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MP219

‘Accessing Consumption Data on behalf of SEC Parties’

Modification Report

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About this document

This document is a Modification Report. It sets out the background, issue, solution, impacts, costs, implementation approach and progression timetable for this modification, along with any relevant discussions, views and conclusions.

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This document also has two annexes:

- **Annex A** contains the redlined changes to the Smart Energy Code (SEC) required to deliver the Proposed Solution.
- **Annex B** contains the responses to the Refinement Consultation.

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1. Summary

This proposal has been raised by Matt Roderick of n3rgy.

Occasionally, Suppliers and Network Parties may employ a third-party Other User to collect Consumption Data on their behalf. Currently, the SEC does not allow Other Users to collect Smart Metering Consumption Data on behalf of SEC Parties without the Other User (or a third Party acting on its behalf) first obtaining Unambiguous Consent from each Energy Consumer. The Proposer finds this process very time consuming and believes this is limiting Other Users in their ability offer their services to SEC Parties.

The Proposed Solution to this modification is for Other Users to obtain Consumption Data by using the employing Party's Appropriate Permission under the Conditions in the employing Party's Energy Licence. This would mean that Other Users would communicate with the Data Communications Company (DCC) Systems using their own credentials, without first obtaining Unambiguous Consent from the Energy Consumer.

This modification impacts Suppliers, Network Parties and Other SEC Parties. Costs to implement are limited to SECAS time and effort. This modification is targeted for the November 2023 SEC Release and is an Authority-Determined Modification.

2. Issue

What are the current arrangements?

To communicate with Smart Metering Devices to obtain Consumption Data, a SEC Party must first complete the User Entry Process and become a DCC User. To demonstrate compliance with SEC Section I 'Data Privacy', Other Users must complete a User Privacy Assessment. They must also obtain Panel approval of their Privacy processes before they can communicate with the DCC.

If a Supplier or Network Party wishes for an Other User to collect Consumption Data on their behalf, this is the current process it is likely to follow:

1. The Supplier or Network Party contracts the Other User to access Consumption Data on its behalf as it will have already collected the Unambiguous Consent of the Energy Consumer. The employing Party will remain as a Data Controller, whilst the Other User may act as the Data Processor.
 - Whether the Other User will act as a Data Processor depends on (a) whether the Other User relies on the employing Party's legal basis – where the Other User will be the Data Processor or (b) uses its own.
2. As an Other User is being employed to collect the Consumption Data, the employing Party must fulfil the obligations of SEC Section I1.2(b), as required for the Other User, and collect the Unambiguous Consent from each Energy Consumer before the Other User can obtain their Consumption Data using its Other User credentials. The employing Party is best placed to do this as they have the existing relationship with the Energy Consumer. Once the consumer has provided their consent, the employing Party can inform the Other User of this,

and the consumers data can be collected. The Other User will then pass the information back to the employing Party.

To ensure compliance with data privacy regulation, which is checked by the Independent Privacy Auditor (IPA), there are several different options available to Other Users to fulfil the requirements of SEC Section I1.2. Often, this means the employing Party collecting consent from the consumer, and informing the Other User when this has been provided.

What is the issue?

SEC Section I1.2 prevents all Users from obtaining Consumption Data without Appropriate Permission. The current definition of Appropriate Permission in SEC Section A only allows for two scenarios:

In respect of a Communication Service or Local Command Service to be provided to a User in respect of a Smart Metering System at a premises that will result in the User obtaining Consumption Data, either:

- (a) (Where that User is the Import Supplier, Export Supplier, Gas Supplier, Electricity Distributor or Gas Transporter for that Smart Metering System) that the User does not need consent to access that Consumption Data in accordance with its Energy Licence, or that the User has consent (whether explicit or implicit) in accordance with the requirements of its Energy Licence.*
- (b) (Where that User is not the Import Supplier, Export Supplier, Gas Supplier, Electricity Distributor or Gas Transporter for that Smart Metering System) that the Energy Consumer has given the User Unambiguous Consent to obtain that Consumption Data and such consent has not been withdrawn.*

SEC Section I1.2 states:

“Each User undertakes that it will not request, in respect of a Smart Metering System, a Communication Service or Local Command Service that will result in it obtaining Consumption Data, unless:

- (a) the User has the Appropriate Permission in respect of that Smart Metering System; and*
- (b) (where that User is not the Import Supplier, Export Supplier, Gas Supplier, Electricity Distributor or Gas Transporter for that Smart Metering System) the User has, at the point of obtaining Appropriate Permission and at such intervals as are reasonably determined appropriate by the User for the purposes of ensuring that the Energy Consumer is regularly updated of such matters, notified the Energy Consumer in writing of:*
 - (i) the time periods (by reference to length) in respect of which the User obtains or may obtain Consumption Data.*
 - (ii) the purposes for which that Consumption Data is, or may be, used by the User.*
 - (iii) the Energy Consumer’s right to object or withdraw consent (as the case may be) to the User obtaining or using that Consumption Data, and the process by which the Energy Consumer may object or withdraw consent.”*

The way SEC Section I1.2 is drafted means that if an employing Party would like an Other User to collect information on their behalf, the employing Party would potentially need to contact many Energy Consumers to gain their consent. Due to the amount of time and effort this would incur, this makes it difficult for Other Users to commercially act on behalf of the employing Party.

What is the impact this is having?

When SEC Parties would like to outsource the collection of Consumption Data, the Proposer believes the requirements of SEC Section I1.2 make it difficult for Other Users to collect the data on their behalf. In particular, the Proposer has worked on behalf of SEC Parties who would like the Other User to collect Consumption Data to take part in the National Grid's Demand-Flexibility Service, but this has been severely limited due to the current arrangements.

Impact on consumers

If Other Users are permitted to act on behalf of a SEC Party, consumers have to take time and effort to provide their consent to which they have already given to the Supplier or Network Party.

3. Solution

The solution for this modification is to allow a contracted Other User to communicate with DCC Systems using its own credentials, without first obtaining Unambiguous Consent from the Energy Consumer, to retrieve their Consumption Data on behalf of an employing SEC Party which holds the Appropriate Permission

Changes are needed to both the definition of 'Appropriate Permission' and SEC Section I1.2 'Data Privacy' to enable Other Users to collect Consumption Data without first gaining the Unambiguous Consent of Energy Consumers.

If this modification is approved, and a Supplier or Network Party wishes for an Other User to collect Consumption Data, this is the new process they will follow:

1. The Supplier or Network Party contracts the Other User to collect data on their behalf as they already have the Unambiguous Consent of the Energy Consumer. The employing Party will remain as the Data Controller, whilst the Other User will act as the Data Processor.
2. The Other User collects the Consumption Data on behalf of the employing Party using the employing Party's Appropriate Permission.

The legal text changes needed for this modification are available in Annex A.

The Smart Energy Code Administrator and Secretariat (SECAS) will also make changes to the Privacy Controls Framework (PCF) if this modification is approved. These requirements will be introduced as arrangements and evidence which the IPA will look for determine if the exception to allow Other Users to collect Consumption Data without collecting Unambiguous Consent applies. The reason for this is to ensure the Other User is not using consumers' data for other purposes with the purported Appropriate Permission of the employing Party.

The changes listed below are not the final drafting but cover the three additional areas which will be amended or added to the PCF:

- The Other User should still be required to determine and evidence, in accessing Consumption Data of relevant consumers, that they're acting on behalf of, and limited to the purposes specified by, a Supplier or Network Party which has the Appropriate Permission for those purposes. This could be evidenced through a contract or agreement between the employing Party and the Other User.
- The Other User should still be required to maintain evidence of the Energy Consumers or the Devices for which access is required on behalf of the employing Party should be assessed as part of an Other User's SEC Section I assessments, in order to demonstrate that the Energy Consumers are customers of the relevant employing Party.
- The Other User will be required to determine that the employing Party has provided notification to Energy Consumers that the Other User will be accessing Consumption Data on the employing Party's behalf, at the point, or prior to, the Other User accessing Consumption Data and at such intervals as are reasonably determined appropriate thereafter.

4. Impacts

This section summarises the impacts that would arise from the implementation of this modification.

SEC Parties

SEC Party Categories impacted			
✓	Large Suppliers	✓	Small Suppliers
✓	Electricity Network Operators	✓	Gas Network Operators
✓	Other SEC Parties	✓	DCC

Breakdown of Other SEC Party types impacted			
	Shared Resource Providers		Meter Installers
	Device Manufacturers	✓	Flexibility Providers

Suppliers and Network Parties are directly impacted as they will be able to outsource the collection of Consumption Data to Other Users more easily. Similarly, Other SEC Parties will be able to act more widely on behalf of contracting Suppliers and Network Parties.

Flexibility Providers are impacted indirectly by this modification. By allowing Other Users to act on behalf of SEC Parties, especially in circumstances when the employing Party has not been able to receive Consumption Data from that Smart Metering System, this means the data can be collected and then passed from Suppliers and Network Operators onto Flexibility Providers.

DCC System

There are no direct impacts on the DCC Total System from the Proposed Solution. However, there may be some consequential impacts:

There is no way to determine the impact of this modification on traffic across the DCC System. As such, SECAS is unable to confirm any impacts associated with this modification.

There will be no other impacts to the DCC System from this modification.

SEC and subsidiary documents

The following parts of the SEC will be impacted:

- Section A 'Definitions and Interpretations'
- Section I 'Security'

The changes to the SEC required to deliver the Proposed Solution can be found in Annex A.

Consumers

SEC Parties would no longer need to contact each Energy Consumer and receive the Unambiguous Consent before Other Users retrieve their Consumption Data. This means that Other Users will be able to access Energy Consumers' data as they can currently, but without the explicit or implicit Unambiguous Consent, and always for the purposes for which the employing party has agreed to.

In instances where Suppliers or Network Parties are unable to retrieve Consumption Data, they may employ an Other User contractually to collect this on their behalf. If that Other User can collect the Consumption Data, this means that Suppliers and Network Operators may be able to highlight customers who may need energy-saving advice as well as being able to retrieve important Time of Use (TOU) data for customers on Economy 7, 8 or 10 tariffs.

Other industry Codes

There are no impacts on other industry Codes because of this modification.

Greenhouse gas emissions

There are no impacts on greenhouse gas emissions associated with this modification.

5. Costs

DCC costs

The DCC has identified no costs associated with this modification as this is a text-only change to the SEC.

SECAS costs

The estimated SECAS implementation cost to implement this as a standalone modification is one day of effort, amounting to approximately £600. This cost will be reassessed when combining this modification in a scheduled SEC Release. The activities needed to be undertaken for this are:

- Updating the SEC and releasing the new version to the industry.

SEC Party costs

Only one Party that replied to the Refinement Consultation stated that this modification could cost their organisation between £50,000 to £100,000 to implement. The respondent noted that if they were to use an Other User to collect Consumption Data on their behalf, this would require updates to their privacy notices. In turn, they would then need to inform their customers that there was a new data processor accessing their data.

SECAS notes that this modification will not have any direct costs to SEC Parties unless they choose to employ an Other User to collect Consumption Data on their behalf. If SEC Parties do employ an Other User they would need to update their privacy notices to update their customers of this change of data privacy arrangements.

6. Implementation approach

Recommended implementation approach

SECAS is recommending an implementation date of:

- **2 November 2023** (November 2023 SEC Release) if a decision to approve is received on or before 19 October 2023.
- **Ad-hoc SEC Release** if a decision to approve is received after 19 October 2023.

This modification will require text-only changes to the SEC; therefore no system testing or lead time is required before implementation. The earliest SEC Release this modification can be implemented in is the November 2023 SEC Release. As this is an Authority-Determined modification if OFGEM communicates its determination after 19 October 2023 this modification will not be implemented in the November 2023 SEC Release but will be implemented as an ad-hoc release one day following decision.

7. Assessment of the proposal

Observations on the issue

Proposers view

Throughout the modification process the Proposer has highlighted that they are currently able to collect Consumption Data from Energy Consumers once they receive confirmation that the

Unambiguous Consent has been provided. They have noted that they raised this modification as they believe it will help prevent the possibility of energy outages occurring in Great Britain. This is because Other Users will be able to collect data on behalf of SEC Parties, return the data to them and then the employing Party can engage with the National Grid's Demand-Flexibility scheme. In turn, this would help Network Operators prepare for periods of high demand energy usage. With management of energy usage, this reduces the possibility of blackouts in the UK.

The Proposer has highlighted the importance of implementation of this modification as soon as possible, noting that the Demand-Flexibility service begins in late October 2023, so if this modification is not implemented before then they would not be able to offer services to SEC Parties. The expected timeline for this modification indicate that a decision by OFGEM will be returned in late October, and the Proposer has highlighted that they would like the modification approved as soon as possible.

The Proposer also notes that because this modification requires a text-only change to the SEC, this modification should be implemented due to the high benefits that could be realised. They also note that although existing data privacy arrangements will be altered, there are strict controls on Other Users both in the modification and through the changes to the PCF. As such, the Other User will remain as the Data Processor and is only able to collect the data and pass it back to the employing Party. The Proposer notes they are already to complete this action, however they must current return to the Energy Consumer to ask for consent again after they have already provided it to the employing Party. The Proposer believes this is unnecessary given the Other User will be acting on behalf of the Supplier and will not be performing any other actions than acting in the role of Data Processor.

Citizens Advice comments

Due to the nature of this modification altering existing data privacy arrangements, SECAS engaged with Citizens Advice representatives throughout the modification process.

Citizens Advice representatives expressed concern regarding the possibility of Energy Consumers being contacted by third parties at random. They added that existing data privacy regulations had been put in place to prevent this from happening and that they should not be changed unless there is a very strong business case to do so. They also noted that they were concerned that third parties would be collecting data and then use this for other purposes than they had originally been directed. In response to these concerns, SECAS notes that as part of this modification the Other User will only be able to collect Consumption Data from the Energy Consumer they have been directed to. They will not be able to contact the consumer or use their data for any other purposes than as directed to by the employing Party. In addition, all changes as part of this modification have been developed with data privacy experts to ensure as far as possible there are no unintended consequences arising from this modification.

Citizens Advice also expressed concern about the implications of MP219 on consumers views of data privacy and the potential impacts on the wider Smart Metering Implementation Programme (SMIP). They noted that they frequently receive requests from concerned consumers about smart metering and the information which can be accessed by Suppliers and their third parties. The Citizens Advice representative noted that the consumer should always be aware of who is handling their data. They added that although Parties may update their privacy notices to reflect the fact an Other User is working on their behalf, many consumers will not read this information. In response to these comments, SECAS notes that as part of this modification, the employing Party has an obligation under GDPR to keep the consumer informed of who is accessing their data. In addition, this update to the consumer will make them aware that an Other User may collect only their Consumption Data and pass this back

to the employing Party. The update will make it clear that the Other User will remain as a Data Processor and cannot take any further actions than collecting data.

Engagement with relevant bodies

SECAS sought input about the impacts of this modification in line with the General Data Protection Regulation (GDPR), Data Privacy and Security. The Security Sub-Committee (SSC) have also reviewed this modification and are happy for it to proceed.

The Sub-Committee Chairs noted that various public bodies such as Citizens Advice, OFGEM and the Information Commissioners Office (ICO) would be interested in these changes. SECAS has engaged with these bodies throughout the development of this modification and has answered the questions raised by these bodies in the 'Solution Development' section of this modification.

Discussion points

Throughout the modification, SECAS has engaged with various sub-committees and relevant groups. All debates which have taken place throughout the modification process have been summarised below, with reference to the forum in which they were discussed.

Licence Conditions

During the Working Group, members highlighted that SEC Parties have different Licence Conditions, which enable them to collect different types of data. They noted that it is imperative that the Other User is limited to collecting Consumption Data within the parameters of the employing party's Energy Licence. Following the Working Group meeting, the legal text was edited to ensure the Other User can only act in accordance with the employing Party's Energy Licence, and this is reflected in the attached legal text (Annex A).

What checks are in place?

One Working Group member noted that this modification would allow Other Users to collect Consumption Data on behalf of Suppliers and questioned how the DCC would be able to validate the Other User is acting on behalf of the employing Party. A number of other Working Group members queried what checks and controls are currently in place to prevent Other Users from requesting information from the DCC when they are not instructed by another SEC Party to do so. SECAS explained that Other Users can send the relevant Service Requests to the DCC, but there are random IPA checks which take place on Other Users after they have collected the data. Other Users are required to keep records of the consumers which have they collected data from for the IPA to check.

In addition, if SEC Parties are found to be breaching GDPR rules then this would break the law and be managed by the ICO. SECAS confirmed that as part of this modification Other Users will need to have evidence in the form of a contract with the employing Party confirming that they can access the Consumption Data of those Energy Consumers. Other Users will also have to evidence that the consumers they have collected data from belong to the employing party.

What actions can Other Users complete with the data they have collected?

Other Users must return the Consumption Data they have been instructed to collect back to the employing Party. They must adhere to the instructions given to them to act in accordance with the rights and duties of the employing Party. Other Users cannot use the Consumption Data for any other purposes than they have been instructed to do so by the employing Party. The Other User will remain in the role of Data Processor, with the employing Party retaining the role of Data Controller.

Is Export Data included in the scope?

An issue was identified related to the term 'Consumption Data' as defined in the SEC. This is because this only refers to the supply of energy to a premises, rather than energy exported from it. As such, the collection of Export Data is not included in the scope of this modification.

SECAS engaged with the SEC Lawyer who confirmed that Export Data is currently not covered under the current drafting of Appropriate Permission and SEC Section I1.2. SECAS engaged with the SSC Chair and the Department of Business, Energy and Industrial Strategy (BEIS), who were aware of the current arrangements and did not see any need to change the definitions in the SEC.

Would Energy Consumers be aware?

Working Group members noted it was not clear whether Energy Consumers would be aware that an Other User (that they have not specifically provided Unambiguous Consent to) was collecting their data, rather than the employing Party they had already given consent to.

SECAS has confirmed that at the exact point of the data being collected, there would be no notification to the Energy Consumer that an Other User has accessed that data. However, the Other User would be named in the employing Party's Privacy Notice, which would be presented to Energy Consumers in various ways such as in marketing emails or Terms and Conditions. The notification to the Energy Consumer must be conducted prior to the employing Party engaging an Other User to access DCC Systems.

During the Refinement Consultation, one Party noted that a major concern for consumers is who has access to their data. They believed this modification weakens consumer protections as the Other User will have access to their data without the consumer's knowledge. In addition, they believed this change will negatively impact the consumers' view of the SMIP.

If this modification is approved, SECAS will make three amendments to the PCF, one of which is listed below. This is not the final drafting of the changes but covers what will be added to the PCF to ensure that Energy Consumers would be made aware of the Other User collecting their data:

- Notwithstanding the exception for the Other User's need to collect Appropriate Permission, the Other User will still be required to determine that the employing Party has provided notification to Energy Consumers of the Other User accessing Consumption Data on the energy supplier/DSO/GT's behalf, at the point, or prior to, the Other User accessing Consumption Data and at such intervals as are reasonably determined appropriate thereafter.

The three draft changes to the PCF are available on page 6 in the 'Solution' section of this report.

Can Energy Consumers opt-out of an Other User collecting their data?

The requirement on the employing Supplier/Network Party to collect consent and facilitate Energy Consumer opt-outs only applies where it uses consent as a legal basis. If the employing Party does not need consent to access that Consumption Data in accordance with its Energy Licence, then it will not be required to facilitate Energy Consumer opt-outs to consent.

Where an employing Party uses the legal basis that it collects consent either under its licence obligations or separately from the Energy Consumer prior to accessing Consumption Data, then the Energy Consumer will be able to opt-out to the data sharing with an Other User. An opt-out is only possible if consent was collected in the first place.

Should the Energy Consumer choose to opt-out of an Other User collecting their Consumption Data, the employing Party must inform the Other User to not collect their Consumption Data.

Can Energy Consumers access the data that has been obtained?

The Consumption Data collected by the Other User must be made available to the consumer upon request.

Traffic across the DCC System

During the Refinement Consultation, several Parties who are against approval of the modification noted their belief that this modification could lead to an increase in traffic across the DCC Network. This is because Other Users would collect Data on behalf of SEC Parties, but the employing Party could continue to retrieve Consumption Data from the same customers. They believed this could lead to an increase in traffic, which could have a detrimental impact to DCC core services. In turn, this may require a DCC upgrade which would lead to costs for Suppliers and Network Parties.

In response to the claim that DCC traffic will increase, the Proposer noted that Suppliers and Network Parties choose to employ Other Users to collect this information on their behalf. Therefore, they believed that Suppliers and Network Parties would not try and collect data which they have paid an Other User to collect on their behalf.

GDPR Principles

During the Refinement Consultation one Party noted they believed that this modification does not comply with GDPR in respect of the Right to be Informed. SECAS has confirmed this modification does not breach the GDPR. This is because this modification has been designed so that an Other User is likely to be acting as a Data Processor on behalf of the employing Party, who will remain as the Data Controller and will be obliged to inform the Data Subject of any processing activities. Evidence of this is available in Articles 13 – 14 of GDPR¹. Additionally, controls have been introduced to ensure that contractual arrangements are in place between the Other User and employing Party to ensure compliance with GDPR.

There are two relevant articles of GDPR in respect to MP219. Article 13 of GDPR requires Data Controllers to provide certain information at the time when personal data is obtained directly from the Data Subject. Article 14 requires Data Controllers to provide certain information where personal data

¹ [General Data Protection Regulation \(GDPR\) – Official Legal Text \(gdpr-info.eu\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32016R0679%3A_20160518)

is not obtained directly from a Data Subject. These obligations sit with the Data Controller, rather than the Data Processor. The GDPR requirements are therefore different to the operation of the SEC.

Changes to Supplier processes

A Change Sub-Committee member noted that if this modification is approved, SEC Parties may incur costs even if they do not intend to employ an Other User to collect Consumption Data on their behalf. They noted that consumers may contact their Energy Supplier with queries about who is collecting their data and what they can do with it. SECAS notes that SEC Parties will only have to update their privacy notices and customers about an Other User collecting their data if they intend to use an Other Users services. If SEC Parties do not employ an Other User, no changes are needed to their privacy notice.

Determining a domestic Energy Consumer

One Change Sub-Committee member questioned how Other Users determine whether a consumer is domestic or non-domestic. SECAS has approached the Proposer for an update however this has not been provided before this report was distributed to Change Sub-Committee members. If SECAS has received information from the Proposer prior to the meeting, this will be presented in the slide pack.

How does the Other User know when to stop collecting data from the Energy Consumer?

During the Change Sub-Committee, one member asked how whether the Other User will continue to collect data from the Energy Consumer upon a Change of Supplier (CoS). SECAS notes that the employing Party is responsible for updating the Other User if there is a CoS to ensure that there are no GDPR breaches. SECAS has also added in a section of the proposed legal text that the Supplier will be responsible for the actions of the Other User, therefore the employing SEC Party will have to keep the Other User informed, and they will be liable for the action of the Other User if they do not.

Data Processor and Data Controller

A Change Sub-Committee member noted that they would like further explanation of the roles and liabilities of both the employing Party and the Other User. As part of this modification, the employing Party will remain as the Data Controller, with the Other User acting as a Data Processor.

This means the employing SEC Party will control the procedures and purposes of data collection. They are responsible for protecting the privacy and rights of the Data Subject. They will dictate how and why the Consumption Data will be used.

The Other User will act as the Data Processor, processing any data they are instructed to by the employing Party. They do not own the data or control it. They are bound by the instructions given to them by the Data Controller.

Scale of the issue

During a CSC meeting, SECAS explained the issue facing Other Users when they are contracted to collect Consumption Data on behalf of SEC Parties. SECAS noted there are a variety of ways in

which consumers can provide consent for their data to be collected. One such example is the employing Party sending instructions to the consumers IHD, which the consumer then engages with and agrees to. SECAS presented an example provided by the Proposer that because the consumer did not own an IHD, the Supplier had to ask the consumer for their energy bill as a form of consent. A CSC member noted this, but questioned the number of consumers without an IHD. The Proposer replied that they work on behalf of a business Supplier, with many businesses unable to have an IHD. They noted they believed that there are around five million non-domestic consumers which could be impacted by this issue.

Selling services

Throughout the modification process, Parties have expressed concern that this modification has been raised to assist the Proposer in selling services, rather than offering benefits to Consumers and SEC Parties. During a CSC meeting, one member noted the discussion about Suppliers having to approach their customers to collect consent before an Other User can collect Consumption Data on their behalf. They added that had this modification been raised by a Supplier, they would have been convinced that this is an issue for Suppliers.

Breaking privacy rules

During the Refinement Process several Parties queried what would occur if an Other User was to break the existing rules for collecting consent as defined in SEC Section I1.2. SECAS notes that if an Other User was found to have collected Consumption Data without first collecting the Unambiguous Consent of each Energy Consumer, they could have their rights suspended under the SEC. This means they may be limited in their ability to vote in elections, ability to submit modification proposals, to be represented on sub-committees or access to the DCC Systems and data. It could also result in the sec Party being expelled from the SEC.

8. Case for change

Business case

In favour of approval of MP219

During the Refinement Consultation, SECAS received seven responses which supported the approval of MP219. The supportive Parties were made up of two Large Suppliers, two Network Parties and three Other SEC Parties.

Of the seven supportive Parties, SECAS notes that two respondents belong to the same organisation, however are listed as two different SEC Parties.

Supportive Parties noted that the solution for the modification is a text-only change the costs for implementation are relatively low when considering the potential benefits. If Other Users can work on behalf of SEC Parties, Suppliers and Network Parties can pass the retrieved Consumption Data over to Flexibility Providers, which has the potential to help prevent blackouts across the UK.

In addition, this modification would benefit Suppliers and Network Parties who could retrieve data more easily and offer more advantageous tariffs and energy efficiency advice to consumers. It also

means the Other Users who are offering data collection services can more easily offer their products and services to other SEC Parties.

Against approval of MP219

During the Refinement Consultation, SECAS received five responses which were against approval of MP219. The unsupportive Parties were made up of three Large Suppliers and two Other SEC Parties.

Feedback gained from SEC Parties during the Refinement Process focused on potential impacts to traffic across the DCC System which may have cost consequences. SECAS cannot advise if or how this modification will impact traffic across the DCC System. This is because there is no information to confirm whether this modification would increase or decrease the traffic across the DCC System.

These Parties also added that they did not see a strong business case, as they believed that this modification has been raised for the Proposer to sell services rather than to benefit SEC Parties. In addition, they noted that any alteration to existing data privacy arrangements may negatively impact the SMIP and cause reputational damage.

Views against the General SEC Objectives

Proposer's views

The Proposer believes that this Draft Proposal will better facilitate SEC Objective (a)² and (c)³ by enabling Other Users to access consumer data and make this available to the consumers through their services to help them make informed decisions about their usage.

Industry views

At the Working Group members highlighted concerns about when the Energy Consumer would be aware that an Other User has collected their data. They also raised concerns about the business case for this modification, with members questioning how this benefits Other Users as a whole, rather than just the Proposer. Members also highlighted that this modification could lead to an increase in traffic across the DCC System as they foresaw Suppliers and Network Parties continuing to collect Consumption Data alongside the contracted Other User.

Those Parties in support believed this modification better facilitates SEC Objectives (a), (c) and (f)⁴. They noted that this modification would allow Other Users access to data which could then be made available to consumers directly or Suppliers to help make informed decisions about their energy usage. Furthermore, they believe that this will help Network Parties to use existing routes to Smart Meter data more effectively to support their network planning and management activities.

Those against the modification stated they believe this modification weakens SEC Objective (f) because existing data privacy controls are being altered. They believe that the current arrangements

² The first General SEC Objective is to facilitate the efficient provision, installation, and operation, as well as interoperability, of Smart Metering Systems at Energy Consumers' premises within Great Britain.

³ The third General SEC Objective is 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.

⁴ The sixth General SEC Objective is to ensure the protection of Data and the security of Data and Systems in the operation of this Code.

work well for consumers and that this modification seeks to alter this for the benefit of Other Users to sell services.

Views against the consumer areas

Improved safety and reliability

This modification will have a neutral impact on safety and reliability.

Lower bills than would otherwise be the case

This modification will have a positive impact on lowering consumer bills. Other Users acting on behalf of Suppliers and Network Parties will be able to collect Consumption Data for Energy Consumers ensuring they have accurate information rather than relying on estimated readings. This will also allow consumers to have a better understanding of their usage and take advantage of tariffs which are better suited to their energy consumption needs. No assumptions have been made about any changes to traffic across the DCC System.

Reduced environmental damage

This modification will have a neutral impact on environmental damage.

Improved quality of service

This modification would allow employing Parties to offer better services to their consumers by ensuring they can retrieve their Consumption Data.

Benefits for society as a whole

This modification will have a neutral impact on benefits for society as a whole.

Appendix 1: Progression timetable

Timetable	
Event/Action	Date
Draft Proposal raised	10 Oct 2022
Presented to CSC for initial comment	18 Oct 2022
Draft Proposal discussed with Working Group	7 Dec 2022
Presented to CSC to convert to Modification Proposal	20 Dec 2022
Modification discussed with Working Group	1 Mar 2023
Refinement Consultation	6 Mar 2023 – 27 Mar 2023
Refinement Consultation responses discussed with Working Group	5 Apr 2023

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Timetable	
Event/Action	Date
Modification Report approved by CSC	18 Jul 2023
Modification Report Consultation	19 Jul 2023 – 8 Aug 2023
Change Board Vote	23 Aug 2023
<i>Authority decision (anticipated date expected by)</i>	<i>4 Oct 2023</i>
<i>Implementation Date</i>	<i>2 November 2023</i>

Italics denote planned events that could be subject to change

Appendix 2: Glossary

This table lists all the acronyms used in this document and the full term they are an abbreviation for.

Glossary	
Acronym	Full term
BEIS	Department for Business, Energy, Industrial and Strategy
COS	Change of Supplier
CSC	Change Sub-Committee
DCC	Data Communications Company
DFS	Demand-Flexibility Service
GDPR	General Data Protection Regulation
ICO	Information Commissioners Office
IHD	In-Home Display
IPA	Independent Privacy Auditor
PCF	Privacy Control Framework
SEC	Smart Energy Code
SECAS	Smart Energy Code Administrator and Secretariat
SMIP	Smart Metering Implementation Programme
SSC	Security Sub-Committee
TOU	Time of Use

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MP219 ‘Accessing Consumption Data on behalf of SEC Parties’

Annex A

Legal text – version 0.2

About this document

This document contains the redlined changes to the SEC that would be required to deliver this Draft Modification Proposal.

Section A 'Definitions and Interpretation'

These changes have been redlined against Section A version 29.0.

Add Section A as follows:

"Appropriate Permission"

means, in respect of a Communication Service or Local Command Service to be provided to a User in respect of a Smart Metering System at a premises that will result in the User obtaining Consumption Data, either:

- (a) (where that User is the Import Supplier, Export Supplier, Gas Supplier, Electricity Distributor or Gas Transporter for that Smart Metering System) that the User does not need consent to access that Consumption Data in accordance with its Energy Licence, or that the User has consent (whether explicit or implicit) in accordance with the requirements of its Energy Licence; or
- (b) (where that User is not the Import Supplier, Export Supplier, Gas Supplier, Electricity Distributor or Gas Transporter for that Smart Metering System) that the Energy Consumer has given the User Unambiguous Consent to obtain that Consumption Data and such consent has not been withdrawn; **or**
- (c) (where that User is not the Import Supplier, Export Supplier, Gas Supplier, Electricity Distributor or Gas Transporter for that Smart Metering System, but the User is contracted by the Import Supplier, Export Supplier, Gas Supplier, Electricity Distributor and/or Gas Transporter for that Smart Metering System to obtain Consumption Data from that Smart Metering System) that such Import Supplier, Export Supplier, Gas Supplier, Electricity Distributor and/or Gas Transporter either does not need consent to access that Consumption Data in accordance with its Energy Licence, or has consent (whether explicit or implicit) in accordance with the requirements of its Energy Licence.

Section I 'Data Privacy'

These changes have been redlined against Section I version 9.0.

Amend Section I1 as follows:

I DATA PRIVACY

I1. DATA PROTECTION AND ACCESS TO DATA

User Obligations

Consumption Data

11.2 Each User undertakes that it will not request, in respect of a Smart Metering System, a Communication Service or Local Command Service that will result in it obtaining Consumption Data, unless:

- (a) the User has the Appropriate Permission in respect of that Smart Metering System; ~~and~~
- (b) (where that User is not the Import Supplier, Export Supplier, Gas Supplier, Electricity Distributor or Gas Transporter for that Smart Metering System ~~and is relying on paragraph (b) of the definition of Appropriate Permission~~) the User has, at the point of obtaining Appropriate Permission and at such intervals as are reasonably determined appropriate by the User for the purposes of ensuring that the Energy Consumer is regularly updated of such matters, notified the Energy Consumer in writing of:
 - (i) the time periods (by reference to length) in respect of which the User obtains or may obtain Consumption Data;
 - (ii) the purposes for which that Consumption Data is, or may be, used by the User; and
 - (iii) the Energy Consumer's right to object or withdraw consent (as the case may be) to the User obtaining or using that Consumption Data, and the process by which the Energy Consumer may object or withdraw consent; ~~and~~
- (c) (where that User is not the Import Supplier, Export Supplier, Gas Supplier, Electricity Distributor or Gas Transporter for that Smart Metering System ~~and is relying on paragraph (c) of the definition of Appropriate Permission~~)

the User obtains Consumption Data only for (and in accordance with the rights and duties of) the Import Supplier, Export Supplier, Gas Supplier, Electricity Distributor and/or Gas Transporter by which the User is contracted (and does not obtain or use the Consumption Data for any other purpose).

I1.2A If the Import Supplier, Export Supplier, Gas Supplier, Electricity Distributor and/or Gas Transporter for a Smart Metering System contracts another User to obtain Consumption Data as envisaged by Section I1.2(c), then both the employing Party and the other User which is providing the service shall be liable for the acts and omissions of such other User in its role as service provider. Without limitation, both the employing Party and such other User shall be in breach of this Code if such other User obtains and/or uses Consumption Data in a manner that breaches the employing Party's Energy Licence.

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MP219 ‘Accessing Consumption Data on behalf of SEC Parties’

Annex B

Refinement Consultation responses

About this document

This document contains the full collated responses received to the MP219 Refinement Consultation.

Question 1: Do you agree that the solution put forward will effectively resolve the identified issue?

Question 1			
Respondent	Category	Response	Rationale
British Gas	Large Supplier	Yes	Other Users can already collect data on behalf of Energy Suppliers or Network parties, but the consent process is complicated. The solution put forward would effectively resolve this consent issue, and would enable Other Users to collect data on behalf of Energy Suppliers or Network Parties, using the consent already obtained by that Energy Supplier or Network Party. This would only impact when Other Users collect data on behalf of an Energy Supplier or Network Party. It wouldn't make any change to the current procedure of when an Other User collects data directly on behalf of a retail customer (eg for a third party usage app).
EDF	Large Supplier	The solution identified would meet the intended resolution of the issue highlighted. However, we do not believe the SEC	The privacy framework for the SEC was put in place to ensure that the customer would know who, when and how their data was being used/distributed. This change could leave customers data vulnerable and the customer unable to fully control access. At present, we do not see the issue with the current privacy agreement and therefore do not agree with the changes being proposed. We also have concerns on how this change may impact the consumers overall view of the roll out of smart meters and the data protections promised by the programme. There are already concerns within the customer base around how their data will be used/protected and this change does not positively re-enforce these concerns. Additionally, we are concerned that changes to customer consent which could allow other users uncontrolled access to the DCC and on demand service requests, may impact the ability of the DCC to deliver core services to suppliers and networks who currently are responsible for paying.

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Question 1			
Respondent	Category	Response	Rationale
		should be changed to allow implied consent.	
E.ON Next	Large Supplier	Yes	
IMServ Europe Ltd	Other SEC Party	Yes	The ability to provide consumption data as on Other User without the need to obtain and manage unambiguous consent as a process will allow us as an OU to work with suppliers to provide a more efficient service to their customers.
National Grid Electricity Distribution	Networks Party	Yes	We believe there will be no direct impact to us.
Northern Powergrid Metering Limited	Other SEC Party	No	We agree the solution will effectively resolve the identified issue.
N3rgy	Other SEC Party	Yes	Yes, the minor change to the regulatory requirements create a simple, low cost solution to problem without negative impact to parties who do not wish to use the solution.
OVO Energy	Large Supplier	No	We don't see this as a problem or issue as we believe that consent should be obtained and there are many ways to obtain it. We are concerned that the proposal is that this should be removed. We also feel that by implementing this modification, it will cause issues elsewhere, i.e. huge impacts on capacity. This modification could result in huge amounts of traffic across the network which has not

Question 1			
Respondent	Category	Response	Rationale
			been considered as a part of this modification. There is only a very small mention of this in the mod report which states that SECAS cannot advise if or how this modification will impact traffic across the DCC System. This is because there is no information to confirm whether this modification would increase or decrease the traffic across the DCC System. This is far too ambiguous and holds too much risk.
Smart Meter Assets	Other SEC Party	No	We are not convinced there is an “issue”. No evidence has been provided to indicate a requirement for this change.
SMS PLC	Other SEC Party	Yes	Yes, the minor change to the regulatory requirements create a simple, low cost solution to problem without negative impact to parties who do not wish to use the solution.
SSEN	Networks Party	Yes	We believe that it will reduce the barriers for some SEC parties to access consumption data.
Utilita Energy Ltd	Large Supplier	No	The issue as stated in the Modification Report is that of Other Users being required to gain Appropriate Permission to gather Consumption Data. We do not believe that this can be resolved only by changing wording within the SEC, as under the GDPR Articles 13 and 14, the data subject has the right to be informed who is collecting, processing, and storing their personal information. It is our understanding that the contents of the SEC do not supersede GDPR, and instead are supplementary. Additionally, as stated on page 26 of the Privacy Controls Framework v2.12 consent and SEC obligations can already be passed down from Suppliers to Other Parties through contracts. The proposed solution would not remove the GDPR requirement to inform the Consumer of an additional party processing their data. We also question the legitimacy of the issue; whether an Other User should be given the ability to gather Consumption Data on behalf of a Supplier without the receipt of Unambiguous Consent and feel that by attempting to resolve this issue those discussions are being pre-empted. Whilst suppliers are granted certain access rights through their Licence, they are also bound to many customer protections

Question 1			
Respondent	Category	Response	Rationale
			through the same Licence. This solution appears to propose that Other Users gain certain permissions granted by the Supply Licence, without being required to obtain a Licence or be bound to any associated customer protections. The sharing of liabilities, as proposed in the solution, does not address this.

Question 2: Do you agree that the legal text will deliver MP219?

Question 2				
Respondent	Category	Response	Rationale	SECAS Response
British Gas	Large Supplier	Yes	Does there need to be a definition for 'Consumption Data'? If the change is not meant to include Export data, I think the proposed text for 'Appropriate Permission' should be changed to: (c) (where that User is not the Import Supplier, Export Supplier, Gas Supplier, Electricity Distributor or Gas Transporter for that Smart Metering System, but the User is contracted by the Import Supplier, Export Supplier, Gas Supplier, Electricity Distributor and/or Gas Transporter for that Smart Metering System to obtain Consumption data from that Smart Metering System) that such Import Supplier, Export Supplier, Gas Supplier, Electricity Distributor and/or Gas Transporter either does not need consent to access that Consumption data in accordance with its Energy licence, or has consent (whether explicit or implicit) in accordance with the requirements of its Energy Licence.	-
EDF	Large Supplier	Yes	However, we do not support the change proposed.	-
E.ON Next	Large Supplier	Yes		-

Question 2				
Respondent	Category	Response	Rationale	SECAS Response
IMServ Europe Ltd	Other SEC Party	Yes	The wording in the legal text makes clear the responsibilities and liabilities for the way an Other User may obtain and manage consumption data.	-
National Grid Electricity Distribution	Networks Party	Yes	We agree with the proposed legal text	-
Northern Powergrid Metering Limited	Other SEC Party	No		-
N3rgy	Other SEC Party	Yes		-
OVO Energy	Large Supplier	Yes		-
Smart Meter Assets	Other SEC Party	Yes	We expect the legal text has been duly considered. Our issue is with the change, not the changes to the text.	-
SMS PLC	Other SEC Party	Yes		-
SSEN	Networks Party	No	We do not understand how the SEC party identifier will be used when consumption data will be acquired.	The Other User will use their own SEC Party credentials when collecting the Consumption Data from the Energy Consumer.
Utilita Energy Ltd	Large Supplier	No	We believe that the legal text as drafted is unclear.	No GDPR changes are needed for this modification. If a SEC Party chooses to

Question 2				
Respondent	Category	Response	Rationale	SECAS Response
			We reiterate that we believe this issue cannot be resolved solely through changes to the SEC, as under the GDPR a Data Subject must be informed who their data will be processed and shared with. We also note that the drafted legal text prohibits the use of Consumption Data gathered for purposes outside of the Other Users contracted terms. This directly invalidates part of the stated business case, as it would not allow the Other User to share Consumption Data with Flexibility Providers. We support constraining the Other User to the terms of their contract with the SEC Party, however we note that this does not fully support all the objectives set out business case unless specifically allowed within the contract.	use an Other User to collect data then the Other User must be named in the employing Party's Privacy Notice, which would be presented to Energy Consumers in various ways. The Other User must pass the Consumption Data back to the employing party. The business case raised by the Proposer would allow the employing Party to pass this data onto Flexibility Providers. The Other User will be constrained to act as directed by the employing Party, and in accordance with the rights and provisions of the employing Party's Energy Licence.

Question 3: Do you agree with the proposed implementation approach?

Question 3				
Respondent	Category	Response	Rationale	SECAS Response
British Gas	Large Supplier	Yes	I do think it would have been sensible to include Export data in this modification, especially given some of the newer 'innovative' Export tariffs in the market, which usually are linked to a customer being signed up for both Import and Export with the same supplier. This would help 'future proof' this modification. However, it may be too late to include this, without delaying the implementation date.	Export Data was initially included in this modification, however upon further investigation SECAS discovered that Consumption Data only refers to Import of energy to a property. In order to include Export Data this would have required a change to the definition of Consumption Data. The Proposer did not want Export Data to be included in this modification as this would have required further work and would have delayed the potential implementation of MP219.
EDF	Large Supplier	No	Our reasoning for this is we do not believe that the full consequences of this change have been assessed sufficiently as a reduction in customer consent could lead to a large increase in DCC traffic that it may not be able to service. In turn, this may impact core services and therefore further DCC upgrade may be required and again potentially at an additional cost not paid for by other users.	

Question 3				
Respondent	Category	Response	Rationale	SECAS Response
E.ON Next	Large Supplier	Yes	Subject to there being a requirement for a contract between the employing party and the employed Other User with the relevant data protection requirements including sharing, consent, retention, and deletion obligations.	The Other User will only be able to work as directed by the employing Party and in accordance with their Energy Licence.
IMServ Europe Ltd	Other SEC Party	Yes	As a text change only there is no requirement for system testing or integration so either a release in June or November 2023 would work without issue.	-
National Grid Electricity Distribution	Networks Party		Yes	-
Northern Powergrid Metering Limited	Other SEC Party	No		-
N3rgy	Other SEC Party	Yes		-
OVO Energy	Large Supplier	Yes		-
Smart Meter Assets	Other SEC Party	No	We do not believe there is sufficient (or any) demand requiring this change. Furthermore we believe there are likely to be material unintended consequences as a result of this change if it is implemented.	-
SMS PLC	Other SEC Party	Yes		-

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Question 3				
Respondent	Category	Response	Rationale	SECAS Response
SSEN	Networks Party	No	We do not believe the legal text adequately covers enough information to be discussed by the June date.	
Utilita Energy Ltd	Large Supplier	No	No comments	-

Question 4: Will there be any impact on your organisation to implement MP219?

Question 4			
Respondent	Category	Response	Rationale
British Gas	Large Supplier	Yes	Generally positive – it would allow us to use a third party should we wish to collect Consumption Data on our behalf.
EDF	Large Supplier	Yes	There could be a negative impact on customer confidence on the smart programme and consequential impact to the DCCs performance if this change drove increased traffic.
E.ON Next	Large Supplier	No	
IMServ Europe Ltd	Other SEC Party	Yes	The current consent process for an Other User is to hold explicit consent records for each customer it intends to obtain consumption data for, this can be a detailed and long-winded process and difficult to manage in order to provide the data requested to a Supplier who already has that consent in place. Amending the wording of the process would allow for a quicker, more efficient process to take place between Other User and Supplier to the benefit of the end customer.
National Grid Electricity Distribution	Networks Party	No	We believe there will be no direct impact to us
Northern Powergrid Metering Limited	Other SEC Party	No	
N3rgy	Other SEC Party	No	

Question 4			
Respondent	Category	Response	Rationale
OVO Energy	Large Supplier	Yes	Yes, as mentioned in our answer to Q1...the impacts of this modification could be huge. DCC is unable to tell us how much usage and extra traffic that this modification will cause, which is a huge concern for us. This modification will only impact us negatively.
Smart Meter Assets	Other SEC Party	Yes	All parties would be impacted by the unintended consequences in the form of further increases to data traffic.
SMS PLC	Other SEC Party	No	
SSEN	Networks Party		Due to liability reasons this will impact us.
Utilita Energy Ltd	Large Supplier		If Utilita were to make use of a service enabled by this modification, we would need to readdress some contracts, as well as our privacy notice and registers to ensure that our customers are being properly informed of the new data processor.

Question 5: Will your organisation incur any costs in implementing MP219?

Question 5			
Respondent	Category	Response	Rationale
British Gas	Large Supplier		There would be costs if we chose to outsource collection of Consumption Data, but that would be a commercial decision if we chose to go ahead. There would be no costs if we chose not to use this option.
EDF	Large Supplier	No costs	No costs for the change to be implemented however, consequential costs may be huge.
E.ON Next	Large Supplier	No costs	
National Grid Electricity Distribution	Networks Party	No costs	
Northern Powergrid Metering Limited	Other SEC Party	No costs	
IMServ Europe Ltd	Other SEC Party	No costs	A modification of our current consent process would be required and a small administrative effort to amend this and associated documentation
N3rgy	Other SEC Party	No costs	No cost, this will not directly affect any operational cost
OVO Energy	Large Supplier		Yes, as a result of an increase in capacity. The cost is unknown.
Smart Meter Assets	Other SEC Party	No costs	We are not a DCC User so do not attract costs

Question 5			
Respondent	Category	Response	Rationale
SMS PLC	Other SEC Party	No costs	No cost, this will not directly affect any operational cost
SSEN	Networks Party	No costs	
Utilita Energy Ltd	Large Supplier	£50-100k	There will be cost of labour involved in making changes to contracts as well as our privacy information and notice. There may be system changes required to customer facing systems as part of these changes. There is a potential larger cost if it is determined that we would need to re-issue our privacy notice and information to existing customers in order to inform them of the new data processor and use of their personal data.

Question 6: How long from the point of approval would your organisation need to implement MP219?

Question 6			
Respondent	Category	Response	Rationale
British Gas	Large Supplier	N/A	
EDF	Large Supplier	N/A	We would not be implementing this change.
E.ON Next	Large Supplier	N/A	
IMServ Europe Ltd	Other SEC Party	1 Month	
National Grid Electricity Distribution	Networks Party	N/A	
Northern Powergrid Metering	Other SEC Party	N/A	
N3rgy	Other SEC Party	Immediately	No impact
OVO Energy	Large Supplier	Immediately	

Question 6			
Respondent	Category	Response	Rationale
Smart Meter Assets	Other SEC Party	N/A	
SMS PLC	Other SEC Party	Immediately	No impact
SSEN	Networks Party	N/A	
Utilita Energy Ltd	Large Supplier	2-4 Months	Privacy information and notice would need to be redrafted and approved, and any changes to contracts would need to be re-approved.

Question 7: Do you believe that MP219 would better facilitate the General SEC Objectives?

Question 7			
Respondent	Category	Response	Rationale
British Gas	Large Supplier	Yes	General SEC Objectives (a) and (c).
EDF	Large Supplier	No	We do not believe there would be an improvement for SEC objective a is this change is introduced. We also believe this change would be detrimental to SEC objective f <i>“the sixth General SEC Objective is to ensure the protection of Data and the security of Data and Systems in the operation of this Code;”</i>
E.ON Next	Large Supplier	Yes	SEC Objective: C and F
IMServ Europe Ltd	Other SEC Party	Yes	IMServ agree this proposal will better facilitate SEC Objective (a)1 and (c) 2 by enabling Other Users to access Consumer data and make this available to the consumers either directly or to suppliers to make informed decisions about Energy usage and management.
National Grid Electricity Distribution	Networks Party	Yes	We believe this modification will better facilitate General SEC objectives (a) and (c)
Northern Powergrid Metering Limited	Other SEC Party	No	
N3rgy	Other SEC Party	Yes	The change directly supports multiple SEC general objectives 3. By simplifying access to data which will enable consumers to more easily participate in schemes such as DFS 4. By enabling Suppliers and Network Parties to more easily contract third parties to provide services which enhance and improve their market position

Question 7			
Respondent	Category	Response	Rationale
			5. By enabling Network parties to use existing routes to smart meter data to more effectively support their network planning and management activities. 6. By avoiding unsanctioned data distribution mechanism which could be created as a result of not directly supporting this mechanism
OVO Energy	Large Supplier	No	
Smart Meter Assets	Other SEC Party	No	We believe that all that this proposal would facilitate is the development of sellable services by the proposer and other similar entities with potential negative impact on other SEC parties and protection for consumers and with no costs borne by the proposer.
SMS PLC	Other SEC Party		The change directly supports multiple SEC general objectives 3. By simplifying access to data which will enable consumers to more easily participate in schemes such as DFS 4. By enabling Suppliers and Network Parties to more easily contract third parties to provide services which enhance and improve their market position 5. By enabling Network parties to use existing routes to smart meter data to more effectively support their network planning and management activities. 6. By avoiding unsanctioned data distribution mechanism which could be created as a result of not directly supporting this mechanism
SSEN	Networks Party	Yes	This will be better for the consumer as it will allow greater access to their data through utilisation of another user.
Utilita Energy Ltd	Large Supplier	No	We note that there is a potential negative towards Objective F, as adding another data processor increases the risk of a data breach. We also note that in cases where the Other User is contracted to

Question 7			
Respondent	Category	Response	Rationale
			provide these types of services to multiple SEC Parties, the volume of data at risk through a breach grows.

Question 8: Do you believe there will be any impacts on or benefits to consumers if MP219 is implemented?

Question 8			
Respondent	Category	Response	Rationale
British Gas	Large Supplier	Yes	It may(?) make it quicker or easier for Energy Suppliers to launch certain new customer tariffs or products, if they have the option of outsourcing this data collection, rather than doing this in house. (Basically, they would have two fulfilment routes, and could choose which one to use.) So there would be an indirect customer benefit.
EDF	Large Supplier	Yes	We believe that the impacts to the consumer will be negative as they will have little to no control on who has access to their data, which in turn will leave them feeling vulnerable and at risk
E.ON Next	Large Supplier	Yes	Energy consumers may benefit from lawful use of their consumption data to take advantage of tariff offerings available to them but may have their privacy negatively impacted if data sharing is not aligned with current data protection legislation.
IMServ Europe Ltd	Other SEC Party	Yes	By allowing an OU to operate without the issues of managing detailed records of consent held by suppliers will allow the provision of consumption data to customer in order for them to ensure accurate billing, energy management and usage, using this data to select appropriate beneficial TOU tariffs
National Grid Electricity Distribution	Networks Party	Yes	We believe consumers will be impacted by the reasons stated in the modification report.
Northern Powergrid Metering Limited	Other SEC Party	Yes	Consumers will have less control over their personal data. The modification will likely lead to increased traffic on the smart metering network, which may degrade other necessary services.

Question 8			
Respondent	Category	Response	Rationale
N3rgy	Other SEC Party	Yes	This significantly benefits consumers by simplifying their engagement with such services was ESO DFS by enabling the Supplier to “contract out” the DFS service to a specialist organisation without subject the consumer to further barriers of access (subsequent consent requirements). This also allows Network parties to, similarly, under their approved privacy plan to contract out the collect and aggregation of energy data for network planning and improvement activities.
OVO Energy	Large Supplier	Yes	Costs will ultimately be passed on to consumers as a result of the increase in capacity. We also have concerns around data privacy.
Smart Meter Assets	Other SEC Party	No	It was clear at March’s Change Working Group that all present had concerns around this modification being negative for consumers data protection rights.
SMS PLC	Other SEC Party	Yes	This significantly benefits consumers by simplifying their engagement with such services was ESO DFS by enabling the Supplier to “contract out” the DFS service to a specialist organisation without subject the consumer to further barriers of access (subsequent consent requirements). This also allows Network parties to, similarly, under their approved privacy plan to contract out the collect and aggregation of energy data for network planning and improvement activities.
SSEN	Networks Party	Yes	Greater access to consumption data for suppliers and therefore the bills that are issued.
Utilita Energy Ltd	Large Supplier	No	We do not believe that consumers will see any additional benefit from this change, as all the services being provided by it can already be delivered by Suppliers themselves.

Question 9: Noting the costs and benefits of this modification, do you believe MP219 should be approved?

Question 9			
Respondent	Category	Response	Rationale
British Gas	Large Supplier	Yes	
EDF	Large Supplier	No	Based on our answers to questions 1-8 we strongly believe this change should not be implemented
E.ON Next	Large Supplier	Yes	
IMServ Europe Ltd	Other SEC Party	Yes	As a text only change we view this change as having little cost impact on those SEC parties who currently pay for Modifications and that the benefits of implementation outweigh those. IMServ believe that this isn't just a change for Other Users to sell services but that there is interest from Suppliers for Other Users to manage and provide consumption data for their customers and the proposal benefit those industry parties.
National Grid Electricity Distribution	Networks Party	Yes	
Northern Powergrid Metering Limited	Other SEC Party	No	
N3rgy	Other SEC Party	Yes	Given there is zero cost of this modification and significant benefit, there is no rational to reject this modification.
OVO Energy	Large Supplier	No	It is very easy to push through a modification of this type as, on the surface, this is a text only change with very little cost associated with it. We cannot ignore, unless something changes under MP218, that these modifications will not be paid for by the proposer and we are struggling to see the true benefits

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Question 9			
Respondent	Category	Response	Rationale
			for that that will be paying for these types of modifications, especially, as we have already mentioned, it is more than likely going to have a consequential impact on traffic that cannot be quantified. We believe that the benefits, therefore, will not outweigh the costs and that this modification as far too risky and ambiguous. This modification has been raised by an Other User wanting to provide a service to SEC Parties rather and being for the greater good and for consumer benefit.
Smart Meter Assets	Other SEC Party	No	There is no stated need. If there was a need for this the Modification should be raised by SEC Parties who would benefit. This Modification should be considered very carefully considering, among other things, the motives of the proposer.
SMS PLC	Other SEC Party	Yes	Given there is zero cost of this modification and significant benefit, there is no rational to reject this modification.
SSEN	Networks Party	No	Legal text requires further refinement.
Utilita Energy Ltd	Large Supplier	No	As drafted, we believe that this modification would lead to breaches in GDPR, as there is no requirement for contracting Suppliers or the Other User being contracted to inform the Consumer of the Third Party gathering and passing on their data, directly violating Articles 13 and 14 of the GDPR.

Question 10: Do you have any further comments about traffic management across the DCC System in relation to this modification?

Question 10			
Respondent	Category	Response	Comments
British Gas	Large Supplier	Yes	I was confused by the suggestion that this SEC modification might reduce Service Requests (at the top of page 6 of the Modification Report). I would expect the Energy Supplier's privacy notice to include reference to this potential arrangement. However, that is something for the Energy Supplier to put in place, not under the jurisdiction of this modification.
EDF	Large Supplier	Yes	Please see our response to previous questions around concerns regarding the consequential impact to DCC traffic. We are concerned about the additional traffic impacting core services that are provided to parties necessary for installation and maintenance of smart meters. We are concerned that any additional capacity would be paid for by suppliers and networks who do not drive the additional increase in traffic.
E.ON Next	Large Supplier	No	
IMServ Europe Ltd	Other SEC Party	Yes	I appreciate that there is a concern that one of the outcomes of this modification is that it could lead to an increase in traffic across DCC systems as both the other user and the supplier could continue to collect the same data but we don't feel that's the case, there is no analysis to support the view that it will lead to an increase in traffic or an increase that would cause considerable strain on the network
National Grid Electricity Distribution	Networks Party	Yes	Whilst we agree with this modification we feel this could potentially lead to an increase in traffic across the DCC system, if suppliers and DNO's continued to collect Consumption Data alongside the contracted Other User.

Question 10			
Respondent	Category	Response	Comments
Northern Powergrid Metering Limited	Other SEC Party	Yes	Whilst this modification does not specifically talk about traffic, it is clear that the implications of this have the potential to drastically increase network traffic. Consumption data is already gathered by suppliers, DNOs, transporters, and this modification will not move this data collection away, only duplicate it. If a supplier/DNO/Transporter wished for a third party to carry out this work, they would be able to give the third party this data directly, without impact on the network, and without the need for this modification.
N3rgy	Other SEC Party	Yes	We strongly object to the misleading nature of linking this specific modification. There is no direct impact on DCC traffic by this modification any more than any other modification could impact DCC traffic.
OVO Energy	Large Supplier	No	As above
Smart Meter Assets	Other SEC Party	Yes	There are already concerns around traffic volumes and this Modification would leave us all wide open to further increases.
SMS PLC	Other SEC Party	Yes	We strongly object to the misleading nature of linking this specific modification. There is no direct impact on DCC traffic by this modification any more than any other modification could impact DCC traffic.
SSEN	Networks Party	Yes	If this becomes active then will the DCC be able to handle the sudden increase in the traffic when other users obtaining data for SEC parties who are not ready are creating traffic. As another user will be spending money to collect consumption data when there is a central store of all consumption data that SEC parties can all access which could mean that this process is not required.

Question 10			
Respondent	Category	Response	Comments
Utilita Energy Ltd	Large Supplier	Yes	We believe there is a risk of increased network traffic stemming from Consumption Data being requested by multiple parties for the same Consumer. We note that there are ongoing discussions over DCC traffic management, and several mods already in the pipeline on this topic, MP028 and MP208 amongst these. We are concerned about the use of network by Other Users and note that Other User behaviour has already negatively impacted Price Change and EBSS payment windows.

Question 11: Do you have any further comments about data privacy associated with this modification?

Question 11				
Respondent	Category	Response	Rationale	SECAS Response
British Gas	Large Supplier		I would expect the Energy Supplier's privacy notice to include reference to this potential arrangement. However, that is something for the Energy Supplier to put in place, not under the jurisdiction of this modification.	
EDF	Large Supplier		We would like the DCC to consider the following: - The protection of customers data is fundamental to overall public perception of the smart metering programme - Would the privacy framework sufficiently audit and protect customers from misuse of their data by parties they have not given explicit permission to - How could customers know who has permission to access their data and how do they choose who to stop and when?	
E.ON Next	Large Supplier		To ensure consistency, will there be any guidance issued regarding the recommended approach relating to consumer communication about sharing of data to employed Other Users and use of consent held by the employing party?	No guidance will be issued as part of this modification. Changes to the Privacy Control Framework will take place once this modification has been implemented which SEC Parties must adhere to.
IMServ Europe Ltd	Other SEC Party		No further comments.	

Question 11				
Respondent	Category	Response	Rationale	SECAS Response
National Grid Electricity Distribution	Networks Party			
Northern Powergrid Metering Limited	Other SEC Party		As mentioned in the answer to question 1, there is already a route for Other Users to gather consumption data, through unambiguous consent. This modification does not alter the ability to gather personal data, only take away the power of consent from consumers who own that data. Obtaining unambiguous consent from consumers is an important personal data protection, particularly where third-party “other user” does not necessarily have a direct commercial relationship with those consumers.	
N3rgy	Other SEC Party		There are no further data privacy implications that are relative to the SEC or other parties	
OVO Energy	Large Supplier			
Smart Meter Assets	Other SEC Party		No – we expect other parties with more expertise will document their concerns	
SMS PLC	Other SEC Party		There are no further data privacy implications that are relative to the SEC or other parties	
SSEN	Networks Party		N/A	
Utilita	Large Supplier		Within the Solution Development it is stated that “SECAS has confirmed that Energy Consumers will not know	Energy Consumers will be unaware at the point of the Consumption Data being taken

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Question 11				
Respondent	Category	Response	Rationale	SECAS Response
			whether an Other User has collected their data unless the employing Party chooses to inform the Energy Consumer of this". We believe that this would result in a breach of the GDPR, as according to the ICO: "You must provide individuals with information including: your purposes for processing their personal data, your retention periods for that personal data, and who it will be shared with." (Right to be informed ICO) We also note that there are stated changes to the Privacy Control Framework being proposed as part of this modification and would request a draft of these changes be provided to the Working Group for discussion before this mod is progressed.	from their Smart Metering System. However, Suppliers or Network Parties are required to update their privacy notices if they choose to employ an Other User to work on their behalf. The changes to the Privacy Controls Framework have been drafted and are available in the modification report.

Question 12: Please provide any further comments you may have.

Question 12		
Respondent	Category	Response and rationale
British Gas	Large Supplier	Is there an impact on DCC cost sharing here – if the Other User isn't paying for the data messages, but the Energy Supplier or Network Party would have been had they accessed the data directly themselves? However, if this is only in relation to the 0.4% costs (as quoted in DP218), that is probably small enough to be overlooked. I've read the March Working Group notes on this, and realise that there is quite a lot of concern over unintended consequences from this mod. However, it is only a Legal text change, and if you read the proposed Legal change it is very specifically just linked to the consent aspect, and only applies when an Other User is specifically accessing this data on behalf of an Energy Supplier or Network Party. I do not think some of the wider 'fears' are well founded. However the Modification Report may be making it sound 'worse' than the actually Legal change is.
EDF	Large Supplier	We believe this change should not be implemented and do not agree with the rationale.
E.ON Next	Large Supplier	
IMServ Europe Ltd	Other SEC Party	
National Grid Electricity Distribution	Networks Party	
Northern Powergrid Metering Limited	Other SEC Party	
N3rgy	Other SEC Party	

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Question 12		
Respondent	Category	Response and rationale
OVO Energy	Large Supplier	
Smart Meter Assets	Other SEC Party	This kind of proposal is exactly what we need to consider in light of other issues already around including the concerns raised in DP218 where SEC parties who benefit commercially from changes pay no cost. In this instance the proposer would be the party to benefit. We are concerned that this modification may be pushed through purely because it is low cost and concerns legal drafting only, yet it should be reviewed and subject to scrutiny due to the wider implications. We strongly believe that all modifications need to start with a demonstration of need and benefit which is absent in this case. Just because the cost is low we firmly believe this proposal should go no further.
SMS PLC	Other SEC Party	
SSEN	Networks Party	N/A
Utilita Energy Ltd	Large Supplier	The mod report continually references Suppliers being “unable to retrieve” Consumption data, which we believe could be misleading, as it makes it sound like Other Users are using a different or more efficient method of obtaining this data, however, both parties would be using the same network and service requests. The Impacts section notes that this change will allow Other SEC Parties to “act more widely on behalf of contracting Suppliers and Network Parties”, as well as engaging with Flexibility Providers. There needs to be clarity within the document that goes to Ofgem for decision that these services are wholly dependent on the terms of the contract between the Other SEC Party and the Supplier or Network Provider.