



Smart Metering Implementation Programme
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A consultation on a draft Statutory Instrument *the Electricity and Gas (Prohibition of Communications Activities) Order 2012*

SSE is pleased to provide comment on the above consultation. We welcome the ongoing engagement with the Smart Metering Implementation Team and have provided answers to the specific questions posed by DECC in the attached annex. SSE also supports the response to this consultation submitted by the Energy Retail Association.

The development of the Data Communications Company (the DCC) is a key milestone in relation to the delivery of the national smart metering rollout. It is essential for the Programme and stakeholders to ensure that a robust legal and regulatory framework is in place to facilitate the introduction and enduring processes of the DCC.

As a result of DECC's decision to introduce a foundation stage for testing and trialling, a decision which SSE supported, many energy suppliers will have communications arrangements in place to deliver two way communications with smart metering equipment within consumers homes. Furthermore, as Ofgem has obliged suppliers to attempt to maintain the functionality of the smart meter upon a change of supplier, many of these arrangements will remain in place up to and beyond the point at which DCC services become available. It is therefore imperative that the Prohibition Order does not capture communications services being provided to support early trialling and testing.

Please call me if you have any questions

Yours sincerely

Regulation

Consultation questions

1. Do you think any party other than DCC would be captured by the Prohibition Order as set out? If you consider other parties would be captured please identify them and indicate whether you consider this a short term or long term issue.

Yes, despite the narrow definition of the types of communication undertaken by the DCC, coupled with a provision of a service to all active licensed domestic suppliers SSE believes that the current drafting could unintentionally capture prepayment metering services. There is also potential for existing communications providers to be captured within the current definition.

We are, however, pleased to note that DECC has addressed an issue we raised in response to the September consultation highlighting that the Prohibition Order should take account of the fact that not all smart metering systems will be connected to the DCC due to coverage restrictions.

2. Do you have any views on the definition of a smart meter set out in the draft Order?

SSE considers in its current format the Prohibition Order could potentially capture existing prepayment metering solutions (key meters in electricity and Quantum meters in gas). These types of meters currently enable information to be communicated remotely using third party systems, the National Service Provider networks and customer devices communicating with the meter.

In order to ensure that any issues such as the one identified above can be tackled, the Programme should ensure that any agreed definitions can be easily changed or updated to reflect the advances in technology.

SSE would recommend that the definition of a smart meter is kept as wide as possible in order to capture all future advances in technology. For example, this could encompass those meters that conform with the various versions of SMETS (as updated from time to time). Another potential option is to introduce a definition that allows for a smart meter to be defined within the Smart Energy Code. This would provide more opportunity to amend the definition of a smart meter. However, SSE appreciates that the Prohibition Order will be finalised before the Smart Energy Code.

3. Do you have any further comments on the approach being adopted to structuring the licensable activity?

SSE is concerned that the current drafting of the Prohibition Order has the potential to capture other communication providers. This could prove as a disincentive to those companies willing to provide these services in future unless they are provided with some comfort that the Prohibition Order allows for a general exemption during the Foundation stage (and potentially beyond).

SSE would agree with DECC that the Prohibition Order is clear that the DCC only needs to contract with active licensed suppliers. Some companies have a number of effectively 'dormant' supply licences who will not require or need to interact with the DCC and it is sensible not to place unnecessary administrative burdens on these licensees to put in place contractual arrangements that may never be used. As is the case under other Industry Codes (such as the Balancing and Settlement Code) for determining whether or not a supply licence

is 'active'. SSE believes these should be administered in a similar format as part of the Prohibition Order.

4. Do you have any comments on the draft licensable activity as set out in article 4 of the draft Order (Annex 2)?

Yes, SSE is concerned that the amendments to the Gas (Part 3, Section 18 (3)) and Electricity Acts (Part 2, Section 4(3)) only refer to suppliers providing communication services to those smart meters installed within domestic premises. SSE has always maintained that as a minimum DCC should be able to provide services to micro-business consumers as a requirement to ensure that the benefits of smart metering rollout are realised in full, as is contained within the overall Impact Assessment.

5. Do you have any comments on the conclusions set out in respect of the proposed consequential amendments, or on those assessed as unnecessary?

No, SSE is satisfied with the conclusions as set out within the consultation document.

6. Do you have any comments on the consequential amendments as set out in the draft Order?

SSE has no comments to make on the consequential amendments as set out in the draft order.

7. Do you think that the DCC should be included in the standards of performance framework? Do you have any general views on the regulation of DCC's relationship with consumers?

SSE agrees with Government's view that the DCC is not a consumer facing organisation and consumers should not have a direct relationship with the DCC. SSE does not believe that the DCC should be subject to the standards of performance framework. We would suggest that any standards of performance should be included within the Smart Energy Code, along with any appropriate compensation arrangements.

8. Do you consider it necessary for the DCC (or its service providers) to be considered a "statutory undertaker"? Please explain the reason for your answer.

SSE does not believe that it is necessary for the DCC to be considered as a statutory undertaker in order to perform its role as a communications provider. The DCC will not need to rely on any of the powers afforded to a statutory undertaker and will not need to be offered the protections that a statutory undertaker benefits from.

SSE believes that the DCC will be able to rely on the statutory powers of its appointed service providers, who will, potentially, already be appointed a statutory undertaker.

However, if it is the Government's view that the DCC will need to exercise rights and obligations under Schedule 16 of the Electricity Act 1989, then we would be concerned to ensure that similar provisions are made with regard to the Gas Act 1986, or it may give rise to concerns that the rights do not apply to Gas only

In addition if the DCC, or its appointed service providers, are appointed as a statutory undertaker, this should not be construed as conferring a right on the DCC or its service providers to directly contact consumers. It could be highly confusing should consumers start to receive direct contact from the DCC, one of its service providers, or any agent acting on behalf of either, and any such contact should be from suppliers.