

23 June 2021

To: OfgemDataServices@ofgem.gov.uk

Consultation on Data Best Practice guidance and Digitalisation Strategy and Action Plan guidance

Sustainability First and the Centre for Sustainable Energy are two charities working on sustainable energy and consumer issues. Over the past 3 years we have been leading the PIAG project looking at the public interest in access to smart meter data in which Ofgem has been closely involved. We have just completed Phase 2 of the project and our final report and all the supporting papers are available at www.smartenergydatapiag.org.uk. As a part of that work we have been considering the data held by DNOs and the links with the Data Best Practice guidance.

One of the key recommendations (Recommendation 3) in our final PIAG report¹ is that smart meter derived data that is held by the DNOs, once suitably aggregated / anonymised, should be considered as system data and subject to the “presumed open” principle in the Data Best Practice guidance.

As such we welcome the clear statement from Ofgem that the “DBP guidance is designed to ensure data is treated as an asset and used effectively for the benefit of consumers and the Public Interest” and have provided some brief thoughts below on two of the questions raised in the consultation.

Question 1: Do you have any recommended improvements to the Principles, Explanations, Techniques or Examples?

We welcome the inclusion of the principle that data assets must be treated as ‘presumed open’ which means that data must be made available for all people to use, unless the organisation responsible for handling the data provides evidence of a specific reason for needing to reduce its availability (e.g. to protect individuals’ rights to privacy).

What the guidance makes very clear – but does not come out in the principles – is that “privacy” concerns should not be treated as an excuse for not making data open. Instead, the companies should look hard to find ways to mitigate any privacy concerns so that the data *can* be released.

This is key in relation to smart meter data held by the DNOs. While this will have been aggregated / anonymised to a certain level to comply with DNO privacy plans this clearly does still leave some data that would rightly be considered personal where, for example, only one or two customers are on a feeder. As such all DNOs continue to treat smart meter derived data as personal data. However, the privacy concerns could clearly be addressed by further aggregation of the data.

In our view the principles could usefully be tweaked to align with the draft guidance and to bring out more clearly the need to proactively address privacy concerns rather than hide behind them.

¹ See **Final Report** - [PIAG 2. Final Report. May 2021](#) – and **Annex 1 - DNO privacy plans** – [PIAG 2 - Annex 1 - DNO Privacy Plans](#)

Question 5: Do you have a suggestion for improving our definition of Energy System Data and therefore the scope of data assets energy network companies must use in compliance with DBP?

We note the proposed definition for the scope of Energy System Data for use when energy network companies comply with DBP as being: “all Data Assets for which an entity is a Data Custodian as a consequence of it exercising its rights and obligations under a licence granted under section 6 (1) (1A) of the Electricity Act 1989 or section 7, 7ZA, 7A or 7AB of the Gas Act 1986”. 7AB of the Gas Act 1986”.

We welcome this definition in that, in our view, it clearly encompasses smart meter derived data. However, as our report highlights there is a case for making this unambiguous by explicitly addressing the question of smart meter data, for example in your decision following this consultation.

We also highlight in our report the need to address situations where there may be conflicting obligations such as the restrictions under the DAPF on DNOs using the data for any purpose other than those set out in its Privacy Plan. Again, we have recommended that Ofgem clarify how this interaction works and whether DNOs would need to resubmit Privacy Plans or whether making data open in compliance with the DBP becomes in effect a regulated use of the smart meter data.

Yours faithfully

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