

## **Consultation on Terms of Reference for the Customer Challenge Group and Business Plan Guidance for the Smart Meter Communications Licensee**

### **E.ON Next Response (May 2025)**

#### **General Comments**

E.ON welcome the opportunity to respond to this latest consultation. We believe that the information published by Ofgem provides considerable clarity on the governance arrangements that will be applied during the transition between Smart DCC Limited ('DCC1') and the to-be Licensee, plus the move to ex-ante arrangements.

#### **Q1. Do the Terms of Reference provide a clear description of the role, membership, operations and outputs of the Customer Challenge Group?**

Yes – subject to our comments below.

#### **Q2. Do you have any views on the draft text of the Terms of Reference?**

Based on our review of the draft Terms of Reference, we have identified the following comments.

#### **Objectives – Clause 2.1 (c)**

We propose that this objective is amended to formally require the Customer Challenge Group (CCG) to “...submit commentary on DCC's adherence to, and delivery against, its Business Plan in subsequent years...”. Including this wording in Clause 2.1(c) would appear to align with drafting elsewhere, including the Business Plan Guidance.

#### **Objectives – Clause 2.4**

We are concerned that the current drafting of this clause may permit the Licensee to supply incomplete detail through the process and its engagement with the CCG. While the process will be iterative, the Licensee must be obligated to supply a complete draft Business Plan towards the end of the CCG engagement process. Given this, the phrase “...by allowing the Group to review the plans in as full a form as possible...” should be strengthened to drive the appropriate behaviour by the Licensee.

#### **Relationships With Other Groups and Ofgem – Clause 2.6**

We are concerned that the Licensee could focus most of its engagement on the CCG and SEC Panel. The Licensee must be required to evidence how it has aligned its engagement with the CCG and wider funding DCC User base, and addressed relevant feedback received. We believe that the Licensee should be required to evidence this in its final submission to Ofgem.

#### **Relationships With Other Groups and Ofgem – Clause 2.9**

The current drafting of this clause does not confirm whether CCG members will be permitted to directly engage their respective SEC constituencies. Given the limited CCG membership, we believe this should be specifically permitted in the Terms of Reference document provided it is done so in compliance with any Non-Disclosure or confidentiality agreements the CCG operates under.

#### **Core Members – Clause 3.16**

We welcome that Core Members will be allowed to propose “...an Alternate to act on their behalf...”. However, we believe that the Alternate proposed must be selected from within their respective constituency to ensure appropriate representation of views. We would welcome the Terms of Reference being updated to mandate this.

### **Core Members – Clause 3.16**

To ensure alignment with relevant discussions in other forums, we believe that the SEC Operations Group Chair and SEC TABASC Group Chair should be specified as core members of the CCG. Including these individuals will ensure that key topics or factors are subject to scrutiny during the review and refinement of the Licensee's Business Plan.

### **Meeting Frequency – Clause 3.30**

The current drafting does not confirm if a 'TLP : Green' version of CCG minutes will be published and made visible to SEC Parties for review. Other SEC sub-committees that deal with highly sensitive materials already publish TLP : Green minutes, so there would be precedence for the CCG doing so. We would welcome this clause being updated to definitively confirm this as a requirement.

### **The Role of the DCC – Clause 4.1(c)**

While we recognise the need for Non-Disclosure Agreements to protect confidential information, DCC1 has previously used default and wide-ranging NDA templates. The wording of this clause should be revised to “...if necessary, drafting appropriately scoped non-disclosure agreements...”.

### **The Role of the DCC – Clause 4.1(f)**

The current drafting requires the Licensee to report on any “...*emerging or actual cost overruns and mitigation strategies*...”. We believe this should be extended to formally require the Licensee in Q1-Q3 to brief the CCG on the likelihood of re-opener requests, their scope and rationale for them being raised. This appears to align with the requirements defined in the Business Plan Guidance document.

### **The Role of the Challenge Group – Clause 4.4**

In its report to Ofgem, we believe that the CCG should also be required to comment on the validity and likely impact of emerging factors that have influenced / impacted on delivery by the Licensee since the previous Business Plan. This industry insight may be helpful to Ofgem's subsequent analysis and review.

### **Outputs – Clause 5.2**

While the CCG are required to raise issues or areas where the Licensee's plans are weak or not properly justified, we believe this should be expanded. The CCG should also be required to comment on elements of the Licensee's previous Business Plan (e.g., assumptions, risks, etc.) which have been subsequently found wanting. This is especially important where the elements are carried forward in the Licensee's planning or may impact their other activities.

### **Appendix 1 – Quality of Business Plan**

We believe that the CCG should be specifically required to comment on the Licensee's assessment of risks, assumptions, and dependencies that could impact the delivery of the business plan.

### **Appendix 1 – Efficiency and Value for Money**

We believe that the CCG should be specifically required to comment on the Licensee's assessment of efficiency and VfM factors from an energy consumer perspective. Historically, DCC1 has regularly failed to document how impacts on consumers have been considered or mitigated in its operations, programme delivery or planning.

### **Q3. What, if anything, is missing from the draft Terms of Reference?**

Other than our response to Question 2, we are concerned at the risk of fragmentation of roles and responsibilities between the new SEC CCG and other existing SEC sub-committees. For example, there is a considerable overlap in the remit of CCG and the topics that the SEC Operations Sub-Committee and SEC TABASC Sub-Committee consider across a regulatory year. Clarity in this area would be

welcomed, as it will ensure that the Licensee is appropriately and constructively challenged through the CCG's work.

***Q4. Does the draft Business Plan Guidance provide a clear description of the cost control process?***

Overall, yes.

***Q5. Does the draft Business Plan Guidance provide clear expectations on the evidence required from the Licensee and the principles that Ofgem will apply in assessing the Licensee's Cost Control submission?***

Overall, yes.

***Q6. Do you have any views on the draft text of the draft Business Plan Guidance?***

Based on our review of the draft Business Plan Guidance, we have identified the following comments.

**Stakeholder Engagement – Clause 3.37**

While the guidance requires the Licensee to demonstrate it “...recognise[s] the changing priorities of DCC's customers...”, it is equally important that the Licensee explains how it has considered factors impacting energy consumers. DCC1's definition of ‘customers’ does not routinely extend to energy consumers. On this basis, the Business Plan guidance should require the Licensee to demonstrate it is “...assessing the evolving needs of energy consumers and how it has integrated relevant factors into its Business Plan...”.

**Criterion (c) Value For Money – Clause 5.68**

We believe that the drafting of this clause needs to be broadened to specifically require the Licensee to ensure it manages its external contracts in a way that meets the continued needs of DCC Users and energy consumers. It is important that the Licensee drives its external service providers to practically implement lessons learned from previous programmes or operational issues. Additionally, the Licensee should be specifically challenging its external service providers to realise cost savings and associated efficiencies on an annual basis, something that DCC1 does not appear to have done with all its contracted providers across its licence term.

**Criterion (d) Robust Evidence – Clause 5.76**

The drafting of this clause appears to focus on measures that the Licensee can demonstrate through general engagement with DCC Users. We believe there should be a specific requirement for the Licensee to demonstrate there has been “...timely, efficient and appropriate engagement with the Customer Challenge Group...” on substantive cost and/or service impacts. This is linked to our comment on Clause 2.4 of the CCG Terms of Reference outlined in question two (see above).

**Factors Which May Impact The Licensee's Allowed Revenue – Table 6.1**

For “*Technical issues outside the Licensee's control...*” it is reasonable to expect the Licensee to demonstrate that it has used all reasonable contractual levers before applying cost passthrough. Where an external service provider can be demonstrably proven to be at fault, then the Licensee should be using its contract management processes to secure remediation on a ‘Free of Charge’ basis, rather than relying on funding DCC Users. The Licensee should be required to demonstrate this, and how lessons learned will be implemented to prevent repeat re-occurrence.

**Factors Which May Impact The Licensee's Allowed Revenue – Table 6.1**

For “*Impact of external factors on the Licensee's operations/supply chains – force majeure*” it is reasonable to expect the Licensee to undertake robust financial due diligence. We would expect the Licensee to demonstrate practical adoption of lessons learned, and use of relevant procurement models that prevent single source risks wherever possible (e.g., procurement of communication hubs).

**Cost Information – Clause 6.26**

We believe that the Licensee's re-opener applications should be required to include evidence on service or other impacts to energy consumers, and how these have been considered in options analysis. Solely focusing on how ‘customers’ (i.e., funding DCC Users) have been engaged may mean that key factors are not presented by the Licensee.

Additionally, the Licensee should be required to document how any lessons learned will be implemented to prevent future, similar but avoidable reopener events occurring.

***Q7. What, if anything, is missing from the draft Business Plan Guidance?***

Please see our response to Question 6.