However, we would welcome further consideration of how fixed cost elements might be incorporated in the core service charges. For example, it may be appropriate for both the DCC and service provider cost recoveries to be split between the standing charge and the fixed cost element of the core service charge (this could, perhaps, be socialised to a transaction level).

Question 76: Do you consider that an objective for the charging methodology should be to promote innovation in the supply of energy, provision of energy related services and energy distribution?

We are supportive of DECC's general aims for promoting innovation wherever possible; however this objective should not compromise the need to deliver a sufficiently flexible and transparent charging methodology which avoids undue complexity.

Question 77: Do stakeholders have views on whether DCC's internal costs should be allocated across the different types to users on the same basis as service provider fixed costs?

We would anticipate that DCC internal costs are shared by users through a similar mechanism to that proposed in our response to Question 74.

Question 78: Do you agree with the proposals to charge users for extensive assessment and design work in relation to AMRs? Should a similar approach be adopted for other elective services offered by DCC, regardless of the user accepting the service?

We think it is unlikely that extensive assessment and design work is necessary with regard to AMRs as requirements in the vast majority of cases will be clearly understood. We therefore believe that charges for elective services in respect of AMRs should be based on a menu published within the SEC.

Whilst there is less clarity around other elective services (i.e. services related to energy consumption, but which are not core services) we believe a published menu in the SEC would also be beneficial.

We believe that value added services would not fit this approach.

Question 79: Do you agree that "a second comer principle" can be applied?

We believe that the "second comer principle" is not necessary in the context of elective services, but would seem worth considering in the context of potential value-added services.

Please see our response to Question 78.

Question 80: Please indicate whether the Minimum Core Service Requirements (i.e. message size, frequency, response time and coverage) for each of the message flows in the above tables can be modified to reduce the potential impact on the WAN cost without compromising the corresponding benefits. Please quantify the additional Programme benefit that could be realised by including each of this message flows in the aggregate Minimum Core Service Requirements.

Based on our analysis we think that the only feasible modification that could be made to Table 6.3 in the Consultation document would be to reduce the frequency of Scheduled Electricity Meter Reads from 6 per day to 1.

We are concerned that some of the proposed response times are inadequate and may lead to a negative consumer experience, particularly in relation to the on-demand reading process and remote enablement of meters. Both requirements are likely to be initiated during some form of direct consumer interaction and, whilst the Consumer Engagement Strategy is still to be defined, it is likely that consumer expectations in this area will be relatively high. Failure to meet those expectations will inevitably influence consumers' perceptions of smart metering as a whole.

We are unable, at this time, to confirm if the demand management related requirements will be suitable for the industry's needs. Future network demand management requirements are currently defined at a basic level and there is insufficient certainty if the response times specified will be adequate or whether the full range of DCC services has been captured.

Question 81: Please quantify the additional benefit, if any, that could be realised by using the 'User Target' rather than the 'Minimum Core Service Requirement' in table 6.1 as basis for the procurement of DCC communication services.

The definitive list of Core Service Requirements will only become available once the process modelling and technical specification documents have been finalised by the Programme's Business Process Design and SMETS Working Groups. Until this work is completed we are unable to assess if this table contains the minimum range of services that will be need to be supported by the DCC. Nor are we in a position at this stage to quantify the additional benefit that would be realised by using the 'User Target' rather than the 'Minimum Core Service Requirement' as the basis for procurement.

Following our review of the Core Service Requirements table in the Consultation document, we believe there are a number of apparent inconsistencies, including the calculation of the coverage and also a level of misalignment with requirements currently included in the IOTS (e.g. IHD messaging).

Question 82: Please provide views on whether the Service Requirements described in the above table represent the Minimum Core Service Requirements. Please also indicate whether in your view there are any additional Minimum Core Service Requirements not identified in the above table, and for any such requirement please quantify the additional benefits, if any that could be realised.

We believe it is vital that the communications services procured meet with the current and future needs of the users of the DCC and their end customers.

Table 6.3 contains a number of business critical services which the user and the consumer would expect to be as close to real time response as possible. As currently defined, we believe that some of the minimum core service requirements fall short, while others may be difficult to achieve. For example, we believe that the maximum response times are too long for:

- on demand electricity quality reads; and
- remote dis/enablement of supply.

The market must be further tested to understand if the more challenging aspects of the requirements set out in Table 6.3 can be delivered. This will support appropriate cost benefit analysis of each of the services listed.

Question 83: Please provide comments on the incentive regime proposed for DCC.

We agree that setting a balanced incentive regime for the DCC will be essential in delivering an efficient and robust service for its users. The proposal set out in the Consultation document appears to provide the necessary balance, and we support the proposal for Ofgem to have the ability to commission an independent audit of DCC's performance against its licence obligations, and key KPis.

We seek further clarification with regard the incentive scheme which appears to guarantee that the DCC will always recover its operational expenses, regardless of how it performs, and that only its profit margin will be subject to incentive measures.

We would expect the Smart Energy Code Panel to have a key role to play in monitoring performance against key KPI's on a regular basis (i.e. monthly), which should provide an appropriate basis for the early identification of persistent failure to deliver against them. Where it is apparent that key failings are occurring on a continuing basis, we would expect Ofgem to act in an appropriate manner which could include the immediate commissioning of an independent audit.

Question 84: Do you consider it appropriate and feasible for the SEC panel and DCC to negotiate KPI targets?

Yes, in principle we consider it would be appropriate and feasible for the SEC panel to periodically renegotiate with DCC its KPI targets. Although the initial DCC KPis should be designed as carefully as

possible, it is highly likely that they will need to be tweaked in the light of practical experience. The SEC panel should be well placed to represent the interests of the DCC's customers in such renegotiations. However, we believe Ofgem will need to have a backstop role to resolve disputes and approve any consequential adjustments to charges.

Question 85: Do you have views on the use of an independent audit of DCC performance? Should this be on a regular and/or ad hoc basis?

We believe that the DCC should be subject to independent audit on an annual and ad hoc basis. This could be undertaken as a matter of course annually with the option for ad hoc audit to be undertaken where the DCC has clearly underperformed.

We believe that the scope of such audits should include financial status and the approach to cost recovery.

Please see our response to Question 83.

Question 86: Do you consider that a sharing mechanism should be in place for DCC internal costs? Should a sharing mechanism be included in the contracts with the service providers?

Yes, we agree that a sharing mechanism should be in place for DCC internal costs, along the same lines as the information quality incentive {IQI) for network operators.
While in principle, we do not disagree with the inclusion of a similar sharing mechanism in the DCC's
contracts with its service providers, in practice we believe such matters are for the commercial consideration of the DCC licensee.

Question 87: Do you consider that it is appropriate to invite DCC licence applicants to propose KPis?

We believe DECC should propose the baseline KPis against which licence applicants are invited to bid. However, there may be merit in inviting applicants to suggest alternative KPis if they consider such KPis would better meet the needs of DCC's customers.

Question 88: Are the criteria for adoption of contracts discussed in paragraphs 8.8 and 8.9 are appropriate? Are there any additional criteria that should be included? Can quantitative thresholds for any or all of criterion be defined and, if so, how?

We would agree that the adoption criteria detailed in the Consultation document are appropriate and at this stage believe that additional criteria are not required.

However, we do not think it is possible to put quantitative thresholds on the criteria at this stage as they may differ depending on the Communications service provider appointed.

Question 89: Do you agree with our approach to identifying the guaranteed adoption volume of Foundation Stage smart metering systems? Are the factors we have identified the appropriate ones? What are your views as to the appropriate values of the various parameters identified in Table 8.1?

Yes. However, we believe that it is not possible to determine relevant parameters at this stage as they are inextricably linked to the commercial business case of communication providers which at this stage are unknown.

Question 90: Do you agree that DCC should be able to decide to adopt communication contracts associated with Foundation Stage smart metering systems in excess of the guaranteed adoption volume providing there is a net benefit to doing so? If so, does DCC need to be provided with additional obligations and incentives to encourage DCC to actively pursue such contracts and what factors should DCC take into account in making its assessments? Should we specifically provide for suppliers to compensate directly DCC for any costs incurred by DCC or its service providers in the adoption of additional contracts?

We agree that the DCC should be able to adopt communication contracts in excess of the guaranteed adoption volumes,provided a net benefit can be demonstrated and such adoption is of no detriment to the communication and data service provisions for other users. However, we are not persuaded that it is necessary to create specific DCC obligations in this area, as we believe the scope of the current proposals is sufficiently broad to make this implicit.

Whilst we think this approach will assist the DCC in achieving its cost efficiency KPI, there should be no obligation on suppliers to compensate the DCC directly for any costs incurred. Any associated costs should be considered within the net benefit analysis, where suppliers may wish to cover certain costs if that allows the net benefit case to be made.

Question 91: What in your view is the most appropriate option for allocating the guaranteed adoption volume across energy suppliers and on the mechanism, including timing and frequency, by which any allocation unused by one supplier should be redistributed to other suppliers?

We believe it is appropriate for the allocation of adoption volumes across energy suppliers to be based on market share at a fixed point in time.

Unused allocations should only be reallocated where a supplier indicates that it will not use its volume allocation. This approach will allow for periods where the number of installations may fall below the projected rate stated by a supplier.

Where a supplier has indicated that it will not use its allocation, we propose it should be redistributed on a pro-rata and market share basis.

Question 92: Do you have views as to when Foundation Stage communication contracts should be adopted?

Whilst the DCC adoption criteria are still to be fully defined by the Programme, we think that Foundation Stage communication contracts should be adopted as soon as practicable following DCC go-live. This should ensure that the period of time when dual processes are required is minimised.

However, migration processes should be closely managed during the initial period of DCC go-live, as

DCC capabilities will still be being proven against increasing meter volumes.

Question 93: Do you agree that a four stage process as outlined in paragraph 9.10 is appropriate for appointment of DCC?

Yes. We agree that the approach set out in the Consultation document is in accordance with recognised procurement best practice.

Question 94: Do you consider that applicants should commit to lodge a form of financial security at the invitation to apply stage that would take effect if the licence was granted to the applicant?

Yes, we agree that, in the event that applicants cannot demonstrate that they can achieve an investment grade credit rating, they should be required to make a commitment in their response to the invitation to apply, that they will provide an appropriate financial security, were they to be awarded the licence.

Further consideration needs to be given to the nature of the commitment, and in particular whether the applicant should provide any evidence that they would be able to obtain such a security. Failure to obtain such evidence could leave the Programme exposed to scenarios where applicants have assumed they will be able to secure credit facilities but at a later date are unsuccessful, ultimately leading to Programme delay. However, the level of evidence required should not impose an excessive financial burden.

Question 95: Do you agree with the proposals for dealing with changes to consortia including allowing changes up to but not beyond submission of responses to the ITA?

Yes. It is important that the applicant invited to apply is the applicant that enters into the application process. We believe that a change to a consortium's membership will render its application different to the one that had previously been qualified.

However, we recognise that there may be circumstances where a consortium fails to qualify, despite the apparent suitability of an individual member(s). In such events, we believe that an element of flexibility should be considered to allow individual parties to transfer from one consortium to another.

Nevertheless, such activity cannot be allowed to continue into the latter stages of the procurement process and we, therefore, support the principle that consortium membership must be finalised ahead of the ITA submission. This will reduce the risk of potential scenarios where the Programme has to undertake a further qualification exercise. To address such circumstances, we would suggest that an appropriate level of flexibility is considered to enable a party to transfer to another consortium ahead of the ITA stage commencing.

Question 96: Do you agree with the proposal for one overarching confidentiality agreement for each applicant group rather than individual confidentiality agreements for each member of an applicant group?

We are in general agreement with the proposals around confidentiality; however we still have some reservations concerning legal enforceability where consortium membership changes between the submission of the overarching agreement, at PQQ stage, and the application during the subsequent ITA stage.

We recommend appropriate legal advice is sought to ensure legal enforceability.

Question 97: Do you have any comments on the approach to clarifications and dialogue with prospective applicants?

Yes. We agree with the proposed approach to clarifications and dialogue set out at paragraphs 9.20 and 9.21 in the Consultation document.

Question 98: Do you agree with the proposed approach to the pre-qualification stage including the timescale, the information required and the assessment methodology and criteria?

Yes, we agree with the proposed approach set out in the Consultation document.

DECC may wish to consider the approach which will be taken where it is determined that there are too many applicants entering into the ITA phase.

We also think that further consideration should be given to whether a six-week period is sufficient to fully evaluate all responses should there be a significant number of applications.

Question 99: Do you have any comment on the documentation to be provided by applicants for the DCC licence? Is there any other information that you think should be made available to applicants?

Yes. We think that the proposed documentation to be provided to and the information to be provided by DCC licence applicants are sufficient.

Question 100: Do you agree with the proposed approach to the Invitation to Apply stage including the timescales, the assessment criteria and their weightings?

We agree with the proposed approach to the Invitation to Apply stage and the associated timescales, assessment criteria and weightings.

Given the role the DCC will play within the smart metering market, we recognise that it would not be appropriate for market participants to be members of a DCC licence application panel. We therefore accept that a DCC licence application panel comprises entirely DECC personnel.

We consider it vital for market confidence that the DCC application and licence award process is as transparent as possible. Ideally, we would prefer that appointees to the DCC licence application panel are directly employed by the Government. However, where a candidate has been engaged as a contractor, we think that clear provisions should be put in place to avoid the risks of actual or perceived conflicts of interest, necessitating that full disclosure conditions apply to such individuals.

Question 101: Do you agree with the proposals for appointing one or more preferred applicants as well as one or more reserve applicants to ensure that there are alternatives in the event that a preferred applicant withdraws or is disqualified?

We agree with the proposals for appointing one or more preferred applicants as well as one or more reserve applicants during the procurement process.

Where more than one applicant satisfies all necessary criteria, the process should consider these applicants preferred and automatically move them to the BaFO stage.

Question 102: Do you agree with the proposal for an optional best and final offer stage in the event that two or more applicants have similar positions?

Yes,we agree with this proposal.

Question 103: Are there any other specific issues that you think should be considered before grant of the licence?

No. We have not identified any other specific issues at this time.

Question 104: Do you agree that in the event of DCC losing its licence the Authority should have the power to fast track the appointment of a temporary DCC? If so, is eighteen months an appropriate maximum time period for the temporary DCC to hold a licence before a new DCC can be appointed via a full competitive process? Which elements of the licence application process could be accelerated or eliminated to ensure rapid appointment of a temporary DCC?

It should be an over-riding objective of the procurement process to avoid ever getting into the situation of revoking the DCC's licence. This implies that the DCC must have sufficient weight and resources that it can recover from the sort of shocks which might lead to revocation. On that basis, we do not see much merit in dwelling on what might happen post revocation: this should be left to the discretion of DECC and Ofgem in the light of the relevant circumstances.

Whilst we are supportive of Ofgem having suitable powers to fast track the appointment of a temporary DCC, we believe due process is necessary to ensure that there is an appropriate balance between value for money and speed of appointment. With regard to whether any elements of the licence application process may be accelerated or eliminated for a temporary appointment, we are of the view that competitive aspects should only be considered necessary where commercial terms are being altered; and would prioritise the maintaining of business continuity in such circumstances. Beyond that, the general requirements proposed in the PQQ stage should still apply.

Whilst we do not object to a temporary DCC being appointed for up to 18 months, we would anticipate that the process to appoint a new DCC could be undertaken quicker. Should unforeseen circumstances require the extension of procurement timelines; we would regard 18 months as the upper limit for contract award.

The principle of an operator of 'last resort' has been long established in the energy sector in order to protect both the consumer and the market. In its current context,a power to appoint an operator of

last resort is generally exercised whenever a retail business has failed; however we consider that the principle could equally apply to mitigating the risks associated with any future failure of a DCC provider.

ScottishPower
January 2012