

Modification proposal:	Supply Point Administration Agreement (SPAA) Change Proposals (CP) 15/292: Theft Risk Assessment Service Implementation; and, CP15/295: Theft Risk Assessment Service Retrospective Funding		
Decision:	The Authority ¹ has decided to approve ² these changes ³		
Target audience:	SPAA Parties, SPAA Panel and other interested parties		
Date of publication:	29 May 2015	Date of implementation:	1 June 2015

Background to the Change Proposals

On 31 October 2012 we directed the modification of the Gas Suppliers Licence, introducing new rules regarding the prevention, detection and investigation of gas theft.⁴ In particular, the new licence condition⁵ requires Gas Suppliers to be a party to, comply with, and maintain the "Theft Arrangement". We subsequently issued a Direction pursuant to the modified Gas Suppliers licence to implement the Theft Arrangement, via a service known as the Theft Risk Assessment Service (TRAS).⁶

On 15 March 2013 we consented to implementation of SPAA Change Proposal CP12/226: 'Provisions for the Theft Risk Assessment Service'.⁷ In consenting to the implementation of CP12/226 we agreed that the SPAA provides an efficient and robust means for Gas Suppliers to collectively discharge these new obligations.

While the original Direction gave a deadline of 31 March 2014 for the TRAS to be in effect, it subsequently became apparent that this date would not be met. We also agreed with respondents to our consultation on introducing similar theft arrangements into electricity that there would be efficiencies and potential synergies if the TRAS could be introduced as a dual-fuel solution.

We therefore invited gas and electricity suppliers, via the SPAA Executive Committee and DCUSA⁸ Panel respectively, to submit a revised timetable and a recommendation for a practicable target date for commencement of the TRAS. Based upon the subsequent work plan submitted by the dual-fuel TRAS workgroup, on 10 July 2014 we issued a Direction to electricity suppliers and a revised Direction⁹ to gas suppliers, requiring both to implement a dual-fuel TRAS by 29 February 2016.

The selection and procurement of a TRAS provider is now nearing completion, with a preferred bidder having been identified and terms agreed, subject to contract. It is expected that the contract will be signed shortly, upon implementation of facilitating changes to the SPAA and DCUSA.

¹ The terms 'the Authority', 'Ofgem' and 'we' are used interchangeably in this document. Ofgem is the Office of the Gas and Electricity Markets Authority. This decision is made by or on behalf of GEMA.

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

³ 'Change' and 'modification' are used interchangeably in this document.

⁴ Tackling Gas Theft: New requirements for gas suppliers – Decision Document. Ofgem Ref 137/12. See: www.ofgem.gov.uk/Markets/RetMkts/Compl/Theft/Documents1/Tackling%20Gas%20Theft%20-%20New%20requirements%20for%20gas%20suppliers%20-%20Final.pdf

⁵ Standard Licence Condition 12A: 'Matters relating to Theft of Gas'

⁶ www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=149&refer=Markets/RetMkts/Compl/Theft

⁷ www.ofgem.gov.uk/ofgem-publications/63491/cp12-226d-2.pdf

⁸ Distribution Connection and User of System Agreement

⁹ www.ofgem.gov.uk/ofgem-publications/88713/gastrasdirectionfinal.pdf

The Change Proposals

CP15/292

Although CP12/226 introduced new SPAA Schedule 34, this was drafted as a skeleton schedule to be populated as and when required during the further development of the TRAS arrangements. CP15/292 seeks to replace the existing Schedule 34 in its entirety with the agreed TRAS arrangements, including the governance and funding of the service, as well as the role and responsibilities of parties with respect to date provision, etc.

CP15/292 also seeks to replace the TRAS *Product*¹⁰ introduced into the SPAA by CP13/239¹¹. That product acted as an interim measure, setting out the potential data items that could be made available to a TRAS provider in order to identify sites where theft is suspected. The product was not intended to be a final version of data requirements, simply to facilitate the TRAS procurement exercise. As such, the product is now defunct and CP15/292 would replace in its entirety by the revisions to Schedule 34.

The July 2014 Direction includes an obligation on suppliers to ensure that a performance assurance report is produced by a person who is fully independent of the TRAS. CP15/292 also includes provisions requiring the SPAA EC to procure an independent report on the performance of the TRAS.

Change Proposal DCP225¹² has been raised to insert an equivalent to SPAA Schedule 34 into the DCUSA, maintaining the dual-fuel governance of the TRAS.

CP15/295

As noted above, all gas and electricity suppliers are obligated under licence to comply with the theft arrangements that include the provision of the TRAS. These arrangements will be governed through the SPAA in gas and the DCUSA in electricity. However, the obligation to accede to SPAA currently applies to domestic gas suppliers only. Whilst non-domestic suppliers (otherwise referred to as *Industrial and Commercial* or *I&C* suppliers) are free to accede on a voluntary basis, to date many have chosen not to. A further Change Proposal – CP15/297 has been raised to allow such suppliers to accede to SPAA on a limited basis, being specific to the governance of the TRAS. SPAA parties voted unanimously to accept CP15/297 at the 21 May 2015 Change Board. We expect the Change Report to be submitted shortly, seeking Authority consent for CP15/297 to be made.

As there is potentially a gap between the TRAS contract coming into effect and I&C suppliers acceding to the SPAA, CP15/295 seeks to apply charges to non-acceded parties from the date that contract comes into effect. This will apply to current licensees only. Future market entrants would only be subject to charges from the time they accede to the SPAA. This aims to ensure that charges are allocated on an equitable basis to all suppliers obligated to use the TRAS, and remove a potential incentive for non-acceded suppliers to delay their accession.

¹⁰ A 'SPAA Product' is not formally defined, but refers to a document listed under Schedule 6 as coming under SPAA governance. A product is therefore owned and maintained by SPAA Parties, but cannot place direct obligations upon them. Therefore the enforcement of provisions within a Product requires complementary rules to be placed within the main body or a schedule of the SPAA.

¹¹ CP13/239: 'TRAS arrangements – TRAS product'

¹² DCP225: 'Theft Risk Assessment Service – Party obligations'

Given the link between the TRAS contract coming into effect and the exposure of suppliers to charges, we felt it appropriate to consider these two change proposals alongside each other. In doing so, whilst TRAS charges may be applied retrospectively once an I&C party accedes to SPAA, the clause which puts this charging principle into place would not itself have retrospective effect.

Change Board¹³ recommendations

At its meeting of 16 April 2015 and the extraordinary meeting of 13 May 2015 the SPAA Change Board voted on CP15/295 and CP15/292 respectively. The outcome of the weighted voting is set out in the tables below:

CP15/292	WEIGHTED VOTING (%)					
	Domestic Supplier		I&C ¹⁴ Supplier		Gas Transporter	
	Accept	Reject	Accept	Reject	Accept	Reject
CHANGE SOLUTION	100	0	97	3	N/A	N/A
IMPLEMENTATION DATE	100	0	97	3	N/A	N/A
IMPLEMENTATION TECHNIQUE	100	0	97	3	N/A	N/A

CP15/295	WEIGHTED VOTING (%)					
	Domestic Supplier		I&C Supplier		Gas Transporter	
	Accept	Reject	Accept	Reject	Accept	Reject
CHANGE SOLUTION	100	0	100	0	N/A	N/A
IMPLEMENTATION DATE	100	0	100	0	N/A	N/A
IMPLEMENTATION TECHNIQUE	100	0	100	0	N/A	N/A

In accordance with the weighted vote procedure,¹⁵ the Change Board considered that both CP15/292 and CP15/295 would better facilitate the relevant objectives of the SPAA and therefore recommended their approval.

The Authority's decision

After considering the views of the Change Board as contained in the relevant change reports we have concluded that:

- implementation of CP15/292 and CP15/295 will better facilitate the achievement of the relevant objectives of the SPAA,¹⁶ and
- consenting to the modifications being made is consistent with the Authority's principal objectives and statutory duties.

Reasons for the Authority's decision

CP15/292 has been progressed against an expedited timetable in order to facilitate the contract with the TRAS provider being signed as soon as possible.

In line with the assessment made within Change Report we have assessed CP15/292 against SPAA objectives (d) and (f) of the SPAA. However, we also consider that this change will further facilitate relevant objective (b), as set out below. We consider that CP15/292 is neutral to the other SPAA objectives.

¹³ Change Board is established and constituted pursuant and in accordance with the SPAA.

¹⁴ Industrial and commercial.

¹⁵ The threshold for a change proposal being accepted by relevant SPAA parties is 65%, as set out in clause 9 of the SPAA.

¹⁶ As set out in Standard Licence Condition (SLC) [30.5 of the Gas Suppliers Licence](#).

The Change Board considered CP15/295 to relate only to relevant objective (c). However, we consider that many of the points made in relation to the impacts of CP15/292 on relevant objectives (d) and (f) could also be applied to CP15/295, as below. We agree that CP15/295 would have a neutral impact upon the other objectives.

Objective (b) the furtherance of effective competition between Gas Suppliers and between relevant agents

Energy theft significantly increases the cost of gas and electricity to consumers, while practices such as meter-tampering can also lead to death and injury. The cost of gas theft alone is estimated at over £100m per year. This leads to a misallocation of costs amongst suppliers, which can distort effective competition and hamper the efficient functioning of the market.

The implementation of the TRAS is part of a wider strategy to tackle energy theft. We expect the TRAS to enhance suppliers' ability to detect and investigate instances of theft, and as public perception of the likelihood of detection increases, to discourage it. To the extent that this will lead to a reduction in the amount of unidentified gas consumption and a more accurate allocation of costs, we consider that it will improve the functioning of the market and facilitate effective competition between suppliers. CP15/292 is fundamental to the introduction of the TRAS and will contribute directly to this aim.

We do not consider that CP15/295 will of itself contribute directly to a reduction in the instances of theft. However, we do agree with those respondents who suggested that CP15/295 would ensure equitable funding of the TRAS. To the extent that it removes what may have become a perverse incentive not to accede to the SPAA and possibly free-ride upon the contributions of others to TRAS costs, we consider that CP15/295 will also be beneficial to effective competition between suppliers.

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

The principal aim of CP15/295 is to ensure that there is a level playing field between those suppliers who are already a party to the SPAA, and those who may be acceding specifically for the purposes of the new theft arrangements. We note that in the absence of CP15/295 there may be a perverse incentive to remain outside of the SPAA arrangements and/or for complex TRAS funding arrangements based upon the timing of accession, with date specific rebates becoming due to those acceded parties and early movers who initially picked up the full TRAS costs. If not addressed, this additional complexity would likely lead to higher administration costs for the SPAA and the potential for disputes.

We therefore agree with those respondents who considered that the introduction of CP15/295 will not only provide for a more equitable approach to TRAS funding, but also be administratively efficient. CP15/295 would therefore facilitate SPAA objective (c).

Objective (d) so far as is consistent with sub-paragraphs (a), (b) and (c), the efficient discharge of the licensee's obligations under this licence

Standard Licence Condition (SLC) 12A 'Matters relating to Theft of Gas' came into effect on 7 January 2013. This requires Suppliers to, among other things, take all reasonable steps to detect, prevent and investigate theft of gas. More specifically, SLC 12A.8 requires the licensee to be a party to, comply with, and maintain the TRAS. To the extent that the implementation of CP15/292 facilitates the implementation of the TRAS,

we consider that it furthers SPAA relevant objective (d). We further consider that CP15/295 will further this objective by ensuring that all licensees who share this license obligation make an appropriate contribution to the associated costs.

We have noted and have sympathy with the comments raised by those Suppliers who questioned the scale and timing of data that CP15/292 requires to be made available to the TRAS, but also note that only one supplier voted against its implementation. We are aware that these data requirements have been refined during discussions both among the workgroup and with the preferred service provider. The workgroup has also been attended by and taken advice from the Information Commissioners Office.

Whilst we recognise the administrative burden that the data requirements place upon parties, particularly in the short term during which a degree of historic data is required, given the estimated scale of gas theft we are satisfied that this is a proportionate measure. We also understand that the majority of parties present at the workgroup agreed that the timing suggested by TRAS provider, i.e. by the end of July 2015, is challenging but achievable.

However, we would also expect the TRAS provider, and the SPAA EC, to adopt a degree of flexibility in their requirements, particularly with respect to newly acceded parties who may not have received as much notice as incumbents, and whose data would in any case make up a small proportion of the whole. If appropriate, and to the extent that it does not compromise the timely delivery of the TRAS service, this could reasonably include SPAA derogations for individual parties. We would also note that until it is replaced by a Theft Target derived from a Theft Target Methodology, as required under SLC12A, our expectation is that the TRAS will lead to a number of detections derived by reference to the best performing supplier(s) in the market. We determined this figure to be 6,000 in the first year of operation.¹⁷ Whilst we anticipate that the TRAS will, when fully operational, lead to a far greater number of detections than even the best performing suppliers are currently able to achieve, we agree with those respondents who suggested that compliance with the licence requirements could be achieved through a more gradual ramp up of activities. This may in turn allow for more flexibility with respect to data requirements from, for example, newly acceded parties. We would be happy to discuss this further with SPAA EC and/or parties, as required.

(f) the securing of compliance with SLC 12A of the gas supply licence ("Matters relating to Theft of Gas")

For the reasons set out under relevant objective (d), we consider that CP15/292 and CP15/295 will better facilitate relevant objective (f).

Decision notice

In accordance with Standard Licence Condition (SLC) 30 of the Gas Supplier licence, the Authority hereby approves that Change Proposals SPAA CP15/292: '*Theft Risk Assessment Service Implementation*' and CP15/295 '*Theft Risk Assessment Service – retrospective funding*' be made.

Rob Church
Partner, Retail Markets

Signed on behalf of the Authority and authorised for that purpose

¹⁷ Tackling Gas Theft: new requirements for gas suppliers. Ofgem ref: 137/12. Page 16.