



Department
of Energy &
Climate Change

Implementing the Energy Efficiency Directive provisions on gas and electricity billing

Government Response to Consultation

URN 14D/181 – June 2014

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The consultation [and Impact Assessment] can be found on DECC's website:
<https://www.gov.uk/government/consultations/implementing-the-energy-efficiency-directive-provisions-on-gas-and-electricity-billing>

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1. Executive Summary

Purpose of this document

- 1.1. This document sets out the Government's response to its consultation of 13 January 2014 on the implementation of the provisions on gas and electricity billing in the Energy Efficiency Directive¹.
- 1.2. The consultation sought views and comments on the implementation in Great Britain of the electricity and gas billing requirements of Directive 2012/27/EU of the European Parliament and of the Council on energy efficiency (the Energy Efficiency Directive or the Directive). The Directive was published in the Official Journal of the European Union on 14 November 2012 and entered into force 20 days later, on 04 December 2012. The Directive can be found at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:315:0001:0056:EN:PDF>
- 1.3. The Government's initial assessment of the Directive indicated that Great Britain was compliant with many of the requirements under Articles 10 and 11, but that in order to be able to demonstrate full compliance action was needed in a limited number of areas related to the accuracy and frequency of billing and access to consumption data.
- 1.4. The consultation sought views on the approach to the implementation of the billing elements of Articles 10 and 11 of the Directive to the electricity and gas supply market in Great Britain and outlined proposals for changes to supplier licence conditions where needed. The full text of Articles 10 and 11 and Annex VII is included at Annex A of this document.
- 1.5. The consultation was concerned with the transposition of the Articles in Great Britain; the Directive will be transposed separately in Northern Ireland.

Consultation responses

- 1.6. Ten organisations responded to the original consultation. They comprised:
 - Five major suppliers
 - Two smaller suppliers
 - One non-domestic supplier

¹The consultation document can be found at <https://www.gov.uk/government/consultations/implementing-the-energy-efficiency-directive-provisions-on-gas-and-electricity-billing>

- One licence exempt supplier
- One industry trade body

Government conclusions

- 1.7. Having considered the consultation responses, the Government has decided to proceed with its proposed approach to implementation of the billing elements of the Energy Efficiency Directive and will bring forward amendments to supplier licence conditions. In response to comments made in consultation responses, the Government has made amendments to some of our licence condition changes. Updated licence condition drafting is at Annex B.
- 1.8. Regulations to implement the licence condition modifications will be laid before Parliament shortly and will come into force following successful completion of the Parliamentary process.

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2. Accurate Billing

Consultation Question	
1.	Do you agree with the proposed approach to the implementation of Article 10.1? If not, please provide comments and explain the rationale behind them.
2.	To what extent do suppliers already take reasonable steps to ensure billing based on a meter reading takes place at least once a year?
3.	Do you envisage any additional costs being incurred as a result of the proposed licence amendment? If so, please provide evidence of these costs.
4.	Do you agree that the draft licence condition should apply to domestic and non-domestic customers?
5.	What supplier actions would you consider to be economically justified for the purposes of obtaining a meter reading once a year?

Summary of responses

- 2.1. There was general agreement to the proposed approach to the implementation of Article 10.1. There were, however, a number specific suggestions and points made on the drafting of the standard licence conditions.
- 2.2. Nine organisations responded to question 2. While there was variation among individual firms, the responses indicated that suppliers were already taking steps to ensure billing based on a meter reading takes place at least once annually.
- 2.3. Of the eight organisations that responded to question 3, four stated that they did not envisage the proposed licence amendment creating significant additional costs for suppliers. One smaller supplier said the proposed changes could lead to some additional staffing and system costs, but were unable to quantify them.
- 2.4. Seven organisations, all of them suppliers, responded to question 4. Six respondents agreed with DECC's proposals.

Reasonably practicable steps

- 2.5. Two large suppliers felt that the proposed text of the licence conditions went beyond what is required by the Directive and suggested amendments to the language. Specifically, one supplier suggested that reference to suppliers taking “all reasonably practical steps to obtain a meter reading” be removed and replaced with the reference in Article 10.1 of the Directive to ensuring its requirements are met where “technically possible and economically justified”.
- 2.6. The Government has come to the view that this would not be appropriate. The requirements of the Directive fall on Member States and it is for Member States to ensure that they can demonstrate compliance and to explain any exemptions on technical feasibility or economic justification grounds when notifying their transposition. Copy-out of the Directive text in this instance would mean the Government would not be able to notify the Commission of the occasions when the frequencies are not being respected as the test for technical and economic feasibility would be placed on the supplier or regulator and not the Government.
- 2.7. A number of respondents sought clarity on what constitutes the reasonably practicable steps that suppliers must take to obtain a meter reading. There were some requests to include this in the licence condition or as separate guidance.
- 2.8. Our original consultation noted that the drafting of this amendment was intended to recognise that there were some situations where it would not be possible to obtain a meter reading and where a supplier endeavours to obtain a meter reading but one is not obtained. Respondents welcomed this and the clarification that suppliers would not be required to seek a court order to enter premises when they had been unable to obtain a meter reading using reasonably practicable steps.
- 2.9. Reasonably practicable steps for a supplier to obtain a meter reading could include providing a customer with an opportunity for regular self-reading whereby they communicate the readings from the meter to the energy supplier and making a customer aware of this opportunity, arranging for an agent to visit and providing some form of targeted contact such as an e-mail, letter or phone call
- 2.10. There are also situations where obtaining a meter reading once a year will be impractical and a supplier will be aware of this. Several respondents argued that properties that are known to be empty and some communal lighting systems should also be exempt, as it is respectively unnecessary or impractical to take meter readings at these sites. The Government acknowledges that where a supplier is aware of situations such as this, a supplier could reasonably assume that there are not any reasonably practicable steps which can be taken to obtain a meter reading.

- 2.11. The Government also notes from the consultation that there are technological and industry changes that present alternative steps for obtaining a meter reading. We also note opportunities to obtain a meter read will vary according to customers' various account types (such as ones with online account management or more frequent billing). We do not consider it necessary to add examples to the licence condition itself, or produce a separate guidance document. When deciding whether to proceed with an investigation, Ofgem will consider the specific facts of the matter, in accordance with their Enforcement Guidelines on Complaints and Investigation². We are also mindful of the principles of Better Regulation, which require that regulation, and its use, is transparent, proportionate, accountable, consistent and targeted.
- 2.12. Following further consideration on the drafting of existing licence conditions and discussion with the regulator, we have decided to use the term 'all reasonable steps' in place of 'all reasonably practicable' steps. This change of wording is being introduced for consistency reasons to prevent the creation of new terms. The above clarifications and examples provided in this Government Response to Consultation would continue to apply. For the avoidance of doubt, this is not a policy change but is intended to avoid adding unnecessarily complexity for Ofgem and for licensees.

Pre-payment meters and smart meters

- 2.13. A number of respondents suggested specific exemptions to the implementation of Article 10.1. Specifically they pointed to pre-payment customers, stating that in effect these consumers are provided with a meter reading every time they top up.
- 2.14. One supplier noted how meter reading practices are different for pre-payment customers, reporting that these meters are typically only visually inspected every 18 months in line with safety inspections requirements. They further added that the nature of a 'pay as you go' service means that charges are always on the basis of meter readings.
- 2.15. In their response, an industry group also highlighted that the potential cost implications for suppliers would be significant if the requirements to obtain a meter reading once a year were applied to pre-payment customers.
- 2.16. Another respondent highlighted that it has installed over one million smart meters; technology that will greatly improve suppliers' ability to generate bills based on accurate consumption data.
- 2.17. The Government agrees with respondents that the nature of pre-payment meters and smart meters means that billing based on an accurate meter reading is always available to customers with those meter types. The Government will amend the draft the draft licence conditions to reflect this.

² <https://www.ofgem.gov.uk/publications-and-updates/enforcement-guidelines-complaints-and-investigations> This document refers to current Enforcement Guidelines. Revised Enforcement Guidelines are currently under consultation. Details can be found at this link <https://www.ofgem.gov.uk/publications-and-updates/consultation-of-gems-draft-enforcement-guidelines>.

Non-domestic

2.18. One supplier suggested that the licence conditions should only apply to non-domestic customers who fit Ofgem's definition of a micro business³. They argued that the requirements should not cover larger non-domestic customers such as public sector organisations, as additional regulation could impact on their billing preferences. Whilst the Government does recognise that there are differences in the needs and abilities of large non-domestic and micro businesses, this distinction, however, is not made in the Directive in relation to this requirement.

Unmetered supply

2.19. Three suppliers drew attention to customers who only use energy on a limited or seasonal basis and have an unmetered supply such as Christmas light companies. It was suggested that it would not make sense to bill these customers more than once a year. The Government agrees that the mandated frequencies of billing are not necessary in circumstances where metering is taking place and will amend licence condition changes to reflect this.

Government Response

2.20. The Government will amend the proposed licence condition modifications set out in the consultation to acknowledge the different functionality of smart meters and prepayment meters so that the licence condition reads as follows:

21B.3 The licensee must take all reasonable steps to obtain a meter reading for each of its Customers (including any meter reading transmitted electronically from a meter to the licensee or provided by the Customer and accepted by the licensee) at least once every year.

This paragraph does not apply in relation to any Customer with a Prepayment Meter;

2.21. Full detail of the proposed changes to licence conditions can be found at Annex B.

³ Under SLC 7A.14 a non-domestic consumer is defined as a micro business if they meet one the following criteria:

- Employs fewer than 10 employees (or their full time equivalent) and has an annual turnover or balance sheet greater than €2 million, or
- Consumes not more than 100,000 kWh of electricity per year, or
- Consumes not more than 293,00 kWh of gas per year

3. Receiving Billing Information

Consultation Question	
6.	What additional costs would these licence conditions impose? Please provide details of your existing billing regimes (frequency of bill and number of customers) where any changes are expected to these.
7.	Do you agree with the proposed approach to the implementation of the requirements around receiving billing information? If not, please provide comments and explain the rationale behind them.
8.	Does the requirement to offer the option of online account management require any changes to supplier practices and any additional costs?

Summary of responses

- 3.1. Respondents expressed a range of views about the appropriate frequency of providing billing information. Nine suppliers also provided information on the cost implications of providing customers with a bill or statement of account at least twice yearly and at least quarterly to those who requested it or had online account management.
- 3.2. One small supplier predicted that the proposed licence conditions were unlikely to impose additional costs on their business. Seven respondents said it was likely to impose additional costs on their businesses. These included amendments to billing systems, as well as increases in stationery, printing and postage use which would all add costs.
- 3.3. Eight organisations, all of them suppliers, responded to question 8 on requiring the option of online account management. There was general support but some concerns over costs.

Pre-payment meter customers

- 3.4. A number of suppliers suggested that it would be unnecessary to send two statements of account to pre-payment customers each year, as these meters allowed householders to easily calculate their energy expenditure. In the same vein, an industry group sought assurances from DECC that each vend by a pre-payment customer would be covered by the definition of 'bill or statement of account'.
- 3.5. The Government agrees with respondents that the nature of pre-payment and smart meters mean consumers with these meters will have access to their billing information

at any time. The Government will amend the draft the draft licence conditions to recognise this.

Mandated frequencies

- 3.6. There were a range of views on the appropriate frequency of providing billing information. In its comments, one consumer campaign group suggested that the proposals go further, and that licence conditions be amended so that all consumers received quarterly bills. They argued that it was unfair that online customers would receive quarterly bills whereas those receiving paper bills could only expect a minimum of two each year.
- 3.7. In its response, an industry group noted that suppliers' ability to vary the frequency and manner in which they communicate with their customers was one of the primary ways in which they can differentiate themselves and compete. It cautioned that DECC's proposals should seek to avoid to limit suppliers' scope in this area. The Government welcomes competition between suppliers in their communications and notes that these requirements only set minimum standards. Therefore suppliers would still be free to compete through innovating around the frequency and content of communications with their customers.
- 3.8. A number of respondents questioned the mandated frequencies set out and suggested alternative formulations. Some respondents suggested that it should be for those customers with online account management to request, rather than automatically receive, quarterly billing.
- 3.9. A link between billing frequencies and payment method was also referred to by a number of respondents who saw certain billing frequencies as better suited to different payment methods. One supplier suggested that providing direct debit customers with quarterly bills could create confusion, as these consumers typically preferred to receive statements at the point of review. Whilst the Government acknowledges that cases can be made for alternative frequencies and formulations of the requirements, the frequencies proposed are set out in Directive and the Government intends to follow these to ensure compliance. The Government's policy is to keep burdens on business to a minimum and therefore it intends to implement these as minimum requirements. Suppliers may, if they wish, exceed these requirements.

Additional ways to receive billing information

- 3.10. It was suggested in responses that Annual Statements should count as one of the communication elements listed in SLC 21B.5 as these contain the cost of energy and the amount a customer has spent in a period. The Government notes, however, that information is for one year and is a separate channel of communication not connected to bills. Thus a customer receiving one bill and one annual statement a year would be receiving the same billing information twice.
- 3.11. The Directive seeks to ensure that consumers are told at least every 6 months (or every 3 months if they ask for it or are billed electronically) how much they will be billed for the energy they used in the last period. Taking this into account, the

Government does not believe that Annual Statements can be included as a way of meeting this requirement.

- 3.12. A number of responses drew attention to the ability of some comprehensive online account management systems to generate a statement of account for a customer when they input a meter reading. The Government does not want to deter this and other innovative ways of providing a customer with billing information and so the Government will modify the proposed licence conditions to cover situations where a supplier makes available a bill or statement of account as opposed to providing it.

Clear explanation of a bill

- 3.13. Five organisations argued that having a licence requirement to provide a customer with a clear and understandable explanation of how their bill was derived (as SLC 21B.6 does) would be unnecessary as the actions it covered were already required under the enforceable standards of conduct for suppliers introduced by Ofgem in August 2013. One supplier stated that the proposed SLC, which would require suppliers to explain to customers how their bill was derived in clear and intelligible language, was “reasonable”.
- 3.14. Whilst the Government appreciates that the existing requirements contained within Ofgem’s standards of conduct for suppliers mean that suppliers should already be compliant with these requirements in practice, the Government’s view is that a more explicit statement of the Directive’s requirements provides the certainty required for compliance. We also note that Ofgem’s standards of conduct only apply to domestic and micro business supply.

Duplicate bills

- 3.15. Four respondents sought clarification that suppliers would be able to charge for duplicate bills. The Government agrees and has amended the drafting to make this clear.

Online account management

- 3.16. Eight organisations, all of them suppliers, responded to question 8. Five explained that a requirement to offer the option of online account management to their customers would have little or no impact on their current arrangements. One small supplier said it actively supported the introduction of online account management as a mandatory option, citing the environmental and cost benefits for the industry.
- 3.17. Some suppliers expressed concern about the potential “significant” costs that meeting the requirement would impose on a supplier not already compliant, noting that expenses would be incurred through system changes, the purchasing of new equipment and additional staff training.
- 3.18. The Government recognises what one respondent, termed the “significant development costs associated with comprehensive online account management” and understands concerns that mandating this functionality could be a barrier to market

entry for new suppliers and lead to the homogenisation of the customer experience. The Government wishes to make clear that this licence condition uses the existing definition of 'online account management' in supplier licence condition which "means any arrangement whereby a domestic customer does not receive a paper version of a bill or statement of account and would need to access the internet and use a computer or communication device".⁴

3.19. As such, compliance with the licence condition does not require the provision of a comprehensive online account management system and could also be met through the provision of paperless billing such as providing bills in an electronic format such as pdf attached to an e-mail.

Government response

3.20. The Government will implement amended licence conditions as follows:

21B.4 Where a Customer requests Online Account Management the licensee must comply with that request.

21B.5 The licensee must make available a Bill or statement of account to each of its Customers at least twice yearly and at least quarterly to any Customer who requests it or who has Online Account Management.

This paragraph does not apply in relation to any Customer with:
(a) a Prepayment Meter;
(b) a Smart Metering System.
(c) unmetered supply as defined in regulation 2 of the Electricity (Unmetered Supply) Regulations 2001(5).

21B.6 Where a Customer requests an explanation of how their Bill or statement of account was derived the licensee must comply with that request in plain and intelligible language.

21B.7 The licensee must not make a specific charge for the provision of a Bill or statement of account or for access in an appropriate way to the consumption data used to calculate that Bill or statement of account.

This paragraph does not apply in respect of providing additional copies of a Bill or statement of account to a Customer.

3.21. Full detail of the proposed changes to licence conditions can be found at Annex B.

⁴ SLC 1 – Definitions for standard conditions
⁽⁵⁾ S.I 2001/3263

4. Access to consumption data

Consultation Question	
9.	What arrangements are currently in place for non-domestic customers to have access to their consumption data and for this data to be made available at the customer's request?
10.	Do you agree with the proposed approach to the implementation of Article 10(3)(a)? If not, please provide comments and explain the rationale behind them.
11.	Do you agree with the proposed approach to the implementation of Article 11.1? If not, please provide comments and explain the rationale behind them.

Summary of responses

- 4.1. There was general agreement to the proposed implementation of Article 10(3)(a) and Article 11.1. Of the nine organisations that responded to question 10, five expressly stated that they agreed with DECC's proposed approach to the implementation of Article 10(3)(a). One small supplier added the caveat that the format in which data was passed to third party intermediaries should not be prescribed.
- 4.2. Seven organisations, all of them suppliers, responded to question 11. All seven indicated their broad agreement with the Government's proposed implementation of Article 11.1.

Existing provision of consumption data

- 4.3. Seven suppliers responded to question 9. Respondents outlined a range of methods through which consumption data is made available to non-domestic customers. Information was provided via paper or online bills and statements of account. Certain suppliers also allow customers to download consumption data through mobile applications, or request it via email or over the phone.
- 4.4. Non-domestic customers with half-hourly metering typically receive their consumption data monthly. Some suppliers also offer this service to those on non-half hourly metering or upon request. One supplier requested more information as to what constituted consumption data for customers on these meter types.
- 4.5. Generally, all suppliers provided their non-domestic customers with consumption data free of charge. Some data requests would incur a fee, usually depending on the complexity of the request.

- 4.6. One supplier explained that access to a specific customer's consumption data would be available to either the customer themselves or a properly authorised representative.

Ability to charge for the provision of consumption data

- 4.7. Three respondents welcomed DECC's recognition, through the proposed licence conditions, that suppliers may reasonably charge customers for the provision of historical consumption data to energy service providers. A further supplier suggested an amendment to the draft licence conditions that would ensure that any charges applied by suppliers were reasonable. This, however, would go beyond the requirements of the Directive which is something the Government does not wish to do as it would place an unnecessary burden on business. One supplier asked whether suppliers' ability to charge for data requested as part of a Data Protection (Service Access) request would be affected. The Government wishes to clarify that implementation of the Directive does not affect suppliers' requirements relating to Data Protection (Service Access) requests.
- 4.8. Several suppliers also sought assurances that they would be able to charge for the production of duplicate bills or statements of account.
- 4.9. The Government agrees with respondents that it is reasonable for suppliers to charge for duplicate copies of bills or statements of account where they are requested and has amended draft licence conditions to reflect this.

Clarification of terms

- 4.10. One respondent suggested that the term 'historical consumption' in new SLC21B.8 be aligned with definition of 'Historic Consumption Data' in SLC22.9 as this would allow SLC22.9 to be withdrawn to avoid duplication with SLC 21B.8. Such a move would, however, also mean extending the scope of what counts as 'Historical Consumption Data' for SLC 22.9. This would place an additional burden on business beyond what is required by the Directive and the Government wishes to avoid this in its implementation.
- 4.11. A number of suppliers also requested further details on what is envisaged as falling under 'billing information' Another major supplier also requested greater clarity as to what was meant by "energy billing and historical consumption" and "consumption data".
- 4.12. Billing information is the information used to calculate a bill or statement of account. This may vary depending on a particular tariff but would typically include prices and details of the energy consumed during a billing period and charges applied during that period. Consumption data is energy consumed in a billing period with historical consumption referring to energy consumption in previous billing periods.
- 4.13. Assurances were also sought from a supplier that they would only have to provide billing information free of charge where it was available to them. Finally, they asked

for clarity over what was meant by ‘in an appropriate way’ in SLC 21B.7, and whether providing online access to consumption data would be acceptable.

4.14. The Government clarifies that suppliers will only be required to provide billing information free of charge where it is available to them. Whether a method of providing a customer with access to their consumption data is appropriate will depend on the nature of the data and the customer who requests it. For example, it may be appropriate to provide data to customers with online account management online, but in paper form to those who typically receive paper bills. Similarly, it may make sense to provide large businesses, for whom the data requested may be significant in scale, in an electronic format.

Safeguarding consent

4.15. One major supplier stated that the provision of information to third parties should be dependent on the presentation of a Letter of Authority, and that suppliers should be able to put in reasonable checks and reserve the right to refuse. The Government would expect suppliers to following existing requirements and practices around the provision of information by suppliers to a person designated by a customer.

Government response

4.16. The Government will implement amended licence conditions as follows:

21B.7 The licensee must not make a specific charge for the provision of a Bill or statement of account or for access in an appropriate way to the consumption data used to calculate that Bill or statement of account.

This paragraph does not apply in respect of providing additional copies of a Bill or statement of account to a Customer.

21B.8 Where a Customer requests the licensee to make available information on their energy billing and historical consumption either to the Customer or to any other person designated by the Customer the licensee must comply with that request to the extent that the information requested is available and as soon as reasonably practicable.

4.17. Full detail of the proposed changes to licence conditions can be found at Annex B.

6. Information on bills

Consultation Question	
12.	Do you agree with our view that no further action is appropriate in respect of information requirements for bills for both domestic and non-domestic consumers?
13.	Do you agree that requiring bills for non-domestic customers to include benchmarked and historical consumption data is still not appropriate?
14.	Do you agree that information on energy advice services is widely available to domestic and non-domestic customers and that no further action is needed to draw this to the attention of energy customers?

Summary of responses

- 6.1. Eight suppliers and an industry trade association responded to questions 12, 13 and 14. All nine agreed with Government's view that changes to the licence conditions with regard to the Directive requirements on information on bills would not be necessary.
- 6.2. Our original consultation outlined the measures to improve billing information brought forward as part of Ofgem's domestic and non-domestic Retail Market Review (RMR) reforms. Two suppliers noted that these new rules covered both the spirit and substance of the Directive.
- 6.3. Another, non-domestic supplier, stated that given this context requiring further changes to bill design at this stage would undermine the RMR's aim of clarity and simplicity.

Government response

- 6.4. Following consideration of the responses, we confirm our decision to make no changes to licence conditions with regard to information on bills.

7. Licence exempt supply

Consultation Question

- | | |
|-----|--|
| 15. | Do you agree that the application of the metering and billing requirements at Article 9.1, 10 and 11 of the Energy Efficiency Directive to licence exempt suppliers is not financially reasonable and proportionate in relation to the potential energy savings? |
|-----|--|

Summary of responses

- 7.1. There was general agreement with the Government's view that the application of the billing requirements in Article 9.1, 10 and 11 of the Energy Efficiency Directive to licence exempt suppliers would not be financially reasonable and proportionate, with five of the seven respondents indicating their support for this position. In its response, a licence exempt supplier stated that these firms do not have sufficient customer numbers to justify the administrative burden of new billing regulations.
- 7.2. One supplier argued that it should be simple for any supplier to provide consumption data as an aid to managing usage and providing accurate bills. While accepting that the standards expected of licence exempt suppliers may be different to those expected of licensed suppliers, they said that it should be possible to amend the language of the regulations to reflect this. They suggested that with regard to accurate billing, the Directive's language of "where this is technically possible and economically justified" could be applied to licence exempt suppliers.

Government response

- 7.3. The Government agrees with the principle that, wherever possible, suppliers should provide consumption data as an aid to managing usage and providing accurate bills. We further agree that in principle regulation should be applied equally where this is technically possible and economically justified.
- 7.4. However, the Government remains of the view that applying the Directive's metering and billing requirements to licence exempt suppliers would impose financial and administrative burdens that would not be proportionate to the potential energy savings.

Annex A – Energy Efficiency Directive text

Article 10(1)

Where final customers do not have smart meters as referred to in Directives 2009/72/EC and 2009/73/EC, Member States shall ensure, by 31 December 2014, that billing information is accurate and based on actual consumption, in accordance with point 1.1 of Annex VII, for all the sectors covered by this Directive, including energy distributors, distribution system operators and retail energy sales companies, where this is technically possible and economically justified.

Point 1.1 of Annex VII states that billing based on actual consumption must take place at least once a year, and billing information must be provided to final customers at least twice a year, or at least quarterly at the customer's request or if they are billed electronically.

This obligation may be fulfilled by a system of regular self-reading by the final customers whereby they communicate readings from their meter to the energy supplier. Only when the final customer has not provided a meter reading for a given billing interval shall billing be based on estimated consumption or a flat rate.

The consumption of natural gas can be exempted from the above requirements when it is used for cooking purposes only.

Article 10(2)

This requirement relates to smart metering and has been taken forward separately from this consultation.

Article 10(3)

Article 10(3) states that independently of whether smart meters are available or not, Member States:

- (a) shall require that, to the extent that information on the energy billing and historical consumption of final customers is available, it be made available, at the request of the final customer, to an energy service provider designated by the final customer.
- (b) shall ensure that final customers are offered the option of electronic billing information and bills and that they receive, on request, a clear and understandable explanation of how their bill was derived, especially where bills are not based on actual consumption.
- (c) shall ensure that appropriate information is made available with the bill to provide final customers with a comprehensive account of current energy costs, in accordance with Annex VII;
- (d) may lay down that, at the request of the final customer, the information contained in these bills shall not be considered to constitute a request for payment. In such cases, Member States shall ensure that suppliers of energy sources offer flexible arrangements for actual payments.

- (e) shall require that information and estimates for energy costs are provided to consumers on demand in a timely manner and in an easily understandable format enabling consumers to compare deals on a like-for-like basis.

Annex VII

Annex VII is closely related to the requirements of Article 10, and sets out the minimum requirements for billing and billing information based on actual consumption. The minimum requirements for billing contained within Annex VII are set out below:

1.1. Billing based on actual consumption

In order to enable final customers to regulate their own energy consumption, billing should take place on the basis of actual consumption at least once a year, and billing information should be made available at least quarterly, on request or where the consumers have opted to receive electronic billing or else twice yearly. Gas used only for cooking purposes may be exempted from this requirement.

1.2. Minimum information contained in the bill

Member States shall ensure that, where appropriate, the following information is made available to final customers in clear and understandable terms in or with their bills, contracts, transactions, and receipts at distribution stations:

- (a) current actual prices and actual consumption of energy;
- (b) comparisons of the final customer's current energy consumption with consumption for the same period in the previous year, preferably in graphic form;
- (c) contact information for final customers' organisations, energy agencies or similar bodies, including website addresses, from which information may be obtained on available energy efficiency improvement measures, comparative end-user profiles and objective technical specifications for energy-using equipment.

In addition, wherever possible and useful, Member States shall ensure that comparisons with an average normalised or benchmarked final customer in the same user category are made available to final customers in clear and understandable terms, in, with or signposted to within, their bills, contracts, transactions, and receipts at distribution stations.

1.3. Advice on energy efficiency accompanying bills and other feedback to final customers

When sending contracts and contract changes, and in the bills customers receive or through websites addressing individual customers, energy distributors, distribution system operators and retail energy sales companies shall inform their customers in a clear and understandable manner of contact information for independent consumer advice centres, energy agencies or similar institutions, including their internet addresses, where they can obtain advice on available energy efficiency measures, benchmark profiles for their energy consumption and technical specifications of energy using appliances that can serve to reduce the consumption of these appliances.

Article 11(1)

Member States shall ensure that final customers receive all their bills and billing information for energy consumption free of charge and that final customers also have access to their consumption data in an appropriate way and free of charge.

Annex B – Draft Regulations

STATUTORY INSTRUMENTS

2014 No. 0000

ELECTRICITY

GAS

The Electricity and Gas (Billing) Regulations 2014

<i>Made</i> - - - -	***
<i>Laid before Parliament</i>	<i>5th June 2014</i>
<i>Coming into force</i> - -	<i>26th June 2014</i>

The Secretary of State is a Minister designated⁽⁶⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽⁷⁾ in relation to energy and energy sources. He makes the following Regulations in exercise of the powers conferred by that section.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Electricity and Gas (Billing) Regulations 2014 and come into force on 26th June 2014.

(2) These Regulations do not extend to Northern Ireland.

Amendments to the standard conditions of electricity supply licences

2.—(1) The standard conditions incorporated by virtue of section 8A(1) of the Electricity Act 1989⁽⁸⁾ in licences granted under section 6(1)(d) of that Act are amended as follows.

(2) In condition 1 (definitions for standard conditions) in the definition of “Online Account Management” omit “Domestic”.

⁽⁶⁾ S.I. 2010/761.

⁽⁷⁾ 1972 c.68; section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51) and by section 3(3) of and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7).

⁽⁸⁾ 1989 c.29; section 8A was inserted by section 33(3) of the Utilities Act 2004, section 6(1) was substituted by section 30 of the Utilities Act 2000 (c.27) and amended by section 136(1) of the Energy Act 2004 (c.20) and S.I. 2012/2400. A consolidated version of the standard conditions of electricity supply licence is available at: <https://epr.ofgem.gov.uk/Content/Documents/Electricity%20Supply%20Standard%20Licence%20Conditions%20Consolidated%20-%20Current%20Version.pdf>.

(3) In condition 21B (billing based on meter reading) after paragraph 21B.2 insert the paragraphs which appear in Schedule 1.

Amendments to the standard conditions of gas supply licences

3.—(1) The standard conditions incorporated by virtue of section 8(1) of the Gas Act 1986⁽⁹⁾ in licences granted under section 7A(1) of that Act are amended as follows.

(2) In condition 1 (definitions for standard conditions) in the definition of “Online Account Management” omit “Domestic”.

(3) In condition 21B (billing based on meter readings) after paragraph 21B.2 insert the paragraphs which appear in Schedule 2.

Date 2014

Name
Minister of State
Department of Energy and Climate Change

SCHEDULE 1

Regulation 2(3)

21B.3 Paragraphs 21B.4 and 21B.5 apply from 31 December 2014.

21B.4 The licensee must take all reasonable steps to obtain a meter reading (including any meter reading transmitted electronically from a meter to the licensee or provided by the Customer and accepted by the licensee) for each of its Customers at least once every year.

This paragraph does not apply in relation to any Customer with a Prepayment Meter.

21B.5 The licensee must make available a Bill or statement of account to each of its Customers at least twice yearly and at least quarterly to any Customer who requests it or who has Online Account Management.

This paragraph does not apply in relation to any Customer with:

- (a) a Prepayment Meter;
- (b) a Smart Metering System;
- (c) unmetered supply as defined in regulation 2 of the Electricity (Unmetered Supply) Regulations 2001⁽¹⁰⁾.

21B.6 Where a Customer requests Online Account Management the licensee must comply with that request.

⁽⁹⁾ 1986 c.44; section 8(1) was substituted by section 8(1) of the Gas Act 1995 (c.45) and amended by section 81 of the Utilities Act 2000 (c.27) and by section 150 of the Energy Act 2004 (c.20), section 7A(1) was inserted by section 6(1) of the Gas Act 1995 (c.45) and amended by section 3(2) of the Utilities Act 2000 (c.27). A consolidated version of the standard conditions of gas supply licence is available at: <https://epr.ofgem.gov.uk/Content/Documents/Gas%20supply%20standard%20licence%20conditions%20consolidated%20-%20Current%20Version.pdf>.

⁽¹⁰⁾ S.I. 2001/3263.

21B.7 Where a Customer requests an explanation of how their Bill or statement of account was derived the licensee must comply with that request in plain and intelligible language.

21B.8 The licensee must not make a specific charge for the provision of a Bill or statement of account or for access in an appropriate way to the consumption data used to calculate that Bill or statement of account.

This paragraph does not apply in respect of providing additional copies of a Bill or statement of account to a Customer.

21B.9 Where a Customer requests the licensee to make available information on their energy billing and historical consumption either to the Customer or to any other person designated by the Customer the licensee must comply with that request to the extent that the information requested is available and as soon as reasonably practicable.

SCHEDULE 2

Regulation 3(3)

21B.3 Paragraphs 21B.4 and 21B.5 apply from 31 December 2014.

21B.4 The licensee must take all reasonable steps to obtain a meter reading (including any meter reading transmitted electronically from a meter to the licensee or provided by the Customer and accepted by the licensee) for each of its Customers at least once every year.

This paragraph does not apply in relation to any Customer with a Prepayment Meter.

21B.5 The licensee must make available a Bill or statement of account to each of its Customers at least twice yearly and at least quarterly to any Customer who requests it or who has Online Account Management.

This paragraph does not apply in relation to any Customer with:

- (a) a Prepayment Meter;
- (b) a Smart Metering System.

21B.6 Where a Customer requests Online Account Management the licensee must comply with that request.

21B.7 Where a Customer requests an explanation of how their Bill or statement of account was derived the licensee must comply with that request in plain and intelligible language.

21B.8 The licensee must not make a specific charge for the provision of a Bill or statement of account or for access in an appropriate way to the consumption data used to calculate that Bill or statement of account.

This paragraph does not apply in respect of providing additional copies of a Bill or statement of account to a Customer.

21B.9 Where a Customer requests the licensee to make available information on their energy billing and historical consumption either to the Customer or to any other person designated by the Customer the licensee must comply with that request to the extent that the information requested is available and as soon as reasonably practicable.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations modify the standard conditions in electricity and gas supply licences in Great Britain. The purpose of the modifications is to ensure that billing of gas and electricity is based on actual consumption at least once a year, that consumers have regular access to bills and billing information free of charge and that on request suppliers provide electronic billing and an easily understandable explanation of how a bill was derived.

The modifications give effect to provisions on the billing and billing information for gas and electricity consumption in Articles 10 and 11 and in Annex VII of Directive 2012/27/EU of the European Parliament and of the Council on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC (“the Directive”) (OJ No L 315, 14.11.2012, p1).

Regulation 2 and Schedule 1 modify the standard conditions of an electricity supply licence granted under the Electricity Act 1989.

Regulation 3 and Schedule 2 modify the standard conditions for a gas supply licence granted under the Gas Act 1986.

A copy of the full impact assessment of the effect that these Regulations will have on the cost of business and the voluntary sector is available from Retail Energy Markets Team, Department of Energy and Climate Change, 3 Whitehall Place, London SW1A 2AW. The full impact assessment and a transposition note is also annexed to the Explanatory Memorandum which is available alongside these Regulations on www.legislation.gov.uk.

The licences modified by these Regulations may be inspected on the public register of the Office of Gas and Electricity Markets (Ofgem) at <https://epr.ofgem.gov.uk/Document> or by contacting Ofgem at 9 Millbank, London, SW1P 3GE.

