



Smart Metering Implementation Programme
Department of Energy and Climate Change
Whitehall Place
SW1A 2AW

19th November 2013

Dear SMIP team

Smart Metering Implementation Programme – AMR - 13D/267

In general we are in agreement with the decisions made, based on the initial consultation in July 2013 and with the legal drafting that has been developed to facilitate this.

At high level, we have two main points.

Firstly whilst we support increased flexibility to use AMR prior to 2020 and we do not support reduced flexibility to use AMR after 2020.

Secondly, some of the concepts and obligations that the legal drafting seeks to place on suppliers will be difficult and costly to implement in practice, and there are some conflicting obligations. For example, the requirement to develop alternative systems and processes to capture complementary data to the 13 months of consumption data stored in a SMETS1 meter, in order to be able to provide 24 months of data on request. It is not clear at present how a supplier can collect these data to the specified level of granularity without first gaining the customer's permission or otherwise being in breach of both the Data Access and Privacy obligations and the Data Protection Act, unless this requirement is seen as Regulatory in nature. Our continued view is that the tension between energy policy and a hard interpretation of the DPA should be recognised and a balanced approach taken.

This response is not confidential

Yours sincerely

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Part1 Q1: Do you have any comments on the proposed legal re-drafting (at Annex 4) to take account of the changes that were consulted upon in the Open Letter consultation on proposed amendments to the roll-out licence conditions?

We support the pre-2020 changes but not the post-2020 ones

In our response to the original Open Letter consultation we provided some detail around our support of the extension of the rollout exception allowed for advanced meters beyond April 2014.

Further we supported enhanced definitions of designated premises for the purposes of extending these exceptions, noting that any contractual arrangements on metering in this context must include the customer.

It is our understanding that the proposed licence condition re-drafts are consistent with positive decisions on these issues for the period up to 2020.

The situation post 2020 is different.

Working through the likely processes accompanying the proposed 'post 2020' rules, we have identified some considerable consequential impacts that add time, cost and ultimately disadvantage this group of customers, who themselves are not obliged to accept a smart meter if offered. We therefore believe that these to be considered further before any final decision is made. Our main concerns can be summarised as follows:

Technical and contractual changes:

- To replace an AMR meter with a SMETS compliant equivalent will require a complete system replacement at the premise, and a range of contractual re-negotiations which will increase time and costs, for no additional benefit to the customer;
- Accelerated replacement of AMR causes first greater head - end system costs to covered by a smaller number of meters and thence stranding of the infrastructure costs.
- If the customer has purchased the communications contract and / or AMR meters directly (i.e. they are not the responsibility of the supplier) then the supplier will have no direct control over a licence obligation that has been placed upon it. The supplier can only ensure the customer terms include this clause requirement. Failure to comply will result in the supplier being in breach of the licence, while the customer would have breached the supplier contract. The potential damages for these two breaches are not equitable in any sense.

Impact on the development of known energy policy aspirations:

- An AMR meter is COP10 compliant and can therefore be settled half hourly. A SMETS compliant Smart meter is not necessarily COP10 compliant. There is an increasing drive for a voluntary approach for half-hourly settlement which can only be achieved by an AMR meter under current industry arrangements, settlement rules

and the Measuring Instruments Directive;

- This then affects the facilitation of the settlement and thence billing of products in the non-domestic market requiring fiscal half-hourly capability (e.g. Flex products) with a Smart meter. Replacement of an AMR meter would also mean a breach of contract with the customer and could provide an inferior service, in this regard; and
- Customers who have installed AMR proactively to sit alongside their half-hourly metered portfolio for the purposes of consolidating their product contracts and management of energy in their portfolio will lose this functionality.

In addition, there are a number of exceptions that must be catered for in the Licence Conditions and this has further complicated the drafting. We suggest that further clarification may be gained by providing emboldened headings for each section (39.9 - 39.14 and the gas equivalents).

Part 2 Q1: Do you have any comments on the proposed legal re-drafting to take account of the extension to the completion of the smart metering roll-out to the end of 2020?

We agree with and support the drafting that extends the smart metering roll-out to the end of 2020.

Having reviewed the proposed legal re-drafting we conclude that the changes made to the gas and electricity supply licence conditions effectively take account of the extension to the completion of the smart metering roll-out to the end of 2020. Further the consequential changes that also stem from this decision have also been taken into account. In addition, please also see our current concerns around the 'post 2020' proposal for suppliers having to replace AMR solutions with Smart Meters, as detailed in our response to Part 1, question 1.

Part2 Q2: Do you have any comments on the Government's intention of clarifying the licence conditions on installation of advanced meters under the exceptions to the smart metering roll-out obligation, and do you have any comments on the proposed legal re-drafting (at Annex 4)?

We support the need to clarify the installation exceptions within the licence conditions.

We disagree with the proposal to replace AMR with Smart Meters post 2020

Having reviewed the drafting at Part 2, Annex 4 we understand and support the proposed changes but would ask that further clarification is provided by setting each of these exceptions apart from the others by use of an emboldened title that clearly specifies the scenario that each particular clause is intended to cover.

Please see our comments on Part 1 Q1, which apply here, regarding technical and contractual changes and the development of known energy policy aspirations:

Further, we note that within the body of the consultation document itself (paragraph 2.9, page 17) that the decision has been made that where a meter fault occurs for these installed AMR meters that they will have to be replaced with a smart meter. We currently believe that this approach is too restrictive and under certain circumstances could prove to be disadvantageous for customers who, under contract, have specifically requested that AMR meters be installed as part of their approach to managing their energy consumption portfolio.

It may be that future industry developments overtake the need for suppliers to maintain AMR meters, for example, the current proposal to settle these sites half-hourly. However, we believe that these developments are best left to market forces to determine how and when these customers should be provided with smart metering systems that they wish to have installed.

Part2 Q3: Do you agree that the licence conditions should be amended to allow data that is collected for billing purposes also to be used to produce statements of account, and do you have any comments on the proposed legal drafting (at Annex 4)?

We understand that this amendment ensures a consistent approach to the licence conditions.

We support the proposed drafting to extend the references to billing to include a statement of account. We would ask that a final and complete review of both Electricity and Gas Supply Licence Conditions is made to ensure that there is consistency throughout.