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Dear Jacqui,

Call for evidence: Review of the regulatory arrangements for the Data Communications Company

Thank you for the opportunity to respond to the call for evidence for the review of the regulatory arrangements for the Data Communications Company (DCC).

We welcome Ofgem's review of the regulatory arrangements for the DCC for the period 2025 to 2040 and the opportunity to participate in any workshops. Electricity Distribution Network Operators (DNOs) collectively pay towards 6% of the DCC costs, and we are a key stakeholder in both the roll out of the Smart Metering Implementation Programme (SMIP) and Switching Programme. As an existing user of DCC services for the DCC smart metering network and a future user of the Central Switching Service (CSS), it's vital the DCC services we and our customers receive are effectively delivered and are value for money, now and in the future.

The context to this review is widely held concerns by many stakeholders. This is reflected in the recent responses to Ofgem's consultation on the DCC price control review for RY 2019/20, where the DCC's costs are noted to be a significant component of energy bills, and the DCC's many delivery issues, such as problems with Smart Prepayment rollout are impacting customers. Stark says in their response¹ to this Ofgem consultation that the cost per DCC connected meter was £123.80, 31 times greater than the DCC's original £4.00 competitive bid price.

Achieving Net Zero will involve transformational changes to what customers and stakeholders need from Ofgem regulated entities. Regulation will need to be able to accommodate meeting these developing needs, as well as factors such as technological evolution, so this proposed DCC review is timely.

¹ [Stark response](#) to Ofgem's DCC price control review RY 2019/20



Appendix 1 provides our views on the matters set out in Annex 1: Terms of Reference. I hope these comments are helpful. Please do not hesitate to contact me or Catherine Duggan (07775 547624) if you would like to follow up on any particular aspect of our response.

Yours sincerely,

Paul Auckland
Head of Economic Regulation

Appendix 1 – ENWL views on the matters set out in Annex 1: Terms of Reference

The following table includes our views on the call for evidence:

Ref.	Matter	View
1	The future role of a DCC, the scope of its objectives and of its authorised business post-2025 to support smart metering across GB	<p>Yes. We would welcome a revisit of the DCCs role set out in their licence. The DCC's licence was awarded 12 years ago and much has changed since its conception, so it would be unlikely the current form and approach is still fit for the energy system challenges that we face now and up to 2040.</p> <p>The scope of the DCC objectives going forward should be a fundamental element of this review, in light of customer needs changing with better information as to how services are required and Ofgem's developing vision of the energy sector moving forward.</p> <p>Serious thought needs to be given to the scope of the DCC activities, particularly where they extend beyond the mandatory DCC activities for smart meters. As a customer, we would also seek more transparency from the DCC on how they develop their products and services. If the DCC are utilising IPR and services funded by customers, then any profits need to be invested back into the mandatory services for existing customers. In addition, further consideration could be given to how the DCC is awarded additional work from Ofgem, in order, to deliver significant code review outputs that fall outside the DCCs mandatory activity.</p> <p>We would also welcome an understanding of how the DCCs role post-2025 will fit into the Reform of Energy Codes Significant Code Review. Other Code Managers have provided their initial positions at industry workshops. We would welcome DCC's views on the consolidation of 11 codes (including the Smart Energy Code - SEC) down to 3 codes or 1 code and Code Managers within the timeframe up to 2040.</p>
2	The extent to which the regulatory framework should enable DCC to offer additional services to the broader energy sector, and to non-energy sector users, and the potential nature of such services	<p>Yes. We agree this matter should be considered as part of the review.</p> <p>Ourselves and other respondents to the recent Ofgem DCC price control review RY 2019/20 shared Ofgem's concerns that the DCC's main priority should as ever remain delivery of its mandatory business and addressing under performance and delivery issues. Their activity to develop new products and services is not under pinned by customer demand.</p>
3	The extent to which DCC should deliver its services through contracted service providers or directly itself	<p>Yes. We agree that this matter should be included as part of the review, with the driver being value for money for customers.</p> <p>The DCC should be able to deliver its services through contracted service providers or directly. Whichever has been demonstrated is the best value for money.</p>

		<p>The next question is then service performance, whichever entity delivers the service be it in house or contracted out. We would welcome transparency of delivery issues from the DCC's existing contracted service providers and a greater acceptance from the DCC they are ultimately accountable for the deliverables of their service providers and clear remediation plans for dealing with under performance.</p> <p>Fundamentally, ENWL supports competition. As a DNO we had the most competition in our area for new connections work (as assessed by Ofgem), therefore, we believe the DCC focus should be delivering value. As such we think it's a good idea to test the benefits of services where there is a proven market. Then we think effective contract management of delivery becomes key.</p> <p>We welcome Ofgem's decision to include the first independent audit of the DCCs contract management and procurement activities in next years' DCC price control review. We also welcome, that we as a SEC party will be provided with a commercially confidential copy of the auditor's report. The findings of the auditor's report should be considered as part of this call for evidence.</p>
4	<p>the effectiveness of the current regulatory framework and enduring governance structures in ensuring DCC meets its objectives and provides value for money. We invite evidence in support of alternative approaches which could drive performance in the future</p>	<p>Yes. We agree looking at the effectiveness of the current framework is another fundamental aspect of this review and revisiting who is accountable for what under the Smart Energy Code. On occasion the DCC position is that as they weren't responsible for making initial contract decisions during licence conception so they cannot be held accountable for non-compliance and other performance shortfalls. This creates ambiguity on who holds the SEC accountability.</p> <p>For example, one of the benefits of smart metering to DNOs and our customers (cited by BEIS in their smart meter roll out cost benefit analysis 2019) is the ability for DNOs to receive Power Outage Alerts (POAs) from the DCC within a short timeframe. The DCC have acknowledged this requirement set out in the SEC is currently not being met. However, their position is that this requirement was not included in the baseline versions of the Service Provider contracts and consequently their SEC non-compliance reflects a gap in the SMIP delivery and is not a performance failure. As such they are proposing a modification to the SEC - DP096 'DNO Power Outage Alerts' to address the issue and the DCC are suggesting that the cost of the change (circa £15-20m) should be borne by DCC customers.</p> <p>We have concerns about the DCC's value for money and we welcome Ofgem's recent Operational Performance Region (OPR) decisions that the DCC should publish more granular and regional performance data, and modify the DCCs OPR to incentivise better DCC performance on customer engagement, contract management and service delivery. This could help drive improvements in the future. The insights the new OPR provides should be used in informing this strategic review, when available.</p>

		For any future retender of service providers the DCC must ideally ensure it carries the full accountability within the SEC obligations to avoid a repetition of accountability issues regarding current delivery issues. If accountabilities have to be shared with other key parties, then these need to be clear from the outset and documented.
5	the key aspects of DCC's business that stakeholders consider crucial to their own activities in the present and future energy market over the timeframe to 2040	<p>Yes. We would welcome this matter being included in the review. We believe the DCCs focus should be on delivery of their mandatory services and ensuring this works whilst addressing any imbalances between the regions, so as to create an even playing field.</p> <p>The DCC has a facilitator role in delivering the mandatory services to enable other market participants such as energy suppliers and aggregators to give value for money to customers while we as a DNO decarbonise at least cost. For example, if the DCC get this right, smart metering could aid wider scale customer participation in provision of flexibility services. It will also enable our customers to take greater control of energy bills.</p>
6	DCC's role in enabling the transition to net-zero by 2050	<p>Since the start of the smart meter programme we have supported the rollout to enable our ENWL customers to benefit from smart meters. This is particularly important in our region as the Greater Manchester Combined Authority where more than 2.5m people live is targeting net zero by 2038, faster than the national target of 2050. Our ENWL region has the highest proportion of customers who are experiencing fuel poverty of all the DNOs, so smart meters offer the opportunity to increase their control over their energy bills.</p> <p>There is an urgent need for the DCC to ensure customers in the North receive the appropriate level of service before the end of this licence term in 2025. SMETS2 installations in the ENWL region lag significantly behind those in other DNO regions. We believe the DCC service in the North West is poorer than in other areas of the country, but our cost share is not reduced in line with lower performance levels our customers experience.</p> <p>Also, it's important the DCC or whoever holds that licence in future focuses on customers (such as those with prepayment smart meters) as well as enabling transition to net zero by 2050. The DCC role in doing this needs to be aligning to Ofgem's goal of achieving this at the lowest cost as DNOs are being asked to do.</p>
7	optimal arrangements for DCC's compliance, cost control, and incentive regimes, among others.	<p>We note that the DCC total reported costs for the RY 2019/20 were £495m which is 15% more than the allowed revenue of £429m for the whole of ENWL (subject to an ex ante model) owning, developing and operating the electricity distribution network that distributes around 10% of Great Britain's electricity.</p> <p>We would welcome Ofgem investigating if the current ex-post regulatory framework would still be fit for purpose post 2025 – which is 12 years after the initial Smart Metering Communications licence was awarded. Other options should be</p>

		<p>re-considered such as if it is more appropriate for the DCC to move to an ex-ante model and any consequential transition plans to achieve this. A starting point of the investigation could be Ofgem reviewing if the existing arrangements have delivered for customers.</p> <p>After 6 years, we expected our costs to have reduced yet they continue to increase. The next phase of the licence should focus on stability and efficiencies.</p>
8	All views and evidence that you deem relevant	<p>The following are three other areas which we would request are including within the scope of the review:</p> <ol style="list-style-type: none"> 1) Timing consideration for completion of the review. In the event the review concludes the licence should be re-tendered then sufficient time should be factored in to allow for re-tendering This will give any new DCC licence holder sufficient time to get on board and make key contractual decisions before 2025. It would not be desirable for an outgoing licence holder to have just made key decisions, such as on service provider contracts. 2) What is missing, and needed, is a step change in the DCCs engagement activity with customers and how they procure and contract manage their external costs and service delivery. As an Electricity Network Party we want to receive tailored communications relevant to our User Party category and not receive excessive and unfiltered messages relevant only to others. In addition, as a customer we would like to be offered the right opportunities to inform DCC internal decisions before the DCC decides on changes to services that it provides to us. For example, we would like the opportunity to comments via the DCC consultation on a cost benefit analysis or business case for service changes. 3) The DCC's incentives and any checks and balances on the DCC developing new services should be reviewed. Including how non-core activities to develop other revenue streams are funded and delivered and what if any benefits flow back to core service DCC customers, if these new services are successful.
9	The regulation and delivery of the central registration service (switching) and DCC's activities in support of this programme should remain outside the scope of this review.	<p>We would welcome clarity from Ofgem for the reason for this activity to be excluded from the scope of the review. We would agree with this activity being outside the scope of this review if Ofgem are able to confirm all costs and accountabilities for CSS switching delivery with transfer from the SEC to REC pre-2025 and this DCC licence would be amended accordingly.</p> <p>However, we would recommend even if the switching activities remain outside of scope, that lessons are learnt from the DCCs contract management of the CSS activities. For example, Ofgem have recently disallowed 100% of the DCC margin due to delays in the DCC reaching their Design, Build and Test Phase milestones.</p>