



# Smart Metering Implementation Programme

## Designation of the Smart Energy Code and charging methodology

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# 1 Designation of the Smart Energy Code and charging methodology

## Overview

- 1 Smart meters are the next generation of gas and electricity meters. They will offer a range of intelligent functions and provide consumers with more accurate information, bringing an end to estimated billing. Consumers will have real time information on their energy consumption to help them control and manage their energy use, save money and reduce emissions.
- 2 On 20 September 2013 a licence was awarded for the provision of a smart meter communications service. The licence holder – the Data and Communications Company (DCC) – will offer the means by which energy suppliers, energy network operators and others can communicate remotely with smart meters in premises in Great Britain.
- 3 The Smart Energy Code (SEC) is a new industry code which is created and comes into force under the DCC Licence. It is a multiparty contract which sets out the terms for the provision of the DCC's smart meter communications service and specifies other provisions to govern the end-to-end management of smart metering. The DCC, energy suppliers and network operators are required by conditions of their licences to become a party to the SEC and comply with its provisions. Other bodies who wish to use the DCC's services, such as energy efficiency and energy service companies, must accede to the Code to do so.
- 4 The Government has consulted extensively on the content of the Smart Energy Code. On 17 July 2013 we consulted on proposals to designate the legal text of the SEC<sup>1</sup>, and the Charging Methodology which is incorporated in it, on 30 August or such later date as the DCC Licence is granted. We received three responses to the consultation which closed on 14 August 2013.
- 5 This document summarises the responses to the consultation and responds to them in turn. It also sets out a small number of corrections and refinements that have been made to the legal text of the SEC to ensure that it is internally consistent and aligns with the DCC Licence.
- 6 Having considered consultation responses, we issued a designation letter designating the SEC and the Charging methodology on 23 September 2013 following the granting of the DCC Licence. This designation letter includes the legal text of the SEC and can be found at Annex 1. It also identifies the members of the SEC Panel and the company which will be the Code Administrator and Secretariat.

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<sup>1</sup> DECC, [Stage 1 of the Smart Energy Code](#), Government's conclusions following supplementary consultation and proposal to designate final legal text, 17 July 2013

## Responses to the proposal to designate the SEC

- 7 Three large energy supply companies responded to our proposals to designate the SEC and the Charging Methodology. One respondent welcomed the designation of the SEC, pointed to a number of areas that they have identified as needing future regulatory attention and enquired about the content and timetable for the development of further code content. The other two respondents raised points of clarification regarding the legal text and suggested some changes to the text. Our responses to the suggested changes to the text are set out below.

### ***Data Protection (Section I.1 of the SEC)***

- 8 One respondent asked that particular data protection provisions set out in the DCC's service provider contracts are "flowed down" into the SEC in their entirety. Those provisions deal with, amongst other things, the extent to which the DCC should be offering assistance to DCC Users if they receive a claim or complaint.
- 9 Having reviewed the clauses in the SEC and the Service Provider Contracts we consider that they are appropriately aligned for the purposes of SEC designation. However we will review the provisions as new stages of the SEC are developed, including the audit arrangements under Section I. Note that Section I of the SEC is not effective from the date of the code's designation.

### ***Credit Cover (Section J3 of the SEC)***

- 10 One respondent raised concerns that the credit cover provisions are unduly onerous in respect of the time periods DCC Users have to comply with before an event of default is called or a bank guarantee is drawn down. The respondent suggested that the introduction of these provisions should either be delayed or that they should be modified in recognition of possible teething issues arising in the payments system.
- 11 In our last SEC consultation response (published in July 2013<sup>2</sup>) we responded to concerns that the SEC timescales for DCC Users paying promptly in arrears are unrealistically tight. It remains the case that, given the DCC's requirements to manage cash flows on a monthly basis, we do not intend to extend the payment terms. We also consider it necessary that the credit cover provisions contained in the SEC are in place at designation to enforce a robust credit management system.
- 12 Our position on credit cover has been consulted on extensively. In the April 2012 SEC Consultation<sup>3</sup> we proposed that bad debt would be socialised across all DCC Users and many respondents suggested that the SEC should

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<sup>2</sup> As footnote 1

<sup>3</sup> DECC, [Smart Energy Code Consultation Document](#), April 2012

include robust rules related to credit management and that there should be financial incentives on the DCC regarding credit control activities to protect the ultimate creditors as well as provide transparency of debt control activity. The November 2012 consultation on SEC drafting<sup>4</sup> concluded that the DCC should not be exposed to such financial risks and that bad debt risk should be borne by DCC Users and included in the SEC drafting on credit cover provision.

- 13 It is important to note that the DCC has an obligation (Section J4.7 of the SEC) to publish an indicative timetable of the dates on which it intends to submit invoices. Information has already been provided to DCC Users regarding the indicative charges that will initially apply. This will help with the calculation of credit cover required. In addition, DCC Users could choose to provide credit cover via a cash deposit if there are concerns that a bank guarantee arrangement may be problematic for them.

### ***Confidentiality, IPR and DCC User rights (Section M of the SEC)***

- 14 One respondent suggested that confidentiality and IPR provisions within the SEC do not adequately reflect the provisions made in the Service Provider Contracts and furthermore a general objective of the DCC should be to enforce the terms of the Service Provider Contracts for the benefit of Users.
- 15 We reviewed the approach in the SEC to unlimited liability for breaches of confidentiality and intellectual property rights, while in parallel working to progress the Service Provider Contracts. The Government remains of the view that the approach is appropriate and sufficiently reflective of the provisions in the Service Provider Contracts.
- 16 Regarding the call for a general obligation on the DCC to enforce the terms of the DSP and CSP contracts for the benefit of Users, the Government is of the view that this obligation is implicit in the Enduring General Objective of the DCC Licence. The Licensee has been given a General Objective to carry on the Mandatory Business in the manner that is most likely to ensure the development and maintenance of an efficient, economical, co-ordinated, and secure system (Condition 5 Part B of DCC Licence). The Service Provider Contracts provide the Licensee with sufficient scope to deliver this. As an example, if the DCC does not seek to enforce Service Provider Contract liability provisions where it has been subject to claims under the SEC in relation to what amounts to the same event, it would have to justify why this was an efficient outcome.
- 17 In our last SEC consultation response (published in July 2013) we noted that liability arrangements would be kept under review in the light of adding future SEC content, to ensure that the arrangements remain fit for purpose. However we remain of the view that the liability arrangements set out in the SEC currently are appropriate, strike the correct balance and place risk where appropriate within the smart metering arrangements.

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<sup>4</sup> DECC, [Stage 1 of the Smart Energy Code – a Government response and a consultation on draft legal text](#), 8 November 2012

## Corrections to the SEC

- 18 The table below lists all the changes that have been made to the text of the SEC since the proposal to designate it was published on 14 July 2013.

List of corrections to the SEC text published 14 July 2013†	
<b>Changes to Section A</b>	<ul style="list-style-type: none"> <li>The MPAN definition has been amended to apply in respect of a Smart Metering System <u>(or Electricity Meter)</u> [new text underlined]</li> <li>The MPRN definition has been amended to apply in respect of a Smart Metering System <u>(or Gas Meter)</u> [new text underlined]. The definition also now refers to a Gas Network Party rather than Gas Transporter</li> </ul>
<b>Changes to Section C</b>	<ul style="list-style-type: none"> <li>Text has been added to C3.8 (Panel Member Confirmation) to make clear that each Panel Member must complete any and all forms required to be completed by law in order for that person to become a director of SECCo.</li> </ul>
<b>Changes to Section D</b>	<ul style="list-style-type: none"> <li>The opening line of D9.4 has been corrected to remove the reference to Fast-Track modifications (as they are not a type of Path 3 Modification)</li> </ul>
<b>Changes to Section E</b>	<ul style="list-style-type: none"> <li>All usage of the term “Electricity Distributor” have been replaced with the term “Electricity Network Party”. The term “Electricity Distributor” is a Smart Metering System specific term that only has application in Sections H and K of the SEC</li> <li>All usage of the term “Gas Transporter” have been replaced with the term “Gas Network Party”. The term “Gas Transporter” is a Smart Metering System specific term that only has application in Sections H and K of the SEC</li> </ul>
<b>Changes to Section I</b>	<ul style="list-style-type: none"> <li>In I1.2(iii) the term ‘customer’ has been replaced with ‘consumer’</li> </ul>
<b>Changes to Section J</b>	<ul style="list-style-type: none"> <li>In J4.2 text and references have been amended to reflect revisions to Condition 19 of the DCC Licence. These revisions make clear the intent that the DCC should normally only vary charges once each regulatory year. Where the DCC wishes to vary charges more than once it should explain to the Authority the factors that led to it making that decision. Condition 19 of the licence also now allows the Authority to direct the DCC to changes its charges during a regulatory year in the event that the Authority has disallowed certain costs under Condition 37 of the DCC licence.</li> </ul>

<b>Changes to Section K</b>	<ul style="list-style-type: none"><li>• K3.2 has been amended to make clear that each reference in Section K3 <u>(or in the definitions of defined terms used directly or indirectly in this Section K3)</u> to 'Smart Metering Systems' shall accordingly be construed as a reference to Mandated Smart Metering Systems or Enrolled Smart Metering Systems (as applicable) [new text underlined]</li><li>• In K9.2 text and references have been amended to reflect revisions to Condition 19 of the DCC Licence</li></ul>
<b>Changes to Section X</b>	<ul style="list-style-type: none"><li>• The Variation to Section E set out in X.24(c) has been amended to apply to E2.3 (Obligation on Electricity Suppliers to Provide Data), as this data will not be used by the DCC in the initial period after it is awarded its licence. We have notified electricity suppliers regarding this amendment in advance of designation.</li></ul>

# Annex 1: SEC Designation letter



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Designation Letter pl



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