

To: All holders of an electricity supply licence who are relevant licence holders for the purposes of section 11A(10) of the Electricity Act 1989.

NOTICE OF PROPOSED MODIFICATION PURSUANT TO SECTION 11A OF THE ELECTRICITY ACT 1989 OF THE STANDARD CONDITIONS OF THE ELECTRICITY SUPPLY LICENCES GRANTED OR 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 (2), (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 inserting Condition 25A.
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 56 days after the date on which 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) Ofgem's covering letter for the Notice dated 27 April 2012 (Document title: Statutory notice of proposed modifications of Standard Licence Condition 25A (SLC 25A) of the gas and electricity domestic supply licences, (61/12));
 - (b) Consultation on the Undue Discrimination Prohibition standard licence condition (23/11), 24 February (2012);
 - (c) The Retail Market Review: Domestic Proposals (166/11), 1 December 2011;
 - (d) The Retail Market Review – Findings and Initial Proposals (34/11), March 2011;
 - (e) Addressing undue discrimination Decision Document (72/09), 26 June 2009;
 - (f) Addressing undue discrimination Final Impact Assessment (73/09), 26 June 2009;
 - (g) Energy Supply Probe - Proposed Retail Market Remedies, (99/09), 7 August 2009;
 - (h) Addressing undue discrimination Final Proposals (42/09), 15 April 2009;
 - (i) Addressing undue discrimination Impact Assessment (43/09), 15 April 2009;
 - (j) Energy Supply Probe – proposed retail market remedies (41/09), 15 April 2009;
 - (k) Addressing unfair price differentials Consultation (01/09), 08 January 2009;

(l) Energy Supply Probe – Initial Findings Report (140/08), 6 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.

5. The effects of the proposed licence modifications are described in the documents referred to in paragraph 4 of this Notice and, in particular, the following documents:

(a) Guidelines on Cost Reflectivity between Payment Methods and the Prohibition of Undue Discrimination in Domestic Gas and Electricity Supply Contracts (102/09), 7 August 2008;

(b) Addressing undue discrimination Decision Document (72/09), 26 June 2009;

(c) Addressing undue discrimination Final Impact Assessment (73/09), 26 June 2009.

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.

6. The envisaged text for the proposed modifications is set out in the schedule to this Notice. For the avoidance of doubt, with the exception of the date contained in paragraph 25A.9, this text is identical to the text of the version of Standard Condition that is currently in force.

7. Any representations on the proposed modifications may be made on or before 28th May 2012 and sent to:

Jemma Baker
Economist
Ofgem
9 Millbank
London SW1P 3GE

Or by email to rmr@ofgem.gov.uk

27th April 2012

**Rachel Fletcher, Partner, GB Markets
Ofgem
Authorised on behalf of the Authority**

SCHEDULE

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

The underlined text set out below constitutes the envisaged drafting in respect of the proposed insertion of condition 25A in the standard conditions of the electricity supply licence:

Condition 25A. Prohibition of undue discrimination in supply

Prohibition of undue discrimination

25A.1 This condition applies in relation to the supply of electricity by the licensee under a Domestic Supply Contract or a Deemed Contract for the supply of electricity to Domestic Premises.

25A.2 Subject to paragraph 25A.3, the licensee must ensure that in supplying or offering to supply electricity, the Principal Terms on which it does so do not discriminate without objective justification between one group of Domestic Customers and any other such group. For the purposes of this condition it shall be for the Authority to decide whether there is any such objective justification.

25A.3 The licensee shall only be in breach of this condition if and to the extent that the nature of the discriminatory terms offered and/or their impact on any Domestic Customers is material in any respect.

Compliance with this condition

25A.4 This licence condition shall be interpreted and enforced in accordance with guidance issued by the Authority and until such guidance is published this licence condition shall not be enforceable.

25A.5 The Authority may from time to time revise the guidance referred to in paragraph 25A.4 with a view to:

(a) removing or reducing inconsistencies between Electricity Suppliers in their interpretation and application of its provisions; and

(b) clarifying how the licensees' compliance with the obligations imposed by this condition will be monitored and enforced.

25A.6 Before revising guidance under paragraph 25A.5, the Authority shall give Notice that it proposes to do so to:

(a) Electricity Suppliers in whose licences Section B of the standard conditions is effective;

(b) the National Consumer Council; and

(c) such other persons as the Authority considers it appropriate to consult in relation to the proposal.

25A.7 A Notice given by the Authority under paragraph 25A.6 must:

(a) state that the Authority proposes to issue the revised guidance and specify the date on which it intends that this should take effect;

(b) set out the text of the guidance and the Authority's reasons for proposing to revise it; and

(c) specify the time (which must not be less than a period of 28 days from the date of the Notice) within which representations or objections with respect to the proposal may be made,

and the Authority must consider any representations or objections which are duly made and not withdrawn.

25A.8 The licensee is not required to comply with this condition if it supplies electricity to fewer than 50,000 Domestic Customers or such other number as may from time to time be directed by the Authority.

Termination of this provision

25A.9 This condition will cease to have effect on 31 July 2014.