



Making a positive difference
for energy consumers

Electricity supply licensees,
electricity distribution network
operators, charge point
operators, consumers and their
representatives and any other
interested parties

Direct Dial: 020 7901 7005
Email: electric.vehicles@ofgem.gov.uk

Date: 14 March 2014

Dear colleagues

Decision on the application of the Maximum Resale Price to the resale of electricity for charging electric vehicles

This letter sets out our decision that the Maximum Resale Price (MRP) provisions do not apply to the resale of electricity from charge points for use by electric vehicles (EVs). We expect this clarification to alleviate concerns that the MRP could act as a barrier to the commercial expansion of charge points. It is also consistent with the exclusion of the resale of gas for use in the propulsion of a motor vehicle by the Gas Act 1986.¹

The amendments to the MRP provisions take effect from 11 April 2014.

Introduction

The government considers that plug-in EVs have an important role to play in reducing greenhouse gas emissions. To encourage the take up of EVs and address consumer concerns of range anxiety,² they have determined that charging points must be available in public spaces. For this to happen there needs to be sufficient financial incentives for a commercial market to develop and drive expansion of infrastructure.

The MRP sets the limit that can be charged for the resale of gas or electricity purchased from an authorised supplier. The Authority³ has the power to set the MRP through direction and this is currently set on a cost pass-through basis (for both unit charges and standing charges) plus VAT at the appropriate rate. Implicit in the provision and use of a charge point for EVs is the resale of electricity and therefore the MRP is relevant. Without clarification of the MRP there are concerns that it could act as a barrier to the growth of charge point infrastructure.

The MRP provisions were designed to protect domestic consumers at risk of overcharging by landlords. Electricity resold⁴ from charge points for EVs largely differs from this situation as the final consumer may have a choice as to the location and provider for the charging of their vehicle. This could include charging their vehicle at their home or workplace. EV

¹ As amended by the Gas Act 1995. <http://www.legislation.gov.uk/ukpga/1986/44>

² Range anxiety is the fear that a vehicle has insufficient range to reach its destination.

³ Ofgem is governed by the Gas and Electricity Markets Authority ("the Authority").

⁴ Whilst the term "sold" may be appropriate in a number of the existing charging models, we note that there are schemes where the cost to the consumer is not directly linked to the electricity consumed.

charge points were not considered when the MRP provisions were amended in January 2002⁵ as technology was not sufficiently developed to make general ownership viable.

On 20 December 2012 we published a letter⁶ on our proposal to clarify that the MRP should not apply to the resale of electricity for EVs.

Summary of responses

We received 13 responses⁷ to our letter, including EV industry associations, charge point operators and electricity suppliers. The majority were supportive of the clarification. Some respondents made comments or suggested changes to the direction. We describe the main points from these responses below and explain our views.

Resale by landlords to tenants

Two respondents sought clarity on whether the MRP would apply to landlords re-selling to tenants to charge an EV. One respondent said that the MRP should still apply in this scenario, because the tenant could be at risk of overcharging by landlords.

The drafting of the clarification (see Annex 1) defines a charge point as “any equipment, apparatus or appliance used for, or for the purpose connected with the supply of electricity solely to provide motive force for an electric motor vehicle” (emphasis added). The MRP would therefore still apply if a tenant were to use a typical domestic socket to charge any EV.⁸

If the MRP were to apply to charge points in domestic accommodation we consider there would be little incentive for landlords or developers to install dedicated EV infrastructure. If a landlord or developer were not able to recover installation costs via electricity charges they are more likely to spread the cost across all tenants through higher service charges.

Metering of charge points

Two respondents asked for clarification of whether the resale of electricity from charge points would require metering. One supplier explained that metering is sometimes avoided to reduce costs and that DC rapid chargers currently do not have approved meters.

It is not our intention to inhibit any specific charging model, particularly in the early stages of market development. We do not consider this clarification means that charge points must be metered. However, if a provider uses a charging model based on the units of electricity resold, then we would expect that charge point to be appropriately metered.

Regardless of the payment model we would expect any payment for electricity resold from a charge point to be made clearly visible to consumers before use. We encourage charge point providers to adopt a transparent approach to pricing.⁹

Monitoring

Three respondents said that we should monitor the prices of energy resold at charge points, particularly in the early stages of competition.

⁵ The changes came into effect on 1 January 2003. The decision document can be found on our [website](#).

⁶ <https://www.ofgem.gov.uk/ofgem-publications/74454/electricvehiclemrpconsultation.pdf>

⁷ Non-confidential responses are published on our [website](#).

⁸ Charge points should be installed in compliance with all regulatory requirements, including building regulations and the Code of Practice for Electric Vehicle Charging Equipment Installation.

⁹ In 2005 [LINK](#) introduced rules for cash machines requiring them to have at least three warnings of any charges: on the outside of a machine, on the idle screen before a card is inserted and before the transaction is complete.

As we stated in the December 2012 letter, we will seek to monitor how the market develops. If concerns are raised to us or the Office for Low Emission Vehicles (OLEV) that there are elements of the market that are harmful to consumers or not in their best interests, then we may consider future intervention.

The Authority's decision

Having considered the responses to our consultation, the Authority has decided to amend the MRP provisions. The changes are highlighted in Annex 1 and the amended direction is also published as a separate document. The direction will take effect from 11 April 2014.

Next steps

If you have any queries regarding the content of this letter please contact Jonathon Lines, (020 7901 7005) or email electric.vehicles@ofgem.gov.uk.

Yours faithfully

Maxine Frerk
Partner, Retail Markets and Research

Annex 1 - Copy of direction issued on 14 March 2014

For ease of reference the amendments made by this direction are underlined in red.

Maximum Resale Price of Gas and Electricity

Under section 37 of the Gas Act 1986 and section 44 of the Electricity Act 1989, the Gas and Electricity Markets Authority ("the Authority") may from time to time fix maximum resale prices at which gas and electricity may be resold ("maximum resale prices").

The Authority hereby makes the following direction, amending the previous direction issued by the Authority on 29 January 2002 which set the maximum resale price of gas and electricity.

1. Subject to paragraph 2, a maximum resale price shall apply where gas or electricity supplied by any authorised supplier is resold by any person for domestic use, or for use in any form of accommodation (including that used for holidays).

Exclusion

2. This direction does not apply where electricity supplied by an authorised supplier is resold by any person from a charge point for use by an electric motor vehicle.

Metered supplies

3. Subject to the provisions of paragraph 5 below, the maximum price at which each unit of gas or electricity may be resold shall be the same as that paid to the authorised supplier by the person reselling it.
4. Where the maximum resale price is defined according to paragraph 3, and where a standing charge is payable to the authorised supplier in respect of any premises in addition to the charge for the actual fuel supplied in relation to any period, the standing charge shall be charged by the reseller to the persons to whom electricity or gas is resold on those premises pro rata with the amounts payable for units of gas or electricity. Where a person reselling gas or electricity supplied to him at any premises himself occupies any part of these premises or uses any part for providing common services, he shall be included in the pro rata sharing of the standing charge along with the persons to whom he is reselling gas or electricity.

Unmetered or estimated supplies

5. Where metering equipment is not available which permits resale of gas or electricity at a price defined according to paragraph 3 (including where the total monetary amount which will be charged for supply of gas and/or electricity to a person is set in advance of consumption of that gas or electricity), the maximum resale price shall be estimated with the objective that each person to whom gas or electricity is being resold by a particular reseller will pay a fair proportion of the overall costs incurred by the reseller in procuring gas or electricity for resale, including any standing charge, but excluding a fair proportion of the costs representing electricity or gas consumed in relation to common parts. The maximum resale price will therefore be estimated by reference to such data regarding
 - a) the quantities of gas or electricity supplied by the authorised supplier to the reseller, and
 - b) the price or prices paid for that gas or electricity

as may be reasonably available to the reseller. The reseller shall use reasonable endeavours when estimating the maximum resale price to ensure that the person to whom gas or electricity is resold is not over-charged.

6. Where the maximum resale price is being estimated according to paragraph 5, the methodology for estimation shall be such that, over the course of a defined period (not greater than one year), the reseller will not recover through resale of gas or electricity a sum greater than the cost he has incurred in purchasing the gas or electricity for resale, both as regards each person to whom he is reselling gas or electricity, and as regards all of the persons to whom he is reselling gas or electricity. At the end of the defined period the reseller will check whether, as regards each person to whom he is reselling gas or electricity, the sum recovered exceeds the cost incurred by more than a sum equal to £5 multiplied by the defined period (in weeks) divided by 52. If it does, then the reseller shall use reasonable endeavours to repay the excess.

Transparency

7. Any person who resells gas or electricity supplied by an authorised supplier shall, on request from a person to whom gas or electricity is resold or who is contemplating purchasing gas or electricity from the reseller, inform that person of the price or prices payable under the contract through which he purchases that gas or electricity, and on request furnish that person with documentary evidence in support of this information. Where the maximum resale price has been estimated according to paragraph 5, the reseller shall also detail to that person, on request, the methodology according to which the resale price has been estimated.
8. If a person reselling gas or electricity fails to meet a request in the manner specified in paragraph 7 in a timely fashion (timeliness being assessed in relationship to the needs of the person purchasing or contemplating purchasing gas or electricity from the reseller), the maximum resale price and, if appropriate, the share of standing charge payable by that person shall be reduced by a proportion which is equal to twice the base rate of Barclays Bank plc which applied on the date when the request was made. This reduction in price shall continue for the period the person reselling fails to meet the request.

Penalties for over-charging

9. If any person resells gas or electricity supplied to him by an authorised supplier at a price exceeding the maximum resale price determined by or under this direction, or over-charges in recovery of a standing charge, interest on the amount of the excess shall be recoverable, in addition to that excess. Interest shall be calculated on a rate equal to twice the average base rate of Barclays Bank plc which was applicable during the period in respect of which the excess is calculated.

Definitions

10. In this direction

“authorised supplier” means a person who is authorised by licence or exemption to supply gas or electricity.

“charge point” means any equipment, apparatus or appliance used for, or for the purpose connected with the supply of electricity solely to provide motive force for an electric motor vehicle.

“electric motor vehicle” means a motor vehicle that uses electric drive to power or assist in the propulsion of the motor vehicle, other than an electric marine craft.

“marine craft” includes a vessel, boat, hovercraft or any other description of water craft.

Implementation

11. This direction shall come into force on 11 April 2014.

Maxine Frerk
Partner, Retail Markets and Research

For and on behalf of

THE GAS AND ELECTRICITY MARKETS AUTHORITY
14 March 2014