

Modification proposal:	<b>Supply Point Administration Agreement (SPAA) Change Proposal (CP): 14/276 - SPAA Changes Subsequent to the Implementation of the Third Package</b>		
Decision:	The Authority <sup>1</sup> directs that this modification be made <sup>2</sup>		
Target audience:	SPAA Parties and other interested parties		
Date of publication:	10 October 2014	Date of Implementation:	7 November 2014

## Background to the modification proposal

The EU Third Energy Package<sup>3</sup> (the Third Package) was implemented in Great Britain on 10 November 2011 by making amendments to relevant domestic legislation. The Electricity and Gas (Internal Markets) Regulations 2011 (the Regulations) gave effect to these changes. The Regulations made numerous changes to gas and electricity licences once they came into force.<sup>4</sup>

The licence changes included changes to Standard Licence Condition 30 'Supply Point Administration Agreement' of the gas supplier licence. These changes enable us to raise a SPAA modification proposal which we reasonably consider is necessary to comply with or implement the Gas Regulation and/or any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators (ACER). They also enable us to direct or amend the timetable for relevant modifications, and that such modifications cannot be withdrawn without our consent. The SPAA does not currently reflect these provisions.

## The modification proposal

National Grid raised modification CP 14/276 on behalf of the SPAA Executive Committee in July 2014. CP 14/276 seeks to align the SPAA governance rules (in particular Clause 9 'Change Control') with the licence changes made to implement the Third Package. The modification:

- reflects the new relevant objective for the SPAA, namely, compliance with the Regulation (the Gas Regulation) and any relevant legally binding decisions of the European Commission and/or the ACER, and inserts a definition of 'Regulation' in the SPAA
- reflects that the Authority may raise, or direct a Domestic Supplier (a relevant gas supply licensee) to raise, a SPAA modification proposal which the Authority

<sup>1</sup> The terms 'the Authority', 'Ofgem' and 'we' are used interchangeably in this document. Ofgem is the Office of the Gas and Electricity Markets Authority.

<sup>2</sup> This document is notice of the reasons for this decision as required by section 38A of the Gas Act 1986.

<sup>3</sup> The term 'Third Package' refers to Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC (Electricity Directive); Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003 (Electricity Regulation); Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC (Gas Directive); Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005 (Gas Regulation); and Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators (ACER).

<sup>4</sup> SI 2011/2704 which can be found here: <http://www.legislation.gov.uk/ukxi/2011/2704/part/1/made>. We made further consequential licence changes relevant to implementation of the Third Package (see our licence modification decision here: <https://www.ofgem.gov.uk/publications-and-updates/decision-modify-gas-and-electricity-licence-conditions-following-implementation-third-package-and-other-house-keeping-changes>)

reasonably considers is necessary to comply with the Regulation and/or any relevant legally binding decisions of the European Commission and/or the ACER

- reflects that where the Domestic Supplier raises a SPAA modification proposal which the Authority reasonably considers is necessary to comply with or implement the Regulation and/or any relevant legally binding decisions of the European Commission and/or the ACER, it cannot be withdrawn without prior Authority consent
- sets out that the Domestic Supplier and the SPAA Change Board are to comply with any Authority directed timetable in respect of a modification which the Authority reasonably considers is necessary to comply with or implement the Regulation and/or any relevant legally binding decisions of the European Commission and/or the ACER. Compliance includes completion of the relevant modification process steps and implementation of the modification in accordance with the Authority's directed timetable, if any.

### Change Board<sup>5</sup> views

The modification was considered at the SPAA Change Board on 21 August 2014. The SPAA Change Board agreed with the Proposer that CP 14/276 better facilitates relevant objective (c) and voted unanimously that CP 14/276 should be accepted. The outcome of the weighted vote (5 parties voted) is set out in the table below:

CP 14/276	WEIGHTED VOTING (%)					
	Domestic Supplier		I&C Supplier		Gas Transporter	
	Accept	Reject	Accept	Reject	Accept	Reject
CHANGE SOLUTION	100	0	0	0	0	0
IMPLEMENTATION DATE	100	0	0	0	0	0
IMPLEMENTATION TECHNIQUE	100	0	0	0	0	0

In accordance with the weighted vote procedure<sup>6</sup>, the Change Board accepted the proposal and requested Authority consent.

### Our decision

We have considered the views of the Change Board, the contents of the Change Report dated 16 September 2014<sup>7</sup> and the minutes of the Change Board dated 21 August 2014. We have concluded that:

- implementation of CP 14/276 will better facilitate the achievement of the relevant objectives of the SPAA<sup>8</sup>, and
- consenting to the modification being made is consistent with our principal objective and statutory duties.<sup>9</sup>

<sup>5</sup> The Change Board is established and constituted pursuant to, and in accordance with, Clause 6 of the SPAA.

<sup>6</sup> The threshold for a change proposal being accepted by relevant SPAA parties is 65%, as set out in clause 9 of the SPAA.

<sup>7</sup> The Change Report and attachments are available at: <http://www.spaa.co.uk/change-proposal-register-new/spaa-detail?cpnodeid=208527>

<sup>8</sup> As set out in Standard Licence Condition 30.6 of the Gas Supplier Licence.

<sup>9</sup> The Authority's statutory duties are wider than matters which the Change Board must take into consideration and are detailed mainly in the Gas Act 1986 as amended.

## **Reasons for our decision**

We consider that the modification proposal better facilitates relevant SPAA objectives (c) and (g) as set out in Standard Licence Condition 30.6 of the gas supplier licence. In our view, the modification has no impact on the other relevant SPAA objectives. We also note that all parties who voted on the modification proposal supported its approval and implementation.

*Objective (c) 'the promotion of efficiency in the implementation and administration of the supply point administration arrangements'*

We consider that the modification proposal promotes efficiency in the implementation and administration of the SPAA arrangements. The proposed changes to the SPAA text align the code provisions with the relevant licence changes and establish greater transparency around the processes for SPAA Parties. For this reason, we consider that the modification does better facilitate this objective.

*Objective (g) 'compliance with the Regulation and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators'*

The changes introduced by this modification will help ensure that the SPAA governance rules reflect the appropriate governance processes that will allow future compliance to take place. For this reason, we consider that the modification also better facilitates this objective.

## **Decision notice**

In accordance with Standard Licence Condition 30 of the Gas Supplier Licence, the Authority hereby directs that modification proposal SPAA CP 14/276: *'SPAA Changes Subsequent to the Implementation of the Third Package'* be made.

**Lesley Nugent**

**Head of Industry Codes and Licensing**

Signed on behalf of the Authority and authorised for that purpose