

Modification proposal:	Supply Point Administration Agreement (SPAA) Change Proposal (CP) 09/131 (CP09/131): Revision of voting arrangements to separate small and large transporters at the SPAA Forum		
Decision:	The Authority ¹ directs that this proposal be made ²		
Target audience:	SPAA Parties and other interested parties		
Date of publication:	17 June 2009	Implementation Date:	To be confirmed

Background to the change proposal

Parties to the SPAA are able to vote on proposed changes to the SPAA. Each type of licensee is able to vote under their 'constituency', e.g. a transporter will vote under the 'transporter constituency' for or against a change. Constituencies are only able to vote if the proposed change will influence them in some way e.g. some change proposals may only have an influence on domestic suppliers, in this case only domestic supplier would be entitled to vote.

The majority vote (majority being above 65%) of each constituency in the SPAA will be taken as that constituency's vote. Each party's share of the vote is calculated based on the number of supply points in their portfolio (in the case of a supplier) or connected to their network (in the case of a transporter). In order to protect the interests of smaller parties and prevent any individual party from having an undue influence on the outcome of the vote, each party's weighted vote is capped at 20%. The votes of each constituency are then used to calculate the final outcome as to whether the change should proceed or not. These arrangements are set out in further detail in Clause 6 of the SPAA.

The current arrangements were established prior to the sale by National Grid PLC of some of its Gas Distribution Networks, which created three large new gas transportation companies. The proposer argues that although large transporters and small transporters carry out the same overall activities, their commercial drivers can differ and economies of scale can play a part when evaluating proposals. They consider that since the sale the voting arrangements have been unintentionally biased towards the larger transporters, as even with the cap in place the large transporters account for 80% of the weighted vote.

The proposer notes that whilst small transporters are recognized with a dedicated seat on the SPAA Executive Committee (SPAA EC), any decisions made by it or the outcome of any vote may be appealed to the SPAA Forum, which has the same voting arrangements as set out above. The proposer therefore argues that in a situation where small transporters voted differently to larger transporters the large transporters votes would prevail.

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.

The modification proposal

The modification proposal seeks to amend the small transporters voting rights under the SPAA Forum. The proposal intends to modify the voting requirements for a resolution of the SPAA Forum to be carried; splitting the transporter constituency into separate large transporter and small transporter constituencies, based on a one million supply point threshold.

The proposal also seeks to amend the minimum requirements that are needed for the SPAA Forum to be considered a quorum. A quorum is the minimum number of representatives needed on behalf of each type of party (or constituency) at a meeting for decisions made in that meeting to be considered valid. So, there will be a need for a certain percentage of small transporter representatives to be present at a SPAA Forum meeting for it to be considered a quorum.

As a result of these changes the small transporters will have a blocking vote that is currently not available to them but is available to the other voting constituencies.

The proposer feels that if implemented this modification will provide greater transparency to the 'Transporter' vote and will better facilitate SPAA relevant objective (c)³ *the promotion of efficiency in the implementation and administration of the supply point administration arrangements.*

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 16 April 2009. The Authority has concluded that:

1. directing that the change proposal be made is consistent with the Authority's principal objective and statutory duties⁴.

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%.

We consider that whilst this proposal may of itself be largely neutral to the relevant objectives of the SPAA, we agree that it would improve the governance of the SPAA, particularly with respect to protecting the interests of smaller parties.

To the extent that this proposal will improve the equity and efficacy of the governance arrangements, we also agree with the proposer that the change would better facilitate

³ As set out in Standard Condition 30 of the Gas Suppliers Licence, see: http://epr.ofgem.gov.uk/document_fetch.php?documentid=13010

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

relevant objective c) as set out above; in particular by ensuring that the view of a particular category of party (i.e. small transporters) are effectively represented, we consider that the proposal should help to ensure that the SPAA modification process fairly reflects a diversity of views from a wide range of constituents who are impacted by change processes.

Decision notice

In accordance with Standard Condition 30 of the Gas Suppliers Licence, the Authority, hereby directs that change proposal CP09/131: 'Revision of voting arrangements to separate small and large transporters at the SPAA Forum' be made.

Mark Feather

Director, Industry Codes and Licensing

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