

Modification proposal:	Supply Point Administration Agreement (SPAA) Change Proposals (CP): 15/297: Accession of I&C TRAS Suppliers		
Decision:	The Authority ¹ has decided to approve ² this modification ³		
Target audience:	SPAA Parties, SPAA Panel and other interested parties		
Date of publication:	21 July 2015	Implementation date:	28 July 2015

Background

The Supply Point Administration Agreement (SPAA) was introduced in order to provide effective governance for those market procedures that had previously not been codified, or were no longer appropriately governed by the Gas Transporters' network code. For instance, customer transfer arrangements rely at least in part upon peer-to-peer transactions that could not be governed by contract.

Whilst it was always envisaged that both domestic and Industrial and Commercial (I&C) suppliers would accede to the SPAA, only domestic suppliers are obligated to do so under the conditions of their licence. This originates from the initial focus of the SPAA being metering arrangements, which I&C suppliers are not obligated to provide.

Although the SPAA has evolved over time to incorporate wider non-metering provisions, several I&C suppliers have chosen not to accede. This may in part reflect the limited relevance the SPAA may have had to those organisations' interests, though some have also had longstanding concerns over the SPAA voting arrangements and the perceived risk of having changes imposed upon them. There have been several attempts to resolve this issue⁴, but to date none have succeeded in encouraging non-SPAA parties to accede. However, the implementation of the Theft Risk Assessment Service (TRAS) has prompted renewed attempts to resolve the issue of I&C accession to SPAA.

TRAS

On 31 October 2012 the Authority directed the modification of Standard Condition 12A of the Gas Suppliers Licence⁵ to introduce new rules regarding the prevention, detection and investigation of gas theft.⁶ In particular, the new licence condition requires Gas Suppliers to be a party to, comply with, and maintain the "Theft Arrangement" directed by the Authority to help improve the detection, prevention and investigation of theft.

The Authority subsequently issued a direction pursuant to the modified Gas Suppliers' licence to implement the Theft Arrangement, via a service known as the TRAS.⁷

On 15 March 2013 we consented to implementation of SPAA Change Proposal CP12/226: 'Provisions for the Theft Risk Assessment Service'⁸, which introduced SPAA Schedule 34⁹. In consenting to the implementation of CP12/226 we agreed that the SPAA provides an

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 For instance CP09/138: 'Creation of voting constituencies based on meter type'

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

⁶ 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

⁷ www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=149&refer=Markets/RetMkts/Compl/Theft

⁸ www.ofgem.gov.uk/ofgem-publications/63491/cp12-226d-2.pdf

⁹ Subsequently amended by SPAA CP15/292: '[Theft Risk Assessment Service Implementation](#)'

efficient and robust means for Gas Suppliers to collectively discharge these new obligations. Whilst I&C suppliers have been fully engaged in the development of the TRAS arrangements to date, there is a risk that they would be disenfranchised and have diminished influence over the TRAS if they remained outside the SPAA.

The modification proposal

CP15/297 seeks to allow limited accession to the SPAA for the specific purpose of participating in the TRAS. Specifically, CP15/297 covers the main body of the agreement including its key constitutional clauses, together with Schedule 34. The full list of applicable Schedules is:

- Schedule 1 (Parties);
- Schedule 2 (Accession Agreement);
- Schedule 3 (Self Certification and SPAA Derogation Form);
- Schedule 24 (Publication of Operational & Escalation Contact Information) limited to TRAS-related contacts;
- Schedule 26 (Breach & Event of Default Process); and,
- Schedule 34 (Theft Risk Assessment Arrangements).

Any supplier acceding under the terms of CP15/297 would be exempted from all other Schedules of the SPAA, though they would not be precluded from participating in them if they elected to do so.

Change Board¹⁰ recommendation

At the 21 May 2015 SPAA Change Board, members voted as follows:

CP15/297	WEIGHTED VOTING (%)					
	Domestic Supplier		I&C ¹¹ 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,¹² the Change Board considered that CP15/297 would better facilitate the relevant objectives of the SPAA therefore recommended that it be accepted, and that it is implemented with effect five days after the approval of the Authority.

Our decision

We have considered the views of the Change Board and the Change Report dated 12 June 2015 and have concluded that:

¹⁰ Change Board is established and constituted pursuant and in accordance with the SPAA.

¹¹ Industrial and Commercial.

¹² The threshold for a change proposal being accepted by relevant SPAA parties is 65%, as set out in clause 9 of the SPAA.

- implementation of the modification proposal will better facilitate the achievement of the relevant objectives of the SPAA;¹³ and
- consenting to the modification being made is consistent with our principal objective and statutory duties.¹⁴

Reasons for our decision

We agree with the proposer and the Change Board that CP15/297 should be assessed against SPAA objective (f) of the SPAA; we consider that it will have a neutral impact upon the other SPAA objectives.

(f) securing compliance with standard condition 12A

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. This licence condition is applicable to both domestic and non-domestic suppliers.

Although SLC12A does not directly require the licensee to accede to the SPAA, as noted above, in practice this is the means by which the gas industry is contracting with the TRAS. We further consider that it would be impracticable and inappropriate for suppliers to seek to enter into bilateral arrangements with the TRAS. CP15/297 would ensure that I&C suppliers are able to enter into the SPAA for the purposes of the TRAS arrangements only. Given that the SPAA Board (and DCUSA Board¹⁵) has recently selected the TRAS provider and entered into contract, we consider that CP15/297 is a timely and proportionate measure to ensure that all relevant licensees remain appropriately engaged.

As noted in our decision on CP15/292¹⁶, we are aware of the demands being placed upon suppliers regarding the provision of data to the TRAS. In particular, the TRAS has requested the provision of certain data, the specifics of which were developed in conjunction with an industry workgroup, by the end of July 2015. We have discussed the position of newly, and soon-to-be acceded, suppliers with the TRAS and understand that a short delay to the submission of their data can be accommodated by the TRAS. Rather than each of these parties seek an individual derogation from their SPAA obligations, we consider it appropriate that each of the newly acceded suppliers be given a period of grace for providing this data. In line with the advice of the TRAS, we consider that newly-acceded suppliers should provide their data by the end of October 2015.

Decision notice

In accordance with Standard Licence Condition (SLC) 30 of the Gas Supplier licence, the Authority hereby approves modification proposal SPAA CP15/297: *'Accession of I&C TRAS Suppliers'*.

Angelita Bradney
Head of Smarter Markets

Signed on behalf of the Authority and authorised for that purpose

¹³ As set out in Standard Licence Condition (SLC) 30.5 of the Gas Supplier Licence.

¹⁴ 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.

¹⁵ Distribution Connection and User of System Agreement

¹⁶ See footnote 9