



January 2002

Maximum Resale Price Provisions

A decision document

Executive summary

The Maximum Resale Price (MRP) rule governs the price at which gas and electricity may be resold after initial purchase from authorised suppliers. Typically, it protects tenants from excessive charging by landlords.

The Utilities Act 2000 amended the relevant provisions of the Gas Act 1986 and the Electricity Act 1989, giving the Gas and Electricity Markets Authority a power, rather than a duty, to set MRP.

Ofgem has consulted as to how these powers should be used, if at all, and the structure of any future MRP regime. Chapter 2 of this document sets out the full regulatory background to the issue and discusses the comments received in response to the consultations.

Chapters 3 and 4 set out the decisions reached following the consultation process. These decisions are that:

- the Authority will continue to set MRP in the domestic sector;
- the resupply of gas and electricity to industrial and commercial tenants will not be subject to MRP;
- a cost pass-through rule should be introduced for electricity resale, thus aligning it with the existing gas control – this rule will apply to both unit costs and standing charges (where applicable);
- this rule will be supported by a requirement for landlords to give tenants information regarding the way in which their prices have been calculated; and
- more stringent financial sanctions will be introduced for landlords who fail to comply with the revised rules.

The changes are introduced in a direction published by the Authority, which takes effect on 1 January 2003.

Table of contents

1	Introduction.....	5
	Purpose of this document.....	5
	General background and process to date.....	5
	Outline of document.....	6
2	Legal and policy background.....	7
	Gas.....	7
	Electricity.....	8
	Operation of MRP provisions.....	9
3	Review of responses and rationale.....	10
	Scope of protection.....	10
	The form of control.....	11
	Unit charges.....	11
	Standing charges.....	15
	Treatment of houseboats.....	19
	Treatment of VAT.....	20
	Interest on sums overcharged.....	20
	Provision of information by landlord.....	21
4	Implementation	22
5	Summary of decisions.....	23
	Appendix 1: Copy of direction issued by the Authority on 29 January 2002	24
	Appendix 2: List of respondents	27

Chapter 1 – Introduction

Purpose of this document

- 1.1 This document presents the Gas and Electricity Markets Authority's decisions in the light of responses to Ofgem's March 2001 and June 2001 consultation documents, "Maximum Resale Price Provisions – Ofgem's Initial Proposals" and "Maximum Resale Price Provisions – Final Proposals".

It also outlines how Ofgem expects the maximum resale price (MRP) scheme to work in practice.

For convenience, the terms "landlord" and "tenant" have been used in this document to describe the reseller and the consumer of fuel.

General background and process to date

- 1.2 As explained above, this decision document, and the policy which it reflects, arise out of two consultation papers issued in 2001.

The consultation documents highlighted the relevant changes which had either already taken place in the gas and electricity supply industries, or were about to take place with the passage of the Utilities Act 2000.

Ofgem concluded that it was appropriate to reconsider MRP policy given that the market has evolved considerably since the last review. Dynamic competition in domestic markets means the highest tariff of ex-monopoly suppliers (the current basis for electricity MRP) is generally the highest price in the market. It seems unjustifiable to require tenants to pay this high price, which they could avoid if purchasing on their own behalf. Moreover, continuing convergence of the gas and electricity markets means that differences between the two MRP regimes (in the coverage of the industrial and commercial sector, and the treatment of standing charges) are increasingly confusing. Finally, Ofgem is

obliged to make some changes as the legal basis for present arrangements has disappeared with the abolition of the concept of the Public Electricity Supplier.

Outline of the document

1.3 Chapter 2 sets out the regulatory background to the MRP review in more detail.

Chapter 3 sets out the proposals made, summarises the written and verbal comments made by the respondents and, in each case, goes on to set out Ofgem's final conclusions.

Chapter 4 sets out the way in which the policy changes will be implemented.

Chapter 5 sets out Ofgem's decisions in summary form.

A copy of the Authority's formal direction, and a list of respondents, are included as appendices.

Chapter 2 – Legal and policy background

- 2.1 Provisions for MRP have been included in legislation for many years.

Gas

- 2.2 In gas, duties to set MRP were originally imposed on area gas boards by the Gas Act 1948. Current gas provisions derive from the Gas Act 1986, which imposed a duty to set MRP on the Director General of Gas Supply (DGGS). The actual MRP was subsequently determined under rules set out in directions issued by the DGGS. Responsibility for setting MRP under these provisions now rests with the Authority. The provisions also allow for the recovery of any charges in excess of the MRP.
- 2.3 The Gas Act 1995 amended the Gas Act 1986 to extend the provisions to require any person re-selling gas to provide the purchaser with certain information. It introduced a penalty for failing to provide the required information and gave the purchaser the right to recover interest on any charges in excess of the MRP. It also excluded the re-sale of gas for use as fuel for the propulsion of a motor vehicle from the MRP controls.
- 2.4 The protection afforded by MRP in gas covers both domestic and industrial and commercial consumers. It now also includes resupply to consumers whose premises are supplied by an exempt supplier.
- 2.5 Up to 1996, policy for MRP in gas required that the resale price of gas parallel the maximum tariff price set by British Gas. Currently the rule is that gas must not be re-sold at a price higher than has been paid for it (so-called “cost pass-through”). This allows consumers to benefit directly from the purchase of cheaper gas. Any standing charge must be apportioned between the number of people to whom the gas is re-sold, and the landlord if resident on the premises.

- 2.6 Section 102 of the Utilities Act 2000 introduced changes to the MRP regime in gas, to align it with electricity. It gave the Authority a power rather than a duty to set MRP. It also extended the gas MRP regime to include gas originally supplied by an exempt supplier. Previously only gas supplied by licensed suppliers was covered.

Electricity

- 2.7 In electricity powers to set MRP were given to area electricity boards by the Electricity Act 1958. Section 44 of the Electricity Act 1989 subsequently provided for the rules determining actual MRP to be set out in a direction issued by the Director General of Electricity Supply (DGES). Responsibility for the discharge of these provisions now lies with the Authority. The tenant can recover any charges levied in excess of the MRP under the provisions. MRP in electricity currently only extends to resale for domestic use.
- 2.8 The level of MRP in electricity is currently set at the highest tariff price that would be levied by the public electricity supplier (PES) for the area in which the resale occurred. Although the Utilities Act 2000 has abolished the concept of the PES, the approach to setting maximum prices which was previously in force has been maintained until this review has been completed. A separate standing charge may be levied for each person to whom electricity is re-sold. The last major review of electricity MRP policy took place in 1993 and resulted in the introduction of the rules outlined above.
- 2.9 Section 73 of the Utilities Act 2000 introduced several changes to electricity MRP, to ensure alignment between the current gas and electricity regimes. There is no longer a need to fix actual prices; instead it is possible for the Authority to specify how maximum prices are determined. The Authority is thus able to set prices in a way that will allow any benefits obtained by the purchase of cheaper electricity to pass through to the consumer, in the same way that currently happens in gas. The landlord can be required to provide certain information to the tenant and a penalty will be introduced for failing to provide that information. In addition it is possible for the tenant to recover interest on any charges levied in excess of the MRP.

Operation of the MRP provisions

- 2.10 There is no formal role for the Authority in determining individual MRP disputes; they can, if necessary, be resolved by the civil courts. However, rules outlining how the level of MRP is determined, which are established under the relevant directions, would generally form the basis of the court's decision.

Chapter 3 – Review of responses and rationale

3.1 285 responses were made to the two consultation documents.

Although these included comments from trade bodies and energy suppliers, the vast majority came from individual members of the holiday and home parks industry.

In this chapter we set out each of the proposals and give a brief resume of the points made by respondents. We go on to consider those responses and set out Ofgem's decisions on each of the proposals in turn.

Scope of protection

First proposal – that Ofgem continue to set MRP for domestic customers using the new definitions arising out of the Utilities Act 2000.

Second proposal - that MRP protection should no longer apply to gas supply in the industrial and commercial sector.

3.2 As stated earlier, the Utilities Act 2000 gave the Authority a power rather than a duty to set MRP for both gas and electricity. It therefore had to decide to whether and to what extent that power should be exercised across the broad spectrum of persons who might potentially be affected.

In its final proposals document, Ofgem indicated that in its view the Authority should continue to set MRP in the domestic sector, and support for this proposal, from those who expressed a specific opinion, was almost unanimous.

One respondent was concerned that the supply of liquified petroleum gas (LPG) should be specifically excluded from the proposals. Such a move is not actually necessary, as LPG is supplied in liquid form to the landlord, rather than being supplied by an authorised supplier, and so is already excluded from MRP.

Ofgem had also concluded that industrial and commercial tenants, both large and small, were more likely than domestic tenants to be able to defend themselves against overcharging. Industrial and commercial tenants are likely to be more practised in negotiating prices for services other than fuel supply. Whilst some respondents suggested that small tenants, domestic or otherwise, might be at risk from attempted exploitation, we remain of the opinion that industrial and commercial tenants are more likely to have access to legal and other representation. These tenants are also more likely to have the ability to recoup their expenditure through the prices charged for their goods and services, which is obviously an opportunity denied the domestic tenant.

Ofgem's final conclusion therefore is that the Authority should continue to set MRP for both gas and electricity resupply in the domestic sector, but that the existing control on prices in the industrial and commercial gas sector should be removed.

- 3.3 Ofgem has been asked by a number of industry players to provide guidance of the definition of "domestic", which will be published shortly. This guidance will apply equally to the MRP direction. However, given the wide range of circumstances in which MRP is applicable, the direction has been drafted to apply to all accommodation, including that being used to provide services such as holiday lets.

The form of control

Fourth proposal – that a cost pass-through regime is the most effective approach to electricity unit MRP

- 3.4 Some respondents expressed positive support for this proposal. Those who made detailed comments said, amongst other things, that they saw cost pass-through as being possibly the only valid method of responding to the impact of the Utilities Act upon MRP and the impact of competition. It was also seen as a means of addressing those situations where landlords are currently selling at a loss because their own particular contract unit price is higher than the MRP. Alignment of the existing electricity and gas rules was seen by some as

simplifying regulation.

The majority argued against the introduction of a cost pass-through regime for electricity. This is point of view came largely from organisations and individuals representing the holiday and home parks industry

Some argued that whilst a pass-through regime already operates in the gas sector, apparently without any great problem, there are features in the electricity market, particularly the complexity of pricing structures, which might cause difficulty.

The other factors adduced against the proposal can be summarised as follows:

- (a) the costs of metering so as to achieve accurate pass-through;
- (b) the complexity of electricity tariffs and the problem of retrospective pricing adjustments, which mean that the landlord can only estimate charges;
- (c) the loss of the transparency which characterises the existing regime of fixed price electricity MRP; and
- (d) the lack of any incentive for the landlord to purchase efficiently and to enter the competitive market for the benefit of the tenants.

3.5 Ofgem's responses can be similarly summarised:

- (a) We accept the arguments put to us that in many situations the cost of installing new meters will be disproportionate to the likely benefit. We are therefore allowing for charging on the basis of methodologies which do not require exact metering (for example by allocation of units registered by the main meter, or on a flat rate basis).
- (b) Those landlords who already make flat rate or estimated charges for

amenities must be using some kind of methodology to produce these figures and it would be reasonable to expect them to explain this methodology to tenants on request.

It would also be reasonable to expect the landlord to base charges for any particular period upon data which relates to that period, or at least to show how any retrospective correction factors have been used.

We would expect this information to be given to the customer on request along with supporting documentation, in a timely fashion. ("Timeliness" will depend on circumstances: permanently resident tenants may be able to wait a week, but touring holiday-makers may need the information instantly so as to inform a decision whether to stay at a particular site.)

Given the potential for retrospective pricing adjustments, the landlord may not be in a position to reconcile his expenditure and income immediately. Where electricity is being purchased on a contract it is possible that the supplier's price reconciliation might not take place until the end of the contract year, the landlord being unable to reconcile his income and expenditure accurately within his own accounting period. We would expect the landlord to estimate likely costs and to use his reasonable endeavours to match expenditure and income on fuel over a period of up to but not more than one year.

- (c) As was emphasised in earlier documents, the legal foundation for the current regime, i.e. the concept of the public electricity supplier, has now disappeared with the passage of the Utilities Act 2000. More importantly, reference prices in the current regime are generally the highest in the market. The benefit of transparency is more than outweighed by the consumer detriment of being locked into paying prices which the consumers in question could avoid if purchasing direct from suppliers.

Two alternative options, those of the maintenance of a survey-based or an index-linked series of prices have been considered, but have been rejected on the grounds that the former would be difficult to administer and that the latter would at best be an approximation to price movements which was already out of date, and which would be unlikely to reflect the true cost of the supply.

Transparency can be achieved in a cost pass-through regime through a requirement for landlords to make price and costing information available to tenants.

- (d) This concern was highlighted in Ofgem's earlier final proposals document, and was acknowledged as a genuine concern, but of lesser importance than the objective of ensuring that tenants do not pay in excess of the costs incurred by the landlord.

This issue underlines the fundamental purpose of the MRP regime, which is to ensure that those customers who are not part of the broader regulated market are nonetheless protected from exploitation by a landlord when they have little or no choice of energy supplier.

Ofgem has concluded that a unit cost pass-through regime is the most satisfactory way of ensuring that tenants are not financially disadvantaged by having to purchase fuel from their landlords.

Ofgem accepts the comments made regarding the impracticability of operating a precise cost pass-through, which might demand the installation of expensive metering equipment at the tenant's delivery point. Ofgem also accepts that it may be extremely difficult for the landlord to reconcile each individual bill against those which he receives from his own supplier. Ofgem has therefore modified its proposals so that resupply need not be metered. The principles enshrined in paragraphs 4 - 5 of the direction are that landlords must not resell energy at a profit, and that the methodology on which resale prices are calculated must be soundly based and transparent. In addition, upon request, the landlord must provide information to the tenant as to how the resale price

has been calculated. This must include information (including supporting documentation) as to

- how the landlord has forecast his total purchase price; and
- how the landlord has forecast the tenant's consumption.

Further comments on the information requirement are made in paragraph 3.18.

Ofgem believes this creates a flexible system which should not be burdensome for landlords to administer. If tenants take court action relying on Ofgem's MRP direction, a landlord will be able to rely on a defence that he used reasonable endeavours to comply with the direction. The direction also creates a *de minimis* threshold of £5 per year (or pro rata for less than a year), below which landlords will not be required to pay back excess charges.

Fifth proposal – that a cost pass-through regime is the most effective approach to standing charge MRP.

- 3.6 Once again, this proposal relates to electricity supply where, at present, landlords are able to recover multiple standing charges. In gas, a cost pass-through, i.e., a division amongst his tenants of the charges paid by the landlord, is already in operation.

In the past OFFER, and subsequently Ofgem, have justified the recovery of multiple standing charges by arguing that the landlords must have additional funds to meet the cost of installing and maintaining their supply infrastructure and accounting.

Ofgem has subsequently reviewed this approach.

Some respondents expressed positive support for the new proposal. They argued that, should landlords wish to apply charges for billing and maintenance, these costs could be identified as a separate charge. Once again, the advantages of alignment between electricity and gas rules were acknowledged, comments

being made that the gas rule seemed to be working satisfactorily.

The majority of the respondents argued against the proposal, however, commenting that:

- many landlords have substantial infrastructure and accounting costs, and incur line loss (i.e., units of electricity purchased for resale but lost in transmission across their own network because of inefficiencies and other technical problems), and that these costs can most easily be recovered either by levying multiple standing charges or by making a margin on the unit charge;
- it may be difficult to recover these costs through rent or pitch fees given that there are some statutory or code of practice controls over the extent to which these can be increased; and
- the introduction of a cost pass-through would remove transparency and could encourage landlords to overcharge.

3.7 We recognise that in some situations landlords resupplying electricity incur substantial infrastructure costs, for example in some instances in the mobile home sector where site owners can operate complex systems involving transformers and intricate networks, sometimes in poor ground conditions.

3.8 It is doubtful whether, given the size of some of the capital investment figures quoted to us by respondents, the practice of recovering multiple standing charges would fund that investment fully. In other cases, it is possible that landlords have been able to make a profit from the existing methodology. Some primary suppliers no longer levy a standing charge. Over the past two years at least, Ofgem has, nonetheless, calculated notional standing charges in these cases. We have, therefore, through the regulatory process, generated income for landlords which may not be related to any valid expenditure figure.

3.9 Ofgem has considered the wider regulatory implications of any decision to revise the existing rule regarding the recovery of electricity standing charges. If

landlords are no longer able, in whole or in part, to fund infrastructure and ancillary costs via the MRP scheme, they might, if those costs were justified, need to increase rents, pitch fees or other charges to meet the shortfall in income.

The ability of the landlord to increase these charges is controlled by various statutory measures and by codes of practice. It has been put to us that some of these controls may be open to interpretation, or may be subject to abuse (by both landlords and customers). However, if this is true, it is a problem much wider than MRP, and the MRP cannot obviate the need for the resolution of these difficulties through more appropriate channels. The lengthy transition period written into the direction is partly intended to allow these channels to operate.

- 3.10 For similar reasons, it is not appropriate for recovery of the costs of heating and lighting the common parts of premises to be recovered through the MRP.
- 3.11 The majority of those who responded to us have emphasised the need for a transparent system of MRP controls. However, a regime of fixed prices, set and published by the regulator, is no longer appropriate for the reasons set out in preceding paragraph. Transparency can be better achieved in other ways.

Ofgem has carefully considered the responses made regarding its proposals to change the methods by which electricity standing charges are recovered. Ofgem has a primary duty to protect the consumer, where appropriate through promoting effective competition. We remain of the view that the best way for Ofgem to meet this objective is via a cost pass-through.

Ofgem has therefore issued a direction which has the practical effect of allowing landlords in the domestic sector to charge no more, either for energy units or for standing charges, than they themselves have paid to the authorised supplier.

The direction allows eleven months for any recalculation of rents and other preparatory measures, with the new regime coming into force on 1 January

2003.

Treatment of houseboats

Third proposal – that exemption of houseboats from the electricity MRP control should be removed.

- 3.12 To recap, there is no current price control where electricity is resold to the occupants of houseboats which are not used as places of permanent habitation and are capable of, or can readily be adapted for, self-propulsion.

Ofgem highlighted what it considered to be flaws in the bases for this policy, particularly in the interpretation of VAT rules and lack of consistency between the treatment of houseboats and other forms of mobile or potentially mobile accommodation.

- 3.13 We recognise the complexity of charging which applies to this particular type of accommodation – for example, the necessity to purchase electricity in KVA units rather than KWh, to buy capacity and to fund infrastructure. There is no doubt that in certain resupply situations landlords incur additional costs, particularly infrastructure and accounting costs. Berth and marina operators were not alone in voicing concern that Ofgem's proposals would limit their ability to recover them.

- 3.14 Ofgem does not agree that its proposals will prevent the landlords from recovering those costs which are associated with the operation of their own systems, and with accounting, as in a cost pass-through regime it would be open to the landlord (in this case the marina or berth operator) to recover infrastructure costs and overheads via mooring fees from those for whose benefit they are incurred.

We have taken the view that there is insufficient justification for regarding marine craft as a special case in the light of the flexibility built into the new MRP regime, and Ofgem's direction therefore applies equally to marine craft and land-based accommodation.

Treatment of VAT

Sixth proposal – that if a fixed price MRP regime were to be perpetuated, any figures set by Ofgem should be VAT inclusive; if a cost pass-through were to be adopted, Ofgem would stipulate only that VAT should be collected at the appropriate rate.

- 3.15 Few substantive comments were made on this particular point, and those who did comment voiced agreement.

Ofgem confirms that VAT should be collected at the appropriate rate.

Interest on sums overcharged

Seventh proposal – that interest at twice the prevailing base rate should be paid on sums overcharged by landlords.

- 3.16 In its final proposals document Ofgem suggested that it was important that customers should not suffer financially through overcharging by landlords. We also suggested that by setting the interest rate at twice the prevailing base rate we would be creating an appropriate incentive for landlords to comply with the MRP regime.
- 3.17 Ofgem's right and ability to introduce terms to this effect in a future direction was challenged by more than one respondent – first on the grounds that such terms would infringe the Human Rights Act, secondly on the grounds of practicability given that it has no power of enforcement. Ofgem has responded that in its view we clearly have the right within UK legislation to set incentives of this kind. Moreover, since the issue of overcharging is dealt with by the civil courts, who have the power to impose interest charges, the rights created by the direction to prevent overcharging can also be utilised.

We therefore confirm that we will implement this particular proposal.

Provision of information by landlord

Eighth proposal – that the landlord must provide information about purchase price to tenants on request, and that where such information is not provided, the landlord should be required to reduce any existing charges by a percentage which is twice the prevailing base rate.

- 3.18 We emphasised the fact that if a cost pass-through regime is adopted, it can only be made to work if a requirement is placed upon the landlord to give information about purchase price and the calculation of charges to his customers.

One respondent argued that this information is confidential to the two parties to the primary supply contract. Ofgem's view is that any requirement imposed pursuant to legislation would have the effect of nullifying this confidentiality, particularly since the courts would have the power to require the information in any case.

In our final proposals document we agreed with the comment made by one respondent that the only way in which such a provision could be made to work in practice was through any decisions made in the customers favour by the civil courts. We would expect the courts to reach a conclusion as to whether the amount of any arrears claimed by a landlord for the period of a dispute should be reduced in this way.

**We therefore confirm that we will implement this particular proposal.
We have concluded also that landlords should provide information to the tenant on request.**

Chapter 4 – Implementation

- 4.1 Ofgem is naturally keen to introduce these policy changes as quickly as possible. However, we are conscious of the fact that there are several factors which mitigate against immediate implementation.

First, many resale arrangements are governed by leases and other agreements with particular review provisions which cannot be overridden. A delayed implementation date gives an opportunity for the interested parties to debate and resolve the practical issues arising out of the Authority's decisions.

Second, the new information requirements imply that landlords must be given a reasonable period within which to gather data and to put arrangements in place to disseminate it.

- 4.2 The information given to us during the consultations suggests that only a minority of accommodation agreements are reviewable at intervals of more than one year.

We have already concluded that it would be appropriate for landlords to reconcile their charging methodologies over a period of up to one year. In order to give them the opportunity to include up-to-date seasonal cost data and to revise their accounting systems to deal with the changes, it also seems appropriate therefore to allow landlords this amount of time to prepare for the changes.

In the light of these considerations we have concluded that the direction implementing the revised policy should take effect from 1 January 2003.

- 4.3 Ofgem will consider whether to issue guidance on methodologies for achieving cost pass-through, and would welcome comments on whether this would be beneficial. Ofgem will also work with energywatch and other organisations to publicise the new MRP regime.

Chapter 5 – Summary of decisions

5.1 A copy of the direction which gives effect to the Authority's decisions is attached to this the document as Appendix 1. In summary, those decisions are that:

- the Authority should continue to set MRP for both gas and electricity;
- the control should be limited to resupply to domestic premises;
- the existing fixed price regime in electricity be replaced with a cost pass-through, for both unit charges and standing charges;
- VAT should be charged at the appropriate rate (on advice from HM Customs and Excise where necessary);
- interest at twice the prevailing base rate should be paid on any sums overcharged by landlords;
- the landlord should, on request, provide information (and supporting documentation) tenants regarding initial purchase prices, and where appropriate, his own charging methodology; and
- any charges made in the absence of such information should be reduced by a factor which is twice the prevailing base rate.

The direction will come into force on 1 January 2003.

Appendix 1 - Copy of direction issued on 29th January 2002

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:-

1. 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).

Metered Supplies

2. Subject to the provisions of paragraph 4 below, the maximum price at which each unit of gas or electricity may be resold shall be the same price as that paid to the authorised supplier by the person reselling it.
3. Where the maximum resale price is defined according to paragraph 2, 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

4. Where metering equipment is not available which permits resale of gas or electricity at a price defined according to paragraph 2 (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.

5. Where the maximum resale price is being estimated according to paragraph 4, 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

6. 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 4, the reseller shall also detail to that person, on request, the methodology according to which the resale price has been estimated.
7. If a person reselling gas or electricity fails to meet a request in the manner specified in paragraph 6 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

8. 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

9. In this direction

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

Implementation

10. This direction shall come into force on 1st January 2003.

JOHN NEILSON

MANAGING DIRECTOR, CUSTOMERS AND SUPPLY

For and on behalf of

THE GAS AND ELECTRICITY MARKETS AUTHORITY

29th January 2002

Appendix 2 – List of respondents

Abbey Farm Caravan Park
Aberlour Gardens Caravan Park
Acorn Camping and Caravanning
Ad Astra Caravan Park
Mr D Allcock
Allen (Park Foot) Ltd
Avebury Mobile Home Park
Balcomie Links Caravan Park
Bayview Caravan and Camping Park
Beach Farm Residential and Holiday
Park Ltd
Beachside Holiday Park
The Beeches Caravan Park
Binghams Farm
Blakehouse Farm
Bourne Leisure Ltd
Mr A Borthwick
British Gas Trading Ltd
The British Holiday and Home
Parks Association Ltd
The British Maritime Industries
Association
The British Property Federation
Brookmeadow Home Park
Broomfield Holiday Park
Bryn Defaid Holiday Park
Brynrodyn Caravan Park
Burgh Castle Marina
Burlingham Caravans
Buswell Parks
Caerfai bay Caravan and Tent Park
The Camping and Caravanning Club
The Caravan Club
Carnon Downs Caravan Park
Carrington Park
Castle Sween Bay (Holidays) Ltd
Castle Point Caravan Site
Cenarth Falls Holiday Park
Charris Camping and Caravan Park
Chesterfield Caravan Park
Cliff Hotel (Gwberty) Ltd
Clippesby Holidays
Cornish Coasts Caravan and
Camping Park
Country Holiday & Home Parks Ltd
Country Parks Ltd
Craigtoun Meadows Ltd
Cross Country Caravans Ltd
Dartmoor View Holiday Park
Davidson Country Park Homes
DHG & YM Davies
JS Bradshaw (Caravans) Ltd
Deanland Wood Park Ltd
Dog & Duck Leisure Parks
Dolbeare Caravan & Camping Park
Dovecote Caravan Park
Drum Mohr caravan & Camping
Park
East Bowstrips Caravan Park
East Fleet Farm Touring Park
The Electricity Association
Encon Ltd
Energy Action Scotland
The Energy Consortium Ltd
Essex Caravan Centre Ltd
Fairways International Touring
Caravan Park
Far Grange Park
The Federation of Small Businesses
Fen Farm Caravan Site
Fir Trees Holiday Park
Fishguard Bay Caravan & Camping
Park
Fleet Caravans Ltd
Flusco Wood Caravan Park
Forget-me-Not Caravan Park
Mrs D E Franks
Colin Fraser
Freshwater Beach Holiday Park
Friary Farm Caravan Park
Glan y Mor Leisure Park
Glendaruel Caravan Park
Golden Sands Holiday Camp (Rhyl)
Ltd
Gorse Hill Holiday Park
Great British Holiday Parks
Greenfield Caravan Park
(Mablethorpe)

Greenfield Park (Freckleton)
 Green Pastures Farm
 Robin Hall
 Hardwick Parks
 Harford Bridge Park
 Harrison & Stephens
 Harrow Wood Farm Caravan Park
 Haulfryn Group Ltd
 Highr Longford Caravan & Camping
 Park
 Highfields Farm Caravan & Camping
 Park
 Holgates Caravan Park
 Horam Manor Touring Park
 Independent Park Home Advisory
 Service
 Invercoe Caravan & Camping Park
 Kinvena Homes Ltd
 Landguard Camping Parks
 Lanyon Holiday Park
 Largo Leisure Parks Ltd
 The Laurels Park
 Lickhill Manor Caravan Park
 Lillybrook Estate Ltd
 Linwater Caravan Park
 Linnhe Caravan Park Ltd
 Little Studley Park
 Mr J Lloyd
 D&D Lloyd Jones Securities Ltd
 Lobb Fields Ltd
 Sir Ian MacDonald of Sleet
 McAlister Estates
 Pauline Major
 Mallow Dale Ltd
 S Mannington & Son Ltd
 Maustin Caravan Park Ltd
 Mayfield Park
 Meadowbank Holidays Ltd
 Meadowhead Ltd
 Merley Court Touring Park
 Merley House Holiday Park
 Middlewood Farm Holiday Park
 Mill House Caravan Park
 Moor End Caravan & Camping Site
 Moorlands Caravan Park
 Moor View Touring Park
 Mount Pleasant Holiday Park
 The National Association Of Park
 Home Residents

The National Caravan Council
 Neppgill Park
 Netherbeck Holiday Home Park
 Northcliffe & Seaview Holiday
 Parks
 North Morte Farm
 North Shore Holiday Centre
 North West Tourist Board
 Oakbank Lakes
 Oakdown
 Oaklands Residential Park
 Oaktree Parks Ltd
 Old Hall Caravan Park Ltd
 Old Manor Caravan Park
 The Orchards Holiday Park Ltd
 (IOW)
 The Orchards Park (Residential) Ltd
 (Sleaford)
 The Paddocks
 Palm Grove Court
 Parc Farm Caravan Park
 Parbola Caravan Park
 Parkfoot Holiday & Home Park
 Peel House Farm Caravan Park
 Pendeilo Leisure Park
 Pen y Pentre Caravan Park
 Pettycur Bay Holiday Park Ltd
 Pine View Parks Ltd
 Plas Gwyn Caravan Park
 Point Lynas Caravan Park
 Preseli Tourist Association
 Polruan Holidays Ltd
 Priory Hill
 Priory Park
 Resparva House Touring Park
 Retreat Estates
 Richmond Holiday Centre
 Ridgeway Holiday Centre
 Riverside Caravan Park
 Roselands Caravan Park
 Rothiemurchus Camping & Caravan
 Park
 Rowlands Wait Touring Park
 Roydon Mill Leisure Park
 St Davids Park
 St Tinney Farm
 Sandford House Farm
 Sands of Luce Caravan Park
 Saundersfoot Bay Leisure Park

Matthew Scholey
Scoutscroft Holiday Centre
Shamba Holiday Park
Shorefield Holidays Ltd
Silversands
Skelwith Fold Caravan Park
David Snowdon
Southeast England Tourist Board
Southfork Caravan Park
Southland Caravan Park
Speyside Leisure Park
Springfield Touring Park
Spring Lea Caravan Centre
Station Caravan Park
Stevensons (Golden Sands) Ltd
Sunkist Caravan Park
Sunny Lyn Caravan Park
Sunnysands Caravan Park Ltd
Talacre Beach Caravan Park Ltd
Tall Trees Caravan Park
Tanner Farm Caravan & Camping
Park
Torbay Holiday Motel Ltd
Tregatillian Park
Trevadlock Hall
Trewan Hall Ltd
A R Trotter
Twenty Shilling Wood Caravan Park
Two Chimneys Caravan Park
Two Mills Touring Park
Unity Holiday Resort
Upwood Holiday Park
Valley Farm Park
Varne Ridge Holiday Park
Walsh's Holiday Camp
Wareham Forest Tourist Park

Watergate Bay Touring Park
Wayfarers Caravan & Camping Park
Webbers Farm Caravan and
Camping Park
West Dorset Leisure Holidays
West Shore Park
Whitecliffe Bay Holiday Park Ltd
Whitehill Residential Park

Wickland (Holdings) Ltd
Wicks Farm Holiday Park
Wild Rose Park
Wood Farm Caravan & Camping
Park
Woodlands Caravan Park
Wood-Nook
Woodseats Park
Woodside Park
Wylde Mobile Home Parks
The Yacht Harbour Association Ltd
York House Caravans