

The Company Secretary

British Gas Trading Limited
Registered address:
Millstream Maidenhead Road
Windsor, Berkshire
SL4 5GD

23 January 2015

Dear Sir/Madam

Request for derogation to offer a standing charge rebate to vulnerable gas customers

This letter sets out the decision of the Gas and Electricity Markets Authority (the "**Authority**") to grant British Gas Trading Limited (company number 03078711, the "**Licensee**") temporary and limited derogations from certain standard conditions of its gas supply licence. These derogations will enable the Licensee to offer a discount to low-consuming vulnerable gas customers with its own brand and white label tariffs (the "**Standing Charge Rebate**").

The Direction is attached. This will be published and shall remain in force until 23 January 2018, unless revoked earlier or varied in writing by the Authority. Any change in circumstances relevant to the Direction must be reported to the Authority as soon as possible.

This letter constitutes the Notice, under section 38A of the Gas Act 1986, of the reasons for the Authority's decision to issue the attached Direction. Capitalised terms used in this letter, which are not defined herein, have the meaning given to them in the standard licence conditions (SLC) of gas supply licences.

Background to Derogation Request

The Authority received a request from the Licensee on 15 September 2014 for a derogation from paragraph 4 of SLC 22B of its gas supply licence. The Licensee wishes to offer a cash discount to low-consuming vulnerable gas customers to remove the burden of the standing charge on such consumers. It is designed to reduce the impact of standing charges on the energy bills of eligible customers who are considered to use gas mainly for cooking and occasional gas radiator heating.

Under the Licensee's proposal, the Standing Charge Rebate has the following key features:

- equivalent to the value of the annual standing charge for British Gas' standard variable gas tariff;
- available across all tariffs (including those linked to deemed contracts) and all payment methods; and

- payment made to eligible customers once a year, in line with the provision of the Warm Home Discount (WHD) to electricity customers which is paid annually.¹

In terms of eligibility for the Standing Charge Rebate, consumers must fulfil three main criteria:

- consume less than 1,500kWh of gas over the previous 12 months;
- supplied by the Licensee for a continuous period of at least 12 months; and
- considered as financially vulnerable.²

The Licensee also proposes to make the first payment to eligible customers this year. In this first year of the scheme, it will write to customers, whom it believes to be eligible for the Standing Charge Rebate, asking them to confirm their eligibility. From the second year, payment may become automatic for certain customers depending on whether they are on dual fuel or gas-only tariffs. For those on dual fuel tariffs, the Licensee indicates that it will seek to identify financially vulnerable customers who receive the WHD and consume less than 1,500 kWh of gas each year. However, the Licensee would require customers on gas-only tariffs to claim their payment. This will ensure that customers confirm any changes in their circumstances and that the payments are received by the right individuals.

Paragraph 4 of SLC 22B prohibits licensed suppliers from providing any cash discount other than those expressly exempted from the prohibition in SLC 22B (i.e. Dual Fuel Discounts and Online Account Management Discounts).³ However, paragraph 36 of SLC 22B provides that the Authority may issue directions relieving a licensee of its obligations to comply with SLC 22B to such extent and subject to such conditions as the Authority may direct. Without a derogation from SLC 22B.4, the proposed Standing Charge Rebate would be prohibited.

The Authority's Decision

Having regard to our principal objective and statutory duties including our duty to have regard to the interests of vulnerable consumers (eg individuals who are disabled or chronically sick, and of pensionable age or on low incomes), and based on the information submitted by the Licensee, we consider that the proposed Standing Charge Rebate does not undermine the objectives of the Retail Market Review (RMR) and would be beneficial to eligible consumers.

Derogations were introduced to consider substantial unintended consequences of the RMR rules on consumers. In our open letter of 20 June 2014, we highlighted concerns raised by stakeholders (including MPs and consumer bodies) about suppliers withdrawing zero standing charge tariffs since the RMR was introduced and the effect on consumers with low levels of energy consumption.⁴

The RMR ban on complex and multi-tier tariffs was introduced to simplify tariffs and aid comparison to improve consumer choice. The rules require a single unit rate and a standing charge and do not specify the level of standing charge. Consequently, suppliers are allowed to set the standing charge to zero. RMR rules are not intended to stop consumers,

¹ The WHD is restricted to vulnerable electricity customers. For winter 2014 to 2015, it offers a £140 discount on their electricity bill. See more details at: <https://www.gov.uk/the-warm-home-discount-scheme/eligibility>.

² The Licensee has indicated that it will use a similar definition of financial vulnerability as that used for the WHD. The consumer will therefore be eligible if they meet one of the following criteria:

- their gross annual household income (before tax and deductions) is less than £16,010;
- they (or their partner) receive Income Based Jobseekers Allowance or Universal Credit equivalent;
- they (or their partner) receive Income Related Employment and Support Allowance or Universal Credit equivalent that includes a work related activity or support component;
- they (or their partner) receive Pension Credit / Pension Credit Plus with Savings or Guarantee only; and
- they (or their partner) are in receipt of Pension Credit with Guarantee & Savings.

³ Licensed suppliers are prohibited from using any Discount which is: (i) pounds sterling or any currency of any other country; (ii) capable of being directly redeemed (rather than sold) for pounds sterling or any currency of any other country; (iii) in any way applied to a Unit Rate or Standing Charge; or (iv) in any way capable of being applied to (rather than incorporated within) a Unit Rate or Standing Charge by a Domestic Customer.

⁴ See Ofgem's open letter "[Treatment of low and zero consumers of gas](#)", 20 June 2014.

particularly vulnerable consumers, from accessing offers that are beneficial to them. As such, we indicated in our June open letter that we would consider derogations when they apply to low or zero standing charge tariffs aimed at addressing the needs of low gas consumers in vulnerable situations.⁵

We consider that the proposed Standing Charge Rebate would offer substantial financial benefits for consumers towards whom it is targeted, particularly vulnerable consumers who are in financial difficulties. The resulting savings would be proportionately higher for those with low consumption levels, who are also, at the moment, less likely to shop around to find and switch to better deals. We consider that any potential detrimental impact on consumers from granting a temporary derogation to allow the Standing Charge Rebate would likely be outweighed by the financial benefits associated with the scheme and the savings to the targeted consumers.

Therefore, the Authority grants the Licensee a temporary derogation from paragraph 4 of SLC 22B in respect of the Standing Charge Rebate with effect from the date of, and subject to the terms of, the attached Direction. Furthermore, the Authority grants the Licensee temporary derogations from certain SLCs which relate to certain tariff information requirements, as detailed in the attached Direction. Specifically, the Standing Charge Rebate should not be included in the calculations of the TCR, the TIL Estimated Annual Costs and the customer's Estimated Annual Costs (ie Personal Projection). We consider that including the rebate in these calculations could potentially mislead customers about the real cost of their energy when comparing against other tariffs, in particular for those whose eligibility may change during the year.

The Authority also directs that for the purposes of SLC 22B.2(b), the Standing Charge Rebate shall not form part of the Core Tariff. Consequently, the Licensee shall not breach the Core Tariff cap by virtue of the fact that the Standing Charge Rebate is only available to a proportion of customers on the Licensee's tariffs.

In addition, the Authority directs that the Licensee shall be permitted to provide the Standing Charge Rebate exclusively to Domestic Customers who have been supplied by the Licensee for a continuous period of at least 12 months, notwithstanding the general rule in SLC 22B.30, which requires licensees to ensure that their Tariffs are available to both new and existing customers. Allowing the 12 months requirement in the eligibility criteria would allow the Licensee to gather consistent consumer information to improve the accuracy of its identification of eligible customers. While some new customers may remain with the Licensee for 12 months in order to qualify for the rebate, we consider that the financial benefit of receiving the rebate would likely outweigh the potential lock-in effect.

Furthermore, the Authority directs that the Standing Charge Rebate is not required to be Continuously Applied on a daily basis, a principle currently applied to Discounts and Bundled Products to prevent lock-in effects. Specifically, we recognise that the Standing Charge Rebate would be complicated for the Licensee to administer on a daily basis. For example, eligibility for the Standing Charge Rebate would need to be based on minimum daily consumption instead of an annual consumption threshold. Daily consumption varies significantly across seasons and consumers have different metering categories including prepayment meters, which increase complexity in consistently identifying eligible consumers and ensuring that the scheme is applied consistently across customers.

Finally, we would emphasise that the Licensee must take steps to ensure that it complies with the Standards of Conduct (SLC 25C), which require suppliers to treat customers fairly. For example, customers should be informed in a fair and transparent manner to help ensure that they understand:

- the rebate is only payable where the consumer satisfies the eligibility criteria which should be clearly explained to customers;

⁵ See Ofgem's open letter "[Treatment of low and zero consumers of gas](#)", 20 June 2014.

- whether their eligibility will be automatic or not, and if their eligibility is not automatic, that they need to actively claim payment in order to receive the rebate, particularly for those on gas only tariffs; and
- that the rebate will be applied first to any outstanding energy debt.

We intend to monitor the number of customers who are benefiting from this scheme. If you would like to discuss any aspects of this letter, please contact Jibirila Leinyuy on 0207 901 7000 or Derogations@ofgem.gov.uk.

Yours faithfully

Neil Barnes
Associate Partner, Retail Markets

ATTACHMENT: Gas Supply Licence

The Company Secretary

British Gas Trading Limited
Registered address:
Millstream Maidenhead Road
Windsor
Berkshire
SL4 5GD

Direction issued to British Gas Trading Limited (company number 03078711, the "Licensee") by the Gas and Electricity Markets Authority – Standing Charge Rebate

1. This Direction is issued by the Gas and Electricity Markets Authority (the "**Authority**") pursuant to Standard Licence Condition (SLC) 22B.36, 22C.10, 23.7, 31A.6A, 31A.15, 31B.12, 31C.9 and 31E.17 of the gas supply licence granted under section 7A(1) of the Gas Act 1986 to the Licensee (the "**Licence**").
2. Capitalised terms used in this Direction which are not defined in this Direction shall have the meaning given to them in the standard licence conditions (SLC) of the Licence.
3. SLC 22B.36, 22C.10, 23.7, 31A.6A, 31A.15, 31B.12, 31C.9 and 31E.17 of the Licence provide that the Authority may issue directions relieving the Licensee of its obligations to comply with SLC 22B, 22C, 23, 31A (sections A and B), 31B, 31C and 31E to such extent and subject to such conditions as the Authority may direct.
4. The considerations and rationale of the Authority's decision are set out in the accompanying letter to the Licensee, dated 23 January 2015.
5. The Authority hereby directs that the Licensee is on a temporary basis permitted to use the Standing Charge Rebate (as defined below) in connection with its Tariffs, offered under a Domestic Supply Contract or a Deemed Contract, notwithstanding the general prohibition against certain Discounts contained in paragraph 4 of SLC 22B.
6. The Authority furthermore directs that, notwithstanding that the Standing Charge Rebate constitutes a Discount, where the Licensee is required to calculate the Tariff Comparison Rate, the TIL Estimated Annual Costs or the Domestic Customer's Estimated Annual Costs (Personal Projection) for the purposes of SLC 22C, 23, 31A (sections A and B), 31B, 31C or 31E, the Licensee must exclude the Standing Charge Rebate from such calculations.
7. The Authority furthermore directs that for the purposes of SLC 22B.2(b), the Standing Charge Rebate shall not form part of the Core Tariff.
8. The Authority furthermore directs that the Licensee is on a temporary basis permitted to provide the Standing Charge Rebate exclusively to Domestic Customers who have been supplied by the Licensee for a continuous period of at least twelve months, notwithstanding the general rule in paragraph 30 of SLC 22B, which requires licensees to ensure that their Tariffs are available to both new and existing customers.
9. This Direction is without prejudice to the Licensee's continuing obligation to adhere to the Standards of Conduct in SLC 25C, which require licensed suppliers to treat Domestic Customers fairly. At a minimum, we would expect the Licensee to inform

current and potential Domestic Customers in a fair and transparent manner to help ensure that they understand:

- a. that the Standing Charge Rebate is only payable where the consumer satisfies the eligibility criteria which should be clearly explained to customers;
- b. whether their eligibility will be automatic or not, and if their eligibility is not automatic, that they need to actively claim payment in order to receive the Standing Charge Rebate, particularly for those on gas only Tariffs; and
- c. that the Standing Charge Rebate will be applied first to any outstanding energy debt.

10. This Direction is also granted on the condition that the material provided by the Licensee to the Authority in its application and related correspondence is accurate in all material respects. The Licensee must report any change of circumstances relevant to this Direction to the Authority.

11. For the purposes of this Direction, the term "**Standing Charge Rebate**" means a Discount equal to the aggregate amount of Standing Charges charged to any eligible Domestic Customer according to their Domestic Contract or Deemed Contract for the relevant twelve months period, which is:

- a. only available to Domestic Customers supplied by the Licensee under a Domestic Supply Contract or under a Deemed Contract, who meet the vulnerability criteria specified by the Licensee;
- b. only available to Domestic Customers of the Licensee who consume less than 1,500 kWh of gas per year;
- c. paid as a lump sum payment to eligible Customers no more than once a year;
- d. offered and available with all of the Licensee's Tariffs;
- e. subject to the same terms and conditions throughout Great Britain in respect of all of the Licensee's Tariffs;
- f. not expressed as a percentage; and
- g. subject to paragraph 22B.24 of SLC 22B, only presented as a monetary amount in pounds sterling per year.

12. This Direction shall take immediate effect and shall remain in force until 23 January 2018, unless it is revoked or varied in writing by the Authority.

Dated: 23 January 2015

Neil Barnes
Associate Partner, Retail Markets

Signed on behalf of the Authority and authorised for that purpose