

Modification proposal:	Supply Point Administration Agreement (SPAA) Change Proposal (CP) 08/125 (CP08/125): Inclusion of Gas Prepayment Meter Forum and Activities Under SPAA		
Decision:	The Authority ¹ directs that this proposal be made ²		
Target audience:	SPAA Parties and other interested parties		
Date of publication:	23 April 2009	Implementation Date:	June 2009 scheduled release

Background to the change proposal

The Gas Pre-payment Meter (PPM) Forum (the Forum) currently deals with all matters relating to PPMs, though it does not currently sit under any formal governance framework. However, suppliers are required under the contracts between themselves and Siemens (the Quantum PPM System Provider) to comply with decisions made by the Forum.

The modification proposal

This change proposal seeks to insert a new mandatory schedule that will cover the PPM activities currently supported by the Forum. Its intention is to create a framework that identifies the activities which will come under Supply Point Administration Agreement (SPAA) Governance. The details of the procedures and processes for this schedule will be developed at a later date by a new PPM expert group which is intended to replace the Forum. However, any decision made by this group would have to be consulted on under the standard SPAA change process and subject to its materiality³ may require the consent of the Authority prior to it becoming binding.

The proposer to this modification feels that moving the activities currently under the remit of the Forum to the SPAA and developing processes surrounding this area would help with interoperability issues for existing and future prepayment activities.

The proposer feels that this change would better facilitate objective (b) of the SPAA '*the furtherance of effective competition between gas suppliers and between relevant agents*' by providing more robust governance around Gas PPM activities and procedures than currently provided by the Forum, and a more effective means of resolving any disputes that may arise between Parties.

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 19 February 2009. The Authority has concluded that:

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 Following the implementation of change proposal CP08/120 mandatory schedules and provisions can be modified without the consent of the Authority if the change is not considered to impact upon consumers or competition.

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

Reasons for the Authority's decision

We note that this proposal received majority support at the SPAA Change Board, with the vote to accept the modification exceeding the 65% threshold of the total weighted votes needed. However, some concerns were raised. One respondent felt that the voting processes under SPAA are currently inappropriate for modifications to the proposed Schedule as the weighted voting under SPAA differs from the market shares of those suppliers who have PPM sites and are subject to the Quantum contract.

Whilst we acknowledge this is the case, we do not consider this to be a flaw with the proposal. The weighted voting is intended to provide a robust decision making framework and appropriately enfranchise all Parties, not simply reflect market share. We therefore do not consider the relative market presence of suppliers in the PPM sector to be any different to other sections of the SPAA which may be of more or less interest to some suppliers.

We further note that this change proposal places only the general framework of the PPM Schedule into SPAA; the details have yet to be decided. If SPAA parties feel it necessary for the PPM schedule to operate on a different basis to the rest of SPAA we consider there is scope to achieve this. Any Party is at liberty to propose such a change.

Another respondent was concerned that there is a risk of dual governance while parties have contracts that require them to comply with decisions and processes set out by the Forum; compliance with a conflicting obligation under the SPAA Schedule may place them in breach of the prevailing contracts. They therefore considered that the Gas PPM Forum should be wound down and closed before this SPAA change is implemented. Decisions would subsequently be made under SPAA governance.

We note that these issues were also considered at the SPAA Change Board meeting held 19 February 2009. At that meeting the proposer pointed out that this change was not of itself implementing procedures or processes, just creating a Schedule for these procedures to go into. It was agreed at the meeting that any procedures or processes set out in this schedule would not become effective until the Gas PPM Forum ceased to exist and the obligations were migrated to SPAA. We consider that this implementation approach should remove concerns over dual governance.

More generally, we also note that any Party has the opportunity to appeal decisions made under the SPAA, including those relating to change proposals. In accordance with SPAA provisions, this can be on the grounds that the Party reasonably believes that the decision will or is likely to prejudice unfairly their interests, or cause them to be in breach of the agreement, their licence or any other legal requirement.

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.

Whilst noting that this proposal merely introduces a framework within which to govern PPM issues rather than migrate or amend existing procedures, we agree with the proposer that the improved governance will better facilitate the SPAA relevant objective (b) *'the furtherance of effective competition between Gas Suppliers and between relevant agents'* with respect to the management of PPM sites.

Decision notice

In accordance with Standard Condition 30 of the Gas Suppliers Licence, the Authority, hereby directs that change proposal CP08/125: *'Inclusion of Gas Prepayment Meter Forum and activities under SPAA'* be made.

Mark Feather
Director, Industry Codes and Licensing

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