

Smart Metering Implementation Programme
Regulatory Design Team
Department of Energy & Climate Change
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16 May 2012

**Smart Metering Implementation Programme: Consultation on the Draft DCC
Licence and Licence Application Regulations – Questions 15 - 18**

EDF Energy is one of the UK's largest energy companies with activities throughout the energy chain. Our interests include nuclear, coal and gas-fired electricity generation, renewables, combined heat and power plants, and energy supply to end users. We have over five million electricity and gas customer accounts in the UK, including residential and business users.

EDF Energy welcomes the proposed Licence Application Regulations, and considers that they provide a generally appropriate framework within which to conduct the procurement exercise. We would highlight at this stage that it will be critical to ensure that the procurement process will reflect the interest of the contracting parties/stakeholders, and in particular that it ensure an equitable distribution of commercial value from the activities in question between the prospective applicants and DCC users. As such, we strongly emphasise that the procurement exercise should be carried out with this objective in mind.

Our detailed responses are set out in the attachment to this letter. Should you wish to discuss any of the issues raised in our response or have any queries, please contact my colleague

Yours sincerely,

Attachment

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EDF Energy's response to your questions

- Q.15. For the initial licence application, do you agree with the Government's intention to apply the BAFO stage in all circumstances, so as to mitigate the risks associated with the changing requirements and improve the competitive outcomes?**

EDF Energy supports the proposed approach to apply the BAFO stage in all circumstances, so as to mitigate the risks associated with the changing requirements and improve the competitive outcome. This is especially important for the initial licence application as the requirements are more likely to change as the dialogue with bidders evolves.

- Q.16. Do you agree with the proposal not now to include a fast-track process to appoint a temporary DCC, but instead to rely upon the provisions for intervention to keep the DCC's service functioning whilst a standard licensing application process is conducted to appoint an enduring successor DCC?**

EDF Energy supports the proposed approach not to include a fast-track process to appoint a temporary DCC. As stated in our previous response to you in November 2011, EDF Energy considers that the imposition of a separate fast-track process is both unnecessary and cumbersome. The Special Administration Regime (SAR) is the logical vehicle for managing transition in the event that the DCC loses its licence. The Special Administrator will be charged with both managing the transitional operations and facilitating transfer to a new permanent entity.

The inclusion of a fast-track process would seem to duplicate this process, and may generate confusion regarding whether the SAR or fast-track regimes would apply in the event of a licence revocation.

- Q.17. Do you have any comments on the proposed competitive application process for the DCC licence and, in particular, on the Government's stated intention to operate an extensive 'best and final offer' stage for the first licence competition?**

EDF Energy supports the proposed approach and do not have any further comments, to those made in our November 2011 submission.

Q.18. Do you have any comments on the draft DCC licence application regulations and, in particular, whether they effectively implement the proposed competitive application process described in this consultation document?

EDF Energy have concerns with your statement (5.29) regarding financial security or alternative arrangements – *"It is likely that it will be included as one of the essential evaluation criteria specific to the proposal stage of the tender process, which an applicant must demonstrate in order to be considered for short listing to the next stage."*

Government is proposing that (5.28) "the applicant would need to provide clear evidence that the arrangements [in respect of financial security] committed to could be established shortly after licence grant". EDF Energy believes that the Licence Application Regulations should go further and explicitly set out that a failure to produce such evidence during the proposal stage would constitute a disqualification event, similar to the non-signing of a confidentiality agreement. As a consequence, what remedies are also intended to be put in place to ensure the successful bidder does produce such evidence within the three months of the licence being granted to them?

Otherwise, EDF Energy is broadly satisfied with the Regulations as they currently stand.

EDF Energy
May 2012