

**To: All holders of a gas supply licence (“licensees”) who are relevant licence holders for the purposes of section 23(10) of the Gas Act 1986**

**NOTICE OF A STATUTORY CONSULTATION ON A PROPOSED MODIFICATION PURSUANT TO SECTION 23 OF THE GAS ACT 1986 OF THE STANDARD CONDITIONS OF THE GAS SUPPLY LICENCES GRANTED OR TREATED AS GRANTED UNDER SECTION 7A(1) OF THE GAS ACT 1986**

**WHEREAS:**

1. Each of the companies to whom this notice is addressed holds an electricity supply 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), (3) and (4) of the Act, the Gas and Electricity Markets Authority (“the Authority”)<sup>1</sup> gives notice (“Notice”) that it proposes to modify the standard conditions of the gas supply licences by amending Standard Licence Conditions:
  - 1 (Definitions of standard conditions);
  - 22C (Fixed Term Supply Contracts);
  - 23 (Notification of Domestic Supply Contract terms);
  - 24 (Termination of Domestic Supply Contracts); and
  - 31D (White Label Tariffs).
3. The reasons why the Authority proposes to make these licence modifications have been published by the Authority in the following documents:
  - [Default tariffs for domestic consumers at the end of fixed-term contracts](#), August 2017
  - [Helping consumers make informed choices – proposed changes to rules around tariff comparability and marketing](#), August 2016
4. We are proposing these modifications because we want to give domestic suppliers flexibility to roll their customers onto tariffs other than the standard variable tariff at the end of existing fixed-term supply contracts. Our proposal will enable suppliers to offer customers better value rollover tariffs, allowing them to differentiate themselves and provide better deals for customers if they choose. At the same time, our proposal will continue to provide protections for consumers who choose to switch to fixed-term tariffs.
5. The effect of these proposed modifications is described in the documents referred to in paragraph 3 of this Notice. In summary, the effect of the proposed modifications is to allow domestic suppliers to roll customers, as a default, onto further fixed-term contracts at the end of their existing deals, as long as that further contract:
  - Does not have any penalties for early termination attached to it;
  - Is the same price or cheaper than the variable tariff that the consumer would otherwise have been rolled onto; and
  - Is similar in nature to the customer’s current tariff, taking into account their characteristics and preferences (eg in respect of tariff type and duration, online account management, meter type and payment method).
6. For the avoidance of doubt, suppliers would not be required to roll customers onto fixed-term contracts – this would be at their discretion.

---

<sup>1</sup> The terms “the Authority”, “we” and “us” are used interchangeably in this document.

7. The envisaged text for the proposed modifications to the standard conditions is set out in annex 1 to this Notice.
8. A copy of the proposed modifications and other documents referred to in this Notice have been published on our website ([www.ofgem.gov.uk](http://www.ofgem.gov.uk)). Alternatively, they are available from [foi@ofgem.gov.uk](mailto:foi@ofgem.gov.uk).
9. Any representations with respect to the proposed licence modifications must be made on or before 15 September 2017 to: Future Retail Regulation, Office of Gas and Electricity Markets, 9 Millbank, London, SW1P 3GE or by email to [futureretailregulation@ofgem.gov.uk](mailto:futureretailregulation@ofgem.gov.uk)
10. We normally publish all responses on our website. However, if you do not wish your response to be made public then please clearly mark it as not for publication. We prefer to receive responses in an electronic form so they can be placed easily on our website.
11. Subject to responses to the statutory consultation, in the event that the Authority decides to proceed with the proposed modifications it is intended that they will take effect on a date which is at least 56 days after the date on which the Authority's decision is published.

.....  
**Neil Barnes**

Associate Partner  
Consumers and Competition

**Duly authorised on behalf of the  
Gas and Electricity Markets Authority**

**14 August 2017**

## **Annex 1: Proposed changes to the standard conditions of gas supply licence**

We have included the sections of the supply licence conditions we propose to remove or amend below. Deletions are shown in strike through and new text is double underlined. Paragraphs deleted from licence conditions will show the text 'Not Used' in order to keep the existing numbering. Where changes to conditions are minor we include only those sections of the condition that are affected by the change.

### **Condition 1. Definitions for standard conditions**

**Relevant Fixed  
Term Default  
Tariff**

means a Fixed Term Supply Contract available from the licensee (or, where there are any Affiliate Licensees, the licensee and any Affiliate Licensees), that:

- (a) has terms and conditions that are as similar as possible to the existing Fixed Term Supply Contract for that Domestic Customer, including in respect of:
  - (i) their current payment method;
  - (ii) their current Relevant Meter Type;
  - (iii) their current Account Management Arrangement; and
  - (iv) their characteristics and preferences;
- (b) must not provide for a Domestic Customer to pay a Termination Fee; and
- (c) is cheaper than or as cheap as the licensee's Relevant Cheapest Evergreen Tariff for the particular Domestic Customer;

## Standard condition 22C. Fixed Term Supply Contracts

22C.1 Without prejudice to any Evergreen Supply Contract or Deemed Contract, the licensee and any Representative must only supply or offer to supply a Domestic Customer on the basis of a Fixed Term Supply Contract which complies with standard condition 22C.

### Prohibition on further fixed term periods

22C.2 Without prejudice to paragraphs 22C.5, 22C.7 and 22C.8 of standard condition 22C and paragraph 24.9 of standard condition 24 (Continuation of Fixed Term Supply Contract Terms for interim period), the licensee must not extend in any way the duration of any fixed term period that applies to a Fixed Term Supply Contract.

### Renewal of Fixed Term Supply Contracts

22C.3 The licensee must prepare a statement (hereafter referred to as an “SLC 22C Statement of Renewal Terms”) which:

- (a) is set out in Writing;
- (b) contains a prominent title which clearly informs the Domestic Customer that the fixed term period of their existing Fixed Term Supply Contract is due to end and they need to consider their options;
- (c) without prejudice to SLC 22C Exempt Information only contains the following information:
  - (i) the date the fixed term period of the existing Fixed Term Supply Contract is due to end;
  - (ii) the following statement, presented in a manner which is readily distinguishable from the other text presented in the Statement of Renewal Terms: “Remember – it might be worth thinking about switching your tariff or supplier”;
  - (iii) information about where the Domestic Customer may obtain impartial advice and information about changing their Gas Supplier;
  - (iv) a statement explaining that if the Domestic Customer does not change supplier or does not expressly agree a new Evergreen Supply Contract, a new Fixed Term Supply Contract or a further fixed term period for a Fixed Term Supply Contract by the date the fixed term period of the existing Fixed Term Supply Contract is due to end, the Domestic Customer will become subject to either the Relevant Cheapest Evergreen Tariff or a Relevant Fixed Term Default Tariff, as applicable;
  - (v) a statement explaining that the following information is provided in a separate part of the SLC 22C Statement of Renewal Terms:

- (1) the Principal Terms that currently apply to the Domestic Customer;

- (2) the Principal Terms that would apply if the Domestic Customer becomes subject to either the Relevant Cheapest Evergreen Tariff or a Relevant Fixed Term Default Tariff, as applicable, by virtue of paragraph 22C.7; and
- (3) where a Notice is also being provided to the Domestic Customer pursuant to sub-paragraph 22C.5(a) below, the Principal Terms that would apply if the Domestic Customer agrees a further fixed term period for an existing Fixed Term Supply Contract;
- (vi) information about how and when the Domestic Customer may terminate their Fixed Term Supply Contract without being charged a Termination Fee and a statement explaining the effect of paragraphs 24.8 to 24.12 of standard condition 24;
- (vii) the Domestic Customer's Estimated Annual Costs in the event that the Domestic Customer becomes subject to either the Relevant Cheapest Evergreen Tariff or a Relevant Fixed Term Default Tariff, as applicable, by virtue of paragraph 22C.7;
- (viii) the Exact Tariff Name of the Domestic Customer's Relevant Cheapest Tariff and the Domestic Customer's Estimated Annual Savings based on the premise that the Domestic Customer is now subject to either the Relevant Cheapest Evergreen Tariff or a Relevant Fixed Term Default Tariff, as applicable; and
- (ix) the Exact Tariff Name of the Domestic Customer's Alternative Cheapest Tariff and the Domestic Customer's Estimated Annual Savings based on the premise that the Domestic Customer is now subject to either the Relevant Cheapest Evergreen Tariff or a Relevant Fixed Term Default Tariff, as applicable; and
- (d) contains a separate part which provides the following information in a form which is easily comparable and clearly illustrates the main differences in the Principal Terms:
- (i) the Principal Terms that currently apply to the Domestic Customer;
- (ii) the Principal Terms that would apply if the Domestic Customer becomes subject to either the Relevant Cheapest Evergreen Tariff or a Relevant Fixed Term Default Tariff, as applicable, by virtue of paragraph 22C.7; and,
- (iii) where a Notice is also being provided to the Domestic Customer pursuant to SLC 22C.5(a) below, the Principal Terms that would apply if the Domestic Customer agrees a further fixed term period for an existing Fixed Term Supply Contract;
- (e) contains a separate part which, in accordance with paragraph 31E.8 of standard condition 31E (Provision of Tariff Information Label and Estimated Annual Costs at the same time as Principal Terms), contains the Tariff Information Label for each set of Principal Terms provided pursuant to sub-paragraph 22C.3(d); and
- (f) contains a separate part which, in accordance with paragraph 31E.8 of standard condition 31E (Provision of Tariff Information Label and Estimated Annual

Costs at the same time as Principal Terms), contains the Domestic Customer's Estimated Annual Costs for each set of Principal Terms provided pursuant to sub-paragraphs 22C.3(d)(i) and (iii) (but not the Domestic Customer's Estimated Annual Costs for the set of Principal Terms provided pursuant to sub-paragraph 22C.3(d)(ii), which must already be provided in accordance with sub-paragraph 22C.3(c)(vii)).

22C.4 The licensee must:

- (a) provide a Domestic Customer with a copy of the SLC 22C Statement of Renewal Terms which complies with paragraph 22C.3 no earlier than 49 days and no later than 42 days before the fixed term period of their Fixed Term Supply Contract is due to end; and
- (b) with the exception of the Notice described in paragraph 22C.5, ensure that the SLC 22C Statement of Renewal Terms is separate from any other document (including, but not limited to, a Bill, statement of account, Annual Statement or marketing material) and is provided to the Domestic Customer separately from any other document (including, but not limited to, a Bill, statement of account, Annual Statement or marketing material).

22C.5 In relation to any Fixed Term Supply Contract, other than a Relevant Fixed Term Default Tariff, the licensee may only extend the duration of that Contract for a further fixed term period (with or without any changes to other terms and conditions, including the Charges for the Supply of Gas) if:

- (a) no earlier than 49 days and no later than 42 days before the fixed term period of an existing Fixed Term Supply Contract is due to end, the licensee has given the Domestic Customer a copy of the SLC 22C Statement of Renewal Terms which complies with paragraph 22C.3 and which incorporates a Notice which:
  - (i) with the exception of the SLC 22C Statement of Renewal Terms, is not to be provided in conjunction with, or contain, any other information, including (but not limited to) a Bill, statement of account or marketing material;
  - (ii) informs the Domestic Customer that the licensee is seeking the Domestic Customer's express agreement in Writing to a further fixed term period with or without proposed changes to other terms and conditions (including the Charges for the Supply of Gas);
  - (iii) informs the Domestic Customer of the duration of the proposed further fixed term period and the nature, purpose and effect of any proposed changes to other terms and conditions (including the Charges for the Supply of Gas);
  - (iv) informs the Domestic Customer they are under no obligation to agree to the proposed further fixed term period or any proposed changes to other terms and conditions (including the Charges for the Supply of Gas); and
  - (v) without prejudice to SLC 22 Supplier and Customer Information and the SLC 22C Statement of Renewal Terms, does not include any other information.

- (b) the Domestic Customer has expressly agreed in Writing to the proposed further fixed term period and, where applicable, any proposed changes to other terms and conditions (including the Charges for the Supply of Gas) in response to the Notice given by the licensee in accordance with sub-paragraph 22C.5(a);
- (c) the duration of the further fixed term period is no longer than the duration of the fixed term period that currently applies to the existing Fixed Term Supply Contract; and
- (d) by virtue of the extended duration of the further fixed term period and any changes to other terms and conditions (including the Charges for the Supply of Gas), the Fixed Term Supply Contract becomes identical to a Tariff which is a Live Fixed Term Tariff.

### **Prohibition on termination fees for non compliance**

22C.6 Where the licensee fails to comply with paragraphs 22C.2 to 22C.5 and extends the duration of an existing Fixed Term Supply Contract for a further fixed term period, the licensee may not charge or otherwise seek to enforce a Termination Fee in respect of that Domestic Supply Contract.

### **Continued supply after a fixed term period ends**

22C.7 Where a Domestic Customer does not change supplier or does not expressly agree a new Evergreen Supply Contract, a new Fixed Term Supply Contract or a further fixed term period for a Fixed Term Supply Contract by the date the fixed term period of an existing Fixed Term Supply Contract is due to end, the licensee must ensure that the terms of the Fixed Term Supply Contract provide that the Domestic Customer will become subject to either the Relevant Cheapest Evergreen Tariff or, if the licensee considers it appropriate to do so, a Relevant Fixed Term Default Tariff.

22C.8 Without prejudice to paragraph 22C.2 of this condition and paragraph 24.9 of standard condition 24, if at the end of any fixed term period the licensee continues to supply a Domestic Customer, it must do so on the basis of:

- (a) the Relevant Cheapest Evergreen Tariff or a Relevant Fixed Term Default Tariff which is provided for by the terms of the Fixed Term Supply Contract in accordance with paragraph 22C.7;
- (b) a new Evergreen Supply Contract which has been entered into with the express agreement of the Domestic Customer;
- (c) a new Fixed Term Supply Contract which has been entered into with the express agreement of the Domestic Customer and which complies with standard condition 22C; or
- (d) a further fixed term period in relation to an existing Fixed Term Supply Contract in circumstances where that Fixed Term Supply Contract and that further fixed term period complies with standard condition 22C.

## **Prohibition on increasing the Charges for the Supply of Gas and other adverse unilateral variations**

22C.9 Without prejudice to paragraph 22C.5 [or paragraph 22C.7](#), in relation to any Fixed Term Supply Contract, the licensee must not:

- (a) increase the Charges for the Supply of Gas (including, but not limited to, by making any reduction in the amount of a Discount that is directly applied to a Unit Rate or Standing Charge); or
- (b) unilaterally vary any other terms and conditions in any way which is to the disadvantage of a Domestic Customer.

## **Exception to compliance with condition**

22C.10 The licensee is not required to comply with standard condition 22C to such extent and subject to such conditions as the Authority may from time to time direct.

22C.11 In respect of an increase in Charges for the Supply of Gas, the licensee is not required to comply with paragraph 22C.9 if:

- (a) all of the following requirements are satisfied:
  - (i) the Domestic Supply Contract provides that variations to the Charges for the Supply of Gas will occur automatically only in a manner which is fully linked to fluctuations in a published and transparent stock exchange quotation or index or a financial market rate that the licensee does not control; and
  - (ii) the licensee has complied with paragraph 23.1 of standard condition 23; and
  - (iii) the method by which the Charges for the Supply of Gas fluctuate automatically is set out in the Domestic Supply Contract in a prominent position in plain and intelligible language; or
- (b) all of the following requirements are satisfied:
  - (i) the Domestic Supply Contract expressly sets out in advance the precise variation or variations to the Charges for the Supply of Gas which are scheduled to occur automatically by a precise amount (or precise amounts) and on a precise date (or precise dates) which is not subject to the licensee's discretion; and
  - (ii) the licensee has complied with paragraph 23.1 of standard condition 23; and
  - (iii) the precise variations to the Charges for the Supply of Gas are set out in the Domestic Supply Contract in a prominent position and in plain and intelligible language.

22C.11A The licensee is not required to comply with paragraph 22C.9 in respect of an increase or variation of the Charges for the Supply of Gas or any other charge or fee ('Relevant Charge') where all of the following circumstances apply:

- (a) the Relevant Charge is subject to value added tax;
- (b) there has been a change in the rate of value added tax that is chargeable in respect of the Relevant Charge; and
- (c) the licensee varies the amount of the Relevant Charge only in order to fully reflect the rate of value added tax that is chargeable in respect of that Relevant Charge.

22C.11B Paragraph 22C.9 does not apply where all of the following requirements are satisfied:

- (a) the licensee is only increasing the Charges for the Supply of Gas and/or unilaterally varying any other terms and conditions in any way which is to the disadvantage of a Domestic Customer in order to move a Domestic Customer from one payment method to another ('the power to change payment methods');
- (b) the power to change payment methods is only exercised on the grounds that the Domestic Customer has Outstanding Charges and/or has failed to comply with terms and conditions relating to a payment method;
- (c) the power to change payment methods and the precise circumstances when that power will be exercised are set out in the Domestic Supply Contract in a prominent position and in plain and intelligible language; and
- (d) the licensee has complied with paragraph 23.1 of standard condition 23.

## **Guidance**

22C.12 The licensee must have regard to any guidance on Relevant Matters for SLC 22C which, following consultation (which may be conducted before this condition takes effect), the Authority may issue and may from time to time revise (following further consultation).

## **Terms of Fixed Term Supply Contracts**

22C.13 The licensee must ensure that the terms and conditions of each Fixed Term Supply Contract comply with the provisions of standard condition 22C.

22C.13A The licensee must ensure that each Fixed Term Supply Contract contains terms and conditions which reflect the effect of:

- (a) paragraph 22C.2;
- (b) sub-paragraph 22C.4(a);
- (c) paragraph 22C.5 (excluding sub-paragraphs 22C.5(a)(i), 22C.5(a)(v), and 22C.5(d));
- (d) paragraph 22C.6;

- (e) paragraph 22C.7;
- (f) paragraph 22C.9;
- (g) any other requirement of standard condition 22C which could reasonably be considered as:
  - (i) giving a particular Domestic Customer a right to receive or do something in any circumstances;
  - (ii) giving a particular Domestic Customer a right to avoid being subject to something in any circumstances; and
  - (iii) providing for a specific form of protection for a particular Domestic Customer in any circumstances; and
- (h) any provisions of standard condition 22C specified in directions, which following consultation, the Authority may issue and may from time to time revise (following further consultation).

22C.14 The licensee must not enforce or take advantage of any term of a Fixed Term Supply Contract if:

- (a) the inclusion of that term is incompatible with standard condition 22C; or
- (b) the enforcement or the taking advantage of that term would be so incompatible.

### **Treatment of Fixed Term Supply Contracts with changes to terms precisely set out in advance**

22C.15 Without prejudice to paragraphs 22C.2 and 22C.5, where, in accordance with sub-paragraph 22C.11(b), a Fixed Term Supply Contract expressly sets out in advance the precise variation or variations to the Charges for the Supply of Gas which are scheduled to occur automatically by a precise amount (or precise amounts) and on a precise date (or precise dates) which is not subject to the licensee’s discretion, the references to “fixed term period” in paragraphs 22C.3 to 22C.5, 22C.7 and 22C.8 of standard condition 22C are to be read as a reference to the last fixed term period that applies to the Fixed Term Supply Contract.

### **Definitions for condition**

22C.16 In this condition:

**“Relevant Matters for SLC 22C”** means:

- (a) the format and/or display of any information which must be included in an SLC 22C Statement of Renewal Terms and the Notice referred to in sub-paragraph 22C.5(a); and
- (b) the interpretation of standard condition 22C (including in respect of definitions which appear in standard condition 1).

**"SLC 22C Exempt Information"** means:

- (a) the SLC 22C Supplier and Customer Information;
- (b) the Notice referred to in sub-paragraph 22C.5(a);
- (c) (not used); and
- (d) the information required by standard condition 31E.

**"SLC 22C Supplier and Customer Information"** means:

- (a) the name of the licensee and its contact details;
- (b) the name and address of the Domestic Customer;
- (c) other information used for the purposes of identifying the Domestic Customer; and
- (d) the date of the SLC 22C Statement of Renewal Terms and the Notice referred to in sub-paragraph 22C.5(a).

## Condition 23. Notification of Domestic Supply Contract terms

### Notification before Domestic Supply Contract ends

23.2 No earlier than 49 days and no later than 42 days before a Domestic Supply Contract is due to end (including in circumstances where the Domestic Supply Contract is being terminated by the licensee), the licensee must inform the Domestic Customer (who is party to that contract) in Writing of the Principal Terms of the Deemed Contract that will apply after the Domestic Supply Contract ends if he does not enter into a new Domestic Supply Contract.

23.2A Paragraph 23.2 does not apply:

- (a) in any circumstances whereby a Domestic Customer becomes subject to the Relevant Cheapest Evergreen Tariff or a Relevant Fixed Term Default Tariff in accordance with standard condition 22C; and
- (b) in any circumstances where standard condition 22D applies.

### Notification of increase in Charges for the Supply of Gas and other unilateral variations

23.3 If, in accordance with the terms of a Domestic Supply Contract with a Domestic Customer, the licensee:

- (a) increases the Charges for the Supply of Gas to a Domestic Premises (including by making any reduction in the amount of a Discount that is applied to a Unit Rate or Standing Charge); or
- (b) unilaterally varies any other term of the contract in any other way that is to the disadvantage of the Domestic Customer ("Disadvantageous Unilateral Variation"),

the licensee must give Notice of that increase in the Charges for the Supply of Gas or Disadvantageous Unilateral Variation to the Domestic Customer in accordance with paragraph 23.4.

23.3A Paragraph 23.3(a) does not apply where the licensee increases the Charges for the Supply of Gas to a Domestic Premises (including by making any reduction in the amount of a Discount that is applied to a Unit Rate or Standing Charge) by:

- (a) a mutual variation made pursuant to standard condition 23A;
- (b) a unilateral variation made pursuant to standard condition 22D; or
- (c) any circumstances whereby a Domestic Customer becomes subject to the Relevant Cheapest Evergreen Tariff, or a Relevant Fixed Term Default Tariff or the duration of a Fixed Term Supply Contract is extended for a further fixed term period in accordance with standard condition 22C.

23.3B Paragraph 23.3(b) does not apply:

- (a) in any circumstances whereby a Domestic Customer becomes subject to the Relevant Cheapest Evergreen Tariff, or a Relevant Fixed Term Default Tariff or the duration of a Fixed Term Supply Contract is extended for a further fixed term period in accordance with standard condition 22C; or
- (b) where the licensee is making a Disadvantageous Unilateral Variation by a unilateral variation made pursuant to standard condition 22D.

## Condition 24. Termination of Domestic Supply Contracts

### Termination Fees

- 24.3 The licensee may include a term in a Domestic Supply Contract requiring a Domestic Customer to pay a Termination Fee to end that contract except in any of the following circumstances:
- (a) the contract is of an indefinite length;
  - (b) without prejudice to sub-paragraph (a), the contract allows for both a fixed term period and a period of indefinite length and it is brought to an end during the period of indefinite length; ~~or~~
  - (c) the licensee is required to give Notice of an increase in the Charges for the Supply of Gas or any Disadvantageous Unilateral Variation in accordance with paragraph 23.3 of standard condition 23 (Notification of Domestic Supply Contract terms); or
  - (d) the contract is a Relevant Fixed Term Default Tariff.
- 24.4 The restrictions imposed by paragraph 24.3 will not apply to such extent as the Authority may direct.

## Standard condition 31D. White Label Tariffs

31D.22A In respect of White Label Tariffs, the definition of “Relevant Fixed Term Default Tariff” in standard condition 1 is replaced with the following definition:

Relevant Fixed Term Default Tariff means a Fixed Term Supply Contract available from the licensee (or, where there are any Affiliate Licensees, the licensee and any Affiliate Licensees), that:

- (a) has terms and conditions that are as similar as possible to the existing Fixed Term Supply Contract for that Domestic Customer, including in respect of:
  - (i) their current payment method;
  - (ii) their current Relevant Meter Type;
  - (iii) their current Account Management Arrangement;

- (iv) their characteristics and preferences;
  - (v) where the Domestic Customer is subject to a White Label Tariff, a White Label Tariff of the same White Label Tariff Provider; and
  - (vi) where the Domestic Customer is not subject to a White Label Tariff, a Tariff which is not a White Label Tariff;
- (b) may not provide for a Domestic Customer to pay a Termination Fee;
- (c) is cheaper than or as cheap as the licensee's Relevant Cheapest Evergreen Tariff for the particular Domestic Customer;