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| Modification proposal: | Smart Energy Code (SEC) Modification Proposal (MP) SECMP0068 – Alt HAN Company Third Party Rights to Enable External Financing Arrangements | | |
| Decision: | The Authority ¹ determines that this modification ² should be made ³ | | |
| Target audience: | Data and Communications Company (DCC), SEC Panel, Parties to the SEC and other interested parties | | |
| Date of publication: | 25 January 2019 | Implementation date: | One Working Day Following Approval |

Background to the modification proposal

As preparations for the Alternative Home Area Network (Alt HAN) Technology Solutions roll-out commence, high costs of technology solutions contracted via the Alt HAN Company (AlthANCo) will be incurred over a short period of time. The Alt HAN Forum consider that the passing through of these costs in-year to Energy Suppliers would not be the most appropriate funding mechanism as Suppliers would face high upfront costs for Alt HAN. They consider that this will not reflect the level of benefit that current and future Suppliers will receive from Alt HAN solutions as the suppliers' market share percentages change over time.

The Alt HAN Forum has directed AlthANCo to investigate possible financing routes to spread and reduce in-year costs for Energy Suppliers. The preferred financing model is an assignment of receivables model where AlthANCo would assign the right to receive income for the financed costs from the Data Communications Company (DCC) directly to a funder. The need for AlthANCo to be given enforceable rights to receive payments from the DCC under the SEC would be required for all financing options.

The key issue for an assignment of receivables model is the ability to assign rights to receive income to the funder, to provide the necessary comfort that their revenue stream is secure. Whilst DCC is obligated to pay AlthANCo, AlthANCo is not a party to the SEC which means it does not currently have an enforceable contractual right to receive payment of the AlthANCo costs from the DCC, and therefore it cannot assign these rights.

Currently, AlthANCo is unable to pursue its preferred financing model as funders will not lend without a SEC Modification which gives AlthANCo enforceable rights under the SEC and the ability to assign these rights. The current SEC drafting does not support this model.

The modification proposal

SECMP0068 was raised by E.ON on 6 December 2018 to address the issue outlined by the Alt HAN Forum. The proposed solution would give AlthANCo Third Party Rights to enable it to enforce and assign its rights to receive payments from the DCC.

¹ References to the "Authority", "Ofgem", "we" and "our" are used interchangeably in this document. The Authority refers to GEMA, the Gas and Electricity Markets Authority. The Office of Gas and Electricity Markets (Ofgem) supports GEMA in its day to day work. This decision is made by or on behalf of GEMA.

² 'Change' and 'modification' are used interchangeably in this document.

³ This document is notice of the reasons for this decision as required by section 49A of the Electricity Act 1989 and by section 38A of the Gas Act 1986.

SEC Change Board⁴ recommendation

At the SEC Change Board meeting on 04 January 2019, it was the unanimous view of the Change Board that the modification would better facilitate the fourth (d) and eighth (h) General SEC Objectives and the Change Board unanimously voted for its approval.

The fourth General SEC Objective - to facilitate effective competition between persons engaged in, or in Commercial Activities connected with, the Supply of Energy.

The rationale provided by the Change Board was that the implementation of SECMP0068 would better facilitate this Objective by spreading the costs over a number of years, which would prevent Suppliers having to pay high in-year costs for Alt HAN. They considered this could aid competition by helping suppliers to avoid cashflow issues.

The eighth General SEC Objective - to facilitate the establishment and operation of the Alt HAN Arrangements.

The rationale provided by the Change Board was that the implementation of SECMP0068 would enable energy Suppliers to exercise their licence obligations with respect to SLC 55 'Smart Metering – The Alt HAN Arrangements' under 55.4(c) and 55.5(h), to finance Alt HAN Activities and Alt HAN Services which is currently prohibited under the current SEC drafting.

A minority of the Change Board, one member, believed that the third General SEC Objective⁵ would also be better facilitated. The rationale was that this would be accomplished by enabling AlthANCo to investigate solutions that enable Energy Consumers with no Home Area Network to manage their use of electricity and gas through the provision to them of appropriate information by means of Smart Metering Systems. All other members believed SECMP0068 was neutral against this objective.

The Change Board believes that SECMP0068 is neutral against the other SEC Objectives.

Our decision

We have considered the issues raised by the proposal and the Final Modification Report dated 07 January 2019. We have considered and taken into account the votes of the SEC Change Board on the proposal which is attached to the Change Report. We have concluded that:

- implementation of the modification proposal will better facilitate the achievement of the fourth and eighth General SEC objective;⁶ and
- directing that the change is approved is consistent with the Authority's principal objective and statutory duties.⁷

⁴ The SEC Panel and Change Board are established and constituted pursuant to and in accordance with DCC Licence Condition 22.25(a).

⁵ to facilitate Energy Consumers' management of their use of electricity and gas through the provision to them of appropriate information by means of Smart Metering Systems

⁶ The Objectives in accordance with DCC Licence Condition 22.10-22.17

⁷ The Authority's statutory duties are wider than matters that the Panel must take into consideration and are detailed mainly in the Electricity Act 1989 as amended and the Gas Act 1986 as amended.

Reasons for our decision

We consider this modification proposal will better facilitate the fourth and eighth General SEC Objectives and have a neutral impact on all the other objectives.

The fourth General SEC Objective - to facilitate effective competition between persons engaged in, or in Commercial Activities connected with, the Supply of Energy; and

the eighth General SEC Objective is to facilitate the establishment and operation of the Alt HAN Arrangements.

The primary aim of the SECMP0068 is to give AlthANCo Third Party Rights to enable it to enforce its rights under Section Z4 of the SEC (to receive payment from DCC) which will entitle it to assign the benefit of these rights. This modification is an enabling change, which would allow AlthANCo the ability to pursue this financing approach which aligns to the policy intent of allowing AlthANCo to consider alternative financing routes in order to spread and reduce in-year costs for Energy Suppliers as confirmed by BEIS.

We also examined the costs associated with SECMP0068 as identified within the FMR. There are no direct costs that will arise from its implementation, apart from the administrative costs of publication of a new version of the SEC on the SEC Website and issuing this to SEC Parties and reviewing and updating any impacted SEC guidance materials, which are estimated £1,200. We therefore accept the Change Board's view that the benefits outweigh the costs for this modification.

Decision notice

In accordance with standard licence condition 23 of the Smart Meter Communication licence, the Authority hereby determines that modification proposal SECMP0068 'Alt HAN Company Third Party Rights to Enable External Financing Arrangements' shall be made.

Jacqui Russell
Head of Metering & Market Operations

Signed on behalf of the Authority and authorised for that purpose