

DCG Subgroup 3 Meeting 7 Minutes

Minutes of the seventh meeting of DCG Subgroup 3.

From DCG_SG3_RC
Date and time of Meeting 07 December 2010 10:30am
Location Conference Room 9

07 December 2010

1. Present

Name	Company
Alan Knight-Scott	EDF Energy
Claire Hemmens	SSE
David Jones	Elexon
David Thorne	GemServ
Dora Ianora	Ofgem
Elizabeth Lawlor	Electralink
Dora Guzeleva (morning)	Ofgem
James Nixon (via dial-in)	Scottish Power
Jason Stevens	ERA
Jenny Boothe	Ofgem
Joel Stark	Stark/ESTA
John Stewart	Npower
Martin Hewitt	UK Power
Mattias Bjornfors	Ofgem
Richard Street	ICOSS (Corona Energy)
Sajna Talukdar	Ofgem

2. Review minutes of Meeting 6 (30/11)

2.1. There were no comments fed at Meeting 6 as the final version had already been finalised and distributed.

3. Contents of a Smart Energy Code - Governance

3.1. The subgroup walked through the presentation on the contents of the Governance sections of the SEC to identify any omissions and suggest additional areas that will need to be covered. The below main points arose:

Parties to the code:

- 3.2. A point was made that the Code would not contain an exhaustive list of all the types of party who might be signatories to it, but should hold a list of party types that would have rights and responsibilities under the Code at Day 1, based on the scope of the DCC and any need to access services.
- 3.3. It was proposed that the Code would describe the capacity and responsibilities that each party type would operate under. . These capacities could then be modified through the change process should parties' roles and responsibilities change.
- 3.4. The subgroup expressed a view that Meter Asset Managers may need to be parties of the code, depending on the scope of the DCC.

Accession and Withdrawal

- 3.5. The types of services were described:
- (i) Those parties obliged to sign onto the Code;
 - (ii) Those who want to sign to on the code because they need the DCC services to meet their business requirements; and
 - (iii) Those who want to voluntarily join to use some of the DCC services.

Exit/withdrawal

- 3.6. The subgroup commented on the ability of restricting certain services. It was suggested that if a party breached a certain clause of the code, then only those services relating to that clause should be withheld from that party, rather than withdrawing the party from the whole agreement. A point was made that having a range of escalating sanctions in place would incentivise parties to behave appropriately.

SEC Panel

- 3.7. The subgroup highlighted that Performance Management of the DCC could be added to the list of the SEC Panel role.
- 3.8. The subgroup proposed that the panel should own the Intellectual Property Right *on behalf of* the code parties/industry for product development outside of the remit of DCC. They highlighted that the IP for DCC related products should remain with the DCC and then transfer over to the next DCC upon change of DCC licensee. Another point was raised around where IPR should lie for anything in the code that is *not* in the DCC.
- 3.9. It was agreed that the IP text set out in the Data Transfer Service Agreement (DTSA) would be circulated for information as an example.
- 3.10. Some concern was raised around the prospectus line 'The Chairman would likely be appointed by the Authority.' The subgroup recognised that that suggestion had some merit, but that it needed to be considered in conjunction with the specific responsibilities of the chairman of the panel and the potential voting rights of the chair.
- 3.11. Some members of the group indicated that during the Ofgem Code Governance Review, they indicated that they saw the Chairman's role as being an administrative one rather than one where the Chairman had a casting vote and in essence acted as a voice for the industry.

Change Process

- 3.12. The subgroup discussed whether parties would need to sign up to specific schedules of the Code or if they should sign up to the whole SEC and therefore have defined rights (and limitations) under the Code e.g. relating to ability to propose changes to certain sections of the Code. The subgroup discussed that subsidiary documents may be needed and the flexibility to add further subsidiary documents is needed.

Modifications

- 3.13. The group considered that flexibility should be built into the modification process. This is in recognition of the larger group of stakeholders that could be party to the Code and the nature of the modifications that may be raised.

Industry agreements

- 3.14. The subgroup asked Ofgem to liaise with Ofcom to provide details around the relevant code arrangements in the communications industry.

Potential Inter-dependency areas and Precedents

- 3.15. A point was made that precedence regarding the Smart Energy Code vis-a-vis the other industry codes needed to be clarified. The group commented that the precedence should be designed from the outset and that it would be preferable for this to be set out in the licence of licensees with obligations that are affected. It was further commented that where precedence is established the information would also need to be mirrored in the SEC somehow. This is because some parties to the SEC would not be licensees and would otherwise not have visibility of the order of precedence.

Limitation of liability and other provision

- 3.16. The subgroup considered that detail relating to limitation of liabilities can only be drafted once the scope of DCC is known and funding obligations established.

Funding / Costs – Matters for Consideration

- 3.17. A view that was put forward was that costs should be covered by users of the DCC services, proportionate to the usage of the service. The group felt that DCC costs including those for secretariat should be recovered in a single bundled charge.

Funding / Costs – Standard Terms

- 3.18. The subgroup requested a caveat to be added to the slide explaining that although they believe that the costs need to be split between parties/users of the service, they cannot clarify at this point to what degree and how it should be allocated as these depend on DCC scope and the mechanism of its service delivery.
- 3.19. It was also proposed that credit arrangements needed to be included as part of the code. In addition, the group noted that the credit terms need to be fair, reasonable and non-discriminatory.

Other: Breach/Default

- 3.20. The subgroup felt that it would be helpful if there are no interrelated relationships between codes in terms of breaches i.e. if a party is in breach of one code this does not impinge on their participation in another code. It should be noted there may be specific provision made for particular breaches, where a breach of a certain obligation has a

knock on effect to another Code. The group also felt that any escalation route will depend on nature of the breach.

Other: Liquidated Damages

3.21. The subgroup proposed to go back to the discussing Liquidated Damages once the DCC Scope is known.

Other: Dispute Resolution

3.22. The subgroup held the view that parties need to be given as many options as possible before having to go to court to resolve a dispute. The group suggested that the SEC Panel should have a role to play in dispute resolution.

Other: Introduction of the SEC.

3.23. It was proposed that in addition to the suggested headings the codes would also need an "introduction" section that included a pre-ambule setting out matters such as purpose of the document, objectives, as well as how precedence with other codes may work.

4. Any other business

4.1. The group sought information in relation to the Secretary of State's announcement with regards to the next phase of the programme and how this may impact on the future subgroup meetings. Ofgem informed the group that the exact relationship between Ofgem and DECC with respect to the next phase is not known. However, the meetings scheduled until January will go ahead as planned.

Feedback on SEC Governance table

4.2. Credit Arrangements will have to be looked at some point. The subgroup commented that it would be difficult to consider the detail of this area before the DCC Model has been determined. It was noted that strict credit arrangements could be a barrier to entry and have a negative impact on competition.

Summary of Consultation responses

4.3. ACTION 1: Ofgem have been considering the consultation responses and will check to see if the responses, or an anonymised summary, can be distributed to the subgroup.

Consideration of timeline for the SEC

4.4. Ofgem clarified that the output from subgroup 3 will form the basis of a consultation document on the DCC Regulatory framework. It will go out at the same time/soon after the Government response to the Prospectus.

Brainstorming Milestones

4.5. The subgroup brainstormed the activities that need to take place to produce a baselined version of the SEC. In addition, the group noted work will need to be undertaken to understand the changes required to existing codes to manage legacy systems.

4.6. ACTION 2: ERA to work up a list of activities required to develop and baseline a version of the SEC. In addition they will also work up the activities that need

to take place to modify the industry codes for legacy systems. To circulate to the group at Ofgem by next Week.

Further timetable for Subgroup mtgs

4.7. The subgroup confirmed dates for their teleconference meetings to provide input to the relevant DCG SG3 meetings.

Topics	Subgroup member to facilitate drafting of this via a conference call meeting	Subgroup meeting to discuss topic at
1. Governance	Gemserv. Conference call meeting scheduled for Friday 03/12, 12pm-3pm.	07/12
3. Installation/ Maintenance	Gemserv. Conference call meeting scheduled for Thursday 09/12, 3pm-5pm.	21/12, PM (time to be decided)
6. Service Lines	Gemserv. Conference call meeting scheduled for Wednesday 15/12, 8:30am-11am.	21/12, PM (time to be decided)
2. Interoperability	ERA. Conference call meeting scheduled for Thursday 06/01, 9am-11am. A room as ERA also will be available.	11/01
4. Service Descriptions	ERA. Conference call meeting scheduled for Wednesday 05/01, 10am-12pm. A room as ERA also will be available.	11/01
5. DCC Management	ERA. Conference call meeting scheduled for Friday 07/01, 3pm-5pm. A room as ERA also will be available.	11/01
Wash up meeting and any other points not covered off.		25/01

5. Date of next Subgroup 3 meeting

5.1.21 December 2010, PM (time to be decided)