

British Gas
1st Floor, Lakeside West
30 The Causeway
Staines
Middlesex
TW18 3BY

Ian Anthony
Head of Regulation
Smart Metering Implementation Programme
Department of Energy and Climate Change
3 Whitehall Place,
London
SW1A 2AW

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Dear Ian

Consultation on legal drafting for Stage 2 of the Smart Energy Code

We welcome the opportunity to comment on the next set of legal drafting in the development of the Smart Energy Code. On the whole, the drafting very much reflects our expectations in ensuring that this key industry agreement is fit for purpose. May we bring to your attention three broad areas of concern, before giving more detail in the appended responses to the consultation questions.

1. We don't currently feel involvement in ensuring best value for money on comms hubs

British Gas has always supported procurement of comms hubs by CSPs. On paper this ought to reduce complexity and cost. The SEC 2 consultation contains some additional detail on financing and charging for comms hubs but it doesn't provide any further comfort to us as a supplier and the largest funder of comms hubs that DCC is providing best value for money.

As the financing arrangements have crystallised through this consultation and subsequent discussions, it is evident that the supplier inherits a risk profile different to what that which we have in place with regard to our other smart assets. This is as a result of arrangements in place at the end of the CSP's contract term, and the aim of full recovery of all assets before this handover, which sees us making whole any shortfall in recovery for the CSP, whatever the circumstance.

We will be seeking assurances around the detailed arrangements for transfer of CSP contract, and more generally, we are asking for transparency in, and consultation on, all current and future finance arrangements. Our interests are common: to ensure best value for money for the customer in all aspects of procurement and operation.

2. We are unclear on the governance of key security documents, and the overall scope of the SEC provisions

On the basis of definitions in the Security Requirements document, we thought we understood the scope of the security requirements on our own internal systems. Unfortunately, the drafting in SEC is inconsistent with this and it would be useful to understand the reason for diverging from the industry-agreed documentation. We would like to see alternative drafting to ensure SEC makes the scope of the security provisions absolutely clear.

We also think it is worth providing further detail around the governance of the key security working documents managed by the Security Sub-Committee: the Security Architecture, Security Requirements, and the Smart Metering Risk Assessment.

3. Our views on many aspects of the consultation depend on further detailed design

We are encouraged by the progress of the detailed design work now being led by DCC. Much of the SEC 2 consultation lays the code foundations to support the detail that is to be provided through this detailed design work. But we have not yet got full visibility of the enduring arrangements. For this reason, many of our answers are subject to the caveat that we can only answer based on what we currently know. It has been difficult to consider fully the potential implications of certain provisions where a number of unanswered questions remain, and where our general level of comfort depends so greatly on the detailed operational arrangements. This is particularly the case for the policy consultation on charging.

We also recognise that – partly as a consequence of the above – a number of concerns or questions we raise do not relate directly to the SEC drafting itself. Instead, we have taken the opportunity to highlight issues that we hope to discuss further with DECC or DCC in due course.

We understand that a number of DCC process documents will shortly be published, and so there may be developments down the line that mean we will need to revisit some SEC drafting. For this reason we welcome the ongoing dialogue with DECC about the scheduling of code releases and use of transitional governance for certain baselined SEC provisions.

Our responses to the consultation questions can be found in the Appendix to this letter. If you require any further information or wish to discuss any element of this response then please do not hesitate to contact me.

Yours sincerely

Appendix – Responses to consultation questions

Question 1

Do you agree with our proposed text for the SEC with respect to Technical Governance and Change Control? Please provide a rationale for your views.

Yes.

Question 2

Do you agree with our proposed text for the SEC with respect to Registration Data? Please provide a rationale for your views.

Yes.

Question 3

The DCC currently uses profile class data as a proxy to estimate the number of non-domestic meter points registered to users. Should this be replaced with a new data item which accurately reflects non-domestic meter registration, or should the DCC continue to use profile calls as a proxy? If you think it should be replaced, should the DCC rely on Suppliers providing this information separately, or should a change be sought to electricity registration systems to collect this data? Please provide a rationale for your views.

The most important requirement is that the customer type – whether the premise is domestic or non-domestic – is the same across the DCC and the supplier systems. Where this is not the case, the supplier may raise a non-domestic specific gateway request, only to have it rejected by the DCC. The secondary requirement is that this match remains after churn.

Profile Class, however convenient, does not always accurately reflect the customer's usage of their premises. For this reason, we think there may ultimately be a need for an additional data item, entirely divorced from profile class, which can be exchanged on churn and updated by suppliers at any time in registration systems. However, internal discussion on this question has highlighted what a complex subject this is; and so for the moment we would support continuing to use Profile Class, or alternatively a monthly report to DCC if this can be done efficiently. Discussions about a longer-term solution using a new data item can then take place, drawing on views and expertise from the whole industry, as there are potential impacts (including benefits) far wider than just DCC invoicing and User Gateway services. Building in a dependency on this new data item for DCC go-live may introduce additional unwelcome risk at this point.

Question 4

The SEC will include a requirement for RDPs to provide the DCC with a 'data refresh' on request, within a set number of days. Do you agree that it is sensible to measure in calendar days? If so, what is the impact of providing data refreshes to the DCC within two calendar days? If this has too significant an impact, what should the correct value be? Alternatively, do you believe it should be a set number of working days? If so, how long should this period be?

Registration Data Providers will be able to give the most credible description of the impact of this provision. We understand that they may like to see an extended timescale for the data refresh, with a suggestion that five days would be more appropriate. Our view is based on balancing the operational DCC requirement of the refresh with the costs of building the capability at the RDP, which our customers will bear. Production of full data extract can be a significant burden on RDP

systems, and we are reluctant to support timescales that put at risk their day to day operations which we rely on, or which will require costly development.

Since it is not entirely clear how DCC and RDP data may become misaligned, there needs to be sufficient focus on preventing situations where the DCC records do not match those of the RDPs. We note that DCC operates 365 days a year and so a requirement may need to be measured in calendar days.

Question 5

Do you agree with our proposed text for the SEC with respect to the DCC User Gateway? Please provide a rationale for your views.

Yes.

Question 6

Do you agree with our proposed text for the SEC with respect to the DCC User Gateway Services and Service Request Processing? Please provide a rationale for your views.

Yes.

Question 7

Do you agree with our proposed text for the SEC with respect to Parsing and Correlation? Please provide a rationale for your views.

This drafting reflects our expectations.

Question 8

Do you agree with our proposed text for the SEC with respect to Enrolment in the Smart Metering Inventory and other associated processes? Please provide a rationale for your views.

Yes.

Question 9

Do you agree with our proposed text for the SEC with respect to the Communications Hub: Intimate Physical Interface? Please provide a rationale for your views.

Yes.

Question 10

Do you agree with our proposed text for the SEC with respect to DCC Service Management? Please provide a rationale for your views.

Yes.

Question 11

Do you agree with our proposed text for the SEC with respect to Incident Management? Please provide a rationale for your views.

Yes.

Question 12

Do you agree with our proposed text for the SEC with respect to the Self-Service Interface? Please provide a rationale for your views.

It is clear that the Self-Service Interface does not cater for bulk queries. We feel this is short-sighted. If there is no intention to allow access to the data behind the SSI by any means other than a single human user to machine query, setting a maximum number of concurrent SSI users may be limiting. Two things would make us more comfortable: either an alternative automated interface which allows suppliers wider access to information from the Self-Service Interface; or a timeline or plan from DCC which looks to provide such an interface (since this needs to be available only when suppliers have significantly increased their installed base and the information from the Self-Service Interface needs to be distributed more widely).

More generally we expect some degree of automation between the SSI and our own business and supply chain management systems. As described, the SSI seems to provide human input and retrieval only. We would like to be able to raise bulk queries, manage query tickets, and flow comms hub ordering information in files. Since we would expect almost all suppliers to require some degree of automation of request or ticket processing, it would be preferable to recognise this from the start in the SEC drafting and DCC's initial Self-Service Interface Design Specification, rather than add it later as a chargeable service.

Question 13

Do you agree with our proposed text for the SEC with respect to the DCC Service Desk? Please provide a rationale for your views.

Yes.

Question 14

Do you agree with our proposed text for the SEC with respect to the Service Level Agreements for Testing? Please provide a rationale for your views.

Yes.

Question 15

Does the inclusion of DCC aggregate performance measures in the SEC, and the consequential reduction in future service charges, appropriately balance the need for the DCC to manage its Service Providers flexibly with the need for DCC Service Users to have a say regarding performance targets? Please give reasons for your answer.

Yes.

Question 16

Do you agree with our proposed text for the SEC with respect to Managing Demand? Please provide a rationale for your views.

The proposed drafting sets out that when DCC misses targets at the same time that a supplier sends significantly greater numbers of service requests than those notified, then the provisions for service credits to Service Users are 'switched off'. Whilst we have some concerns that the actions of one supplier – i.e. inability or unwillingness to forecast usage accurately – impact all other service users, we understand that there is an oversight mechanism and the ability to modify this approach towards more targeted incentives for accurate supplier forecasting if appropriate. We expect supplier usage

forecasting to improve over the early months of DCC, and beyond this we will encourage SEC Panel to take relevant action if necessary.

Notwithstanding the above, we think it would be reasonable for the DCC to have to demonstrate a clear causal link between the unexpected volume of Service Requests sent by Users and its failure to achieve Target Response Times. High aggregate demand for services may be purely coincidental to a failure, but the current drafting of H3.43 does not seem to recognise this.

Question 17

Do you have any comments on the security obligations set out in Section G of the SEC drafting or the way they are expressed?

It is our understanding that SEC is the 'master' document governing our compliance with smart metering security requirements. All other working documentation – the Security Architecture, the Security Requirements, and the Smart Metering Risk Assessment - is subordinate to the core SEC legal text, and will not be subject to standard modification processes. The Security Sub-Committee will be responsible for maintaining this working documentation, developing it as required but then proposing changes to SEC drafting where required. Please confirm that this is the case.

It is absolutely crucial that the scope of the security requirements is properly defined in SEC; and that SEC drafting is clearly consistent with all related working documents which have been the subject of detailed review and discussion with industry participants. We don't believe that either is the case at the moment.

The Security Requirements document sets out in our view an appropriate scope for the security provisions required across the end-to-end smart meter system, including where our own internal systems fit in. SEC's definition of User Systems needs to be aligned with this. Instead, as currently drafted it could be interpreted as covering all supplier systems that have been used in some way for the collection, storage, or processing of Data prior to sending over the DCC User Gateway. We suggest that the wording needs to be tightened to include "directly" and removing the vague nature of the wording ("partly" and "prior"), in addition to confirming that it relates to just the systems that are used for direct communication over the DCC User Gateway or Self Service Interface. An alternative, and perhaps the most sensible approach, would be to define User System using the definition in the Security Requirements.

We would appreciate clarification on the following additional points:

- When will the existing security requirements set out in our licence be removed (by a direction from the Secretary of State)? The licence will overlap with the SEC and will need to be 'switched off', either when the Security section of the SEC comes into force, or when the User Gateway is first activated.
- The Security Sub-Committee has no explicit definition or governance structure. Can DECC clarify that this key committee will inherit arrangements identical to the proposed Technical Sub-Committee?

- It seems odd that disputes only cover Users and not the DCC (G1.5). It is unlikely that there will be a dispute between two suppliers on security compliance; this is much more likely to be between a User and the DCC (or vice versa).
- G2.9(b) places an absolute obligation on the DCC to detect any Compromise. Is this actually achievable, or would a best endeavours clause such as in G2.9(a) be more appropriate here?
- We think G3.13(b) needs to apply only when an occurrence has been detected (otherwise we would be in breach for all undetected Anomalous Events). Can DECC please confirm the intention here?

Question 18

Do you have any comments on the appropriateness and / or the proportionality of the security obligations in relation to particular types of DCC Service Users and their role?

In the proposed drafting there is a partial carve out for Export Suppliers (G1.4). The reason for this is not clear to us. We are concerned that this is inconsistent with the approach taken for Third Party Agents (see below) and could set a worrying precedent for other future users of DCC services.

Our view is that Export Suppliers should have to meet the necessary security requirements as Import Suppliers. The security provisions, if they are necessary, must be equally applicable to all. In the same way, it is our understanding that Authorised Third Parties will need to comply with, and have in place, the same security requirements as Suppliers. We believe this is the correct approach.

Question 19

Do you agree that the four additional provisions are proportionate responses to providing reliable and economic third party financing options for Communications Hubs?

Discussions around this consultation have raised a number of concerns about comms hub financing. Whilst we recognise that they are not directly related to the provisions in SEC, we set these out in brief below. We hope there will be an opportunity to discuss these with you and the DCC and CSP in the near future.

We have no significant concerns with any of the four provisions, taken separately or as a whole. We would like clarification that DCC has an obligation to take appropriate steps to recover **before** it socialises bad debt. We would also like to see in writing the arrangements for the treatment of interest earned on the three months' worth of supplier cash held in reserve, and how this is returned to suppliers through the DCC charging arrangements. This float will quickly contain a lot of supplier (customer) money.

Could DECC please also confirm whether these provisions apply to the DCC/financier in the case that the CSP decides to fund the purchase of comms hubs itself? Our current assumption is that they don't, based on the definition of Approved Finance Party; although we expect that DCC will behave consistently with regard to its own obligations to keep a float and separate account for all comms hub rentals received from suppliers.

Aside from the specific protections in SEC for financiers, we are however generally concerned about the CSP comms hub finance arrangements which the four new provisions support. Specifically, these arrangements do not reflect any sharing of risk whatsoever: suppliers take it all.

We understand that the arrangements ensure that the CSP recovers all of its investment by the time its contract with DCC expires. This means that a subsequent CSP takes on ownership of assets, fault liabilities, but no requirement to continue any recovery of investment, since any comms hubs provided in the latter years of the CSP contract will need the supplier to pay up front over a timeframe shorter than the life of the asset.

We accept that there are factors which lessen the impact of this:

- The current assumption that the majority of comms hubs are purchased and installed with at least ten years remaining on the CSP contract, and;
- That only one CSP is taking advantage of these arrangements, so far for only 15% of its comms hubs.

Nevertheless, suppliers are taking full risk on the asset under all circumstances. Where an asset younger than ten years old has transferred to a new CSP and subsequently fails, the new CSP will have an obligation to replace it free of charge. What means does it have of recovering that cost – already collected by the previous CSP in its shortened recovery period – apart from charging it again to the supplier?

Closely linked to this is the fact that suppliers will be expected to replace comms hubs under any technology refresh, which may or may not coincide with the re-tendering for the CSP service. SEC will allow reimbursement of an element of supplier costs, but by no means all of them, in particular those relating to arranging access to customers' premises, which may be particularly difficult where there is no tangible benefit to the customer. We need to explore the possibility of carrying out a comms hub refresh in line with the replacement of our smart meter stock. The financing arrangements do not currently provide this flexibility, nor do we have sufficient visibility of comms hub asset life to make our own commercial arrangements relating to the required asset life of our meters.

British Gas has always supported the procurement of comms hubs by the CSPs but as the principal funding party for these assets, we require better transparency of current DCC service provider plans, and we will be looking to ensure that we have a proportionate level of influence over the future financing arrangements so that we can help deliver best value for money across all smart metering assets for our customers.

Question 20

Views are invited on the proposals in relation to Communications Hub asset charges and maintenance charges. This includes:

- Monthly Communications Hub Charge
- HAN Variant Pricing
- Monthly Maintenance Charge

We are supportive of DECC's cautious approach to HAN variant pricing, but will review this approach once we know more about the differential cost of a 2.4 GHz hub and subsequent variants. To be clear, the principle of HAN variant pricing – and DECC's minded-to position – should apply to those cases where the supplier is making technology choices to increase coverage in the home, or to simplify its supply chain. The most relevant example of this is a dual band comms hub capable of communications at 2.4 GHz and 868 MHz. Other examples where comms hub variants will be absolutely necessary – and where the supplier has no choice – such as local or regional requirements to avoid interference with particular existing communication channels for example, belong under a single price (WAN variant) principle, even if there is some impact on the HAN technology. Here, the need to maintain postage stamp pricing still applies.

Whilst we still agree with the principle of a single price across multiple WAN technologies, this must be subject to a reasonableness test. In other words, implementation of a WAN variant must be economically efficient. There is an argument here for setting a premises threshold (and CSP may choose to set this out themselves) below which CSP will not develop and deploy a variant.

We look forward to complete transparency as to what the monthly maintenance charge covers, and how (whether) this varies depending on the remaining CSP contract term. Again, our focus in this area will always be to ensure that SEC can provide suppliers with the transparency and the tools to ensure the efficient expenditure of the DCC and its service providers.

Question 21

Views are invited on the proposals in relation to charges following removal of a Communications Hub. In particular, views are invited on the proposals for no fault removals in split fuel households. Do you agree that any outstanding asset costs should be smeared across all users rather than being charged to the installing or removing Supplier when Communications Hubs that do not serve the second installer's equipment are removed from split fuel households? Please provide a rationale for your views.

We are broadly comfortable with the direction of the policy laid out in the consultation. But it is not possible to endorse it fully at this time, largely due to the number of questions that remain unanswered. Please confirm that all of the lower level design documentation that should answer these questions will be subject to consultation with industry before final signoff by DCC.

On balance we think it is probably right that the costs of stranding should be socialised where a comms hub is replaced to facilitate a second fuel installation. But there will be a need for robust guidelines and some level of scrutiny on logging and handling of these removed assets. This is to ensure that cost socialisation occurs only in genuine cases; and also that any such cases incorrectly recorded as a straightforward no fault removal are subject to challenge by the first supplier who may otherwise incur full costs. We look forward to discussing these operational guidelines in more detail with DCC.

Where DCC decides to investigate a full technology refresh, its consideration of costs should include the visit to site, suppliers' additional costs of arranging that visit, plus potentially the impact of accelerated meter asset renewal where meters are near end of life and should be replaced in the same visit, plus the full cost of assets stranded by the technology refresh.

We would welcome clarification in any future legal drafting that suppliers are liable for comms hub costs when they are lost and stolen only after they have taken delivery of them.

There are a number of further areas where ongoing discussion is required with DCC:

- What are supplier obligations after removal of a comms hub? Should it be returned immediately or can it be returned it to stock if no fault is found?
- There needs to be more flexibility in the thresholds for batch fault liquidated damages, to reflect the size of the order placed.
- Does the annual fault threshold (of 0.5%) include those assets that have been repaired and recycled?
- How do charges accrue on an asset that has been removed but not yet processed or returned to CSP? Are suppliers reimbursed to date of removal if the asset is proven faulty?
- How quickly does reconciliation happen on no fault found removals? And is the re-use of assets contemplated in the charging/recovery model to prevent suppliers paying twice?

END