

**To: Smart DCC Limited**

**Gas Act 1986 – Section 23(1)(a)  
Electricity Act 1989 – Section 11A(1)(a)**

**Modification of the conditions of the smart meter communication licence**

1. The licensee to whom this document is addressed is the holder of a smart meter communication licence granted or treated as granted under section 7AB(2) and (4) of the Gas Act 1986 ('the Gas Act') and section 6(1A) and (1C) of the Electricity Act 1989 ('the Electricity Act') ('the DCC Licence').
2. Under section 23(2) of the Gas Act and section 11A(2) of the Electricity Act the Gas and Electricity Markets Authority ('the Authority')<sup>1</sup> gave notice on 28 May 2021 ('the Notice') that we propose to modify the conditions of the smart meter communication licence. We stated that any representations to the modification proposal must be made on or before 25 June 2021.
3. A copy of the Notice was sent to the Secretary of State in accordance with section 23(4)(b) of the Gas Act and section 11A(4)(b) of the Electricity Act, and we have not received a direction that the change should not be made.
4. We received 3 responses to the Notice, which we carefully considered. We have placed all non-confidential responses on our website. Our response to these comments is set out at Schedule 1. The modifications to the smart meter communication licence are set out in Schedule 2.
5. We are making this licence change to ensure compliance by the licence holder (known as the Smart Data Communications Company (DCC) Limited) with the provisions we are proposing to place in the Balancing and Settlement Code (BSC) that will place obligations on various parties to ensure they comply with and operate in accordance with the governance and management of Market-wide Half-Hourly Settlement (MHHS) implementation, as well as with obligations in respect of programme assurance. The provisions we are proposing to place in the BSC are in line with our MHHS decision (April 2021)<sup>2</sup> and decision on implementation and governance arrangements for MHHS (August 2021).<sup>3</sup>
6. The effect of the modification, once we make decisions on and include the new obligations in the BSC, will be to ensure that the DCC complies with any of the new obligations that are placed on it.
7. Where an application for permission to appeal our decision is made to the Competition and Markets Authority (CMA) under section 11C of the Electricity Act and section 23B of the Gas Act, Rule 5.7 of the Energy Licence Modification Appeals: Competition and Markets Authority Rules<sup>4</sup> requires that the appellant must send to any relevant licence holders who are not parties to the appeal a non-confidential notice setting out the matters required in Rule 5.2. The attached Schedule 3 provides a list of the relevant licence holders in relation to this modification. Section

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<sup>1</sup> The terms "the Authority", "we" and "us" are used interchangeably in this document.

<sup>2</sup> The [MHHS Decision, Full Business Case and Final Impact Assessment](#) is published on our website.

<sup>3</sup> Our [MHHS implementation decision document \(August 2021\)](#) is published on our website.

<sup>4</sup> CMA70 [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/655601/energy-licence-modification-appeals-rules.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/655601/energy-licence-modification-appeals-rules.pdf)

11A(10) of the Electricity Act and section 23(10) of the Gas Act sets out the meaning of 'relevant licence holder'.

Under the powers contained in section 23(1)(a) of the Gas Act and section 11A(1)(a) of the Electricity Act, the Authority hereby modifies the licence conditions of the smart meter communication licence in the manner specified in attached Schedule 2. This decision will take effect from 6 October 2021.

This document is notice of the reasons for the decision to modify the smart meter communication licence as required by section 38A(2) of the Gas Act and section 49A(2) of the Electricity Act.



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**Rachel Clark**  
**Deputy Director, Retail**  
**Duly authorised on behalf of the**  
**Gas and Electricity Markets Authority**

**11 August 2021**

## **Schedule 1: Summary of responses to our statutory consultation**

All three respondents to the statutory consultation were supportive of the proposed changes to the smart meter communication licence.

One respondent stated that the reason for its support is that it is necessary for DCC to be subject to the same obligations as the other programme parties to ensure the effective and timely implementation of MHHS. This respondent also stated that, because of the key role of Smart DCC Limited in the delivery of the central DCC systems, Smart DCC Limited needs to comply with the MHHS implementation provisions that Ofgem plan to put in place in the BSC.

All of the respondents raised concerns or made suggestions about how the proposed licence change ought to fit into the broader governance framework. There were concerns about how the obligations to be placed in the BSC and the obligations contained in the Smart Energy Code (SEC) would interact over time. Respondents considered that Ofgem should have strong oversight and governance to resolve conflicts between these obligations, including an arbitration role.

A respondent agreed that the existing duty to cooperate licence obligation on DCC could work alongside our proposed licence change but sought clarification within the BSC code obligations where DCC is expected to take all reasonable steps to deliver MHHS changes. This respondent noted that we do not intend to make the DCC a BSC party and wanted sight of the non-compliance processes that will provide for effective, efficient, timely resolution of conflicts of interest.

One respondent said that delivery of the required smart metering communications changes may prove lengthy and conflict with the time constraints for delivering MHHS implementation in line with the transition plan. In their view, the timescales needed to deliver MHHS should be tested with the DCC for an early indication of risks, scalability and costs, as the DCC provision of an updated smart service will be key to the success of the MHHS programme and so that parties can meet their obligations.

Another respondent had concerns about the interaction of the BSC and SEC obligations and questioned how DCC would resolve conflicts without impacting its service to users through late programme delivery, sub-optimal service operation, or additional costs. In their view, there is a need for strong oversight and governance from Ofgem to ensure that conflicts are resolved and that the DCC delivers to time, specification and cost.

A respondent stated that it is not clear how conflict between the MHHS solution and changes delivered under the smart meter transition programme would be managed. For example, MHHS implementation may result in changes to the end-to-end smart metering infrastructure only some of which may be in the DCC's control and so DCC would be relying on other parties to deliver workable solutions. This respondent suggested that Ofgem give this further consideration.

One respondent expressed a desire to see a greater consumer focus at the forefront of MHHS to protect the interaction and experience of the consumer and safeguard access to smart services for consumers and, by extension, to the supplier.

A respondent asked how the costs of DCC activities in relation to its BSC obligations would be recovered, eg via BSC cost recovery or an alternative mechanism.

Another respondent supported the DCC licence change but considered that it would be as easy to place the obligation to comply with the BSC obligations on DCC by amending the SEC to which the DCC is a party.

## Ofgem Response

The MHHS Governance Framework has been designed to ensure the effective and timely implementation of MHHS. Each MHHS Participant will be obliged by section C12 of the BSC to comply with Ofgem's directions. This includes the DCC. In addition, we are modifying the DCC's licence to provide additional clarity and to ensure it has strong incentives to comply fully with the MHHS programme. The DCC has a key role in contributing to delivery of MHHS and the licence obligation complements, in a transparent way, the detailed code obligations we are putting in place.

The governance framework includes arrangements for cross-code coordination to identify and manage any conflicts between BSC and SEC obligations, and generally to ensure effective and timely delivery. A Cross-Code Advisory Group (CCAG) will be established with representatives from other affected codes, including SEC, to ensure that any necessary changes to other codes are identified and progressed in a timely and effective manner. The CCAG will report on progress and any issues to the Programme Steering Group (PSG) to ensure full visibility and transparency across the Programme of progress on co-ordinated code work. The CCAG will operate, as far as possible, by seeking consensus. Where consensus cannot be reached, matters can be escalated for guidance to the PSG or the Design Authority. The PSG will have representatives from across the industry, including DCC, and Ofgem will be present as an observer. If consensus can still not be reached, they can seek guidance from Ofgem. We believe that these arrangements will ensure that all code change activity is planned and executed in a thorough and coordinated way with input from relevant parties, including the DCC. This will help build confidence in the end-to-end approach and design.

It is for the DCC to manage any interactions with changes to smart metering infrastructure itself and through its own agents and any third parties contracted to do so. The cross-code coordination and roles in groups within the MHHS Governance Framework ought to ensure that DCC is actively involved in addressing and resolving interactions and managing cost and time risks in line with its obligations in code and licence.

In April 2021, we published the transition plan for implementing MHHS.<sup>5</sup> This plan reflected previous discussions with the DCC. So far as any risks relating to the DCC's timescales are concerned, we note the SRO will conduct a re-baselining exercise leading to the publication of a revised MHHS transition plan. The SRO will consult on the timing of this exercise but our expectation, following responses to our consultation on MHHS implementation, is that it will take place in spring 2022. Thereafter, we expect industry (and the SRO in particular) to keep the plan under review throughout the transition.

Any subsequent proposals in relation to the transition (whether or not instigated by the DCC) will come to Ofgem for decision if they meet any of the intervention thresholds set out in our MHHS Implementation Decision Document.<sup>6</sup> More generally, Ofgem as Programme Sponsor will continue to have an important oversight function. We will receive regular reports from the MHHS Implementation Manager and from the Independent Assurance Provider (IPA) who will have responsibility for making recommendations to remedy any issues or failures that it identifies. We may direct parties to take action in response to those reports.

These powers should provide a powerful incentive for the DCC (and others) to comply with programme implementation. In addition, in line with our Enforcement Guidelines, it will be open to us to take compliance and enforcement action in relation to any potential failure by the DCC (or any other party) to comply with the obligations in its licence, and in the relevant codes, should we consider it necessary to secure a timely transition to MHHS.

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<sup>5</sup> The transition timetable is a subsidiary document to our [MHHS Decision \(April 2021\)](#) and available on our website.

<sup>6</sup> Our [MHHS implementation decision document \(August 2021\)](#) is published on our website.

In respect of DCC's costs in relation to the activities it is to undertake to comply with its BSC obligations, we have stated in our MHHS decision that DCC will be required to develop a business case in advance against which it will report at programme level. This approach will make the costs it incurs more visible. As part of the annual Price Control process, we will review DCC's MHHS implementation costs to ensure they have been incurred economically and efficiently after the end of the regulatory year. For the implementation phase of MHHS, this will be done against a zero baseline basis, meaning that all costs should be justified.

## Schedule 2

### MODIFICATION TO THE SMART METER COMMUNICATION LICENCE

In Licence Condition 21 (“Roles in relation to Core Industry Documents”) in Chapter 6 of the Licence, insert the following text after Part G:

#### **“Part H: Market-wide Half hourly Settlement Implementation”**

- 21.17 Although the Licensee is not required to become, and shall not be regarded as, a party to the Balancing and Settlement Code, the Licensee shall comply with the obligations expressed to apply to it (either specifically or generically as a category of participant) under the section titled ‘Market-wide Half Hourly Settlement Implementation’ of that Balancing and Settlement Code.
- 21.18 Paragraph 21.17 has effect from the date the Authority specifies in a direction issued to the licensee in the event that the Balancing and Settlement Code is modified to include the section referenced in paragraph 21.17 titled ‘Market-wide Half Hourly Settlement Implementation’ of that Balancing and Settlement Code.”

### **Schedule 3**

The relevant licensee for the purposes of this licence modification is:

Smart Data Communications Company (DCC) Limited