enforce nor take advantage of it where –
- (a) the Domestic Customer notifies the licensee after he becomes aware (by any means) of the variation on or before but no later than 20 Working Days after the date on which ~~he receives Notice given under paragraph 23.3~~ the variation has effect that he is ending the Domestic Supply Contract by changing his Gas Supplier; and

(b) no later than 15 Working Days after the Domestic Customer has notified the licensee in accordance with sub-paragraph 23.6 (a), the licensee received Notice under the Network Code by way of the Relevant Gas Shipper that another Gas Supplier will begin to supply the Domestic Customer's Domestic Premises within a reasonable period of time after the date on which that Notice has been given; or

(c) where: ~~the Notice of variation referred to in paragraph 23.3 is given either less than 5 Working Days in advance of the date on which the variation has effect or after the date on which the variation has effect; and~~

(i) the conditions in sub-paragraphs 23.6(a) and (b) are met; and

(ii) the Domestic Customer has paid any Outstanding Charges within 30 Working Days after the Domestic Customer receives Notice that the licensee intends to ask or allow the Relevant Gas Shipper to prevent the Domestic Customer's Proposed Supplier Transfer.

23.7 The licensee is not required to comply with paragraph 23.3 to such extent as the Authority may direct.

## **2. Proposed modifications to paragraph 9 of standard condition 14:**

The text below which is highlighted by track changes constitutes the drafting changes envisaged in respect of the proposed modifications to paragraph 9 of standard condition 14 (insertions are shown by underlined text and deletions are shown by strikethrough text):

If the licensee asks or allows the Relevant Gas Shipper to prevent a Proposed Supplier Transfer of a Domestic Customer, it must give a Notice to that customer as soon as reasonably practicable after making the request:

(a) to inform him or her:

(i) that it has made a request to prevent the transfer;

(ii) of the grounds for the request; and

(iii) how the customer may dispute or resolve such grounds; and

(b) to offer him or her advice (or to give them information on how and where advice may be obtained) concerning:

(i) energy efficiency;

(ii) debt management; and

(iii) alternative Domestic Supply Contract offered by the licensee which would be available to that Domestic Customer and which may be preferable to their existing Domestic Supply Contract; and

(c) to inform him or her that they have 30 Working Days after they receive the Notice to pay any Outstanding Charges where:

~~(+)~~ the Domestic Customer notified the licensee of their intention to end the Domestic Supply Contract following Notice of a unilateral variation from the licensee under paragraph 3 of standard condition 23; ~~and~~

~~(ii) the Notice of unilateral variation was given either less than 5 working days in advance of the date on which the variation has effect or after the date on which the variation has effect.~~

### **3. Proposed modifications to paragraph 3 of standard condition 24:**

The text below which is highlighted by track changes constitutes the drafting changes envisaged in respect of the proposed modifications to paragraph 3 of standard condition 24 (insertions are shown by underlined text and deletions are shown by strikethrough text):

The licensee may include a term in a Domestic Supply Contract requiring a Domestic Customer to pay a Termination Fee to end that contract except in any of the following circumstances:

(a) the contract is of an indefinite length;

(b) without prejudice to sub-paragraph (a), the contract allows for both a fixed term period and a period of indefinite length and it is brought to an end during the period of indefinite length; or

(c) the licensee gives Notice of a unilateral variation of a term of the contract in accordance with paragraph 3 of standard condition 23 (Notification of Domestic Supply Contract terms) and sub-paragraph 5 6(a) of that condition binds the licensee.