

Richard Leyland
Smart Metering Implementation
Programme
Department of Energy and
Climate Change
BY EMAIL

Date: 15 May 2013

Dear Richard

Ofgem's response to the Department of Energy and Climate Change's (DECC) consultation on the draft legal text to support transitional arrangements for Smart Metering

We welcome the opportunity to respond to your consultation on the transitional arrangements that are part of stage 1 of the Smart Energy Code (SEC).¹

Ofgem regulates the gas and electricity markets in Great Britain. We have an important role in ensuring that the interests of consumers remain protected both during the transition to smart metering and in the enduring framework. We will also play a key role in monitoring and, where appropriate, enforcing compliance with any new regulatory obligations relating to smart meters. We will also have a role in approving or rejecting certain modifications to the SEC.

We support the work that DECC is carrying out to create flexible and responsive transitional arrangements for the SEC. This will support the effective transition to the enduring governance framework for smart metering. We look forward to continuing our constructive engagement with you on these and related issues.

Clarity on changes to the SEC during the transition stage

Transitioning arrangements into the SEC

We anticipate that during the testing and market proving stages of the Smart Metering Implementation Programme (SMIP)² the baseline design will require amendment, in particular the technical documents that support the operational model for the SMIP. These changes will need to be made quickly to achieve the SMIP timetable and in a controlled way to maintain alignment between parties.

The SEC has been established as the vehicle for managing the enduring governance arrangements for smart metering. The SEC modification arrangements are not best suited to managing the change control of baseline documentation during the development and testing phase. We therefore support the work that is being led by SMIP to establish a process to determine when elements of the baseline are ready to be placed under SEC governance. It is important this documentation is not placed under SEC governance until

¹ The Smart Energy Code (SEC) provides the contractual framework which sets out the day-to-day rules and requirements for smart meter industry participants

² The Smart Metering Implementation Programme (SMIP) will deliver the roll-out of smart metering to both the domestic and smaller non-domestic energy consumers

there is a low risk of significant changes being made to it. We consider this would be best achieved by ensuring there are robust and transparent processes and criteria in place to determine when documents should be placed under SEC governance. We would welcome the opportunity to continue to assist you in this respect.

SEC modifications during transition

We consider that there is likely to be a need for changes to the SEC as a result of developments during the implementation phase. We agree with DECC that the existing industry-led 'urgent' modification route and the route using the Secretary of State's (SoS) powers under Section 88 of the Energy Act 2008 may not always be appropriate routes for modifying the SEC during the transition period.³ We therefore support the introduction of a new route (the transitional change mechanism) that would allow the SoS to make SEC modifications more quickly than under Section 88.

Each modification route has different strengths and weaknesses. However, it is important there are clear criteria for determining which route a particular modification will take, be it 'urgent', Section 88 or using the transitional change mechanism. This will help to ensure a clear decision making route for a particular issue and will remove the risk of conflicting changes being made via two alternative routes. We look forward to working with you to develop these criteria and clarify further the respective roles and responsibilities of DECC, Ofgem and others through the transition.

Determination of the completion of implementation

We welcome the clarification on the criteria that will be used to judge the 'completion of implementation'⁴ provided in Section X1.3 of the legal drafting. We note in paragraph 37 that the precise mechanism for determining completion of implementation and in particular who takes this decision is still under consideration. You suggest that DECC, Ofgem or industry collectively could make this decision.

Given government's responsibility for the implementation of Smart Metering Implementation Programme we consider it important that the government has overall responsibility for deciding when this stage is complete. It is important that industry and Ofgem is effectively consulted with during the decision making process. At a minimum, this process should involve all parties represented on the SEC Panel⁵, including consumer representatives.

The Data and Communications Company (DCC)

The DCC has an important role in ensuring the timely and efficient completion of the implementation phase and it is important that DCC is provided with appropriate obligations in respect of this role. It is important that DCC also considers the achievement of longer term objectives, such as the development of smart grids and enabling innovative new products and services during the implementation phase. We consider that the proposed licence drafting and the inclusion of interim and enduring objectives for DCC will provide an appropriately flexible framework for DCC to manage its transitional obligations without jeopardising its longer term aims.

³ Ofgem would make a decision on whether a modification proposal is 'urgent' on a case by case basis with regard to its normal Code Modification Urgency Criteria detailed in its open [letter](#) of 25 May 2011

⁴ In effect this signals the end of the transition to the enduring SEC arrangements

⁵ The SEC Panel will oversee the day-to-day governance of the SEC and will comprise representatives from the DCC, large suppliers, small suppliers, electricity networks, gas networks, other SEC parties, consumer members nominated by the National Consumer Council, or any additional Panel Member appointed by the Panel Chair

We appreciate the constructive engagement with DECC in relation to transition and look forward to this continuing in the coming months. If you would like to discuss this response in the meantime, please contact Nigel Nash (Policy Integration Manager), nigel.nash@ofgem.gov.uk, or Duncan Carter (Policy Analyst, Smarter Metering), duncan.carter@ofgem.gov.uk.

Yours sincerely,

Maxine Frerk
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