**ENERGY MARKET INVESTIGATION**

**CONSULTATION**

# Draft Amendments to the Gas Supply Licence for the Energy Market Investigation (Prepayment Charge Restriction) Order 2016

## GAS SUPPLY LICENCE

**Condition 28A. Prepayment Charge Restriction**

**Requirement to adhere to a Prepayment Charge Restriction**

28A.1   The licensee must ensure that, between 1 April 2017 and 31 December 2020, the aggregate amount of all Charges for Supply Activities applicable to each Relevant Customer does not exceed the Relevant Maximum Charge within each Charge Restriction Period.

28A.2   Unless a direction has been issued by the Authority pursuant to paragraph 28A.20, in order to comply with paragraph 28A.1, the licensee must ensure that for each of its Prepayment Tariffs the aggregate Charges for Supply Activities applicable to any Relevant Customer at any consumption level ($x$ kWh) in respect of a Charge Restriction Period do not exceed the Relevant Maximum Charge.

28A.3   This condition 28A does not apply in relation to Fixed Term Supply Contracts entered into by a Relevant Customer on or before 24 June 2016.

**Determination of the Relevant Maximum Charge**

28A.4   For each Charge Restriction Period of length $t$ months (denoted $j$), and for each of the 14 Charge Restriction Regions (denoted $i$), the Relevant Maximum Charge for a given level of consumption $x$ shall be determined by reference to the Benchmark Maximum Charges applicable during a Charge Restriction Period at two Benchmark Annual Consumption Levels denoted below as *nil* and *m*, as follows:

$$ChargeMax(x) =$$

$$\left[ ChargeMax_{i,j}(nil) \times \frac{t}{12} \right] + \left[ \frac{ChargeMax_{i,j}(m) - ChargeMax_{i,j}(nil)}{m} \times x \right]$$

ChargeMax(*m*) and ChargeMax(*nil*) are defined as described in paragraph 28A.5.

## Calculation of the Benchmark Maximum Charges for Charge Restriction Periods

28A.5  For each Charge Restriction Period, the Authority will calculate the Benchmark Maximum Charge for each:

(a) Benchmark Annual Consumption Level; and

(b) Charge Restriction Region,

in accordance with the following formula:

$$ChargeMax_{i,j,k} = (WC_{j,k} + NC_{i,j,k} + PC_{j,k} + IC_{j,k} + PPM_j + H_{j,k})$$

where (the following units all being in pounds sterling):

$ChargeMax_{i,j,k}$ means the Benchmark Maximum Charge in Charge Restriction Region *i*, in Charge Restriction Period *j*, at Benchmark Annual Consumption Level *k*;

$WC_{j,k}$ means the wholesale cost allowance in Charge Restriction Period *j*, at Benchmark Annual Consumption Level *k*, calculated in accordance with paragraph 28A.6;

$NC_{i,j,k}$ means the network cost allowance in Charge Restriction Region *i*, in Charge Restriction Period *j*, at Benchmark Annual Consumption Level k, determined in accordance with paragraph 28A.7;

$PC_{j,k}$ means the policy cost allowance in Charge Restriction Period *j*, at Benchmark Annual Consumption Level *k*, calculated in accordance with paragraph 28A.10;

$IC_{j,k}$ means the indirect cost allowance in Charge Restriction Period *j*, at Benchmark Annual Consumption Level *k*, calculated in accordance with paragraph 28A.11;

$PPM_j$ means the prepayment meter uplift allowance in Charge Restriction Period *j* calculated in accordance with paragraph 28A.12;

$H_{j,k}$ means the headroom allowance in Charge Restriction Period $j$, at Benchmark Annual Consumption Level $k$, calculated in accordance with paragraph 28A.13;

$t$ means the the number of months in the Charge Restriction Period.

28A.6 For the purposes of paragraph 28A.5, the wholesale index value in Charge Restriction Period $j$ at Benchmark Annual Consumption Level $k$ shall be calculated as follows:

$$WC_{j,k} = WC_{0,k} \times \frac{WI_j}{WI_0}$$

where:

$WC_{0,k}$ means the Baseline Value for wholesale index value, for Benchmark Annual Consumption Level $k$. The Baseline Values for this term are set out in Annex 1;

$WI_j$ means the wholesale index value relating to Charge Restriction Period $j$ which the Authority will calculate semi-annually and, subject to paragraph 28A.8 below, in accordance with the methodology set out in Annex 2;

$WI_0$ means the Baseline Value for the wholesale index and shall take the value 56.33.

28A.7 For the purposes of paragraph 28A.5, the network cost allowance in Charge Restriction Region $i$, in Charge Restriction Period $j$, at Benchmark Annual Consumption Level $k$ shall be calculated based on the data within published network company charging statements and, subject to paragraph 28A.8 below, in accordance with the methodology and data sources set out in Annex 3. The Baseline Value of the network cost allowances are set out in Annex 4 for each Benchmark Annual Consumption Level and Charge Restriction Region.

28A.8 If the external data sources referred to in Annexes 2 or 3 are no longer available, the Authority may replace the data sources set out in Annexes 2 or 3 (as applicable) with any suitable successor data sources. If the Authority cannot identify a suitable successor data source, it may, following consultation, either replace the data with an alternative data source, or amend the form of the model to reflect the change in data availability.

28A.9　The Authority may, following consultation, amend the methodology set out in Annex 3 to calculate the network cost allowance, where changes in charging methodology result in the network cost allowance diverging materially from the calculation of actual network costs for some or all Relevant Customers.

28A.10　For the purposes of paragraph 28A.5, the policy cost allowance in Charge Restriction Period $j$, at Benchmark Annual Consumption Level $k$, shall be calculated as follows:

$$PC_{j,k} = PC_{0,k} \times \frac{CPI_{j,}}{CPI_0}$$

where:

$PC_{0,k}$　　means the Baseline Value for the policy cost allowance, at Benchmark Annual Consumption Level $k$. The values for this term are set out in Annex 1;

$CPI_j$　　means the value of the Consumer Prices Index, series ID: D7BT, published by the Office for National Statistics or the successor to such series as may be identified by the Monetary Policy Committee of the Bank of England for the purposes of targeting inflation or as otherwise directed by the Authority. The value used shall be chosen as follows:

- For a Charge Restriction Period starting on 1 April the value of $CPI_j$ shall be calculated as:

$$CPI_j = (\frac{CPI_{Dec\ j-1}}{CPI_{Jun\ 2015}}) \times 100$$

- For a Charge Restriction Period starting on 1 October the value of $CPI_j$ shall be calculated as:

$$CPI_j = \left(\frac{CPI_{Jun\ j-1}}{CPI_{Jun\ 2015}}\right) \times 100$$

$CPI_0$　　has the value 100.

28A.11　For the purposes of paragraph 28A.5, the indirect cost allowance in Charge Restriction Period $j$, at Benchmark Annual Consumption Level $k$, shall be calculated as follows:

$$IC_{j,k} = IC_{0,k} \times \frac{CPI_j}{CPI_0}$$

where:

$IC_{0,k}$ means the Baseline Value of the indirect cost allowance and shall take the values set out in Annex 1 for each Benchmark Annual Consumption Level;

$CPI_j$ means the value of the Consumer Prices Index, series ID: D7BT, published by the Office for National Statistics or the successor to such series as may be identified by the Monetary Policy Committee of the Bank of England for the purposes of targeting inflation or as otherwise directed by the Authority. The value used shall be chosen as follows:

- For a Charge Restriction Period starting on 1 April the value of $CPI_j$ shall be calculated as:

$$CPI_j = \left(\frac{CPI_{Dec\ j-1}}{CPI_{Jun\ 2015}}\right) \times 100$$

- For a Charge Restriction Period starting on 1 October the value of $CPI_j$ shall be calculated as:

$$CPI_j = \left(\frac{CPI_{Jun\ j-1}}{CPI_{Jun\ 2015}}\right) \times 100$$

$CPI_0$ has the value 100.

28A.12 For the purposes of paragraph 28A.5, the prepayment uplift allowance in Charge Restriction Period $j$ shall be calculated as follows:

$$PPM_j = PPM_0 \times \frac{CPI_j}{CPI_0}$$

where:

$PPM_0$ means the Baseline Value of the prepayment uplift and shall be £39;

$CPI_j$ has the meaning given to it in paragraph 28A.11;

$CPI_0$ has the meaning given to it in paragraph 28A.11.

28A.13 For the purposes of paragraph 28A.5, the headroom allowance in Charge Restriction Period $j$, at Benchmark Annual Consumption Level $k$ shall be calculated as follows:

$$H_{j,k} = HAP \times (WC_{j,k} + PC_{j,k} + IC_{j,k} + PPM_j)$$

where:

$HAP$    means the headroom allowance percentage, which is 3.48%.

**Determination and publication of Benchmark Maximum Charges and other values**

28A.14 Subject to paragraphs 28A.16 and 28A.17 no later than the fifth Working Day of February in relation to a forthcoming Charge Restriction Period $j$ starting on 1 April, or no later than the fifth Working Day of August in relation to a forthcoming Charge Restriction Period $j$ starting on 1 October, the Authority will:

(a) determine the updated Benchmark Maximum Charges which shall apply for any forthcoming Charge Restriction Period by calculating such values in accordance with paragraph 28A.5; and

(b) publish such Benchmark Maximum Charges so calculated in the format specified in Annex 5.

28A.15 Subject to paragraphs 28A.16 and 28A.17, at the same time as publishing the Benchmark Maximum Charges pursuant to paragraph 28A.14(b) the Authority will also publish the following values and, where relevant, identify the data sources used:

(a) the wholesale index value, calculated in accordance with paragraph 28A.6;

(b) the network cost allowance in each Charge Restriction Region $i$, determined in accordance with paragraph 28A.7; and

(c) the value of $CPI_j$ as described in paragraph 28A.11.

28A.16 If the information that is required to calculate one or more of the values listed in paragraph 28A.15 is unavailable, the Authority may use an alternative source to set the values to determine the Benchmark Maximum Charges. In that event, the Authority will publish the alternative value(s) it has used to determine the Benchmark Maximum Charge at the same time as publishing the Benchmark Maximum Charges.

28A.17 If, owing to a technical issue, the Authority is unable to publish the Benchmark Maximum Values or the values listed in paragraph 28A.15 within the timetable set out in paragraph 28A.14, it will publish such values without delay following resolution of the technical issue.

**Duration of the Prepayment Charge Restriction**

28A.18 This condition will come into force on 1 January 2017 and shall cease to have effect on 30 June 2021.

**Direction for alternative compliance assessment**

28A.19 The licensee may apply to the Authority to request a direction concerning the compliance of a particular Prepayment Tariff with the Prepayment Charge Restriction where, due to the structure of the relevant Prepayment Tariff, the Charges for Supply Activities at certain consumption levels would exceed the Relevant Maximum Charge, but the licensee can provide evidence to the reasonable satisfaction of the Authority that it is unlikely that any Relevant Customer subject to such Prepayment Tariff will have a consumption level which would cause them to incur Charges for Supply Activities in excess of the Relevant Maximum Charge.

28A.20 If the Authority has issued a direction to the licensee pursuant to paragraph 28A.19, the licensee must comply with such direction and must determine, at the end of each Charge Restriction Period, whether any Relevant Customer has in fact incurred Charges for Supply Activities in excess of the Relevant Maximum Charge. If the licensee determines that this is the case, the licensee must:

(a) inform the Authority in Writing without delay; and

(b) pay a rebate to, or credit the account of, each such Relevant Customer equal to the difference between the Charges for Supply Activities actually incurred and the Relevant Maximum Charge within 30 days of the end of the relevant Charge Restriction Period.

**Reporting Obligation**

28A.21 The licensee must provide the Authority with a report, in the format specified by the Authority from time to time, no more than seven days after the start of each Charge Restriction Period. This report must state for each of its Prepayment Tariffs:

(a) the Tariff Name and any brand name that the Prepayment Tariff is marketed under;

(b) the first and (where applicable) last dates on which each Prepayment Tariff was or will be supplied to Relevant Customers under a Domestic Supply Contract or a Deemed Contract;

(c)     the Standing Charge(s) and Unit Rate(s) of each Prepayment Tariff in each Charge Restriction Region;

(d)     the Prepayment Tariff availability criteria;

(e)     the number of customers subject to the Prepayment Tariff at the end of the first day of the Charge Restriction Period; and

(f)     any other information about the Prepayment Tariff which the Authority may from time to time specify.

28A.22 The licensee must inform the Authority, in Writing (or in any other format specified by the Authority), of any changes to the information included in the report as soon as reasonably practicable after the implementation of any such changes, including as a result of the launch of a new Prepayment Tariff.

28A.23 The licensee must give the Authority any information that it reasonably requests about the licensee's compliance with paragraph 28A.1 as soon as reasonably practicable after receiving a request.

**Definitions for condition**

28A.24 In this condition:

**'Baseline Value'** means the values specified by the CMA as at 30 June 2015.

**'Benchmark Annual Consumption Levels'** means the benchmark annual consumption levels nil kWh and $m$ kWh, where $m$ shall respectively take the value 13,500 kWh.

**'Benchmark Maximum Charge'** means one of 28 benchmark maximum charge values (in pounds sterling and exclusive of Value Added Tax), which are unique to a specific Benchmark Annual Consumption Level and Charge Restriction Region, and are updated on a semi-annual basis by the Authority pursuant to paragraphs 28A.5 and 28A.14;

**'Charge Restriction Region'** means a Distribution Services Area;

**'Charge Restriction Period'** means a period, between 1 April 2017 and 31 December 2020, either:

- beginning on 1 April of each year and ending on 30 September of the same calendar year; or

- beginning on 1 October of each year and ending on 31 March of the subsequent calendar year; or

- beginning on 1 October of 2020 and ending on 31 December 2020.

**'Charges for Supply Activities'** has the meaning given to that term in standard condition 22A**;**

**'CMA'** means the Competition and Markets Authority;

**'Distribution Services Area'** has the meaning given in and is to be interpreted in accordance with standard condition 2 (Application of Section C (Distribution Services Obligations)) of the distribution licence granted or treated as granted under section 6(1)(c) of the Electricity Act 1989;

**'Excluded Smart Meter'** means either: (a) a Smart Metering System which consists of a Gas Meter and any associated or ancillary devices identified in a version (other than the first version) of the SME Technical Specification; or (b) a Smart Metering System otherwise identified by the CMA (through a direction given under the Energy Market Investigation (Prepayment Charge Restriction) Order 2016) as being fully interoperable;

**'Prepayment Charge Restriction'** means the obligation set out in paragraph 28A.1;

**'Prepayment Tariff'** means a Tariff in respect of any Domestic Supply Contract or Deemed Contract with a Relevant Customer which includes a requirement to pay Charges through a Prepayment Meter;

**'Relevant Customer'** means a Domestic Customer supplied via a Prepayment Meter, excluding those Domestic Customers supplied via an Excluded Smart Meter;

**'Relevant Maximum Charge'** means for each Relevant Customer the maximum charge amount (in pounds sterling) for any consumption level, calculated in accordance with paragraph 28A.5 in the relevant Charge Restriction Period and Charge Restriction Region.

**Annex 1 – Baseline Values of the wholesale cost allowance, policy cost allowance, indirect cost allowance, prepayment meter allowance and headroom allowance (ie as at 30 June 2015)**

| | Single rate meters (benchmark consumption per annum, *k*) | |
|---|---|---|
| | **Nil kWh** | ***m* (13,500 kWh)** |
| Wholesale cost allowance | £0.00 | £277.93 |
| Policy cost allowance | £8.40 | £18.42 |
| Indirect cost allowance | £43.44 | £95.65 |
| Prepayment meter allowance | £39.00 | £39.00 |
| Headroom allowance | £3.16 | £15.00 |
| | **£94.00** | **£446.00** |

**Annex 2 – Methodology for determining the wholesale index value**

[Please see attached .xls file]

**Annex 3 – Methodology for determining the network cost index value**

[Please see attached .xls file]

**Annex 4 – Baseline Values of the network cost allowances (ie as at 30 June 2015)**

| Region, *i* | Single-rate meters (benchmark consumption per annum, k) | |
| --- | --- | --- |
| | **Nil kWh** | *m* (13,500 kWh) |
| North West England | £0.00 | £145.64 |
| North East England | £0.00 | £128.80 |
| Yorkshire & North Lincolnshire | £0.00 | £126.70 |
| North Scotland | £0.00 | £129.51 |
| Southern England | £0.00 | £153.20 |
| Southern Scotland | £0.00 | £129.51 |
| North Wales and Mersey | £0.00 | £144.94 |
| London | £0.00 | £154.76 |
| South East England | £0.00 | £149.60 |
| East England | £0.00 | £137.72 |
| East Midlands | £0.00 | £128.01 |
| West Midlands | £0.00 | £135.08 |
| South West England | £0.00 | £148.48 |
| South Wales | £0.00 | £131.05 |

**Annex 5 – Baseline Benchmark Maximum Charges (ie as at 30 June 2015)**

| Region, $i$ | Single rate meters (benchmark consumption per annum, $k$) | |
| --- | --- | --- |
| | **Nil kWh** | **$m$ (13,500 kWh)** |
| North West England | £94.00 | £586.22 |
| North East England | £94.00 | £585.38 |
| Yorkshire & North Lincolnshire | £94.00 | £572.01 |
| North Scotland | £94.00 | £567.97 |
| Southern England | £94.00 | £599.90 |
| Southern Scotland | £94.00 | £568.02 |
| North Wales and Mersey | £94.00 | £584.39 |
| London | £94.00 | £598.09 |
| South East England | £94.00 | £590.34 |
| East England | £94.00 | £583.85 |
| East Midlands | £94.00 | £573.57 |
| West Midlands | £94.00 | £582.72 |
| South West England | £94.00 | £592.40 |
| South Wales | £94.00 | £577.92 |