

Modification proposal:	Supply Point Administration Agreement (SPAA) Change Proposal (CP) 512: 2021-22 Amendment to Gas Theft Detection Incentive Scheme Timings		
Decision:	The Authority ¹ has decided to reject ² this modification ³		
Target audience:	SPAA Parties, SPAA Panel and other interested parties		
Date of publication:	9 July 2021	Implementation date:	Not applicable

Background

We are undertaking a programme of code consolidation under the Retail Code Consolidation (RCC) Significant Code Review (SCR) that will consolidate and rationalise a number of energy retail codes and codes of practice. Ahead of the designation of RCC – currently expected to be 1 September 2021 – we implemented v1.1 of the Retail Energy Code (REC)⁴ in January 2021 and subsequently gave effect to Energy Theft Consolidation⁵ from 1 April 2021.

Part of this process included migrating Theft arrangements from the SPAA to the REC. To this end, we approved SCP 506 on 5 January 2020⁶. Theft provisions that were previously administered through the SPAA will migrate to the REC between 1 April 2021 and 1 September 2021, as laid out in SCP 506. Obligations relating to the Gas Theft Detection Incentive Scheme (GTDIS) transferred from SPAA Schedules 34, 37 and 39 to the REC Theft Reduction Schedule on 01 April 2021, by virtue of Ofgem designating Energy Theft Consolidation.

¹ References to the “Authority”, “Ofgem”, “we” and “our” are used interchangeably in this document. The Authority refers to GEMA, the Gas and Electricity Markets Authority. The Office of Gas and Electricity Markets (Ofgem) supports GEMA in its day to day work. This decision is made by or on behalf of GEMA.

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

³ ‘Change’ and ‘modification’ are used interchangeably in this document.

⁴ See ‘Decision on proposals for Retail Energy Code v1.1’ (17th December 2020), at <https://www.ofgem.gov.uk/publications-and-updates/decision-proposals-retail-energy-code-v11>

⁵ See ‘Designation for Energy Theft Consolidation: 1 April 2021’ (31 March 2021), at <https://www.ofgem.gov.uk/publications-and-updates/designation-energy-theft-consolidation-1-april-2021>

⁶ See ‘SCP 506 – SPAA Closure’ (5th January 2021), at <https://www.ofgem.gov.uk/publications/supply-point-administration-agreement-spaa-change-proposals-cp-scp-506-spaa-closure>

However, there is a discrepancy between certain dates relating to GTDIS operation as previously set out in the SPAA compared with the REC.

The modification proposal

SCP512 was raised by Gazprom (“the Proposer”) on 8 February 2021. This change proposal was raised due to an inconsistency identified between text in the SPAA (at the time that the proposal was raised) and that which was implemented in the REC with respect to the start of the 2021/22 Theft Detection Incentive Scheme. The aim of this change proposal is to address a concern that parties may act in good faith by adhering to obligations in the SPAA to provide details of Confirmed Thefts identified in February and March 2021. These Confirmed Thefts may not be deemed eligible for the GTDIS Scheme Year when the Scheme administered under SPAA ends and the new Energy Theft regime under the REC is in operation and discharged by the Retail Energy Code (RECCo).

This change proposal would amend Schedule 29 to the SPAA in order to align SPAA and the REC drafting.⁷ This change proposal would amend the Scheme Year dates, Confirmed Theft Targets and the Scheme pot value.

Bringing these dates into alignment by amending the commencement date of Scheme Year 4 to begin on 1 April 2021, instead of 1 February 2021, intends to ensure that Confirmed Thefts would be reported and recorded in a consistent way, and would not fall between any perceived “gap” during the transition between the two sets of regulatory arrangements as governance of this passes from SPAA to REC.

The Proposer considers that this modification better facilitates SPAA Relevant Objective (c)⁸, as it is designed to add clarity to the SPAA, reducing ambiguity in the transition to the REC.

This change proposal is related to DCUSA DCP 382⁹, which sought to make the equivalent amendments in the electricity arrangements.

⁷ See ‘Decision on proposals for Retail Energy Code v1.1’ (17th December 2020), at <https://www.ofgem.gov.uk/publications-and-updates/decision-proposals-retail-energy-code-v11>

⁸ SPAA Relevant Objective (c): Promotion of efficiency in the implementation and administration of the supply point administration arrangements.

⁹ See ‘DCP 382 - 2021-22 Electricity Theft Detection Incentive Scheme (ETDIS) Timings’ (19th February 2021), at <https://www.dcusa.co.uk/change/2021-22-electricity-theft-detection-incentive-scheme-etdis-timings/>

Change Board¹⁰ recommendation

At the SPAA Change Board meeting on 9 March 2021, the Change Board voted on the proposed modification. In accordance with the weighted vote procedure,¹¹ the Change Board unanimously considered that SCP 512 would better facilitate the achievement of the Relevant Objectives of the SPAA and therefore recommended its approval.

Our decision

We have considered the views of the Change Board and the Change Report submitted to us for decision on 24 March 2021 and have concluded that:

- implementation of the modification proposal will not better facilitate the achievement of the relevant objectives of the SPAA.¹²

We are therefore rejecting this modification proposal.

Reasons for our decision

We consider that this modification proposal will not better facilitate SPAA objective (c) and has a neutral impact on the other applicable objectives.

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

We do not consider that this change proposal would better facilitate this objective. We note that the Proposer felt that SCP 512 would promote efficiency in the implementation and administration of the SPAA arrangements. However, SCP 506 is already in effect; this inserted a new Clause 10.14A into SPAA which provided for, among other things, the deletion of various theft-related schedules to SPAA, including Schedule 39, with effect from immediately

¹⁰ Change Board is established and constituted pursuant and in accordance with the SPAA.

¹¹ The threshold for a change proposal being accepted by relevant SPAA parties is 65%, as set out in clause 9 of the SPAA.

¹² As set out in Standard Licence Condition ([SLC 30.5 of the Gas Supplier Licence](#)).

prior to Energy Theft Consolidation. As noted above, we designated Energy Theft Consolidation as taking effect from 1 April 2021.

Consequently, as a result of SCP 506 and our designation of Energy Theft Consolidation, the provisions of SPAA that SCP 512 proposes to amend have now been deleted and superseded by the REC, and obligations relating to theft detection and reporting requirements have since 1 April 2021 been governed under the terms of the REC.

While the Authority recognises that there was a discrepancy in the drafting relating to the Scheme reporting years between the SPAA and the REC requirements, the REC requirements have now superseded those previously laid out by SPAA.

The text that SCP 512 proposes to amend is no longer in effect and all governance and reporting procedures are now governed under the REC, not under SPAA. Amending the text of SPAA as proposed by SCP 512 will therefore have no effect upon theft reporting years or procedures as the relevant schedules to SPAA no longer exist. We therefore cannot see how this modification, at this time, would better facilitate relevant objective (c) of the SPAA.

Decision notice

In accordance with Standard Licence Condition (SLC) 30 of the Gas Supplier licence, the Authority has decided that modification proposal SPAA 512: '*2021-22 Amendment to Gas Theft Detection Incentive Scheme Timings*' should not be made.

Rachel Clark

Deputy Director – Switching Programme

Signed on behalf of the Authority and authorised for that purpose