

Colin Down
Smarter Metering
Ofgem
9 Millbank
London
SW1P 3GE

Email to: Smartermetering@ofgem.gov.uk, copying colin.down@ofgem.gov.uk

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Dear Colin

Consultation on extending the existing smart meter framework for data access and privacy to Smart-Type Meters and Advanced Meters

EDF Energy is one of the UK's largest energy companies with activities throughout the energy chain. Our interests include nuclear, coal and gas-fired electricity generation, renewables, and energy supply to end users. We have over five million electricity and gas customer accounts in the UK, including residential and business users.

We believe that the data framework set out in the Supply Licence that applies to SMETS compliant meters is fair to both consumers and suppliers. With this in mind, EDF Energy took the decision to voluntarily apply this framework to our trial smart meter installations (of smart-type assets) over the past two years as we believe it is right for our customers. We believe that extending the licence conditions to include smart-type smart meters in the residential and micro-business sectors is appropriate as it will create a single, consistent approach regardless of the type of smart meter being installed.

However, we do not consider it appropriate to extend the Supply Licence Conditions to Automated Meter Read (AMR) meters in the non-domestic sector. The market is very different in this sector with contractual arrangements and relationships between supplier, customer and other industry parties. In many instances, the Data Collector (DC) is directly appointed as a metering agent by the customer and collection of data is not undertaken by the supplier. We do not believe that extending the data access framework through new SLCs is the appropriate way forward in this part of the market.

Furthermore, whilst Ofgem is undertaking a review of the SLCs, we would like to draw attention to an issue that we believe could cause suppliers significant and unnecessary re-working of customer accounts during the rollout of smart meters.

SLC 47.5 states;

*'The requirements of this paragraph are that: (a) **the licensee has given Notice to the Domestic Customer** at the relevant premises informing the Domestic Customer: (i) that the licensee intends to obtain Electricity Consumption Data which relates to any one or more periods of a length referred to in paragraph 47.4(a);*

(ii) of the purposes (which purposes must not include Marketing) for which the licensee may use that Electricity Consumption Data; and

(iii) that the Domestic Customer may at any time object to the licensee obtaining that Electricity Consumption Data and of the process by which he may do so; and

*(b) the Domestic Customer has either: (i) **given explicit consent to the licensee obtaining that Electricity Consumption Data for the purposes set out in the Notice** (and such consent has not been withdrawn); or*

(ii) after at least seven days have elapsed from the date on which the Notice was given to him, not objected to the licensee obtaining that Electricity Consumption Data for the purposes set out in the Notice'

'Notice' is a defined term in our SLCs as 'means notice given directly to a person in Writing.'

These licence conditions are currently fit for purpose and perfectly workable when we determine to whom we roll-out smart meters (i.e. as part of our roll-out profile), but will cause us challenges in satisfying customer expectations when they proactively contact us wanting a smart meter fitted.

For example, if a customer contacts us, perhaps as a result of engagement activity from the CDB and we have not previously issued any letters inviting them to call us to have a smart meter installed we cannot seek consent for data provision over the phone as we would not have served our Notice due to its specific definition. Instead, we will have to arrange an installation and send out our Notice and either a) wait seven days to elapse or b) expect the customer to contact us again to exercise their choice. Either way, it's not going to be the best customer experience and may prevent us from delivering a 'one-stop-shop' appointment booking process.

Depending upon how quickly the customer wants the meter installed, we may have to implement measures to ensure that no data is taken from the meter until seven days have elapsed from the date we have sent the Notice. Having to deal with customers in this way is not the optimum customer experience and will add unnecessary process steps and costs.

In addition, we do not believe we will be able to deliver the best experience to customers who contact us over the telephone or letter, that move into a property with a smart meter already installed, as we will not have served them Notice. The same issues will surface at Change of Supplier depending upon the channel through which the customer was acquired. An extended process could lead to more errors and drive up cost which will ultimately be passed through to our customer base, something that EDF Energy wishes to avoid.

When the SLCs were drafted, we do not believe that DECC sufficiently considered that customers would contact suppliers speculatively for installation, particularly when the Central Delivery Body is fully engaged.. We are unclear as to why the SLC as written prohibits suppliers from delivering the information around data usage and the choices customers can make particularly when calls are recorded and consent can be evidenced that way.

Currently, verbal consent is considered sufficient and acceptable for many purposes. For example, we can get verbal approval from customers to supply them, for setting up Direct Debits and consent for marketing etc. Verbal approval is a standard practice in the sector

as long as suppliers subsequently confirm any arrangements to the customer in writing. We do not believe this was the intention of the definition and urge Ofgem to look at the practicalities and implications of this SLC as currently worded.

Our detailed responses are set out in the attachment to this letter. Should you wish to discuss any of the issues raised in our response or have any queries, please contact Ashley Pocock on 0 1342 413838, or myself.

I confirm that this letter and its attachment may be published on Ofgem's website.

Yours sincerely,

A handwritten signature in blue ink that reads "Paul Delamare".

Paul Delamare
Head of Downstream Policy and Regulation

Attachment

Consultation on extending the existing smart meter framework for data access and privacy to Smart-Type Meters and Advanced Meters

EDF Energy's response to your questions

CHAPTER: Two

Q1: Please provide views on the different approaches to extending the data access and privacy framework discussed in this chapter. In particular, which is your preferred approach and why?

EDF Energy has previously urged for the Government to deliver a data access framework that enables the benefits detailed within the Government's Impact Assessment to be realised, delivers clarity for both industry and customers and a privacy framework that achieves the right balance of protection and choice for consumers.

We believe that extending the framework to smart type meters provides clear guidance for both, industry and customers on what level of smart metering data is appropriate to discharge both our regulatory duties and associated legitimate business activities.

Extending the data framework to smart type meters' ensures that all suppliers will be subject to the same regulations and obligations and thus creating a level playing field. This ensures that customers have a choice, are able to easily exercise it and gives appropriate protections, whilst allowing suppliers to deliver the benefits and savings that smart metering will bring.

Q2: Does the licence drafting at Appendices 2 and 3 achieve our policy aims?

In broad terms we believe the drafting does achieve Ofgem's policy aims.

However, we believe that the licence definition of a Remote Access Meter should be changed as we do not believe it appropriate to extend to AMR meters in the non domestic market. We believe this could be best addressed by including a point 'iii' within the definition of a Remote Access Meter that carves AMR Meters out of the scope of the definition.

Q3: We have questioned whether a consumer who already has a Smart-Type Meter being approached again regarding their choices for data privacy could create a poor experience. Relevant to this is the nature of the conversation on their choices they had at installation. If you think a more flexible framework (i.e. opt-out consent permissible if accessing Detailed Data) is necessary to prevent poor consumer experience, please provide evidence that the consumer would be unnecessarily inconvenienced by a further conversation regarding their choices.

EDF Energy has operated within the data framework for all of our trials installations on a voluntary basis for the past 2 years. Although we are not yet installing SMETS compliant

meters, we believe that applying the framework early was the right thing to do for our customers. We have ensured that all of our smart meter communications are clearly written and transparent when describing the choices available around obtaining data from the meter. We have discussed the different levels of data with our customers, the uses of this data and the choices the customer has in this regard. We believe that all of our customers are fully aware of what granularity of data we are taking from their smart type meter.

Before making any decision as to whether to introduce a more flexible framework, we believe Ofgem must be satisfied that all suppliers who have installed smart type meters have been appropriately transparent with their customers regarding accessing consumption data from their smart type meter.

Q4: If we fully extended the Privacy Requirements, what would the impact on consumers be in terms of loss of services?

EDF Energy does not believe that extending the data framework will have any impact on consumers losing smart services.

Q5: If we introduce a flexible framework, what level of consent (i.e. opt-in or opt-out) should suppliers be required to obtain from domestic consumers before using any data for Marketing purposes?

We believe that it is appropriate that the level of consent from consumers to allow their supplier to use their data for marketing purposes, should be on an explicit opt in basis.

Q6: If we introduce a flexible framework, do you consider there should be a grace period, after which suppliers would be required to get opt-in consent for Detailed Data? What would be an appropriate amount of time? Please provide reasons for your answers.

We believe that Ofgem can only make such a decision based upon the evidence gathered as part of this consultation. EDF Energy would not require a grace period as we have followed the data framework in all our trial installations to date. We only take the most granular levels of data where the customer has provided us with their explicit consent.

CHAPTER: Three

Q7: We invite comments on our proposal to extend the Privacy Requirements to cover Smart-Type Meters installed at micro businesses.

EDF Energy believes that it is right to extend the data access framework to smart type meters installed at micro-business premises. However, we strongly believe that the framework is not at all appropriate for micro-business customers who have an AMR meter installed and we would urge Ofgem to ensure that the SLCs reflect this.

The contractual arrangements with micro-business customers who have AMR metering installed at their premises are very different from those who have smart type meters

installed. In many instances we have no contractual arrangement with the customer in relation to the metering equipment on site, or the sharing of data with other parties such as the Data Collector/Aggregator. As their supplier, we may only get a monthly reading sent to us to allow us to bill accurately, as all other services are provided subject to a specific bilateral contract between the customer and their Metering Services Provider.

We do not think it is appropriate that a supplier should have to back off licence obligations through an external and independent party. We believe that if Ofgem wishes to proceed with extending these SLCs to AMR metered customers, the obligation should only apply where we, as the supplier, are accessing the data. The SLCs should not cover all AMR customers as we would have significant issues in complying with such a Condition for the reasons stated above.

In addition, we are unclear as to what particular issue Ofgem is trying to address by extending the SLCs to this group of customers. AMR customers already sign contracts which will protect them before entering into a commercial arrangement. We do not believe that AMR customers are missing out on anything under the current arrangements. We do therefore question the rationale for wanting to extend the data access framework in this way?

CHAPTER: Four

Q8: Do you agree with our proposal to not extend the existing data access and privacy arrangements that apply to network companies for premises with smart meters to network companies for premises with Smart-Type Meters?

We agree with Ofgem's proposal to not extend the existing data access arrangements.

Q9: Do you agree that 56 days is sufficient for suppliers to become compliant with their new obligations?

EDF Energy agrees that 56 days is sufficient time to become compliant with the proposed new obligations.

Q10: If we extend the Privacy Requirements, are there any reasons why suppliers wouldn't be able to comply based on the metering stock it would apply to?

We do not envisage any issues with smart type metering stock but cannot be certain that this is the case with AMR meters.

Q11: We welcome views and evidence from stakeholders on whether consideration should be given to extending the existing SMICoP rules to the installation of Smart-Type Meters.

EDF Energy would support Ofgem in considering whether SMICoP should be extended to the installation of smart type meters. For the same reasons already stated above, we



would not be supportive of extending this to AMR installations and would want to see the SLCs clearly reflect this.

EDF Energy
February 2014