

To: Smart DCC Limited

**Gas Act 1986 – Section 23(1)(a)
Electricity Act 1989 – Section 11A(1)(b)**

Modification of the conditions of the smart meter communication licence

1. The licensee to whom this document is addressed is the holder of a smart meter communication licence granted or treated as granted under section 7AB(2) and (4) of the Gas Act 1986 ('the Gas Act') and section 6(1A) and (1C) of the Electricity Act 1989 ('the Electricity Act') ('the DCC Licence').
2. Under section 23(2) of the Gas Act and section 11A(2) of the Electricity Act the Gas and Electricity Markets Authority ('the Authority')¹ gave notice on 12 May 2020 ('the Notice') that we propose to modify the conditions of the smart meter communication licence. We stated that any representations to the modification proposal must be made on or before 12 June 2020.
3. A copy of the Notice was sent to the Secretary of State in accordance with section 23(4)(b) of the Gas Act and section 11A(4)(b) of the Electricity Act, and we have not received a direction that the change should not be made.
4. We received 12 responses to the Notice, which we carefully considered. We have placed all non-confidential responses on our website. Our response to these comments is set out at the accompanying decision document.
5. We are making these modifications to allow for the amendment of the Operational Performance Regime (OPR). This is consistent with the original policy intent of licence condition 38 to ensure that DCC is effectively incentivised, and ensures the OPR will remain fit for purpose over the licence period.
6. These modifications will also allow for the issuance of guidance regarding the process, procedures and criteria used to determine the value of the terms applied in the BMOPA calculation.
7. Where an application for permission to appeal our decision is made to the Competition and Markets Authority (CMA) under section 11C of the Electricity Act and section 23B of the Gas Act, Rule 5.7 of the Energy Licence Modification Appeals: Competition and Markets Authority Rules² requires that the appellant must send to any relevant licence holders who are not parties to the appeal a non-confidential notice setting out the matters required in Rule 5.2. Smart DCC Limited is the relevant licence holder in relation to this modification. Section 11A(10) of the Electricity Act and section 23(10) of the Gas Act sets out the meaning of 'relevant licence holder'.

¹ The terms "the Authority", "we" and "us" are used interchangeably in this document.

² CMA70 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/655601/energy-licence-modification-appeals-rules.pdf



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Under the powers contained in section 23(1)(b) of the Gas Act and section 11A(1)(b) of the Electricity Act, the Authority hereby modifies the licence conditions of the smart meter communication licence in the manner specified in attached Schedule 1. This decision will take effect from 23 December 2020.

This document is notice of the reasons for the decision to modify the smart meter communications licence as required by section 38A(2) of the Gas Act and section 49A(2) of the Electricity Act.

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Jacqui Russell
Head of Metering & Market Operations
Duly authorised on behalf of the
Gas and Electricity Markets Authority

28 October 2020

Schedule 1

MODIFICATIONS TO THE SMART METER COMMUNICATION LICENCE

Licence Condition	Original text	Proposed text	Reason for change
38.9	<p>38.9 The provisions of Schedule 4 will be developed and populated (subject to paragraph 38.10) by the Authority in a direction to be given to the Licensee for the purposes of paragraph 38.8 no earlier than 31 March 2016, but no later than 31 August 2020, following consultation with the Licensee, the SEC Panel, and SEC Parties.</p>	<p>38.9 The provisions of Schedule 4 will be developed and populated (subject to paragraph 38.10) by the Authority in a direction to be given to the Licensee for the purposes of paragraph 38.8 no earlier than 31 March 2016, but no later than 31 August 2020, following consultation with the Licensee, the SEC Panel, and SEC Parties.</p> <p><u>(a) Following the initial population of the provisions of Schedule 4, these provisions may be amended subject to paragraph 38.10 in any given regulatory year by the Authority in a direction to be given to the Licensee for the purposes of paragraph 38.8, following consultation with the Licensee, the SEC Panel, and SEC Parties.</u></p> <p><u>(b) The Authority may issue (and may from time to time revise after consulting with the Licensee), guidance ("OPR Guidance") regarding the process, procedures and criteria used to determine the value of the terms applied in the BMOPA calculation. The new, or revised, OPR Guidance must be published before the beginning of the Regulatory Year in which it is to take effect.</u></p>	<p>These changes allow for the amendment of the OPR and the issuance of guidance, thus enabling the DCC's performance to be effectively incentivised over the licence period.</p>