

Effective from 6th September 2007

The Resale of Electricity and Gas

Guidance for Resellers

What is maximum resale price?

The maximum resale price is the most that anyone can charge for re-supplying gas or electricity which has already been bought from an authorised supplier. It is set by the Utility Regulator.

Anyone who charges more than the maximum resale price may face civil proceedings for the recovery of the amount overcharged, and may be required to pay interest on the amount overcharged.

From 6th September 2007 the maximum price at which gas or electricity may be resold is the same price as that paid by the person who is reselling it ("the reseller"), including any standing charges.

Who does it apply to?

Maximum resale price applies when any person buys gas or electricity from an authorised supplier and resells it to someone else for domestic use. It applies, for example, when a landlord resells gas or electricity to tenants in rented accommodation, but also applies when it is resold to:

- leaseholders who buy their gas and electricity from the freeholder
- residents (whether private owners or tenants) on caravan parks who buy their fuel from the park owner, and
- houseboat owners who buy their fuel from the operator of their moorings.

Gas or electricity resold for use in holiday and student accommodation is also subject to the maximum resale price rule.

The rule applies no matter how many times the electricity or gas is resold. So, for example, if a reseller provides electricity to a large rented flat, and the tenant resells part of the supply to a subtenant, the tenant also becomes a reseller, and may not charge more for the electricity than he has paid for it.

Who does it not apply to?

The maximum resale price rule does not apply to gas or electricity resold for use at industrial and commercial premises, e.g. shops and offices.

However, if, for example, the proprietor of a shop happens to resell some of his electricity to a domestic tenant in a flat above the shop, the maximum resale price will apply in respect of the resale to the domestic tenant.

It does not apply when an inclusive charge is made for accommodation - for example, where a tenant pays a charge of (say) £100 per week, which includes "all amenities" and identifies no specified charge for the gas or electricity. Housing benefit claimants on inclusive rent may have notional deductions made from that rent for energy charges, to determine their "eligible rent". Such deductions should take into account the maximum resale prices allowed in accordance with this leaflet.

Maximum resale price also does not apply to the resale of liquefied petroleum gas (LPG), either in cylinders or through bulk tank systems.

What is the reseller required to do?

Much will depend upon whether or not the purchaser has a meter which records the number of units of gas or electricity used under each of the price headings paid by the landlord e.g. daytime units and "Economy 7" type units.

If the purchaser has a meter which records the number of units used at each rate, the reseller will be expected to charge according to the consumption recorded on the meter and the appropriate unit prices on his own bill.

If the purchaser does not have a meter, or the meter does not accurately record the number of units used within each price band, the reseller must use his reasonable endeavours to estimate what proportion of the total bill each tenant should pay.

Estimating the amount of energy used

There are no hard and fast rules about the way in which the reseller estimates the bill for each individual purchaser. The basic point is that whatever methodology is chosen, it must be explained to the purchaser on request.

The reseller might decide, for example, to divide the bill according to the amount of floor space within each accommodation unit (eg each flat or caravan). Where purchasers use different types of equipment, e.g. cookers or heaters, the reseller might decide to apportion bills according to the energy ratings of those appliances. He or she might also choose, where accommodation units are similar in size, to take the number of occupants into account.

If the reseller uses the premises he or she must, of course, pay for their own share of the consumption.

If requested to do so by the purchaser, the reseller should provide evidence to support the calculation, for example bills from the main supplier showing the amount of gas or electricity supplied to the building or site as a whole. The reseller should be in a position to explain how each purchaser's share has been calculated.

Estimating the cost of energy used

Gas and electricity are sold at a variety of prices - the charges to the building or site as whole may be spread across two or more tariff bands. The position may be further complicated by seasonal and retrospective adjustments, and supplies being taken from more than one electricity company. In electricity, power may be supplied in either kWh or KVA units, the latter attracting availability charges. The reseller must use reasonable endeavours to make an estimate of the applicable unit price, and must give the purchaser information about the price(s) upon which this calculation is based, if asked to do so.

Standing charges

If the reseller pays a standing charge this must be divided pro-rata amongst the purchasers (and the reseller if he takes the electricity or gas through the same main meter) according to the amount of energy used, or estimated to have been used, by each.

Over/undercharging and refunds

Where the reseller has estimated the cost of electricity or gas sold to the customer, he will need to revise his calculations when he subsequently receives information about the actual cost, e.g. if he receives a reconciliation account from his own supplier. If, in a particular year, it transpires that any individual customer has been overcharged by more than £5, the reseller must use reasonable endeavours to refund the whole amount of that overcharge. Where the customer has been supplied for a shorter period, the minimum refund figure must be adjusted proportionately - e.g. where a customer has taken a supply for 6 months, the whole amount of any overcharge exceeding £2.50 must be refunded. If the reseller underestimates the cost of energy supplied he is obviously entitled to recover the amount undercharged from the customer.

Example of energy pricing calculations

Detailed examples of gas and electricity pricing calculations are given later in this document - new examples will be added from time to time.

Other costs

The reseller is not entitled to recover the costs of running his or her own electricity or gas system through the charges which are made for gas and electricity. These are separate from the resale costs - they are costs which the reseller incurs in maintaining his property and administering his own contracts with the purchasers. It is open to the reseller to decide a basis for how these costs can be recovered separately, for example as service charges or as part of the accommodation charge itself. They are not subject to maximum resale price, although they may be subject to other limits, for example rent controls.

Maximum resale price does not apply to any gas or electricity which is used in the reseller's own facilities (e.g. a clubhouse, laundry room or shower block on a caravan park, or the hallway and stairs in a block of flats). Charges for the fuel used in these situations must be billed separately (for example as a service charge), subject to any other relevant legal controls.

Purchasers can recover any amounts which they have been overcharged through the Small Claims Court, and may be able to claim interest on the amount in question. They may also be entitled to a reduction in the amount which they are paying if the reseller refuses to give them the information which they need.

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Estimating Costs

Example calculations for resellers

The following examples of maximum resale price calculations are provided for guidance purposes only - it is for the reseller to decide how best to calculate his own charges following two basic principles:

- that the reseller should use reasonable endeavours to recover no more than he or she has paid to the original supplier and
- that the reseller should adopt a logical methodology which must be explained to purchasers on request.

VAT & Climate Change Levy

The example shown are VAT inclusive. A reseller may only charge 5% VAT to the purchase. If the reseller pays Climate Change Levy he/she cannot pass this charge on to purchasers.

For definitive advice on VAT & Climate Change Levy please consult HMRC National Advice Service on 0845 101 9000

Example 1

Purchasers have meters recording overall consumption

Unit charges

A reseller is a landlord letting a house as 2 flats - he does not live on the premises. For a particular quarter, the same 2 tenants remained in the flats, and the total electricity bill is £196.35 for 1750 units.

The landlord pays for the electricity units at 3 different rates, but the average cost **per unit** is $\frac{£196.35}{1750} = 11.22$ pence incl. VAT

One tenant has used 900 units and pays
 $900 \times 11.22 = £100.98$

One tenant has used 854 units and pays
 $850 \times 11.22 = £95.37$

As in every case, the cost of administration, and the maintenance/upkeep of the resellers supply system are not subject to maximum resale price control. If recovered as a specific expense, they must be billed separately.

Example 2

As before, but tenants have no meters recording overall consumption; landlord apportions **units** used

Units used

Method one: floor space

Let us assume that in the previous example, one tenant has 18 square metres of floor space, the other 22.

The **first** tenant will pay for $18/40 \times 1750 = 787.5$ units
 $788 \times 11.22 = £88.41$

The **second** tenant will pay for $22/40 \times 1750 = 962.5$ units
 $963 \times 11.22 = £107.99$

Administration / maintenance costs: as example 1.

Example 3

Reseller operates a park for 55 mobile homes. It has street lighting and a staff office. Supplies to individual units, the lighting and the office are metered separately, and he has billing information from his own supplier covering the period 1 September 2006 - 31 August 2007. He decides to recover the standing charge via the unit costs.

To calculate overall costs, the reseller uses a formula:

$$\frac{\text{Total costs of electricity units supplied to pitches + standing charges}}{\text{Number of metered units supplied to pitches}}$$

For 01.10.06 – 30.09.07, the calculation is as follows:

$$\frac{\text{Units } £11,355 + \text{Standing Charges } £400}{101200 \text{ units used}} = 11.62 \text{ pence per metered unit}$$

He assumes that for the next year inflation will run at 2%
He therefore charges his customers:

$(11.62 \times 102\%) = 11.85$ pence per unit

Administration / maintenance costs: as example 1

Example 4

A site operator owns a caravan park let to holiday users. He has 300 pitches, which are not metered, and uses electricity in his own offices, the on-site club and other common facilities, which are metered separately.

On average, 280 of the pitches are occupied for a 25 week season - 7000 "pitch weeks".

Total expenditure on electricity (including standing charges) for the last year was £16,500, of which £6,500 was for use in the club, offices etc.

Therefore, only £10,000 worth of electricity was effectively resold to tenants and is subject to the maximum price rule. The remainder will be recovered separately (e.g. through pitch fees).

In order to set fees for the next season, the site operator decides to add a 2 per cent inflation factor.

Maximum price for electricity:

$$\frac{£10,000 \times 102\%}{7,000 \text{ "pitch weeks"}} = £1.46 \text{ pw}$$

Administration / maintenance costs: as example 1

Please note these examples are for guidance only and resellers should use methodology that suits best as long as the Maximum Resale pass-through rule is adhered to.

Guidance for **purchasers** is available on the Utility Regulator website at:
www.niaur.gov.uk