

Copy of direction issued on 14 March 2014

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