

To: Holders of a Gas Supply Licence

MODIFICATION OF STANDARD CONDITIONS OF THE GAS SUPPLY LICENCE GRANTED UNDER SECTION 23(1) OF THE GAS ACT 1986, (AMENDMENT TO STANDARD CONDITION 22 AND INSERTION OF NEW STANDARD CONDITION 25B)

Whereas:

1. In accordance with section 23(2) of the Gas Act 1986 ("the Act") the Gas and Electricity Markets Authority (the "Authority") gave notice on 19 June 2012 (the Notice)¹ that it proposed to modify the Standard Conditions of the Gas Supply Licence ("the Licence") in the manner set out in the schedule to the Notice. The modifications involve the insertion of a new Standard Condition 25B (Interoperability of Advanced Domestic Meters) and consequential amendment to Standard Condition 22 (Duty to offer and supply under Domestic Supply Contract) of the Licence.
2. As stated in the Notice, the effect of the proposed modification(s) will help domestic customers understand if the advanced meter services they are receiving will be maintained when they switch supplier and therefore to facilitate the switching process for customers with these meters. The new conditions will also help the new supplier seeking to continue to support those services.
3. The Authority received nine responses to the Notice². Respondents recognised that there were issues with the current arrangements and broadly supported our proposals. One respondent described the proposals as sensible and pragmatic. There were differing views as to the complexity of the solutions and the time needed to implement them that respondents considered would be needed to support compliance with the new obligations. A number of respondents asked for greater clarity as to the actions that a supplier would need to take to be compliant with the obligations. There were also suggestions as to how the text of the licence conditions could be improved. A number of suppliers indicated their concern as to the lead time available for implementing changes to their systems and processes to meet the obligations; in particular the requirements for informing a new customer of any loss of advanced services through their sales channels. The Authority has considered all the responses made in relation to the proposed licence modifications and full details of such consideration can be found in Section 3 of "Supporting effective switching for domestic customers with smart meters: Modification of supply licence standard conditions,"³ and which is published alongside this notice.
4. In accordance with section 23(4)(b)(ii) of the Act, the Authority sent a copy of the Notice to the Secretary of State. The Authority has not received a direction not to make the modifications from the Secretary of State.

¹ [Supporting effective switching for domestic customers with smart meters: additional statutory notice- \(Reference number: 79/12\)](#). This notice supersedes previous related notices from March 2012 and December 2011.

² See link at footnote 1.

³ *Supporting effective switching for domestic customers with smart meters: Modification of supply licence standard conditions (118/12)*
<http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=47&refer=Markets/sm/metering/sm>

5. The Authority has decided to make the proposed licence modifications. The Authority's reasons for making the modifications, by inserting a new Standard Condition 25B and making a consequential amendment to Standard Condition 22 are as set out in Section 3 of "Supporting effective switching for domestic customers with smart meters: Modification of supply licence standard conditions,"⁴. However, in summary the Authority considers that the modifications **will help domestic customers understand if the advanced meter services they are receiving will be maintained when they switch supplier and therefore to facilitate the switching process for customers with these meters. The new conditions will also help the new supplier seeking to continue to support those services.**
6. We made minor changes to the licence drafting consulted on and these are highlighted in the schedule to this Modification.
7. Documents referred to in this Modification are available free of charge from the Ofgem Research and Information Centre, 9 Millbank, Westminster, SW1P 3GE (020 7901 7003 or library@ofgem.gov.uk) or from the Ofgem website (www.ofgem.gov.uk). The non confidential responses received are also available from the Ofgem Research and Information Centre or on the Ofgem website.⁵

Therefore:

8. In accordance with the powers contained in section 23(1) of the Act, the Authority hereby issues its decision to modify the Standard Conditions of the Licence granted under section 7A(2) of the Act by inserting a new Standard Condition 25B and amending Standard Condition 22 in the manner set out in the schedule to this Modification, with effect from 1 November 2012. This document constitutes notice of the reasons for the decision to modify the Standard Conditions of the Licence as required by section 38A of the Act.

The official seal of the Gas and Electricity Markets Authority here affixed is authenticated by the signature of:

.....

Colin Sausman, Partner, Smarter Markets
Duly authorised on behalf of the Gas and Electricity Markets Authority

28 August 2012

⁴ *Supporting effective switching for domestic customers with smart meters: Modification of supply licence standard conditions (118/12)*

<http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=47&refer=Markets/sm/metering/sm>

⁵ <http://www.ofgem.gov.uk/CustomPages/Pages/Publications.aspx>

SCHEDULE

MODIFICATION PURSUANT TO SECTION 23(1) 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.

Minor drafting changes (as shown in track changes) have been made to the version consulted upon to correct the paragraph numbering and to correct the fact that the amendment to Standard Condition 22 mistakenly showed the condition contained in the Electricity Supply Licence instead of the Gas Supply Licence.

1. New standard condition 25B

The text below constitutes the new standard condition 25B:

Condition 25B. Interoperability of Advanced Domestic Meters

Information to be provided in respect of Advanced Domestic Meters

25B.1 This paragraph applies where the licensee is the Relevant Gas Supplier to a Domestic Customer with an Advanced Domestic Meter and that Domestic Customer intends to change their Gas Supplier and continue to use that Advanced Domestic Meter at the Domestic Premises.

25B.2 Where paragraph 25B.1 applies the licensee must take (and ensure that any Representative takes) all reasonable steps to ensure that, as from the date another supplier becomes the Relevant Gas Supplier for those premises, no misleading or inaccurate information relating to Charges for the Supply of Gas will be provided to the Domestic Customer via an Electronic Consumption Data Display and the Advanced Domestic Meter which relates to, or arises from, the Domestic Supply Contract previously entered into between the licensee and the Domestic Customer.

25B.~~32~~ Before the licensee enters into a Domestic Supply Contract with a Domestic Customer, the licensee must take (and ensure that any Representative takes) all reasonable steps to:

(a) ascertain whether an Advanced Domestic Meter is installed at the Domestic Premises;

(b) where an Advanced Domestic Meter is installed at the Domestic Premises, obtain information about the functionality of that Advanced Domestic Meter;

(c) communicate to that Domestic Customer in plain and intelligible language an explanation of the nature and effect of any potential variations to the services related to the functionality of the Advanced Domestic Meter installed at the Domestic Premises that might be to the disadvantage of the Domestic Customer.

25B.~~43~~ Where paragraph ~~32~~ applies, the licensee must take and retain (and ensure that any Representative takes and maintains) appropriate record of its compliance with the requirements of paragraph 2 of this condition.

25B.~~54~~ Before the licensee or any Representative installs an Advanced Domestic Meter, the licensee must take (and ensure that any Representative takes) all reasonable steps to communicate to that Domestic Customer in plain and intelligible language a statement to the effect that if they change their Gas Supplier they may not be able to receive the

same services in respect of the functionality of the Advanced Domestic Meter installed at their Domestic Premises.

General obligation to help maintain Advanced Domestic Meter services

25B.65 This paragraph applies where:

(a) the licensee is the Installation Licensee; and

(b) a Proposed New Gas Supplier has requested the information referred to in paragraph 76 from the Installation Licensee.

25B.76 Where paragraph 65 applies, the Installation Licensee must, as soon as reasonably practicable, provide the Proposed New Gas Supplier with such information as is reasonably required to:

(a) enable the Proposed New Gas Supplier to determine the functionality of the existing Advanced Domestic Meter at the particular Domestic Premises (hereafter referred to as 'the relevant premises'); and

(b) enable the Proposed New Gas Supplier to maintain all or part of the services related to the functionality of the existing Advanced Domestic Meter at the relevant premises.

25B.87 The licensee is not required to give information under paragraph 76, if doing so would seriously and prejudicially affect its commercial interest or might be expected to be incompatible with any legislation, rule of law or licence condition.

25B.98 The licensee is not required to give information under paragraph 76 which it could not be compelled to produce or give in evidence in civil proceedings before a court.

25B.109 Where the Installation Licensee receives a request from a Proposed New Gas Supplier, after 31st December 2012, the Installation Licensee must:

(a) offer to provide the Proposed New Gas Supplier with all such services as are reasonably required for the Proposed New Gas Supplier to maintain all of the services related to the functionality of the existing Advanced Domestic Meter at particular Domestic Premises (hereafter referred to as 'the relevant services'); and

(b) if the offer referred to in sub-paragraph (a) is accepted, provide the Proposed New Gas Supplier with the relevant services in accordance with that offer.

25B.110 The Installation Licensee is not required to comply with paragraph 109 where it-

(a) supplies gas to fewer than 250,000 Domestic Customers; or

(b) has installed or arranged to have installed fewer than-

(i) 25,000 Advanced Domestic Meters; and

(ii) 5,000 Prepayment Advanced Domestic Meters.

25B.121 The licensee is not required to comply with Standard Condition 25B.10 to such extent as the Authority may from time to time direct.

Replacement of a Prepayment Advanced Domestic Meter

25B.1~~32~~ Where a Domestic Customer with a Prepayment Advanced Domestic Meter intends to change their Gas Supplier at the same Domestic Premises to the licensee, and will continue to pay Charges for the Supply of Gas in advance though a Prepayment Meter, but the licensee is unable to support the existing Prepayment Advanced Domestic Meter, the licensee must install or arrange to install a replacement Prepayment Meter at no charge to the Domestic Customer.

25B.1~~43~~ The licensee must provide to the Authority, in such manner and at such times as the Authority may reasonably require, such Information as the Authority may require or deem necessary or appropriate to enable the Authority to monitor the licensee's compliance with this condition.

25B.1~~54~~ The licensee is not required to comply with paragraph 1~~43~~ if it could not be compelled to produce or give the Information in evidence in civil proceedings before a court.

Definitions for condition

25B.1~~65~~ For the purposes of this condition:

Advanced Domestic Meter	means an Gas Meter that, either on its own or with an ancillary device: (a) provides measured gas consumption data for multiple time periods and is able to provide such data for at least daily periods; (b) is able to provide the licensee with remote access to such data; and (c) is not an Electronic Consumption Data Display.
Electronic Consumption Data Display	means an electronic device that provides information, by electronic display, for the purposes of ascertaining the quantity of gas supplied to Domestic Premises and/or information relating to Charges for the Supply of Gas, in relation to Domestic Premises where an Advanced Domestic Meter is installed.
Installation Licensee	means the Gas Supplier who has installed or arranged to have installed an Advanced Domestic Meter at the Domestic Premises of a particular Domestic Customer.
Prepayment Advanced Domestic Meter	means a Gas Meter that, either on its own or with an ancillary device: (a) provides measured gas consumption data for multiple time periods and is able to provide such data for at least daily periods; (b) is able to provide the licensee with remote access to such data; (c) operating in a mode which requires a Domestic Customer to pay Charges for the Supply of Gas in advance; and (d) a reference to the installation or removal of a Prepayment Meter includes the switching of any Gas Meter to or from such a mode.
Proposed New Gas Supplier	means a Gas Supplier that is not the Installation Licensee and is seeking to enter into a Domestic Supply Contract with a particular Domestic Customer.

2. Amendments to paragraph ~~67~~ of standard condition 22

The text below which is highlighted by track changes in bold, constitutes the drafting changes envisaged in respect of the modifications to paragraph ~~67~~ of standard condition 22 (insertions are shown by underlined text):

~~22.7 The licensee is not required to comply with the obligations set out in paragraphs 22.2 or 22.3 in any of the following circumstances:~~

~~(a) the licensee may breach regulations made under section 29 of the Act if it supplies gas to the Domestic Premises, provided that it has taken all reasonable steps to prevent such breach from occurring;~~

~~(b) without prejudice to paragraph 12 of standard condition 25B, it is not reasonable in all the circumstances of the case for the licensee to supply gas to the Domestic Premises, provided that, if it is already supplying gas to the premises, it has given at least seven Working Days' Notice of its intention to stop doing so; or~~

~~(c) the licensee requires the Domestic Customer to pay a Security Deposit and he does not do so, except if that deposit is in breach of any of the requirements in paragraphs 3 and 4 of standard condition 27 (Payments, Security Deposits and Disconnections).~~

22.6 The licensee is not required to comply with the obligations set out in paragraphs 22.2 or 22.3 in any of the following circumstances:

(a) the Domestic Premises are not connected, whether directly or indirectly, to a relevant main;

(b) supplying gas to the Domestic Premises would, or might, involve danger to the public, provided that the licensee has taken all reasonable steps to prevent such danger from occurring;

(c) **without prejudice to paragraph 132 of Standard Condition 25B** it is not reasonable in all the circumstances of the case for the licensee to supply gas to the Domestic Premises, provided that, if it is already supplying gas to the premises, it has given at least seven Working Days' Notice of its intention to stop doing so; or

(d) the licensee requires the Domestic Customer to pay a Security Deposit and he does not do so, except if that deposit is in breach of any of the requirements in paragraphs 3 and 4 of standard condition 27 (Payments, Security Deposits and Disconnections).