

Modification proposal:	<b>Supply Point Administration Agreement (SPAA) Change Proposal (CP) 08/120 (CP08/120): Authority Consent</b>		
Decision:	The Authority <sup>1</sup> directs that this proposal be made <sup>2</sup>		
Target audience:	SPAA Parties and other interested parties		
Date of publication:	26 January 2009	Implementation Date:	February 2009 scheduled release

## Background to the change proposal

The Supply Point Administration Agreement was developed with the intention that it be largely self-governing, with Ofgem adopting only 'light touch' regulation in respect of its provisions. Therefore, the majority of the document and its schedules can be amended with the agreement of parties, via the voting mechanism set out in Clause 9. However, as domestic suppliers and gas transporters are obligated by their respective licences to accede and adhere to the mandatory provisions of SPAA, any changes to those provisions or certain *protected* clauses (such as those relating to voting rights) also require the consent of the Authority.

Whilst relatively few of the SPAA changes to date have required the Authority's consent, many of those which have were of a relatively immaterial nature, including some minor 'housekeeping' amendments, albeit to the mandatory or protected provisions.

It was felt by the proposer that this caused delays in changes being implemented and puts unnecessary burdens on Ofgem for Authority consent on minor amendments. CP08/120 aims to resolve this issue by amending the change process, to allow for a certain degree of discretion rather than prescriptive definitions of changes which can be implemented without Authority consent.

## The modification proposal

This change proposal seeks to amend SPAA Clause 9.1 and 9.1.5 to enable a change to the SPAA consent processes. The current change proposal form will be amended to allow the proposer to indicate whether their change requires Authority consent and if not, their reasoning for this.

Ofgem will then have 18 working days, from the issuance of the change pack up until the Change Board meeting, to decide whether they agree with the proposer's decision or not. If Ofgem agrees that Authority consent is not required then the change will continue as per existing processes for a self governed change. If Ofgem disagrees with the proposer their decision will take precedence and Authority consent will be needed. In order to reduce the amount of current bureaucracy, this will operate much as the existing veto over charging methodology changes, i.e. if no response is received from Ofgem within

<sup>1</sup> The terms 'the Authority', 'Ofgem' and 'we' are used interchangeably in this document. Ofgem is the Office of the Gas and Electricity Markets Authority.

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

the 18 working days then it will be assumed that Ofgem agree with the proposer's recommendation.

Whilst not forming part of this change proposal, the SPAA Change Board determined at their 20 November 2008 meeting that a flow diagram illustrating the new process would be added to the SPAA Change Guidance document, together with the criteria on which the proposer should base their recommendation.

The proposer feels that this modification would better facilitate objective (c) of the SPAA '*the promotion of efficiency in the implementation and administration of the supply point administration arrangements*'. They feel that by allowing change proposals such as those correcting minor typographical errors to be implemented without Authority consent the changes could be introduced sooner. Also, the unnecessary bureaucratic burden on Ofgem of granting consents for such minor changes would be reduced.

### **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, as set out in the Change Report (CR), and the views of the subsequent SPAA Change Board held 20 November 2008. The Authority has concluded that:

1. implementation of the change proposal will better facilitate the achievement of the relevant objectives of the SPAA<sup>3</sup>; and,
2. directing that the change proposal be made is consistent with the Authority's principal objective and statutory duties<sup>4</sup>.

### **Reasons for the Authority's decision**

We note that this proposal received unanimous support at the SPAA Change Board. The weighted voting results show that 100% of those parties able to vote support the implementation of this change proposal. The threshold for acceptance of change proposals is currently set at 65%.

This particular modification is highly relevant to our current work on reviewing code governance practices and in line with our recent proposals under the 'Major Policy Reviews and Self Governance' work-strand of the governance review. Our proposal regarding self governance considered the option of allowing code modification proposals that are likely to have minimal impacts on competition and consumers, and that meet defined criteria, could be dealt with through a new Self Governance process. In making this decision we in no way pre-empt the outcome of the current governance review consultation; the SPAA has from its inception been intended to be a largely self governing code and we consider that this change will address what has to date be a rather rigid process, resulting in minor changes inappropriately requiring our consent.

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<sup>3</sup> As set out in Standard Condition 30 of the Gas Suppliers Licence, see: [http://epr.ofgem.gov.uk/document\\_fetch.php?documentid=13010](http://epr.ofgem.gov.uk/document_fetch.php?documentid=13010)

<sup>4</sup> The Authority's statutory duties are wider than the relevant objectives and are detailed mainly in the Gas Act 1986.

We consider that the set criteria in the SPAA guidelines that will help a proposer determine whether their proposal needs Authority consent or not, the chance for Ofgem to veto that decision and the further option for parties to appeal a decision to Ofgem should safeguard against changes being inappropriately classified. We agree with the proposer that the implementation of CP08/120 will better facilitate relevant objective c). We also believe that this change is in line with our statutory duty to carry out our functions with regard to best regulatory practice, as it will increase the efficiency of the SPAA change proposal process and allow Ofgem to better target its resources.

### **Decision notice**

In accordance with Standard Condition 30 of the Gas Suppliers Licence, the Authority, hereby directs that change proposal CP08/120: '*Authority Consent*' be made.



**Mark Feather**  
**Director, Industry Codes and Licensing**

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