

Ljuban Milicevic  
Regulatory and Energy Economist  
Ofgem  
9 Millbank  
London  
SW1P 3GE

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Sent by email to: [Ljuban.milicevic@ofgem.gov.uk](mailto:Ljuban.milicevic@ofgem.gov.uk)

Dear Ljuban,

**Legal & Regulatory**

Lakeside West  
1st Floor  
30 The Causeway  
Staines  
Middlesex  
TW18 3BY  
t: 01784 494000  
f: 01784 878719

**Ofgem letter: Classification of premises for the purposes of the standard conditions of the gas supply licence**

This is the British Gas response to the above letter dated 14 December 2010.

We do not believe it necessary to amend either the definition of "Domestic Customer" and/or "Domestic Premises" within the standard conditions of the gas supply licence or Part B of those conditions in order to clarify the licensing regime applicable to energy suppliers which supply gas to a legal entity which purchases gas on behalf of a number of individual residents.

Firstly, a non-profit making legal entity purchasing gas on behalf of a number of individual residents is still providing commercial services, and is therefore Non-Domestic. Ofgem's guidance published in March 2002 ("Ofgem's interpretation of the definition of the terms 'domestic customer' and 'domestic premises' as they appear in the gas and electricity supply licences") reinforces this interpretation and the existing licensing regime is flexible enough to permit it.

Secondly, the consequence of changing the reclassification of such an arrangement to Domestic would mean Part B of the SLCs would be impossible for suppliers to fulfil.

Finally, it is unclear to us why Ofgem believe a change to the existing rules is necessary and we would appreciate further clarity on Ofgem's reasons for this letter.

**The existing definition**

The classification of premises is not limited to those outlined in SLC 6.2(a). The SLCs do permit other contexts to be considered as Non-Domestic, including the example of a non-profit making legal entity purchasing gas on behalf of a number of individual residents. Furthermore, Ofgem's guidance (see above) already classifies this type of arrangement as Non-Domestic:

"Ofgem believes that changes in the definition of 'domestic customer' and 'domestic premises' were not intended to extend regulatory protection appropriate for domestic customers to I&C customers, whether or not they are in business to provide residential or accommodation services. Ofgem believes that the provision of such services should not be regarded as a 'domestic purpose'. Consequently, where gas and electricity is supplied in connection with services on a commercial basis (including residential or accommodation services), Ofgem expects that I&C contract terms will continue to apply."

Even if the legal entity does not charge for the service, it provides a service to purchase gas to generate heat for individual domestic residents, and it is acting for and on behalf of them. This is a provision of a commercial service, making it a Non-Domestic supply by nature.

The current licence wording accepts that the supply of gas to a profit making legal entity acting on behalf of individual residents within an apartment block would be Non-Domestic. It is illogical to make profit the distinguishing factor in customer classification as it would lead to a fragmented and differentiated experience for the residents of otherwise identical arrangements.

Classification of the contract holder, not the end user, must govern whether the supply contract is Domestic or Non-Domestic.

In addition, it would be impossible for suppliers to fulfil the obligations prescribed by Part B of the licence in the absence of a direct contractual relationship (e.g. an entity acting on behalf of many, perhaps many hundreds, of individual residents). This is of particular relevance for the licence conditions dependent on the identification of vulnerable customers, namely SLCs 26 (Services for specific Domestic Customer groups), 27 (Payments, Security Deposits and Disconnections) and 29 (Gas safety).

### **Summary**

To summarise, we do not believe it necessary to amend either the definition of "Domestic Customer" and/or "Domestic Premises" within the standard conditions of the gas supply licence or Part B of those conditions.

The existing licensing regime adequately defines commercial legal entity acting on behalf of a number of individual residents as a Non-Domestic Customer.

We would, however, welcome some additional guidance within the SLCs to clarify definition of the meaning of the terms Domestic Customer and Domestic Premises in line with the above.

Please feel free to contact me in relation to any element of our response.

Yours sincerely,



Lex Keel  
Regulatory Manager  
British Gas