



The voice of the energy industry

Ayena Gupta
Ofgem
10 South Colonnade
Canary Wharf
London
E14 4PU

Sent via e-mail: DCCregulation@ofgem.gov.uk

22 December 2022

Energy UK Response to Ofgem consultation on DCC Review Phase 1

Dear Ayena,

I am pleased to attach Energy UK's response to Ofgem's consultation. It is not confidential.

If you have any questions, please do not hesitate to contact me on 020 7747 2963 or daisy.cross@energy-uk.org.uk

Yours sincerely

Daisy Cross
Head of Smart Programme
Energy UK

Energy UK Response to Ofgem consultation on DCC Review Phase 1

22 December 2022

About Energy UK

Energy UK is the trade association for the energy industry with over 100 members - from established FTSE 100 companies right through to new, growing suppliers, generators and service providers across energy, transport, heat and technology.

Our members deliver nearly 80% of the UK's power generation and over 95% of the energy supply for 28 million UK homes as well as businesses.

The sector invests £13bn annually and delivers nearly £30bn in gross value - on top of the nearly £100bn in economic activity through its supply chain and interaction with other sectors. The energy industry is key to delivering growth and plans to invest £100bn over the course of this decade in new energy sources.

The energy sector supports 700,000 jobs in every corner of the country. Energy UK plays a key role in ensuring we attract and retain a diverse workforce. In addition to our Young Energy Professionals Forum, which has over 2,000 members representing over 350 organisations, we are a founding member of TIDE, an industry-wide taskforce to tackle Inclusion and Diversity across energy.

Introduction

This is the Energy UK response to Ofgem's [DCC Review Phase 1 consultation](#). Our response is not confidential. Energy UK welcomes the opportunity to respond to this consultation and we thank Ofgem for its engagement with us and our members as it developed its thinking on the future regulatory arrangements for DCC. We are also grateful Ofgem has considered points we have raised previously regarding DCC, including as part of the annual Price Control review consultation process. We note that this consultation is extensive and cross-cutting, so we would expect Ofgem to consider our responses to the consultation questions in a holistic way, rather than /to consider each answer individually.

We look forward to working with Ofgem and our members to deliver a fit for purpose regulatory framework that benefits of consumers, DCC Users and the wider ecosystem. It is critical that Ofgem has extensive engagement with energy suppliers and DCC Users in its Phase 2 work as detailed consideration is needed to assess whether an Option A or Option B is appropriate for a future DCC regulatory model. Looking ahead, we would also welcome Ofgem's consideration on its approach to a future procurement of a DCC, with representatives of energy suppliers (as key funders of DCC) being part of Ofgem's decision making, for example via a potential industry procurement panel established by Ofgem to support Ofgem's decision making.

Energy UK Response

Alternative Regulatory Models (Chapter 3)

Q1: Which of the two broad models do you think we should adopt as the basis for our design of the future regulatory framework for DCC and why? What are the features of your preferred option that lead to you to this choice?

While Ofgem has set out initial observations from its engagement with stakeholders, at this stage Energy UK is not yet ready to put forward a preferred model. Our preferred option will depend on understanding further detail surrounding each model.

For example, if it were absolutely clear that the Model A option included a move to an Ex-Ante Price Control framework as well as DCC Users having more input into key financial decisions (for example, by having at least one DCC User on the DCC Board with influence over on key financial decisions), then it would be much easier to comment on overall preferences (notwithstanding what that preference would be).

It is clear that there are merits to both models, given that both (or slight variants of them) are already in use within the industry. However, as it stands, choosing one model over the other without more certainty around the detail is not possible.

The existing model, a third party investor-controlled DCC Board (Model A), could potentially deliver the right outcomes, if coupled with:

- a suitable ex-ante Price Control framework that allows the DCC Licensee an appropriate margin, but also compensates DCC Users and/or consumers where DCC service performance fails to meet specified service standards. This might be achieved by introducing Guaranteed Standards of Service similar to those that apply to electricity and gas Distribution Network Operators; and
- increased DCC User influence in relation to financial decisions. Here, the appointment of DCC Users as DCC Board members would help ensure that DCC User and consumer impacts are fully understood and considered before decisions are made.

Equally, it could be argued that a non-profitmaking, stakeholder-controlled or independent DCC Board (Model B) could potentially deliver the right outcomes too. However:

- there needs to be recognition that establishing this model is not as simple as setting up a new company and transferring existing DCC resource to the new organisation.
- Energy UK's members all share the view that the costs of setting up a Model B organisation would be significant – and in the current financial climate, unwelcome, especially when as an industry, avoiding unnecessary cost is the number one priority in order to minimise the costs passed on to consumers.

That aside, there are several useful overarching principles that Energy UK and its members believe should underpin a future DCC model:

- Energy UK and its members believe that the regulatory framework surrounding the DCC should mirror, wherever possible, the framework of those existing Network Operators in terms of cost control (using an ex-ante Price Control framework), and performance accountability (the introduction of Guaranteed Standards of Service). The key purpose of DCC is to provide a stable, scalable and secure network infrastructure to support the rollout and ongoing operation of smart meters across GB. As such, DCC shares many of the characteristics of existing electricity and gas Network Operators. To support a clearer performance accountability regime, Ofgem must give consideration in its Phase 2 work that any recompense due to DCC Users as a result of unacceptable service performance delivery comes off the DCC Licence holder's bottom line (i.e. it is a direct reduction to the licence holder's margin, and not simply recharged back to DCC Users) and that Ofgem considers the risk that prospective bidders may seek to include additional risk premiums in their bids to mitigate for this.

- DCC must consistently demonstrate strong contract management capability that encompasses the overall objective of delivering value for money for DCC Users, delivers on existing and changing User requirements and enables DCC to successfully negotiate change to existing contracts with Service Providers when it is clear there are significant issues with those contracts (for example, where it is clear and obvious the expected/contracted service levels are not, or cannot be met).
- The overall infrastructure must be stable, scalable and secure in order to meet DCC Users' needs for the short and long term.
- The DCC Licensee and its Service Providers must be accountable:
 - The current DCC Licence and SEC framework does not penalise the DCC or compensate DCC Users for sub-optimal delivery of services, or issues that result in DCC Users incurring material unexpected and/or unnecessary costs. The new DCC Licence framework must include a mechanism that effectively compensates DCC Users or enables DCC Users to recover (via a charge-back mechanism) from the DCC Licence holder any material costs incurred due to sub-optimal service delivery.
 - In addition, further consideration needs to be given to the introduction of service standards for consumers (i.e. end users, not DCC Users). This would be similar to the Guaranteed Service Standards applicable to electricity and gas Distribution Network Operators. We would expect consumers to be compensated in situations when failures by the DCC (and/or its Service Providers) result in consumers being unable to receive a truly smart service (e.g. WAN connectivity failures and/or CH issues affecting connected devices on the HAN).
 - As noted in our response above, it is important that Ofgem, as part of its Phase 2 work, considers how the future framework can ensure that any recompense due to DCC Users as a result of unacceptable service performance delivery comes off the DCC Licence holder's bottom line and that Ofgem considers the risk that prospective bidders may seek to include additional risk premiums in their bids to mitigate for this.
- DCC's core mandated business should be to deliver smart meter connectivity, and to facilitate the provision of rich data from smart meters to facilitate the Net Zero transition. Any additional services should only be explored by DCC when there is comprehensive evidence provided by DCC to confirm that provision of those services will not be at the detriment to the DCC's core mandatory business activities; DCC Users need to have the ability to scrutinise this evidence from DCC.
- The role of Ofgem (as the regulatory/enforcement body) and BEIS/Government (as the key 'policy setter') in any future framework needs to be clearly defined. Specifically, it is important that the future DCC Licence sets out clear and enforceable obligations on the DCC in order to avoid the need for any ongoing BEIS/Government intervention against the licensee's key business activities including how DCC manages its Service Providers.
- The costs of making changes to facilitate how the DCC Licence framework is adopted and operated on an ongoing basis must be kept to a minimum. The costs of establishing and operating DCC (which are already being passed on to consumers) have increased significantly since the first award of the DCC Licence. With a primary duty to protect the interests of consumers, Ofgem must therefore ensure that any costs associated with changing the DCC Licence framework are kept to a minimum in order to prevent unwelcome additional costs being passed on to consumers.

Q2: Do you agree with the way we have applied the principles in our analysis of the options? Please state your reasoning.

The existing list of the principles and how they have been applied is broadly supported by members, although one key principle is missing from the Ofgem list when assessing any future options. We therefore suggest Ofgem includes a new key principle of "ensuring that any disruption to DCC services is minimised". This is especially relevant given how important the period from 2024/2025 onwards is (e.g. including completing the existing smart meter rollout, re-procuring the DSP and transitioning from 2G/3G to the 4G communications network).

Q3: With regard to Option A, to what extent do you think that changes to the DCC licence alone could provide incentives that result in a third party investor-controlled DCC Board providing the quality and cost of service that DCC customers require, and managing DCC effectively?

It is important that any changes to the DCC Licence are supported and aligned with SEC changes to ensure robust scrutiny of DCC quality of service and costs. Furthermore, this needs to be underpinned by a strong SEC Enduring Governance framework that holds DCC to account under this option.

Q4: With regard to Option B, how effective do you think a non-profitmaking, stakeholder-controlled or independent DCC Board would be in providing the quality and cost of service that DCC customers require, and managing DCC effectively?

While there is merit in this model and we are aware of existing industry codes examples that operate using such a model (or a variant of it), it is difficult to assess the effectiveness in delivery at this stage via either a non-profitmaking, stakeholder-controlled or independent DCC Board given the potential variants that could be taken forward.

Q5: Do you have any views on the details of Options A and B?

There are no specific views at this stage, as this area is linked to our response to Question 1 above (in particular the points relating to the key overarching principles that need to be in place for a future DCC).

Transition Period Considerations (Chapter 4)

Q6: What are your views on the options identified and the associated trade-offs for a possible licence extension?

While Energy UK members broadly agree with the transition options presented by Ofgem (no extension; three years extension; or six years extension); there are of course alternative options for other extension periods within that maximum six years allowed – these alternative options could be one, two, four or five years extensions). However, until decisions are made from this first-phase consultation (which must set out more detail on what the future Licence/regulatory framework entails), Energy UK and its members are unable to fully assess what (if any) possible licence extension period might be required.

That said, Energy UK notes that the DCC Licence renewal date currently sits in the middle of a period of significant evolution of the DCC eco-system noting that both the DSP contract renewal, and that the transition to a 4G communications network for the Central and South CSP region is set to happen in 2025. These factors must be key considerations in any licence extension period decision in order to minimise impacts on DCC Users.

Therefore a sequential approach could run as follows:

1. defining the change required.
2. exposing that detail to industry.
3. driving what length the transition needs to be (including the preparation for any transition).

While there is recognition of the complexity involved, the key principle for consideration of any extension period is to ensure costs and disruption for DCC Users are minimised.

Q7: What are your views on the assumptions we have made for Options A and B transition periods?

Energy UK has specific points to make on the assumptions for both options:

- The proposals assume a 'happy-path scenario' for both options with no risks explicitly called out. Previous experience of establishing and operating the DCC ecosystem would suggest a 'happy-path scenario' cannot be assumed. We would suggest Ofgem thinks more broadly about delayed transition and other potential programme risks.

- Given the current issues around DCC's systems stability (as explicitly called out by Ofgem in this consultation), it is unclear how there could be genuine value in a competitive retender (for Option A) as it would be difficult to see any prospective bidder interested in submitting a tender without including significant risk premiums on their bid, which would make the bid more expensive.
- The handover period suggested for Option B appears shorter than expected for such a significant change in the regulatory model.
- For Option B, there appears to be an assumption that existing DCC staff would simply move across to the new entity, without any consideration or expectation that some staff may want to remain with DCC's parent organisation, Capita (on the basis that Capita's wider employee benefits are likely to be greater than those that could be offered by a new industry-owned, not-for-profit organisation).
- Regardless of any option taken for the regulatory model, we expect that the *current* DCC's Service Provider contracts are novated to the *new* DCC. Crucially, Energy UK and its members believe that the current DCC Licensee (Capita) should not be responsible for negotiating contracts in the run up to (for example, within 6 months of the current licence expiry date), and especially during any transition period if the current DCC Licensee is unsuccessful for 2025 onwards.
- We note that the MHHS programme is due to go live around the same time as the re-tender of the DCC Licence (or potentially during the transition period if the MHHS programme go-live date is pushed further to the right). As this is a major programme that the DCC Licensee will be involved in, Energy UK and its members suggest this needs to be a consideration so that any changes to the DCC framework and associated transition periods do not create a risk to the success of the MHHS programme.

Q8: In your view, which of the considerations we have identified for the transition period are the key dependencies and why? Are there any other dependencies that should be considered?

We believe the key dependencies are the DCC CH&N programme (and related 2G/3G sunseting) and the DCC's DSP re-procurement programme given how important they are to the operation of the smart metering infrastructure. It is essential that neither of these major programmes disrupt DCC Users' (especially energy suppliers) ability to meet their rollout obligations, and ongoing services to existing customers with smart meters already installed. It is important Ofgem specifically calls out the DSP re-procurement programme as a critical dependency as it is not currently captured in the dependencies list, especially as DCC will need to manage such a complex programme alongside the CH&N programme while also being subject to a regulatory framework change as part of the DCC Licence review work.

The other dependencies, highlighted by Ofgem (such as the BEIS transition and energy code reform) are all relevant but we see these as less of a dependency compared to those key ones mentioned above.

Two further areas related to the BEIS transition item are worth highlighting as they are not considered by Ofgem:

- It is unclear what BEIS' plans are in respect of its wider Net Zero transition ambitions e.g. if BEIS were to instruct DCC to facilitate or deliver new services which do not currently sit within DCC's core mandated business. Clearly, any such instruction in the run-up to, or during any transition period will be a major distraction and will add significant complication and risk to any transition activity. A key principle must be agreed between Ofgem and BEIS that unless the circumstances are of an emergency nature, BEIS must not direct the DCC (via Section 88 Powers in the Energy Act or SEC Section X5 Powers) to begin any activity for new/additional services until the transition period has ended.
- There is an assumption from industry that BEIS may want to stay involved in the SMIP for an overall oversight role with respect to the DCC's CH&N programme delivery. Confirmation of this (or otherwise) would provide further helpful clarity when assessing and commenting on future DCC models.

Q9: What is your view on implementing incremental changes to the regulatory framework during a transition period? Which parts of the regulatory framework would be most suitable for such changes and why? Do you have suggestions for their implementation?

Energy UK and its members would support consideration of implementing incremental changes to the regulatory framework during a transition period. As noted in our response to Question 7 above, we are unclear on how Option A could be appealing to another bidder without that prospective bidder applying significant risk premiums to their bid given the current stability issues, which would make it more expensive.

Should Option B be taken forward, changes should be made to the current regime to deliver a smooth transition in the long term. The following are examples of changes that could be made to the current regime that could help in the short to medium term as part of the transition:

- An immediate move to an ex-ante Price Control framework
- Inclusion of DCC User representation (including at least two energy supplier and one consumer representative in particular) to the current DCC Board.
- Supporting better contract management by reviewing and strengthening existing DCC's Service Provider contracts and delivering transparency for DCC Users on the key content for these contracts, especially as energy suppliers could provide DCC with commercial and legal expertise support when addressing Service Provider challenges.

These suggested changes would need to be assessed against key principles, such as: avoiding unnecessary complexity and significant costs; taking a pragmatic approach; and looking to minimise disruption to DCC Users where possible.

Future Role of DCC (Chapter 5)

Q10: Do you agree with our proposed scope of future DCC's Core Mandatory Business?

Energy UK agrees with Ofgem's scope of future DCC's Core Mandatory Business.

Q11: Should the future framework permit DCC to carry out any services additional to its Core Mandatory Business? What are your views on the concepts of 'mandated services', 'ancillary services' and 'additional services to users'?

Future framework permitting DCC to carry out additional services to its Core Mandatory Business:

Energy UK and its members have discussed this issue at length. We have concluded that there have been past examples whereby the DCC has been instructed to expand its Core Mandatory Business activities at a time when the DCC's infrastructure and core services were clearly unstable, and not delivering a level of service for SMETS2 meters that was required by DCC Users.

While Energy UK and its members understand the political drivers for some of the past decisions and instructions made by BEIS/Government using its Section 88 Powers in the Energy Act or SEC Section X5 Powers (for example, the enrolment and adoption of SMETS1 meters), these decisions and instructions have clearly resulted in the DCC being distracted from delivering stability in its core SMETS2 operating capability, ultimately impacting energy suppliers' ability to deliver the SMETS2 rollout in an efficient and economic manner.

As an industry, it is essential that we learn from past experience and do everything possible to ensure that future changes or additions to the DCC's Core Mandatory Business activities are fully assessed by those parties that are impacted most. Energy UK and its members therefore recommend that any changes or additions to DCC's Core Mandatory Business are progressed through SEC Governance (including proposed changes or additions directed by, or resulting from BEIS/Government Policy outcomes, or regulatory intervention by Ofgem) to ensure all impacts to the operation of the smart metering infrastructure and its Users can be assessed fully. This is how all other changes impacting the operation of the smart metering infrastructure are made,

Key specific points:

- Two fundamental pre-conditions need to be met before DCC is permitted to explore or deliver any services additional to its Core Mandatory Business:
 1. DCC needs to ensure the existing service/infrastructure is fit for purpose, stable and is delivering to the core requirements of DCC Users. (Note: Ofgem refers to known issues under the “Points to Consider” column on the “Maturity Level” row in Table 5.3, p74). There are several ongoing issues which exemplify this from an energy supplier perspectives, such as outages, incidents, CSP North network performance, and WNC CHs.
 2. Delivery of any additional services by DCC should be fully assessed under SEC Governance (which enables all relevant parties to fully assess any potential impacts to their business/operations) to ensure it does not impact existing delivery of DCC’s Core Mandatory business.
- Once the two key pre-conditions above are met, DCC must only proceed to explore or deliver additional services, following a formal approval process involving DCC Users who are currently funding the DCC. Today, this would mainly be energy suppliers, but that may change over time.
- Linked to above, this key approval step should not be bypassed by BEIS or Ofgem when planning to instruct DCC to facilitate or deliver non-core mandatory activities. It is essential that DCC Users (and especially energy suppliers currently funding DCC) have the ability to influence the outcomes of all changes proposed to DCC’s activities under the SEC Governance arrangements.
- Funding for new DCC activities needs to consider more than just future costs:
 - Costs for designing and building the original DCC infrastructure – energy suppliers have already paid for the majority of these costs, therefore marginal cost for additional services should include an element that recognises usage of previously funded design and build activity;
 - Costs for ongoing maintenance of the DCC infrastructure – energy suppliers already pay for the majority of these costs, therefore cost considerations must also factor in ongoing/future costs of maintaining any DCC infrastructure that the new service is reliant upon;
 - Costs for designing, building and operating a new service – how are these costs met? The cost model must reflect who is benefiting from the new service e.g. is it all DCC Users/energy suppliers or only a subset of them? If the new DCC service is re-using existing DCC infrastructure, then current DCC Users (especially energy suppliers as the main funders historically) will need to see the benefit from that via reimbursement or reduction of DCC’s ongoing/future charges; and
 - Note that current SEC Mod [DP218](#) (Review of the SEC Charging Methodology) is also relevant here for these wider costs considerations.

Views on the concepts of “mandated services”, “ancillary services” and “additional services to users”:

Key specific points:

- The three new categories (under the new Additional Mandatory Business category) need further detail to better inform industry. A defined scope for each is required as well as a clearly defined approval process that takes into account DCC Users’ (especially energy suppliers) views.
- Specific points on the new categories (under the new Additional Mandatory Business category):
 - ‘Mandated Services’: this phrase could be easily confused with requirements under Core Mandatory Services which is unhelpful. Please also note our points above in response to Question 11 regarding BEIS/Government or Ofgem instructing DCC to undertake additional work without properly considering the wider impacts on all DCC Users (especially energy suppliers). For example, DCC was instructed to deliver the Switching Programme without a published assessment of the impact on the DCC’s ability to focus on delivering its Core Mandatory Business.

- ‘Ancillary Services’: DCC is already doing this today, and in many cases, is doing so without establishing whether or not DCC Users need, have requested, or will actually utilise those services. This needs to be addressed in the new framework. Additionally, it is unclear why REC is called out here; and there is a concern about the blurring of boundaries between REC and SEC e.g. where a REC requirement is imposed on SEC.
- ‘Additional Services to Users’: this links back to our points in response to Question 11 where we made specific points regarding who gets this benefit, who funds it, is it new capability or re-using existing capability – we note that the who benefits/funds/pays is a key recurring theme.
- Linked to either Ancillary Services or Additional Services to Users, it is important that Ofgem considers the future of current DCC testing services in its Phase 2 work. There is now a fully established commercial and competitive market for testing services for smart metering-related technology, with multiple organisations providing services under commercial terms for industry participants. Energy UK and its members believe that there is an opportunity for DCC to offer testing services on a commercial basis (for example, as an elective service, or as an explicit charge levied on relevant DCC Users). This could allow DCC to recoup some of its test lab set-up costs (and pay this back to DCC Users that have met the initial set-up costs) and to meet its ongoing operational costs (therefore reducing DCC’s future costs).

Q12: Do you agree with our proposed drivers for a controlled change in DCC’s role? What are your views on the ways in which evolution of DCC’s role can be managed?

There are several key points to note here:

- Please note the points we make in our response to Question 11, particularly in relation to pre-conditions to DCC role change.
- In respect of the three drivers/triggers¹ for a change in DCC’s role, from a ‘principles’ perspective, these appear sensible but further detail is needed to fully understand Ofgem’s intentions here for each of them.
- The trigger related to “new policy or regulatory requirements” illustrates our concerns expressed in response to Question 11, namely that BEIS/Government or Ofgem are currently able to instruct DCC to deliver additional services/projects without full consideration of the impacts on DCC Users (especially energy suppliers).
- Caveat for all triggers: it is important that DCC does not have undue competitive advantage against services already provided within the industry.
- Missing triggers: we propose two further potential triggers for the time being, 1) enabling Net Zero ambitions, and 2) addressing failures in existing service delivery.

Q13: Do you agree that the future framework should enable exploration of re-use of DCC’s infrastructure? What are your views on the specific conditions and measures that may need to be in place to enable it?

Enabling exploration of re-use of DCC’s infrastructure:

Please note the points we make in our response to Question 11, all of which are applicable to this question, especially the key pre-conditions that need to be fulfilled before any potential re-use is proposed or explored.

In particular, Energy UK and its members have noted with interest Ofgem’s observations to known issues under the “Points to Consider” column on the “Maturity Level” row in Table 5.3, p74 – which seeks views on the grounds on which the ‘maturity level’ could be determined.

Views on specific conditions and measures that may need to be in place to enable re-use:

¹ Change in customer expectations and consumer needs; new policy or regulatory requirements; and evolving technology.

There are several points to note here:

- As above, this links back to the response for Question 11, so all the points made there are applicable to this question especially the key pre-conditions that need to be fulfilled before any potential re-use is even proposed.
- At high-level, there is broad agreement with Ofgem’s list (Table 5.3, p74/75); the Ofgem list aligns with the points made in the response to Question 11 above, namely:
 - DCC must be able to provide suitable and substantial evidence that re-use of the DCC infrastructure will not have a detrimental impact on its core service delivery (now, or in the future);
 - Formal approval via SEC Governance that DCC can do this; and
 - any re-use is paid for by all parties that will use the service and that the cost of the new service includes a marginal cost so that some revenue can be redistributed back to those DCC Users (especially energy suppliers) that have historically been the primary funders of the original infrastructure.

Price Control Change Considerations (Chapter 6)

Q14: Do you consider that a hybrid model, where some costs are regulated under an ex-ante regime and some under an ex-post regime based on the level of cost uncertainty, would be appropriate for DCC?

While Energy UK and members believe that a hybrid model could work with a fundamental requirement that only the DCC’s core mandated business should be subject to an ex-ante regime, this would still leave a level of cost uncertainty for DCC Users in relation to any additional activities that the DCC might be allowed to undertake (depending on Ofgem’s decision on the Licensing framework, and activities that the DCC is able to undertake as part of that framework going forward). At present, this is one of the major concerns for DCC Users as it means that they are excluded from any decision-making processes undertaken by the current DCC Board, save for views provided by DCC Users as part of DCC’s stakeholder engagement activities. (We note numerous occasions to date when stakeholder engagement has either been lacking, or views and concerns raised have not been appropriately taken into account).

Therefore, it is important to re-iterate the points made in our response to Question 1, 11 and 12 above regarding DCC Users concerns that BEIS/Government or Ofgem are currently able to instruct DCC to deliver additional services/projects without full consideration of the impacts on DCC Users (especially energy suppliers). DCC should not be able to take on additional activities without DCC Users’ formal approval and without strong assurances and evidence from DCC that its core mandated services will not be impacted.

Linked to this key question, it is worth noting a similarity at high-level between DCC as a monopoly operator and existing monopoly operators in GB:

Organisation	Key Delivery
Electricity Distribution Network Operators	Monopoly operators providing central infrastructure to transport electricity between homes and businesses and the electricity transmission network
Gas Distribution Network Operators	Monopoly operators providing central infrastructure to transport gas between homes and businesses and the gas transmission network
Water companies	Monopoly operators providing central infrastructure to deliver water and sewage services to homes
BT Openreach	A monopoly operator providing a central infrastructure to deliver landline and broadband connectivity to homes and businesses
DCC	A monopoly operator providing a central infrastructure to deliver WAN connectivity and data services to homes and small businesses

While this high-level summary above is illustrative only, it is clear with the highlighted similarities that it would be appropriate for an ex-ante regime to be considered for DCC in future, bringing a consistency of approach with other GB monopoly infrastructure operators.

Q15: What elements of DCC's Allowed Revenue are stable (with low risk of forecasts being either under- or over-estimated) and would benefit most from an ex-ante approach by 2025?

Energy UK and its members remain concerned with the DCC's ability to present accurate cost forecasts:

- In the current regulatory accounting period circa £50m will be returned to DCC Users as a result of DCC's inaccurate cost forecasting for the financial year.
- The latest Ofgem DCC Price Control (for RY 2021/2022) consultation highlights that DCC's reported costs for RY2021/2022 are 14% higher than its RY 2020/2021 forecast.
- Ofgem has repeatedly disallowed certain DCC costs for a variety of reasons during its annual DCC Price Control review process; Energy UK members agree that there is now demonstrable evidence to confirm that the current ex-post regime is not working.

In terms of elements of DCC's Allowed Revenue that could be deemed stable, DCC's core mandatory function of providing and managing the operation of the smart metering communications and data provision are, by Ofgem's own admission in this consultation, not currently in a stable state. However, by the time the new DCC Licensing framework is due to be implemented, the current infrastructure should be more stable, with cost certainty embedded in the various contracts held with DCC's key Service Providers. Therefore, while Energy UK and its members see no reason why any related elements of DCC's Allowed Revenue should not be stable by 2025, it is important to note here that this clearly assumes that DCC's focus on core mandated services is not undermined by any potential intervention by BEIS/Government (or Ofgem) instructing DCC to carry out additional activities.

That aside, it is important to note that Energy UK and its members are basing these views on an aspiration that DCC achieves stable operations, and that the rollout is complete by 2025. Our experience of DCC performance to date means we are not confident of these outcomes by 2025. Ofgem has also called out in this consultation that DCC is unlikely to reach a fully stable state by that timeframe. This emphasises earlier points made in our response that our members will need more detail and time in Phase 2 of Ofgem's work to consider what future options for a DCC framework will look like in reality, especially the detail of Option B.

Another element with more stability is DCC's operating costs; and in this we include costs associated with staff and buildings/premises relating to core delivery. While Energy UK and its members appreciate that there may be less-certain staffing costs in some areas of DCC's business, these tend to be costs associated with additional non-core activities that the DCC is undertaking either as a result of regulatory instruction (BEIS enacting Section 88/SEC Section X5 Powers to require DCC to undertake specific activities), or as a result of DCC's own decisions to carry out specific non-core (or innovation) activity. These are both examples that Energy UK and its members believe need to be subject to tighter decision-making in any new DCC Licensing arrangements going forward.

Q16: What are your views on the different ways in which risk (ie the benefit of underspending and the cost of overspending) can be shared between the DCC and its customers under an ex-ante regime?

We would suggest key learnings can be taken from existing ex-ante Price Control frameworks to ensure efficient and economic costs, for example from the Electricity Distribution Network Operators framework. Examples of these learnings could be:

- Use of Over/Under Recovery to adjust Charging Statements as a result of spend outcomes.
- Considering approaches similar to a "RIIO Re-opener" approach to manage risks of major changes in costs.

Key to mitigating/minimising any risks is ensuring that the scope of DCC (in respect of its future role) is tight and clearly defined as covered in our responses to the questions in Chapter 5. Energy UK members

are of the view that generally speaking DCC will realise benefits by performing better; energy suppliers (as key funders of the DCC) already take on all the risk of costs associated with DCC sub-optimal delivery / performance so an ex-ante regime would address that key historical concern – arguably overspend would be a risk to DCC while underspend would be good for DCC as long as quality of services is not compromised.

Q17: What are your views on whether DCC can be effectively incentivised to reduce costs at scale under an ex-ante regime?

Energy UK and members believe that DCC can be effectively incentivised to reduce costs at scale, but this has to be linked to the quality of services provided. It is imperative that any cost reductions are not at the detriment of service delivery and quality.

Q18: Do you think that moving to an ex-ante regime could adversely affect the quality of service? What mechanisms could be used to reduce the risk of underperformance under an ex-ante regime (eg provisions to allow clawback in case of delivery failing to meet specifications)?

Moving to an ex-ante regime should not adversely affect the quality of service, and as noted in our response to Question 17 above. Any cost reductions as a result of an ex-ante regime must not be to the detriment of service delivery quality.

We believe there are several mechanisms that could be used to reduce the risk of underperformance under an ex-ante regime, for example:

- A strengthened obligation for DCC to demonstrate contract management capability – as detailed in our response to Question 1 above.
- DCC and its Service Providers have to be accountable to DCC Users for sub-optimal delivery of services, or issues that result in DCC Users incurring material unexpected and/or unnecessary costs. Any mechanism must include compensating DCC Users or enabling DCC Users to recover (via a charge-back mechanism) any material costs incurred due to sub-optimal service delivery from the DCC Licence holder. Our response to Question 1 above covers this area including the suggestion for introducing the concept of Guaranteed Service Standards. In addition, as previously noted, we suggest that Ofgem, as part of its Phase 2 work, considers how the future framework can ensure that any recompense due to DCC Users as a result of sub-standard service performance comes off the DCC Licence holder's bottom line (i.e. it is a direct reduction to the licence holder's margin, and not simply recharged back to DCC Users). We also highlight that Ofgem will need to consider the risk that prospective bidders may seek to include additional risk premiums in their bids to mitigate for this.
- As noted in our response to Question 3 above, it is important a future DCC Licence aligned with SEC changes ensures robust scrutiny of DCC quality of service and costs – this needs to be underpinned by a strong SEC Enduring Governance framework.

Q19: What are your views on how best to assess costs under an ex-ante approach? For example: What level of detail on costs and benefits would be appropriate? How early should DCC share details of costs with customers? How should this information be shared and evaluated?

Energy UK and members believe there are several principles key to best assessing costs under an ex-ante approach:

- Ensuring a clearly defined and appropriately narrow scope for core mandated services.
- Having visibility as early as possible of the costs; the greater the spend the longer the advance notification should be.
- Taking key learnings from the Distribution Networks' Price Control approach. For example, DCC should be able to provide prudent estimates of outages, issues and network management in a similar way to Distribution Networks.
- Linked to our response to Questions 3 and 18, scrutiny of costs needs to be underpinned by clear requirements in DCC Licence and SEC, especially around formal scrutiny under SEC

Enduring Governance by DCC Users (this could be via a formal Costs/Finance Sub-committee to be established under SEC Panel for which a key objective could be the assessment of costs).

Q20: Do you agree with our initial view that an ex-ante model has the potential to reduce the resource burden both for Ofgem and DCC? Please state why.

We generally agree that an ex-ante model can reduce resource burden for both Ofgem and DCC on the assumption that the key principles we have outlined in various parts of our response are in place (see responses to Questions 1 and 19 above).

Reducing the management burden on DCC Users should also be an consideration in light of the amount of ongoing scrutiny of DCC activity and reporting that has been required to date. That means making available to DCC Users clear information when requested, and at an appropriate level of detail.