

Modification proposal:	Distribution Connection and Use of System Agreement (DCUSA) DCP254 – ‘TRAS De Minimis threshold’; and Supply Point Administration Agreement (SPAA) CP 15/316 – ‘Introduction of a minimum MPRN threshold for participation in the TRAS’		
Decision:	The Authority ¹ rejects each of these proposals ²		
Target audience:	DCUSA Panel, Parties to the DCUSA and other interested parties SPAA Panel, Parties to the SPAA and other interested parties		
Date of publication:	1 July 2016	Implementation date:	Not applicable

Background

In October 2012 we modified the standard conditions of the gas supply licence³, strengthening obligations regarding the prevention, detection and investigation of gas theft. An equivalent modification was made to the electricity supply licence in May 2014⁴. These modifications require gas and electricity suppliers to be a party to, comply with, and maintain such “*Theft Arrangement*” as may be directed by us to help improve the detection, prevention and investigation of theft. We subsequently issued a direction requiring the establishment of the Theft Risk Assessment Service (TRAS). The aim of the TRAS is to assist suppliers’ efforts in detecting theft by using data analytics to profile the risk of theft at given premises.

We subsequently accepted modifications to both the DCUSA and SPAA which introduced schedules 25 and 34 respectively to those agreements. These schedules set out the TRAS arrangements⁵, including the governance and funding of the service, as well as DCUSA and SPAA parties’ roles and responsibilities with respect to data provision etc. These schedules formed the basis on which the service was procured, with the TRAS contract being a tripartite agreement between DCUSA Ltd, SPAA Ltd, and the TRAS service provider - Experian.

The modification proposals

Each of the modification proposals seek to relieve small electricity and/or gas suppliers of the obligations placed on them by schedules 25 and 34 of the DCUSA and SPAA respectively to provide supply point data to the TRAS.

DCP254 and CP15/316 propose that a de minimis threshold value be set at 500 supply points, meaning that the obligations would not have effect until the supplier had at least that many supply points registered to them.

The alternative proposals DCP254A and CP15/316A are identical to the original proposals other than to raise the de minimis threshold to 5000 supply points.

DCUSA and SPAA Parties’ recommendations

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 This document is notice of the reasons for this decision as required by section 49A of the Electricity Act 1989 and section 38A of the Gas Act 1986.

³ Gas Suppliers Licence Standard Condition 12A: “Matters relating to Theft of Gas”

⁴ Electricity Suppliers Licence Standard Condition 12A: “Matters relating to Theft of Electricity”

⁵ As agreed by the TRAS Working Group, which reported jointly to the DCUSA and SPAA Panels

Each of the proposals failed to receive the required level of support under the weighted voting procedure of each code⁶. The recommendation to the Authority is therefore that each of the proposals be rejected.

Our decision

We have considered the issues raised by the proposals and the respective Change Declarations and Change Reports. We have considered and taken into account the vote of the DCUSA and SPAA Parties on the proposals and have concluded that none of the proposals would, if implemented, further the relevant code objectives.⁷

Reasons for our decision

We note that whilst some respondents considered that none of the relevant objectives would be furthered by these proposals, some thought that either the original or alternative proposal may further effective competition. However, others considered that the impact would be detrimental, and overall there was not enough support for any of the proposals to achieve a qualifying majority of the weighted vote in order to be recommended. We agree that these proposals should be considered against relevant objective (b).

DCUSA objective (b) the facilitation of effective competition in the generation and supply of electricity and (so far as is consistent with that) the promotion of such competition in the sale, distribution, and purchase of electricity; and

SPAA objective (b) the furtherance of effective competition between Gas Suppliers and between relevant agents;

Those in favour of either the original or alternative proposal considered that they would relieve smaller parties who are likely to be new entrants from the potentially disproportionate costs of providing data to the TRAS. They additionally considered that this would be an insignificant amount of data that would do little to aid the detection of theft.

However, others noted that there are already procedures by which parties can gain an exemption from the relevant DCUSA and SPAA obligations, which have already been used in several instances. Those respondents considered that it would be preferable to consider each derogation request on a case by case basis and allow the code Committee or Panel to apply conditions, rather than allowing a blanket exemption of what they considered to be an arbitrary threshold.

Some respondents raised a concern that such a blanket exemption could result in smaller suppliers becoming a "safe haven", undermining efforts to tackle energy theft.

We have sympathy with the intent of the proposals insofar as they seek to reduce the potential barriers, particularly costs of participation, to new markets entrants. However, we share some of the concerns of respondents in that the licence obligations to detect, prevent and investigate theft do not themselves have volume threshold and it would therefore be inappropriate if the detailed code rules which underpin the theft arrangements were to only have effect for larger established suppliers. As we have noted previously, particularly when introducing the strengthened licence obligations, energy theft is a serious issue which not only costs consumers up to £400 million per year⁸, but can also put property and lives at risk. We therefore share the concern that the theft arrangements do not inadvertently create safe havens and consider that a supplier with a small

⁶ The DCUSA requires a proposal to achieve more than 50% of the weighted vote, whereas the threshold under the SPAA is 65%.

⁷ The DCUSA General Objectives (Applicable DCUSA Objectives) are set out in Standard Licence Condition 22 of the Electricity Distribution Licence and are also set out in Clause 3.1 of the DCUSA. The SPAA General Objectives (Applicable SPAA Objectives) are set out in Standard Licence Condition 30 of the Gas Supply Licence

⁸ Source: [UK Revenue Protection Association](#)

number of supply points may nonetheless have instances of theft on their portfolio.

That said, we do agree with those respondents who suggested that even suppliers who do not submit data to the TRAS can nonetheless contribute to efforts to detect, prevent and investigate theft, not least through participating in other areas of theft reporting. We also recognise that the costs of submitting small amounts of data to the TRAS may in some cases, but not all, be disproportionate to the value that additional data would have to the TRAS. It is for these reasons that we have in the past allowed individual time bound requests for derogation against these DCUSA and SPAA obligations to be granted. We consider that the derogation process provides a more robust and proportionate means of addressing this issue than introduction of a de Minimis threshold, which may itself lead to further administrative inefficiencies for both codes and their Parties. We therefore do not consider that any of the proposals would better facilitate the relevant objectives than the current baseline of either the DCUSA or the SPAA and reject them.

Angelita Bradney
Head of Smarter Markets

Signed on behalf of the Authority and authorised for that purpose