

To: All holders of an electricity distribution licence

NOTICE UNDER SECTION 11A (2) OF THE ELECTRICITY ACT 1989

The Gas and Electricity Markets Authority (the Authority) hereby gives Notice pursuant to section 11A (2) of the Electricity Act 1989 (the Act) as follows:

1. The Authority proposes to modify all electricity distribution licences granted or treated as granted under 6(1)(c) of the Act by amending standard licence condition 23.
2. The reason why the Authority proposes to make this licence modification is to improve the decision-making process for changes to the Master Registration Agreement (MRA) – making it more transparent and bringing it into line with other industry codes.¹ This will ensure more effective and consistent analysis and provide a clearer basis for decisions and recommendations on change proposals supported through robust rationale.
3. The effect of the proposed modification is to establish six Applicable MRA Objectives against which future changes to the MRA must be assessed. The modification also makes consequential amendments to the requirements for reporting the rationale for change, and the self-governance² appeal provisions in order that these provisions will refer to the facilitation of the new Applicable MRA Objectives.
4. The proposed changes to standard licence condition 23 are marked up in Appendix 1 to this Notice and a copy of those changes is available on the Ofgem website (www.ofgem.gov.uk). More information on the reason and effects of the proposed licence modification are set out in our initial open letter consultation.³
5. We must receive any representations regarding the proposed licence modification on or before 27 March 2015. They should be sent to: Raymond Elliot, Office of Gas and Electricity Markets, 9 Millbank, London, SW1P 3GE or emailed to: raymond.elliott@ofgem.gov.uk
6. We normally publish all responses on our website. However, if you do not wish your response to be made public then you should clearly mark it as not for publication. We prefer to receive responses in an electronic format so they can be placed easily on our website.
7. If the Authority decides to make the proposed modification it will take effect not less than 56 days after the decision is published.

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Lesley Nugent
Head of Industry Codes and Licensing
Duly authorised on behalf of the
Gas and Electricity Markets Authority

27 February 2015

¹ The industry codes underpin the electricity and gas wholesale and retail markets. Licensees must maintain, become party to, or comply with the industry codes in accordance with the conditions of their licence. The codes define the terms under which industry participants can access the electricity and gas networks.

² Changes that do not have a material impact on competition or consumers are made under the self-governance process and do not require Authority consent.

³ <https://www.ofgem.gov.uk/publications-and-updates/consultation-proposed-licence-modification-set-objectives-master-registration-agreement>

Appendix 1.
Electricity Distribution Licence

Condition 23. Master Registration Agreement

Licensee's obligation

23.1 The licensee, in conjunction and co-operation with all other Electricity Distributors, must take all steps within its power to ensure that the Master Registration Agreement ("the MRA") in force under this licence at 31 May 2008 remains an agreement that ~~conforms to the requirements of:~~

- (a) conforms to the requirements of paragraph 23.2 in respect of its contractual constitution; ~~and~~
- (b) conforms to the requirements of paragraph 23.3 in respect of its contents; and
- (c) is designed to facilitate the achievement of the Applicable MRA Objectives set out in paragraph 23.3A.

Constitution of the MRA

23.2 The MRA must be an agreement made between:

- (a) on the one part, the licensee and all other Electricity Distributors; and
- (b) on the other part:
 - (i) all Electricity Suppliers (or their agents) that require the provision of Metering Point Administration Services from at least one Electricity Distributor, and
 - (ii) such other persons as are, for Settlement Purposes, appropriate parties to the agreement.

Contents of the MRA

23.3 The MRA must comprise:

- (a) terms for the provision of Metering Point Administration Services in accordance with the requirements of standard condition 18 (Provision of and charges for Metering Point Administration Services);
- (b) provisions to facilitate, and procedures and practices to be followed by Electricity Suppliers in relation to, changes of Electricity Supplier in respect of any premises;
- (c) the Data Transfer Catalogue, being a catalogue of definitions, flows, and forms of such data as may require to be transferred by or to parties to the MRA, between users of the Central Charge Database, or between any persons for Settlement Purposes or for any related purposes;
- (d) arrangements for the modification of the MRA following consultation with the parties, or representatives of the parties, to that agreement;

- (e) provisions (which must require the Authority's approval) by virtue of which the whole or specified parts of the MRA are not to be capable of modification without the Authority's approval;
- (f) such other matters as are or may be appropriate for the development, maintenance, and operation of an efficient, co-ordinated, and economical system for the supply of electricity and for the purpose of facilitating competition in electricity supply; and
- (g) provisions to facilitate, and procedures and practices to be followed in relation to, the establishment, operation, and maintenance of the Central Charge Database.

23.3A The Applicable MRA Objectives are:

- (a) to develop, maintain and operate efficient, coordinated and economical procedures and practices to be followed in relation to changes of Electricity Supplier;
- (b) to promote effective competition between Electricity Suppliers and their agents;
- (c) to promote efficiency in implementing and administering the MRA arrangements;
- (d) so far as is consistent with sub-paragraphs (a), (b) and (c), to efficiently discharge the licensee's obligations under this licence;
- (e) to comply with the Regulation and any relevant, legally binding decision of the European Commission or the Agency for the Cooperation of Energy Regulators; and
- (f) to facilitate, so far as is consistent with sub-paragraphs (a) to (e), the maintenance and operation of an accessible, efficient, coordinated and economical system for the Green Deal.

~~23.4. The Master Registration Agreement must be compliant with the Regulation and any relevant decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators.~~

23.4 NOT USED

23.5 The arrangements referred to in paragraph 23.3(d) must provide:

- (a) for proposals for the modification of the MRA to be made by the Authority (in relation only to modifications which it reasonably considers are necessary to comply with or implement the Regulation and/or any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators);
- (b) for modification proposals made by the Authority or the licensee in accordance with paragraphs 23.5(a) and 23.5(c)(i) respectively:
 - (i) to be accepted into the MRA modification procedures by the panel;

- (ii) where they are raised by the licensee, not to be withdrawn without the Authority's prior consent; and
 - (iii) to proceed in accordance with paragraph 23.5(c);
- (c) for compliance by the licensee and (where applicable) the panel with any direction(s) issued by the Authority under this paragraph setting and/or amending a timetable (in relation to a modification proposal which the Authority reasonably considers is necessary to comply with or implement the Regulation and/or any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators) for the:
 - (i) licensee to raise a modification proposal; and/or
 - (ii) completion of each of the procedural steps outlined in the direction, to the extent that they are relevant; and/or
 - (iii) implementation of a modification.
- (d) for parties to the MRA, and any such other persons as may be specified in the code, to appeal against any decision to implement or reject a proposed modification of the MRA, which does not require the Authority's approval, to the Authority for determination;
- (e) for a modification report to be prepared in such manner and with all such contents as specified in the MRA, which shall include an assessment of the proposed modification in reference to whether, and if so how, it ~~facilitates the requirements of this condition~~ would better facilitate achieving the Applicable MRA Objectives and a detailed explanation of the reasons for that assessment;
- (f) where the proposed modification requires Authority approval in accordance with the provisions of the MRA, for the revision and resubmission of the modification report upon, and in accordance with, a direction issued to the panel by the Authority where the Authority determines that it cannot properly form an opinion on the approval of the modification proposal;
- (g) that proposals for the modification of the MRA falling within the scope of a Significant Code Review may not be made during the Significant Code Review Phase, except:
 - (i) where the Authority determines that the modification proposal may be made, having taken into account (among other things) the urgency of the subject matter of the proposal; or
 - (ii) at the direction of the Authority;
- (h) that where a modification proposal is made during a Significant Code Review Phase, the panel shall:
 - (i) unless exempted by the Authority, notify the Authority as soon as practicable of:
 1. any representations received in relation to the relevance of the Significant Code Review; and

2. the panel's assessment of whether the proposal falls within the scope of the Significant Code Review and its reasons for that assessment; and
- (ii) if the Authority so directs, not proceed with the modification proposal until the Significant Code Review Phase has ended; and
- (i) that where an appeal has been raised in respect of a modification proposal in accordance with sub-paragraph (d), that modification proposal shall be treated in accordance with any decision and/or direction of the Authority following that appeal.

23.6 If, within twenty eight (28) days after the Authority has published its Significant Code Review conclusions, the Authority issues to the licensee:

- (a) Directions, the licensee shall comply with those Directions;
- (b) a statement that no Directions under sub-paragraph (a) will be issued in relation to the MRA, the licensee must treat the Significant Code Review Phase as ended;
- (c) neither directions under sub-paragraph (a) nor a statement under sub-paragraph (b) the Significant Code Review Phase will be deemed to have ended.

The Authority's published conclusions and Directions to the licensee will not fetter the voting rights of MRA parties or members of the panel, or the procedures informing the modification report described at sub-paragraph 23.5(e).

23.7 The MRA must provide for:

- (a) a panel body, as specified in the MRA (the "panel") whose functions must include the matters required by this condition and as set out in the MRA; and,
- (b) a secretarial or administrative person or body, as specified in the MRA, to perform the role of code administrator (the "code administrator"). In addition to any powers, duties or functions set out in the MRA, the code administrator must:
 - (i) together with other code administrators, publish, review, and (where appropriate) amend from time to time the Code of Practice approved by the Authority (any amendments to the Code of Practice are to be approved by the Authority);
 - (ii) facilitate the procedures for making a modification to the MRA;
 - (iii) have regard to, and in particular (to the extent relevant) be consistent with the principles contained in, the Code of Practice; and
 - (iv) provide assistance, insofar as is reasonably practicable and on reasonable request, to parties (including, in particular, Small Participants) and, to the extent relevant, consumer representatives that request the code administrator's assistance in relation to the MRA including, but not limited to, assistance with:

- drafting a modification proposal;
- understanding the operation of the MRA;
- their involvement in, and representation during, the modification procedure processes (including but not limited to code panel, and/or workgroup meetings);
- accessing information relating to modification proposals and/or modifications.

23.8 Eligible grounds for appeal under the provisions referred to in sub-paragraph 23.5(d) shall be that, in the opinion of the Authority:

- (a) (i) the appealing party is likely to be unfairly prejudiced by the implementation or non-implementation of that modification proposal; or
- (ii) the appeal is on the grounds that:
1. in the case of implementation, the modification proposal may not better ~~enable the MRA to fulfil the requirements of this condition~~ facilitate the achievement of at least one of the Applicable MRA Objectives; or
 2. in the case of non-implementation, the modification may better ~~enable the MRA to fulfil the requirements of this condition~~ facilitate the achievement of at least one of the Applicable MRA Objectives; and
- (b) the appeal is not brought for reasons that are trivial or vexatious, nor does the appeal have no reasonable prospect of success.

23.9 The procedures for the modification of the MRA must provide that recommendations or decisions for or against the implementation of a modification proposal shall be made with regard to whether that modification would, as compared with the existing provisions of the MRA, better enable the MRA to ~~fulfil the requirements of this condition~~. achieve the Applicable MRA Objectives.

23.10 The procedures for the modification of the MRA must be consistent with the principles set out in the Code of Practice, to the extent that they are relevant.

23.11. Without prejudice to any rights of approval, veto or direction the Authority may have, the licensee must use its best endeavours to ensure that procedures are in place that facilitate its compliance with the requirements of this condition including, but not limited to, modifying the MRA where necessary no later than 31 December 2013.