

Modification proposal:	Supply Point Administration Agreement (SPAA) Change Proposal (CP) 07/109 (CP07/109): Changes to SPAA Schedule 23 to facilitate User Pays services.		
Decision:	The Authority ¹ directs that this proposal be made ²		
Target audience:	SPAA Parties and other interested parties		
Date of publication:	3 September 2008	Implementation Date:	7 November 2008 - scheduled release

Background to the change proposal

On 30 June 2006 the Authority consented to SPAA Change Proposal 06/057, which introduced a new product into the SPAA, the '*Single Centralised Online Gas Enquiry Service (SCOGES)*', and made it subject to a new mandatory schedule (Schedule 23). This mandatory schedule placed an obligation on all Gas Transporters (GTs) to implement and operate the SCOGES service and provide the necessary data to support it on an ongoing basis. Schedule 23 also obliges all suppliers to use the service in the first instance when seeking to resolve a query, before resorting to telephone or email contact.

On 31 March 2008 the Authority directed the modification of Standard Special Condition A15 '*Agency*' (SSC A15) of the GTs licence, which allowed for certain services to be provided by the GTs agency, xoserve, to market participants other than through the traditional contractual framework of the Uniform Network Code. The costs associated with these activities will be recovered through direct charges rather than bundled with transportation charges. As a prerequisite to this, on 28 March 2008 the Authority accepted the Agency Charging Statement (ACS)³ provided by xoserve on behalf of the GTs in accordance with modified SSC A15.

SCOGES is one of the services which is now subject to the User Pays regime, referred to in the ACS as the Internet Access to Data (IAD) service.

The modification proposal

This change proposal was raised by National Grid in anticipation of the licence modifications, which were subsequently made as set out above. CP07/109 seeks to revise Schedule 23 in order to reflect that the services performed by Large Transporters pursuant to that schedule will be provided on a User Pays basis. The proposal clarifies that these services shall be performed by xoserve (acting on behalf of the Large Transporters) in accordance with relevant terms and conditions published by xoserve including, where appropriate, charges payable pursuant to the ACS.

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.

² This document is notice of the reasons for this decision as required by section 38A of the Gas Act 1986.

³ Available on the Ofgem website at:

<http://www.ofgem.gov.uk/Networks/GasDistr/GasDistrPol/Documents1/Xoserve%20Charging%20Statement%20Decision%20ltr.pdf>

In order to reflect the optional nature of User Pays services, the status of Schedule 23 has also been amended, such that it remains mandatory for the GTs to provide these services, but Suppliers can elect whether or not they wish to receive them.

The Authority's decision

The Authority has considered the issues raised by the change proposal and has taken into account responses to the SPAA consultation and the views of the subsequent SPAA Change Board held on 17 July 2008. The Change Declaration form was submitted to the Authority on 8 August 2008 following the elapse of the SPAA appeal window. The Authority has concluded that:

1. implementation of the change proposal will better facilitate the achievement of the relevant objectives of the SPAA⁴; and,
2. consenting to the change proposal being made is consistent with the Authority's principal objective and statutory duties⁵.

Reasons for the Authority's decision

We note that this proposal has been subject to several amendments in order to address the concerns of SPAA Parties, eventually being submitted to a vote and securing more than the required 65% of weighted votes that is required for acceptance of change proposals. However some parties still felt that the proposal should be rejected.

Of those respondents who provided comments, one suggested they would be unwilling to accept the proposal until a revised contract with the service provider, xoserve, had been agreed. Although this comment was noted, the proposer did not consider it relevant to the progression of CP07/109. We agree that discussions on the contact between xoserve and its customers should not have an undue bearing on the operation of the SPAA. To the extent that the services provided by xoserve are pursuant to an obligation placed upon the GTs by the SPAA, enforceable through licence, we consider that the provisions of any commercially negotiated contract should be subject to the SPAA and GTs should ensure that they are able to fully discharge those obligations, whether through the agency contract or by other means.

We note that the proposer had originally proposed an implementation date of 1 April 2008, but that date having passed the Change Board accepted an amended date, being the 7 November 2008 scheduled SPAA release. We consider this to be practicable and would anticipate that the GTs and their agency will be mindful of this date during ongoing discussions of the User Pays contract.

Another respondent put forward a series of amendments, the majority of which were agreed with the proposer at the subsequent Change Board. However, the proposer did not agree to the suggestion that the Schedule refer to the Agency Services Agreement (ASA), which is the agreement created pursuant to SSC A15 for the common provision by relevant licensees of services and systems by the agency, i.e. xoserve. We agree with the proposer that the ASA does not seem relevant to the Section 7 of the Schedule 23.

⁴ As set out in Standard Condition 30 of the Gas Suppliers Licence, see: http://epr.ofgem.gov.uk/document_fetch.php?documentid=13010

⁵ The Authority's statutory duties are wider than the relevant objectives and are detailed mainly in the Gas Act 1986.

To the extent that this proposal reflects the optional nature of the SCOGES service, targeting the costs of its provision upon those who make use of it and allowing those who don't use the service to avoid costs, we agree with the proposer that CP07/109 will further facilitate relevant objective b) of the SPAA: *'the furtherance of effective competition between Gas Suppliers and between relevant agents'*.

Decision notice

In accordance with Standard Condition 30 of the Gas Suppliers Licence, the Authority, hereby consent that change proposal CP08/110: *'Review of SCOGES Schedule 23'* be made.



Mark Feather

Director, Industry Codes and Licensing

Signed on behalf of the Authority and authorised for that purpose.