

To: Domestic electricity
suppliers, consumer
representatives and other
interested parties

Direct Dial: 020 7901 7000
Email: ger@ofgem.gov.uk

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Open letter consultation on the modification of relevant licence conditions to enable the delivery of the Government Electricity Rebate

In this letter, we describe our proposal to enable the delivery of the Government Electricity Rebate (the rebate) by the Department of Energy & Climate Change (DECC) through a licence modification. We provide some background to the rebate, outline the provisions of the proposed licence condition, and set out our envisaged role in its delivery. If you have any views on what is outlined in this letter, please email responses to ger@ofgem.gov.uk by 27 May 2014.

Background and proposal

In his autumn 2013 statement,¹ the Chancellor of the Exchequer committed to reduce the cost to domestic energy consumers of environmental and social schemes. The majority of this reduction would be achieved by changes to the Energy Companies Obligation (ECO), which suppliers would then reflect in their tariff prices.

A further £12 reduction from the annual electricity bill (the government electricity rebate) would be paid to domestic electricity consumers in the autumns of 2014 and 2015, worth around £620 million in total. This reduction represents a partial refund of the cost of environmental schemes and charges such as the Renewables Obligation and the Carbon Price Floor.

DECC propose that suppliers will credit each of their domestic electricity customer accounts with the rebate and then be reimbursed by the government for the amount paid out.

We are consulting on an amendment to the electricity supply standard licence conditions (SLC), which would provide a transparent framework for the delivery of the rebate. This would require licensed electricity suppliers to comply with a direction issued by the Secretary of State for Energy and Climate Change (SoS) directing suppliers to pay the rebate to their domestic customers. DECC intend to issue a consultation in May seeking stakeholders' views on the details of the rebate scheme.

¹ The [autumn 2013 statement](#) was delivered to Parliament on 5 December 2013.

In modifying the licence to enable the rebate, we would put in place systems to monitor and audit suppliers' compliance with the SLC, including the SoS' directions issued under this condition.

We consider that a reduction in bills is in consumers' interests, including vulnerable consumers. Modifying electricity supply licences to mandate the rebate should ensure payment to domestic consumers by all domestic electricity suppliers. This would help to minimise the risk of material distortions of competition in the sector. We could also ensure that the arrangements are as transparent as possible, and would provide a robust framework for monitoring and enforcing compliance. This would provide reassurance to consumers that the funds are being delivered appropriately.

We are mindful that suppliers will incur implementation costs in delivering the rebate to their customers. DECC are working to ensure that the administrative burden placed on suppliers is kept to a minimum, by ensuring that the mechanism by which suppliers must deliver the rebate is proportionate and as efficient as feasible.

Subject to the outcome of our consultation and of DECC's forthcoming consultation on the detailed rebate policy, Ofgem's role would comprise two aspects: first, amending the supply licence to enable the SoS to direct suppliers to pay the rebate to their customers, and, second, monitoring and auditing suppliers' compliance with the rebate.

In deciding whether to propose licence amendments we have discussed with DECC whether there are any alternative approaches for delivering the rebate. One alternative to our enabling the rebate would be for DECC to attempt to secure voluntary agreement from suppliers to deliver it to their customers. However, given the substantial public funds involved, neither we nor DECC consider this to be an appropriate delivery mechanism for the rebate, as it would not provide sufficient transparency around the use of taxpayer money. Additionally, there is a risk that not all suppliers would agree to pay the rebate, which may have a distortive effect on competition and potentially cause confusion for consumers expecting to see a reduction in their bills.

Although we would not normally expect the licence to be used to facilitate rebates of this kind, there does not appear to be a viable alternative in this case. Should the government consider it appropriate to continue to fund the cost of certain environmental scheme costs from general taxation beyond 2015, we would encourage the development of an enduring mechanism for achieving this.

Provisions of the rebate

We propose to implement the rebate by introducing a new requirement in electricity supply licences for suppliers to comply with a direction issued by the SoS.

At a high level, our proposal is that all domestic electricity customers should have the potential to benefit from the rebate. DECC's consultation will cover the specific details of how and when suppliers must pay the rebate to their customers, and when they can expect to be reimbursed by the government.

An outline of what would be covered in the licence condition and the direction is set out below.

Scope of the licence condition

We envisage the SLC would set out the purpose and scope of the direction including the following aspects:

- Which suppliers must comply with the direction, eg all licensed suppliers.
- Any eligibility requirements for customers, eg domestic customers (as defined in SLC 1).
- A limit on the rebate amount, eg it must be £12 a year.
- A sunset clause so that the direction must be issued within a specified time.
- A requirement to provide Ofgem or the SoS with specified information relevant to the supplier's compliance with the direction.

Further detail is set out below and a draft licence condition is included in Annex 1.

Minded to position on licence condition contents

To ensure this process operates as efficiently and effectively as possible, we propose to specify certain requirements that must be adhered to by suppliers, as well as matters that should be considered by the SoS in drafting and issuing the direction.

As the environmental scheme costs that are being refunded through the rebate apply to customers of all suppliers, we are minded to apply the new SLC to all domestic electricity customers.

As mentioned previously, government policy is for the rebate to be paid to all domestic electricity customers of all suppliers. However, DECC may consider in their policy consultation whether exceptions to this are necessary so as not to place undue burden on certain sub-groups of suppliers, or to minimise the implementation costs of the rebate overall.

For instance, providing the rebate to certain customers (eg prepayment customers) may be costlier than others. If implemented inappropriately, the rebate may have a detrimental impact on suppliers who have a high proportion of such customers. We expect DECC to consider this issue, amongst others, in their policy consultation. In line with this, we are minded to include a reference within the new SLC to ensure that the SoS has certain relevant considerations when issuing the direction. This is to ensure that the approach taken is proportionate, and minimises any distortive effects on competition.

We are not minded to include a threshold for a customer's annual spend below which they should not receive the rebate. This may mean that customers with very low, or zero, electricity bills will receive the rebate when they have not borne the costs of the environmental charges covered by the rebate.² However, we consider that it would not be appropriate to require suppliers to identify those customers falling below such a threshold, as this would potentially increase the administration costs involved.

Similarly, we consider that the rebate should be delivered to domestic customers (as defined in SLC 1). This would exclude certain individuals who are not supplied by licensed suppliers, eg some tenants who pay their landlords for electricity through their rent. However, as above, we consider that to widen the scope to cover customers such as these would potentially increase the administration costs of the rebate.

² Data collected by DECC (2011) show that around 240,000 households on non-Economy 7 tariffs and around 134,000 households on Economy 7 tariffs consume less than 10 kWh/year .

We intend to include provisions within the SLC that will allow Ofgem or the SoS to request information from suppliers that may be needed to assess suppliers' compliance with the direction. This will help ensure that monitoring and auditing of the rebate is straightforward, and will provide a measure of transparency around the spending of taxpayer funds.

In order to provide regulatory certainty that the scope of the new SLC would not include any other rebates or directions from the SoS, or extend beyond the timeframe set out above, we intend to include clauses limiting the rebate amount to £12 per year and specifying the timeframe within which a direction must be issued. In addition, we intend to include a clause specifying that the new SLC, including the provision of information requirements, would cease to have effect after five years.

Contents of the direction

DECC will consult in May on the proposed contents of the direction to be issued by the SoS. We expect that the consultation will set out proposals concerning communications to customers and the payment and audit processes, which would be included in the direction from the SoS. As such, most of the detail relevant to the implementation of the rebate by suppliers would be included within the direction.

Ofgem would undertake the role of monitoring compliance with the SLC, including the SoS' direction issued under it.

The following outlines the proposed mechanism by which the rebate would be paid to consumers:

- The government proposes that all electricity suppliers will deliver two annual rebates of £12 on domestic electricity bills in the autumns of 2014 and 2015.³
- Suppliers will be responsible for delivering the rebate to all domestic electricity accounts they have registered on a specified date (the qualifying date), regardless of billing or payment method. Suppliers will be required to credit eligible accounts by a specified date (the payment date) which will be shortly after the qualifying date to minimise the costs and complexities of delivery.
- Suppliers will clearly label the government-funded rebate on bills so that it is distinct from other discounts that customers may receive.
- Suppliers will report on the number of rebates paid by a specified date after the payment date. At this stage, we envisage that this information will be reported to Ofgem.
- Once the rebates are applied to domestic electricity accounts by suppliers and are appropriately verified, the government will reimburse the total value of the rebates to the suppliers.
- Suppliers will put in place transparent procedures and reporting arrangements to demonstrate the number and value of rebates paid corresponds with the amount of government funding received.

³ In the case of certain customers who do not receive bills, eg prepayment customers, DECC may propose that suppliers can deliver the rebate in the form of a voucher, or by crediting the customer's account directly.

Ofgem's proposed role and responsibilities

Ofgem's role would comprise two elements. First, as outlined above, we propose to introduce SLC 25D. This modification specifically relates to the SoS' direction relating to the rebate on which DECC will consult.

The second aspect of Ofgem's proposed role would be to monitor compliance with the new SLC, including implementation of the obligations imposed by the SoS' direction. Our expertise in monitoring and auditing compliance with government schemes through our Ofgem E-Serve function means that we are well placed to assess supplier compliance in the application of the rebate in an efficient and effective manner.

We envisage that as part of this role we may:

- Require that suppliers submit pre-implementation notifications for approval, identifying issues such as internal governance, reporting and processes;
- Provide guidance for suppliers;
- Require supplier verification of their customer numbers and that rebate credits have been applied; and
- Issue notification an annual report to the SoS.

Our monitoring activity would be limited to ensuring the requirements of the scheme have been complied with. Specifically, Ofgem's monitoring activity will give reassurance to consumers that electricity suppliers have applied the rebate.

Indicative timelines

Following consideration of stakeholder views received in response to this open letter, we intend to proceed to statutory consultation in June 2014, with the intention that a decision can be issued in August 2014. This would mean the new SLC would be in effect in October, whereupon the SoS could issue the direction, such that rebate can start to be paid that month.

Responding to this consultation

Ofgem would like to hear the views of interested parties in relation to the proposals set out in this letter. In particular, we would appreciate views on:

1. Whether you agree in principle with the proposal to introduce the new SLC, and your reasoning.
2. Whether the proposed approach to the rebate is appropriate to minimise implementation costs and achieve the objective of reducing the burden of some environmental policy costs.
3. Whether requiring all licensed electricity suppliers to provide the rebate to all of their domestic customers (without a *de minimis* bill threshold) is an appropriate way to provide for proportionality and not materially distort competition in the energy market.
4. Whether there may be any unintended consequences in the implementation of the rebate in this way.

5. Whether introducing a sunset clause and limitations to the SoS' directions is an appropriate way to provide regulatory certainty.

Responses should be received by 27 May 2014 and should be sent to ger@ofgem.gov.uk, or alternatively to:

Barry Coughlan
Retail Market Policy
Ofgem
9 Millbank
London
SW1P 3GE

Unless marked confidential, all responses will be published by placing them in Ofgem's library and on its website 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.

Respondents who wish to have their responses remain confidential should clearly mark the document(s) to that effect and include the reasons for confidentiality. Respondents are asked to put any confidential material in the appendices to their responses.

Having considered the responses to this open letter, Ofgem will decide whether to issue the licence modification and undertake to monitor supplier implementation of the rebate. If we decide to issue the licence modification it will come into force in October 2014. We would also issue supplier guidance on reporting regimes for monitoring purposes.

Any questions about this letter should, in the first instance, be directed to Barry Coughlan at ger@ofgem.gov.uk or 020 7901 7000.

Yours sincerely,



Neil Barnes
Associate Partner, Retail Markets

Annex 1 – Draft Licence Condition

Draft

Condition 25D. Power to direct payment of rebates to Domestic Customers

25D.1 The licensee must comply with any direction relating to Relevant Matters for Standard Condition 25D which, following consultation and subject to the Secretary of State's duty to have regard to the Statutory Considerations, the Secretary of State may issue and may from time to time revise (following further consultation).

25D.2 The licensee must provide the Authority or the Secretary of State with Information specified by the Authority or Secretary of State in relation to matters that it or he reasonably considers are relevant to the licensee's compliance with any direction issued pursuant to paragraph 25D.1.

25D.3 The Authority or Secretary of State may direct the licensee to comply with paragraph 25D.2 by providing Information to the Authority or the Secretary of State:

- (a) in a particular form by a particular date; or
- (b) in a particular form at such reoccurring intervals of time as the Authority or Secretary of State considers appropriate.

25D.4 The licensee is not required to comply with paragraph 25D.2 if it could not be compelled to produce or give the Information in evidence in civil proceedings before a court.

25D.5 This condition will cease to have effect from and including the date five years after this condition becomes effective.

Definitions for condition

25D.6 For the purposes of this condition:

"Relevant Matters for Standard Condition 25D" means:

- (a) a requirement to deliver a Government Electricity Rebate to a Domestic Customer;
- (b) the time and manner in which a Government Electricity Rebate is to be delivered to a Domestic Customer;
- (c) a requirement to display or provide any information relating to a Government Electricity Rebate on or with a Bill or statement of account; and
- (d) the format of any information relating to a Government Electricity Rebate which must be displayed on or provided with a Bill or statement of account.

"Government Electricity Rebate" means, in respect of any eligible Domestic Customer, up to two annual rebates equal to twelve pounds sterling per calendar year which the Secretary of State may in accordance with this condition direct the licensee to deliver to a Domestic Customer.

"Statutory Considerations" means the principal objective and duties set out in sections 3A to 3C of the Electricity Act 1989.