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for energy consumers

Gwneud gwahaniaeth gwirioneddol
i ddefnyddwyr ynni

Smart DCC Limited, suppliers,
gas transporters, electricity
distributors and any other
interested parties

Dial: 020 7901 7000
Email: smartermarkets@ofgem.gov.uk

Date: 25 May 2016

Dear Colleagues,

Modification of the Smart Meter Communication Licence

Please find enclosed our decision to modify Condition 35 (Definitions for the Price Control Conditions) and Condition 36 (Determination of the Licensee's Allowed Revenue) of the Smart Meter Communication Licence ('the licence')¹. The modifications will amend the definition of 'Regulated Revenue' and introduce a penalty interest rate for over-recovery of revenue into the licence. The drafting of these licence changes is set out in our decision.

We gave notice² on 6 April 2016 that we proposed to make modifications to the licence and asked for any representations to the modifications to be made on or before 5 May 2016.

Please note that we have made a separate decision to modify Conditions 35 and 36 to give DCC new obligations and set out the funding arrangements for its role in the Switching Programme³, which will take effect on 14 July 2016. For clarity, we have consolidated both sets of modifications into one version of the Conditions, shown at Appendix 1. Both sets of modifications are subject to appeal.

Modification of Condition 35

The definition of 'Regulated Revenue' in Condition 35.5 will now explicitly include any interest accrued on over-recovered service charges.

Modification of Condition 36

The amendments can be found in the formula for the correction factor (Conditions 36.15 and 36.16) and to the description of how the penalty interest rate will be determined (Condition 36.17).

The effect of the modifications is to introduce a 'Report and Direct' penalty interest rate regime with a threshold for over-recovery of service charges of 110 per cent of allowed revenue, and a penalty interest of 3 per cent above the Bank of England base rate on any

¹ The Smart Meter Communication Licences granted pursuant to Sections 7AB(2) and (4) of the Electricity Act 1989 and Sections 6(1A) and (1C) of the Gas Act 1986. This consultation is being conducted in respect of both of those licences. Together, those licences are referred to as 'the licence' throughout this document.

² Statutory consultation on final proposals for DCC penalty interest rate: <https://www.ofgem.gov.uk/publications-and-updates/statutory-consultation-final-proposals-dcc-penalty-interest-rate-0>

³ <https://www.ofgem.gov.uk/publications-and-updates/decision-dccs-role-developing-centralised-registration-service>

proportion of over recovery that DCC has not justified to the Authority's satisfaction. Please see the statutory consultation for more detail on the intended effect of these changes⁴. The penalty interest rate will apply from regulatory year 2016/17. However, we invite Smart DCC Limited to voluntarily provide reporting in line with the new requirements in its price control reporting for regulatory year 2015/16 which would not be subject to a penalty interest rate.

Responses to the statutory consultation

We received four responses to our statutory consultation. Those not marked confidential have been published alongside this letter on our website. We have considered these responses when making our decision on the proposed modification. Respondents broadly supported the proposed modifications.

One respondent provided their support to the modification with the caveat that DCC's performance should be continually monitored to ensure that it never over recovers more than 110% of allowed revenue. This suggestion goes in a different direction to the final policy. DCC's costs are regulated on an ex post basis where we determine DCC's Allowed Revenue after the costs have been incurred as part of the price control. The introduction of a penalty interest is designed to incentivise DCC to improve the accuracy of its charges and deter it from over-recovering through charges to users. Respondents to previous consultations agreed that the introduction of a penalty interest was the correct way to deal with DCC's over-recovery of service charges. Nothing in the responses to the most recent statutory consultation has caused us to depart from this policy. We will therefore not be committing to proactive monitoring of over-recovered charges.

Next steps

In accordance with the powers contained in 11A(1) of the Electricity Act 1989, and 23(1) of the Gas Act 1986 we have decided to modify Conditions 35 and 36 of the Smart Meter Communication Licence. This decision will take effect on and from 21 July 2016.

If you have any queries regarding the information contained within this letter you please contact Robyn Daniell on 0207 901 3877 or by email smartermarkets@ofgem.gov.uk.

Yours faithfully,

Rob Salter-Church

Partner, Consumers and Competition.

Duly authorised on behalf of the Gas and Electricity Markets Authority

⁴ Ibid.