

Part 6: Performance Standards, Monitoring and Issues Resolution

6.1 Scope

6.2 Trading Party Standards

6.3 Performance Standards and Performance Indicators Review

6.4 Monitoring and Enforcement by the CMA

6.4.1

6.4.2

6.4.3

6.4.4

6.4.5 Where any amount is recovered from the Trading Party in breach pursuant to such proceedings, such amount shall be taken into account in determining under Section 7.3 [and Schedule 21](#) the amounts payable by Trading Parties in respect of CMA Charges on such basis as the CMA shall consider fair and reasonable in all the circumstances.

These sections unchanged

Part 7: Cost Recovery

7.1 Scope

7.2 Annual CMA Budget and CMA Charges Process

7.3 Recovering the CMA Charges and Other Charges

7.3.1 Transitional Charging Period

The CMA shall be entitled to recover all of the CMA Charges in respect of the Transitional Charging Period ("Transitional Charges") from Scottish Water and Scottish Water shall pay the Transitional Charges on request by the CMA.

7.3.2 All Subsequent Years

Following finalisation of the CMA Budget and the CMA Charges for any Year, the CMA shall be entitled to recover the CMA Charges and any Default CMA Charges in respect of that Year on the following basis:-

- (i) Scottish Water shall pay one third ($\frac{1}{3}$) of the CMA Charges ("Scottish Water CMA Charges") and any Default CMA Charges in respect of that Year; and

These sections unchanged

- (ii) Licensed Providers shall pay two thirds (⅔) of the CMA Charges ("Licensed Provider CMA Charges") and any Default CMA Charges in respect of that Year.

Each Licensed Provider's share of the Licensed Provider CMA Charges for the first Month following the Go Live Date and all subsequent Months shall be calculated ~~as set out in Sections 7.3.3 and 7.3.4.~~ in accordance with Schedule 21.

7.3.3 ~~Deleted [July 2008] First Month~~

$$\text{Licensed Provider Share (per Month)} = \frac{\text{Total Licensed Provider Pending Supply Point Registrations}}{\text{Aggregate Market Pending Supply Point Registrations}} \times 100\%$$

where,

~~"Licensed Provider Share (per Month)" is the Licensed Provider's percentage share of the Licensed Provider CMA Charges for the first Month following the Go Live Date;~~

~~"Total Licensed Provider Pending Supply Point Registrations" is the total number of Supply Point Registrations Registered to the Licensed Provider in the Supply Point Register as at the date which is sixteen (16) Business Days prior to the Go Live Date with a Registration Start Date which is the Go Live Date; and~~

~~"Aggregate Market Pending Supply Point Registrations" is the aggregate number of all Supply Points Registered to all Licensed Providers in the Supply Point Register as at the date which is sixteen (16) Business Days prior to the Go Live Date with a Registration Start Date which is the Go Live Date.~~

7.3.4 ~~Deleted [July 2008] Subsequent Months~~

$$\text{Licensed Provider Share (per Month)} = \frac{\text{Total Licensed Provider Supply Points}}{\text{Aggregate Market Supply Points}} \times 100\%$$

where,

~~"Licensed Provider Share (per Month)" is the Licensed Provider's percentage share of the Licensed Provider CMA Charges for any Month in the relevant Year (excluding the first Month following the Go Live Date);~~

~~"Total Licensed Provider Supply Points" is the aggregate number of Supply Points Registered to the Licensed Provider in the Supply Point Register as at the date sixteen (16) Business Days prior to the start of the relevant Month; and~~

~~"Aggregate Market Supply Points" is the aggregate number of all Supply Points Registered to all Licensed Providers in the Supply Point Register as at the date which is sixteen (16) Business Days prior to the start of the relevant Month~~

- 7.3.5 The CMA shall be entitled to charge for providing any Additional Service for a Trading Party in accordance with a schedule of standard charges. Where the Additional Service is requested on a one off or ad hoc basis the CMA shall be entitled to agree a charge for the relevant service with the Trading Party requesting the service.

7.4 Payment of CMA Charges

7.5 Due Date for Payment

7.6 Method for Payment

7.7 Interest

7.8 Failure to Pay

7.8.1

7.8.2

7.8.3

All these sections unchanged

- 7.8.4. If the CMA subsequently recovers any amount from the non-paying Trading Party in respect of the unpaid CMA Charges the amount recovered will be taken into account in determining under Section 7.3 and Schedule 21 the amounts payable in subsequent months by Trading Parties in respect of CMA Charges.

- 7.8.5 Without prejudice to the CMA's continuing entitlement to payment by a non-paying Trading Party in respect of the CMA Charges, a non-paying Trading Party shall indemnify and keep indemnified each other Trading Party on demand in respect of all amounts paid by such other Trading Party to CMA in respect of its liability under Section 7.8.1(ii).

- 7.8.6 While any amount is outstanding from the non-paying Trading Party in respect of CMA Charges, the CMA will be entitled to withhold any payments which may be due to that Trading Party from the CMA.

7.9 CMA Conduct

7.10 Minimum Level of CMA Charges

All these sections unchanged

7.11 Reconciliation

7.11.1 In relation to each Year ~~(and the Transitional Charging Period)~~ the CMA shall, not later than twenty five (25) Business Days after publication of its audited accounts for that Year ~~(or part of the Year in the case of the Transitional Charging Period)~~, make a final determination and adjustment in respect of the amounts payable by each Trading Party by way of CMA Charges for that Year ~~(or the Transitional Charging Period)~~ or any amount payable by the CMA in respect of excessive recovery of CMA Charges for that Year. ~~(or the Transitional Charging Period)~~ The adjustment in respect of the amounts payable by each Trading Party, and their liability for any shortfall, or subject to Section 7.11.4, entitlement to any surplus shall be calculated in accordance with Schedule 21.

~~(i) ——— If the total CMA Charges recovered for any Year (or the Transitional Charging Period) are less than the Total Costs for that Year (or the Transitional Charging Period), the shortfall shall be recovered from Trading Parties in accordance with Section 7.11.2.~~

~~(ii) ——— If the total CMA Charges recovered for any Year (or the Transitional Charging Period), are greater than the Total Costs for that Year (or the Transitional Charging Period), the surplus shall be reimbursed to Trading Parties in accordance with Section 7.11.3.~~

7.11.2 ~~Deleted [July 2008]~~ Each Trading Party's liability for any shortfall between CMA Charges recovered and Total Costs shall be calculated by the CMA as follows:

~~(i) ——— **Transitional Charging Period**~~

~~Scottish Water shall be liable for any shortfall between the Transitional Charges recovered and Total Costs.~~

~~(ii) ——— **All Subsequent Years**~~

~~(a) ——— Scottish Water shall be liable for one third (1/3) of any shortfall between the CMA Charges recovered and Total Costs; and~~

~~(b) ——— Licensed Providers shall be liable for two thirds (2/3) of any shortfall between the CMA Charges recovered and Total Costs. Each Licensed Provider's share of such liability shall be calculated as follows:~~

$$\text{Licensed Provider Share} = \frac{\text{Average Licensed Provider Supply Points over relevant Year}}{\text{Average Aggregate Market Supply Points over relevant Year}} \times 100\%$$

~~where in the first full Year following the Go Live Date the Average Licensed Provider Supply Points over relevant Year and Average Aggregate Market Supply Points over relevant Year shall be calculated using the averages of the figures submitted for the preceding eleven (11) months for Total Licensed Provider Supply Points and Aggregate Market Supply Points under Section 7.3.4 and for each subsequent Year such averages shall be calculated using the averages of the figures submitted for Total Licensed Provider Supply Points and Aggregate Market Supply Points for the preceding twelve (12) months under Section 7.3.4.~~

7.11.3 ~~Deleted [July 2008] Subject to Section 7.11.4, each Trading Party's entitlement to any surplus referred to in Section 7.11.1(ii) shall be calculated as follows:~~

~~(i) **Transitional Charging Period**~~

~~The CMA shall retain any surplus accruing in the Transitional Charging Period. The CMA shall take account of any such funds in setting the CMA Budget for the first full Year following the Go Live Date.~~

~~(ii) **All Subsequent Years**~~

~~(ii)(a) Scottish Water shall be entitled to one third (1/3) of any surplus; and~~

~~(ii)(b) Licensed Providers shall be entitled to two thirds (2/3) of any surplus.~~

~~Each Licensed Provider's share of such surplus shall be calculated as follows:~~

$$\text{Licensed Provider Share} = \frac{\text{Average Licensed Provider Supply Points over relevant Year}}{\text{Average Aggregate Market Supply Points over relevant Year}} \times 100\%$$

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~~where in the first full Year following the Go Live Date the Average Licensed Provider Supply Points over relevant Year and Average Aggregate Market Supply Points over relevant Year shall be calculated using the averages of the figures submitted for the preceding eleven (11) months for Total Licensed Provider Supply Points and Aggregate Market Supply Points under Section 7.3.4 and for each subsequent Year such averages shall be calculated using the averages of the figures submitted for Total Licensed Provider Supply Points and Aggregate Market Supply Points for the preceding twelve (12) months under Section 7.3.4.~~

7.11.4

7.11.5

7.11.6

7.11.7

7.11.8

7.12 Charging Disputes

7.13 Treatment of Performance Standard Charges

*All these sections
unchanged*

SCHEDULE 1 DEFINITIONS, INTERPRETATION AND HIERARCHY

"Aggregate Market
Meter Wholesale
Charges" the meaning given in
Schedule 21;

"Aggregate Market
Pending Supply Point
Registrations" the meaning given in ~~Section~~
~~7.3.3~~Schedule 21;

"Aggregate Market
Supply Points" the meaning given in ~~Section~~
~~7.3.4~~Schedule 21;

"Licensed Provider
Meter Wholesale
Charges", the meaning given in
Schedule 21;

"Licensed Provider
Share (per Month)" the meaning given in ~~Section~~
~~7.3~~Schedule 21;

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"Market Code" or
"MC"
this code comprising Parts 1 to 10, Schedules 1 to ~~20~~21 and as designated as the Market Code in force for the time being by or under the directions made by the Commission for that purpose;

"Meter Related Wholesale Charges"
the meaning given in Schedule 21;

"Schedule"
the twenty~~one~~ (~~21~~0) schedules annexed to and forming part of this Market Code;

"Total Licensed Provider Pending Supply Point Registrations"
the meaning given in ~~Section 7.3.3~~ Schedule 21;

"Total Licensed Provider Supply Points"
the meaning given in ~~Section 7.3.4~~ Schedule 21;