

**The Company Secretary**

British Gas Trading Limited Millstream  
Maidenhead Road Windsor, Berkshire  
SL4 5GD, UK

29/03/2018

Dear Sir/Madam,

**Derogation from the Prohibition of Dead Tariff rules to exit the supply of SVTs**

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**”), a temporary and limited derogation from certain elements of standard licence condition (“**SLC**”) 22D of its gas and electricity supply licences. The derogation will enable the Licensee to close its Standard Variable Tariff (“**SVT**”) from being available to new and existing customers to enter into.

The relevant Directions are attached and will be published as required. They shall be effective from 31 March 2018 and shall remain in force until 30 June 2019, 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 49A of the Electricity Act 1989 and section 38A of the Gas Act 1986, of the reasons for the Authority’s decision to issue the attached Directions. Capitalised terms used in this letter, which are not defined herein, have the meaning given to them in the SLC of gas and electricity supply licences.

**Background to Derogation Request**

The Authority received an application from the Licensee on 7 February 2018 for a derogation from paragraph 1 of SLC 22D of its gas and electricity supply licences. The Licensee wishes to cease the availability of its SVT to new and existing customers from 31 March 2018. The Licensee has stated that the overall objective of its scheme is to maximise customer engagement. It wants to encourage its customers to sign up to Fixed Term Contracts (“**FTC**”). The Licensee has published its views on why it wants to shift the focus of its business model from SVTs towards FTCs on its website.<sup>1</sup>

The Licensee has submitted that its consumers on FTCs who do not come under any Ofgem price caps may be impacted by the scheme, to the extent that they will be defaulted to a non-price-regulated FTC at the end of their fixed term from 31 March 2018 if they do nothing. For customers already on SVT at 31 March 2018, whose prices are not regulated by the Ofgem price-cap, the Licensee has not committed to unilaterally change their terms to an FTC. It is for these customers to remain on a dead variable tariff that the Licensee is requesting a derogation from SLC 22D.1. The Licensee has also indicated that it will continue its programme of SVT engagement, by contacting these customers at least twice a year, to encourage them to switch voluntarily to an FTC.

To provide transparency around the progress of its scheme, the Licensee has indicated that it will publish the number of SVT and default customers it supplies twice a year alongside its financial results. It has also indicated that customers who are on SVT at 31 March 2018 will receive no degradation in

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<sup>1</sup> The licensee has published its views at this link: <https://www.centrica.com/news/why-getting-rid-standard-variable-tariff-good-all-customers>

service compared to what they would have received had the Licensee not closed its SVT to new and existing customers. It indicates that these customers will receive the additional prompts to engage from its SVT engagement programme.

Without derogations from SLC 22D.1 which provides a prohibition on Dead Tariffs and requires that the Licensee (and any of its affiliates) must only use Live Evergreen Tariffs (for the purpose of Evergreen Supply Contracts), the proposed scheme by the Licensee would be prohibited.<sup>2</sup> The Licensee has therefore applied for a derogation from SLC 22D.1.

### **The Authority's Decision**

Having regard to our principal objective of protecting the interests of energy consumers and other relevant statutory duties, and based on the information submitted by the Licensee, we consider that granting a time-limited derogation to allow the Licensee to proceed with its proposed scheme does not undermine the objectives of our retail market policies. We have committed to encouraging and providing suppliers with flexibility to deliver better outcomes for consumers. This includes supporting initiatives that may increase consumer engagement and regular prompts for consumers to engage and switch away from poor value or inappropriate contracts. The Competition and Markets Authority (CMA) recommended in its priority list of measures, that we consider initiatives aimed at promoting engagement in the domestic retail energy market.<sup>3</sup>

In our 2017 State of the Market Report, we stated that the proportion of consumers on SVTs is concerning and that SVTs are generally more expensive than fixed tariffs. Our analysis of price sensitivity suggested that consumers on SVTs are less likely to respond to opportunities to save money than consumers who are already on cheaper fixed tariffs.<sup>4</sup> We also published a decision in our 11 October 2017 open letter<sup>5</sup> (following our August 2017 statutory consultation)<sup>6</sup> that allowed suppliers, at the end of a fixed-term contract, to roll a customer that has not made an active choice, onto a further fixed-term tariff, as long as that further fixed term tariff satisfies the following conditions:

- does not have any penalties for early termination;
- is the same price or cheaper than the variable tariff that the customer would otherwise have been rolled onto; and
- is similar in nature to the customer's current tariff, taking into account their characteristics and preferences (including in respect of tariff type, online account management, meter type and payment method).

In the 11 October 2017 open letter, we indicated that there is a risk that a customer will pay too much if they roll onto the default tariff, whether this is a standard variable or fixed term. We also indicated that part of the solution is to minimise the number of customers who are on default tariffs by providing them with what they need to make an informed choice, and by prompting them to engage.

The prohibitions of Dead Tariffs were introduced by SLC 22D to eliminate Dead Tariffs that were not in the consumers' interests and prevent new Dead Tariffs from being created. However, the rules permit suppliers to retain historical Dead Tariffs if they met certain conditions and provide an exception to permit suppliers to have new Dead Tariffs on a temporary basis in order to withdraw existing Live Evergreen Tariffs. These temporary tariffs are known as "Transitional Dead Tariffs" and are provided for

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<sup>2</sup> A Dead Tariff is a Tariff in respect of an Evergreen Supply Contract which is not a Live Evergreen Tariff.

<sup>3</sup> See the CMA's Energy Market Investigation Final Report here: <https://assets.publishing.service.gov.uk/media/5773de34e5274a0da3000113/final-report-energy-market-investigation.pdf>

<sup>4</sup> See our 2017 State of the Market Report here: [https://www.ofgem.gov.uk/system/files/docs/2017/10/state\\_of\\_the\\_market\\_report\\_2017\\_web\\_1.pdf](https://www.ofgem.gov.uk/system/files/docs/2017/10/state_of_the_market_report_2017_web_1.pdf)

<sup>5</sup> Please see our decision allowing roll over to fixed term contracts here: [https://www.ofgem.gov.uk/system/files/docs/2017/10/decision\\_letter\\_-\\_default\\_tariffs\\_for\\_domestic\\_customers\\_at\\_the\\_end\\_of\\_fixed-term\\_tariffs.pdf](https://www.ofgem.gov.uk/system/files/docs/2017/10/decision_letter_-_default_tariffs_for_domestic_customers_at_the_end_of_fixed-term_tariffs.pdf)

<sup>6</sup> Ofgem, Default tariffs for domestic customers at the end of fixed-term contracts, August 2017 - <https://www.ofgem.gov.uk/publications-and-updates/default-tariffs-domestic-customers-end-fixed-term-contracts>

by SLC 22D.1A and SLC 22D.1B. Under this exception, SLC 22D.1A has a period of 49 days (the “Transitional Period”), in order to ensure that all Domestic Customers who are subject to the Transitional Dead Tariff become subject to (in a way compatible with other licence conditions and legislation) a Live Evergreen Tariff or Live Fixed Tariff.

In this case, the Licensee intends to close its SVT and will have no Live Evergreen Tariff to switch its customers on the Dead Tariff to. The Licensee has indicated that it will continue with its programme of SVT engagement by contacting the customers at least twice a year, to encourage them to switch voluntarily to an FTC. We do not consider that the proposal by the Licensee goes against the objectives of our retail market policies, which are focused on protecting consumers’ interests and stimulating competition in the energy market. It does not also go against our current direction of travel, to rely more on principles and focus on outcomes in the way we regulate the energy retail market.

The Authority has decided to grant (subject to certain conditions explained below) the Licensee a temporary derogation from SLC 22D.1 of its gas and electricity supply licences to allow it to have a new Dead Tariff until 30 June 2019. We have decided not to grant a derogation from SLC 22D.1A and SLC 22D.1B. We consider that the derogation from 22D.1 is sufficient for the purposes presented to us by the Licensee. The effect of this derogation is that the Licensee (and any of its affiliates) may use its dead-SVT tariff for the purpose of Evergreen Supply Contracts and therefore the Licensee does not need a derogation from SLC22D.1A and SLC22D.1B.

However, by not granting a derogation from SLC 22D.1A and SLC 22D.1B, this means that once the derogation expires on 30 June 2019, the Licensee will have 49 days to ensure that all Domestic Customers on the Dead Tariff become subject to live tariffs in a way that is compatible with other Licence Conditions and Legislation. In line with the Licensee’s commitment in its derogation request, it is a condition of this derogation that the Licensee must write to the customers that are subject to its new Dead Tariff on at least two separate occasions during the period of this derogation and provide them with prominent information designed in a manner best calculated to prompt the customer to engage, highlighting the potential benefits of switching to another tariff offered by the Licensee.

In complying with the derogation and in its twice-yearly communications with customers, the Licensee will need to comply with all other relevant licence conditions that are in effect, including ensuring that customers make informed choices about their supply of electricity and gas by the Licensee (SLC 0.3 b. v.) and the “narrow” informed choices principles (SLC 25). The effect of the above condition is that the Licensee must make sure that customers are aware that their tariff may not be the best deal for them, and that they are prompted to consider their options and comply with customer communication rules in SLC 31A. More broadly, the Licensee should ensure that customers are able to make an informed choice about switching tariff.<sup>7</sup> Consistent with other derogations granted by the Authority, it is also a condition that the Licensee reports any changes in circumstances that are relevant to the decision to grant this derogation without delay.

If you have any questions about this decision, please contact Jibirila Leinyuy ([Jibirila.Leinyuy@ofgem.gov.uk](mailto:Jibirila.Leinyuy@ofgem.gov.uk)) on 0203 263 7000 or [Derogations@ofgem.gov.uk](mailto:Derogations@ofgem.gov.uk).

Yours sincerely,

Anthony Pygram  
**Partner, Consumers & Competition**  
**Signed on behalf of the Authority and authorised for that purpose**

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<sup>7</sup> Please see our Final Decisions on Changes to the Standards of Conduct: <https://www.ofgem.gov.uk/publications-and-updates/final-decision-standards-conduct-suppliers-retail-energy-market>

## **ATTACHMENT: Electricity 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**

1. The Authority issues this direction pursuant to paragraph 21 of standard condition 22D (“**SLC22D.21**”) of the Electricity Supply Licence (“the **Licence**”) granted under section 6(1)(d) of the Electricity Act 1989 to the Licensee.
2. Capitalised terms used in this Direction which are not defined in this Direction shall have the meaning given to them in the Licence.
3. SLC 22D.21 provides that the Authority may issue directions relieving the Licensee of its obligations to comply with specified parts of standard condition 22D 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 29 March 2018.
5. The Authority directs that, subject to the conditions set out below, the Licensee is relieved of its obligations to comply with paragraph 1 of standard condition 22D of the Licence (“the **Derogation**”).
6. The Licensee may only rely on the Derogation if it contacts, on at least two separate occasions per year during the period beginning 31 March 2018 and ending 30 June 2019, each Domestic Customer who is subject to a Dead Tariff, to encourage them to switch voluntarily to another tariff. In its communications, the Licensee must ensure it complies with the Standards of Conduct and Standard Licence Conditions, including by ensuring that customers make informed choices about their supply of electricity.
7. This Direction shall take effect from 31 March 2018 and shall remain in force until expiry on 30 June 2019, unless it is revoked earlier or varied in writing by the Authority.

Dated: 29 March 2018

**Anthony Pygram**  
**Partner, Consumers & Competition**  
**Signed on behalf of the Authority and authorised for that purpose.**

## **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. The Authority issues this direction pursuant to Standard Licence Condition (“**SLC**”) 22D.21 of the Electricity Supply Licence (“the **Licence**”) granted under section 6(1)(d) of the Electricity Act 1989 to the Licensee.
2. Capitalised terms used in this Direction which are not defined in this Direction shall have the meaning given to them in the Licence.
3. SLC 22D.21 provides that the Authority may issue directions relieving the Licensee of its obligations to comply with specified parts of SLC 22D 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 29 March 2018.
5. The Authority directs that that, subject to the conditions set out below, the Licensee is relieved of its obligations to comply with paragraph 1 of standard condition 22D of the Licence (“the **Derogation**”).
6. The Licensee may only rely on the Derogation if it contacts, on at least two separate occasions per year during the period beginning 31 March 2018 and ending 30 June 2019, each Domestic Customer who is subject to a Dead Tariff, to encourage them to switch voluntarily to another tariff. In its communications, the Licensee must ensure it complies with the Standards of Conduct and Standard Licence Conditions, including by ensuring that customers make informed choices about their supply of gas.
7. This Direction shall take effect from 29 March 2018 and shall remain in force until expiry on 30 June 2019, unless it is revoked earlier or varied in writing by the Authority.

Dated: 29 March 2018

**Anthony Pygram**  
**Partner, Consumers & Competition**  
**Signed on behalf of the Authority and authorised for that purpose.**