
Wholesale Retail Code Change Proposal – CPW005

Modification proposal	Wholesale Retail Code Change Proposal CPW005 – Self Supply
Decision	Ofwat has decided to accept this change proposal
Publication date	26 June 2017
Implementation date	3 July 2017

Background

The Wholesale Retail Code (WRC) sets out the relationship between Wholesalers and Retailers, and how the market will operate. The Water Act 2014 introduced the concept of a Self-Supply License which authorises a licensee to supply its own premises and those of persons associated with it, but no one else. These are Self-Supply Retailers and they are in effect both a Retailer and a Non-Household customer. This paper sets out a proposal to clarify the disconnection procedures included within the WRC Operational Terms in relation to Self-Supply Licensees in the Operational Terms

The issue

The Proposer contends that if a Self-Supply Retailer, who is also the end customer, did not pay its primary charges to the Wholesaler, it is not clear whether the WRC would permit the Wholesaler to disconnect the Self-Supply Retailer for non-payment. Under the Business Terms, if a Retailer defaults on its payments the Wholesale Contract can be terminated, but the Wholesaler would continue to supply the premises. Where the Retailer is a Self-Supply Retailer its premises would continue to be supplied and it would continue to default.

The Modification Proposal¹

Northumbrian Water, as the proposer, contends that as currently drafted the codes do not adequately cover the situation for a Self-Supply Licensee in respect of disconnection procedures within the Operational Terms. To address this issue, this Change Proposal seeks to add a new process diagram to the Operational Terms and a new form (I/05) to allow the Wholesaler to formally notify the Self-Supply Retailer, and any Associated Persons supplied by the Retailer, that they are at risk of disconnection.

Industry consultation

Throughout April 2016 and May 2016 Ofwat held a consultation on Self-Supply Licensees, the outcome of which was published in June 2016 and can be found via the Ofwat website².

Following on from this work, a Change Proposal was raised to clarify the disconnection process with respect to Self-Supply Licensees. This change was WRC039 - Self Supply, and was first presented to the Interim Code Panel (ICP – the body that preceded the Codes Panel) in July 2016, where the ICP recommended that the proposal should be sent for assessment by the industry to duly consider the issues presented in the proposal and to decide if the existing processes in the codes would cover the scenario described in WRC039 legally.

A working group was created, which met in July 2016 and carried out work to determine if process I3 (in Part I – process diagrams of the Operational Terms) could be altered to accommodate a solution with respect to the disconnection arrangements involving self-supply licensees. The conclusion of this work was that the most appropriate way to progress the proposal would be to add a new process I13. The ICP considered the change in September 2016 and asked for further work to be undertaken on the particular legal drafting.

Panel recommendation

In February 2017, the ICP recommended implementation of this Change Proposal on the basis of improving the principles of efficiency, transparency and non-discrimination and noted that there had been no concerns raised regarding the

¹ The proposal and accompanying documentation is available on the MOSL website at <https://www.mosl.co.uk/market-codes/change#scroll-track-a-change>

² <http://www.ofwat.gov.uk/consultation/consultation-on-self-supply-licences/#Outcome>

proposal. At the time of recommendation Ofwat was conducting a statutory consultation on the WRC and the MAC, the results of which were published 17 February 2017.

Ofwat's consultation response on the WRC and version 1.0 of the WRC did not contain the changes recommended by the ICP. As no Ofwat decision was received prior to the go-live date (1 April 2017) the Panel agreed at its meeting on 28 March 2017, to formally adopt this Change Proposal from the ICP and consider it at a future meeting. At its meeting on 30 May 2017, the Panel voted by majority to recommend implementation of CPW005 Change Proposal to Ofwat on the basis of proportionality, transparency and non-discrimination. The Panel submitted its recommendation report, incorporating the proposed legal text and supporting information, to Ofwat on 6 June 2017. In its recommendation report, the Panel adds that it considers that the Operational Terms Objectives would also be improved as the proposal establishes the new process I13 at Part I on Disconnections which clarifies the respective obligations on the Trading Parties and the relevant process to be followed.

Our decision

We have carefully considered the issues raised by the modification proposal and the supporting documentation provided in the Panel's recommendation report. We have concluded that the implementation of CPW005 will better facilitate the principles and objectives of the WRC³ detailed in Schedule 1 Part 1 Objectives, Principles and Definitions and is consistent with our statutory duties.

Reasons for our decision

We set out below our views on which of the applicable Code principles are better facilitated by the modification proposal.

Transparency

We consider that the introduction of a new process via Form I/05 will ensure that the process that is undertaken is transparent and consistent to all Trading Parties.

Proportionality

³ Available at <https://www.mosl.co.uk/market-codes/codes>

We think that the proposal is proportionate to the problem it seeks to address. Currently there is a clear unjustified benefit to Self-Supply Licensees over Wholesalers. As the codes currently stand, there is no operational process for a Wholesaler to disconnect a Self-Supply Retailer for the non-payment of primary charges, which places undue risk on Wholesalers. This proposal will add a new operational process so that customers can be disconnected for non-payment for both Retailers and Self Supply Retailers.

Non-discrimination

In our view, the proposal addresses a risk that the current processes could discriminate in favour of the Self-Supply Retailer as a Self Supply Licensee is effectively both Retailer and customer. Currently a Self Supply retailer could opt not to pay and the Wholesaler's only recourse would be termination of its Wholesale Contract with the Retailer. In these circumstances, the Wholesaler has no mechanism to disconnect the supply leaving it exposed to further revenue risk. Furthermore, the change also provides a mechanism to notify associated persons that could otherwise be unaware of a potential disconnection event in a Self Supply situation.

Decision notice

In accordance with paragraph 7.2.8 of the MAC, Ofwat approves this change proposal.

Cathryn Ross,
Chief Executive