

# A Consultation on the Draft Licence Application Regulations – Response from Energy UK

16<sup>th</sup> May 2012

## OVERVIEW

The introduction of the Data Communications Company (the DCC) is a fundamental requirement for the operation of smart meters in Great Britain. As a licensed monopoly, it will be essential that the application process and regulatory framework for the DCC and its activities are relevant and appropriate.

Energy UK's members are in support of the progress made so far as part of the Smart Metering Programme and our response to the Draft Licence Application element of the Draft Licence Condition and Licence Application Consultation is set out below.

### Application Process

The DCC licence will be granted following an open and transparent competitive application process and the regulatory framework will be provided in the DCC Licence Application Regulations. This is consistent with the Energy UK position of the need for competition and transparency in the application process. We would expect industry involvement in the application process to ensure that industry impacts are taken into account and the optimum DCC solution for GB is delivered.

The process will involve four mandatory stages: qualification; proposal; best and final offer; and preferred bidder. As part of the process at least one reserve DCC applicant will be selected in case of unforeseen problems. This is consistent with the Energy UK's position. Best and Final Offer is a standard procurement practice and therefore we welcome this proposal to help applicants fine-tune their final applications.

## RESPONSES TO CONSULTATION QUESTIONS

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?

This is consistent with the Energy UK's position. Best and Final Offer is a standard procurement practice and therefore we welcome this proposal to help applicants fine-tune their final applications.

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?

Energy UK's members agree that either an intervention regime or a Special Administration Regime would better protect DCC User interests rather than the fast track approach previously consulted upon. It would appear wholly appropriate that a Special Administration Regime is utilised as this mirrors the existing approach that would be taken to ensure the continuing safe and effective operation of electricity networks. We recognise however that changes are required to Primary Legislation in order for this to be made available and that it is therefore necessary to consider amendments to the DCC Licence to support the use of a Management Order.

Energy UK believes that any reserve DCC candidate is likely to be best placed to step in for any interim period/regime if required. However, we believe this could introduce a risk that its appointment may have a

detrimental effect on any future competitive tender process, as being appointed as the interim DCC may give them an unfair competitive advantage. Finally, if an interim DCC has to be appointed; in order to smooth any transition period, consideration should be given as to whether it may be advantageous to allow some form of derogation to allow work to progress without the requirement to fulfill every Licence obligation as the interim DCC. If this proposed approach is to be considered then further work is required to identify which (if any) obligations could be 'relaxed' for the interim appointment period.

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?

As per our response to Q15 – This is consistent with the Energy UK's position.

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?

Energy UK has no further comment to make on the application regulations. Our members believe they will effectively implement the proposed competitive application process as described with full industry involvement ensuring that industry impacts are taken into account in any process.