

# WHOLESALE-RETAIL CODE CHANGE PROPOSAL/ CHARGING CHANGE PROPOSAL

For use by the Panel

<b>Change Proposal Reference</b> <i>(To be completed by the Panel Secretary)</i>	<b>CPW005</b>	Version No	<b>1</b>
<b>Submission:</b> <i>(delete as appropriate)</i>	Change Proposal		
	<del>Charging Change Proposal</del>		
<b>Title:</b> of Change Proposal/Charging Change Proposal	Alignment of codes with the Licensing regime and Interim Supply Code in respect of Self-Supply Licensees.		
<b>Summary:</b> of Change Proposal/Charging Change Proposal <i>(no more than two sentences)</i>	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. This change seeks to address the shortfall.		
<b>Status of the Change Proposal/Charging Change Proposal</b> <i>(To be completed by the Panel Secretary)</i>			
First Time Published	(05.07.16)	Rejected	
Assessment	(13.09.16)	OFWAT - Further Information required	
Consultation		OFWAT - Approved	
Recommendation		OFWAT - Rejected	
Further Information Required		Approved and Implemented	
<b>General Details of the Proposer</b>			
Name of Proposer	Martin Mavin		
Capacity (for Change Proposals – on behalf of a Party, as a Panel member, as the customer representative or on behalf of MOSL or the Authority; for Charging Change Proposals – on behalf of a Wholesaler).	Trading Party		
Contact Email; Tel/Mob.	<a href="mailto:Martin.mavin@nwl.co.uk">Martin.mavin@nwl.co.uk</a> 07720 425713		
The Proposer recommends that this Change Proposal/Charging Change Proposal should: <i>(delete as appropriate)</i>	<del>Proceed to Assessment</del>		
	<del>Proceed to Consultation</del>		
	Proceed to Recommendation		

Rationale for recommendation and any reason for urgency	These are relatively simple changes that have no implications for the CMOS system.
<b>Related Documents</b>	
Reference of any associated Panel Change Proposal/ Charging Change Proposal	n/a
Documents Accompanying Form	
<b>Change Proposal/ Charging Change Proposal Details</b>	
Description of (i) The enhancement, issue or defect which this Change Proposal seeks to address, or (ii) the modified or new charging method or charging structure required pursuant to this Charging Change Proposal, as required under the Market Arrangements Code Section 6.2.1(b).	
<p>The recent Ofwat consultations on the Licence process, interim supply arrangements and Retail Exit Code have highlighted an issue in respect of disconnection rights. As currently drafted the market codes do not adequately cover the situation of disconnection rights for a Self-Supply Licensee. Specifically, the market codes only allow a right of disconnection for non-payment by a Customer to a Retailer. A Self-Supply Licensee is effectively both Retailer and Customer. Therefore, in these circumstances a Customer (Retailer) could simply 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. Whilst the interim supply process will not apply in circumstances of Self-Supply, without the ability to disconnect, the market continues to be "at risk" if the Self-Supply Retailer simply selects and contracts with a new Wholesaler without settling the outstanding debts. This risk will be greater where the Self-Supply Retailer also supplies other Associated Persons.</p> <p>To address this anomaly, in the specific circumstances of Self Supply Licensees, a Wholesaler should have the right to disconnect the relevant Customer and associated Customers as part of the either the contract termination process or via the codes in advance of contract termination.</p> <p>To address this Part I of the Operational Terms have been reviewed alongside the termination provisions of the Wholesale-Retail Contract to ensure that the commercial protection afforded to Wholesalers is equivalent in the case of Self-Supply Licensees to that of standard WSSL Licensees. The solution code is an amendment to the Operational Terms Part I to introduce a right for a Wholesaler to disconnect Self-Supply Customers (and associated Customers) for non-payment.</p> <p>A key aspect of the mechanism selected is that it must be legally allowable and enforceable whilst also ensuring that appropriate Customer protections are still in place. The drafting and legal review addresses these points.</p> <p>Ofwat are separately considering whether the licensing regime requires to address any persistent failure to pay by Self-Supply Retailers.</p>	

Description of the Change Proposal/ Charging Change Proposal, its nature and purpose and (for Change Proposals only) how it is consistent with the Principles and falls within the Objectives noted below, as required under the Market Arrangements Code Section 6.2.1(c).

Part 1 of the Operational Terms has been amended to include a new process, I13 for disconnection in relation to non-payment by a Self-Supply Retailer. It retains consistency with the remaining Part I processes but it makes clear that the obligations to ensure that correct information has been gathered prior to proceeding with any disconnection falls upon the Wholesaler. It requires a new Form I/05 to be completed and sent to the Self-Supply Retailer plus all Associated Persons setting out the debts due, that disconnection may occur and the Eligible Premises affected. The intention behind the completion and submission of this form to these parties is:

- (i) to ensure that all Associated Persons, who may not have visibility of payments being made ostensibly on their behalf by the Self-Supply Retailer to the Wholesaler, are on notice that disconnection may impact their Eligible Premises; and
- (ii) to provide an opportunity for the Self-Supply Retailer and/or Associated Persons to settle all or their part of any outstanding amounts owed.

The process incorporates the same timescales for disconnections that are generally applicable and allows any disconnection to be cancelled where payment is made (subject to any charges which may be required).

It is considered that this is a proportionate and reasonable way to deal particularly with Associated Persons which would be impacted by any decision to disconnect but which do not have a direct contractual relationship with the Wholesaler. It also seemed appropriate to sit this process alongside all other disconnection processes within the Operational Terms as opposed to the Wholesale Contract which does not deal with disconnections.

A new definition has been inserted into Part 1a - Objectives, Definitions and Principles of "Associated Persons" reflecting the definition which was included by Ofwat in its consultation and conclusions documents on Self-Supply generally.

There is a new I13 process diagram to accompany the new process. There is also a new Form I/05 which, whilst following the style of other forms, differs in that it is to be completed by the Wholesaler and its purpose is to formally notify the Self-Supply Retailer and importantly any Associated Persons of the risk of disconnection to the listed Eligible Premises. This final notification is intended to provide a last opportunity for payment to be made. The Form may also be used to inform the Market Operator.

## Principles and Objectives

Principles	Affected (Y/N)	Description
Efficiency	N	

Proportionality	Y	The proposal redresses a clear disproportionate benefit to a Self-Supply Licensee over a Wholesale Trading Party.
Transparency	N	The proposal, by also requiring a new Form I/05, ensures the process is transparent to all parties.
Simplicity, cost-effectiveness and security	N	
Barriers to entry	N	
Non- discrimination	Y	There is a risk that the current processes could discriminate in favour of, or against customers of a Self-Supply Licensee.
Customer participation	N	
Customer contact	N	
Seamless markets	N	
No limit on upstream competition	N	
Business Terms Objectives	N	
Operational Terms Objectives	Y	The new process I13 at Part I on Disconnections clarifies the respective obligations on the parties and the relevant process to be followed.
Market Terms Objectives	N	
Description of the impact of the Change Proposal/ Charging Change Proposal on the following items, as required under the Market Arrangements Code Sections 6.2.1(e), (f) and (g).		
Configured Item	Impacted (Y/N)	Description
Wholesale-Retail Code, Part 1 (Objectives, Definitions and Principles)	Y	New definition of "Associated Persons".
Wholesale-Retail Code, Part 2 (Business Terms)	N	
Wholesale-Retail Code, Part 3 (Operational Terms)	Y	New process I13 in Part I and new process diagram.
Wholesale-Retail Code, Part 4 (Market Terms)	N	

Wholesale-Retail Code, Part 5 (CSDs)	N	
Wholesale-Retail Code, Part 6 (Operational Forms)	N	New Form I/05
Appointment	N	
Licence	N	
Any other industry code, agreement or document (e.g. the Wholesale Contract or the MOSL Articles) (please specify)	N	
Central System	N	
Trading Party systems which interface with Central Systems and other relevant Trading Party systems/ business processes.	N	
Scottish Core Industry Documents	N	
<b>Impact Assessment</b>		
General Comment Pre-go live, consideration of the timing of adoption and implementation of the change may be relevant.		
<b>Cost/Benefit Estimate</b>		
Financial Benefit Estimate (Low: < £10K, Medium: £10K To £100K, High : > £100K)	Low - MOSL do not consider there will be any impact to CMOS	
Description of any discussions on the topic of the Change Proposal/ Charging Change Proposal at the User Forum (as relevant) or otherwise relevant discussions with parties, as required under the Market Arrangements Code Section 6.2.1(h).		
<b>Further Comments</b>		