

All relevant licensees, consumers
and their representatives, and
other interested parties

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Dear Colleague

Date: 19 December 2013

Notice under section 11A(2) of the Electricity Act 1989 ("Electricity Act") and section 23(2) of the Gas Act 1986 ("Gas Act"): Consultation on proposed licence modifications to reflect the abolition of the National Consumer Council¹ and its replacement with Citizens Advice² and Citizens Advice Scotland³ and proposed licence modifications to amend the licence fee payment conditions in certain gas and electricity licences and other consequential changes

Introduction

This letter sets out the Gas and Electricity Markets Authority ("Authority") proposals to amend a number of licence conditions as a result of the abolition of the National Consumer Council pursuant to the amendments outlined in the Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc) Order 2014 ("Public Bodies Order").

We note that this consultation includes proposals to amend the licence fee payment conditions in certain gas and electricity licences. We also note that Ofgem proposes to amend its licence fee principles document ("LPFD") a copy of which are appended to this letter.

We further note that this consultation includes proposals to modify the smart meter communication licences granted pursuant to sections 7AB(2) and (4) of the Gas Act and sections 6(1A) and (1C) of the Electricity Act (such licences being the "DCC Licence").

The notices under section 11A(2) of the Electricity Act and section 23(2) of the Gas Act and details of the changes proposed and the reasons behind them are set out in the attached Appendixes.

Background

Conditions of licences

The Department for Business Innovation and Skills (BIS) has laid the Public Bodies Order before Parliament in accordance with the Public Bodies Act 2011. The Public Bodies Order will abolish the National Consumer Council and transfer functions of the National Consumer Council to Citizens Advice and/or Citizens Advice Scotland.

¹ the body of that name established by Part I, section 1 of the Consumers, Estate Agents and Redress Act 2007

² the National Association of Citizens Advice Bureaux

³ the Scottish Association of Citizens Advice Bureaux

It is anticipated that the Public Bodies Order will come into force on 1 April 2014.

The abolition of the National Consumer Council requires that all references to that body in gas and electricity licences are deleted and substituted with references to Citizens Advice and Citizens Advice Scotland.

In particular, the Authority proposes to amend relevant conditions in the following licences:

- Standard conditions of the gas supply licence;
- Standard conditions of the electricity supply licence;
- Standard conditions of the gas shipper licence;
- Standard Conditions of the gas transporter licence;
- Gas transporters licence: Standard Special Conditions applicable to both National Transmission System ("NTS") and Distribution Network ("DN") licensees: Part A and Standard Special Conditions applicable to all DN licensees: Part D.
- Standard conditions of the electricity distribution licence;
- Standard conditions of the electricity transmission licence; and
- Conditions of the DCC Licence.

The proposed modifications to these licences are set out in the attached appendixes.

Licence fee payment conditions

In relation to the proposed modifications to amend the licence fee payment conditions we note that the Public Bodies Order will amend section 8 (3A), (3B), (4) and (10) of the Utilities Act 2000 by:

- omitting paragraphs (a) and (b) of subsection (3A): *'the expenses of the Council' and 'the expenses of the Secretary of State in relation to the establishment of the Authority and the Council';*
- inserting paragraph (ba): *'the appropriate proportion of the expenses of Citizens Advice (including expenses relating to taking on functions transferred from the National Consumer Council but not including expenses within paragraph (ca))';*
- inserting paragraph (bb): *'the appropriate proportion of the expenses of Citizens Advice Scotland (including expenses relating to taking on functions transferred from the National Consumer Council but not including expenses within paragraph (cb))';*
- amending subsection (3A)(c) by omitting *'the Council';*
- adding paragraph (ca): *'the appropriate proportion of the expenses of Citizens Advice which relate to a transfer scheme made in respect of the National Consumer Council under section 23 of the Public Bodies Act 2011';*
- adding paragraph (cb): *'the appropriate proportion of the expenses of Citizens Advice Scotland which relate to a transfer scheme made in respect of the National Consumer Council under section 23 of the Public Bodies Act 2011';*
- adding paragraph (da): *'the appropriate proportion of the expenses of the Secretary of State which relate to the abolition of the National Consumer Council and the transfer of functions to Citizens Advice and Citizens Advice Scotland';*
- adding paragraph (db): *'the appropriate proportion of the expenses of the Secretary of State which relate to the transfer of functions and the conferring of functions on Citizens Advice and Citizens Advice Scotland by the Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc) Order 2014 (S.I. 2014/...);'*

- adding paragraph (dc): *'the appropriate proportion of the expenses of the Secretary of State which relate to a transfer scheme made in respect of the National Consumer Council under section 23 of the Public Bodies Act 2011';*
- substituting *'the Council'* in subsection (3B) paragraph (a) for *'Citizens Advice or Citizens Advice Scotland, as the case may be';*
- adding paragraph (aa): *'in the case of expenses within subsection (3A)(da) or (dc), the functions exercised by the National Consumer Council in relation to gas and electricity consumers, and';*
- In subsection (4), omit paragraph (a) *'the establishment of the Authority or the Council; or'* and insert paragraph (c) *'the abolition of the National Consumer Council, or'* and paragraph (d) *'the conferring of functions which are exercisable in relation to gas and electricity consumers on Citizens Advice or Citizens Advice Scotland by the Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc) Order 2014 (S.I. 2014/...).'; and*
- amending subsection (10) by removing the definitions of *'Citizens Advice'* and *'Citizens Advice Scotland'*.

The Authority proposes to reflect these changes, where relevant, in the licence fee payment conditions in the following licences:

- Standard Conditions of the gas transporter licence;
- Standard conditions of the electricity distribution licence; and
- Standard conditions of the electricity transmission licence.

In addition, we propose to amend the relevant paragraphs in the LFPD.

Next steps

This consultation is being conducted on the basis that the Public Bodies Order will, in due course, be approved by Parliament and that the changes proposed by it will come into effect on 1 April 2014.

The Authority is issuing the following licence modification Notices which consult on the proposed changes:

- Appendix 1 – Notice under section 23(2) of the Gas Act 1986 - Gas Supply Licence;
- Appendix 2 - Notice under section 23(2) of the Gas Act 1986 – Gas Transporters Licence;
- Appendix 3- Notice under section 23(2) of the Gas Act 1986 – Gas Transporters Standard Special Licence;
- Appendix 4 - Notice under section 23(2) of the Gas Act 1986 – Gas Shipper Licence;
- Appendix 5 - Notice under section 11A(2) of the Electricity Act 1989: Electricity Supply Licence;
- Appendix 6 - Notice under section 11A(2) of the Electricity Act 1989 – Electricity Transmission Licence;
- Appendix 7- Notice under section 11A(2) of the Electricity Act 1989 – Electricity Distribution Licence;
- Appendix 8 – Notice under section 23(2) of the Gas Act 1986 and under section 11A(2) of the Electricity Act 1989 – the DCC Licence; and
- Appendix 9 – amendments to the LFPD.

Relevant licence holders and other interested parties have 35 days to make representations on the proposed changes. The consultation period has been adjusted to take account of the Christmas and New Year bank holidays.

Subject to any representations made, we intend to make the proposed modifications soon after receiving and considering any responses. If the Authority decides to make the proposed modifications they will take effect not less than 56 days after our decision is published. We anticipate that any modifications will take effect from 1 April 2014.

If you wish to respond to this consultation, please do so by 24 January 2014. Please email your response to: Paul.heseltine@ofgem.gov.uk or by post to the Office of Gas and Electricity Markets, 9 Millbank, London, SW1P 3GE.

Unless marked confidential, all responses will be published by placing them on Ofgem's website at www.ofgem.gov.uk. Respondents may request that their response is kept confidential. Ofgem shall respect this request, subject to any obligations to disclose information, for example under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004.

We would be grateful for any comments, in particular whether any references to the National Consumer Council have been overlooked.

Modifications to Industry Codes

We consider that these proposed licence modifications, if made, will result in the requirement for the relevant licensee to bring forward appropriate changes to the relevant industry codes.

If you have any queries about the content of this letter, please contact Gavin Jenkins (gavin.jenkins@ofgem.gov.uk) in respect of changes to licence fee conditions and the LFPD, and Marcus Clements (Marcus.clements@ofgem.gov.uk) in respect of consequential licence amendments.

Yours sincerely,



Paul Heseltine
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