



Making a positive difference
for energy consumers

The Data Communications
Company
2nd Floor Ibex House
42-47 Minories
London
EC3N 1DY

Tel: 020 7901 7000
Email: DCCregulation@ofgem.gov.uk

Date: 28 February 2023

Dear Company Secretary,

Smart Meter Communication Licence¹ ("the Licence") Direction to amend the Service Charges in respect to price control determinations for Regulatory Year (RY) 2021/22.²

Part D of Condition 19 of the Licence sets out the procedure for amending any of the Service Charges. Conditions 19.9 and 19.10 of the Licence prohibit Smart DCC Ltd ("the Licensee") from amending its Service Charges in respect of any Agreement for Services unless it has given Notice in the specified manner to the Gas and Electricity Markets Authority ("the Authority"). That Notice must be given not less than three months before the date when the Licensee proposes to amend its Service Charges,³ except where the Authority otherwise consents.⁴

Condition 19.11 allows the Licensee to only amend Service Charges more than once in a Regulatory Year when the respective requirements are met. In particular, Condition 19.11 (b) of the Licence provides the Authority with the power to direct the Licensee to make an additional amendment to the Service Charges, as a consequence of a decision made by the Authority under Part B of Condition 37 (Assessment of Mandatory Business costs) to exclude certain costs from any future calculations of the Licensee's revenues.

¹ The Smart Meter Communications Licences granted to the Licensee pursuant to Section 7AB(2) and (4) of the Gas Act 1986 and Sections 6(1A) and (1C) of the Electricity Act 1989 (such licences together referred to as 'the Licence').

² All terms used in this Notice shall have the meaning given to them under the Licence, unless expressly stated otherwise.

³ Defined under Licence Condition 1.4 of the Licence

⁴ Pursuant to condition 19.10 of the Licence

Licence Condition 19.13 requires that before making any amendment of the Service Charges pursuant to Part D of the Licence that the Licensee must give the Authority a revised Charging Statement that sets out the amended Service Charges and specifies the date from which they will have effect.

On 22 December 2022, the Licensee submitted Notice to the Authority of DCC's Service Charges for the Regulatory Year 1 April 2023 to 31 March 2024.

On 28 February 2023, the Authority made a decision under Part B of Licence Condition 37 to exclude certain costs from any future calculations of the Licensee's Allowed Revenue. The Authority determined an adjustment to the Baseline Margin Values specified in Licence Condition 36 Appendix 1, which has the effect of increasing the total sum by £2.331 million (in RY 2013/14 prices) over Regulatory Year 2023/24. The Authority determined the Baseline Margin Performance Adjustment term ($BMPA_t$) in RY21/22 to take a value of negative £1.404 million⁵ due to DCC's performance under the Operational Performance Regime ($BMOPA_t$ term). There were no projects to be assessed this year, therefore, the value for the term $BMPPA_t$ was 0. The Authority also determined an adjustment to the External Contract Gain Share term in accordance with Licence Condition 39, which has the effect of increasing Allowed Revenue by total of £11.889 million for Regulatory Year 2023/24.

In accordance with Licence Condition 19.11 (b) the Authority hereby directs the Licensee to make an additional amendment to the Service Charges for the Regulatory Year 1 April 2023 to 31 March 2024 to reflect our determinations under the Price Control decision for Regulatory Year 2021/22 published on 28 February 2023, and according to Licence Condition 19.12 to submit the revised Charging Statement to the Authority prior to it taking effect.

Yours sincerely



Neil Lawrence

Director, Retail

Duly authorised on behalf of the Gas and Electricity Markets Authority

28 February 2023

⁵ Please note that, unless otherwise specified, values in this document should be understood to be in nominal prices

Direction given by the Gas and Electricity Markets Authority (the “Authority”) pursuant to Licence Condition 19.11 (b) (Charging Statement for Service Charges) of the Smart Meter Communication Licences granted pursuant to Sections 7AB(2) and (4) of the Gas Act 1986 and Sections 6(1A) and (1C) of the Electricity Act 1989 to Smart DCC Ltd (“the Licence”).

Whereas:

1. Smart DCC Ltd⁶ (the “Licensee”) is the holder of the Licence.
2. On 22 December 2022 the Licensee published its Service Charges for Regulatory Year 2023/24. These will be in effect between 1 April 2023 and 31 March 2024.
3. Under Condition 19.11 (b) of the Licence, the Authority may direct the Licensee to make an additional amendment to the Service Charges as a consequence of a decision made by the Authority under Part B of Condition 37 (Assessment of Mandatory Business costs) to exclude certain costs from any future calculations of the Licensee’s revenues.
4. On 28 February 2023 the Authority gave its Price Control decision in relation to Regulatory Year 2021/22 (the “2021/22 Price Control”). This found that:
 - a. £6.803 million of Internal Costs and a proportion⁷ of External Costs were not economically and efficiently incurred (the “Unacceptable Costs”);
 - b. the proposed Relevant Adjustment to the Baseline Margin Values specified in Licence Condition 36 Appendix 1 shall be amended such that those Values are adjusted by increasing the total sum of £2.331 million (in RY 2013/14 prices) over RY 2023/24, (the “Baseline Margin Adjustment”);
 - c. DCC’s Baseline Margin Performance Adjustment term (BMPA_t) in RY21/22 should have a value of negative 1.404 million, due to DCC’s performance under the Operational Performance Regime; and
 - d. the proposed Relevant Adjustment to the External Contract Gain Share term in accordance with Licence Condition 39, which has the effect of increasing Allowed Revenue by total of £11.889 million for RY 2023/24.

⁶ Registered as a Company in England and Wales under Company Number 08641679.

⁷ Please note that due to commercial sensitivity and confidentiality reasons, the amount of Unacceptable External Costs has been redacted from this Direction.

5. As a consequence of the 28 February 2023 Price Control decision the Authority directed the Licensee to:
 - a. exclude the Unacceptable Costs from the calculation of its Allowed Revenue under Licence Condition 36. This affects the value of the Allowed Revenue for Regulatory Year 2021/22, which in turn affects the calculation of Allowed Revenue for subsequent Regulatory Years;
 - b. reflect the Baseline Margin Adjustment in the calculation of Allowed Revenue in Regulatory Year 2023/24;
 - c. reflect the Baseline Margin Performance Adjustment in the calculation of Allowed Revenue in Regulatory Year 2023/24; and
 - d. reflect the proportion of the External Contract Gain Share adjustment in the calculation of Allowed Revenue in Regulatory Year 2023/24.
6. The Authority notes that the Licensee has not been able to adjust its Service Charges for Regulatory Year 2022/23 to reflect these Price Control decisions of the Authority. The Authority therefore considers that direction should be given to the Licensee to amend the Service Charges in Regulatory Year 2023/24 to reflect these decisions.
7. The Authority also requests the Licensee to submit the revised Charging Statement that sets out the amended Service Charges and specifies the date from which they will have effect before making any amendment of its Service Charges pursuant to Part D of the Licence.

Now the Authority directs as follows:

8. Pursuant to Licence Condition 19.11 (b) of the Licence, the Licensee must make additional amendments to the Service Charges for Regulatory Year 2023/24 to reflect the outcome of the Authority's decisions in respect of the 2021/22 Price Control.
9. Pursuant to Licence Condition 19.13 the Licensee must submit a revised Charging Statement to the Authority which sets out the amended Service Charges and specifies the date from which they will have effect before making any amendment of its Service Charges pursuant to Part D of the Licence.
10. Pursuant to Licence Condition 19.12 this direction shall have effect on and from the date it is issued.

11. This document also constitutes a notice under section 38A of the Gas Act 1986 and section 49A Electricity Act 1989 of the reasons for the decision of the Authority to give this direction pursuant to the Condition.

Dated: 28 February 2023

A handwritten signature in black ink, appearing to read 'Neil L', with a stylized flourish at the end.

Neil Lawrence

Director, Retail

Duly authorised on behalf of the Gas and Electricity Markets Authority