

To: All holders of a gas and/or
electricity supply licence

Email: retailpriceregulation@ofgem.gov.uk

Date: 23 January 2020

Domestic Gas and Electricity (Tariff Cap) Act 2018

Notice of statutory consultation on a proposal to modify the standard conditions of all gas & electricity supply licences

1. The Gas and Electricity Markets Authority ('the Authority')¹ proposes to modify the standard conditions of all gas and electricity supply licences granted or treated as granted under section 6(1)(d) of the Electricity Act 1989 and section 7A(1) of the Gas Act 1986, pursuant to section 1 of the Domestic Gas and Electricity (Tariff Cap) Act 2018 ('the Act'). These modifications are set out in Appendix 1 and Appendix 2.
2. We are proposing to modify the standard supply conditions, incorporated in supply licences by virtue of section 8 of the Gas Act 1986 or section 8A of the Electricity Act 1989, namely the conditions which impose a cap on all standard variable and default rates that may be charged by the holders of supply licences for the supply of gas or electricity under domestic supply contracts ('the tariff cap conditions'), subject to section 3 of the Act (exemptions from the tariff cap).
3. Section 5(4) of the Act requires a period of not less than 56 days to apply between the publication of a decision to modify the tariff cap conditions and the modification of the tariff cap conditions entering into effect.
4. At present the drafting of the electricity and gas Standard Licence Conditions ('SLCs') provides that the Authority must calculate the updated Benchmark Maximum Charges in accordance with the methodology set out in the SLCs. The Authority considers that this requirement means that only conditions in effect at the time of the calculation can be

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

taken into account. The Authority considers that the effect of this is that any decision modifying the tariff cap conditions must therefore be made approximately 110 days before the relevant cap period starts, rather than 56 days before the modification should have effect. The Authority considers this to be an unnecessary and unintended restriction to modifying the tariff cap conditions, including the way in which we calculate the tariff cap to ensure it remains appropriate. The Authority is therefore proposing to introduce modifications to the SLCs to clarify that while determining the updated Benchmark Maximum Charges the Authority will take into account modifications before the expiry of the 56 day period provided that the modification enters into effect on or before the first day of the upcoming charge restriction period.

5. We are proposing to introduce modifications to SLC 28AD.18 of the gas SLCs and 28AD.19 of the electricity SLCs in order that the Authority, while determining the updated Benchmark Maximum Charges (as defined in the SLCs), takes into account any modification to SLC 28AD notwithstanding that any such modification may not have come into effect at the time of publication of the updated Benchmark Maximum Charges, provided that any such modification has come into effect by no later than the first date of any forthcoming 28AD Charge Restriction Period.
6. We are proposing these modifications to the electricity and gas SLCs in order to protect existing and future domestic customers who pay standard variable and default rates. We consider that the proposed licence modification will allow us to act more quickly and take into account, for example, updated data during policy development.
7. These proposed modifications have effect in relation to supply licences, whenever granted, and domestic supply contracts, whenever entered into.
8. A more detailed description of the reasons and effects of this proposed licence modification can be found in the accompanying document to this statutory consultation, which is available at: <https://www.ofgem.gov.uk/consultations>.
9. In summary, the main effects of these modifications would be (1) that the period of at least 56 days will run between publication of any decision to modify SLC 28AD and the beginning of the upcoming Charge Restriction Period in which any such modification would first have effect; and (2) where we have taken a decision and the 56 day period expires prior to the date of the upcoming Charge Restriction Period then we will take into account the modification in effect at that time.
10. We are also taking the opportunity to propose to correct a mistake in gas SLC 28AD.18 (a) and include the correct reference to SLC 28AD.6 instead of SLC 28A.6.

11. A copy of the proposed modifications and other documents referred to in this Notice have been published on our website (www.ofgem.gov.uk). Alternatively, you can request a paper copy by emailing library@ofgem.gov.uk.
12. Any representations with respect to the proposed licence modifications must be made on or before **Monday 24 February 2020** to Anna Rossington, Office of Gas and Electricity Markets, 10 South Colonnade, Canary Wharf, London E14 4PU, or by email to retailpriceregulation@ofgem.gov.uk.
13. 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.
14. If we decide to make the proposed modifications they will take effect not less than 56 days after the decision is published.

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Anna Rossington

Duly authorised on behalf of the Gas and Electricity Markets Authority

23 January 2020

Appendix 1 – Draft of proposed changes to modify the standard conditions of all electricity supply licences.

The proposed modifications are double underlined.

Condition 28AD of the electricity supply licence

The proposed modification is to add the text shown below.

28AD.19 For each Subsequent Charge Restriction Period, subject to paragraphs 28AD.20 and 28AD.21, no later than the fifth Working Day of February in relation to a forthcoming 28AD Charge Restriction Period *j* starting on 1 April, or no later than the fifth Working Day of August in relation to a forthcoming 28AD Charge Restriction Period *j* starting on 1 October, the Authority will:

- (a) determine the updated Benchmark Maximum Charges which shall apply for any forthcoming 28AD Charge Restriction Period *j* by calculating such values in accordance with paragraph 28AD.7;
- (b) in so determining the updated Benchmark Maximum Charges which shall have effect from the first day of any forthcoming 28AD Charge Restriction Period *j*, take into account any modification made to SLC 28AD, notwithstanding that any such modification may not have come into effect at the time of publication of the updated Benchmark Maximum Charges in accordance with paragraph 28AD.19(c), provided that any such modification has come into effect by no later than the first date of any forthcoming 28AD Charge Restriction Period *j*; and
- (c) publish such updated Benchmark Maximum Charges so calculated in the format specified in Annex 6.

Appendix 2 – Draft of proposed changes to modify the standard conditions of all gas supply licences.

The proposed modifications are double underlined.

Condition 28AD of the gas supply licence

The proposed modification is to add the text shown below.

28AD.18 For each Subsequent Charge Restriction Period, subject to paragraphs 28AD.19 and 28AD.20, no later than the fifth Working Day of February in relation to a forthcoming 28AD Charge Restriction Period *j* starting on 1 April, or no later than the fifth Working Day of August in relation to a forthcoming 28AD Charge Restriction Period *j* starting on 1 October, the Authority will:

- (a) determine the updated Benchmark Maximum Charges which shall apply for any forthcoming 28AD Charge Restriction Period *j* by calculating such values in accordance with paragraph 28AD.6;
- (b) in so determining the updated Benchmark Maximum Charges which shall have effect from the first day of any forthcoming 28AD Charge Restriction Period *j*, take into account any modification made to SLC 28AD, notwithstanding that any such modification may not have come into effect at the time of publication of the updated Benchmark Maximum Charges in accordance with paragraph 28AD.18(c), provided that any such modification has come into effect by no later than the first date of any forthcoming 28AD Charge Restriction Period *j*; and
- (c) publish such updated Benchmark Maximum Charges so calculated in the format specified in Annex 6.