

Annex 2

**To: all holders of a gas supply licence**

**Gas Act 1986  
Section 23(1)(b)**

**MODIFICATION OF THE STANDARD CONDITIONS OF GAS SUPPLY LICENCES  
GRANTED, OR TREATED AS GRANTED, UNDER SECTION 7A(1) OF THE GAS ACT  
1986**

**NOTICE OF REASONS FOR THE DECISION TO MODIFY THE STANDARD  
CONDITIONS OF THE GAS SUPPLY LICENCE UNDER SECTION 38A OF THE GAS  
ACT 1986**

**Whereas-**

1. Each of the companies to whom this document is addressed holds a gas supply licence (a Licence) granted, or treated as granted, pursuant to section 7A(1) of the Gas Act 1986 (the Act).
2. In accordance with section 23(2) of the Act, the Gas and Electricity Markets Authority (the Authority) gave notice on 29 August 2014 (the Notice) that it proposed to amend standard licence condition 41 "Smart Metering- Matters Relating to Obtaining and Using Consumption Data" of the Licence and requiring any representations to the modification to be made on or before 26 September 2014.
3. In accordance with section 23(4)(b) of the Act, the Authority gave such notice of its intention to make the modifications to the Secretary of State and has not received a direction not to make the modifications.
4. Prior to the close of the consultation period in respect of the Notice, the Authority received six responses. All responses have been placed on the Ofgem website. Our response to these comments is set out in the accompanying letter.
5. The Authority has carefully considered in relation to the proposed modifications all representations received.
6. The reason for the modifications is to ensure consistent protections for all domestic and for all micro business consumers which are captured by the rollout obligation in relation to gas suppliers obtaining and using Gas Consumption Data. Further detail has been published by the Authority in the following documents:
  - (a) Ofgem. (August 2014) "Extending the smart meter framework for data access and privacy to Remote Access Meters",
  - (b) Ofgem. (December 2013) "Consultation on extending the existing smart meter framework for data access and privacy to Smart-Type Meters and Advanced Meters",
  - (c) Ofgem. (May 2012) "Response to consultation on data access and privacy".

These documents are available on the Ofgem website: [www.ofgem.gov.uk](http://www.ofgem.gov.uk)

7. In relation to domestic and micro business consumers, the effect of the proposed modifications is to ensure that suppliers only obtain and use Gas Consumption Data held on consumers' Remote Access Meter where they have appropriate consent. More detail is set out in the accompanying letter.

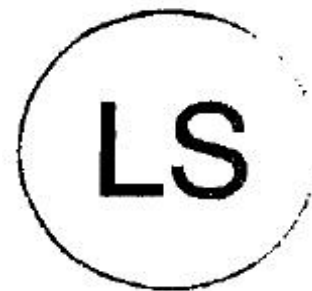
8. The August 2014 statutory consultation contained some minor errors, such as where pre-existing paragraphs that appear in the supply licence were not replicated in the proposed licence drafting. We have corrected these in schedule 1 (eg by including those paragraphs that were missing), but have not shown them as track changes, as we are not actually adding them to the licence, they are already in the licence. Where we are proposing different text to what we proposed in the August 2014 statutory consultation, we have marked that text in red. There is one minor typographical error we are correcting at paragraph 41.17A(b)(ii)(2). There is no change to our previously stated policy intent.
9. Where an application for permission to appeal the Authority's decision is made to the Competition and Markets Authority under section 23B of the Act, Rule 5.7 of the Competition and Markets Authority's Energy Licence Modification Appeals Rules<sup>1</sup> requires that the appellant send to any relevant licence holders who are not parties to the appeal a non-confidential notice setting out the matters required in Rule 5.2. The attached Schedule 2 provides a list of the relevant licence holders in relation to this modification direction. The meaning of "relevant licence holder" is set out in section 23(10) of the Act.

**Now therefore**

In accordance with the powers contained in section 23(1)(b) of the Act, the Authority hereby modifies the standard licence conditions of the gas supply licences in the manner specified in the attached Schedule 1. This decision will take effect six months from the date of this decision.

This document constitutes notice of the reasons for the decision to modify the gas supply licences 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**



.....

**Rob Church**  
**Partner, Retail Markets**  
**Duly authorised on behalf of the Gas and Electricity Markets Authority**  
9 February 2015

---

<sup>1</sup> The rules were published by the Competition Commission in September 2012. On 1 April 2014, the Competition Commission was abolished and its functions transferred to the Competition and Markets Authority (CMA).

## Schedule 1

### Condition 41. Smart Metering – Matters Relating To Obtaining and Using Consumption Data

#### Application

- 41.1 Part A of this condition applies only in respect of each Domestic Premises (the **relevant premises**):
- (a) to which gas is supplied through a Gas Meter which forms part of a Smart Metering System; ~~or and~~
  - (b) to which gas is supplied through a Remote Access Meter; and
  - ~~(b)~~(c) in respect of which the quantity of gas supplied is measured by that Gas Meter.
- 41.2 Part B of this condition applies only in respect of each Designated Premises at which the Customer is a Micro Business Consumer (the **micro business premises**):
- (a) to which gas is supplied through a Gas Meter which forms part of a Smart Metering System; ~~or and~~
  - (b) to which gas is supplied through a Remote Access Meter; and
  - ~~(b)~~(c) in respect of which the quantity of gas supplied is measured by that Gas Meter.

#### PART A. APPLICATION TO RELEVANT PREMISES

##### Prohibition on obtaining consumption data

- 41.3 Subject to paragraphs 41.4 and 41.7, the licensee must not, in respect of any relevant Premises, obtain any Gas Consumption Data which relates to a period of less than one month.

##### Exception to Prohibition – Obtaining consumption data for periods of less than one month

- 41.4 Paragraph 41.3 does not apply where:
- (a) the Gas Consumption Data that is obtained relates to a period of less than one month but not less than one day; and
  - (b) the requirements of either paragraph 41.5 or 41.6 are satisfied.
- 41.5 The requirements of this paragraph are that:
- (a) the licensee has given Notice to the Domestic Customer at the relevant premises informing the Domestic Customer:
    - (i) that the licensee intends to obtain Gas Consumption Data which relates to any one or more periods of a length referred to in paragraph 41.4(a);

- (ii) of the purposes (which purposes must not include Marketing) for which the licensee may use that Gas Consumption Data; and
  - (iii) that the Domestic Customer may at any time object to the licensee obtaining that Gas Consumption Data and of the process by which he may do so; and
- (b) the Domestic Customer has either:
- (i) given explicit consent to the licensee obtaining that Gas Consumption Data for the purposes set out in the Notice (and such consent has not been withdrawn); or
  - (ii) after at least seven days have elapsed from the date on which the Notice was given to him, not objected to the licensee obtaining that Gas Consumption Data for the purposes set out in the Notice.

41.6 The requirements of this paragraph are that one of the following applies:

- (a) the licensee has reasonable grounds to suspect that there is an occurrence of theft of gas at the relevant premises, and it obtains Gas Consumption Data which relates to any one or more periods of a length referred to in paragraph 41.4(a) only for the purposes of investigating that suspected theft;
- (b) the licensee obtains the Gas Consumption Data which relates to a single period of a length referred to in paragraph 41.4(a) only for the purposes of:
  - (i) verifying the quantity of gas supplied to the relevant premises since the last date in respect of which the licensee obtained Gas Consumption Data that was used for the purposes of sending a Bill or a statement of account to the Domestic Customer (the **Billing Date**); and
  - (ii) calculating and sending an accurate and up to date Bill or statement of account (including a final Bill or statement of account) to the Domestic Customer in respect of the Charges for the Supply of Gas to the relevant premises since the Billing Date;
- (c) the licensee obtains the Gas Consumption Data which relates to any one or more periods of a length referred to in paragraph 41.4(a) only for the purposes of responding to an enquiry from or a complaint made by, or on behalf of, the Domestic Customer at the relevant premises and relating to the supply of gas by the licensee to the relevant premises;
- (d) the licensee obtains Gas Consumption Data which relates to any one or more periods of a length referred to in paragraph 41.4(a), only following receipt of a request of the type referred to in, and for the purposes of complying with the requirements of, paragraph 45.3(b) of standard condition 45 of this licence; or
- (e) the Gas Meter forming part of the Smart Metering System [or Remote Access Meter](#) at the relevant premises is a Prepayment Meter, and the Gas Consumption Data:

- (i) is obtained only by virtue of the [Remote Access Meter or Smart Metering System](#) registering an advance payment made by the Domestic Customer through that Prepayment Meter; and
- (ii) relates to a single period of a length referred to in paragraph 41.4(a) which corresponds to the period since the previous advance payment made by the Domestic Customer through that Prepayment Meter.

**Exception to Prohibition – Obtaining consumption data for periods of less than a day**

41.7 Paragraph 41.3 does not apply where:

- (a) the Gas Consumption Data that is obtained relates to a period of less than one day; and
- (b) the requirements of either paragraph 41.8 or 41.9 are satisfied.

41.8 The requirements of this paragraph are that:

- (a) the licensee has given Notice to the Domestic Customer at the relevant premises informing the Domestic Customer:
  - (i) that the licensee intends to obtain Gas Consumption Data which relates to any one or more periods of less than one day;
  - (ii) of the purposes for which the licensee may use that Gas Consumption Data;
  - (iii) that the licensee requires the Domestic Customer’s consent to obtain that Gas Consumption Data; and
  - (iv) that where the Domestic Customer gives consent he may withdraw it at any time and of the process by which he may do so; and
- (b) the Domestic Customer has given his explicit consent to the licensee obtaining that Gas Consumption Data for the purposes set out in the Notice and such consent has not been withdrawn.

41.9 The requirements of this paragraph are that:

- (a) [where](#)
  - (i) [there is a Remote Access Meter and the Authority has approved the Trial; or](#)
  - (ii) [the Gas Meter forms part of a Smart Metering System and the Secretary of State has approved proposals submitted by the licensee for obtaining Gas Consumption Data which relates to any one or more periods of less than one day, in respect of a particular category of relevant premises and for a particular purpose \(in each case as specified in the proposal\), on a trial basis \(the Trial\); \[and\]\(#\)](#)
- (b) the relevant premises fall within that category;

- (c) the licensee has given at least 14 days advance Notice to the Domestic Customer at the relevant premises informing the Domestic Customer:
  - (i) of the nature and purpose of the Trial;
  - (ii) that he may at any time object to being included in the Trial;
  - (iii) of the process by which the Domestic Customer may object; and
- (d) the Domestic Customer has not objected to being included in the Trial.

### **Prohibition on use of consumption data**

41.10 Subject to paragraph 41.11, the licensee must not use Gas Consumption Data obtained in respect of any relevant premises other than for any of the following purposes:

- (a) calculating and sending a Bill or a statement of account to the Domestic Customer;
- (b) complying with a relevant condition or a relevant requirement;
- (c) where the requirements of paragraph 41.5 are satisfied, the purpose set out in the Notice given to the Domestic Customer under paragraph 41.5(a);
- (d) where any of the requirements of paragraph 41.6 are satisfied, the purpose for which the data was obtained in accordance with paragraph 41.6;
- (e) where the requirements of paragraph 41.8 are satisfied, the purpose set out in the Notice given to the Domestic Customer under paragraph 41.8(a);
- (f) where the requirements of paragraph 41.9 are satisfied, the purpose of the Trial.

### **Exception to prohibition on use of consumption data**

41.11 The licensee may use Gas Consumption Data for purposes other than the purposes specified in paragraph 41.10 where:

- (a) it has given at least seven days advance Notice informing the Domestic Customer that it intends to use Gas Consumption Data for the purposes specified in the Notice; and
- (b) the requirements of paragraph 41.12 are satisfied.

41.12 The requirements of this paragraph are that:

- (a) where the Gas Consumption Data relates to any period of less than one day, the Domestic Customer has given explicit consent for that Gas Consumption Data to be used for the purposes specified in the Notice;
- (b) where the Notice given under paragraph 41.11(a) specifies that the licensee intends to use Gas Consumption Data for Marketing, the Domestic Customer has given explicit consent for the Gas Consumption Data to be used for Marketing; and

- (c) in all other cases, the Domestic Customer has not objected to the Gas Consumption Data being used for the purposes specified in the Notice.

### **Maintaining records and informing customers**

41.13 The licensee must, in respect of each of its Domestic Customers at relevant premises, at all times maintain an accurate and up to date record of:

- (a) the date of any Notice sent to the Domestic Customer under this condition and of the information contained in it;
- (b) the nature of the Domestic Customer's response (if any) to that Notice;
- (c) the time periods (by reference to length) in relation to which the licensee obtains or may obtain Gas Consumption Data; and
- (d) where the licensee obtains Gas Consumption Data by virtue of the requirements of paragraph 41.6(a) a statement setting out the reasons why such requirements are satisfied in the circumstances of the case.

41.14 The licensee must, in accordance with paragraph 41.15, inform the Domestic Customer in Writing of:

- (a) the time periods (by reference to length) in relation to which the licensee obtains or may obtain Gas Consumption Data;
- (b) the purposes for which that Gas Consumption Data is, or may be, used by the licensee; and
- (c) where any of the time periods is of less than one month, the Domestic Customer's right, if any, to object or withdraw consent (as the case may be) to the licensee obtaining or using (as the case may be) that Gas Consumption Data.

41.15 The licensee shall inform the Domestic Customer of the matters set out in paragraph 41.14:

- (a) where it installs or arranges for the installation of the [Remote Access Meter or Smart Metering System](#) at the Domestic Premises, on, or at any time during the 14 days prior to, the date of installation or as soon as reasonably practicable after the date of installation; and
- (b) in all cases, at such intervals as are determined appropriate by the licensee for the purposes of ensuring that the Domestic Customer is regularly updated of such matters.

## **PART B. MICRO BUSINESS PREMISES**

### **Prohibition on obtaining consumption data**

41.16 Subject to paragraph 41.17, the licensee must not, in respect of any micro business premises, obtain any Gas Consumption Data which relates to a period of less than one month.

## Exception to prohibition on obtaining consumption data

41.17 Paragraph 41.16 does not apply where the requirements of paragraphs 41.17A or 41.17B are satisfied.

41.17A The requirements of this paragraph are:

- (a) the licensee has given at least seven days advance Notice to the Micro Business Consumer at the micro business premises informing the Micro Business Consumer:
  - (i) that the licensee intends to obtain Gas Consumption Data which relates to any one or more periods of less than one month;
  - (ii) of the purposes for which the licensee may use that Gas Consumption Data; and
  - (iii) that the Micro Business Consumer may at any time object to the licensee obtaining that Gas Consumption Data and of the process by which he may do so; and
- (b) (i) the Micro Business Consumer has not objected to the licensee obtaining that Gas Consumption Data for the purposes set out in the Notice;  
or:
  - (ii) the Micro Business Consumer has objected to the licensee obtaining Gas Consumption data, which relates to any one or more periods of less than one month and the licensee is unable to remotely configure the Remote Access Meter to prevent that Gas Consumption Data being automatically sent to the licensee or a third party, but as soon as reasonably practicable the licensee:
    - (1) takes all reasonable steps to prevent the third party passing that Gas Consumption Data to the licensee or any other third party;
    - (2) takes all reasonable steps to ensure the third party permanently erases that Gas Consumption Data; and
    - (3) permanently erases any of that Gas Consumption Data it has obtained.

41.17B The requirements of this paragraph are that the licensee obtains Gas Consumption Data only following receipt of a request of the type referred to in, and for the purposes of complying with the requirements of, paragraph 45.8 of standard condition 45 of this licence.

## Use of consumption data

41.18 The licensee must not use Gas Consumption Data obtained in respect of any micro business premises other than for any of the following purposes:



- (a) calculating and sending a Bill or a statement of account to the Micro Business Consumer;
- (b) complying with a relevant condition or a relevant requirement;
- (c) where the requirements of paragraph 41.17A are satisfied, the purpose set out in the Notice given to the Micro Business Consumer under paragraph 41.17A(a).

## Interpretation and Definitions

41.19 In this condition, any reference:

- (a) to Gas Consumption Data being ‘obtained’ by the licensee shall be read as incorporating a reference to the licensee requesting any other person to obtain that Gas Consumption Data on its behalf (and references to ‘obtain’ and ‘obtaining’ shall be construed accordingly);
- (b) to the licensee obtaining Gas Consumption Data which ‘relates to’ a specified period, shall be read as incorporating a reference to the licensee obtaining any data which would allow it to calculate Gas Consumption Data in respect of that period (and references to Gas Consumption Data being ‘in relation to’ a period of time shall be construed accordingly).

41.20 For the purposes of this condition:

**Gas Consumption Data** means, in respect of a relevant premises or a micro business premises, the quantity of gas measured by the Gas Meter as having been supplied to the relevant premises or the micro business premises.

**Marketing** means:

- (~~e~~ a) any activities of the licensee or its Representatives which are directed at or incidental to identifying and communicating with Domestic Customers for the purpose of promoting the provision of goods or services by any person and includes entering into contracts for the provision of goods or services with such customers;
- (~~d~~ b) the licensee or its representatives disclosing Gas Consumption Data to any other person for the purposes of that person undertaking activities which are directed at or incidental to identifying and communicating with Domestic Customers for the purpose of promoting the provision of goods or services by any person, including the entering into contracts for the provision of goods or services with such customers,

but for these purposes ‘goods or services’ shall be taken to exclude the supply of gas by the licensee.

**Micro Business Consumer** has the meaning given to it in standard condition 7A of this licence.

**Remote Access 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 periods of less than one month;
- (b) is able to provide the licensee with remote access to such data; and
- (c) is not a Smart Metering System or part of a Smart Metering System.

**Trial**

means proposals submitted by the licensee for obtaining Gas Consumption Data which relates to any one or more periods of less than one day, in respect of a particular category of relevant premises and for a particular purpose (in each case as specified in the proposal), on a trial basis.

## Schedule 2

Addito Supply Limited  
Axis Telecom Limited  
Better Energy Supply Limited  
British Gas Trading Limited  
Cardiff Energy Supply Limited  
Co-Operative Energy Limited  
Countrywide Farmers Plc  
Crown Gas and Power Limited  
Crown Oil Limited  
Daligas Limited  
Donnington Energy Limited  
Dual Energy Direct Limited  
Effortless Energy Ltd.  
E.ON Energy Gas (Eastern) Limited  
E.ON Energy Solutions Limited  
Eclipse Energy Supply Limited  
Economy Energy Supply Ltd  
Economy Energy Trading Limited  
EDF Energy Customers Plc  
E (Gas and Electricity) Limited  
Extra Energy Supply Limited  
First Utility Limited  
Flow Energy Limited  
Gas Plus Supply Limited  
GB Energy Supply Ltd  
GnERGY Limited  
Green Energy (UK) plc  
Greengen Direct Limited  
Goldgas UK Limited  
Good Energy Gas Limited  
Hudson Energy Supply UK Limited  
Holborn Energy Limited  
Iresa Limited  
I Supply Energy Limited  
Kensington Power Limited  
Loco2 Energy Supply Ltd.  
Locus Energy Ltd  
Lovely Energy Limited  
Nationwide Electricity Limited  
Npower Direct Limited  
Npower Gas Limited  
Npower Northern Limited  
Npower Yorkshire Limited  
Open4Energy Limited  
Opus Energy Limited  
Opus Gas Supply Limited  
Ovo Gas Limited  
Pan-Utility Limited  
Places for People Energy Limited  
Riadace Ltd  
Robin Hood Energy Limited  
Scottish Power Energy Retail Limited

Seaboard Energy Gas Limited  
Shale Gas UK Limited  
Smarter Eco Energy Limited  
Social Ventures in Energy Limited  
Southern Electric Gas Limited  
Spark Energy Supply Limited  
SWALEC Gas Limited  
Symbio Energy Solutions LLP  
Telecom Plus PLC  
The Renewable Energy Company Limited  
Total Gas & Power Limited  
UK Healthcare Corporation Limited  
Utilita Energy Limited  
Utilita Gas Limited  
Zog Energy Limited  
Adrian Francis Associates Limited  
AMRECS LLC  
Axpo UK Limited  
Barrow Shipping Limited  
Better Business Energy Limited  
Blizzard Utilities Limited  
BP Gas Marketing Limited  
Brilliant Energy Limited  
Britannia Gas Limited  
Business Energy Solutions Limited  
Ceres Energy Limited  
Chevron Products UK Limited  
Cofathec Heatsave Limited  
Contract Natural Gas Limited  
Corona Energy Retail 1 Limited  
Corona Energy Retail 2 Limited  
Corona Energy Retail 3 Limited  
Corona Energy Retail 4 Limited  
Data Energy Management Services Limited  
Distrigas S.A.  
Distrigaz S.A/NV  
Dong Energy Sales (UK) Limited  
Dong Energy Sales (UK) Limited  
Dong Naturgas A/S  
E.ON Energy Gas (North West) Limited  
E.ON UK Gas Limited  
E.ON UK Plc  
Eco Green Management Limited  
Economy Gas Limited  
EDF Trading Limited  
Energy Data Company Limited  
ENI Trading & Shipping S.P.A  
Eni UK Limited  
Enterprise Gas Limited  
Fylde Gas and Power Limited  
Gazprom Marketing & Trading Retail Limited  
GDF Suez Energy UK Limited  
GDF Suez Marketing Limited  
GDF Suez Sales Limited

GDF Suez Solutions Limited  
Hess Energy Power & Gas Company (UK) Limited  
I.A.Z.F.S. Limited  
ICD Gas Limited  
International Power Fuel Company Limited  
International Power Ltd.  
JP Morgan Securities Plc  
K O Brokers Limited  
Krave Management Limited  
Lourdes Associates Limited  
Macquarie Bank Limited  
Macquarie Commodities Finance (UK) Limited  
Macquarie Factoring (UK) Limited  
Mercuria Energy Europe Trading Limited  
Mercuria Energy Trading SA  
Nationwide Gas Limited  
North Sea Gas Limited  
Npower Commercial Gas Limited  
Regent Gas Limited  
RWE Generation UK Plc  
RWE Supply and Trading GmbH  
S. C. Isramart SRL  
SmartestEnergy Limited  
Société Valmy Défense 17  
SSE Energy Supply Limited  
Statoil (UK) Limited  
Statoil Gas Trading Limited  
Swift Administration Limited  
The Nuclear Decommissioning Authority  
The Royal Bank of Scotland Public Limited Company  
Total Energy Gas Supplies Limited  
TXU Europe (AHG) Limited  
Unigas Limited  
Universal Bioenergy Limited  
Uttily plc  
Valero Energy UK Ltd  
Vayu Limited  
WINGAS GmbH  
Wingas UK Limited