

**Modification of standard conditions of  
gas and electricity licences  
by the Gas and Electricity Markets Authority**

**“Collective licence modifications”**

*An informal consultation by  
The Department of Trade and Industry  
July 2002*

1 In March 2000 and April 2001, the Department of Trade and Industry invited comments on proposals for the collective modification of standard conditions in the licences of gas and electricity licensees. Responses were highly constructive, and were very much welcomed as a positive contribution to the development of the proposals.

2 Having taken into account the comments made by a range of parties, the Department has drafted a Statutory Instrument, a copy of which is attached. The purpose of this informal consultation is to seek the views of interested parties on the particular question of the operation of the measures of market share for each licence type.

3 It would be helpful if any views, preferably in the form of drafting suggestions, could be sent by 31 August 2002 to

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— Draft: 02.07.02

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*Draft Order laid before Parliament under section 11A(11) of the Electricity Act 1989 and section 23(13) of the Gas Act 1986, for approval by resolution of each House of Parliament.*

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## DRAFT STATUTORY INSTRUMENTS

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**2002 No.**

## **ELECTRICITY GAS**

### **The Electricity and Gas (Modification of Standard Conditions of Licences) Order 2002**

*Made - - - - - 2002*

*Coming into force in accordance with article 1*

Whereas a draft of this instrument has been laid before, and approved by a resolution of, each House of Parliament pursuant to section 11A(11) of the Electricity Act 1989<sup>(a)</sup> and section 23(13) of the Gas Act 1986<sup>(b)</sup>;

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<sup>(a)</sup> 1989 c.29; section 11A was inserted by section 35 of the Utilities Act 2000 (c.27).

<sup>(b)</sup> 1986 c.44; section 23 was amended by section 82 of the Utilities Act 2000.

Now, therefore, the Secretary of State, in exercise of the powers conferred on her by sections 11A(6)(b), (7) and (10) of the Electricity Act 1989 and 23(7)(b), (8) and (12) of the Gas Act 1986, hereby makes the following Order:

### **Citation and commencement**

1. This Order may be cited as the Electricity and Gas (Modification of Standard Conditions of Licences) Order 2002 and shall come into force on the day after the day on which it is made.

### **Interpretation**

2. In this Order -

“the Electricity Act” means the Electricity Act 1989;

“the Gas Act” means the Gas Act 1986;

“licensed generator” means the holder of a licence under section 6(1)(a)<sup>(1)</sup> of the Electricity Act;

“metering point” means any energised or de-energised entry or exit point to, from or on a distribution system of any electricity distributor where a meter or other metering equipment is used for the purpose of measuring electricity conveyed to or from that system;

“NTS” means the high pressure pipe-line system (excluding any regional distribution system for the conveyance of gas) owned and operated by Transco plc;

“NTS input” means the quantity of gas introduced at an entry point into the NTS;

“NTS offtake” means the quantity of gas taken out at an exit point from the NTS;

“registered capacity” means the maximum amount of electricity which the licensed generator who operates a generating station has agreed with the operator of the distribution system or the transmission system to which the generating station is connected may be provided by it to that system (other than in exceptional circumstances) from time to time;

“relevant licence holder” has the meaning given to it in section 11A(10) of the Electricity Act and section 23(12) of the Gas Act as the case may be; and

“Transco plc” means the company registered in England and Wales under number 02006000.

### **Prescription of percentages and meaning of weighted according to market share for the purposes of section 11A of the Electricity Act**

3.—(1) For the purposes of section 11A(6)(b)(i) and (ii) of the Electricity Act it is hereby prescribed that the percentage shall be twenty per cent.

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<sup>(1)</sup> Section 6 was substituted by section 30 of the Utilities Act 2000.

(2) For the purposes of section 11A(7) of the Electricity Act it is hereby prescribed that weighted according to market share means-

- (a) in the case of electricity suppliers who are relevant licence holders [on the day on which the Authority gives a relevant notice] and who have given notice of objection the total number of metering points registered at the relevant time to those suppliers divided by the total number of metering points registered at the relevant time to electricity suppliers who are relevant licence holders [on the day on which the Authority gives a relevant notice];
- (b) in the case of electricity distributors who are relevant licence holders [on the day on which the Authority gives a relevant notice] and who have given notice of objection the total number of metering points registered to electricity suppliers which are at the relevant time on or connected to the distribution systems of those distributors divided by the total number of metering points registered to electricity suppliers which are at the relevant time on or connected to the distribution systems of electricity distributors who are relevant licence holders [on the day on which the Authority gives a relevant notice];
- (c) in the case of licensed generators who are relevant licence holders [on the day on which the Authority gives a relevant notice] and who have given notice of objection the average registered capacity of those generators during the twelve month period ending at the relevant time divided by the average registered capacity during the twelve month period ending at the relevant time of licensed generators who are relevant licence holders [on the day on which the Authority gives a relevant notice];

as calculated (in each case) by the Authority<sup>(a)</sup> on the basis of the information available to it.

(3) For the purposes of this article a metering point is registered to an electricity supplier where that supplier is the supplier responsible for the provision of a supply through that metering point in accordance with the provisions of a supply licence granted by the Authority under section 6(1)(d)<sup>(b)</sup> of the Electricity Act.

(4) For the purposes of this article "the relevant time" is one minute past midnight on the day which is sixty days prior to the day on which the Authority gives a relevant notice.

(5) For the purposes of this article "a relevant notice" is a notice given by the Authority pursuant to section 11A(3) of the Electricity Act which makes proposals in respect of conditions included or to be included in a licence of the type held by the relevant licence holder and in relation to which the Authority is making a calculation under this article.

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<sup>(a)</sup> The Authority was created by section 1(1) of the Utilities Act 2000.

<sup>(b)</sup> Section 6 (together with sections 6A and 6B) of the Electricity Act was substituted for section 6 as originally enacted by section 30 of the Utilities Act 2000.

**Prescription of percentages and meaning of weighted according to market share for the purposes of section 23 of the Gas Act**

4.—(1) For the purposes of section 23(7)(b)(i) and (ii) of the Gas Act it is hereby prescribed that the percentage shall be twenty per cent.

(2) For the purposes of section 23(8) of the Gas Act it is hereby prescribed that weighted according to market share means-

- (a) in the case of gas suppliers who are relevant licence holders [on the day on which the Authority gives a relevant notice] and who have given notice of objection the total number of consumers contracted at the relevant time to those suppliers for the supply of gas divided by the total number of consumers contracted at the relevant time for the supply of gas to gas suppliers who are relevant licence holders [on the day on which the Authority gives a relevant notice];
- (b) in the case of gas shippers who are relevant licence holders [on the day on which the Authority gives a relevant notice] and who have given notice of objection the sum of the aggregated daily average of NTS input and NTS offtake of those shippers at the relevant time divided by the sum of the aggregated daily average of NTS input and NTS offtake at the relevant time of gas shippers who are relevant licence holders [on the day on which the Authority gives a relevant notice];
- (c) in the case of gas transporters who are relevant licence holders [on the day on which the Authority gives a relevant notice] and who have given notice of objection the total quantity of gas conveyed to the premises of consumers by those transporters during the twelve month period ending at the relevant time divided by the total quantity of gas conveyed to the premises of consumers during the twelve month period ending at the relevant time by gas transporters who are relevant licence holders [on the day on which the Authority gives a relevant licence];

as calculated (in each case) by the Authority on the basis of the information available to it.

(3) For the purposes of this article “the relevant time” is six a.m. on the day which is sixty days prior to the day on which the Authority gives a relevant notice.

(4) For the purposes of this article "a relevant notice" is a notice given by the Authority pursuant to section 23(3) of the Gas Act which makes proposals in respect of the conditions included or to be included in a licence of the type held by the relevant licence holder and in relation to which the Authority is making a calculation under this article.

(5) For the purposes of this article a gas shipper’s aggregated daily average NTS input and NTS offtake shall be calculated by reference to that shipper’s total NTS input and NTS offtake in the twelve month period which ends at the relevant time.

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order prescribes percentages and market share determination for the purposes of section 11A of the Electricity Act 1989 (“the Electricity Act”) and section 23 of the Gas Act 1986 (“the Gas Act”).

It is possible by use of the procedures laid down in section 11A of the Electricity Act and section 23 of the Gas Act for a standard condition to be modified in all electricity (or all gas) licences, thus removing the need for each licence in which the condition is included to be modified on an individual basis. Modifications to standard conditions are proposed by the Authority but may not be made using the collective modification procedures provided by section 11A of the Electricity Act and section 23 of the Gas Act if the proportion of relevant licence holders (which means in the case of a proposal for a new licence condition all holders of the licence of the type concerned and in the case of modification of existing conditions all licence holders who have the relevant condition appearing in their licence) who give notice of objection to the proposal equals or exceeds either of two levels. The modification cannot proceed collectively if either the proportion (expressed as a percentage) of relevant licence holders giving notice of objection is at or above a prescribed percentage or the proportion (expressed as a percentage) of relevant licence holders giving notice of objection weighted according to their market share is at or above a prescribed percentage.

Section 11A of the Electricity Act and section 23 of the Gas Act provide for the Secretary of State to prescribe by order the percentages referred to above and the manner in which objections are to be weighted according to market share.

Article 3 of this Order prescribes the percentages and the meaning of weighted according to market shares in the case of electricity suppliers, electricity distributors and those who hold a licence to generate electricity under section 6(1)(a) of the Electricity Act.

Article 4 of the Order prescribes the percentages and the meaning of weighted according to market shares in the case of gas suppliers, gas shippers and gas transporters.

[A regulatory impact assessment is available and can be obtained from the Energy Policy Directorate, Department of Trade and Industry, 1 Victoria Street, London SW1H 0ET. Copies have been placed in the libraries of both Houses of Parliament.]