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25 August 2014

### **Consultation on New Smart Energy Code Content (Stage 4)**

Dear Sirs,

SmartestEnergy welcomes the opportunity to respond to DECC's Consultation on the New Smart Energy Code Content (Stage 4).

SmartestEnergy is an aggregator of embedded generation and a supplier in the electricity retail market serving large corporate and group organisations.

Please note that our response is not confidential.

### **Answers to specific questions.**

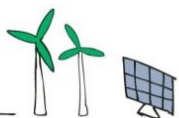
We answer the specific questions in the document below:

Q1. Do you agree with the requirement for the DCC to consult SEC Parties on future tranches of Communications Hubs procurement?

Yes.

Q2. Do you agree with the proposed approach to allow SEC Parties (which will include MOPs) to forecast, order, take delivery and return uninstalled Communications Hubs?

We do not understand the need for the distinction being made between installed and uninstalled Communications Hubs. In both instances, the agent will be acting on behalf of the supplier. If the obligations can apply to agents in relation to uninstalled, then they can also apply as far as installed are concerned.



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Q3. Do you agree with the proposed approach and legal drafting in relation to the development of the Communications Hub Support Materials?

Yes.

Q4. Do you agree with the proposed approach and legal drafting in relation to forecasting of Communications Hubs?

We agree that Parties which have not yet become DCC Users should be able to access the CHOS using a means other than the SSI which will be made available by the DCC and that they should be able to continue to use this mechanism as an alternative to direct access through the SSI once they have become DCC Users. If this is a new requirement it should be in the list of changes.

Q5. Do you agree that forecasts that are submitted from the tenth month before a delivery month should include the numbers of Device Models to be delivered in that month in each region, and these should be subject to the specified tolerance thresholds outlined below.

Yes.

Q6. Do you agree with the proposed approach and legal drafting in relation to ordering of Communications Hubs?

We believe that tolerances of +/- 50% 10 months out and +/- 20% 7 months out is too tight. We would question whether there really needs to be a charge for a cancelled order. So many millions of hubs will be required that there will not be any danger of wastage until towards the end of the roll-out. We believe that the DCC should be able to do some total forecasting.

Q7. Do you agree with the proposed approach and legal drafting in relation to delivery and handover of Communications Hubs?

Yes.

Q8. Do you agree with the proposed approach and legal drafting in relation to installation and maintenance of Communications Hubs?

Yes.

Q9. Do you agree with the proposed approach and legal drafting in relation to removal and returns of Communications Hubs?



Yes, save that, as previously stated, we are not sure that there is a need for a charge in the event that a meter is returned, especially where it has not been used i.e. we accept the need for a reconditioning fee but nothing else.

Q10. Do you agree that there should be an obligation for the first installing supplier in a dual fuel premises to take all reasonable steps to install a communications Hubs that would work with both the smart meter that it is installing and the smart meter of the other fuel type?

Yes. This seems like the most sensible and practical approach.

Q11. Do you agree with the Governments proposals in relation to the processes to determine the reasons for early return of Communications Hubs?

There is no way to validate the charges of the DCC and whether the correct decision was made not to recondition a hub.

As a supplier we are not necessarily interested in liquidated damages or compensation for additional site visits. This is a process which will be more trouble than it is worth monitoring. We believe there could be some other quid pro quo such as suppliers not paying penalties for returns of unused hubs.

Q12. Do you agree with the proposed approach and legal drafting in relation to the transitional requirements for Communications Hubs forecasts and orders?

Yes.

Q13. Do you agree with our proposed changes to the DCC licence to require the DCC to offer services to non-SEC Parties where required to do so under the SEC?

No. Any disputes should be raised through SEC Parties.

Q14. Do you agree with the proposed approach and legal drafting in relation to the provision of Communications Hubs for testing?

No. We do not believe that a distinction needs to be made between orders for testing and orders for normal installation.

Q15. Do you agree with the *legal drafting* in relation to Security Governance?

No comment.



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QX. Do you agree with the Governments proposals in relation to Security Assurance? In particular on:

- the proposal for the SEC Panel to procure a central CIO on an initial basis;

Yes, we agree with the proposals

- the proposal for Users to meet the costs of security assessments that are undertaken at their organisation;

It is difficult to comment on this without knowing the costs. However, we are concerned that this may be a barrier to entry to smaller players. We understand the argument that a direct charge will incentivise players to be ready. However, we are not aware of this particular difficulty arising during Market Entry in the BSC or MRA arenas. It also seems incongruous to charge for something that is a central requirement and which, in effect, gives comfort to the existing Users.

- the proposal for a three year rolling cycle of security assessments to be used to provide assurance on Users;

Yes, we agree with the proposals

- the process for identifying and managing non-compliance

Yes, we agree with the proposals but we feel that it would be helpful to include some direction regarding what should happen if a User disagrees with any findings of non-compliance against them.

- the assessment arrangements proposed for DCC.

Yes, we agree with the proposals

Q16. Do you agree with our proposed approach and legal text for SEC in relation to Privacy Assessments?

No comment.

Q17. Do you agree with the specific proposals for undertaking random sample compliance assessments?

Yes.



Q18. Do you agree with the proposal for Users to meet the costs of the privacy assessments that are undertaken at their organisation?

No. We believe these costs should be funded centrally. In the event that there is a dispute over the interpretation of an audit requirement it would be unfair to charge the individual for any auditor's over-zealousness and does not lend itself to fair challenge. Again, the arrangements in the BSC and MRA arenas recognise this.

Q19. What are your views on potential future changes to the SEC to provide for reporting the results of privacy assurance assessments bodies such as Ofgem, DECC, ICO and Parties generally?

No comment.

Q20. Do you agree that the proposed legal drafting reflects the position reached in the SMETS2 consultation response, that Users should be required obtain consent and to verify the identity of the energy consumer from whom they have obtained the consent prior to pairing a CAD?

We do not understand this. Consumption data can be transferred to the DCC without any CADs being in place.

Q21. Do you agree with the proposed updates to the Security Requirements and the associated legal drafting?

Yes

Q22. Do you agree that we should also include in the SEC obligations on the DCC and Users which limit the future dating of commands to 30 days?

Yes

Q23. Do you agree with the proposed approach and legal drafting in relation to which parties are eligible to subscribe for specific Organisation Certificates?

Yes, on the assumption that a service provider does not need to be a party.

Q24. Do you agree with the proposed approach and legal drafting in relation to the Organisation Certificates the DCC must subscribe for in order to support installation of Devices?

The approach seems reasonable.



Q25. Do you agree with the proposed approach and legal drafting in relation to the date on which the DCC must start providing live certificates, in particular the proposal to turn off the DCC's response time obligations until the Stage 2 Assurance Report (see section 6.6) has been produced?

The approach seems reasonable.

Q26. Do you agree with the proposed approach for all Network Parties to have established SMKI Organisation certificates?

Yes, although we do not understand what is to be achieved through a visit to the DCC.

Q27. Do you agree with the proposed approach for Non-User Suppliers to have established SMKI Organisation certificates?

Yes, although we do not understand what is to be achieved through a visit to the DCC.

Q28. Do you agree with the proposed approach and legal drafting in relation to specific SMKI Organisation Certificates placed on specific Devices?

Yes

Q29. Do you agree with our proposal to require DCC to provide Test Certificates to Test Participants (who, in the case of non-SEC parties, will have to be bound by an agreement entered into with the DCC) only for the purposes of Test Services and testing pursuant to Section T of the SEC, and to not require DCC to provide a Test Repository? Please provide a rationale for your view.

If these test certificates have a life which is intended to span a change of supplier event, we believe that it is appropriate that the DCC provides a repository. We would refer DECC to the experience of the electricity industry with respect to meter certificates where there are requirements on suppliers to maintain them but they become lost.

We are also surprised by the statement in para 220 where it says that "in no circumstances would the DCC be contractually liable to the extent that a Testing Participant relied upon a Test Certificate that was subsequently found to be incorrect."



Q30. Do you agree with the proposed approach and legal drafting in relation to the DCC User Gateway Services Schedule?

No comment.

Q31. Do you agree with the proposed approach to centrally procure a EUI-64 Registry Entry?

Yes.

Q32. Do you agree with the intention to create a 'Party ID', enabling access to the Self Service Interface at a Party level?

Yes.

Q33. Do you agree that the proposed legal drafting accurately reflects the process by which the DCC will provider connection the DCC User Gateway?

Yes. We approve of the creation of high and low volume connections.

Q34. Do you agree that the drafting meets the needs of both DCC and its Users in establishing, maintaining and terminating connections? Please provide a rationale for your views and include any supporting evidence.

Yes.

Q35. Do you agree with the proposed approach and legal drafting in relation to Processing Service Requests?

The approach seems reasonable.

Q36. Do you agree with the proposed changes to the approach and legal drafting in relation to Smart Metering Inventory and Enrolment Services?

The approach seems reasonable.

Q37. Do you agree with the proposed approach and legal drafting in relation to Problem Management?

The approach seems reasonable.



Q38. Do you agree with the proposed approach and legal drafting in facilitating provision of a service to consumers to allow them to find out which Users have accessed consumption data from their meters?

Yes.

Q39. Do you agree with the proposed approach of not requiring any User to offer a transparency service to consumers at this stage?

Yes.

Q40. Do you agree with the proposal to provide for a date in the SEC when any assessment of whether a supplier is large/ small for testing purposes is made? If not, please provide evidence for why this approach would not work and what alternatives should be used.

Yes.

Q41. Do you agree with the proposed approach and legal drafting in relation to registration data text alignment?

No comment.

Q42. Do you agree with the proposed approach and legal drafting in relation to provision of market share information to the CDB including Ofgem determining disputes between the CDB and the DCC?

Yes. We do not approve of the alternative solution involving independent arbitration.

Q43. Do you agree with the proposed approach to RDP/DCC connections and the associated legal drafting?

No comment.

Q44. Do you agree that Network Parties using the same RDP should be jointly and severally liable for failure of that RDP to comply with provisions relating to the RDP's use of the connection provided to it by the DCC?

Yes.

Q45. Do you agree with the proposed approach and legal drafting in relation to provision of Explicit Charges for Certain Other Enabling Services?



Yes.

Q46. Do you agree with broadening the scope of DCC Licence Condition 20 to include the Other Enabling Services which attract an explicit charge?

Yes.

Q47. Do you agree with the proposed amendments to the legal drafting which introduce a new controlled category of DCC data, set out guidelines for types of data which may be marked as confidential or controlled and limit liability for breach of the latter category?

Rather than making amendments to confidentiality provisions to limit circumstances in which the DCC can mark information as confidential, DECC should consider limiting liability in all circumstances as Parties will not be covered by insurance for unlimited liabilities.

Q48. Do you agree that liability for disclosure of controlled information should be limited to £1 million per event (or series of events) for direct losses?

Yes

Q49. Do you think that SEC Parties other than the DCC may have a need to mark data 'controlled'? If so, please outline what, if any, parameters ought to apply?

No. This could lead to inconsistency and confusion.

Q50. Do you agree that liabilities if these controls are breached should be limited to £1 million (excluding consequential losses)?

Yes.

Q51. Do you agree with the proposed approach and legal drafting in relation to the consequential changes to align the SEC with the proposed changes to the DCC and Supply Licences?

Yes.

Q52. Do you agree with the proposed approach and legal drafting in relation to the invoicing threshold?



Yes. A minimum monthly invoicing threshold of £25 but invoicing at least annually seems sensible. However, it may make more sense to apply this rule ex-VAT so that the level is the same regardless of the rate of VAT.

Q53. Do you agree with the proposed approach and legal drafting in relation to the credit cover threshold?

Yes. Deeming the Credit Cover Requirement to be zero if it is less than £2000 seems sensible. We are assuming that the £2000 does not include VAT.

Q54. Do you agree with the proposed approach and legal drafting in relation to scope for an explicit charge related to Services within the DCC User Gateway Services Schedule of zero?

Yes.

Q55. Do you agree with the proposed amendment to the definition of 'Mandated Smart Metering System'? Views would be welcome whether this change has a material impact.

We agree that the impact is not material. However, to be consistent with the future arrangements we wonder whether it would be more sensible to apply the charge to "registered" rather than "traded" in the interim.

Q56. Do you agree with the proposed approach and legal drafting regarding power outage alerts?

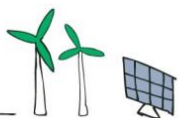
In addition to this we think that there should be an obligation on the DNO to have systems in place to be able to process these alerts, otherwise it would be pointless sending them.

Q57. Do you agree with the proposed approach and legal drafting in relation to the testing of shared systems?

Yes. This is very important so that small suppliers are not placed under an unnecessary burden.

Q58. Do you consider the costs of remote access to the test SMWAN should be socialised across all Users or charged directly to those test participants who use the service? Please provide an explanation for your answer.

We believe that the cost of remote access to the test SMWAN should be socialised across all users. In the scheme of things this is not a great cost whereas charging



individually could be deemed to be a barrier to entry. It is also important not to disincentivise testing.

Q59. Do you agree with the proposed legal drafting in relation to Communications Hub Asset and Maintenance Charges?

Yes, so long as DCC will have the information to know when to stop charging the Stock Level Explicit Charge for each device.

Q60. Do you agree with the proposed legal drafting on Communications Hubs Charging following removal and/or return?

Yes. In particular we agree that imposing an explicit charge on Suppliers for opting-out of DCC services that they do not want to take, runs counter to the general principle of the opt-out policy and we agree that the remaining asset cost of the returned Communications Hub should be smeared across Suppliers whose non-domestic meters are enrolled with the DCC.

Q61. Do you have any views on the operation of SMETS 2 meters that are opted out of DCC services in light of:

- the conclusions on SMKI set out above; and
- any other matters, including GBCS, that may affect two-way communications with an opted-out meter?

Given the complexity for suppliers to manage two-way communications with an opted-out meter, we are in favour of further consultation on this subject.

Q62. Do you agree with the proposed legal text with respect to the DCC's, Subscriber and Relying Party obligations and associated liabilities?

Yes

Q63. Do you agree with proposed legal text in relation to the Initial Enrolment Project for SMETS1 meters installed during Foundation?

Yes

Q64. Does the contents list for the Initial Enrolment Project Feasibility Report (para 406) cover the required issues for the DCC to address? Are there any additional areas which you consider the DCC should be specifically required to include?

No comment





Q65. Do you agree with the proposed legal text in relation to charging arrangements for the ongoing communications costs of Foundation Meters enrolled in the DCC?

No comment

Q66. Do you agree with the proposed approach and legal drafting in relation to User supplier to Non-User supplier churn?

Yes, we agree with the proposed approach

Should you require further clarification on this matter, please do not hesitate to contact me.

Yours sincerely,

**smartestenergy**



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