

ENERGY

SMART METERS

MODIFICATIONS TO THE STANDARD CONDITIONS OF ELECTRICITY AND GAS SUPPLY LICENCES, ELECTRICITY DISTRIBUTION LICENCES AND GAS TRANSPORTER LICENCES (SMART METERS)

The Secretary of State makes the following licence modifications in exercise of the powers conferred by section 88(1) of the Energy Act 2008 (“the Act”).

The Secretary of State has consulted the holders of any licence being modified, the Gas and Electricity Markets Authority and such other persons as the Secretary of State considered appropriate in accordance with section 89(1) of the Act.

A draft of these licence modifications has been laid before Parliament in accordance with section 89(3) of the Act. Neither House of Parliament resolved, within the 40-day period referred to in section 89(4) of the Act, that the Secretary of State should not make the licence modifications.

Modifications to the standard conditions of electricity supply licences

1. The standard conditions of electricity supply licences granted, or treated as granted, under section 6(1)(d) of the Electricity Act 1989 are—
 - (a) with effect from 4 March 2013, modified in accordance with paragraphs 2 and 3; and
 - (b) with effect from 30 June 2013, modified in accordance with paragraphs 4 and 5.
2. In standard condition 2—
 - (a) in paragraph 2.12, replace “standard condition 1, 12, 39 or 40 of this licence” with “standard condition 1, 12, 39, 40, 45 or 46 of this licence”;
 - (b) in paragraph 2.13 replace “standard condition 1, 12, 39 or 40” with “standard condition 1, 12, 39, 40, 45 or 46 of this licence”;
 - (c) in paragraph 2.14, replace “standard condition 12, 39 or 40 of this licence” with “standard condition 12, 39, 40, 45 or 46 of this licence”; and
 - (d) in paragraph 2.15, replace “standard condition 1, 12, 39 or 40 of this licence” with “standard condition 1, 12, 39, 40, 45 or 46 of this licence”.
3. After standard condition 42, insert—

“Condition 43. Roll-out Reporting and Provision of Information to the Secretary of State

Introduction

43.1 This condition provides for the Secretary of State to be able to obtain from the licensee information in respect of matters relating to the provision, installation, operation, maintenance, and use of meters.

Purposes

43.2 The purposes of this condition are to ensure that the Secretary of State may obtain such information as he may reasonably require to enable him, from time to time, to:

- (a) examine and assess the readiness of the licensee to comply with any Relevant SMS Condition;
- (b) monitor and review the steps taken, or to be taken, by the licensee to:
 - (i) install, arrange for the installation of, or provide (as the case may be) Smart Metering Systems and In-Home Displays in accordance with the requirements of any Relevant SMS Condition;
 - (ii) promote awareness and understanding by Energy Consumers of the use of Smart Metering Systems and In-Home Displays (and information that may be obtained through them);
- (c) evaluate:
 - (i) the scope and effectiveness of the licensee’s consumer engagement activities; and
 - (ii) the implementation of the Consumer Engagement Plan;
- (d) identify and evaluate the costs associated with, and benefits attributable to, the provision, installation, operation, maintenance, and use of Smart Metering Systems and In-Home Displays, including in particular:
 - (i) energy savings made as a result of Energy Consumers being able to better manage their energy consumption and expenditure;

- (ii) cost savings and improvements in services resulting from changes made to energy industry activities and procedures;
- (e) decide whether or when there may be a need for him to exercise any of his powers under any Relevant SMS Condition or section 88 of the Energy Act 2008; and
- (f) publish information in respect of the matters set out in paragraphs (a) - (e).

Information Request

43.3 The Secretary of State may, for the purposes of this condition, from time to time issue a request for Information to be provided to him (an **Information Request**).

43.4 An Information Request (or any part of it) may be addressed to the licensee alone, to all Electricity Suppliers or to a category of Electricity Suppliers.

43.5 An Information Request may in particular, where the licensee supplies electricity to at least 250,000 Domestic Customers, require the licensee to provide:

- (a) on an annual basis (and at such other times as may be specified in the Information Request) Information in respect of:

- (i) its proposals, plans and projections for meeting its duties in relation to the provision, installation, operation, and maintenance of Smart Metering Systems and In-Home Displays; and

- (ii) its progress against the proposals, plans and projections included in the previous year's roll-out report,

(together the **roll-out report**); and

- (b) for such periods and at such frequency as may be specified in the Information Request, Information which sets out the licensee's progress against the proposals, plans and projections included in its latest roll-out report (the **monitoring report**).

43.6 An Information Request may in particular, where the licensee supplies electricity to fewer than 250,000 Domestic Customers or supplies electricity only to Non-Domestic Customers, require it to provide on an annual basis (and at such other times as may be specified in the Information Request) Information in respect of its proposals for and progress towards

meeting its duties in relation to the provision, installation, operation, and maintenance of Smart Metering Systems and In-Home Displays (the **progress report**).

43.7 An Information Request may in particular specify:

- (a) the type and nature of Information to be provided, including in particular the type and nature of Information to be provided in a roll-out report, monitoring report, and progress report;
- (b) that the Information is to be accompanied by such supporting documents or data as may be described;
- (c) that all or some of the specified Information must continue to be provided at the intervals specified until such date as specified or until the Secretary of State issues a subsequent Information Request to the licensee or the category of Electricity Suppliers of which it is a member; and
- (d) the form and manner in which, and the date by which, the specified Information is to be provided.

43.8 The licensee must comply with an Information Request addressed to it or to a category of Electricity Suppliers of which it is a member.

43.9 The licensee must ensure that the Information it provides in response to an Information Request is complete and accurate.

43.10 The licensee is not required under this condition to provide any Information which it could not be compelled to produce or give in evidence in civil proceedings before a court.

Cessation

43.11 This condition shall cease to apply to the licensee from the date which is 12 months after the date specified in paragraph 39.1 of standard condition 39 of this licence.

Interpretation and Definitions

43.12 In this condition:

Consumer Engagement has the meaning given to it in standard condition 45 (Smart

Plan	Metering Consumer Engagement) of this licence.
Energy Consumer	means a consumer of gas or electricity.
Information	includes information in any form or medium and of any description specified by the Secretary of State and includes any documents, accounts, estimates, returns, records or reports and data of any kind, whether or not prepared specifically at the request of the Secretary of State.
Relevant SMS Condition	means any condition of this licence which imposes obligations or contains provisions in respect of any matter relating to the provision, installation, operation, maintenance, or use of a Smart Metering System or an In-Home Display.

Condition 44. Roll-out Reporting, Setting and Achieving Annual Milestones, and Provision of Information to the Authority

Introduction

44.1 This condition provides for:

- (a) the licensee to be required to prepare and provide to the Authority a Roll-out Plan, to report against the Roll-out Plan, and to set and achieve Annual Milestones; and
- (b) the Authority to be able to obtain from the licensee information in respect of matters relating to the provision, installation, operation, maintenance and use of Smart Metering Systems, In-Home Displays and Relevant Electricity Meters and the licensee's achievement of the Annual Milestones.

Purposes

44.2 The purposes of this condition are to:

- (a) provide that the Authority may require the licensee to prepare a Roll-out Plan which includes Annual Milestones;

- (b) require the licensee to achieve the Annual Milestones set out in the Roll-out Plan; and
- (c) ensure that the Authority may obtain such information as it may reasonably require to enable it, from time to time, to:
 - (i) examine and assess the readiness of the licensee to comply with any Relevant SMS Condition;
 - (ii) monitor and review the steps taken or to be taken by the licensee to install, arrange for the installation of, or provide (as the case may be) Smart Metering Systems, In-Home Displays and Relevant Electricity Meters in accordance with the requirements of any Relevant SMS Condition; and
 - (iii) monitor the licensee's achievement of the Annual Milestones set out in the Roll-out Plan.

Roll-out Plan and Progress Reports

44.3 Where directed by the Authority, the licensee must prepare and submit to the Authority, by a date specified in a direction issued by the Authority, a document (the **Roll-out Plan**) which contains:

- (a) where the licensee is required to provide a roll-out report to the Secretary of State under standard condition 43, such parts of the roll-out report as are specified in the direction;
- (b) Annual Milestones, set by the licensee for such period as may be specified in the direction, for the purpose of the licensee complying with its duties in relation to the provision, installation, operation, maintenance and use of Smart Metering Systems, In-Home Displays and Relevant Electricity Meters;
- (c) a detailed explanation of the licensee's reasons, which reasons must be duly justified, for the Annual Milestones set by it; and
- (d) such other Information as may be specified in the direction.

44.4 The licensee must achieve the Annual Milestones set out in its Roll-out Plan.

- 44.5 For the purposes of paragraph 44.4, the licensee shall be considered to have achieved an Annual Milestone set out in its Roll-out Plan where, by the end of the calendar year to which that Annual Milestone relates, it has reached at least 95% (or such lower percentage as may be specified in any direction issued to the licensee by the Authority) of that Annual Milestone.
- 44.6 The licensee may submit a revised Roll-out Plan to the Authority only:
- (a) on, or in the seven days immediately following, each anniversary, occurring prior to 31 March 2017, of the date specified in the direction issued by the Authority in accordance with paragraph 44.3; or
 - (b) where in response to a request from the licensee, the Authority has agreed that it may submit a revised Roll-out Plan.
- 44.7 Where, in accordance with paragraph 44.6, the licensee submits a revised Roll-out Plan, it must also set out its reasons, which reasons must be duly justified, for making the revisions together with such supporting Information as may be required by the Authority.
- 44.8 The licensee must prepare and submit to the Authority, in accordance with any direction issued to the licensee by the Authority and for such periods and at such frequency as may be specified in the direction, a report (the **Progress Report**) which sets out the licensee's progress and performance against the Roll-out Plan.
- 44.9 The licensee must publish its Roll-out Plan and any Progress Report, or such Information contained in the Roll-out Plan and any Progress Report, where it is directed to do so by the Authority.

Directions

- 44.10 The licensee must comply with any directions the Authority may issue for the purposes of this condition and which are addressed to it or to a category of Electricity Suppliers of which it is a member.
- 44.11 A direction issued by the Authority may, in particular, specify:
- (a) the format of the Roll-out Plan and the Progress Report;
 - (b) the form and manner in which the Annual Milestones need to be included in the Roll-out Plan;

- (c) the Information the licensee must include in the Progress Report, which may, where the licensee is required to provide a roll-out report to the Secretary of State under standard condition 43, include such parts of the roll-out report as are specified in the direction;
- (d) requirements in relation to the submission of the Roll-out Plan and Progress Reports to the Authority; and
- (e) the manner and method by which any specified Information from the Roll-out Plan and any Progress Report must be published by the licensee.

Information Request

44.12 Where the licensee receives a request for Information from the Authority for the purposes of this condition (an **Information Request**), it must provide that Information to the Authority within the time and in the form requested.

44.13 An Information Request issued by the Authority may in particular specify the type and nature of Information to be provided by the licensee, including in particular in respect of:

- (a) the readiness of the licensee to comply with any Relevant SMS Condition; and
- (b) the steps taken or to be taken by the licensee to install, arrange for the installation of, or provide (as the case may be) Smart Metering Systems, In-Home Displays and Relevant Electricity Meters in accordance with the requirements of any Relevant SMS Condition.

44.14 The licensee must ensure that the Information it provides in response to an Information Request is complete and accurate.

44.15 The licensee is not required under this condition to provide any Information which it could not be compelled to produce or give in evidence in civil proceedings before a court.

Cessation

44.16 This condition shall cease to apply to the licensee from the date which is 12 months after the date specified in paragraph 39.1 of standard condition 39 of this licence.

Interpretation

44.17 In this condition:

- Annual Milestone** means a percentage of the total number of Domestic Premises and Designated Premises:
- (a) in respect of which the licensee is the Relevant Electricity Supplier; and
 - (b) at which a Smart Metering System or Relevant Electricity Meter is to be installed by the end of each calendar year falling within the period specified in a direction issued by the Authority under paragraph 44.3.
- Progress Report** means a report submitted in accordance with paragraph 44.8.
- Relevant Electricity Meter** means any Electricity Meter installed or arranged to be installed by the licensee pursuant to paragraphs 39.8, 39.9 or 39.10 of standard condition 39 of this licence.
- Relevant SMS Condition** means any condition of this licence which imposes obligations or contains provisions in respect of any matter relating to the provision, installation, operation, maintenance or use of a Smart Metering System or an In-Home Display.
- Roll-out Plan** means a plan submitted in accordance with paragraph 44.3, as it may be revised in accordance with paragraph 44.6.

Condition 45. Smart Metering Consumer Engagement

Introduction

45.1 This condition provides for holders of electricity and gas supply licences to be required to establish, support and monitor the work of a body which will carry out the role of consumer engagement in relation to Smart Metering Systems.

Application

45.2 This condition shall:

- (a) apply to the licensee only if it is a Relevant Supplier, a Small Domestic Supplier or a Relevant Non-Domestic Supplier; and
- (b) cease to apply from such date as is specified in a direction issued by the Secretary of State.

45.3 Where this condition applies and:

- (a) the licensee is a Relevant Supplier, it is not required to comply with Parts B and C;
- (b) the licensee is a Small Domestic Supplier, it is not required to comply with Parts A and C;
- (c) the licensee is a Relevant Non-Domestic Supplier, it is not required to comply with Parts A and B.

PART A. REQUIREMENTS APPLICABLE TO THE LICENSEE WHERE IT IS A RELEVANT SUPPLIER

Duty to establish the Central Delivery Body

45.4 The licensee, together with all other Relevant Suppliers, must take such steps and do such things as are within its power:

- (a) to establish, by no later than 30 June 2013, a body corporate to carry out the role of consumer engagement in relation to Smart Metering Systems (referred to in this condition as the **Central Delivery Body**);
- (b) to provide that the Central Delivery Body is constituted and governed so as to ensure that it:
 - (i) has the characteristics set out at Part A1;
 - (ii) has the objectives set out at Part A2;
 - (iii) procures the advice of experts as set out at Part A3; and
 - (iv) fulfils the functions set out at Part A4;

- (c) to provide for the costs of the Central Delivery Body to be met as set out at Part A5.

Part A1. Characteristics of the Central Delivery Body

Constitution

45.5 The articles of association of the Central Delivery Body must as a minimum provide that:

- (a) it is a not-for-profit body;
- (b) its board of directors (the **Board**) is at all times constituted so as to reflect the provisions of paragraph 45.6;
- (c) the Secretary of State has a right of veto in respect of the appointment of any person as the Chairman of the Board;
- (d) any person nominated by and representing either:
 - (i) the Secretary of State; or
 - (ii) all Network Operators,

is entitled to attend, but not vote at, a meeting of the Board;

- (e) the Board will exercise independent judgement and reach its decisions in accordance with the requirements of paragraph 45.8;
- (f) its business shall be (and shall be limited to):
 - (i) achieving the objectives set out at Part A2;
 - (ii) achieving those objectives by taking such steps as are reasonably necessary and appropriate for carrying out the activities set out at Parts A3 and A4.

Composition of the Board

45.6 The Board shall comprise:

- (a) a Chairman appointed by the Relevant Suppliers;
- (b) six directors nominated by and representing Relevant Suppliers;
- (c) two directors nominated by and representing Small Domestic Suppliers;

- (d) two directors nominated by and representing Relevant Non-Domestic Suppliers;
- (e) two directors nominated by the National Consumer Council; and
- (f) two directors representing the interests of Energy Consumers.

45.7 The Chairman of the Board must be independent of any person or body that is represented by a director appointed in accordance with the provisions of paragraphs 45.6(b)-(f).

Decision-Making

45.8 A decision made by the Board must be made in accordance with a voting procedure which provides for:

- (a) each director, other than the Chairman, to exercise a single vote on each decision to be taken;
- (b) decisions to be made by a simple majority; and
- (c) the Chairman to be able to exercise a casting vote but only where the number of votes for and against a decision are equal.

Part A2. Objectives of the Central Delivery Body

Objectives

45.9 The objectives of the Central Delivery Body set out in paragraph 45.10 are to apply:

- (a) in respect of Energy Consumers at Domestic Premises; and
- (b) where it is cost effective to extend the consumer engagement activities undertaken by the Central Delivery Body so as also to include the engagement of Energy Consumers at Relevant Designated Premises, in respect of such Energy Consumers.

45.10 The objectives of the Central Delivery Body are to:

- (a) build consumer confidence in the installation of Smart Metering Systems by gas and electricity suppliers;
- (b) build consumer awareness and understanding of the use of Smart Metering Systems (and the information obtained through them);

- (c) increase the willingness of Energy Consumers to use Smart Metering Systems to change their behaviour so as to enable them to reduce their consumption of energy; and
- (d) assist consumers with low incomes or prepayment meters, or consumers who may encounter additional barriers in being able to realise the benefits of Smart Metering Systems due to their particular circumstances or characteristics, to realise the benefits of Smart Metering Systems while continuing to maintain an adequate level of warmth and to meet their other energy needs.

Part A3. Arrangements for Obtaining Expert Advice

45.11 The Central Delivery Body shall establish arrangements for the purpose of ensuring that it is regularly provided with all appropriate advice that is:

- (a) concerned with the means by which it can most efficiently and effectively achieve its objectives; and
- (b) procured from such persons, as selected by it, who have widely recognised expertise in matters that are relevant to, and will assist in, the efficient and effective achievement of its objectives.

Part A4. Functions of the Central Delivery Body

45.12 The functions of the Central Delivery Body shall be to:

- (a) produce and maintain a plan for achieving its objectives (the **Consumer Engagement Plan**) which meets the requirements of paragraphs 45.13 to 45.16;
- (b) implement the Consumer Engagement Plan in accordance with paragraph 45.17;
- (c) develop and produce an annual budget for the delivery of the Consumer Engagement Plan which meets the requirements of paragraphs 45.18 and 45.19 (the **Annual Budget**);
- (d) produce a report on at least an annual basis (the **Annual Report**) which meets the requirements of paragraphs 45.20 and 45.21; and
- (e) publish the Consumer Engagement Plan, the Annual Budget and the Annual Report in accordance with paragraphs 45.22 and 45.23.

The Consumer Engagement Plan

45.13 The Consumer Engagement Plan must be in writing and must:

- (a) constitute a plan which is designed to ensure that the Central Delivery Body takes all appropriate steps to achieve its objectives;
- (b) describe the activities that the Central Delivery Body proposes to carry out for that purpose;
- (c) describe how the Central Delivery Body has taken into account the need to:
 - (i) co-ordinate its consumer engagement activities with consumer engagement activities undertaken by other parties in relation to Smart Metering Systems;
 - (ii) undertake a coordinated delivery of consumer engagement activities that reflects and takes into account the need to adopt different activities for the purpose of meeting the consumer engagement requirements of any class or classes of Energy Consumer, including Energy Consumers paying by different payment methods, residing in different geographical areas and in occupation of different types of Domestic Premises; and
 - (iii) provide additional assistance and consumer engagement activities that may be required by particular categories of Energy Consumers, including in particular Energy Consumers with low incomes or who may encounter additional barriers in being able to access the benefits of Smart Metering Systems due to their particular circumstances or characteristics; and
- (d) be designed to ensure that in carrying out its activities the Central Delivery Body does not restrict, distort or prevent competition in the supply of gas or electricity or in any commercial activities connected with Smart Metering Systems.

45.14 The Consumer Engagement Plan must be produced by no later than 31 December 2013.

45.15 The Central Delivery Body must keep the Consumer Engagement Plan under review, and must make appropriate amendments to it from time to time so that it continues to be accurate, up to date, and fit for purpose.

45.16 In producing, and prior to making any subsequent amendment to, the Consumer Engagement Plan, the Central Delivery Body:

- (a) must seek the advice of, and have due regard to the advice given by, the persons with whom it has made arrangements in accordance with the provisions of paragraph 45.11; and
- (b) may consult with, and have regard to the representations of, any other interested parties.

45.17 The Central Delivery Body must take such steps and do such things as are within its power:

- (a) to implement the Consumer Engagement Plan in accordance with its terms (as amended from time to time); and
- (b) to do so in an efficient and cost-effective manner that achieves value for money in the performance of its activities.

Annual Budget

45.18 The Central Delivery Body must:

- (a) by 31 December 2013, develop and produce the first Annual Budget in respect of the calendar year commencing on 1 January 2014; and
- (b) thereafter by 31 December in each subsequent year, develop and produce an Annual Budget in respect of the calendar year which commences immediately following that date.

45.19 Each Annual Budget must comprise a detailed statement of the best estimate of the Central Delivery Body, made in good faith, of all costs that it expects to incur for the purpose of undertaking its activities during the calendar year to which that Annual Budget relates.

Annual Report

45.20 The Central Delivery Body must:

- (a) by 31 March 2014, produce the first Annual Report in respect of the calendar year that commenced on 1 January 2013; and
- (b) thereafter by 31 March in each subsequent year, produce an Annual Report in respect of the calendar year that commenced on 1 January in the previous year.

45.21 Each Annual Report must in particular:

- (a) report on:
 - (i) the Central Delivery Body's performance; and
 - (ii) the extent to which, in the opinion of the Board, the steps taken by the Central Delivery Body to implement the Consumer Engagement Plan (as applicable during the period to which the Annual Report relates) have contributed to the achievement of its objectives during the period to which the Annual Report relates; and
- (b) set out the expenditure of the Central Delivery Body during that period and report on the extent to which, in the opinion of the Board, such expenditure represents value for money.

Publication

45.22 The Central Delivery Body must ensure that up to date copies of:

- (a) the Consumer Engagement Plan;
- (b) the Annual Budget; and
- (c) the Annual Report,

are at all times made available by it in a form that is readily accessible to most Energy Consumers.

45.23 In complying with paragraph 45.22 the Central Delivery Body:

- (a) must exclude from each document, so far as practicable, any information which would or might seriously prejudice the interests of any individual or body to which it relates; and
- (b) may exclude from each document any information that would, or would be likely to, prejudice the commercial interests of any person (including the Central Delivery Body itself).

Part A5. Costs of the Central Delivery Body

45.24 The licensee must:

- (a) together with all other Relevant Suppliers, take such steps and do such things as are within its power to meet the capital costs of establishing the Central Delivery Body and all costs, excluding Fixed Operating Costs, that are reasonably incurred by the Central Delivery Body in undertaking its activities and operating in an efficient and cost-effective manner that achieves value for money; and
- (b) together with all other Relevant Suppliers and Small Domestic Suppliers, take such steps and do such things as are within its power to meet all Fixed Operating Costs that are reasonably incurred by the Central Delivery Body operating in an efficient and cost-effective manner that achieves value for money.

45.25 For the purpose of meeting the requirements of paragraph 45.24, the licensee must, together with all other Relevant Suppliers and Small Domestic Suppliers, establish a mechanism to allocate:

- (a) between Relevant Suppliers the costs of the Central Delivery Body, as referred to in paragraph 45.24(a), on the basis of their respective shares of the markets for gas and electricity supply; and
- (b) between Relevant Suppliers and Small Domestic Suppliers the costs of the Central Delivery Body as referred to in paragraph 45.24(b), on the basis of their respective shares of the markets for gas and electricity supply to Domestic Premises.

Part A6. Other Duties of Relevant Suppliers

General Duty

45.26 The licensee, together with all other Relevant Suppliers, must take such steps and do such things as are within its power to ensure that:

- (a) the Central Delivery Body achieves its objectives; and
- (b) in achieving its objectives the Central Delivery Body acts in a manner which is transparent, impartial, cost-effective and represents value for money.

The Performance Management Framework

45.27 The licensee must, together with all other Relevant Suppliers, produce and maintain a performance framework (the **Performance Management Framework**) which meets the requirements of paragraphs 45.28 to 45.30.

45.28 The Performance Management Framework must:

- (a) set out the standards, including key performance indicators and targets, which have been determined by the Relevant Suppliers as standards against which the performance of the Central Delivery Body in achieving its objectives will be measured; and
- (b) include such provisions as will enable any person, including in particular the Relevant Suppliers, the Secretary of State and the Authority, to assess:
 - (i) the Central Delivery Body's performance against the specified standards;
 - (ii) the effectiveness of the steps taken by the Central Delivery Body for the purpose of achieving its objectives; and
 - (iii) the extent to which the Central Delivery Body has, in accordance with paragraph 45.16, amended the Consumer Engagement Plan to take into account information received in respect of its performance.

45.29 The Performance Management Framework must be produced by no later than 31 December 2013.

45.30 The licensee, together with all other Relevant Suppliers must keep the Performance Management Framework under review, and must make appropriate amendments to it from time to time so that it continues to be accurate, up to date, and fit for purpose.

45.31 In determining the standards to be set out, and the other provisions to be included, in the Performance Management Framework, the licensee, together with all other Relevant Suppliers, must consult with and take into account the views of, and information provided by, relevant interested parties, including in particular the Secretary of State.

Co-operation

45.32 The licensee must:

- (a) co-operate with the Central Delivery Body for the purposes of enabling the Central Delivery Body to undertake its activities; and
- (b) take all reasonable steps to ensure that in carrying out its consumer engagement activities in relation to, and communicating with Energy Consumers about, Smart

Metering Systems it does not act inconsistently with the activities of the Central Delivery Body.

PART B. REQUIREMENTS APPLICABLE TO THE LICENSEE WHERE IT IS A SMALL DOMESTIC SUPPLIER

45.33 The licensee must, together with all Relevant Suppliers and other Small Domestic Suppliers, take such steps and do such things as are within its power:

- (a) to meet the Fixed Operating Costs that are reasonably incurred by the Central Delivery Body operating in an efficient and cost-effective manner that achieves value for money; and
- (b) establish a mechanism to allocate between Relevant Suppliers and Small Domestic Suppliers the costs referred to in paragraph (a), on the basis of their respective shares of the markets for gas and electricity supply to Domestic Premises.

45.34 The licensee must:

- (a) co-operate with:
 - (i) Relevant Suppliers for the purposes of ensuring the establishment of the Central Delivery Body in accordance with Part A1 of this condition; and
 - (ii) the Central Delivery Body for the purposes of enabling the Central Delivery Body to undertake its activities; and
- (b) take all reasonable steps to ensure that in carrying out its consumer engagement activities in relation to, and communicating with Energy Consumers about, Smart Metering Systems it does not act inconsistently with the activities of the Central Delivery Body.

PART C. REQUIREMENTS APPLICABLE TO THE LICENSEE WHERE IT IS A RELEVANT NON-DOMESTIC SUPPLIER

45.35 The licensee must:

- (a) co-operate with:
 - (i) Relevant Suppliers for the purposes of ensuring the establishment of the Central Delivery Body in accordance with Part A1 of this condition; and

- (ii) the Central Delivery Body for the purposes of enabling the Central Delivery Body to undertake its activities; and
- (b) take all reasonable steps to ensure that in carrying out its consumer engagement activities in relation to, and communicating with Energy Consumers about, Smart Metering Systems it does not act inconsistently with the activities of the Central Delivery Body.

PART D. INTERPRETATION AND DEFINITIONS

45.36 In this condition:

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|-------------------------------------|---|
| Energy Consumer | means a consumer of gas or electricity. |
| Fixed Operating Costs | means costs relating to (i) renting and maintaining premises, (ii) staff recruitment, salaries, and benefits, and (iii) purchasing and maintaining office equipment, including IT and telephony equipment. |
| Micro Business Consumer | has the meaning given to it in standard condition 7A of this licence. |
| Network Operator | means any person holding: <ul style="list-style-type: none"> (a) a licence granted under section 6(1)(b) or 6(1)(c) of the Electricity Act 1989; or (b) a licence granted under section 7 of the Gas Act 1996. |
| Relevant Designated Premises | means: <ul style="list-style-type: none"> (a) Designated Premises at which the Customer is a Micro Business Consumer; and (b) such additional categories of premises as may be specified in a direction issued by the Secretary of State. |

Relevant Non-Domestic Supplier means a gas or electricity supplier which is neither a Relevant Supplier nor a Small Domestic Supplier but supplies gas or electricity to any Relevant Designated Premises.

Relevant Supplier means a gas or electricity supplier which:

- (a) is authorised by its licence to supply gas or electricity to Domestic Premises; and
- (b) supplies either gas or electricity (or both) to more than 250,000 Domestic Customers.

Small Domestic Supplier means a gas or electricity supplier which:

- (a) is authorised by its licence to supply gas or electricity to Domestic Premises; and
- (b) supplies gas or electricity to, in each case, no more than 250,000 Domestic Customers.

Condition 46. Security Controls in Relation to Smart Metering Systems

Introduction

46.1 This condition requires the licensee to maintain a high level of security in accordance with good industry practice in relation to all: Smart Metering Systems installed at premises which are from time to time supplied by it with electricity; equipment used by it for the purpose of communicating with those Smart Metering Systems; associated software and ancillary devices; and related business processes.

PART A. APPLICATION

46.2 This condition shall cease to have effect from any date specified by the Secretary of State in a direction issued to the licensee under this paragraph.

PART B. THE GENERAL DUTY TO ENSURE A SECURE SYSTEM

- 46.3 The licensee must take such steps and do such things as are within its power to provide that the Supplier End-to-End System is at all times Secure.
- 46.4 For the purposes of this condition, the **Supplier End-to-End System** comprises all of the equipment (together with any associated software and ancillary devices) which falls into one or more of the following categories:
- (a) equipment operated by or on behalf of the licensee for the purpose of enabling information to be communicated to or from Smart Metering Systems;
 - (b) equipment which is a part of any electronic communications network by means of which such communication takes place;
 - (c) equipment comprised within a Smart Metering System located at each premises that is from time to time supplied with electricity by the licensee.
- 46.5 For the purposes of this condition, the Supplier End-to-End System is **Secure** if both the System and each individual element of it is designed, installed, operated and supported so as to ensure, to the Appropriate Standard, that it is not subject to the occurrence of a Security Incident.
- 46.6 For the purposes of this condition, a **Security Incident** is any event of interference with or misuse of the Supplier End-to-End System, or with any individual element of it, that (whether directly or indirectly):
- (a) causes any loss, theft or corruption of data;
 - (b) results in any other unauthorised access to data; or
 - (c) gives rise to any loss or interruption of electricity supply or to any other interference with the service provided to a Customer at any premises.

PART C. SPECIFIC DUTIES IN RELATION TO A SECURE SYSTEM

- 46.7 For the purpose of ensuring its compliance with the duty at Part B, the licensee must in particular:
- (a) comply with the following requirements of this Part C; and

- (b) retain, and produce to the Secretary of State or the Authority when requested to do so, documentary evidence sufficient to demonstrate its compliance with the duty at Part B and, in particular, the requirements of this Part C.

Compliance with Standards

46.8 The licensee must take all reasonable steps to ensure that, by no later than the Specified Date, it complies with the following standards of the International Organisation for Standards with respect to the resilience, reliability and security of the Supplier End-to-End System:

- (a) ISO 27001:2005 (entitled *Information Technology – Security Techniques – Information Security Management Systems*); and
- (b) any equivalent standard of the ISO that amends, replaces or supersedes that standard.

46.9 For the purposes of paragraph 46.8, the **Specified Date** is the date which falls 18 months after the date on which this condition comes into force.

Information Security Policy

46.10 The licensee must establish, maintain, and give effect to a policy (the **Information Security Policy**) which must:

- (a) be based on a risk assessment in relation to the security of the Supplier End-to-End System; and
- (b) set out the manner in which the licensee will operate the Supplier End-to-End System in order to ensure its compliance with the duty at Part B.

46.11 The Information Security Policy must in particular make appropriate provision for:

- (a) measures to mitigate the risk of the occurrence of any Security Incident;
- (b) restricting access to the Supplier End-to-End System, and to the data communicated over or stored on any element of it, to those who need it and are authorised to obtain it;
- (c) the effective management of any Security Incident; and
- (d) appropriate business continuity and disaster recovery procedures.

46.12 The licensee must keep the Information Security Policy under review so as to ensure that it remains appropriate and up to date.

46.13 The licensee must ensure that the Information Security Policy, and each amendment made to it, is brought to the attention of and considered by appropriate members of its senior management team.

46.14 The licensee must:

(a) commit adequate levels of resource, including a sufficient number of appropriately qualified individuals; and

(b) establish all appropriate physical and environmental security controls,

to ensure that it at all times implements the Information Security Policy.

Audit

46.15 The licensee must:

(a) by no later than six months after the date on which this condition comes into force; and

(b) at least once in each subsequent period of 12 months,

ensure that a security audit of the Supplier End-to-End System is carried out, and has been completed, by a Competent Independent Organisation.

46.16 The licensee must ensure that any audit carried out for the purposes of paragraph 46.15:

(a) includes an assessment of the licensee's compliance with the requirements of Part B and the other requirements of this Part C; and

(b) is documented in a report which:

(i) is produced by the auditors and addressed to the licensee;

(ii) is provided by the auditors to the licensee within one month of the completion of the audit; and

- (iii) shall include any recommendations that the auditors consider it appropriate to make as to actions that the licensee should take in order to ensure its compliance with those requirements.

46.17 The licensee must ensure that:

- (a) each report prepared in accordance with paragraph 46.16(b) is considered by appropriate members of its senior management team within four weeks of the report being provided by the auditors to the licensee; and
- (b) it keeps a documentary record of the decisions made and actions taken by it in response to that report.

PART D. COMPLIANCE WITH DIRECTIONS

46.18 The Secretary of State may from time to time issue a direction addressed to the licensee which may require it to:

- (a) take (or refrain from taking) such steps as may be set out in the direction for the purposes of:
 - (i) establishing and maintaining a Secure Supplier End-to-End System for the purposes of any testing and trialling related to the installation or operation of Smart Metering Systems;
 - (ii) establishing and maintaining a Secure Supplier End-to-End System at all other times;
 - (iii) mitigating any known or anticipated risk to the security of the Supplier End-to-End System;
 - (iv) preventing any potential failure of security in the Supplier End-to-End System;
 - (v) remedying any actual failure of security in the Supplier End-to-End System;
 - (vi) preparing to address the consequences of any potential failure, or addressing the consequences of any actual failure, in the security of the Supplier End-to-End System;

- (b) do so by such a date as may be set out in the direction;
- (c) report to the Secretary of State or the Authority on the steps that it has taken or will take to comply with the direction;
- (d) produce documentary evidence sufficient to demonstrate its compliance with the direction.

46.19 Any direction issued under this Part D may be addressed to the licensee alone or to the licensee together with any one or more other Gas or Electricity Suppliers.

46.20 The licensee must comply with any direction issued under this Part D and addressed to it.

PART E. DEFINITIONS

46.21 For the purposes of this condition:

Appropriate Standard	means a high level of security that is in accordance with good industry practice within the energy industry in Great Britain, and is capable of verification as such by a Competent Independent Organisation.
Information Security Policy	has the meaning given in paragraph 46.10.
Competent Independent Organisation	means a body which: <ul style="list-style-type: none"> (a) is fully independent of the interests of the licensee; (b) is recognised as being qualified to conduct information security audits by virtue of: <ul style="list-style-type: none"> (i) employing one or more consultants who are members of the CESG Listed Adviser Scheme (CLAS), or any successor to that scheme; (ii) being accredited under the CESG CHECK (IT Health Check Service)

Scheme, or any successor to that scheme;

(iii) being approved as a provider of CTAS (CESG Tailored Assurance Service) assessments or any successor to those assessments; or

(iv) any other membership, accreditation, approval, or similar form of validation that is substantially equivalent in its status and effect to one or more of the arrangements referred to at subparagraphs (i) to (iii), and

(c) has engaged as its lead auditor, for the purposes of the security audit carried out in accordance with paragraph 46.15, an individual who is a member of CLAS or of any successor to or equivalent of that scheme.

For the purposes of this definition, **CESG** is the National Technical Authority for Information Assurance.

Secure has the meaning given in paragraph 46.5.

Security Incident has the meaning given in paragraph 46.6.

Supplier End-to-End System has the meaning given in paragraph 46.4.”.

4. In standard condition 2—

(a) in paragraph 2.12, after “any power of the Secretary of State under standard condition 1, 12, 39, 40, 45 or 46 of this licence to give a direction”, insert “, and any power of the Secretary of State under standard condition 47 of this licence to give an approval.”;

- (b) in paragraph 2.13 after “Any direction given by the Secretary of State under standard condition 1, 12, 39, 40, 45 or 46 of this licence”, insert “, and any approval given by the Secretary of State under standard condition 47 of this licence,”; and
- (c) in paragraph 2.15, after “every direction given by the Secretary of State in relation to standard condition 1, 12, 39, 40, 45 or 46 of this licence”, insert “, and every approval given by the Secretary of State under standard condition 47 of this licence”.

5. After standard condition 46, insert—

“Condition 47. Smart Metering – Matters Relating To Obtaining and Using Consumption Data

Application

47.1 Part A of this condition applies only in respect of each Domestic Premises (the **relevant premises**):

- (a) to which electricity is supplied through an Electricity Meter which forms part of a Smart Metering System; and
- (b) in respect of which the quantity of electricity supplied is measured by that Electricity Meter.

47.2 Part B of this condition applies only in respect of each Designated Premises at which the Customer is a Micro Business Consumer (the **micro business premises**):

- (a) to which electricity is supplied through an Electricity Meter which forms part of a Smart Metering System; and
- (b) in respect of which the quantity of electricity supplied is measured by that Electricity Meter.

PART A. APPLICATION TO RELEVANT PREMISES

Prohibition on obtaining consumption data

47.3 Subject to paragraphs 47.4 and 47.7, the licensee must not, in respect of any relevant premises, obtain any Electricity Consumption Data which relates to a period of less than one month.

Exception to Prohibition – Obtaining consumption data for periods of less than one month

47.4 Paragraph 47.3 does not apply where:

- (a) the Electricity Consumption Data that is obtained relates to a period of less than one month but not less than one day; and
- (b) the requirements of either paragraph 47.5 or 47.6 are satisfied.

47.5 The requirements of this paragraph are that:

- (a) the licensee has given Notice to the Domestic Customer at the relevant premises informing the Domestic Customer:
 - (i) that the licensee intends to obtain Electricity Consumption Data which relates to any one or more periods of a length referred to in paragraph 47.4(a);
 - (ii) of the purposes (which purposes must not include Marketing) for which the licensee may use that Electricity Consumption Data; and
 - (iii) that the Domestic Customer may at any time object to the licensee obtaining that Electricity Consumption Data and of the process by which he may do so; and
- (b) the Domestic Customer has either:
 - (i) given explicit consent to the licensee obtaining that Electricity Consumption Data for the purposes set out in the Notice (and such consent has not been withdrawn); or
 - (ii) after at least seven days have elapsed from the date on which the Notice was given to him, not objected to the licensee obtaining that Electricity Consumption Data for the purposes set out in the Notice.

47.6 The requirements of this paragraph are that one of the following applies:

- (a) the licensee has reasonable grounds to suspect that there is an occurrence of theft or abstraction of electricity at the relevant premises, and it obtains Electricity Consumption Data which relates to any one or more periods of a length referred to in paragraph 47.4(a) only for the purposes of investigating that suspected theft or abstraction;

- (b) the licensee obtains Electricity Consumption Data which relates to a single period of a length referred to in paragraph 47.4(a) only for the purposes of:
 - (i) verifying the quantity of electricity supplied to the relevant premises since the last date in respect of which the licensee obtained Electricity Consumption Data that was used for the purposes of sending a Bill to the Domestic Customer (the **Billing Date**); and
 - (ii) calculating and sending an accurate and up to date Bill (including a final Bill) to the Domestic Customer in respect of the Charges for the Supply of Electricity to the relevant premises since the Billing Date;
- (c) the licensee obtains Electricity Consumption Data which relates to any one or more periods of a length referred to in paragraph 47.4(a) only for the purposes of responding to an enquiry from or a complaint made by, or on behalf of, the Domestic Customer at the relevant premises and relating to the supply of electricity by the licensee to the relevant premises; or
- (d) the Electricity Meter forming part of the Smart Metering System at the relevant premises is a Prepayment Meter, and the Electricity Consumption Data:
 - (i) is obtained only by virtue of the Smart Metering System registering an advance payment made by the Domestic Customer through that Prepayment Meter; and
 - (ii) relates to a single period of a length referred to in paragraph 47.4(a) which corresponds to the period since the previous advance payment made by the Domestic Customer through that Prepayment Meter.

Exception to Prohibition – Obtaining consumption data for periods of less than a day

47.7 Paragraph 47.3 does not apply where:

- (a) the Electricity Consumption Data that is obtained relates to a period of less than one day; and
- (b) the requirements of either paragraph 47.8 or 47.9 are satisfied.

47.8 The requirements of this paragraph are that:

- (a) the licensee has given Notice to the Domestic Customer at the relevant premises informing the Domestic Customer:
 - (i) that the licensee intends to obtain Electricity Consumption Data which relates to any one or more periods of less than one day;
 - (ii) of the purposes for which the licensee may use that Electricity Consumption Data;
 - (iii) that the licensee requires the Domestic Customer's consent to obtain that Electricity Consumption Data; and
 - (iv) that where the Domestic Customer gives consent he may withdraw it at any time and of the process by which he may do so; and
- (b) the Domestic Customer has given his explicit consent to the licensee obtaining that Electricity Consumption Data for the purposes set out in the Notice and such consent has not been withdrawn.

47.9 The requirements of this paragraph are that:

- (a) the Secretary of State has approved proposals submitted by the licensee for obtaining Electricity Consumption Data which relates to any one or more periods of less than one day, in respect of a particular category of relevant premises and for a particular purpose (in each case as specified in the proposal), on a trial basis (the **Trial**);
- (b) the relevant premises fall within that category;
- (c) the licensee has given at least 14 days advance Notice to the Domestic Customer at the relevant premises informing the Domestic Customer:
 - (i) of the nature and purpose of the Trial;
 - (ii) that he may at any time object to being included in the Trial;
 - (iii) of the process by which the Domestic Customer may object; and
- (d) the Domestic Customer has not objected to being included in the Trial.

Prohibition on use of consumption data

47.10 Subject to paragraph 47.11, the licensee must not use Electricity Consumption Data obtained in respect of any relevant premises other than for any of the following purposes:

- (a) calculating and sending a Bill to the Domestic Customer;
- (b) complying with a relevant condition or a relevant requirement;
- (c) where the requirements of paragraph 47.5 are satisfied, the purpose set out in the Notice given to the Domestic Customer under paragraph 47.5(a);
- (d) where any of the requirements of paragraph 47.6 are satisfied, the purpose for which the data was obtained in accordance with paragraph 47.6;
- (e) where the requirements of paragraph 47.8 are satisfied, the purpose set out in the Notice given to the Domestic Customer under paragraph 47.8(a);
- (f) where the requirements of paragraph 47.9 are satisfied, the purpose of the Trial.

Exception to prohibition on use of consumption data

47.11 The licensee may use Electricity Consumption Data for purposes other than the purposes specified in paragraph 47.10 where:

- (a) it has given at least seven days advance Notice informing the Domestic Customer that it intends to use Electricity Consumption Data for the purposes specified in the Notice; and
- (b) the requirements of paragraph 47.12 are satisfied.

47.12 The requirements of this paragraph are that:

- (a) where the Electricity Consumption Data relates to any period of less than one day, the Domestic Customer has given explicit consent for that Electricity Consumption Data to be used for the purposes specified in the Notice;
- (b) where the Notice given under paragraph 47.11(a) specifies that the licensee intends to use Electricity Consumption Data for Marketing, the Domestic Customer has given explicit consent for the Electricity Consumption Data to be used for Marketing; and

- (c) in all other cases, the Domestic Customer has not objected to the Electricity Consumption Data being used for the purposes specified in the Notice.

Maintaining records and informing customers

47.13 The licensee must, in respect of each of its Domestic Customers at relevant premises, at all times maintain an accurate and up to date record of:

- (a) the date of any Notice sent to the Domestic Customer under this condition and of the information contained in it;
- (b) the nature of the Domestic Customer's response (if any) to that Notice;
- (c) the time periods (by reference to length) in relation to which the licensee obtains or may obtain Electricity Consumption Data; and
- (d) where the licensee obtains Electricity Consumption Data by virtue of the requirements of paragraph 47.6(a) a statement setting out the reasons why such requirements are satisfied in the circumstances of the case.

47.14 The licensee must, in accordance with paragraph 47.15, inform the Domestic Customer in Writing of:

- (a) the time periods (by reference to length) in relation to which the licensee obtains or may obtain Electricity Consumption Data;
- (b) the purposes for which that Electricity Consumption Data is, or may be, used by the licensee; and
- (c) where any of the time periods is of less than one month, the Domestic Customer's right, if any, to object or withdraw consent (as the case may be) to the licensee obtaining or using (as the case may be) that Electricity Consumption Data.

47.15 The licensee shall inform the Domestic Customer of the matters set out in paragraph 47.14:

- (a) where it installs or arranges for the installation of the Smart Metering System at the Domestic Premises, on, or at any time during the 14 days prior to, the date of installation or as soon as reasonably practicable after the date of installation; and

- (b) in all cases, at such intervals as are determined appropriate by the licensee for the purposes of ensuring that the Domestic Customer is regularly updated of such matters.

PART B. MICRO BUSINESS PREMISES

Prohibition on obtaining consumption data

47.16 Subject to paragraph 47.17, the licensee must not, in respect of any micro business premises, obtain any Electricity Consumption Data which relates to a period of less than one month.

Exception to prohibition on obtaining consumption data

47.17 Paragraph 47.16 does not apply where:

- (a) the licensee has given at least seven days advance Notice to the Micro Business Consumer at the micro business premises informing the Micro Business Consumer:
 - (i) that the licensee intends to obtain Electricity Consumption Data which relates to any one or more periods of less than one month;
 - (ii) of the purposes for which the licensee may use that Electricity Consumption Data; and
 - (iii) that the Micro Business Consumer may at any time object to the licensee obtaining that Electricity Consumption Data and of the process by which he may do so; and
- (b) the Micro Business Consumer has not objected to the licensee obtaining that Electricity Consumption Data for the purposes set out in the Notice.

Use of consumption data

47.18 The licensee must not use Electricity Consumption Data obtained in respect of any micro business premises other than for any of the following purposes:

- (a) calculating and sending a Bill to the Micro Business Consumer;
- (b) complying with a relevant condition or a relevant requirement;

- (c) where the requirements of paragraph 47.17 are satisfied, the purpose set out in the Notice given to the Micro Business Consumer under paragraph 47.17(a).

Interpretation and Definitions

47.19 In this condition, any reference:

- (a) to Electricity Consumption Data being ‘obtained’ by the licensee shall be read as incorporating a reference to the licensee requesting any other person to obtain that Electricity Consumption Data on its behalf (and references to ‘obtain’ and ‘obtaining’ shall be construed accordingly);
- (b) to the licensee obtaining Electricity Consumption Data which ‘relates to’ a specified period, shall be read as incorporating a reference to the licensee obtaining any data which would allow it to calculate Electricity Consumption Data in respect of that period (and references to Electricity Consumption Data being ‘in relation to’ a period of time shall be construed accordingly).

47.20 For the purposes of this condition:

Electricity Consumption Data means, in respect of a relevant premises or a micro business premises, the quantity of electricity measured by the Electricity Meter as having been supplied to the relevant premises or the micro business premises.

Marketing means:

- (a) any activities of the licensee or its Representatives which are directed at or incidental to identifying and communicating with Domestic Customers for the purpose of promoting the provision of goods or services by any person and includes entering into contracts for the provision of goods or services with such customers;
- (b) the licensee or its representatives disclosing Electricity Consumption Data to any other

person for the purposes of that person undertaking activities which are directed at or incidental to identifying and communicating with Domestic Customers for the purpose of promoting the provision of goods or services by any person, including the entering into contracts for the provision of goods or services with such customers,

but for these purposes ‘goods or services’ shall be taken to exclude the supply of electricity by the licensee.

Micro Business Consumer

has the meaning given to it in standard condition 7A of this licence.”.

Modifications to the standard conditions of gas supply licences

6. The standard conditions of gas supply licences granted, or treated as granted, under section 7A(1) of the Gas Act 1986 are—
 - (a) with effect from 4 March 2013, modified in accordance with paragraphs 7 and 8; and
 - (b) with effect from 30 June 2013, modified in accordance with paragraphs 9 and 10.
7. In standard condition 2—
 - (a) in paragraph 2.12, replace “standard condition 1, 12, 33 or 34 of this licence” with “standard condition 1, 12, 33, 34, 39 or 40 of this licence”;
 - (b) in paragraph 2.13 replace “standard condition 1, 12, 33 or 34” with “standard condition 1, 12, 33, 34, 39 or 40 of this licence”;
 - (c) in paragraph 2.14, replace “standard condition 12, 33 or 34 of this licence” with “standard condition 12, 33, 34, 39 or 40 of this licence”; and
 - (d) in paragraph 2.15, replace “standard condition 1, 12, 33 or 34 of this licence” with “standard condition 1, 12, 33, 34, 39 or 40 of this licence”.
8. After standard condition 36, insert—

“Condition 37. Roll-out Reporting and Provision of Information to the Secretary of State

Introduction

37.1 This condition provides for the Secretary of State to be able to obtain from the licensee information in respect of matters relating to the provision, installation, operation, maintenance, and use of meters.

Purposes

37.2 The purposes of this condition are to ensure that the Secretary of State may obtain such information as he may reasonably require to enable him, from time to time, to:

- (a) examine and assess the readiness of the licensee to comply with any Relevant SMS Condition;
- (b) monitor and review the steps taken, or to be taken, by the licensee to:

- (i) install, arrange for the installation of, or provide (as the case may be) Smart Metering Systems and In-Home Displays in accordance with the requirements of any Relevant SMS Condition;
 - (ii) promote awareness and understanding by Energy Consumers of the use of Smart Metering Systems and In-Home Displays (and information that may be obtained through them);
- (c) evaluate:
- (i) the scope and effectiveness of the licensee's consumer engagement activities; and
 - (ii) the implementation of the Consumer Engagement Plan;
- (d) identify and evaluate the costs associated with, and benefits attributable to, the provision, installation, operation, maintenance, and use of Smart Metering Systems and In-Home Displays, including in particular:
- (i) energy savings made as a result of Energy Consumers being able to better manage their energy consumption and expenditure;
 - (ii) cost savings and improvements in services resulting from changes made to energy industry activities and procedures;
- (e) decide whether or when there may be a need for him to exercise any of his powers under any Relevant SMS Condition or section 88 of the Energy Act 2008; and
- (f) publish information in respect of the matters set out in paragraphs (a) - (e).

Information Request

37.3 The Secretary of State may, for the purposes of this condition, from time to time issue a request for Information to be provided to him (an **Information Request**).

37.4 An Information Request (or any part of it) may be addressed to the licensee alone, to all Gas Suppliers or to a category of Gas Suppliers.

37.5 An Information Request may in particular, where the licensee supplies gas to at least 250,000 Domestic Customers, require the licensee to provide:

- (a) on an annual basis (and at such other times as may be specified in the Information Request) Information in respect of:
 - (i) its proposals, plans and projections for meeting its duties in relation to the provision, installation, operation, and maintenance of Smart Metering Systems and In-Home Displays; and
 - (ii) its progress against the proposals, plans and projections included in the previous year's roll-out report,

(together the **roll-out report**); and
- (b) for such periods and at such frequency as may be specified in the Information Request, Information which sets out the licensee's progress against the proposals, plans and projections included in its latest roll-out report (the **monitoring report**).

37.6 An Information Request may in particular, where the licensee supplies gas to fewer than 250,000 Domestic Customers or supplies gas only to Non-Domestic Customers, require it to provide on an annual basis (and at such other times as may be specified in the Information Request) Information in respect of its proposals for and progress towards meeting its duties in relation to the provision, installation, operation, and maintenance of Smart Metering Systems and In-Home Displays (the **progress report**).

37.7 An Information Request may in particular specify:

- (a) the type and nature of Information to be provided, including in particular the type and nature of Information to be provided in a roll-out report, monitoring report, and progress report;
- (b) that the Information is to be accompanied by such supporting documents or data as may be described;
- (c) that all or some of the specified Information must continue to be provided at the intervals specified until such date as specified or until the Secretary of State issues a subsequent Information Request to the licensee or the category of Gas Suppliers of which it is a member; and
- (d) the form and manner in which, and the date by which, the specified Information is to be provided.

- 37.8 The licensee must comply with an Information Request addressed to it or to a category of Gas Suppliers of which it is a member.
- 37.9 The licensee must ensure that the Information it provides in response to an Information Request is complete and accurate.
- 37.10 The licensee is not required under this condition to provide any Information which it could not be compelled to produce or give in evidence in civil proceedings before a court.

Cessation

- 37.11 This condition shall cease to apply to the licensee from the date which is 12 months after the date specified in paragraph 33.1 of standard condition 33 of this licence.

Interpretation and Definitions

- 37.12 In this condition:

Consumer Engagement Plan	has the meaning given to it in standard condition 39 (Smart Metering Consumer Engagement) of this licence.
Energy Consumer	means a consumer of gas or electricity.
Information	includes information in any form or medium and of any description specified by the Secretary of State and includes any documents, accounts, estimates, returns, records or reports and data of any kind, whether or not prepared specifically at the request of the Secretary of State.
Relevant SMS Condition	means any condition of this licence which imposes obligations or contains provisions in respect of any matter relating to the provision, installation, operation, maintenance, or use of a Smart Metering System or an In-Home Display.

Condition 38. Roll-out Reporting, Setting and Achieving Annual Milestones, and Provision of Information to the Authority

Introduction

38.1 This condition provides for:

- (a) the licensee to be required to prepare and provide to the Authority a Roll-out Plan, to report against the Roll-out Plan and to set and achieve Annual Milestones; and
- (b) the Authority to be able to obtain from the licensee information in respect of matters relating to the provision, installation, operation, maintenance and use of Smart Metering Systems, In-Home Displays and Relevant Gas Meters and the licensee's achievement of the Annual Milestones.

Purposes

38.2 The purposes of this condition are to:

- (a) provide that the Authority may require the licensee to prepare a Roll-out Plan which includes Annual Milestones;
- (b) require the licensee to achieve the Annual Milestones set out in the Roll-out Plan; and
- (c) ensure that the Authority may obtain such information as it may reasonably require to enable it, from time to time, to:
 - (i) examine and assess the readiness of the licensee to comply with any Relevant SMS Condition;
 - (ii) monitor and review the steps taken or to be taken by the licensee to install, arrange for the installation of, or provide (as the case may be) Smart Metering Systems, In-Home Displays and Relevant Gas Meters in accordance with the requirements of any Relevant SMS Condition; and
 - (iii) monitor the licensee's achievement of the Annual Milestones set out in the Roll-out Plan.

Roll-out Plan and Progress Reports

- 38.3 Where directed by the Authority, the licensee must prepare and submit to the Authority, by a date specified in a direction issued by the Authority, a document (the **Roll-out Plan**) which contains:
- (a) where the licensee is required to provide a roll-out report to the Secretary of State under standard condition 37, such parts of the roll-out report as are specified in the direction;
 - (b) Annual Milestones, set by the licensee for such period as may be specified in the direction, for the purpose of the licensee complying with its duties in relation to the provision, installation, operation, maintenance and use of Smart Metering Systems, In-Home Displays and Relevant Gas Meters;
 - (c) a detailed explanation of the licensee's reasons, which reasons must be duly justified, for the Annual Milestones set by it; and
 - (d) such other Information as may be specified in the direction.
- 38.4 The licensee must achieve the Annual Milestones set out in its Roll-out Plan.
- 38.5 For the purposes of paragraph 38.4, the licensee shall be considered to have achieved an Annual Milestone set out in its Roll-out Plan where, by the end of the calendar year to which that Annual Milestone relates, it has reached at least 95% (or such lower percentage as may be specified in any direction issued to the licensee by the Authority) of that Annual Milestone.
- 38.6 The licensee may submit a revised Roll-out Plan to the Authority only:
- (a) on, or in the seven days immediately following, each anniversary, occurring prior to 31 March 2017, of the date specified in the direction issued by the Authority in accordance with paragraph 38.3; or
 - (b) where in response to a request from the licensee, the Authority has agreed that it may submit a revised Roll-out Plan.
- 38.7 Where, in accordance with paragraph 38.6, the licensee submits a revised Roll-out Plan, it must also set out its reasons, which reasons must be duly justified, for making the revisions together with such supporting Information as may be required by the Authority.

- 38.8 The licensee must prepare and submit to the Authority, in accordance with any direction issued to the licensee by the Authority and for such periods and at such frequency as may be specified in the direction, a report (the **Progress Report**) which sets out the licensee's progress and performance against the Roll-out Plan.
- 38.9 The licensee must publish its Roll-out Plan and any Progress Report, or such Information contained in the Roll-out Plan and any Progress Report, where it is directed to do so by the Authority.

Directions

- 38.10 The licensee must comply with any directions the Authority may issue for the purposes of this condition and which are addressed to it or to a category of Gas Suppliers of which it is a member.
- 38.11 A direction issued by the Authority may, in particular, specify:
- (a) the format of the Roll-out Plan and the Progress Report;
 - (b) the form and manner in which the Annual Milestones need to be included in the Roll-out Plan;
 - (c) the Information the licensee must include in the Progress Report, which may, where the licensee is required to provide a roll-out report to the Secretary of State under standard condition 37, include such parts of the roll-out report as are specified in the direction;
 - (d) requirements in relation to the submission of the Roll-out Plan and Progress Reports to the Authority; and
 - (e) the manner and method by which any specified Information from the Roll-out Plan and any Progress Report must be published by the licensee.

Information Request

- 38.12 Where the licensee receives a request for Information from the Authority for the purposes of this condition (an **Information Request**), it must provide that Information to the Authority within the time and in the form requested.

38.13 An Information Request issued by the Authority may in particular specify the type and nature of Information to be provided by the licensee, including in particular in respect of:

- (a) the readiness of the licensee to comply with any Relevant SMS Condition; and
- (b) the steps taken or to be taken by the licensee to install, arrange for the installation of, or provide (as the case may be) Smart Metering Systems, In-Home Displays and Relevant Gas Meters in accordance with the requirements of any Relevant SMS Condition.

38.14 The licensee must ensure that the Information it provides in response to an Information Request is complete and accurate.

38.15 The licensee is not required under this condition to provide any Information which it could not be compelled to produce or give in evidence in civil proceedings before a court.

Cessation

38.16 This condition shall cease to apply to the licensee from the date which is 12 months after the date specified in paragraph 33.1 of standard condition 33 of this licence.

Interpretation

38.17 In this condition:

Annual Milestone

means a percentage of the total number of Domestic Premises and Designated Premises:

- (a) in respect of which the licensee is the Relevant Gas Supplier; and
- (b) at which a Smart Metering System or Relevant Gas Meter is to be installed by the end of each calendar year falling within the period specified in a direction issued by the Authority under

paragraph 38.3.

Progress Report	means a report submitted in accordance with paragraph 38.8.
Relevant Gas Meter	means any Gas Meter installed or arranged to be installed by the licensee pursuant to paragraphs 33.8, 33.9 or 33.10 of standard condition 33 of this licence.
Relevant SMS Condition	means any condition of this licence which imposes obligations or contains provisions in respect of any matter relating to the provision, installation, operation, maintenance or use of a Smart Metering System or an In-Home Display.
Roll-out Plan	means a plan submitted in accordance with paragraph 38.3, as it may be revised in accordance with paragraph 38.6.

Condition 39. Smart Metering Consumer Engagement

Introduction

39.1 This condition provides for holders of electricity and gas supply licences to be required to establish, support and monitor the work of a body which will carry out the role of consumer engagement in relation to Smart Metering Systems.

Application

39.2 This condition shall:

- (a) apply to the licensee only if it is a Relevant Supplier, a Small Domestic Supplier or a Relevant Non-Domestic Supplier; and
- (b) cease to apply from such date as is specified in a direction issued by the Secretary of State.

39.3 Where this condition applies and:

- (a) the licensee is a Relevant Supplier, it is not required to comply with Parts B and C;
- (b) the licensee is a Small Domestic Supplier, it is not required to comply with Parts A and C;
- (c) the licensee is a Relevant Non-Domestic Supplier, it is not required to comply with Parts A and B.

PART A. REQUIREMENTS APPLICABLE TO THE LICENSEE WHERE IT IS A RELEVANT SUPPLIER

Duty to establish the Central Delivery Body

39.4 The licensee, together with all other Relevant Suppliers, must take such steps and do such things as are within its power:

- (a) to establish, by no later than 30 June 2013, a body corporate to carry out the role of consumer engagement in relation to Smart Metering Systems (referred to in this condition as the **Central Delivery Body**);
- (b) to provide that the Central Delivery Body is constituted and governed so as to ensure that it:
 - (i) has the characteristics set out at Part A1;
 - (ii) has the objectives set out at Part A2;
 - (iii) procures the advice of experts as set out at Part A3; and
 - (iv) fulfils the functions set out at Part A4;
- (c) to provide for the costs of the Central Delivery Body to be met as set out at Part A5.

Part A1. Characteristics of the Central Delivery Body

Constitution

39.5 The articles of association of the Central Delivery Body must as a minimum provide that:

- (a) it is a not-for-profit body;

- (b) its board of directors (the **Board**) is at all times constituted so as to reflect the provisions of paragraph 39.6;
- (c) the Secretary of State has a right of veto in respect of the appointment of any person as the Chairman of the Board;
- (d) any person nominated by and representing either:
 - (i) the Secretary of State; or
 - (ii) all Network Operators,

is entitled to attend, but not vote at, a meeting of the Board;

- (e) the Board will exercise independent judgement and reach its decisions in accordance with the requirements of paragraph 39.8;
- (f) its business shall be (and shall be limited to):
 - (i) achieving the objectives set out at Part A2;
 - (ii) achieving those objectives by taking such steps as are reasonably necessary and appropriate for carrying out the activities set out at Parts A3 and A4.

Composition of the Board

39.6 The Board shall comprise:

- (a) a Chairman appointed by the Relevant Suppliers;
- (b) six directors nominated by and representing Relevant Suppliers;
- (c) two directors nominated by and representing Small Domestic Suppliers;
- (d) two directors nominated by and representing Relevant Non-Domestic Suppliers;
- (e) two directors nominated by the National Consumer Council; and
- (f) two directors representing the interests of Energy Consumers.

39.7 The Chairman of the Board must be independent of any person or body that is represented by a director appointed in accordance with the provisions of paragraphs 39.6(b)-(f).

Decision-Making

39.8 A decision made by the Board must be made in accordance with a voting procedure which provides for:

- (a) each director, other than the Chairman, to exercise a single vote on each decision to be taken;
- (b) decisions to be made by a simple majority; and
- (c) the Chairman to be able to exercise a casting vote but only where the number of votes for and against a decision are equal.

Part A2. Objectives of the Central Delivery Body

Objectives

39.9 The objectives of the Central Delivery Body set out in paragraph 39.10 are to apply:

- (a) in respect of Energy Consumers at Domestic Premises; and
- (b) where it is cost effective to extend the consumer engagement activities undertaken by the Central Delivery Body so as also to include the engagement of Energy Consumers at Relevant Designated Premises, in respect of such Energy Consumers.

39.10 The objectives of the Central Delivery Body are to:

- (a) build consumer confidence in the installation of Smart Metering Systems by gas and electricity suppliers;
- (b) build consumer awareness and understanding of the use of Smart Metering Systems (and the information obtained through them);
- (c) increase the willingness of Energy Consumers to use Smart Metering Systems to change their behaviour so as to enable them to reduce their consumption of energy; and
- (d) assist consumers with low incomes or prepayment meters, or consumers who may encounter additional barriers in being able to realise the benefits of Smart Metering Systems due to their particular circumstances or characteristics, to realise the

benefits of Smart Metering Systems while continuing to maintain an adequate level of warmth and to meet their other energy needs.

Part A3. Arrangements for Obtaining Expert Advice

39.11 The Central Delivery Body shall establish arrangements for the purpose of ensuring that it is regularly provided with all appropriate advice that is:

- (a) concerned with the means by which it can most efficiently and effectively achieve its objectives; and
- (b) procured from such persons, as selected by it, who have widely recognised expertise in matters that are relevant to, and will assist in, the efficient and effective achievement of its objectives.

Part A4. Functions of the Central Delivery Body

39.12 The functions of the Central Delivery Body shall be to:

- (a) produce and maintain a plan for achieving its objectives (the **Consumer Engagement Plan**) which meets the requirements of paragraphs 39.13 to 39.16;
- (b) implement the Consumer Engagement Plan in accordance with paragraph 39.17;
- (c) develop and produce an annual budget for the delivery of the Consumer Engagement Plan which meets the requirements of paragraphs 39.18 and 39.19 (the **Annual Budget**);
- (d) produce a report on at least an annual basis (the **Annual Report**) which meets the requirements of paragraphs 39.20 and 39.21; and
- (e) publish the Consumer Engagement Plan, the Annual Budget and the Annual Report in accordance with paragraphs 39.22 and 39.23.

The Consumer Engagement Plan

39.13 The Consumer Engagement Plan must be in writing and must:

- (a) constitute a plan which is designed to ensure that the Central Delivery Body takes all appropriate steps to achieve its objectives;

- (b) describe the activities that the Central Delivery Body proposes to carry out for that purpose;
- (c) describe how the Central Delivery Body has taken into account the need to:
 - (i) co-ordinate its consumer engagement activities with consumer engagement activities undertaken by other parties in relation to Smart Metering Systems;
 - (ii) undertake a coordinated delivery of consumer engagement activities that reflects and takes into account the need to adopt different activities for the purpose of meeting the consumer engagement requirements of any class or classes of Energy Consumer, including Energy Consumers paying by different payment methods, residing in different geographical areas and in occupation of different types of Domestic Premises; and
 - (iii) provide additional assistance and consumer engagement activities that may be required by particular categories of Energy Consumers, including in particular Energy Consumers with low incomes or who may encounter additional barriers in being able to access the benefits of Smart Metering Systems due to their particular circumstances or characteristics; and
- (d) be designed to ensure that in carrying out its activities the Central Delivery Body does not restrict, distort or prevent competition in the supply of gas or electricity or in any commercial activities connected with Smart Metering Systems.

39.14 The Consumer Engagement Plan must be produced by no later than 31 December 2013.

39.15 The Central Delivery Body must keep the Consumer Engagement Plan under review, and must make appropriate amendments to it from time to time so that it continues to be accurate, up to date, and fit for purpose.

39.16 In producing, and prior to making any subsequent amendment to, the Consumer Engagement Plan, the Central Delivery Body:

- (a) must seek the advice of, and have due regard to the advice given by, the persons with whom it has made arrangements in accordance with the provisions of paragraph 39.11; and

- (b) may consult with, and have regard to the representations of, any other interested parties.

39.17 The Central Delivery Body must take such steps and do such things as are within its power:

- (a) to implement the Consumer Engagement Plan in accordance with its terms (as amended from time to time); and
- (b) to do so in an efficient and cost-effective manner that achieves value for money in the performance of its activities.

Annual Budget

39.18 The Central Delivery Body must:

- (a) by 31 December 2013, develop and produce the first Annual Budget in respect of the calendar year commencing on 1 January 2014; and
- (b) thereafter by 31 December in each subsequent year, develop and produce an Annual Budget in respect of the calendar year which commences immediately following that date.

39.19 Each Annual Budget must comprise a detailed statement of the best estimate of the Central Delivery Body, made in good faith, of all costs that it expects to incur for the purpose of undertaking its activities during the calendar year to which that Annual Budget relates.

Annual Report

39.20 The Central Delivery Body must:

- (a) by 31 March 2014, produce the first Annual Report in respect of the calendar year that commenced on 1 January 2013; and
- (b) thereafter by 31 March in each subsequent year, produce an Annual Report in respect of the calendar year that commenced on 1 January in the previous year.

39.21 Each Annual Report must in particular:

- (a) report on:
 - (i) the Central Delivery Body's performance; and

- (ii) the extent to which, in the opinion of the Board, the steps taken by the Central Delivery Body to implement the Consumer Engagement Plan (as applicable during the period to which the Annual Report relates) have contributed to the achievement of its objectives during the period to which the Annual Report relates; and
- (b) set out the expenditure of the Central Delivery Body during that period and report on the extent to which, in the opinion of the Board, such expenditure represents value for money.

Publication

39.22 The Central Delivery Body must ensure that up to date copies of:

- (a) the Consumer Engagement Plan;
- (b) the Annual Budget; and
- (c) the Annual Report,

are at all times made available by it in a form that is readily accessible to most Energy Consumers.

39.23 In complying with paragraph 39.22 the Central Delivery Body:

- (a) must exclude from each document, so far as practicable, any information which would or might seriously prejudice the interests of any individual or body to which it relates; and
- (b) may exclude from each document any information that would, or would be likely to, prejudice the commercial interests of any person (including the Central Delivery Body itself).

Part A5. Costs of the Central Delivery Body

39.24 The licensee must:

- (a) together with all other Relevant Suppliers, take such steps and do such things as are within its power to meet the capital costs of establishing the Central Delivery Body and all costs, excluding Fixed Operating Costs, that are reasonably incurred by the

Central Delivery Body in undertaking its activities and operating in an efficient and cost-effective manner that achieves value for money; and

- (b) together with all other Relevant Suppliers and Small Domestic Suppliers, take such steps and do such things as are within its power to meet all Fixed Operating Costs that are reasonably incurred by the Central Delivery Body operating in an efficient and cost-effective manner that achieves value for money.

39.25 For the purpose of meeting the requirements of paragraph 39.24, the licensee must, together with all other Relevant Suppliers and Small Domestic Suppliers, establish a mechanism to allocate:

- (a) between Relevant Suppliers the costs of the Central Delivery Body, as referred to in paragraph 39.24(a), on the basis of their respective shares of the markets for gas and electricity supply; and
- (b) between Relevant Suppliers and Small Domestic Suppliers the costs of the Central Delivery Body as referred to in paragraph 39.24(b), on the basis of their respective shares of the markets for gas and electricity supply to Domestic Premises.

Part A6. Other Duties of Relevant Suppliers

General Duty

39.26 The licensee, together with all other Relevant Suppliers, must take such steps and do such things as are within its power to ensure that:

- (a) the Central Delivery Body achieves its objectives; and
- (b) in achieving its objectives the Central Delivery Body acts in a manner which is transparent, impartial, cost-effective and represents value for money.

The Performance Management Framework

39.27 The licensee must, together with all other Relevant Suppliers, produce and maintain a performance framework (the **Performance Management Framework**) which meets the requirements of paragraphs 39.28 to 39.30.

39.28 The Performance Management Framework must:

- (a) set out the standards, including key performance indicators and targets, which have been determined by the Relevant Suppliers as standards against which the performance of the Central Delivery Body in achieving its objectives will be measured; and
- (b) include such provisions as will enable any person, including in particular the Relevant Suppliers, the Secretary of State and the Authority, to assess:
 - (i) the Central Delivery Body's performance against the specified standards;
 - (ii) the effectiveness of the steps taken by the Central Delivery Body for the purpose of achieving its objectives; and
 - (iii) the extent to which the Central Delivery Body has, in accordance with paragraph 39.16, amended the Consumer Engagement Plan to take into account information received in respect of its performance.

39.29 The Performance Management Framework must be produced by no later than 31 December 2013.

39.30 The licensee, together with all other Relevant Suppliers must keep the Performance Management Framework under review, and must make appropriate amendments to it from time to time so that it continues to be accurate, up to date, and fit for purpose.

39.31 In determining the standards to be set out, and the other provisions to be included, in the Performance Management Framework, the licensee, together with all other Relevant Suppliers, must consult with and take into account the views of, and information provided by, relevant interested parties, including in particular the Secretary of State.

Co-operation

39.32 The licensee must:

- (a) co-operate with the Central Delivery Body for the purposes of enabling the Central Delivery Body to undertake its activities; and
- (b) take all reasonable steps to ensure that in carrying out its consumer engagement activities in relation to, and communicating with Energy Consumers about, Smart Metering Systems it does not act inconsistently with the activities of the Central Delivery Body.

PART B. REQUIREMENTS APPLICABLE TO THE LICENSEE WHERE IT IS A SMALL DOMESTIC SUPPLIER

39.33 The licensee must, together with all Relevant Suppliers and other Small Domestic Suppliers, take such steps and do such things as are within its power:

- (a) to meet the Fixed Operating Costs that are reasonably incurred by the Central Delivery Body operating in an efficient and cost-effective manner that achieves value for money; and
- (b) establish a mechanism to allocate between Relevant Suppliers and Small Domestic Suppliers the costs referred to in paragraph 39.33(a), on the basis of their respective shares of the markets for gas and electricity supply to Domestic Premises.

39.34 The licensee must:

- (a) co-operate with:
 - (i) Relevant Suppliers for the purposes of ensuring the establishment of the Central Delivery Body in accordance with Part A1 of this condition; and
 - (ii) the Central Delivery Body for the purposes of enabling the Central Delivery Body to undertake its activities; and
- (b) take all reasonable steps to ensure that in carrying out its consumer engagement activities in relation to, and communicating with Energy Consumers about, Smart Metering Systems it does not act inconsistently with the activities of the Central Delivery Body.

PART C. REQUIREMENTS APPLICABLE TO THE LICENSEE WHERE IT IS A RELEVANT NON-DOMESTIC SUPPLIER

39.35 The licensee must:

- (a) co-operate with:
 - (i) Relevant Suppliers for the purposes of ensuring the establishment of the Central Delivery Body in accordance with Part A1 of this condition; and
 - (ii) the Central Delivery Body for the purposes of enabling the Central Delivery Body to undertake its activities; and

- (b) take all reasonable steps to ensure that in carrying out its consumer engagement activities in relation to, and communicating with Energy Consumers about, Smart Metering Systems it does not act inconsistently with the activities of the Central Delivery Body.

PART D. INTERPRETATION AND DEFINITIONS

39.36 In this condition:

Energy Consumer	means a consumer of gas or electricity.
Fixed Operating Costs	means costs relating to (i) renting and maintaining premises, (ii) staff recruitment, salaries, and benefits, and (iii) purchasing and maintaining office equipment, including IT and telephony equipment.
Micro Business Consumer	has the meaning given to it in standard condition 7A of this licence.
Network Operator	means any person holding: (c) a licence granted under section 6(1)(b) or 6(1)(c) of the Electricity Act 1989; or (d) a licence granted under section 7 of the Gas Act 1996.
Relevant Designated Premises	means: (c) Designated Premises at which the Customer is a Micro Business Consumer; and (d) such additional categories of premises as may be specified in a direction issued by the Secretary of State.

Relevant Non-Domestic Supplier	means a gas or electricity supplier which is neither a Relevant Supplier nor a Small Domestic Supplier but supplies gas or electricity to any Relevant Designated Premises.
Relevant Supplier	means a gas or electricity supplier which: <ul style="list-style-type: none"> (c) is authorised by its licence to supply gas or electricity to Domestic Premises; and (d) supplies either gas or electricity (or both) to more than 250,000 Domestic Customers.
Small Domestic Supplier	means a gas or electricity supplier which: <ul style="list-style-type: none"> (c) is authorised by its licence to supply gas or electricity to Domestic Premises; and (d) supplies gas or electricity to, in each case, no more than 250,000 Domestic Customers.

Condition 40. Security controls in relation to Smart Metering Systems

Introduction

40.1 This condition requires the licensee to maintain a high level of security in accordance with good industry practice in relation to all: Smart Metering Systems installed at premises which are from time to time supplied by it with gas; equipment used by it for the purpose of communicating with those Smart Metering Systems; associated software and ancillary devices; and related business processes.

PART A. APPLICATION

40.2 This condition shall cease to have effect from any date specified by the Secretary of State in a direction issued to the licensee under this paragraph.

PART B. THE GENERAL DUTY TO ENSURE A SECURE SYSTEM

- 40.3 The licensee must take such steps and do such things as are within its power to provide that the Supplier End-to-End System is at all times Secure.
- 40.4 For the purposes of this condition, the **Supplier End-to-End System** comprises all of the equipment (together with any associated software and ancillary devices) which falls into one or more of the following categories:
- (a) equipment operated by or on behalf of the licensee for the purpose of enabling information to be communicated to or from Smart Metering Systems;
 - (b) equipment which is a part of any electronic communications network by means of which such communication takes place;
 - (c) equipment comprised within a Smart Metering System located at each premises that is from time to time supplied with gas by the licensee.
- 40.5 For the purposes of this condition, the Supplier End-to-End System is **Secure** if both the System and each individual element of it is designed, installed, operated and supported so as to ensure, to the Appropriate Standard, that it is not subject to the occurrence of a Security Incident.
- 40.6 For the purposes of this condition, a **Security Incident** is any event of interference with or misuse of the Supplier End-to-End System, or with any individual element of it, that (whether directly or indirectly):
- (a) causes any loss, theft or corruption of data;
 - (b) results in any other unauthorised access to data; or
 - (c) gives rise to any loss or interruption of gas supply or to any other interference with the service provided to a Customer at any premises.

PART C. SPECIFIC DUTIES IN RELATION TO A SECURE SYSTEM

- 40.7 For the purpose of ensuring its compliance with the duty at Part B, the licensee must in particular:
- (a) comply with the following requirements of this Part C; and

- (b) retain, and produce to the Secretary of State or the Authority when requested to do so, documentary evidence sufficient to demonstrate its compliance with the duty at Part B and, in particular, the requirements of this Part C.

Compliance with Standards

40.8 The licensee must take all reasonable steps to ensure that, by no later than the Specified Date, it complies with the following standards of the International Organisation for Standards with respect to the resilience, reliability and security of the Supplier End-to-End System:

- (a) ISO 27001:2005 (entitled *Information Technology – Security Techniques – Information Security Management Systems*); and
- (b) any equivalent standard of the ISO that amends, replaces or supersedes that standard.

40.9 For the purposes of paragraph 40.8, the **Specified Date** is the date which falls 18 months after the date on which this condition comes into force.

Information Security Policy

40.10 The licensee must establish, maintain, and give effect to a policy (the **Information Security Policy**) which must:

- (a) be based on a risk assessment in relation to the security of the Supplier End-to-End System; and
- (b) set out the manner in which the licensee will operate the Supplier End-to-End System in order to ensure its compliance with the duty at Part B.

40.11 The Information Security Policy must in particular make appropriate provision for:

- (a) measures to mitigate the risk of the occurrence of any Security Incident;
- (b) restricting access to the Supplier End-to-End System, and to the data communicated over or stored on any element of it, to those who need it and are authorised to obtain it;
- (c) the effective management of any Security Incident; and
- (d) appropriate business continuity and disaster recovery procedures.

40.12 The licensee must keep the Information Security Policy under review so as to ensure that it remains appropriate and up to date.

40.13 The licensee must ensure that the Information Security Policy, and each amendment made to it, is brought to the attention of and considered by appropriate members of its senior management team.

40.14 The licensee must:

(a) commit adequate levels of resource, including a sufficient number of appropriately qualified individuals; and

(b) establish all appropriate physical and environmental security controls,

to ensure that it at all times implements the Information Security Policy.

Audit

40.15 The licensee must:

(a) by no later than six months after the date on which this condition comes into force; and

(b) at least once in each subsequent period of 12 months,

ensure that a security audit of the Supplier End-to-End System is carried out, and has been completed, by a Competent Independent Organisation.

40.16 The licensee must ensure that any audit carried out for the purposes of paragraph 40.15:

(a) includes an assessment of the licensee's compliance with the requirements of Part B and the other requirements of this Part C; and

(b) is documented in a report which:

(i) is produced by the auditors and addressed to the licensee;

(ii) is provided by the auditors to the licensee within one month of the completion of the audit; and

- (iii) shall include any recommendations that the auditors consider it appropriate to make as to actions that the licensee should take in order to ensure its compliance with those requirements.

40.17 The licensee must ensure that:

- (a) each report prepared in accordance with paragraph 40.16(b) is considered by appropriate members of its senior management team within 4 weeks of the report being provided by the auditors to the licensee; and
- (b) it keeps a documentary record of the decisions made and actions taken by it in response to that report.

PART D. COMPLIANCE WITH DIRECTIONS

40.18 The Secretary of State may from time to time issue a direction addressed to the licensee which may require it to:

- (a) take (or refrain from taking) such steps as may be set out in the direction for the purposes of:
 - (i) establishing and maintaining a Secure Supplier End-to-End System for the purposes of any testing and trialling related to the installation or operation of Smart Metering Systems;
 - (ii) establishing and maintaining a Secure Supplier End-to-End System at all other times;
 - (iii) mitigating any known or anticipated risk to the security of the Supplier End-to-End System;
 - (iv) preventing any potential failure of security in the Supplier End-to-End System;
 - (v) remedying any actual failure of security in the Supplier End-to-End System;
 - (vi) preparing to address the consequences of any potential failure, or addressing the consequences of any actual failure, in the security of the Supplier End-to-End System;

- (b) do so by such a date as may be set out in the direction;
- (c) report to the Secretary of State or the Authority on the steps that it has taken or will take to comply with the direction;
- (d) produce documentary evidence sufficient to demonstrate its compliance with the direction.

40.19 Any direction issued under this Part D may be addressed to the licensee alone or to the licensee together with any one or more other Gas or Electricity Suppliers.

40.20 The licensee must comply with any direction issued under this Part D and addressed to it.

PART E. DEFINITIONS

40.21 For the purposes of this condition:

Appropriate Standard means a high level of security that is in accordance with good industry practice within the energy industry in Great Britain, and is capable of verification as such by a Competent Independent Organisation.

Information Security Policy has the meaning given in paragraph 40.10.

Competent Independent Organisation means a body which:

- (a) is fully independent of the interests of the licensee;
- (b) is recognised as being qualified to conduct information security audits by virtue of:
 - (i) employing one or more consultants who are members of the CESG Listed Adviser Scheme (**CLAS**), or any successor to that

scheme;

(ii) being accredited under the CESH CHECK (IT Health Check Service) Scheme, or any successor to that scheme;

(iii) being approved as a provider of CTAS (CESG Tailored Assurance Service) assessments or any successor to those assessments; or

(iv) any other membership, accreditation, approval, or similar form of validation that is substantially equivalent in its status and effect to one or more of the arrangements referred to at sub-paragraphs (i) to (iii), and

(c) has engaged as its lead auditor, for the purposes of the security audit carried out in accordance with paragraph 40.15, an individual who is a member of CLAS or of any successor to or equivalent of that scheme.

For the purposes of this definition, **CESH** is the National Technical Authority for Information Assurance.

Secure has the meaning given in paragraph 40.5.

Security Incident has the meaning given in paragraph 40.6.

Supplier End-to-End System has the meaning given in paragraph 40.4.”.

9. In standard condition 2—
- (a) in paragraph 2.12, after “any power of the Secretary of State under standard condition 1, 12, 33, 34, 39 or 40 of this licence to give a direction”, insert “, and any power of the Secretary of State under standard condition 41 of this licence to give an approval,”;
 - (b) in paragraph 2.13 after “Any direction given by the Secretary of State under standard condition 1, 12, 33, 34, 39 or 40 of this licence”, insert “, and any approval given by the Secretary of State under standard condition 41 of this licence,”; and
 - (c) in paragraph 2.15, after “every direction given by the Secretary of State in relation to standard condition 1, 12, 33, 34, 39 or 40 of this licence”, insert “, and every approval given by the Secretary of State under standard condition 41 of this licence”.
10. After standard condition 40, insert—

“Condition 41. Smart Metering – Matters Relating To Obtaining and Using Consumption Data

Application

- 41.1 Part A of this condition applies only in respect of each Domestic Premises (the **relevant premises**):
- (a) to which gas is supplied through a Gas Meter which forms part of a Smart Metering System; and
 - (b) in respect of which the quantity of gas supplied is measured by that Gas Meter.
- 41.2 Part B of this condition applies only in respect of each Designated Premises at which the Customer is a Micro Business Consumer (the **micro business premises**):
- (a) to which gas is supplied through a Gas Meter which forms part of a Smart Metering System; and
 - (b) in respect of which the quantity of gas supplied is measured by that Gas Meter.

PART A. APPLICATION TO RELEVANT PREMISES

Prohibition on obtaining consumption data

- 41.3 Subject to paragraphs 41.4 and 41.7, the licensee must not, in respect of any relevant premises, obtain any Gas Consumption Data which relates to a period of less than one month.

Exception to Prohibition – Obtaining consumption data for periods of less than one month

41.4 Paragraph 41.3 does not apply where:

- (a) the Gas Consumption Data that is obtained relates to a period of less than one month but not less than one day; and
- (b) the requirements of either paragraph 41.5 or 41.6 are satisfied.

41.5 The requirements of this paragraph are that:

- (a) the licensee has given Notice to the Domestic Customer at the relevant premises informing the Domestic Customer:
 - (i) that the licensee intends to obtain Gas Consumption Data which relates to any one or more periods of a length referred to in paragraph 41.4(a);
 - (ii) of the purposes (which purposes must not include Marketing) for which the licensee may use that Gas Consumption Data; and
 - (iii) that the Domestic Customer may at any time object to the licensee obtaining that Gas Consumption Data and of the process by which he may do so; and
- (b) the Domestic Customer has either:
 - (i) given explicit consent to the licensee obtaining that Gas Consumption Data for the purposes set out in the Notice (and such consent has not been withdrawn); or
 - (ii) after at least seven days have elapsed from the date on which the Notice was given to him, not objected to the licensee obtaining that Gas Consumption Data for the purposes set out in the Notice.

41.6 The requirements of this paragraph are that one of the following applies:

- (a) the licensee has reasonable grounds to suspect that there is an occurrence of theft of gas at the relevant premises, and it obtains Gas Consumption Data which relates to any one or more periods of a length referred to in paragraph 41.4(a) only for the purposes of investigating that suspected theft;

- (b) the licensee obtains the Gas Consumption Data which relates to a single period of a length referred to in paragraph 41.4(a) only for the purposes of:
 - (i) verifying the quantity of gas supplied to the relevant premises since the last date in respect of which the licensee obtained Gas Consumption Data that was used for the purposes of sending a Bill to the Domestic Customer (the **Billing Date**); and
 - (ii) calculating and sending an accurate and up to date Bill (including a final Bill) to the Domestic Customer in respect of the Charges for the Supply of Gas to the relevant premises since the Billing Date;
- (c) the licensee obtains the Gas Consumption Data which relates to any one or more periods of a length referred to in paragraph 41.4(a) only for the purposes of responding to an enquiry from or a complaint made by, or on behalf of, the Domestic Customer at the relevant premises and relating to the supply of gas by the licensee to the relevant premises; or
- (d) the Gas Meter forming part of the Smart Metering System at the relevant premises is a Prepayment Meter, and the Gas Consumption Data:
 - (i) is obtained only by virtue of the Smart Metering System registering an advance payment made by the Domestic Customer through that Prepayment Meter; and
 - (ii) relates to a single period of a length referred to in paragraph 41.4(a) which corresponds to the period since the previous advance payment made by the Domestic Customer through that Prepayment Meter.

Exception to Prohibition – Obtaining consumption data for periods of less than a day

41.7 Paragraph 41.3 does not apply where:

- (a) the Gas Consumption Data that is obtained relates to a period of less than one day; and
- (b) the requirements of either paragraph 41.8 or 41.9 are satisfied.

41.8 The requirements of this paragraph are that:

- (a) the licensee has given Notice to the Domestic Customer at the relevant premises informing the Domestic Customer:
 - (i) that the licensee intends to obtain Gas Consumption Data which relates to any one or more periods of less than one day;
 - (ii) of the purposes for which the licensee may use that Gas Consumption Data;
 - (iii) that the licensee requires the Domestic Customer's consent to obtain that Gas Consumption Data; and
 - (iv) that where the Domestic Customer gives consent he may withdraw it at any time and of the process by which he may do so; and
- (b) the Domestic Customer has given his explicit consent to the licensee obtaining that Gas Consumption Data for the purposes set out in the Notice and such consent has not been withdrawn.

41.9 The requirements of this paragraph are that:

- (a) the Secretary of State has approved proposals submitted by the licensee for obtaining Gas Consumption Data which relates to any one or more periods of less than one day, in respect of a particular category of relevant premises and for a particular purpose (in each case as specified in the proposal), on a trial basis (the **Trial**);
- (b) the relevant premises fall within that category;
- (c) the licensee has given at least 14 days advance Notice to the Domestic Customer at the relevant premises informing the Domestic Customer:
 - (i) of the nature and purpose of the Trial;
 - (ii) that he may at any time object to being included in the Trial;
 - (iii) of the process by which the Domestic Customer may object; and
- (d) the Domestic Customer has not objected to being included in the Trial.

Prohibition on use of consumption data

41.10 Subject to paragraph 41.11, the licensee must not use Gas Consumption Data obtained in respect of any relevant premises other than for any of the following purposes:

- (a) calculating and sending a Bill to the Domestic Customer;
- (b) complying with a relevant condition or a relevant requirement;
- (c) where the requirements of paragraph 41.5 are satisfied, the purpose set out in the Notice given to the Domestic Customer under paragraph 41.5(a);
- (d) where any of the requirements of paragraph 41.6 are satisfied, the purpose for which the data was obtained in accordance with paragraph 41.6;
- (e) where the requirements of paragraph 41.8 are satisfied, the purpose set out in the Notice given to the Domestic Customer under paragraph 41.8(a);
- (f) where the requirements of paragraph 41.9 are satisfied, the purpose of the Trial.

Exception to prohibition on use of consumption data

41.11 The licensee may use Gas Consumption Data for purposes other than the purposes specified in paragraph 41.10 where:

- (a) it has given at least seven days advance Notice informing the Domestic Customer that it intends to use Gas Consumption Data for the purposes specified in the Notice; and
- (b) the requirements of paragraph 41.12 are satisfied.

41.12 The requirements of this paragraph are that:

- (a) where the Gas Consumption Data relates to any period of less than one day, the Domestic Customer has given explicit consent for that Gas Consumption Data to be used for the purposes specified in the Notice;
- (b) where the Notice given under paragraph 41.11(a) specifies that the licensee intends to use Gas Consumption Data for Marketing, the Domestic Customer has given explicit consent for the Gas Consumption Data to be used for Marketing; and
- (c) in all other cases, the Domestic Customer has not objected to the Gas Consumption Data being used for the purposes specified in the Notice.

Maintaining records and informing customers

41.13 The licensee must, in respect of each of its Domestic Customers at relevant premises, at all times maintain an accurate and up to date record of:

- (a) the date of any Notice sent to the Domestic Customer under this condition and of the information contained in it;
- (b) the nature of the Domestic Customer's response (if any) to that Notice;
- (c) the time periods (by reference to length) in relation to which the licensee obtains or may obtain Gas Consumption Data; and
- (d) where the licensee obtains Gas Consumption Data by virtue of the requirements of paragraph 41.6(a) a statement setting out the reasons why such requirements are satisfied in the circumstances of the case.

41.14 The licensee must, in accordance with paragraph 41.15, inform the Domestic Customer in Writing of:

- (a) the time periods (by reference to length) in relation to which the licensee obtains or may obtain Gas Consumption Data;
- (b) the purposes for which that Gas Consumption Data is, or may be, used by the licensee; and
- (c) where any of the time periods is of less than one month, the Domestic Customer's right, if any, to object or withdraw consent (as the case may be) to the licensee obtaining or using (as the case may be) that Gas Consumption Data.

41.15 The licensee shall inform the Domestic Customer of the matters set out in paragraph 41.14:

- (a) where it installs or arranges for the installation of the Smart Metering System at the Domestic Premises, on, or at any time during the 14 days prior to, the date of installation or as soon as reasonably practicable after the date of installation; and
- (b) in all cases, at such intervals as are determined appropriate by the licensee for the purposes of ensuring that the Domestic Customer is regularly updated of such matters.

PART B. MICRO BUSINESS PREMISES

Prohibition on obtaining consumption data

41.16 Subject to paragraph 41.17, the licensee must not, in respect of any micro business premises, obtain any Gas Consumption Data which relates to a period of less than one month.

Exception to prohibition on obtaining consumption data

41.17 Paragraph 41.16 does not apply where:

- (a) the licensee has given at least seven days advance Notice to the Micro Business Consumer at the micro business premises informing the Micro Business Consumer:
 - (i) that the licensee intends to obtain Gas Consumption Data which relates to any one or more periods of less than one month;
 - (ii) of the purposes for which the licensee may use that Gas Consumption Data; and
 - (iii) that the Micro Business Consumer may at any time object to the licensee obtaining that Gas Consumption Data and of the process by which he may do so; and
- (b) the Micro Business Consumer has not objected to the licensee obtaining that Gas Consumption Data for the purposes set out in the Notice.

Use of consumption data

41.18 The licensee must not use Gas Consumption Data obtained in respect of any micro business premises other than for any of the following purposes:

- (a) calculating and sending a Bill to the Micro Business Consumer;
- (b) complying with a relevant condition or a relevant requirement;
- (c) where the requirements of paragraph 41.17 are satisfied, the purpose set out in the Notice given to the Micro Business Consumer under paragraph 41.17(a).

Interpretation and Definitions

41.19 In this condition, any reference:

- (a) to Gas Consumption Data being ‘obtained’ by the licensee shall be read as incorporating a reference to the licensee requesting any other person to obtain that Gas Consumption Data on its behalf (and references to ‘obtain’ and ‘obtaining’ shall be construed accordingly);
- (b) to the licensee obtaining Gas Consumption Data which ‘relates to’ a specified period, shall be read as incorporating a reference to the licensee obtaining any data which would allow it to calculate Gas Consumption Data in respect of that period (and references to Gas Consumption Data being ‘in relation to’ a period of time shall be construed accordingly).

41.20 For the purposes of this condition:

Gas Consumption Data

means, in respect of a relevant premises or a micro business premises, the quantity of gas measured by the Gas Meter as having been supplied to the relevant premises or the micro business premises.

Marketing

means:

- (c) any activities of the licensee or its Representatives which are directed at or incidental to identifying and communicating with Domestic Customers for the purpose of promoting the provision of goods or services by any person and includes entering into contracts for the provision of goods or services with such customers;
- (d) the licensee or its representatives disclosing Gas Consumption Data to any other person for the purposes of that person undertaking activities which are directed at or incidental to identifying and communicating with Domestic Customers for the purpose of promoting the

provision of goods or services by any person, including the entering into contracts for the provision of goods or services with such customers,

but for these purposes 'goods or services' shall be taken to exclude the supply of gas by the licensee.

Micro Business Consumer

has the meaning given to it in standard condition 7A of this licence.”.

Modifications to standard conditions of electricity distribution licences

11. The standard conditions of electricity distribution licences granted, or treated as granted, under section 6(1)(c) of the Electricity Act 1989 are, with effect from 4 March 2013, modified in accordance with paragraphs 12 and 13.
12. After standard condition 6, insert—

“Condition 6A. Smart Metering Systems and Provision of Information to the Secretary of State

Introduction

6A.1 This condition provides for the Secretary of State to be able to obtain from the licensee information, as relating to the licensee’s activities or otherwise available to or held by the licensee, in respect of matters relating to the provision, installation, operation, maintenance, and use of meters.

Purposes

6A.2 The purposes of this condition are to ensure that the Secretary of State may obtain such Information as he may reasonably require to enable him, from time to time, to:

- (a) keep under review matters relating to the provision, installation, operation, maintenance and use of Smart Metering Systems;
- (b) identify and evaluate the costs associated with, and benefits attributable to, the provision, installation, operation, maintenance and use of Smart Metering Systems, including in particular costs savings and improvements in services resulting from changes made to energy industry activities and procedures;
- (c) decide whether or when there may be a need for him to exercise any of his powers under:
 - (i) the conditions of this licence which impose obligations or contain provisions in relation to Smart Metering Systems; or
 - (ii) section 88 of the Energy Act 2008; and
- (d) publish information in respect of the matters set out in paragraphs (a) - (c).

Draft licence modifications laid before Parliament under section 89(3) of the Energy Act 2008; draft to lie for forty days pursuant to section 89(4) of that Act, during which period either House of Parliament may resolve that the licence modifications not be made.

Information Request

- 6A.3 The Secretary of State may, for the purposes of this condition, from time to time issue a request for Information to be provided to him (an **Information Request**).
- 6A.4 An Information Request (or any part of it) may be addressed to the licensee alone, to all Electricity Distributors or to a category of Electricity Distributors.
- 6A.5 An Information Request may in particular specify:
- (a) the type and nature of Information to be provided;
 - (b) that the Information is to be accompanied by such supporting documents or data as may be described;
 - (c) that all or some of the specified Information shall continue to be provided at the intervals specified until such date as is specified or until the Secretary of State issues a subsequent Information Request to the licensee or to the category of Electricity Distributors of which it is a member; and
 - (d) the form and manner in which, and the date by which, the specified Information is to be provided.
- 6A.6 The licensee must comply with an Information Request addressed to it or to a category of Electricity Distributors of which it is a member.
- 6A.7 The licensee must ensure that the Information it provides in response to an Information Request is complete and accurate.
- 6A.8 The licensee is not required under this condition to provide any Information which it could not be compelled to produce or give in evidence in civil proceedings before a court.

Cessation

- 6A.9 This condition shall cease to apply to the licensee from the date which is 12 months after the date specified in paragraph 39.1 of standard condition 39 of the Standard Conditions for Electricity Supply Licences.

Interpretation and Definitions

- 6A.10 In this condition:

Draft licence modifications laid before Parliament under section 89(3) of the Energy Act 2008; draft to lie for forty days pursuant to section 89(4) of that Act, during which period either House of Parliament may resolve that the licence modifications not be made.

Information

includes information (other than information subject to legal privilege) in any form or medium and of any description specified by the Secretary of State and includes any documents, accounts, estimates, returns, records or reports and data of any kind, whether or not prepared specifically at the request of the Secretary of State.”.

13. After standard condition 10, insert—

“Condition 10A. Smart Metering – Matters Relating to Obtaining and Using Consumption Data

Application

10A.1 This condition applies in respect of each Domestic Premises supplied with electricity through the licensee’s distribution system (the **relevant premises**):

- (a) to which the electricity is supplied through an Electricity Meter that forms part of a Smart Metering System; and
- (b) in respect of which the quantity of electricity supplied is measured by that Electricity Meter.

Prohibition on obtaining consumption data

10A.2 Subject to paragraph 10A.3, the licensee must not, in respect of any relevant premises, obtain any Electricity Consumption Data which relates to a period of less than one month.

10A.3 Paragraph 10A.2 does not apply where the requirements of any of paragraphs 10A.4, 10A.6, 10A.7 or 10A.8 are satisfied.

Exceptions to the Prohibition

10A.4 The requirements of this paragraph are that:

- (a) the licensee has submitted proposals to demonstrate to the satisfaction of the Secretary of State (or, in respect of proposals submitted after 31 December 2014, to

Draft licence modifications laid before Parliament under section 89(3) of the Energy Act 2008; draft to lie for forty days pursuant to section 89(4) of that Act, during which period either House of Parliament may resolve that the licence modifications not be made.

the satisfaction of the Authority) that it can implement practices, procedures and systems which are designed to ensure that, so far as is reasonably practicable, the outcome described at paragraph 10A.5 is achieved;

- (b) the Secretary of State or the Authority (as the case may be) has given approval to the licensee to obtain, once it has implemented such practices, procedures and systems, Electricity Consumption Data which relates to any one or more periods of less than one month; and
- (c) the licensee has implemented those practices, procedures and systems.

10A.5 The outcome described at this paragraph is that, except to the extent that the requirements of any of paragraphs 10A.6, 10A.7 or 10A.8 have also been satisfied, Electricity Consumption Data which is obtained by the licensee and which relates to a period of less than one month ceases (through its aggregation with other Electricity Consumption Data or by means of any other process) to be data which is capable of being associated with a Domestic Customer at relevant premises.

10A.6 The requirements of this paragraph are that:

- (a) the licensee has given Notice to the Domestic Customer at the relevant premises informing the Domestic Customer that:
 - (i) the licensee intends to obtain Electricity Consumption Data which relates to any one or more periods of less than one month;
 - (ii) the licensee requires the Domestic Customer's consent to obtain that Electricity Consumption Data; and
 - (iii) where the Domestic Customer gives consent he may withdraw it at any time; and
- (b) the Domestic Customer has given explicit consent to the licensee obtaining that Electricity Consumption Data and such consent has not been withdrawn.

10A.7 The requirements of this paragraph are that the licensee has reasonable grounds to suspect that any person is taking, from that part of the licensee's distribution system through which the relevant premises are supplied, a supply of electricity which is in the course of being conveyed by the licensee (for the purposes of this paragraph referred to as the suspected theft

Draft licence modifications laid before Parliament under section 89(3) of the Energy Act 2008; draft to lie for forty days pursuant to section 89(4) of that Act, during which period either House of Parliament may resolve that the licence modifications not be made.

or abstraction of electricity), and it obtains Electricity Consumption Data which relates to any one or more periods of less than one month only for the purposes of investigating that suspected theft or abstraction of electricity.

10A.8 The requirements of this paragraph are that:

- (a) the Secretary of State has approved proposals submitted by the licensee for obtaining Electricity Consumption Data which relates to any one or more periods of less than one month, in respect of a particular category of relevant premises and for a particular purpose (in each case as specified in the proposal), on a trial basis (the **Trial**);
- (b) the relevant premises fall within that category;
- (c) the licensee has given at least 14 days advance Notice to the Domestic Customer at the relevant premises informing the Domestic Customer:
 - (i) of the nature and purpose of the Trial;
 - (ii) that he may at any time object to being included in the Trial;
 - (iii) of the process by which the Domestic Customer may object; and
- (d) the Domestic Customer has not objected to being included in the Trial.

Prohibition on use of consumption data

10A.9 The licensee must not use any Electricity Consumption Data which is obtained by it in respect of any relevant premises other than:

- (a) for the purpose of complying with a relevant condition or a relevant requirement;
- (b) where the requirements of paragraph 10A.7 are satisfied, for the purpose of investigating a suspected theft or abstraction of electricity;
- (c) where the requirements of paragraph 10A.8 are satisfied, for the purpose of the Trial.

10A.10 The licensee must not use any data which is derived (whether in whole or in part) from Electricity Consumption Data by means of practices, procedures and systems implemented in accordance with paragraph 10A.4 other than for the purpose of complying with a relevant condition or a relevant requirement.

Draft licence modifications laid before Parliament under section 89(3) of the Energy Act 2008; draft to lie for forty days pursuant to section 89(4) of that Act, during which period either House of Parliament may resolve that the licence modifications not be made.

Interpretation and Definitions

10A.11 In this condition, any reference:

- (a) to Electricity Consumption Data being ‘obtained’ by the licensee shall be read as incorporating a reference to the licensee requesting any other person to obtain that Electricity Consumption Data on its behalf (and references to ‘obtain’ and ‘obtaining’ shall be construed accordingly);
- (b) to the licensee obtaining Electricity Consumption Data which ‘relates to’ a specified period, shall be read as incorporating a reference to the licensee obtaining any data which would allow it to calculate Electricity Consumption Data in respect of that period.

10A.12 In this condition:

- (a) any power of the Secretary of State or of the Authority to give an approval is a power:
 - (i) to give it to such extent, for such period of time and subject to such conditions as the Secretary of State or the Authority (as the case may be) thinks reasonable in all the circumstances of the case; and
 - (ii) to revoke or amend it (after consulting with the licensee) or give it again under that power;
- (b) any approval given by the Secretary of State or the Authority will be in Writing; and
- (c) every approval given by the Secretary of State or the Authority, which is in effect immediately before this condition is modified, has continuing effect for so long as it is permitted or required by or under the modified condition.

10A.13 For the purposes of this condition:

Electricity Consumption Data means, in respect of a relevant premises, the quantity of electricity measured by the Electricity Meter as having been supplied to the relevant premises.”.

Draft licence modifications laid before Parliament under section 89(3) of the Energy Act 2008; draft to lie for forty days pursuant to section 89(4) of that Act, during which period either House of Parliament may resolve that the licence modifications not be made.

Modifications to standard conditions of gas transporters' licences

14. The standard conditions of gas transporters' licences granted, or treated as granted, under section 7(2) of the Gas Act 1986 are, with effect from 4 March 2013, modified in accordance with paragraphs 15 and 16.
15. After standard condition 14, replace standard condition 15 (which is not presently used) with the following standard condition 15—

“Condition 15. Smart Metering – Matters Relating to Obtaining and Using Consumption Data

Application

- 15.1 This condition applies in respect of each Domestic Premises supplied with gas through the licensee's pipeline system (the **relevant premises**):
 - (a) to which the gas is supplied through a Gas Meter that forms part of a Smart Metering System; and
 - (b) in respect of which the quantity of gas supplied is measured by that Gas Meter.

Prohibition on obtaining consumption data

- 15.2 Subject to paragraph 15.3, the licensee must not, in respect of any relevant premises, obtain any Gas Consumption Data which relates to a period of less than one month.
- 15.3 Paragraph 15.2 does not apply where the requirements of any of paragraphs 15.4, 15.6, 15.7 or 15.8 are satisfied.

Exceptions to the Prohibition

- 15.4 The requirements of this paragraph are that:
 - (a) the licensee has submitted proposals to demonstrate to the satisfaction of the Secretary of State (or, in respect of proposals submitted after 31 December 2014, to the satisfaction of the Authority) that it can implement practices, procedures and systems which are designed to ensure that, so far as is reasonably practicable, the outcome described at paragraph 15.5 is achieved;

- (b) the Secretary of State or the Authority (as the case may be) has given approval to the licensee to obtain, once it has implemented such practices, procedures and systems, Gas Consumption Data which relates to any one or more periods of less than one month; and
- (c) the licensee has implemented those practices, procedures and systems.

15.5 The outcome described at this paragraph is that, except to the extent that the requirements of any of paragraphs 15.6, 15.7 or 15.8 have also been satisfied, Gas Consumption Data which is obtained by the licensee and which relates to a period of less than one month ceases (through its aggregation with other Gas Consumption Data or by means of any other process) to be data which is capable of being associated with a Domestic Customer at relevant premises.

15.6 The requirements of this paragraph are that:

- (a) the licensee has given Notice to the Domestic Customer at the relevant premises informing the Domestic Customer that:
 - (i) the licensee intends to obtain Gas Consumption Data which relates to any one or more periods of less than one month;
 - (ii) the licensee requires the Domestic Customer's consent to obtain that Gas Consumption Data; and
 - (iii) where the Domestic Customer gives consent he may withdraw it at any time; and
- (b) the Domestic Customer has given explicit consent to the licensee obtaining that Gas Consumption Data and such consent has not been withdrawn.

15.7 The requirements of this paragraph are that the licensee has reasonable grounds to suspect that any person is taking, from that part of the licensee's pipe-line system through which the relevant premises are supplied, a supply of gas which is in the course of being conveyed by the licensee (for the purposes of this paragraph referred to as the suspected theft of gas), and it obtains Gas Consumption Data which relates to any one or more periods of less than one month only for the purposes of investigating that suspected theft of gas.

15.8 The requirements of this paragraph are that:

- (a) the Secretary of State has approved proposals submitted by the licensee for obtaining Gas Consumption Data which relates to any one or more periods of less than one month, in respect of a particular category of relevant premises and for a particular purpose (in each case as specified in the proposal), on a trial basis (the **Trial**);
- (b) the relevant premises fall within that category;
- (c) the licensee has given at least 14 days advance Notice to the Domestic Customer at the relevant premises informing the Domestic Customer:
 - (i) of the nature and purpose of the Trial;
 - (ii) that he may at any time object to being included in the Trial;
 - (iii) of the process by which the Domestic Customer may object; and
- (d) the Domestic Customer has not objected to being included in the Trial.

Prohibition on use of consumption data

15.9 The licensee must not use any Gas Consumption Data which is obtained by it in respect of any relevant premises other than:

- (a) for the purpose of complying with a relevant condition or a relevant requirement;
- (b) where the requirements of paragraph 15.7 are satisfied, for the purpose of investigating a suspected theft of gas;
- (c) where the requirements of paragraph 15.8 are satisfied, for the purpose of the Trial.

15.10 The licensee must not use any data which is derived (whether in whole or in part) from Gas Consumption Data by means of practices, procedures and systems implemented in accordance with paragraph 10A.4 other than for the purpose of complying with a relevant condition or a relevant requirement.

Interpretation and Definitions

15.11 In this condition, any reference:

- (a) to Gas Consumption Data being ‘obtained’ by the licensee shall be read as incorporating a reference to the licensee requesting any other person to obtain that

Gas Consumption Data on its behalf (and references to ‘obtain’ and ‘obtaining’ shall be construed accordingly);

- (b) to the licensee obtaining Gas Consumption Data which ‘relates to’ a specified period, shall be read as incorporating a reference to the licensee obtaining any data which would allow it to calculate Gas Consumption Data in respect of that period.

15.12 In this condition:

- (a) any power of the Secretary of State or of the Authority to give an approval is a power:
 - (i) to give it to such extent, for such period of time and subject to such conditions as the Secretary of State or the Authority (as the case may be) thinks reasonable in all the circumstances of the case; and
 - (ii) to revoke or amend it (after consulting with the licensee) or give it again under that power;
- (b) any approval given by the Secretary of State or the Authority will be in Writing; and
- (c) every approval given by the Secretary of State or the Authority, which is in effect immediately before this condition is modified, has continuing effect for so long as it is permitted or required by or under the modified condition.

15.13 For the purposes of this condition:

Gas Consumption Data

means, in respect of a relevant premises, the quantity of gas measured by the Gas Meter as having been supplied to the relevant premises.”.

- 16. After standard condition 25, replace standard condition 26 (which is not presently used) with the following standard condition 26—

“Condition 26. Smart Metering Systems and Provision of Information to the Secretary of State

Introduction

26.1 This condition provides for the Secretary of State to be able to obtain from the licensee information, as relating to the licensee's activities or otherwise available to or held by the licensee, in respect of matters relating to the provision, installation, operation, maintenance, and use of meters.

Purposes

26.2 The purposes of this condition are to ensure that the Secretary of State may obtain such Information as he may reasonably require to enable him, from time to time, to:

- (a) keep under review matters relating to the provision, installation, operation, maintenance and use of Smart Metering Systems;
- (b) identify and evaluate the costs associated with, and benefits attributable to, the provision, installation, operation, maintenance and use of Smart Metering Systems, including in particular costs savings and improvements in services resulting from changes made to energy industry activities and procedures;
- (c) decide whether or when there may be a need for him to exercise any of his powers under:
 - (i) the conditions of this licence which impose obligations or contain provisions in relation to Smart Metering Systems; or
 - (ii) section 88 of the Energy Act 2008; and
- (d) publish information in respect of the matters set out in paragraphs (a) - (c).

Information Request

26.3 The Secretary of State may, for the purposes of this condition, from time to time issue a request for Information to be provided to him (an **Information Request**).

26.4 An Information Request (or any part of it) may be addressed to the licensee alone, to all Gas Transporters or to a category of Gas Transporters.

26.5 An Information Request may in particular specify:

- (a) the type and nature of Information to be provided;

- (b) that the Information is to be accompanied by such supporting documents or data as may be described;
- (c) that all or some of the specified Information shall continue to be provided at the intervals specified until such date as is specified or until the Secretary of State issues a subsequent Information Request to the licensee or to the category of Gas Transporters of which it is a member; and
- (d) the form and manner in which, and the date by which, the specified Information is to be provided.

26.6 The licensee must comply with an Information Request addressed to it or to a category of Gas Transporters of which it is a member.

26.7 The licensee must ensure that the Information it provides in response to an Information Request is complete and accurate.

26.8 The licensee is not required under this condition to provide any Information which it could not be compelled to produce or give in evidence in civil proceedings before a court.

Cessation

26.9 This condition shall cease to apply to the licensee from the date which is 12 months after the date specified in paragraph 33.1 of standard condition 33 of the Standard Conditions for Gas Supply Licences.

Interpretation and Definitions

26.10 In this condition:

Information

includes information (other than information subject to legal privilege) in any form or medium and of any description specified by the Secretary of State and includes any documents, accounts, estimates, returns, records or reports and data of any kind, whether or not prepared specifically at the request of the Secretary of State.”.



Name

Baroness Verma

Parliamentary Under Secretary of State
Department of Energy and Climate Change

Date 27.02.2013

GUIDANCE NOTE

(This note is not part of the licence modification)

The purpose of these licence modifications is to place obligations on electricity and gas suppliers, electricity distributors and gas transporters with respect to the installation and operation of smart meters. These obligations relate: to the monitoring of suppliers' roll-out of meters; the protection of consumers' privacy; the security of systems used to communicate with smart meters; and the setting up of a consumer engagement body to support the rollout of smart meters.

Smart meters are electricity and gas meters with enhanced functionalities, including the capability of providing consumption information to the consumer in near real-time, and to be remotely read by or on behalf of the supplier. Smart meters will promote energy saving by electricity and gas consumers, and will facilitate further efficiencies in the gas and electricity distribution and supply systems.

New supply licence conditions 43-44 (electricity) and 37-38 (gas) allow the Secretary of State and/ or OFGEM to request particular information from suppliers in respect of matters relating to the provision, installation or operation of meters. New conditions 6A of the electricity distribution licence and 26 of the gas transportation licence provide for a similar right for the Secretary of State to require information from electricity distributors and gas transporters. In combination, these will allow the rollout by suppliers to be monitored, as well as informing decisions about the need for further regulatory intervention and contributing to a further assessment of the costs and benefits of the rollout.

New supply licence conditions 45 (electricity) and 39 (gas) require suppliers to set up and fund a consumer engagement body, the purpose of which is to support the rollout of smart meters by suppliers by raising awareness and confidence of smart meters, raising awareness about how best to use smart meters (including to reduce energy usage) and to assist vulnerable consumers.

New supply licence conditions 46 (electricity) and 40 (gas) require that suppliers maintain a high level of security with respect to smart meters and associated systems used to communicate with them, in order to prevent theft, fraud and unauthorised access to data or to meter functionality. Suppliers are also required to operate in accordance with certain standards, and to have an annual security audit.

New supply licence conditions 47 (electricity) and 41 (gas) contain provisions about access to, and use of, information held on smart meters. Some data is available to suppliers providing that they need it for certain purposes. Otherwise where suppliers want to access consumption data relating to energy use during periods of less than a month, the conditions require that consumer consent is obtained, or consumers are offered an option to opt-out. The choice offered to the consumer varies according to the time periods of data being accessed and the reason for requiring access. The requirements relate to domestic customers, and to a more limited extent customers who are micro-businesses.

New conditions 10A of the electricity distribution licence and 15 of the gas transportation licence place restrictions on the ability of electricity distributors and gas transporters to access detailed meter data, subject to limited exceptions including where they have obtained consumer consent, or are making data anonymous in accordance with a plan approved by the Secretary of State.

The Secretary of State will publish the modifications to the standard conditions of supply licences on the website of the Department of Energy and Climate Change as soon as reasonably practicable.