To: All holders of a domestic gas
and/or electricity supply licence

Email: retailpriceregulation@ofgem.gov.uk

Date: 05 August 2020

Domestic Gas and Electricity (Tariff Cap) Act 2018

Modification of the standard conditions of all gas & electricity supply licences

1. The Gas and Electricity Markets Authority ('the Authority')[1] has decided to modify the standard conditions of all gas and electricity supply licences granted or treated as granted under section 6(1)(d) of the Electricity Act 1989 and section 7A(1) of the Gas Act 1986, pursuant to section 1 of the Domestic Gas and Electricity (Tariff Cap) Act 2018 ('the Act'). These modifications are set out in Appendix 1, Appendix 2 and Appendix 3.

2. Under section 4(2) of the Act the Authority gave notice on 18 May 2020 ('the Notice') that we propose to modify standard condition 28AD in order to introduce an additional allowance to address the reassessment of wholesale costs in the first cap period resulting from the outcome of the Judicial Review proceedings and the conclusion of the High Court in November 2019[2] ('the Judicial Review').

3. We received responses to the Notice from six stakeholders, which we carefully considered. We have published all non-confidential responses on our website. Our response to these comments is set out in our accompanying decision document.

4. It is necessary to make one minor alteration to the modifications set out in appendix 1 and appendix 2 of the Notice (shown in yellow highlight). We have updated the link in

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[1] The terms "the Authority", "Ofgem", "we" and "us" are used interchangeably in this document.
[2] [2019] EWHC 3048 (Admin): https://www.bailii.org/ew/cases/EWHC/Admin/2019/3048.html

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Annex 8 to reflect our decision document and model, both of which set out the methodology which we have decided to implement.

5. A more detailed description of the reasons and effects of these modifications can be found in the following documents:

    a. The accompanying decision document to this document, which is available at: https://www.ofgem.gov.uk/publications-and-updates/decision-reassessing-wholesale-allowance-first-default-tariff-cap-period; and

    b. The statutory consultation documents – Reassessing the wholesale allowance in the first default tariff cap period, May 2020, which are available at: https://www.ofgem.gov.uk/publications-and-updates/statutory-consultation-reassessing-wholesale-allowance-first-default-tariff-cap-period

6. In summary the main effect of the modification is to incorporate an "adjustment allowance" component into the default tariff cap methodology. Pursuant to the Judicial Review, the Authority reconsidered the wholesale allowance for the first cap period of the default tariff cap in order to make adjustments to the allowance as it considered appropriate in light of that reconsideration. We have decided to introduce the adjustment allowance in cap period five in order to address the outcome of the Judicial Review. We have decided to include the new component as condition "28AD.10A". This approach preserves the numbering of the licence conditions and causes minimum disturbance to the drafting of the existing conditions.

7. We have also taken this opportunity to correct typographical errors in the gas SLC 28AD. We have set out the modifications to the condition in a table in Appendix 3.

8. Under the powers set out in section 1 of the Act, we hereby modify the standard licence conditions for all gas and electricity supply licences in the manner specified in attached Appendix 1, Appendix 2 and Appendix 3. This decision will take effect from 30 September 2020.

9. These licence modifications have effect in relation to supply licences, whenever granted, and domestic supply contracts, whenever entered into.

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10. This document is notice of the reasons for the decision to modify the standard licence conditions for all gas and electricity supply licences as required by section 5 of the Act.

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Anna Rossington

Duly authorised on behalf of the Gas and Electricity Markets Authority

05 August 2020

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Appendix 1 – Modification to the standard conditions of all electricity supply licences.

We have included the sections of the SLCs we have decided to remove or amend below. Deletions are shown in strike through and new text is double underlined.

Condition 28AD. Regulation of charges for Domestic Customers supplied under certain Domestic Supply Contracts

Calculation of the Benchmark Maximum Charges for 28AD Charge Restriction Periods

28AD.7 For each 28AD Charge Restriction Period, the Authority will calculate the Benchmark Maximum Charge for each:

    (a) Benchmark Annual Consumption Level;

    (b) Charge Restriction Region;

    (c) Benchmark Metering Arrangement; and

    (d) Payment Method

in accordance with the following formula:

$$ChargeMax_{i,j,k,l,p}$$
$$= (WC_{i,j,k,l} + NC_{i,j,k,l} + PC_{i,j,k,l} + \underline{\underline{AA_{i,j,k,l,p}}} + OC_{j,k,l} + PA_{i,j,k,l,p}$$
$$+ E_{i,j,k,l,p} + H_{i,j,k,l,p})$$

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

$ChargeMax_{i,j,k,l,p}$ means the Benchmark Maximum Charge in Charge Restriction Region i, in 28AD Charge Restriction Period j, at Benchmark Annual Consumption Level k, for Benchmark Metering Arrangement l, and Payment Method p;

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$WC_{i,j,k,l}$ means the Wholesale Cost Allowance in Charge Restriction Region i, in 28AD Charge Restriction Period j, at Benchmark Annual Consumption Level k, for Benchmark Metering Arrangement l, calculated in accordance with paragraph 28AD.8;

$NC_{i,j,k,l}$ means the Network Cost Allowance in Charge Restriction Region i, in 28AD Charge Restriction Period j, at Benchmark Annual Consumption Level k, for Benchmark Metering Arrangement l, determined in accordance with paragraph 28AD.9;

$PC_{i,j,k,l}$ means the Policy Cost Allowance in Charge Restriction Region i, in 28AD Charge Restriction Period j, at Benchmark Annual Consumption Level k, for Benchmark Metering Arrangement l, calculated in accordance with paragraph 28AD.10;

$\underline{AA_{i,j,k,l,p}}$ <u>means the Adjustment Allowance in Charge Restriction Region i, in Charge Restriction Period j, at Benchmark Annual Consumption Level k, for Benchmark Metering Arrangement l, for Payment Method p calculated in accordance with paragraph 28AD.10A;</u>

$OC_{j,k,l}$ means the Operating Cost Allowance in 28AD Charge Restriction Period j, at Benchmark Annual Consumption Level k, for Benchmark Metering Arrangement l, calculated in accordance with paragraph 28AD.11;

$PA_{i,j,k,l,p}$ means the Payment Method Adjustment in Charge Restriction Region i, in Charge Restriction Period j, at

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Benchmark Annual Consumption Level k, for Benchmark Metering Arrangement l, for Payment Method p calculated in accordance with paragraph 28AD.12;

$E_{i,j,k,l,p}$ means the Earnings Before Interest and Tax Allowance in Charge Restriction Region i, in Charge Restriction Period j, at Benchmark Annual Consumption Level k, for Benchmark Metering Arrangement l, for Payment Method p, calculated in accordance with paragraph 28AD.13;

$H_{i,j,k,l,p}$ means the Headroom Allowance in Charge Restriction Region i, in 28AD Charge Restriction Period j, at Benchmark Annual Consumption Level k, for Benchmark Metering Arrangement l, for Payment Method p calculated in accordance with paragraph 28AD.14.

Adjustment Allowance

28AD.10A For the purposes of 28AD.7, the Adjustment Allowance in 28AD Charge Restriction Region i, in 28AD Charge Restriction Period j, at Benchmark Annual Consumption Level k, for Benchmark Metering Arrangement l and for Payment Method p is a sum of adjustments to the default tariff cap, subject to paragraph 28AD.16, calculated in accordance with the methodology set out in Annex 8.

Payment Method Adjustment

28AD.12 For the purposes of paragraph 28AD.7, the Payment Method Adjustment in Charge Restriction Region i, in 28AD Charge Restriction Period j, at Benchmark Annual Consumption Level k, for Benchmark Metering

Arrangement l and for Payment Method p shall be calculated as follows:

$$PA_{i,j,k,l,p} = (PAAC_{0,p} \times \frac{CPIH_j}{CPIH_0})$$
$$+ [PAP_{l,p} \times (WC_{i,j,k,l} + NC_{i,j,k,l} + PC_{i,j,k,l} + \underline{AA_{i,j,k,l,p}} +$$
$$OC_{j,k,l})]$$

where:

$PAAC_{0,p}$ means the Baseline Value for the Payment Method Adjustment Additional Cost for Payment Method p, as published by the Authority by way of a statement in Writing pursuant to paragraph 28AD.17 or, from time to time and following consultation, and in relation to the Baseline Value for Fully-Interoperable Smart Prepayment only, re-published by the Authority by way of a statement in Writing where it appears to the Authority that it is necessary to amend the Baseline Value for Fully-Interoperable Smart Prepayment.

$PAP_{l,p}$ means the Baseline Value for the Payment Method Adjustment Percentage, for Benchmark Metering Arrangement l, for Payment Method p, as published by the Authority by way of a statement in Writing pursuant to paragraph 28AD.17 or, from time to time and following consultation, and in relation to the Baseline Value for Fully-Interoperable Smart Prepayment only, re-published by the Authority by way of a statement in Writing where it appears to the Authority that it is necessary to amend the Baseline Value for Fully-Interoperable Smart Prepayment.

$CPIH_j$ has the meaning given to in paragraph 28AD.11.

$CPIH_0$ has the meaning given to in paragraph 28AD.11.

Earnings Before Interest and Tax Allowance

28AD.13 For the purposes of paragraph 28AD.7, the Earnings Before Interest and Tax Allowance in Charge Restriction Region i, in 28AD Charge Restriction Period j, at Benchmark Annual Consumption Level k, for Benchmark Metering Arrangement l, for Payment Method p, shall be calculated as follows:

$$E_{i,j,k,l,p} = EBIT \times (WC_{i,j,k,l} + NC_{i,j,k,l} + PC_{i,j,k,l} + \underline{AA_{i,j,k,l,p}} + OC_{j,k,l} + PA_{i,j,k,l,p})$$

where:

$EBIT$ means the Baseline Value for the Earnings Before Interest and Tax Margin Percentage, as published by the Authority by way of a statement in Writing pursuant to paragraph 28AD.17.

Headroom

28AD.14 For the purposes of paragraph 28AD.7, the Headroom Allowance in Charge Restriction Region i, in 28AD Charge Restriction Period j, at Benchmark Annual Consumption Level k, for Benchmark Metering Arrangement l, for Payment Method p, shall be calculated as follows:

$$H_{i,j,k,l,p} = HAP \times (WC_{i,j,k,l} + PC_{i,j,k,l} + \underline{AA_{i,j,k,l,p}} + OC_{j,k,l} + PA_{i,j,k,l,p} + E_{i,j,k,l,p})$$

where:

HAP means the Baseline Value for the Headroom Allowance Percentage, as published by the Authority by way of a statement in Writing pursuant to paragraph 28AD.17.

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$PA_{i,j,k,l,p}$ means the Payment Method Adjustment in Charge Restriction Region i, in 28AD Charge Restriction Period j, at Benchmark Annual Consumption Level k, for Benchmark Metering Arrangement l, for Payment Method p calculated in accordance with paragraph 28AD.12.

Data sources

28AD.16 The Authority may from time to time, and following consultation, amend the methodology set out in Annex 2, Annex 3, ~~or~~ Annex 4, Annex 5 <u>or Annex 8</u> by way of a statement in Writing, where the Authority considers that either:

    (a) there has been a significant and unanticipated change of circumstances such that Annex 2, Annex 3, Annex 4, ~~or~~ Annex 5 <u>or Annex 8</u> no longer reflects an efficient level of any of the Wholesale Cost Allowance, Network Cost Allowance, Policy Cost Allowance<u>,</u> ~~or~~ Smart Metering Net Cost Change <u>or Adjustment Allowance</u>; or

    (b) there is a typographical or mathematical error in any of Annex 2, Annex 3, Annex 4, ~~or~~ Annex 5, <u>or Annex 8</u> such that an amendment is necessary in order to ensure the proper functioning of the relevant methodology.

Definitions for condition

28AD.40 In this condition:

<u>'**Adjustment Allowance**' means a sum of adjustments to the default tariff cap, in Charge Restriction Region *i*, in 28AD Charge Restriction Period *j*, at Benchmark Annual Consumption Level *k*, for Benchmark Metering Arrangement *l*, for Payment Method *p*, and which the Authority is to calculate for the periods and within the timeframes specified in this condition 28AD in accordance with the methodology set out in Annex 8.</u>

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Annex 8 – Methodology for Adjustment Allowance

.xlsx file available at https://www.ofgem.gov.uk/publications-and-updates/decision-reassessing-wholesale-allowance-first-default-tariff-cap-period

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Appendix 2 – Modification to the standard conditions of all gas supply licences.

We have included the sections of the SLCs we have decided to remove or amend below. Deletions are shown in strike through and new text is double underlined.

Condition 28AD. Regulation of charges for Domestic Customers supplied under certain Domestic Supply Contracts

Calculation of the Benchmark Maximum Charges for 28AD Charge Restriction Periods

28AD.6 For each 28AD Charge Restriction Period, the Authority will calculate the Benchmark Maximum Charge for each:

(a) Benchmark Annual Consumption Level;

(b) Charge Restriction Region; and

(c) Payment Method

in accordance with the following formula:

$$ChargeMax_{i,j,k,p}$$
$$= (WC_{j,k} + NC_{i,j,k} + PC_{j,k} + \underline{AA_{i,j,k,p}} + OC_{j,k} + PA_{i,j,k,p} + E_{i,j,k,p} + H_{i,j,k,p})$$

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

$ChargeMax_{i,j,k,p}$ means the Benchmark Maximum Charge in Charge Restriction Region i, in 28AD Charge Restriction Period j, at Benchmark Annual Consumption Level k, and Payment Method p;

$WC_{j,}$ means the Wholesale Cost Allowance in 28AD Charge Restriction Period j, at Benchmark Annual Consumption Level k, calculated in accordance with paragraph 28AD.7;

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$NC_{i,j,k}$	means the Network Cost Allowance in Charge Restriction Region i, in 28AD Charge Restriction Period j, at Benchmark Annual Consumption Level k, determined in accordance with paragraph 28AD.8;
$PC_{j,}$	means the Policy Cost Allowance in 28AD Charge Restriction Period j, at Benchmark Annual Consumption Level k, calculated in accordance with paragraph 28AD.9;
$\underline{AA_{i,j,k,p}}$	means the Adjustment Allowance in Charge Restriction Region i, in Charge Restriction Period j, at Benchmark Annual Consumption Level k, for Payment Method p calculated in accordance with paragraph 28AD.10A;
$OC_{j,}$	means the Operating Cost Allowance in 28AD Charge Restriction Period j, at Benchmark Annual Consumption Level k, calculated in accordance with paragraph 28AD.10;
$PA_{i,j,k,p}$	means the Payment Method Adjustment in Charge Restriction Region i, in 28AD Charge Restriction Period j, at Benchmark Annual Consumption Level k, for Payment Method p calculated in accordance with paragraph 28AD.11;
$E_{i,j,k,p}$	means the Earnings Before Interest and Tax Allowance in Charge Restriction Region i, in 28AD Charge Restriction Period j, at Benchmark Annual Consumption Level k, for Payment Method p, calculated in accordance with paragraph 28AD.12;
$H_{i,j,k,p}$	means the Headroom Allowance in Charge Restriction Region i, in 28AD Charge Restriction Period j, at Benchmark Annual Consumption Level k, for Payment Method p calculated in accordance with paragraph 28AD.13.

Adjustment Allowance

28AD.10A For the purposes of 28AD.6 the Adjustment Allowance in 28AD Charge Restriction Region i, in 28AD Charge Restriction Period j, at Benchmark Annual

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<u>Consumption Level *k*, for Benchmark Metering Arrangement *l* and for Payment Method *p* is a sum of adjustments to the default tariff cap, subject to paragraph 28AD.15, calculated in accordance with the methodology set out in Annex 8</u>.

Payment Method Adjustment

28AD.11 For the purposes of paragraph 28A<u>D</u>.6, the Payment Method Adjustment in Charge Restriction Region *i*, 28AD Charge Restriction Period *j*, at Benchmark Annual Consumption Level *k* and for Payment Method *p* shall be calculated as follows:

$$PA_{i,,k,p} = (PAAC_{0,p} \times \frac{CPIH_j}{CPIH_0})$$

$$+ [PAP_p \times (WC_{j,} + NC_{i,j,k} + PC_{j,k} + \underline{AA_{i,j,k,p}} + OC_{j,k})]$$

$PAAC_{0,p}$ means the Baseline Value for the Payment Method Adjustment Additional Cost for Payment Method *p*, as published by the Authority by way of a statement in Writing pursuant to paragraph 28AD.16 or, from time to time and following consultation, and in relation to the Baseline Value for Fully-Interoperable Smart Prepayment only, re-published by the Authority by way of a statement in Writing where it appears to the Authority that it is necessary to amend the Baseline Value for Fully-Interoperable Smart Prepayment.

PAP_p means the Baseline Value for the Payment Method Adjustment Percentage *p*, as published by the Authority by way of a statement in Writing pursuant to paragraph 28AD.16 or, from time to time and following consultation, and in relation to the Baseline Value for Fully-Interoperable Smart Prepayment only, re-published by the Authority by way of a statement in Writing where it appears to the Authority that it is necessary to amend the Baseline Value for Fully-Interoperable Smart Prepayment.

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$CPIH_j$ has the meaning given to in paragraph 28AD.10.

$CPIH_0$ has the meaning given to in paragraph 28AD.10.

Earnings Before Interest and Tax Allowance

28AD.12 For the purposes of paragraph 28AD.6, the Earnings Before Interest and Tax Allowance in Charge Restriction Region i, in 28AD Charge Restriction Period j, at Benchmark Annual Consumption Level k, for Payment Method p, shall be calculated as follows:

$$E_{i,j,k,p} = EBIT \times (WC_{j,k} + NC_{i,j,k} + PC_{j,k} + \underline{AA_{i,j,k,p}} + OC_{j,k} + PA_{i,j,k,p})$$

where:

$EBIT$ means the Baseline Value for the Earnings Before Interest and Tax Margin Percentage, as published by the Authority by way of a statement in Writing pursuant to paragraph 28AD.16.

Headroom

28AD.13 For the purposes of paragraph 28AD.6, the Headroom Allowance in Charge Restriction Region i, in 28AD Charge Restriction Period j, at Benchmark Annual Consumption Level k, for Payment Method p, shall be calculated as follows:

$$H_{i,j,k,p} = HAP \times (WC_{j,k} + PC_{j,k} + \underline{AA_{i,j,k,p}} + OC_{j,k} + PA_{i,j,k,p} + E_{i,j,k,p})$$

where:

HAP means the Baseline Value for the Headroom Allowance Percentage as published by the Authority by way of a statement in Writing pursuant to paragraph 28AD.16.

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$PA_{i,j,k,p}$ means the Payment Method Adjustment in Charge Restriction Region i, in 28AD Charge Restriction Period j, at Benchmark Annual Consumption Level k, for Payment Method p calculated in accordance with paragraph 28AD.11

Data sources

28AD.15 The Authority may from time to time, and following consultation, amend the methodology set out in Annex 2, Annex 3, Annex 4, ~~or~~ Annex 5 <u>or Annex 8</u> by way of a statement in Writing, where the Authority considers that either:

(a) there has been a significant and unanticipated change of circumstances such that Annex 2, Annex 3, Annex 4, ~~or~~ Annex 5 <u>or Annex 8</u> no longer reflects an efficient level of any of the Wholesale Cost Allowance, Network Cost Allowance, Policy Cost Allowance, ~~or~~ Smart Metering Net Cost Change <u>or Adjustment Allowance</u>; or

(b) there is a typographical or mathematical error in any of Annex 2, Annex 3, Annex 4, ~~or~~ Annex 5 <u>or Annex 8</u> such that an amendment is necessary in order to ensure the proper functioning of the relevant methodology.

Definitions for condition

28AD.33 In this condition:

'Adjustment Allowance' <u>means a sum of adjustments to the default tariff cap, in Charge Restriction Region *i*, in 28AD Charge Restriction Period *j*, at Benchmark Annual Consumption Level *k*, for Benchmark Metering Arrangement *l*, for Payment Method *p*, and which the Authority is to calculate for the periods and within the timeframes specified in this condition 28AD in accordance with the methodology set out in Annex 8.</u>

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Annex 8 – Methodology for Adjustment Allowance

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Appendix 3 – Table of modificatiosn to standard conditions of all gas supply licences: correction of typographical errors.

We have included the sections of the SLCs we have decided to remove or amend below. Deletions are shown in strike through and new text is double underlined.

Condition	Alteration	Reason for alteration
28AD.2	in order to comply with paragraph 28AD.2,	To correct a cross-referencing typographical error
28AD.5	ChargeMax(m) and ChargeMax(nil) are defined as described in paragraph 28AD.6.	To correct a cross-referencing typographical error
28AD.7	For the purposes of paragraph 28AD.6	To correct a cross-referencing typographical error
28AD.8	For the purposes of paragraph 28AD.6	To correct a cross-referencing typographical error
28AD.9	For the purposes of paragraph 28AD.6	To correct a cross-referencing typographical error
28AD.10	For the purposes of paragraph 28AD.6	To correct a cross-referencing typographical error
28AD.11	For the purposes of paragraph 28AD.6	To correct a cross-referencing typographical error
28AD.12	For the purposes of paragraph 28AD.6	To correct a cross-referencing typographical error

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Condition	Alteration	Reason for alteration
28AD.12	the Earnings Before Interest and Tax Allowance in Charge Restriction Region i	To correct a typographical error
28AD.13	For the purposes of paragraph 28AD.6	To correct a cross-referencing typographical error
28AD.17	(a) determine the Benchmark Maximum Charges which shall apply for the First Charge Restriction Period j by calculating such values in accordance with paragraph 28AD.6; and	To correct a cross-referencing typographical error
28AD.18	determine the updated Benchmark Maximum Charges which shall apply for the any forthcoming 28AD Charge Restriction Period j by calculating such values in accordance with paragraph 28AD.6	To correct a cross-referencing typographical error
28AD.33	Charge Restriction' means the obligation set out in paragraph 28AD.2;	To correct a cross-referencing typographical error

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