

Modification proposal:	Green Deal Arrangements Agreement (GDAA) Change Proposal (CP) 0069 – Late payment of GDAA invoices		
Decision:	The Authority ¹ has decided to consent to this proposal		
Target audience:	Green Deal Oversight and Registration Body (GDORB), GDAA Panel, Parties to the GDAA and other interested parties		
Date of publication:	19 January 2015	Implementation date:	Next GDAA release following Authority and Secretary of State consent

Background

The Secretary of State currently funds the GDAA.² From 1 April 2015³ onwards the GDAA will be self-funding with costs recovered from GDAA parties. The GDAA cost recovery provisions were recently modified as a result of GDAA CP 0060⁴ to provide for self-funding by all GDAA parties through a mix of both fixed and variable charges. Presently the GDAA does not set out any arrangements in the case of late payment of these charges.

The modification proposal⁵

GDAA CP 0069 was raised by npower. It proposes to introduce a process into the GDAA that details the consequences of late payment of a GDAA invoice.

Under the proposal, if a GDAA party does not pay the amount due within twenty working days of invoice, the GDAA Panel would be able to charge interest on the overdue payment together with an administration charge. This administration charge is proposed to be set by the GDAA Panel and notified to GDAA parties from time-to-time.

This interest will be calculable from day-to-day at a rate per annum equal to 3% above the base lending rate of The Bank of England. It will be calculated from the day after the date on which payment was due, up to and including the date of payment.

In accordance with paragraph 7.1.2 of the GDAA, Authority consent to CP 0069 is required as it seeks to amend Part 2 of the GDAA.⁶

¹ References to the "Authority", "Ofgem", "we" and "our" are used interchangeably in this document. The Authority refers to GEMA, the Gas and Electricity Markets Authority. The Office of Gas and Electricity Markets (Ofgem) supports GEMA in its day to day work. This decision is made by or on behalf of GEMA.

² A copy of the GDAA can be found here: <http://gdorb.decc.gov.uk/gdaa>

³ <https://www.ofgem.gov.uk/ofgem-publications/92287/cp0072d.pdf>

⁴ <https://www.ofgem.gov.uk/publications-and-updates/green-deal-arrangements-agreement-gdaa-cp0060-amended-gdaa-cost-recovery-process>

⁵ The terms 'modification' and 'modification proposal' have the same meaning as 'change' and 'change proposal' for the purposes of this document.

⁶ Changes to Part 2 of the GDAA (comprising Clauses 5 to 8), or any change to a definition in Clause 1.1 that may materially affect the provisions of Part 2, require Authority consent.

GDAA Panel recommendation

At its meeting on 24 November 2014, the GDAA Panel unanimously agreed to approve CP 0069.

Our decision

We have considered the responses to the proposal, which was issued by the GDAA Panel for Impact Assessment, and the decision of the GDAA Panel. We have concluded that the implementation of CP 0069 is consistent with the objective of the GDAA:⁷

To establish an effective mechanism for: (a) the collection of Green Deal Charges through electricity bills by Mandatory Green Deal Suppliers and Voluntary Green Deal Suppliers; and (b) the remittance of these payments to Green Deal Providers or their nominees, so as to enable the efficient use of energy to be promoted under the Green Deal and to do so in a way which protects the interests of consumers, promotes effective competition between electricity suppliers...and promotes the efficient use of energy.

We consider that consenting to this change is consistent with our principal objective and statutory duties.

Reasons for our decision

We note that the majority of respondents supported the proposal. We consider that the implementation of CP 0069 will contribute to the effective implementation of the GDAA by providing a mechanism that will incentivise timely payment of invoices. We note that similar provisions apply under other industry codes and agreements.

One respondent was concerned at the undisclosed administration charge. We note that reference is made in the final Change Report⁸ to adherence to the provisions for debt recovery costs in respect of late commercial payments, as set out by late payment legislation.⁹ While it may have been clearer if the proposed legal text had specified that the administration charge would not exceed these amounts, we anticipate that this will be clarified by separate notice from the Panel as provided for by the legal text. Finally, as it is proposed that the GDAA Panel will have discretion to apply the administration charge and interest, we note that parties will not automatically face these costs in cases where late payment is agreed. We expect the Panel to ensure the approach they adopt is proportionate.

Pursuant to paragraph 7.1.2 of the GDAA, we consent to CP 0069 being made.

Lesley Nugent
Head of Industry Codes and Licensing

Signed on behalf of the Authority and authorised for that purpose

⁷ The objective of the GDAA is set out in Recital E of that agreement. For the purposes of Authority decisions, this objective is subject to Recital F and the words "promotes effective competition between Green Deal Providers" are excluded.

⁸ contact: <http://gdorb.decc.gov.uk/gdaa>

⁹ <https://www.gov.uk/late-commercial-payments-interest-debt-recovery/claim-debt-recovery-costs>