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Mr. Rob Salter-Church
Ofgem
9 Millbank
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By email to: smartermetering@ofgem.gov.uk

19th June 2017

Dear Rob,

Response to the consultation on the implementation of the Operational Performance Regime and direction to populate Schedule 4 of the Smart Meter Communication Licence

This response relates to Ofgem's "minded-to" decision, dated 5 June 2017, on the Operational Performance Regime (OPR) proposed Direction to populate Schedule 4 of our Licence. We thank Ofgem for the opportunity to contribute.

We accept Ofgem's "minded-to" decision, however we are of the view that, for the OPR to work effectively, it will need to evolve and adapt over time to achieve its policy intent. To do this we believe that, once OPR is established, Ofgem and DCC should:

- Review the incentives based on engagement with DCC's customers to identify their needs and preferences.
- Ensure that the incentivised measures are under DCC's control.
- Review and update the targets and retained margin levels based on empirical live DCC operation evidence.
- Develop a stand-alone OPR framework and governance model which caters for development of the regime outside of SEC Performance Measures.

OPR should continuously evolve to ensure that it reflects DCC's operational realities which will inevitably change over time.

In relation to your "minded-to" decision, we welcome a number of the amendments to the final proposals published on 16 November 2016. However, we have some comments on the direction and proposed changes. In summary, the key points of our response to the three consultation questions are:

1. We welcome Ofgem's changes to the published draft Direction however, we believe that further changes are required. In particular we believe that

the direction ought to be clear on how margin retention is calculated and should include other critical elements of the OPR framework which it currently doesn't include.

2. We would have preferred that the start of the regime was linked to volumes to ensure that the regime is proportionate to DCC operational status. However we are content with Ofgem's proposed start date of April 2018.
3. We welcome the inclusion into the OPR framework of an exemptions arrangement for events outside of DCC's control, and agree with the principle to align the OPR with the SEC Performance Measurement framework. However, we believe that the current SEC framework is not adequate for use in an incentive regime where 100% of DCC's margin is placed at risk. Therefore, we may need to propose modifications to the SEC to ensure it is fit for OPR.

In the annex to this letter we provide a more detail response to Ofgem's questions.

If you have any questions on our response, or anything else on OPR, please do not hesitate to contact Julian Rudd (Julian.Rudd@smartdcc.co.uk) in the first instance, or me.

Yours Sincerely

Helen Fleming
Director of Corporate Affairs

Annex – Detailed consultation responses:

Question 1: Do you agree that the accompanying draft direction reflects the policy intent for the enduring regime? If not, please explain using evidence.

We consider that the draft direction partially reflects Ofgem’s policy intent, if we take account of our view on the evolution of OPR as mentioned in the accompanying letter. Specifically in relation to the content of the direction, we believe that in parts it is not clear how different terms/elements link to sections of the Licence and relevant SEC documents. Also, we consider there is ambiguity in relation to the methodology of how margin retention is calculated. Furthermore, the draft direction does not provide explicit references to the supporting documents.

The specific terms which could be clarified and how we propose this can be done are:

1. **Performance Measures**¹ – direct reference to the SEC definitions; the Code Performance Measures (SEC Section H13 and L8) and the Performance Measures listed in the Reported List of Service Provider Performance Measures document.
2. **TPL and MPL** – should reference the OPR Methodology document where the link to the SEC Code Performance Measures should be included, alongside the calculation for composite measures i.e. CPM4 and CPM5.
3. **BMOPAt** – reference to Licence Condition 35 Part B.
4. **RPL** - how the yearly term is calculated – there could be a reference to the OPR methodology and RIGs where the calculation will be defined.

In relation to margin retention, we believe that Ofgem should be clear, through the Direction, how it is planning to calculate it.

Albeit that we will report on performance annually via the RIGs, our view is that margin retained should be calculated on a closed month basis, such that a proportional amount of margin will be attached to performance in each month, independent of our performance over previous or subsequent months.

The principle is that it will provide DCC with ongoing operational performance incentives which better fulfil Ofgem’s OPR policy intent. To illustrate this further below we are providing an example comparing our proposed approach and a year long assessment.

If we take a scenario where DCC is being assessed on an annual basis: It becomes evident after six months that DCC is unlikely to meet the MPL for a specific measure, no matter what actions it takes, then the clear incentive on DCC would be

¹ SUM1 and 2, and SDM 1, 2 and 3.

to focus resources on the other performance measures to maximise margin retention over the remainder of the year.

If the assessment is on a month-by-month basis, the impact of that perverse incentive on DCC's behaviour is minimised, as DCC always has the opportunity to improve its margin retention in the very near term. Hence, DCC believes that the principle of closed month assessment should be accepted, as the best means to incentivise performance, and that this mechanism should be included in the Direction.

Finally, we consider that the Direction should cover additional key elements of the OPR framework. We suggest this as we consider it crucial to provide clarity and regulatory certainty on the calculation and operation of OPR. The elements we consider Ofgem should include in the Direction are:

- **An explicit reference to the OPR Measurement Methodology document** – we believe it crucial to have a stand-alone OPR Measurement Methodology document to include OPR specific requirements. We are ready to work with Ofgem on the development of the OPR supporting documents.
- **An explicit reference to the approach to include in relation to events outside of DCC's control** – we consider that this approach should be explicitly mentioned in the Direction, explicitly stating the role of the OPR Measurement Methodology and Performance Measurement Exception List (PMEL) in the implementation of the approach.
- **A framework requiring DCC to report additional non-incentivised measures** – In order for DCC to justify the costs associated with the developing and reporting on these measures, we believe that an explicit reference to them should be provided in the Direction. In addition, we would welcome a further discussion with Ofgem over the detail of their requirements, as some of these reports will require commercial negotiation with our service providers..

Question 2: Do you agree with our minded to position to begin the enduring OPR in April 2018 without an interim regime in this regulatory year? If not, please explain using evidence.

We agree with Ofgem's decision to begin the enduring OPR without an interim regime this regulatory year. The interim regime would only have had a very limited life, thus adding unnecessary complexity, and would probably have witnessed very low volumes of activity.

As previously stated to Ofgem, we consider that in an ideal situation OPR's initiation would be triggered in response to certain volumetric considerations. However we recognise Ofgem's desire to put in place a suitable incentive scheme at the earliest practical opportunity and hence accept April 2018 as the start date.

We also consider that this will give DCC and Ofgem sufficient time to develop the necessary supporting documents, process and governance.

That said, we would urge Ofgem to remain open to the possibility of adjusting the regime as empirical evidence becomes available. We believe that having an OPR

regime providing the appropriate incentives to DCC is crucial for the success of the Smart Meter rollout and operation.

Question 3: Do you agree that the treatment of exceptional events in DCC's performance reporting needs to remain consistent between the OPR and SEC and Service provider performance measures reported in DCC's Monthly Performance Measures report? If not, please explain using evidence.

We agree with this principle for the treatment of events outside DCC's control. However, we believe that Section M3 of the SEC is not appropriate for OPR, bearing in mind that 100% of DCC's margin will be placed at risk.

Specifically, we do not believe that it provides us with sufficient clarity over the circumstances under which it can be used, how the start and end of such an event are agreed and the nature of events which might be deemed valid. Therefore, we may propose a modification to the SEC to ensure that the section is fit for use under OPR, thus ensuring that DCC's operational performance is assessed fairly.

In addition, we will consider how greater clarity might be given, through the contents of the OPR methodology and other supporting documents, such as the PMEL.