

To: Smart DCC Limited

**Gas Act 1986 – Section 23(2)
Electricity Act 1989 – Section 11A(2)**

Notice of statutory consultation on a proposal to modify conditions of the smart meter communication licence

1. The Gas and Electricity Markets Authority (the Authority)¹ proposes to modify the conditions of the smart meter communication licence granted or treated as granted under section 7AB (2) and (4) of the Gas Act 1986 and section 6 (1A) and (1C) of the Electricity Act 1989 (the DCC Licence) by amending the following Licence Conditions (LCs) under section 11A(1) of the Electricity Act 1989 and section 23(1) of the Gas Act 1986:
 - Condition 1. Definitions for the Conditions of this Licence
 - Condition 15. Incorporation, delivery and provision of the Centralised Registration Service
 - Condition 21. Roles in relation to Core Industry Documents
 - Condition 44. Treatment of Intellectual Property Rights
 - Condition 45. Provision of Market Share Information to the Central Delivery Body

The proposed modifications are set out in Schedule 1 to this Notice.

2. Pursuant to the Authority's Retail Code Consolidation Significant Code Review (SCR), version 2.0 of the dual-fuel Retail Energy Code (REC) will bring together industry code requirements relating to retail energy activities. Version 2.0 of the REC is a major part of Retail Code Consolidation, which will rationalise retail energy codes through the closure of the gas Supply Point Administration Agreement (SPAA) and the electricity Master Registration Agreement (MRA) and the transfer of any provisions from those codes which need to be retained over to the REC or another industry code where this is more relevant. The Smart Meter Installation Code of Practice (SMICOP) and Green Deal Arrangements Agreement (GDAA) will also be consolidated within the REC. Retail Code Consolidation is planned to come into full effect on 1 September 2021.
3. In respect of the DCC Licence, the Authority proposes to make changes to several LCs to update references to the industry codes. The Authority proposes to make changes to LC15 to remove the requirement on the licensee, the Data Communications Company (DCC), to procure a Switching Network, and instead require DCC to maintain arrangements for the secure, efficient and economical exchange of information with the Centralised Registration Service (CRS). We also propose to clarify in the DCC Licence that the licensee should give equal priority to its obligations relating to smart metering and the CRS from the start of the Post Implementation Period as defined in the DCC Licence. By way of housekeeping modifications, we also propose to fix some typographical, formatting and duplication errors in the definitions section of LC 15. The Authority also proposes to make changes to LC 44, to give the Authority the ability to grant a derogation from the general rule on novation of Intellectual Property Rights (IPR).

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

4. The reason why the Authority proposes to make certain changes to the conditions of the DCC Licence is, in summary, to ensure that the new governance arrangements and structures required for and being realised by Retail Code Consolidation are properly reflected in the DCC Licence.
5. In relation to LC 15 of the DCC Licence, the reason for the proposed modification (other than the housekeeping changes mentioned above) is to more closely reflect the current design of the CRS and the Switching Programme delivery plan. In relation to LC 44, the reason for the proposed modification is to allow for a case by case assessment by the Authority in respect of contracts relating to specialist software which are not bespoke (whereby the novation provisions were not subject to open negotiation) but which are also not commercial “off-the-shelf” products. The Authority considers this would be the case where, for example, the terms for novation of IPR may be restricted but equivalent certainty of continuity under a successor licensee or replacement service provider could be met through alternative guarantees.
6. In summary, the effect of these proposed modifications is that the new governance arrangements and structures required for and being realised by Retail Code Consolidation will be reflected in the DCC Licence; LC 15 will more accurately reflect what the licensee is delivering under the Switching Programme, and LC 44 will allow the Authority to make a case-by-case assessment of whether it is appropriate to apply the general rule on IPR novation. The effect of the majority of the proposed DCC Licence changes will be minor on an operational level; primarily, the modifications will ensure the DCC Licence correctly references other industry documents and arrangements which are due to be modified under the Retail Code Consolidation SCR, and that any potential misalignment between LC 15 and the approved design of the CRS is removed.
7. A more detailed description of the reasons for and effects of these proposed licence modifications can be found in the accompanying document to this Notice, which is available at: www.ofgem.gov.uk/publications-and-updates/statutory-consultation-licence-changes-retail-code-consolidation, and also in the following documents published by the Authority:
 - Switching Programme: Regulation and Governance - way forward and statutory consultation on licence modifications - published 15 October 2018;
 - Switching Programme: Proposed modifications to regulation and governance – published 5 June 2018; and
 - Switching Programme and Retail Code Consolidation: Proposed licence modifications – published 12 November 2020.

These documents, together with copies of this proposed modification and any other documents referred to in this Notice have been published on our website (www.ofgem.gov.uk). Alternatively, they are available from library@ofgem.gov.uk.

8. Any representations with respect to the proposed licence modifications must be made on or before **5pm on 1 June 2021** by email to: switching.programme@ofgem.gov.uk.
9. We normally publish all responses on our website. However, if you do not wish your response to be made public then please clearly mark it as not for publication. We prefer to receive responses in an electronic form so they can be placed easily on our website.
10. If we decide to make the proposed modifications, they will take effect not less than 56 days after the decision is published



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Rachel Clark,
Programme Director, Switching Programme
Duly authorised on behalf of the
Gas and Electricity Markets Authority

30 April 2021

Schedule 1 to Notice – Draft of proposed changes to modify the conditions of the smart meter communication licence

We have included the sections of the DCC Licence we have proposed to remove or amend below. Deletions are shown in strike through and new text is double underlined. We have only shown those licence conditions where modifications are proposed.

Condition 1. Definitions for the Conditions of this Licence

Part A: Definitions arranged in alphabetical order

Master Registration Agreement	means the document of that name maintained in a form approved by the Authority in accordance with standard condition 23 of the Electricity Distribution Licence
Supply Point Administration Agreement	means the document of that name that is maintained in a form approved by the Authority in accordance with standard condition 30 of the Gas Supply Licence.

Condition 15. Incorporation, delivery and provision of the Centralised Registration Service

- 15.2 The Interim Centralised Registration Service Objective sets out the requirements of the Licensee under the Authority’s Switching Programme to procure and provide Relevant Service Capability to deliver a Centralised Registration Service ~~– up to the point when the Authority directs the commencement of Steady State operations Operations~~. This covers the Design, Build and Test Phase and Post Implementation Period ~~development~~ phase of the Switching Programme.
- 15.2A The General Centralised Registration Service Objective sets out the requirements of the Licensee under the Authority’s Switching Programme to provide Relevant Service Capability to operate a Centralised Registration Service through Steady State ~~operations~~ Operations.
- 15.3 The Transition Objective and/or General Objectives of the Licensee shall prevail in the event of a conflict between their provisions and the requirements imposed on the Licensee by the Interim Centralised Registration Service Objective, up to but not including, the Post Implementation Period.

Part A: Interim Centralised Registration Service Objective of the Licensee

- 15.4 Subject to paragraphs 15.6 and 15.7, the Licensee must comply with the Interim Centralised Registration Service Objective by:
- (a) contributing to the achievement of a full and timely design for an efficient, economical and secure Centralised Registration Service that will, when implemented, provide a platform for fast and reliable switching for all Supply Registrable Measurement Points in the GB market;

- (b) making all relevant preparations for the procurement and provision of Relevant Service Capability to deliver and operate a Centralised Registration Service;
- (c) procuring Relevant Service Capability to deliver and operate a Centralised Registration Service that:
- (i) reflects the design of a Centralised Registration Service which has been designated by the Authority for this purpose (including any amendments to that designated design); ~~and~~
 - (ii) will, when executed, give effect to an efficient, economical and secure Centralised Registration Service that will provide a platform for fast and reliable switching for all ~~Supply Points~~ Registrable Measurement Points in the GB market;
 - ~~(iii) (not used);~~
 - (iv) has appropriate provision for the economic transfer or novation of all Relevant Business Assets in relation to the Centralised Registration Service, including but not limited to, contracts and IPR, to a successor licensee or future operator of the Central Switching Service; and
 - (v) will, when executed, be capable of efficiently and economically adapting to future market requirements;
- (d) ~~entering into and maintaining Interfaces agreement(s) for a the secure, efficient and economical exchange of information with the Centralised Registration Service and robust Switching Network that should meet the requirements communication standards as described in the Retail Energy Code, which can be changed from time to time subject to the change procedures set out within the Retail Energy Code. If, after the commencement of the Post Implementation Period, it is determined necessary (in accordance with the Retail Energy Code) for the Licensee to enter into new arrangements and/or agreements to enable the secure, efficient and economical exchange of information with the Centralised Registration Service then, where appropriate and possible, the Licensee may enter into and maintain a user agreement(s) on standard user terms with a third party network(s) to achieve this purpose. In this event, the conditions of this Licence that relate to Relevant Service Capability and Fundamental Registration Service Capability will not apply to such user agreement(s) or to the services or capabilities provided under them;~~
- ~~(i) — where appropriate, and possible, this may be by entering into user agreement(s) with networks that meet the requirements set out within the REC on standard user terms and in this event, the conditions of this Licence that relate to Relevant Service Capability and Fundamental Registration Service Capability will not apply to such user agreement(s) or to the services or capabilities provided under them. These networks could include, but not be limited to, the Data Transfer Network and Information Exchange Network; or~~
 - ~~(ii) — where it is not appropriate or possible to enter into or maintain such arrangements, including where the requirements described in the REC can no longer be met, then the Licensee should secure access to the Switching Network pursuant to the REC and the relevant conditions of this Licence including those relating to Relevant Service Capability;~~

- (e) processing such personal data as is necessary to achieve the Interim Centralised Registration Service Objective.

Part AA: General Centralised Registration Service Objective of the Licensee

15.5AA Subject to paragraphs 15.6 and 15.7 the Licensee must comply with the General Centralised Registration Service Objective through:

- (a) the timely provision, delivery, management and upkeep of a reliable, efficient, economic and secure Centralised Registration Service that will improve consumers' experience of switching;
- (b) the management of the Relevant Service Capability of the Centralised Registration Service during Steady State ~~operations~~ Operations with:
 - (i) maintenance of a Central Switching Service design baseline and design authority function in accordance with the requirements in the Retail Energy Code;
 - (ii) provision of a prompt and constructive approach to support change management that meets the process and service level agreements set out within the Retail Energy Code;
 - (iii) the provision of systems and services that can economically and efficiently adapt to meet future market requirements;
 - (iv) proactive data stewardship for the Retail Energy Location Address that will lead to a very high level of continually improving accuracy for ~~registerable~~ Registerable meter Measurement pPoints that meets or exceeds the standards set out within the Retail Energy Code; and
 - (v) appropriate provision for the transfer or novation of all Relevant Business Assets in relation to the Centralised Registration Service, including but not limited to, contracts and IPR, to a Successor Licensee or future operator of the Central Switching Service.
- (c) maintaining Interfaces, agreements and/or arrangements (as applicable) for the secure, efficient and economical exchange of information with the Centralised Registration Service that meet the communication standards as described in the Retail Energy Code, which can be changed from time to time subject to the change procedures set out within the Retail Energy Code. If, during Steady State Operations, it is determined necessary (in accordance with the Retail Energy Code) for the Licensee to enter into new arrangements and/or agreements to enable the secure, efficient and economical exchange of information with the Centralised Registration Service then, where appropriate and possible, the Licensee may enter into and maintain a user agreement(s) on standard user terms with a third party network(s) to achieve this purpose. In this event, the conditions of this Licence that relate to Relevant Service Capability and Fundamental Registration Service Capability will not apply to such user agreement(s) or to the services or capabilities provided under them; entering into and maintaining agreement(s) for a secure and robust Switching Network that should meet the requirements as described in the REC, which can be changed from time to time subject to the change procedures set out within the REC;

- (i) ~~where appropriate, and possible, this may be by entering into user agreement(s) with networks that meet the requirements set out within the REC on standard user terms and in this event, the conditions of this Licence that relate to Relevant Service Capability and Fundamental Registration Service Capability will not apply to such user agreement(s) or to the services or capabilities provided under them. These networks could include, but not be limited to, the Data Transfer Network and Information Exchange Network; or~~
 - (ii) ~~where it is not appropriate or possible to enter into or maintain such arrangements, including where the requirements described in the REC can no longer be met, then the Licensee should secure access to the Switching Network pursuant to the REC and the relevant conditions of this Licence including those relating to Relevant Service Capability;~~
- (d) processing such personal data as is necessary to achieve the General Centralised Registration Service Objective.

Part C: Interpretation

15.8 For the purposes of this condition:

Centralised Registration Service means the services provided by ~~DCC~~ the Licensee to achieve the design designated by the Authority, and set out within the Retail Energy Code, and the licensee's role as set out within the Retail Energy Code. This includes, but is not limited to:

- (1) ~~provision of the Central Switching Service (including the Address Management Service and the Registration Service);~~
- (2) ~~provision of the Switching Operator service;~~
- (3) ~~provision, where required, of Interfaces and/or relevant arrangements for the secure, efficient and economical exchange of information between parties and the Centralised Registration Service that meet the communication standards required by the Retail Energy Code;~~
- (4) ~~any other functions required of the licensee pursuant to the Retail Energy Code; and~~
- (5) ~~CSS Systems Integrator and Core Systems Assurance functions (for the purpose of the Interim Centralised Registration Service Objective only) pursuant to the Retail Energy Code~~

which:

- (1) ~~includes (but is not limited to) the provision of services equivalent to those which were, prior to designation of the Retail Energy Code, currently included within:~~
 - (a) ~~such services relating to the supply of gas under the 1986 Act that fall within:~~
 - (i) ~~the supply point information service provided under standard condition 31 of the Gas Transporter Licence as relate directly to (i) the provision of supply point information and (ii) the maintenance of a register of technical and other data required by Gas Shippers and Gas Suppliers for change of supplier purposes; and~~
 - (ii) ~~the supply point administration service provided under or pursuant to the Supply Point Administration Agreement.~~
 - (b) ~~such services relating to the supply of electricity under the 1989 Act that fall within the metering point administration services as defined in standard~~

~~condition 18 of the Electricity Distribution Licence and that are provided under or pursuant to the Master Registration Agreement.~~

~~(c) — where required, arrangements for the secure communication and exchange of data between parties and the Centralised Registration Service, and~~

~~(2) — supports any further or alternative arrangements as may be identified as being required of the Centralised Registration Service by the Authority for the purposes of the Switching Programme.~~

Address Management Service has the meaning given to it within the Retail Energy Code

Central Switching Service has the meaning given to it within the Retail Energy Code

Core Systems Assurance means the functions carried out by the Core Systems Assurance Provider with the meaning given to it within the Retail Energy Code

CSS Systems Integrator has the meaning given to it within the Retail Energy Code

~~Data Transfer Network means the electronic network provided as part of the Data Transfer Service referred to in Section B, Condition 37 of the Electricity Distribution Licence~~

Design, ~~Built~~ Build and Test Phase has the meaning given to it within the Retail Energy Code;

~~Domestic Gas Supplier means a Gas Supplier in whose supply licence section B of the standard conditions incorporated into such a licence has effect~~

~~Existing Industry Networks include the network provided by the Gas Transporter licence (and holders of that licence) or their agent pursuant to obligation in licence and/or industry code; and the electronic network provided as part of the Data Transfer Service referred to in Section B, Condition 37 of the Electricity Distribution Licence~~

~~Gas Shipper and Gas Supplier mean, respectively, a person who holds a licence under section 7A(2) of the 1986 Act and a person who holds a licence under section 7A(1) of that Act~~

Interfaces has the meaning given to it within the Retail Energy Code;

Interim Centralised Registration Service Objective has the meaning given to that term in Part A of this condition

General Centralised Registration Service Objective has the meaning given to that term in Part AA of this condition

~~Information Exchange Network means the network provided by the Gas Transportation licensees or their agent pursuant to obligation in licence and/or industry code~~

~~Interim Centralised Registration Service Objective has the meaning given to that term in Part A of this condition~~

Post Implementation Period has the meaning given to it within the Retail Energy Code

Registrable Measurement Point has the meaning given to it within the Retail Energy Code;

Registration Service has the meaning given to it within the Retail Energy Code

Retail Energy Location Address has the meaning given to it within the Retail Energy Code

~~Steady State operations~~ Operations means, for the purpose of this licence condition, the period directly following the Steady State Commencement Date as defined in the Retail Energy Code and designated by the Authority that all exit criteria, as defined within the designated programme documents, have been met and until such point that the Authority directs the end of ~~steady~~ Steady state ~~State operations~~ Operations

~~Supply Point means, for the purpose of this licence condition, Meter Points as defined in the Master Registration Agreement, Supply Meter Points as defined in the Uniform Network Code and any points where a supply of gas or electricity is taken, or where electricity is exported, as defined within the scope of the Switching Programme~~

Switching Operator has the meaning given to it within the Retail Energy Code; and

~~Switching Network has the meaning given to it within the Retail Energy Code~~

Switching Programme means the Authority's programme to ~~amend~~ implement the services listed in part 1 of the definition of the Centralised Registration Service, for the purpose of providing fast and reliable switching

Condition 21. Roles in relation to Core Industry Documents

Part C: Rights in relation to certain other Core Industry Documents

- 21.6 Where an arrangement of the kind mentioned in paragraph ~~31~~32(b) of Condition 22 is in force in relation to a Core Industry Document that is listed in paragraph 7 of this Condition 21, the Licensee will be entitled to be supplied with such information arising from activities carried on in accordance with that document as it reasonably requires for the exercise of its functions under the Principal Energy Legislation, this Licence, the REC and the SEC.
- 21.7 The Core Industry Documents to which paragraph 21.6 refers are:
- (a) the Balancing and Settlement Code;
 - (b) the Distribution Connection and Use of System Agreement;
 - (c) ~~the Master Registration Agreement~~(Not Used);
 - (d) ~~the Supply Point Administration Agreement~~ (Not Used); and
 - (e) the Uniform Network Code.

Condition 44. Treatment of Intellectual Property Rights

Part C: Other general requirements for the treatment of IPRs

44.8A The Authority may at any time, following consultation with:

- a) the Licensee; and
- b) where appropriate, any other person likely to be materially affected,

give a direction ("a derogation") to the Licensee that relieves it of any one or more of its obligations under Part C of this condition to such extent, for such period of time, and subject to such conditions as may be specified in that direction.

Condition 45. Provision of Market Share Information to the Central Delivery Body

45.12 In this Condition:

Central Delivery Body means the body corporate established by Energy Suppliers in accordance with Standard Licence Condition 45 or as the case may be with Standard Licence Condition 45A of the Electricity Supply Licences and Standard Licence Condition 39 or as the case may be with Standard Licence Condition 39A of the Gas Supply Licences (Smart Metering Consumer Engagement).

Market Information Agreement has the meaning given to it in paragraph 45.2.

Market Share Information means information held by the Licensee pursuant to Section E of the Smart Energy Code in respect of the total number of:

- (a) MPANs registered for each licensed electricity supplier; and
- (b) MPRNs registered for each licensed gas supplier.

MPAN has the meaning given to it in the ~~Master Registration Agreement~~Retail Energy Code.

MPRN has the meaning given to it in the Uniform Network Code.