

Modification proposal:	Supply Point Administration Agreement (SPAA) Change Proposal (CP): 16/336 - Amendments to the SPAA change process		
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:	20 December 2016	Implementation date:	February 2017 SPAA Release

Background

In December 2015, the SPAA Executive Committee (EC) highlighted in its response⁴ to Ofgem's Code Governance Review Phase 3 (CGR3) Initial Proposals,⁵ that the SPAA change process was not as transparent as it could be. The SPAA Secretariat has since undertaken a review of the SPAA change process and Change Board⁶ arrangements, having considered best practices under other industry codes. At the February EC meeting, the SPAA EC agreed to progress two Change Proposals (CPs) which sought to:

- expand the role of the SPAA Change Board, and
- formalise the raising, logging and distribution of issues⁷ under SPAA.

This change seeks to address the first issue.⁸ Currently, proposed changes are sent out to SPAA parties via a Change Pack for a 10 working-day Impact Assessment (IA) prior to the Change Board making a decision, and the Change Board is not able to vary this timescale.

The modification proposal

This modification was proposed by Wales & West Utilities in June 2016. It proposes to expand the role of the SPAA Change Board, making them responsible for agreeing the next steps for all CPs. This includes:

- agreeing time periods for IAs. This period would be at least 10 working days, but could be longer, eg 30 working days, to enable parties to properly assess and respond to more complex changes. The Secretariat will issue CPs for IA within two working days of the SPAA Change Board where the relevant IA period was determined;
- amending the status of a CP to a Draft CP where the Change Board considers that further work is needed to develop the proposal to the standard required for submission into the change process. This could mean a change being deferred to a relevant sub-committee of the SPAA EC;
- clarifying within the SPAA document that following the end of the IA period a CP will be subject to a SPAA Change Board vote.

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 https://www.ofgem.gov.uk/sites/default/files/docs/spaa_executive_committee_response_-_cgr3_ips.pdf

⁵ <https://www.ofgem.gov.uk/publications-and-updates/code-governance-review-phase-3-initial-proposals>

⁶ The SPAA Change Board is the body responsible for making decisions and recommendations in respect of change proposals/modifications.

⁷ Meaning issues identified under SPAA that may require a change to the code, but which do not yet have a fully formed change proposal

⁸ The second issue is addressed in change proposal CP 16/335 – "Formalising the raising issues under SPAA". This CP was approved by the SPAA Change Board under self governance in May 2016.

Change Board⁹ recommendation

At the SPAA Change Board meeting on 21 July 2016, the Change Board voted on the proposed modification. The outcome of the vote was unanimous recommendation to approve the modification in accordance with the weighted vote procedure.¹⁰

On 14 September 2016, we sent CP 16/336 back for further work, having identified a problem with the legal text proposed.¹¹ Accordingly, the proposed modification was amended and reconsidered by the Change Board on 20 October 2016. The outcome of the weighted vote procedure was that CP 16/336 should be accepted.

The Change Board considered that this CP better facilitates SPAA objective (c) by promoting greater transparency of changes under the SPAA change process, promoting party engagement in the change process, and making the Change Board the key decision-making body for SPAA Change Proposals.

Our decision

We have considered the views of the Change Board and the Change Report submitted to the Authority by the SPAA Code Administrator on 15 November 2016¹² and have concluded that:

- 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 consider that this modification proposal will better facilitate SPAA objective (c) and has a neutral impact on the other relevant objectives.

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

We agree that enabling the Change Board to have discretion over the length of the IA consultation period for SPAA Change Proposals will provide a more flexible process for party engagement, which should result in a more efficient process and better management of complex changes. This change also means that all CPs will be discussed at at least two Change Board meetings, which will provide increased transparency of proposed changes, and aid appropriate assessment of CPs. By clarifying the role of the Change Board in the change process, this modification also more generally improves transparency in the arrangements, therefore promoting efficiency in their administration and implementation.

In our CGR3 Final Proposals,¹⁵ we suggested that better use is made of the pre-modification processes across the industry codes. In our view, CP 16/336 introduces a

⁹ Change Board is established and constituted pursuant and in accordance with the SPAA.

¹⁰ The threshold for a change proposal being accepted by relevant SPAA parties is 65%, as set out in clause 9 of the SPAA.

¹¹ <https://www.ofgem.gov.uk/publications-and-updates/authority-decision-send-back-spaa-change-proposal-16336-amendments-spaa-change-process>

¹² The legal drafting for this CP was provided in two parts: the original proposed text, and a second version showing the post-send back amendment only. These two documents have been considered together for the purpose of our decision.

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.

more effective pre-modification process compared to the current SPAA arrangements, by defining a process whereby 'draft' change proposals are sent for further work. These revisions also bring SPAA more closely into line with the modification processes of other industry codes, and we support these moves to harmonise and improve the change process.

Legal drafting

We note that CP16/336 will be implemented in February 2017 after implementation of SPAA CP16/352¹⁶ which was approved by the SPAA Change Board under self-governance on 20 October 2016. CP16/352 implements the changes made to the Gas Supply licence under CGR3 into the SPAA processes.¹⁷

Both of these modifications amend SPAA clause 9.5A. We have considered the proposed legal drafting alongside the changes approved under CP16/352 and consider that they are compatible.

Decision notice

In accordance with Standard Licence Condition (SLC) 30 of the Gas Supplier licence, the Authority hereby approves modification proposal SPAA CP 16/336 - *Amendments to the SPAA change process*.

Lesley Nugent

Head of Industry Codes & Licensing – Consumers & Competition

Signed on behalf of the Authority and authorised for that purpose

¹⁵ <https://www.ofgem.gov.uk/publications-and-updates/code-governance-review-phase-3-final-proposals>

¹⁶

<https://www.spaa.co.uk/SitePages/CPDetails.aspx?UID=953&Source=https://www.spaa.co.uk/SitePages/CPCurrent.aspx>

¹⁷ <https://www.ofgem.gov.uk/publications-and-updates/decision-modify-gas-and-electricity-licences-implement-code-governance-review-phase-3-final-proposals>