

To: All holders of an electricity supply licence

**Electricity Act 1989
Section 11A(1)(b)**

Modification of the standard conditions of all electricity 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 6(1)(d) of the Electricity Act 1989 (the Act).
2. Under section 11A(2), (3) and (4) 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 11A(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 11C of the Act, Rule 5.7 of the Energy Licence Modification Appeals: Competition and Markets Authority

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

Rules² requires that the appellant must send to any relevant licence holders who 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 11A(10) of the Act sets out the meaning of "relevant licence holder".

Under the powers set out in section 11A(1)(b) of the Act, we hereby modify the standard licence conditions for all electricity 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 electricity supply licence licences as required by section 49A(2) of the Act.

**The Official Seal of the Gas and Electricity Markets Authority
here affixed is authenticated by the signature of**



.....
Lesley Nugent
Head of Industry Codes and Licensing

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

5 November 2018

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

Schedule 1:

Licence Drafting

Schedule 1: Modifications to Standard licence conditions (SLC)

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

Condition 1. Definitions for standard conditions

- 1.1. This condition sets out most of the defined words and expressions used in the standard conditions of this licence (all of which begin with capital letters) and gives their definitions next to them.
- 1.2. But the defined words and expressions used in standard condition 15 (Assistance for areas with high distribution costs scheme: payments to System Operator) and standard condition 21 (Fuel mix disclosure arrangements) and their definitions are included in those conditions.
- 1.3. Definitions in alphabetical order
- 1.4. In this licence, unless the context otherwise requires:

Relevant Distributor

in relation to any premises, means, except in standard condition 15 (Assistance for areas with high distribution costs scheme: payments to System Operator), the Licensed Distributor to whose Distribution System those premises are connected and in whose licence Section **B** has effect;

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 Electricity Supply Licence of an Electricity 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 electricity to its Customers’ premises; and

(ii) to fulfil its contractual obligations for the supply of electricity.

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 Electricity Supply Licence is revoked;
- (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;~~ and
- (c) where the other supplier is a Green Deal Licensee and is supplying Green Deal Premises, ensure that those Green Deal Premises will continue to be supplied by a Green Deal Licensee.

Licensee's obligations

8.3 Except in the circumstances set out in paragraph 8.4, the licensee must comply with a Last Resort Supply Direction.

8.4 The licensee:

- (a) is not required to comply with a Last Resort Supply Direction in respect of premises to which it would not be required to supply electricity because of any of the exceptions set out in sub-paragraphs 6(a) and (b) of standard condition 22 (Duty to offer and supply under Domestic Supply Contract); and
- (b) shall not comply where the Last Resort Supply Direction is in respect of a Green Deal Premises and the licensee is not a Green Deal Licensee.

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

- (f) if the Customer is a Green Deal Bill Payer, a statement to the effect that the premises are Green Deal Premises and that the Green Deal Charges will be added to the charges for the Supply of Electricity notified to the Customer under paragraph (e) above.

Charges under Last Resort Supply Direction

- 8.6 The licensee's Charges for the Supply of Electricity 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 electricity at short notice) and a reasonable profit.
- 8.7 If the licensee purchases electricity 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 ~~38.48-(Treatment of Last Resort Supply: Payment Claims for Last Resort Supply)~~ of the Distribution Licence, from each Relevant Distributor ~~in whose Distribution 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 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 electricity 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 Electricity to premises under the Last Resort Supply Direction (after taking all reasonable steps to recover such eCharges).
- 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, t~~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 Distributors

- 9.8 A claim by the licensee for a Last Resort Supply Payment from each Relevant Distributor referred to in paragraph 9.1 must specify:
- (a) the respective proportion of the relevant amount to be paid by that Relevant Distributor (being the same as the number of premises located within its Distribution Services Area when expressed as a proportion of the total number of premises located within the Distribution Services Areas of all the Relevant Distributors 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 electricity had either transferred from the other supplier to another Electricity Supplier or had otherwise terminated on or before the 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> <ul style="list-style-type: none"> 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> b) <u>the total amount of Charges relating to electricity 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> c) <u>the sum of any amounts equivalent to those described in (a) and (b), above, either that:</u> <ul style="list-style-type: none"> (i) <u>were due and payable; or</u> (ii) <u>would have been due and payable but for a direction issued by the Authority under standard licence condition 8 of a Gas Supply Licence,</u> <p><u>by that Customer to the other supplier under any contract for the supply of gas 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 gas.</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 Electricity” 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	Coulomb Energy Supply Limited
Addito Supply Limited	Crown Oil Limited
Affect Energy Ltd	Daisy Energy Supply Limited
Alabama Energy Limited	Delta Gas and Power Limited
Alaska Energy Limited	Donnington Energy Limited
Albuquerque Energy Limited	Dyce Energy Limited
Alfa Smart Energy Ltd	E2M - Energy Trading Ltd.
Ampoweruk Ltd	Earl Power Supply Limited
Arruzzi Energy Supply Limited	Economy Energy Supply Limited
Arto.Energy Limited	Economy Energy Trading Limited
Avid Energy Limited	Eddington Energy Supply Limited
Avro Commercial Energy Trading Ltd	EDF Energy Customers Limited
Avro Energy Limited	Edgware Energy Limited
Axis Telecom Limited	Effortless Energy Ltd.
AXPO UK Limited	E (Gas and Electricity) Limited
Barbican Power Limited	Electraphase Ltd
Better Energy Supply Limited	Electricity Plus Supply Limited
Bluebell Energy Supply Limited	Electroroute Energy Limited
Bowfell Energy Limited	ElectroRoute Supply Limited
Breeze Energy Supply Limited	Emexconsult Limited
Brilliant Energy Supply Limited	Emzo Energy Supply Limited
Bristol Energy Limited	Eneco Energy Trade BV
British Gas Trading Limited	Energy COOP Limited
Brits Energy Limited	ENGIE Power Limited
Brook Green Trading Limited	Enstroga Ltd
Bruntwood Energy Services Limited	Entice Energy Supply Limited
Bryt Energy Limited	E.ON Energy Solutions Limited
Bulb Energy Ltd	ESB Energy limited
Business Power and Gas Limited	Euston Energy Limited
Cabra Energy Supply Limited	Everergi UK Ltd
Callesti Energy Supply Limited	Eversmart Energy Ltd
Camaro Energy Supply Limited	Exelon Generation Limited
Cardiff Energy Supply Limited	Extra Energy Supply Limited
Celesto Enterprises Limited	Farmoor Energy Limited
Cilleni Energy Supply Limited	Farringdon Energy Limited
Colgano Energy Supply Limited	First Utility Limited
Colorado Energy Limited	Flow Energy Limited
Coniston Energy Limited	Foxglove Energy Supply Limited
Co-Operative Energy Limited	Gas and Power Limited
Corona Energy Retail 4 Limited	GNERGY Limited

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

Good Energy Limited
 Goto Energy (UK) Limited
 Green Energy (UK) plc
 Green Network Energy Ltd
 Hartree Partners Supply (UK) Limited
 Hartlepower C.I.C.
 Haven Power Limited
 Holborn Energy Limited
 Home Counties Energy Plc
 Home Energy Trading Ltd
 Hudson Energy Supply UK Limited
 Igloo Energy Supply Limited
 I Supply Energy Limited
 ICS Energy Limited
 Jacob Developments Limited
 KAL-Energy Limited
 Kensington Power Limited
 Labrador Ltd
 Limejump Energy Limited
 Logicor Energy Limited
 Marble Power Limited
 Mattina Limited
 Maxen Power Supply Limited
 Mississippi Energy Limited
 Mongoose Energy Supply Limited
 MVV Environment Services Limited
 MyLife Home Energy Limited
 Nabuh Energy Ltd
 Nationwide Electricity Limited
 Neas Energy Limited
 Nevada Energy Limited
 Nilo Developments Limited
 Npower Direct Limited
 Npower Limited
 Npower Northern Limited
 Npower Northern Supply Limited
 Npower Yorkshire Limited
 Npower Yorkshire Supply Limited
 Octopus Energy Limited
 Oneselect Limited
 One Wales Energy - Un Ynni Cymru Ltd
 Opus Energy (Corporate) Limited
 Opus Energy Limited
 Opus Energy Renewables Limited
 Orbit Energy Limited
 Oreba Energy Supply Limited
 Oregon Energy Limited
 Orsted Power Sales (UK) Limited
 Our Power Energy Supply Limited
 OVO Electricity Limited
 Paddington Power 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
 Robin Hood Energy Limited
 Rutherford Energy Supply Limited
 Santana Energy Limited
 Satus Energy Limited
 Scafell Energy Limited
 Scottish Power Energy Retail Limited
 Shell Energy Europe Limited
 Simple Electricity Ltd
 Simple Energy Scotland Limited
 Simplest Energy Ltd
 Simplicity Energy Limited
 Simply Electricity Limited
 Simply Your Energy Limited
 Sinq Power Limited
 Skiddaw Energy Limited
 Skylane Energy Supply Limited
 Smart Electricity Limited
 Snowdrop Energy Supply Limited
 Social Energy Supply Ltd
 So Energy Trading Limited
 Solarplicity Supply Limited
 Spark Energy Supply Limited
 Squeaky Clean Energy Limited
 SSE Electricity Limited
 SSE Energy Supply Limited
 Sunflower Energy Supply Limited
 Switch Business Gas and Power Ltd
 Symbio Energy Limited
 Temple Energy Limited
 The Energy Support Bureau Limited
 The Renewable Energy Company Limited

Together Energy Supply Limited
Tonik Energy Limited
Toto Energy Ltd.
Toucan Energy Limited
Trio Utilities Ltd
Tru Energy Limited
UK Healthcare Corporation Limited
United Gas & Power Trading Ltd
Ure Energy Limited
Utilita Energy 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 Ltd
AMRECS LLC
BES Commercial Electricity Limited
Better Business Energy Limited
BP Energy Europe Limited
BP Gas Marketing Limited
Brilliant Energy Limited
CNG Electricity Limited
Danske Commodities A/S
Dual Energy Direct Limited
Eco Green Management Limited
Electricity Direct (UK) Limited
E.ON UK Plc
EPG Energy Limited
ETUL Ltd
F & S Energy Limited
Flexitricity Limited
Gazprom Marketing & Trading Retail Limited
Greater London Authority
Great Western Energy Ltd
GridBeyond Limited
I.A.Z.F.S. Limited
IPM Energy Retail Limited
LCC Group Limited
Lourdes Associates Limited
MA Energy Limited
Mercuria Energy Europe Trading Limited
New Stream Renewables Limited
Opal Gas Limited
Orsted Sales (UK) Limited
Power4All Limited
PX Supply Limited
Regent Power Limited
S. C. Isramart SRL
Shell Energy Supply UK Ltd.
SmartestEnergy Limited
Statkraft Markets GmbH
The Nuclear Decommissioning Authority
Total Gas & Power Limited
Tradelink Solutions Limited
UK Power Reserve Limited
United Gas & Power Ltd
Uttilly plc
Vattenfall Energy Trading GmbH
Verastar Limited
Wilton Energy Limited
XLN Energy Limited