

Modification proposal:	Supply Point Administration Agreement (SPAA) Change Proposals (CP): 13/245: Introduction of Significant Code Review Process 13/246: Clarification of CP Appeal Provisions 13/247: Introduction of CP Send Back Facility 13/248: Provision for all Authority Consent CPs to be Issued to Ofgem 13/249: Introduction of the Code Administration Code of Practice Provisions 13/250: Provision for Alternative Solutions in Change Process 13/251: Provision for Withdrawing Change Proposals		
Decision:	The Authority ¹ directs that these Change Proposals should be made ²		
Target audience:	SPAA Parties and other interested parties		
Date of publication:	19 December 2013	Date of Implementation:	2 January 2014

Background to the modification proposals

Ofgem's Code Governance Review³ (CGR) sought to update and improve the industry code governance arrangements to ensure that they could effectively meet the challenges facing the industry, and to reduce complexity to ensure transparency and accessibility for all industry participants.

The CGR concluded in March 2010 with final proposals focusing primarily on the Balancing and Settlement Code (BSC), the Connection and Use of System Code (CUSC) and the Uniform Network Code (UNC). In April 2012, we initiated a second phase CGR (CGR Phase 2) with the aim of extending governance arrangements introduced through the CGR to other industry codes, including the Supply Point Administration Agreement (SPAA).

Following a consultation on initial proposals in September 2012,⁴ we published final proposals for CGR Phase 2 in March 2013.⁵ Licence modifications giving effect to these final proposals came into force on 5 August 2013.

The CGR Phase 2 final proposals introduced a number of changes to the governance arrangements of the SPAA (the CGR2 governance changes) to:

- introduce a Significant Code Review (SCR) process which provides a role for Ofgem to lead complex changes to the industry codes in a holistic manner⁶
- clarify appeal procedures for self-governance Change Proposals (CPs) by, for example, setting out the grounds for appeal

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 CGR Phase 1 final proposals: <https://www.ofgem.gov.uk/publications-and-updates/code-governance-review-final-proposals-4310>

⁴ CGR Phase 2 initial proposals: <https://www.ofgem.gov.uk/publications-and-updates/code-governance-review-phase-2-consultation>

⁵ CGR Phase 2 final proposals: <https://www.ofgem.gov.uk/publications-and-updates/code-governance-review-phase-2-final-proposals>

⁶ Ofgem guidance on SCRs: <https://www.ofgem.gov.uk/ofgem-publications/61740/guidanceinitiating-and-conducting-scrsfinal-draft110810.pdf>

- introduce the 'send back' process allowing the Authority to send a final report on a modification proposal back to the SPAA Executive Committee (EC) where the Authority indicates that it cannot make a decision based on the original report submitted to it. A send back direction by the Authority would allow deficiencies (for example, relating to proposed legal text or incomplete analysis) in the original report to be addressed
- specify that changes defined as requiring Authority consent are issued to the Authority for consent irrespective of whether the Party vote is to reject or accept the change proposal
- introduce the concept of an administrative body (the 'Code Administrator') and the Code Administration Code of Practice (CACoP).⁷ The CACoP establishes certain principles that are considered to capture the key elements of best practice in the administration of code modification procedures. It also provides a template for the ongoing convergence and simplification of existing code rules.

The modification proposals

Six CPs, that require Authority consent, have been raised by SPAA parties to bring into effect the CGR2 governance changes. In addition, SPAA parties also raised a number of other CPs that seek to improve the governance of SPAA. One of these CPs requires Authority consent. Each CP was raised in October 2013.

E.ON Energy raised CP13/245 and CP13/246, Npower raised CP13/247 and CP13/248, Scottish Power raised CP13/249 and SSE raised CP13/250 and CP13/251.

- **CP13/245** seeks to recognise Ofgem's role in initiating, leading and managing the SCR process to develop proposals for complex and potentially cross-code changes.
- **CP13/246** seeks to clarify the Change Proposal Appeal Provisions in the SPAA for self-governance CPs. This CP proposes grounds for appeal of a self-governance decision, confirming that CP's shall not take effect pending the Authority's decision on an appeal unless otherwise instructed by the Authority, and making specific mention to the National Consumer Council as a participant eligible to raise appeals on self-governance CPs.
- **CP13/247** seeks to incorporate the 'send back' process into the SPAA whereby the Authority may direct that additional steps are undertaken to address deficiencies in a report to the Authority where the Authority cannot properly form an opinion on a proposal.
- **CP13/248** proposes to amend the SPAA so that all CPs defined as Authority consent are sent to Ofgem for approval, regardless of whether Parties accept or reject the change. Previously only CPs classified as requiring Authority consent that have been accepted by the Party vote were issued to Ofgem.

⁷ The CACoP is for energy code administrators and users of those codes. It was developed by industry as part of the CGR: <https://www.ofgem.gov.uk/licences-codes-and-standards/codes/industry-codes-work/code-administration-code-practice-cacop>

- **CP13/249** seeks to make changes to the SPAA to incorporate a Code Administrator role to, amongst other things, have regard to and be consistent with the CACoP. The proposed modification to the SPAA governance arrangements recognises that the SPAA Code Administrator (currently Electralink) should comply with the CACoP principles.
- **CP13/250** seeks to formalise the process to be followed when alternative solutions to CPs are raised, to aid compliance with CACoP.⁸
- **CP13/251** seeks to facilitate a process for the withdrawal and adoption of CPs by another Party. Previously, CPs have been withdrawn from the SPAA, and this has not been supported by the legal text in the SPAA. This proposed change is a result of a review of SPAA carried out by SPAA parties, rather than a direct result of the CGR2 Final Proposals.

Each of the proposers consider that all of the proposals better facilitate SPAA relevant objective (c) 'the promotion of efficiency in the implementation and administration of the supply point administration arrangements'. With the exception of CP13/248, the proposers also consider that the proposals better facilitate relevant objective (d) 'so far as consistent with sub-paragraphs (a) and, (b) and (c), the efficient discharge of the licensee's obligations under this licence'.

Change Board views

The seven CPs above were considered at the SPAA Change Board on 21 November 2013. The outcome of each weighted vote is set out in the tables below:

CP13/245	WEIGHTED VOTING (%)					
	Domestic Supplier		I&C Supplier		Gas Transporter	
	Accept	Reject	Accept	Reject	Accept	Reject
CHANGE SOLUTION	100	0	n/a	n/a	n/a	n/a
IMPLEMENTATION DATE	100	0	n/a	n/a	n/a	n/a
IMPLEMENTATION TECHNIQUE	100	0	n/a	n/a	n/a	n/a

CP13/246, CP13/247, CP13/248, CP13/249, CP13/251	WEIGHTED VOTING (%)					
	Domestic Supplier		I&C Supplier		Gas Transporter	
	Accept	Reject	Accept	Reject	Accept	Reject
CHANGE SOLUTION	100	0	100	0	0	0
IMPLEMENTATION DATE	100	0	100	0	0	0
IMPLEMENTATION TECHNIQUE	100	0	100	0	0	0

⁸ Principle 7 of CACoP: "Code Administrators will facilitate alternative solutions to issues being developed to the same degree as an original solution"

CP13/250	WEIGHTED VOTING (%)					
	Domestic Supplier		I&C Supplier		Gas Transporter	
	Accept	Reject	Accept	Reject	Accept	Reject
CHANGE SOLUTION	100	0	n/a	n/a	100	0
IMPLEMENTATION DATE	100	0	n/a	n/a	100	0
IMPLEMENTATION TECHNIQUE	100	0	n/a	n/a	100	0

In accordance with the weighted vote procedure,⁹ the Change Board accepts these proposals and requests Authority consent.

The Authority's decision

We have considered the views of the Change Board, the contents of the Change Reports dated 16 December 2013 and the minutes of the Change Board dated 21 November 2013 and have concluded that:

- implementation of each of these CPs will better facilitate the achievement of the relevant objectives of the SPAA¹⁰, and
- consenting to the modifications being made are consistent with the Authority's principal objective and statutory duties.¹¹

Reasons for the Authority's decision

We have assessed these proposals against the SPAA objectives. We consider that all the proposals will better facilitate objective (d) and should be made. We also consider there are benefits to objectives (b) and (c). We consider that the proposals have no impact or are neutral against the other objectives.

(b) the furtherance of effective competition between Gas Suppliers and between relevant agents

Creating a Code Administrator 'critical friend' role and introducing best practice principles for the modification processes, which are consistent with other industry codes, should assist all participants engaging with the SPAA, especially smaller participants and new entrants. This can be expected to result in benefits to competition, for example, by facilitating a greater degree of participation and aiding understanding of the SPAA processes.

(c) the promotion of efficiency in the implementation and administration of the supply point administration arrangements

We consider these proposals will promote efficiency in the implementation and administration of the SPAA by improving the existing governance processes. The inclusion of the SCR process will help ensure that complex code changes can occur in a timely and holistic manner. In addition, the introduction of the Authority's send back facility will improve efficiency over the current regime where the Authority either rejects an otherwise beneficial CP or accepts a flawed CP which later requires correction.

In addition, requiring all CPs, that are subject to Authority consent, whether they have been accepted by party vote or not are issued to Ofgem for approval will allow better oversight of proposed changes which are of a material nature.

⁹ The threshold for a change proposal being accepted by relevant SPAA parties is 65%, as set out in clause 9 of the SPAA.

¹⁰ As set out in Standard Licence Condition (SLC) 30.5 of the Gas Supplier Licence.

¹¹ The Authority's statutory duties are wider than matters which the Panel must take into consideration and are detailed mainly in the Gas Act 1986.

By providing a formalised process for facilitating alternative solutions in the change process and the withdrawal and adoption of CPs we consider this will improve the efficiency in the administration of the SPAA. In particular, we consider that allowing SPAA parties to consider and develop alternative solutions in parallel will provide an opportunity for further options to be considered, ensuring that proposed solutions are robust, fully assessed and subject to scrutiny.

We also consider that adherence to the CACoP principles will lead to improved efficiency in SPAA administration through the adoption of best practice principles.

(d) so far as is consistent with sub-paragraphs (a), (b) and (c), the efficient discharge of the licensee's obligations under this licence.

The recent licence modifications made to introduce the CGR2 governance changes in to the SPAA governance arrangements are now in force. The relevant licensees therefore must ensure that these licence provisions can be efficiently discharged. The changes proposed above will ensure that these licensees can discharge their obligations relating to CGR2 governance changes through the SPAA governance procedures both efficiently and effectively. We therefore consider that these modifications better facilitate this objective.

Decision notice

In accordance with Standard Condition 30 of the Gas Suppliers Licence, the Authority consents to the following CPs:

- 13/245: Introduction of Significant Code Review Process
- 13/246: Clarification of CP Appeal Provisions
- 13/247: Introduction of CP Send Back Facility
- 13/248: Provision for all Authority Consent CPs to be Issued to Ofgem
- 13/249: Introduction of the Code Administration Code of Practice Provisions
- 13/250: Provision for Alternative Solutions in Change Process
- 13/251: Provision for Withdrawing CPs

Lesley Nugent
Head of Industry Codes and Licensing
Signed on behalf of the Authority and authorised for that purpose