

To: All holders of a gas supply licence

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

Modification of the standard conditions of all gas supply licences

1. Each of the licensees to whom this document is addressed has a supply licence which has been granted or treated as granted under section 7A(1) of the Gas Act 1986 ('the Act').
2. Under section 23(2) of the Act the Gas and Electricity Markets Authority (the **Authority**)¹ gave notice on 7 September 2018 (the **Notice**) that we propose to modify standard conditions 8 and 9. We stated that any representations to the modification proposal must be made on or before 8 October 2018.
3. A copy of the Notice was sent to the Secretary of State in accordance with section 23(4)(b) of the Act, and we have not received a direction that the change should not be made.
4. We received seven responses to the Notice. We have placed all non-confidential responses on our website. Following careful consideration of these responses we have decided to modify standard conditions 8 and 9 on the terms set out in our statutory consultation. Our response to the issue raised in the responses is set out in the accompanying letter.
5. We are making these licence changes to ensure we continue to have effective protections in place for consumers in the event their supplier exits the market. These changes will allow a potential supplier of last resort (**SoLR**) to recover costs associated with honouring credit balances for customers who have switched away from the failing supplier at the date the supplier fails. The changes will also ensure that any claim for credit balances represents the actual amounts owed to customers by the failed supplier and provide appropriate flexibility in the timings for the process of making a claim.
6. The effect of the modification(s) will be to:
 - clarify that the SoLR could (if appropriate) seek to recover the costs of protecting all affected customers through a Last Resort Supply Payment (**LRSP**);
 - clarify the limitations on costs of protecting customer credit balances that can be claimed, to avoid the risk of over and/or inappropriate cost recovery;
 - provide greater flexibility on the timings of potential claims for a LRSP; and
 - make housekeeping changes to tidy up the existing drafting of the conditions.
7. Where an application for permission to appeal our decision is made to the Competition and Markets Authority (**CMA**) under section 23B of the Act, Rule 5.7 of the Energy Licence Modification Appeals: Competition and Markets Authority Rules² requires that the appellant must send to any relevant licence holders who

¹ The terms "the Authority", "we" and "us" are used interchangeably in this document.

² CMA70 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/655601/energy-licence-modification-appeals-rules.pdf

are not parties to the appeal a non-sensitive 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. Section 23(10) of the Act sets out the meaning of 'relevant licence holder'.

Under the powers contained in section 23(1)(b) of the Act, we hereby modify the standard licence conditions for all gas supply licences in the manner specified in attached Schedule 1. This decision will take effect from 1 January 2019.

This document is 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**



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Lesley Nugent
Head, Industry Codes and Licensing

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

5 November 2018

Schedule 1: Licence Drafting

Schedule 1: Modification to standard Licence conditions (SLC)

Deletions are shown in strike through and new text is double underlined.

Condition 8. Obligations under Last Resort Supply Direction

Last Resort Supply Direction

- 8.1 The Authority may give a Last Resort Supply Direction to the licensee if it considers that:
- (a) a circumstance has arisen that would entitle it to revoke the Gas Supply Licence of a Gas Supplier other than the licensee (for this condition and condition 9 of this licence only, the “other supplier”); and
 - (b) the licensee could comply with the Last Resort Supply Direction without significantly prejudicing its ability:
 - (i) to continue to supply gas to its Customers’ premises; and
 - (ii) to fulfil its contractual obligations for the supply of gas.
- 8.2 The Last Resort Supply Direction will:
- (a) have effect on and from the date on which and the time at which the other supplier’s Gas Supply Licence is revoked; and
 - (b) stop having effect on and from a date, specified in the Last Resort Supply Direction, ~~that is up to six months after the date on which the direction has effect;~~

Licensee’s obligations

- 8.3 The licensee must comply with a Last Resort Supply Direction.
- 8.4 But the licensee is not required to comply with a Last Resort Supply Direction in respect of premises to which it would not be required to supply gas because of any of the exceptions set out in sub-paragraphs 5(a) to (c) of standard condition 22 (Duty to offer and supply under Domestic Supply Contract).
- 8.5 Within a reasonable period of time after receiving a Last Resort Supply Direction, the licensee must send a Notice to each of the premises specified or described in the Last Resort Supply Direction to inform each Customer:
- (a) that the other supplier stopped supplying gas to his premises with effect on and from the date on which the Last Resort Supply Direction had effect;
 - (b) that the licensee began to supply gas to his premises with effect on and from the date on which the Last Resort Supply Direction had effect;

- (c) that the licensee is supplying gas to the Customer's premises under a Deemed Contract;
- (d) that the Customer may enter into a Contract with the licensee or any other Gas Supplier under which gas will be supplied to his premises; and
- (e) of the Charges for the Supply of Gas that the licensee may charge the Customer while supplying him under the Last Resort Supply Direction.

Charges under Last Resort Supply Direction

- 8.6 The licensee's Charges for the Supply of Gas to the premises specified or described in the Last Resort Supply Direction must not exceed an amount that may be expected, in total, approximately to equal the licensee's reasonable costs of supply (including, where appropriate, the costs of purchasing gas at short notice) and a reasonable profit.
- 8.7 If the licensee purchases gas to comply with a Last Resort Supply Direction, it must take all reasonable steps to do so as economically as possible in all the circumstances of the case.

Condition 9. Claims for Last Resort Supply Payment

Ability to make claim

- 9.1 If the licensee has received the Authority's consent under paragraph 9.5, it may make a claim for a Last Resort Supply Payment, under standard condition 48 (Last Resort Supply: Payment Claims) or standard special condition A48 (Last Resort Supply: Payment Claims) of the Gas Transporter Licence, from each Relevant Gas Transporter ~~in whose Transportation Services Area there were premises supplied by the licensee under the Last Resort Supply Direction.~~
- 9.2 The licensee must not make a claim for a Last Resort Supply Payment if, and to the extent that, it has waived its ability to do so by Notice given to the Authority before the Authority gave it a Last Resort Supply Direction.

Process for making claim

- 9.3 If the licensee intends to make a claim for a Last Resort Supply Payment, it must:
- (a) give Notice to the Authority of its claim; and
 - (b) give the Authority a calculation of the amount claimed with information to support that calculation,

no later than than a date notified to it by the Authority or, in the event that no such date is notified, five years six months after the date on which the Last Resort Supply Direction to which the claim relates stops having effect.

- 9.4 The total amount of the Last Resort Supply Payment (for this condition only, "the relevant amount") to be claimed by the licensee must not exceed the amount by which:

- (a) the total costs (including interest on working capital) reasonably incurred by the licensee in supplying gas to premises under the Last Resort Supply Direction and a reasonable profit,

plus

- (b) any sums paid or debts assumed by the licensee to compensate any Customer in respect of any Customer Credit Balances,

are greater than:

- ~~(b)~~ (c) the total amounts recovered by the licensee through Charges for the Supply of Gas to premises under the Last Resort Supply Direction (after taking all reasonable steps to recover such ~~e~~Charges).

9.5 If the Authority considers it appropriate in all the circumstances of the case for the licensee to make the claim notified to it in accordance with paragraph 9.3, the Authority will give its consent to the licensee.

9.6 ~~Within three months after it has been notified of the claim in accordance with paragraph 9.3,~~ The Authority may determine that an amount other than the one calculated by the licensee is a more accurate calculation of the relevant amount.

9.7 If the Authority makes a determination under paragraph 9.6, the amount specified by it must be treated as the relevant amount for the purpose of paragraph 9.8.

Submissions to Relevant Gas Transporters

9.8 A claim by the licensee for a Last Resort Supply Payment from each Relevant Gas Transporter referred to in paragraph 9.1 must specify:

- (a) the respective proportion of the relevant amount to be paid by that Relevant Gas Transporter (being the same as the number of premises located within its Transportation Services Area when expressed as a proportion of the total number of premises located within the Transportation Services Areas of all the Relevant Gas Transporters in question); and
- (b) whether payment is to be made by quarterly or monthly instalments.

9.9 A claim for a Last Resort Supply Payment will lapse if the licensee does not make it within six months after the Authority has given its consent under paragraph 9.5.

Definitions for condition

9.10 In this condition:

<u>“Closed Credit Balance”</u>	<u>means any Credit owed, on the date on which a relevant Last Resort Supply Direction took effect, by the other supplier to any Customer for whom the responsibility for the supply of gas had either transferred from the other supplier to another Gas Supplier or had otherwise terminated on or before the</u>
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	<u>date on which the relevant Last Resort Supply Direction took effect;</u>
<u>“Customer Credit Balances”</u>	<u>means Closed Credit Balances and Open Credit Balances;</u>
<u>“Credit”</u>	<p><u>means an amount by which the payments made by a Customer to the other supplier under or in accordance with a Domestic Supply Contract exceeds the sum of:</u></p> <p>a) <u>the total amount of Charges which were due and payable by that Customer to the other supplier under the relevant Domestic Supply Contract on or before the date on which the relevant Last Resort Supply Direction took effect;</u></p> <p>b) <u>the total amount of Charges relating to gas supplied to that Customer by the other supplier on or before the date on which the relevant Last Resort Supply Direction took effect that would have fallen due and payable under the relevant Domestic Supply Contract but for that Last Resort Supply Direction; and</u></p> <p>c) <u>the sum of any amounts equivalent to those described in (a) and (b), above, either that:</u></p> <p style="padding-left: 40px;">(i) <u>were due and payable; or</u></p> <p style="padding-left: 40px;">(ii) <u>would have been due and payable but for a direction issued by the Authority under standard licence condition 8 of a Electricity Supply Licence,</u></p> <p><u>by that Customer to the other supplier under any contract for the supply of electricity to domestic premises, insofar as that sum exceeds the amounts paid by the Customer to the other supplier under a contract for the supply of electricity.</u></p>
<u>“Open Credit Balance”</u>	<u>means any Credit owed by the other supplier to a Customer on the date of the relevant Last Resort Supply Direction.</u>

9.11 For the purposes of this condition, the term “licensee” in the definition of “Charges for the Supply of Gas” may refer to either the licensee or the other supplier, or both (as the context requires).

Schedule 2:

Relevant Licence Holders³

1st Direct Utilities Plc	Dual Energy Direct Limited
Addito Supply Limited	Dyce Energy Limited
Affect Energy Ltd	E (Gas and Electricity) Limited
Alabama Energy Limited	E.ON Energy Gas (Eastern) Limited
Alaska Energy Limited	E.ON Energy Solutions Limited
Albuquerque Energy Limited	E2M - Energy Trading Ltd.
Alfa Smart Energy Ltd	Eclipse Energy Supply Limited
Ampoweruk Ltd	Economy Energy Supply Ltd
Arruzzi Energy Supply Limited	Economy Energy Trading Limited
AvantiGas On Limited	Eddington Energy Supply Limited
Avid Energy Limited	EDF Energy Customers Limited
Avro Commercial Energy Trading Ltd	Effortless Energy Ltd.
Avro Energy Limited	Electroroute Energy Limited
Axis Telecom Limited	Emzo Energy Supply Limited
Barbican Power Limited	ENGIE Power Limited
Better Energy Supply Limited	Enstroga Ltd
Bluebell Energy Supply Limited	Entice Energy Supply Limited
Bowfell Energy Limited	ESB Energy limited
Breeze Energy Supply Limited	Euston Energy Limited
Brilliant Energy Supply Limited	Eversmart Energy Ltd
Bristol Energy Limited	Exelon Generation Limited
British Gas Trading Limited	Extra Energy Supply Limited
Brits Energy Limited	First Utility Limited
Brook Green Trading Limited	Flogas Britain Limited
Bruntwood Energy Services Limited	Flow Energy Limited
Bryt Energy Limited	Foxglove Energy Supply Limited
Bulb Energy Ltd	Gas and Power Limited
Business Power and Gas Limited	Gas Plus Supply Limited
Cabra Energy Supply Limited	GnERGY Limited
Callesti Energy Supply Limited	Good Energy Gas Limited
Camaro Energy Supply Limited	Goto Energy (UK) Limited
Cardiff Energy Supply Limited	Green Energy (UK) plc
Celesto Enterprises Limited	Green Network Energy Ltd
Cilleni Energy Supply Limited	Hartlepower C.I.C.
Colgano Energy Supply Limited	Hartree Partners Supply (UK) Limited
Colorado Energy Limited	Holborn Energy Limited
Coniston Energy Limited	Home Energy Trading Ltd
Co-Operative Energy Limited	Home Counties Energy Plc
Corona Energy Retail 4 Limited	Hudson Energy Supply UK Limited
Crown Gas and Power Limited	I Supply Energy Limited
Crown Oil Limited	Igloo Energy Supply Limited
Daisy Energy Supply Limited	Jacob Developments Limited
Daligas Limited	Kensington Power Limited
Delta Gas and Power Limited	Labrador Ltd
Donnington Energy Limited	Mattina Limited

³ Gas licence holders are listed at: <https://www.ofgem.gov.uk/publications-and-updates/all-gas-licensees-registered-addresses>

Maxen Power Supply Limited
 Mississippi Energy Limited
 Moneyplus Energy Limited
 Mongoose Energy Supply Limited
 MyLife Home Energy Limited
 Nabuh Energy Ltd
 Nationwide Electricity Limited
 Nevada Energy Limited
 Npower Direct Limited
 Npower Gas Limited
 Npower Northern Limited
 Npower Yorkshire Limited
 Octopus Energy Limited
 One Wales Energy - Un Ynni Cymru Ltd
 Oneselect Limited
 Opal Gas Limited
 Opus Energy Limited
 Opus Gas Supply Limited
 Orbit Energy Limited
 Oregon Energy Limited
 Our Power Energy Supply Limited
 Ovo Gas Limited
 Palladium Energy Supply Limited
 Pan-Utility Limited
 People's Energy (Supply) Limited
 PFP Energy Supplies Limited
 Pirranello Energy Supply Limited
 Planet 9 Energy Limited
 Pozitive Energy Ltd
 Pure Planet Limited
 Purple Square Energy Limited
 Putney Energy Limited
 Retford Gas Limited
 Robin Hood Energy Limited
 Rutherford Energy Supply Limited
 Santana Energy Limited
 Satus Energy Limited
 Scafell Energy Limited
 Scottish Power Energy Retail Limited
 Shale Gas UK Limited
 Shell Mgt Ltd
 Simple Energy Scotland Limited
 Simplicity Energy Limited
 Sinq Power Limited
 Skiddaw Energy Limited
 Skylane Energy Supply Limited
 Snowdrop Energy Supply Limited
 Social Energy Supply Ltd
 So Energy Trading Limited
 Solarplicity Supply Limited
 Southern Electric Gas Limited
 Spark Energy Supply Limited
 Squeaky Clean Energy Limited
 Sunflower Energy Supply Limited
 Switch Business Gas and Power Ltd
 Symbio Energy Limited
 Telecom Plus PLC
 Temple Energy Limited
 The Renewable Energy Company Limited
 Together Energy Supply Limited
 Tonik Energy Limited
 Total Gas & Power Limited
 Toto Energy Ltd.
 Toucan Energy Limited
 Tru Energy Limited
 UK Gas Supply Ltd
 UK Healthcare Corporation Limited
 UK National Gas Ltd
 Ure Energy Limited
 Utilita Energy Limited
 Utilita Gas Limited
 Utility Point Limited
 Vanquist Energy Supply Limited
 Vavu Power Limited
 Venga Energy Supply Limited
 Vermont Energy Limited
 Victory Energy Supply Limited
 Viper Energy Supply Limited
 Virginia Energy Limited
 World Fuel Commodities Services (Ireland)
 Limited
 Zebra Power Limited
 Zenic Energy Ltd
 Zog Energy Limited
 Adrian Francis Associates Limited
 AMRECS LLC
 Axpo UK Limited
 Barrow Shipping Limited
 Better Business Energy Limited
 BP Gas Marketing Limited
 Brighton Power 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
 Coulomb Energy Supply Limited
 Data Energy Management Services Limited
 ENI Gas & Power SA
 E.ON Energy Gas (North West) Limited
 E.ON UK Plc
 Eco Green Management Limited
 Economy Gas Limited

Economy Power Limited
EDF Trading Limited
ENGIE Gas Limited
ENGIE Gas Shipper Limited
ENGIE Supply Holding UK Limited
ENI Trading & Shipping S.P.A
Eni UK Limited
Equinor Energy Trading Limited
Equinor UK Limited
Fidelity Energy Limited
Flexitricity Limited
Fylde Utilities UK Limited
Gazprom Marketing & Trading Retail Limited
Great Western Energy Ltd
Hartree Partners 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
Lourdes Associates Limited
Macquarie Bank Limited
Macquarie Commodities Finance (UK) Limited
Macquarie Factoring (UK) Limited
Marble Power Limited
Mercuria Energy Europe Trading Limited
Mercuria Energy Trading SA
Nationwide Gas Limited
Natwest Markets PLC
North Sea Gas Limited
Npower Commercial Gas Limited
Orsted Sales (UK) Limited
Orsted Salg & Service A/S
Petronas Energy Trading Limited
Regent Gas Limited
RWE Generation UK Plc
RWE Supply and Trading GmbH
S. C. Isramart SRL
Shell Energy Supply UK Ltd.
SmartestEnergy Limited
Société Valmy Défense 17
SSE Energy Supply Limited
Swift Administration Limited
The Energy Support Bureau Limited
The Nuclear Decommissioning Authority
Total Energy Gas Supplies Limited
Unigas Limited
United Gas & Power Ltd
Uttily plc
Valero Energy UK Ltd
Vayu Limited
WINGAS GmbH

Xcel Power Limited
XLN Energy Limited