

Modification proposal:	Distribution Connection and Use of System Agreement (DCUSA) DCP264 and Supply Point Administration Agreement (SPAA) CP 16/325: 'Introduction of Energy Theft Tip Off Line Service'		
Decision:	The Authority ¹ approves 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:	15 August 2016	Implementation date:	22 August 2016

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.

Whilst it was not prescribed in the suppliers' licence obligations, the expectation of both Ofgem and licensees was that the theft arrangements would include a 24-hour "tip-off" line. We subsequently accepted modifications to both the DCUSA and SPAA introducing schedules 25⁵ and 34⁶ respectively to those agreements. These schedules set out the TRAS arrangements⁷, and for the most part formed the basis for the procurement of services which are now provided as part of the TRAS contract.

When the TRAS service provider was appointed, they were requested to work with the DCUSA and SPAA parties' preferred service provider for the provision of an energy theft tip-off line service (ETTOS), to agree an operating model and enter into a sub-contract for that service. However, a mutually satisfactory arrangement between the TRAS and ETTOS service providers could not be reached. Therefore, the DCUSA Panel and SPAA Executive Committee initiated an exercise to procure ETTOS directly, subsequently signing a tripartite contract with the chosen service provider in March 2016.

The modification proposals

DCP264 seeks to amend schedule 25 of the DCUSA, clarifying that the ETTOS will form a separate and discrete service, interacting with the TRAS rather than being procured as part of it.

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 See: www.ofgem.gov.uk/ofgem-publications/39158/tackling-gas-theft-new-requirements-gas-suppliers-final.pdf inserting Gas Suppliers Licence Standard Condition 12A: "Matters relating to Theft of Gas"

⁴ See: www.ofgem.gov.uk/sites/default/files/docs/2014/05/tackling_electricity_theft_-_new_requirements_for_electricity_suppliers.pdf inserting Electricity Suppliers Licence Standard Condition 12A: "Matters relating to Theft of Electricity"

⁵ See: [DCP225](#)

⁶ See: [CP12/226](#) and [CP15/292](#)

⁷ As agreed by the TRAS Working Group, which reported jointly to the DCUSA and SPAA Panels

A new schedule will be inserted into the DCUSA, setting out the ETTOS arrangements and a number of associated definitions and references will be inserted into the main body of the document.

CP16/325 makes equivalent changes to the SPAA and to schedule 34 in particular.

DCUSA and SPAA Parties' recommendations

The change declaration DCP264 shows that all the parties who voted were in favour of the proposal being implemented and of the proposed implementation date (if applicable) to be five working days from our decision. In accordance with the weighted voting procedure of the DCUSA, the recommendation to the Authority is therefore that DCP264 be accepted.

DCP264	Weighted voting				
	DNO	IDNO	Supplier	Distributed Generator	Gas Supplier
Change Solution	Accept	Accept	Accept	n/a	n/a
Implementation date	Accept	Accept	Accept	n/a	n/a

However, the views of SPAA parties on CP16/325 were not unanimous. Although the supplier parties who voted are each in favour of implementing CP16/325, the three Gas Transporters voted against it. In accordance with the weighted voting procedure of the SPAA, the recommendation to the Authority is therefore that CP16/325 be rejected.⁸

CP16/325	Weighted voting					
	Domestic supplier		Industrial and Commercial supplier		Gas Transporter	
	Accept	Reject	Accept	Reject	Accept	Reject
Change Solution	100%	0%	100%	0%	0%	100%
Implementation date	100%	0%	100%	0%	100%	0%

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 both DCP264 and CP16/325 would further the relevant code objectives and are in accordance with our general statutory duties.⁹

Reasons for our decision

We have considered these proposals against relevant objectives (b) and (d) of the DCUSA, and the equivalent objectives of the SPAA as follows:

DCUSA objective (d) the promotion of efficiency in the implementation and administration of the DCUSA

⁸ The DCUSA requires a proposal to achieve more than 50% of the weighted vote in each voting constituency, whereas the threshold under the SPAA is 65%.

⁹ 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.

SPAA objective (c) the promotion of efficiency in the implementation and administration of the SPAA

The three respondents opposed to the implementation of CP16/325, all of whom are Gas Transporters (GTs), were concerned that the proposed new schedule contains an uncapped indemnity which they considered placed them at risk. The relevant clause commits the code parties to compensate SPAA Ltd (or DCUSA Ltd as the case may be) for all reasonable costs incurred by it in relation to the ETTOS. This would include costs arising from any claim made against the ETTOS service provider by a third party arising from a code party's failure to act on information provided.

We understand that clause reflects an indemnity already in effect under contract with the ETTOS service provider, inserted at the insistence of the ETTOS service provider and agreed to by SPAA and DCUSA Ltd following consideration of legal advice. We further understand that the risk of claims against the ETTOS service provider is low, but that the indemnity reflects the fact that the ETTOS service provider is not required, or in a position, to do anything further with the information once it has been reported to the relevant licensee; the ETTOS service provide is not responsible for ensuring that the information is acted upon.

We sympathise with the GTs concerns, but do not consider that they are in any worse a position with respect to this clause than any other party, including the suppliers and electricity distributors, all of whom supported CP16/325 and/or DCP264. We also consider that to the extent there is a risk, it already exists in the ETTOS contract. CP16/325 and DCP264 would explicitly back these risks off onto the relevant party, and possibly to the specific party at fault, keeping the SPAA Ltd and DCUSA Ltd whole.

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;

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 year¹⁰, but can also put property and lives at risk. To the extent that these costs are currently socialised and/or borne by parties who are not responsible for those costs, they penalise efficient and inefficient operators alike. We consider that reducing and/or better targeting of these costs upon parties whose behaviour contributes to them will improve the accuracy of cost allocation to efficient operators, giving them an advantage over inefficient operators and therefore better facilitating effective competition.

We remain of the view that the provision of a 24-hour tip-off line, subject to the extent of public awareness of such a line, will make a useful contribution to the prevention, detection and investigation of theft. Therefore, to the extent that we anticipate the ETTOS will be effective, we consider that DCP264 and CP16/325 will further relevant objective b) of both the DCUSA and SPAA.

Angelita Bradney
Head of Smarter Markets

Signed on behalf of the Authority and authorised for that purpose

¹⁰ Source: [UK Revenue Protection Association](#)