

Ibex House
2nd Floor
42-47 Minories
London
EC3N 1DY

Rachel Clark
Ofgem
10 South Colonnade
Canary Wharf
London
E14 4PU

By email to: switchingprogramme@ofgem.gov.uk

31 July 2018

Dear Rachel,

**DCC RESPONSE TO OFGEM CONSULTATION ON THE SWITCHING PROGRAMME:
PROPOSED MODIFICATIONS TO REGULATION AND GOVERNANCE**

DCC welcomes the opportunity to respond to Ofgem's consultation seeking views on the proposed governance for the new switching arrangements.

We support the proposal to amend DCC's licence that enable and require DCC to manage the Central Switching Service (CSS) contracts as the programme transitions through Design, Build, Test (DBT) and into live operations. We believe we are well placed to move from procurement to deliver and operate the CSS given our earlier design work and organisational capabilities.

Based on the experience that will be gained as the programme transitions from DBT into the early life of the service, DCC will be ideally positioned to deliver the incremental refinements to the CSS systems and contracts that will provide our customers with confidence in the CSS systems, and to ensure alignment to the requirements of the regulatory framework.

Ideally the REC development would have occurred in advance of contracting but we welcome the opportunity to work with Ofgem on key principles and how these are managed in this new framework. As we progress towards contracting the new CSS it is imperative that the REC and contracts are aligned without needing frequent changes. Our experience suggests that misalignment of the regulation and contracts can lead to significant delays and cost before these are resolved. We would welcome a clear recognition that we should have no misalignment and a process to manage misalignment when it occurs. We will propose the approach to the August Switching Programme Board.

DCC LICENCE CHANGES

We are broadly supportive of the amendments to the final proposals set out for DCC's licence published under Chapter 5: The DCC Licence. However, we have some comments on the proposed changes which are set out below.

LC15 Changes

DCC welcomes Ofgem's stated policy intent that a review of DCC's role in the program is unlikely to take place before the end of its current licence term. We support Ofgem's proposal to define a set of threshold criteria which would need to be met in order for an earlier review to be triggered, and agree with the criteria suggested in the consultation. However, the proposed circumstances which would trigger an earlier review are not defined in the licence amendments in Appendix 4. It is DCC's view that the threshold criteria should be incorporated into DCC's licence so that the circumstances under which a review can take place are clear and objective, and any process whereby DCC's role is changed is explicitly defined. Crucially, this allows DCC to ensure that appropriate measures are put in place with the switching supply chain to support a smooth and efficient transition in the event that an early contract novation is triggered.

Part 2 of DCC's licence already contains a list of specific events or circumstances under which any aspect of DCC's licence can be revoked. Licence Condition 15 should refer to Part 2 of DCC's licence to make the intended mechanism clear. DCC considers that the threshold criteria need to align with the principles employed in Part 2, and could be implemented by reference to the existing revocation events, along with the addition of a new revocation event which would: (i) link to the threshold criteria under which Ofgem would seek to revoke the switching element of the licence; and (ii) only apply to the Licence Condition 15 objectives.

Price Control, Margin & Incentives

For the proposed price control framework, DCC is in agreement with Ofgem's approach. We additionally welcome their proposed approach to a performance regime. Specifically, we agree that a balanced incentive and penalty based regime is appropriate.

The consultation seeks views on outcomes that an incentive regime for DCC might encourage. We are comfortable with the range of possible outcomes raised but would caution against selecting so many that the absolute priorities become unclear and we need to manage conflicts between them. In terms of adaptability to market transformation, this is something we have reflected in design and procurement but can only be tested if transformation occurs and it therefore may need to be considered slightly differently to other incentives.

RETAIL ENERGY CODE (REC)

DCC broadly supports the proposed content of the REC. However, we have some comments on the proposals outlined below.

REC Development

It is DCC's firm view that close working between DCC and Ofgem in the development of the REC will benefit both the REC and procured services. The procurement activities for the various components of the CSS are now underway, although Invitations To Tender have not yet been issued. DCC needs to ensure that the contractual obligations placed on suppliers align with the requirements of the REC. Our experience on the Smart Metering Programme has shown that where there is misalignment between contracts and regulatory requirements, this can lead to potentially costly system change requests.

Furthermore, it is essential that DCC has clarity on REC matters in order that both DCC and bidders can accurately map risks to the costs and potential liability of the contracts. If we are unable to do this there is a real risk that most providers and/ or bidders will submit contingent bids that are heavily caveated, which would increase the overall cost of delivery.

Taken together, DCC therefore considers that regular and ongoing engagement in the development of the REC, on a working-level basis, will be critical to mitigate against these risks.

We have provided detailed feedback on the proposed REC drafting in the annex to this letter.

REC Governance

We welcome the proposals on governance arrangements for the REC, and recognise that some of the arrangements will become finalised as the programme transitions through DBT into early life of the service.

We note the proposal that the REC Panel will be a decision-making body, responsible for the day to day decisions that impact on the operation of the new switching arrangements (and the wider retail market). For the REC Panel to be effective, it must be composed of members with the right balance of expertise, including (but not limited to) delivery bodies in the new switching arrangements. We consider it is very important that DCC is a member of the REC Panel and is able to input into the decisions that will impact the operation of the CSS. Furthermore, as DCC will be a party to the REC, and required to comply with the rules of the REC, it must be confident that its interests are accurately understood and reflected in the decisions of the REC Panel.

REC Change Process

DCC welcomes the proposals for managing changes to the REC. However, we do not agree that the provisions should be activated as the programme enters live operations.

Experience on the Smart Metering Programme shows that programmes develop incrementally, often building functionality through multiple system releases. As the switching programme transitions to live service, the pro-active identification of defects, and the application of fixes, may continue for some time. This will deliver additional assurance of CSS systems, providing DCC and customers with increased confidence in its services. We are therefore requesting that the REC Change process that relates to CSS system-change is activated only when the live service has reached a certain degree of stability, at

which point industry driven changes to the CSS systems can be considered. Ofgem and DCC should review this further and identify the appropriate point from which the Change provisions are activated.

We also consider that the REC modifications process may benefit from the adoption of a more agile change approach – certain areas of the REC i.e. technical subsidiary documents, would be better suited to a more flexible change process that can apply change quickly, and is not necessarily dependant on meeting schedules. DCC proposes that this more agile change mechanism should be applied proportionately to the regulatory framework; high level obligations should follow appropriate consultation and decision making routes, but any change with no impact on CSS users could be implemented more rapidly.

DCC has a good deal of first-hand experience in terms of the benefits of a more flexible approach to amending the regulatory framework, both as a proposer and an assessor of modification proposals. We are therefore keen to ensure that this experience is built on in the arrangements in switching.

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

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

Yours Sincerely,

A handwritten signature in black ink, appearing to be 'Julian Rudd', written in a cursive style.

Julian Rudd
Interim Director of Regulatory Affairs

ANNEX

Chapter 2: Transitional Requirements: Generic Licence Obligations and REC v1

We have some specific drafting comments in relation to the Interpretation Schedule and the Transition Schedule, these are outlined below.

Interpretation Schedule

- In relation to the term 'CSS Systems Integrator', to note that the Systems Integrator's (SI) role is broader than the CSS. In other programme design documents the SI function has been defined as the 'CSS and Core Systems Integrator'.
- The definition of the 'Central Data Service' includes Meter Point Registration Service (MPRS) but not Meter Point Administration Service (MPAS). As providers of both services will need to be involved in the design, build and test of the central data systems and services, the definition should include both MPRS and MPAS.
- The definition of 'Annulled' contains a typo, it should read 'Switch' not 'Switched'.
- In relation to 'E2E Data Architecture and Data Governance Model' and 'E2E Detailed Design', to clarify these are held in ABACUS and are not documents.

Transition Schedule

- Paragraphs 2.1 and 2.2 – for completeness we suggest the words 'and Services' are added after 'Systems'.
- Paragraph 3.2 – for accuracy we suggest adding '...and SI Requirements documents.' at the end of the sentence.
- Paragraph 4.2(a) – for completeness we suggest adding 'and Services' after '...testing in isolation of the Systems'.
- Paragraph 4.2(b) – for completeness we suggest adding 'and Services' after 'Systems'.
- Paragraph 4.4(d) and (e) – to consider whether other market participants should be required to be ready as soon as UEPT is available. For example, Managed Service Providers and DNOs noting their key role as Electricity Retail Data Agents.

2.5: Do you agree that it would be appropriate to have in place interim governance arrangements prior to REC v2 coming into effect?

We note the proposal that in this transitional period, the duties of the REC Panel are discharged by a combination of the current SPAA Executive Committee and MRA Executive Committee members. We recognise that the enduring governance arrangements can only be implemented when the proposals are fully developed, however, as the switching programme moves through its critical phases, there needs to be an equally robust transitional governance framework in place which can support the delivery of the programme to live operations. We therefore consider it very important that DCC and other market participants (who are also engaged in the delivery of the switching programme and may not be represented at the SPAA or MRA governance committee) are involved in the

transitional governance arrangements. DCC is keen to work closely with Ofgem and the Retail Design Group to identify how this can be achieved.

Chapter 3: Retail Energy Code: Governance

Q3.3: Do you agree with the proposed composition, powers and functions of the REC Panel?

We noted earlier that we consider it important that DCC is a member of the REC Panel and is able to input into the decisions that will impact the operation of the CSS.

In relation to the proposed models for membership of the RECCo Board and REC Panel, we welcome the proposals, and note that the Retail Design Groups' preferred option is Model B, under which the REC Panel and RECCo Board functions are performed by separate members. We recognise that this model adds value by strengthening accountability of the actions taken by the REC Panel and REC Manager, however, the RECCo Board will be accountable for strategic decision making, for it to be effective, some of its members should bring essential expertise from within industry. This is reflected in the governance model of other codes, including the Smart Energy Code (SEC), and helps to ensure specialist industry knowledge and expertise are used in setting strategic priorities. To achieve this under the REC, we suggest that the Retail Design Group consider the benefits of there being some overlap between the membership of the REC Panel and the RECCo Board.

Chapter 4: Retail Energy Code: Content

We have some comments in relation to the REC main body, Address Management schedule, Registration Services schedule and Data Management schedule. These are outlined below.

REC Main Body

In relation to charging and specifically credit cover arrangements, the SEC sets out a number of principles and obligations on SEC Parties which ensure a high level of credit support is provided to the DCC. The credit cover arrangements have been highly effective in protecting DCC against payment defaults. Although the REC will follow a different charging model, under which RECCo recovers charges from industry, we are keen to see good practice followed in switching and suggest that consideration is given to adopting the SEC credit cover framework in the REC.

In relation to Section 13, Limitation of Liability – DCC as the provider of the CSS will have a unique role under the REC, which is different to that of other REC Parties. Given this role, further consideration should be given to whether DCC is subject to a specific set of liability provisions. This is the approach taken under the SEC.

Address Management

Further to our points on misalignment in the main letter, the proposed drafting maps all CSS system requirements to a single CSS, rather than distinguishing Address Service requirements. The alternative approach, and the one adopted in the CSS design documents is to map requirements to core functionality (Registration Service and Address Service). Whether or not we end up with a combined contract or separate contracts for the registration and address services, more clearly distinguishing requirements – as the design does – will minimise the potential for confusion.

Ofgem’s proposed approach introduces complexity in tracing CSS requirements to system sub-components, which increases the likelihood of mistakes being made. In particular if the Registration Service and Address Service contracts are awarded to different suppliers.

Furthermore, the REC should follow and align to the CSS design documents, which have been baselined through Programme governance. We are much less likely to end up with misalignments if this approach is adopted in developing the REC.

Registration Services

- Paragraph 4.3 – the Gas Retail Data Agent is not notified in the case of a failure, it is the energy supplier.
- Paragraph 5.4 – “...then all of the Switch Requests within this OFAF group will fail Validation”, we suggest the word “Validation” is removed, as they will simply fail, not fail validation.
- Paragraph 6.6b – there is no waiting until all OFAF group switch requests have been confirmed, each one is confirmed individually. We suggest the wording is revised to reflect this.
- Paragraph 12.1 – we suggest that rather than specifying 17:00 each time as when switches are confirmed, it may be better to specify a generic gate closure, which is defined in the REC. This also applies to other areas of the REC legal text. If this time (for when switches are confirmed) changes in the future then this approach reduces the number of drafting changes required to the REC.
- Paragraph 1.2 - “1.1(a) to 1.1 (c)” should read “1.1(b) to 1.1 (d)”.

Data Management

- Paragraph 6.1 – for accuracy “These Switching Object Classes include:” should read “These Data Elements include:”

Chapter 5: The DCC Licence

We have undertaken a high level review of the wider Licence, and have identified a number of areas which may require amendment, to accommodate the switching provisions being introduced through LC15, and specifically to ensure it is clear how LC15 interacts with other Licence Conditions. We welcome the opportunity to work with Ofgem to review these areas further.

DCC has some specific comments on the proposed LC15 drafting, these are outlined below.

Question 5.2: Do you believe that our proposed drafting to amend LC 15 of DCC's licence would, if implemented, accurately reflect our expressed intentions? If not, why not?

In addition to the points made earlier with regards to an earlier review triggering novation of CSS contracts, DCC has the follows comments on the proposed Licence drafting:

Definition of CRS

The definition of CRS included in the draft legal text refers to the existing services provided under the Gas Transporter and Distribution licences. Whilst this is appropriate during the transitional phase of the programme, it needs to be amended during DBT in order to reflect the requirements of the CRS identified by the Switching programme. This will help provide clarity around the component parts of the CRS, and how they interact with each other.

Definition of FRSC

We welcome Ofgem's proposal to revise the definition of FRSC. The current definition is very broad and encompasses all activities which DCC undertakes in relation to the CRS. We support the policy intent that this represents the new, enduring capabilities upon which the end to end arrangements of the CSS is based, and is likely to include the registration service and the address service.

However, our view is that the proposed legal text does not provide sufficient clarity regarding the stated policy intent, and we would prefer that the definition of FRSC refers to specific requirements or contracts, in a similar way to how FRSC refers to specific contracts under the Smart Metering Implementation Programme. This is needed to make it clear how DCC is expected to fulfil its obligations under Licence Condition 16. This relates in particular to use of existing communications networks for Switching which DCC is not expected to procure in compliance with Licence Condition 16

There are interdependencies between the definition of the CRS and the definition of FRSC, and the two terms should be reviewed together in order to ensure that the individual functional components of the system are clearly defined, and are clearly categorised as either FRSC or RSC within the licence.

Use of systems not procured by DCC – the Communication Network forms part of the CRS under the current definition and must be treated as RSC for procurement purposes. However, the current expectation is that DCC will not be required to procure a communication network and will instead enter into an agreement to use an existing communications network, e.g. the Data Transfer Network (DTN).

One potential issue with this approach is that DCC is only permitted to procure and provide RSC under the proposed drafting. There are currently no provisions which allow DCC to use an existing service without procuring it. Another potential issue is DCC entering into an existing agreement with a service provider; it may not be possible to amend the terms and conditions of that agreement to accommodate the obligations contained in DCC's licence. Ofgem and DCC should review this further and agree how this is managed.

Obligation to support change management – This requirement needs to be made clear by reference to a clearly defined process in the REC with clear, measurable SLAs. DCC should only be required to support that process – not an open ended obligation to provide “a prompt and constructive approach”. The change management requirements and allowable costs of change for the switching programme need to be well understood to ensure appropriate provision is included in switching service provider contracts, and to mitigate against cost to industry as a result of: (i) contractors pricing-in risk to manage uncertainty in the programme requirements; and/or (ii) price increases flowing from changes once the contracts are operational.