

To: All holders of a gas transporter special licence

**Gas Act 1986
Section 23(2)**

Notice of statutory consultation on a proposal to modify the special conditions gas transporter licence

1. The Gas and Electricity Markets Authority ('the Authority')¹ proposes to modify the special conditions of the gas transporter licence granted or treated as granted under section 23(2) of the Gas Act 1986 by amending Condition A48 (Last Resort Supply: Payment Claims) 1, 1(a), 3, and addition of 1(b), 7(b), 7(c), 7(d) 11(e) and 11(f).
2. The first modifications we are proposing are additional conditions required to implement the Supplier of Last Resort (SoLR) Levy Offset. The SoLR Levy Offset has been developed in response to the significant impacts on consumers of supplier failures after a number of failures in winter 2021.
3. The primary intended effect of these proposed additions are to reduce the mutualised costs associated with supplier failure.
4. The new Condition A48, 7(c) would require networks to recover sums due to them under a "deed of undertaking" that suppliers would be required to enter into under the proposed new Condition 9A of the standard supply licence conditions. This deed of undertaking would create an obligation from the supplier to pay the gas transporters the value of any Last Resort Supply Payment (LRSP) claim, in the event the supplier failed and a SoLR was appointed. The amount owed would be the value of the LRSP Claim, excluding Customer Credit Balances. The gas transporters would claim the amount owed under the deed in the insolvency process of the failed supplier. Any sums recovered would be returned to consumers through lower network charges.
5. Condition A48, 7(c) requires the gas transporters to make a claim in the insolvency process of the failed supplier, unless the Authority directs them not to, and to take all reasonable steps to recover the amount due to them under the deed. 7(d) requires the gas transporters to have regard to relevant guidance published by the Authority.
6. The intended effect of the modifications proposed to Condition A48 1(a) and 1(b) is to ensure that any sums recovered through the SoLR Levy Offset are passed back to consumers through reduced network charges. This supports the overall policy aim of the SoLR Levy Offset, which is to reduce the mutualised costs associated with supplier failure.
7. Amendments proposed to Condition A48 1, 1(a) and 1(b) reflect that the gas transporter should decrease transportation charges in order to account for any sums recovered through the SoLR Levy Offset.
8. We are also proposing modifications to formalise existing LRSP processes as well as to take into account any sums recovered by a SoLR from the insolvency process in

¹ The terms "the Authority", "we" and "us" are used interchangeably in this document and may refer to either GEMA or Ofgem.

order to make the multi-claims process permanent and to ensure that reconciliation of claims takes place.

9. A change is also proposed to Condition A48 11(f) to update existing requirements for networks to report on LRSP charges, to include any amounts recovered through the SoLR Levy Offset.
10. The next modification proposed is to Condition A48, 3. This modification is proposed to clarify that a Valid Claim may both increase and decrease; an increase to the total Valid Claim requires the gas transporter to make a corresponding increase to its transportation charges.
11. The addition to Condition A48 of 7(b) is intended to ensure that consumers benefit from the return of any sums from SoLRs that result from overpayments. 7(b) ensures that transportation charges are reduced if the network receives a sum of money back from a SoLR, as a result of the SoLR being in a position of 'Excess'.
12. A change is also proposed to Condition A48 11(e) to update existing requirements for networks to report on LRSP charges, to include any amounts recovered from SoLRs as a result of the SoLR being in a position of 'Excess'.
13. A copy of the proposed modifications and other documents referred to in this Notice have been published on our website (www.ofgem.gov.uk). Alternatively, they are available from information.rights@ofgem.gov.uk.
14. Any representations with respect to the proposed licence modification/modifications must be made on or before 17 October 2024 to: SoLR Levy Team, Office of Gas and Electricity Markets, 9 Millbank, London, SW1P 3GE or by email to SoLRLevyTeam@Ofgem.gov.uk
15. We normally publish all responses on our website. However, if you do not wish your response to be made public then please clearly mark it as not for publication. We prefer to receive responses in an electronic form so they can be placed easily on our website.
16. If we decide to make the proposed modifications they will take effect not less than 56 days after the decision is published.

David Hall, Deputy Director of Financial Resilience and Controls
Duly authorised on behalf of the Gas and Electricity Markets Authority
19th September 2024

Standard Special Condition A48: Last Resort Supply: Payment Claims and Accounting

1. This condition sets out the circumstances in which the licensee shall increase or decrease its transportation charges in order:

(a) to pay any gas supplier (a "claimant") a last resort supply payment in accordance with the terms of a valid claim, or

(b) to account for receipts under an undertaking given by a gas supplier to the licensee under standard condition 9A (Undertakings to Gas Transporters in relation to Last Resort Supply Payments) of the standard conditions of the gas suppliers' licence including interest accrued upon such receipts.

3. Where the licensee receives a valid claim which necessitates an increase in charges it shall, during the relevant year or other subsequent years (as specified in the valid claim), make a consequential increase to its transportation charges during that year which relate to the conveyance of gas to premises (and secondary sub-deduct premises to which gas is conveyed as contemplated by sub-deduct arrangements) to such an extent as it reasonably estimates to be appropriate to secure that such consequential increase in its revenue equals the specified amount for each year as set out in the valid claim.

7B Where the valid claim is to be subject to adjustment after payments under paragraphs 4 and 5(a) have been made and the claimant repays to the licensee any part of such payments, the licensee shall, during the following year, decrease the transportation charges referred by an amount equal to the repayment together with interest thereon.

7C Unless the Authority directs otherwise, the licensee shall take all reasonable steps to recover sums due to them under an undertaking given by a relevant supplier to the licensee under standard condition 9A (Undertakings to Transporters in relation to Last Resort Supply Payments) of the standard conditions of gas suppliers' licence as incorporated into that gas suppliers' licence and, following recovery of any such sum, shall make a consequential decrease to its transportation charges in the year in which such sum was recovered or as soon as practicable.

7D The licensee shall have regard to such guidance as the Authority may, from time to time, publish about the obligation at paragraph 7B of this condition.

11. The licensee shall prepare, in respect of each year in which it increases or decreases charges in pursuance of paragraph 3, 5 or 6, a statement showing –

- (a) the aggregate amount of its revenue derived from increases in charges in pursuance of paragraph 3;
- (b) the aggregate amount of its revenue derived from increases in charges in pursuance of paragraph 5;
- (c) the aggregate amount of the decrease in its revenue resulting from decreases in charges in pursuance of paragraph 6, and
- (d) in the case of each last resort supply payment, the aggregate payments to the claimant made in respect of the year in question (whenever those payments were made).
- (e) the aggregate amount of the decrease in its revenue resulting from decreases in charges in pursuance of paragraph 7B; and.
- (f) the aggregate amount of the decrease in its revenue resulting from decreases in charges in pursuance of paragraph 7C.