

Decision

Decision of the Gas and Electricity Markets Authority to close its investigation into Cadent's compliance with its obligations under its gas transporter licence (Standard Special Conditions A40, A50 and A55) and Section 9 of the Gas Act 1986

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This investigation was opened in April 2018 after Cadent advised Ofgem that it held inaccurate records of the number of High Rise Multiple Occupancy Buildings (HR MOBs) on its network. This resulted in Cadent mis-reporting the number of risers¹ to Ofgem through the annual Regulatory Instructions and Guidance (RIGs²) submissions. The investigation focused on the extent of mis-reporting, the procedural shortcomings that led to it and the impact on the economic and efficient running of Cadent's network. This document sets out what we found, the action taken by Cadent to resolve the issue, and our reasons for closing this investigation following agreement of appropriate 'alternative action' enforcement measures.

¹ According to the Regulatory Instructions and Guidance, a riser is the pipe arrangement supplying a premise which has more than two floors above ground level and supplies more than two meter points, exclusive of the external below ground pipe.

² The current version of the RIGs guidance is entitled "RIIO-GD1 Gas Distribution Price Control – Regulatory Instruction and Guidance: Version 5.0" and is available at:
https://www.ofgem.gov.uk/system/files/docs/2018/04/riio-gd1_gas_distribution_rigs_version_5.0.pdf

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Our investigation found evidence that:

- Cadent did not have records of 775 HR MOBs it transported gas to in its asset database. This equated to 4,671 risers that it was not aware of and as a result were not reported to Ofgem as required under Standard Special Condition (SSC) A40 and associated provisions of the RIGs.
- Cadent did not have in place and maintain appropriate systems, processes and procedures to accurately record the number of risers in its network and fulfil its reporting obligations as required under SSC A40.
- There were also shortcomings in the company’s compliance with data assurance requirements under SSC A55 and associated provisions of Ofgem’s Data Assurance Guidance³ (DAG). These require the provision of accurate and complete data, as well as requiring licensees to have in place and maintain appropriate systems, processes and procedures to enable them to perform their data assurance obligations.
- Cadent missed opportunities to improve the quality of the data it held with regard to its risers. These opportunities had the potential to identify the ‘missing’ risers sooner or reduce the overall volume of them.
- Cadent failed to carry out regular surveys of the ‘missing’ risers.
- As a result of these shortcomings there was also a failure to develop and maintain the pipeline system as required by Section 9 of the Gas Act 1986. Section 9 is the general duty on network companies to develop and maintain an efficient and economical pipe-line system in respect of each authorised area. Ofgem considers that maintenance of the asset database and record-keeping go to the core of a licensee’s activities and operations and are of fundamental importance to the efficient and economical operation of the distribution business. In addition, accurate record-keeping in relation to the company’s assets underpins many wider decisions of the business, financial and otherwise. The shortcomings in record-keeping in this case were sufficiently serious to warrant treatment under the general Section 9 duty. These shortcomings led, in particular, to failures to carry out surveys on the ‘missing’ HR MOBs (and the risers within them) as noted above.

³ The current version of the DAG guidance is entitled “Data Assurance Guidance for Electricity and Gas Network Companies” and is available at:
https://www.ofgem.gov.uk/system/files/docs/2016/01/dag_guidance_document_v1.3_clean.pdf

The requirements of the relevant licence conditions and associated statutory requirements are summarised below:

SSC/relevant provision	Summary of requirements
A40(3)	The licensee must have in place and maintain appropriate systems, processes and procedures to enable it to estimate, measure and record the information detailed in the RIGs and to provide such information to the Authority.
A40(15)	The licensee must at all times comply with the provisions of the RIGs. The RIGs stipulate the accurate completion of the “replacement expenditure tables” of which Table 5.4 relates to risers.
A55(3)(b)	The licensee must, where required, provide accurate and complete data under the provisions of its licence.
A55(5)	The licensee must have in place and maintain appropriate systems, processes, and procedures to enable it to perform its obligations under paragraph 3. Paragraph 3 sets out a range of obligations, including the requirement under SSC A55(3)(b) relating to data accuracy referred to above.
Section 9 of the Gas Act 1986	The licensee must develop and maintain an efficient and economical pipe-line system for the conveyance of gas.

We also investigated a potential contravention of SSC A50(8) which requires the licensee to keep a record of (among other things) the individual premises which are connected to its pipe-line system.

However, we concluded that no contravention of this condition had occurred as Cadent was in possession of relevant information as provided by the central data service provider, Xoserve⁴, on a quarterly basis.

Cadent took the following remedial action prior to and during our investigation:

- Carried out a data validation exercise to identify the full extent of the missing HR MOBs (and their associated risers)
- Commissioned two separate independent audit/investigation reports to:
 - i) establish the reasons for the gaps in its data, and
 - ii) test its data validation methodology
- Acted on the recommendations outlined in the reports to establish a new asset database to rectify the issue and provided Ofgem with monthly progress updates throughout the investigation phase
- Carried out surveys on all the buildings that had been overlooked due to their absence from the records

⁴ Xoserve is the central data service provider for Britain’s gas market providing a range of services to gas suppliers, shipper and transporters.

- Covered the £3.6m cost associated with the above actions
- Offered a payment of £3m to the Energy Saving Trust in recognition of the issue

Having considered our findings, we decided that, while the regulatory shortcomings relating to the company’s record-keeping were significant, this investigation was suitable for alternative action under Ofgem’s Enforcement Guidelines⁵. This enables Ofgem to agree action on the part of a licensee to implement improvement actions to address any concerns. This was considered appropriate due to Ofgem’s assessment that:

- alternative action has a positive impact for consumers while ensuring proportionate consequences for Cadent’s poor performance
- Cadent engaged positively throughout the investigation and has provided evidence of significant improvement in its record keeping and data validation processes since the issue came to light
- Cadent’s assurance that all ‘missing’ risers have been identified and confirmation that they have been surveyed and added to Cadent’s records
- Cadent is now utilising a wide range of available tools to maintain its records accurately and has robust processes in place to ensure this issue is not repeated in the future

Our decision is subject to Cadent making the £3m payment to the Energy Saving Trust within 30 days of this publication, completing in full any outstanding remedial actions and providing Ofgem with updated information to demonstrate progress and confirm that the company’s Asset Data Repository has been fully updated and remains accurate.

Gas and Electricity Markets Authority

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⁵ The Enforcement Guidelines can be found at: <https://www.ofgem.gov.uk/publications-and-updates/enforcement-guidelines>