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MP219

‘Accessing Consumption Data on behalf of SEC Parties’

Modification Report
Version 2.0
16 November 2023



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 four 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.
- **Annex C** contains the send back direction from Ofgem.
- **Annex D** contains the draft changes to the Privacy Controls Framework (PCF) **(GREEN)**.

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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 Supplier or Other User first obtaining Unambiguous Consent from each Energy Consumer from which the data will be collected.

Supporting data shows that many consumers disengage when being asked to verify consent through the methods described in SEC Section I and the PCF, which the Other User must abide by. The Proposer believes this process increases the time and complexity for the consumer journey, whilst also making it more difficult for Other Users to offer their specialist services to SEC Parties. An example of this is the Demand Flexibility Service (DFS). Suppliers have told the Smart Energy Code Administrator and Secretariat (SECAS) that they would like to be able to outsource the administration of the DFS to a Third Party (an Other User).

The Proposed Solution to this modification is for Other Users to obtain Consumption Data by using the Supplier or Network Party's (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 specifically obtaining Unambiguous Consent from each Energy Consumer. Additional safeguards have been placed in the Privacy Controls Framework (PCF) to ensure that consumers privacy protection is not weakened.

This modification impacts Suppliers, Network Parties and Other SEC Parties. Costs to implement are limited to SECAS time and effort. This is an Authority-Determined Modification and if approved will be implemented as an ad-hoc SEC Release.

2. Issue

What are the current arrangements?

What permissions do Suppliers/Network Parties have?

When a consumer signs a contract with a Supplier to be their energy provider, the Supplier gains 'Appropriate Permission' from that consumer to collect their Consumption Data for billing and settlement purposes in accordance with their Energy Licence, as well as any other purposes set out in the Supplier's Terms and Conditions. The Supplier can outsource various functions, such as meter installations, to Third Parties. However, in respect of collecting Consumption Data there are more onerous requirements within the SEC when a Supplier chooses to outsource data collection to a Third Party. These additional controls were put in place at the inception of the SEC to ensure consumer privacy, and confidence in the Smart metering roll out.

How can Other Users currently collect consumption data?

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.

Currently, if a Supplier or Network Party wishes for an Other User to collect Consumption Data on their behalf, it is likely to follow the steps set out below:

1. The Supplier or Network Party contracts the Other User to access Consumption Data on its behalf. 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. Depending on the contractual relationship between the employing Party and the Other User, either the employing Party or Other User may contact the customer to fulfil the obligations to collect their Unambiguous Consent. As an Other User is being employed to collect the Consumption Data, the employing Party or Other User 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 own DCC credentials.
3. Once the consumer has provided their consent, the Other User will be permitted to collect that consumers Consumption Data. The Other User will then pass the information back to the employing Party.

What is Unambiguous consent?

SEC Section I1.5 states;

“Each User shall put in place and maintain arrangements designed in accordance with Good Industry Practice to ensure that each person from whom it has obtained consent pursuant to Section I1.2 to I1.4 is the Energy Consumer”.

To obtain Unambiguous Consent the Supplier or the Other User must confirm that the person giving consent is the Energy Consumer.

The PCF further states:

‘...it is expected and anticipated that different Users will adopt different approaches to compliance with this obligation’

Two principles are cited:

- verification of the link between the person from whom consent is being sought and the relevant consumer premises; and
- verifying the link between the relevant consumer premises and the MPxN

The PCF goes on to offer several examples of how these two principles can be met including providing proof of address (such as a Utility Bill), a face to face survey, technical validation such as information from the IHD, a trusted third party such as a credit reference agency or a report on headed paper from the Supplier.

To ensure compliance with data privacy regulation, which is checked by the Independent Privacy Auditor (IPA), the Supplier or Third Party needs to fulfil SEC Section I1.5 and ensure that each person from whom it has obtained consent is the Energy Consumer.

Collecting Unambiguous Consent

One way in which Energy Consumers can consent to an Other User collecting their data is through their In-Home Display (IHD) or Prepayment Interface Device (PPMID). This can be undertaken by either the consumers Supplier or by the Other User. In this scenario, the consumer will be presented with a consent page on the IHD which includes the terms and conditions of the Other User collecting their data. When the consumer is presented with this page, they need to insert the last four digits of the IHD Global Unique Identifier (GUID) into an input box. The digits which the consumer submits are then checked against the last four digits of the IHD/PPMID which is registered as having been installed at their property. This is discovered by the Party using the DCC Service Request 8.2 (Read Inventory). This route is considered appropriate for collecting consent as the IHD is within the property and therefore only the occupant of the property can access it. This is in comparison to the meters of the property which could be located outside and therefore people other than the occupant could access. Other methods of consent are detailed in Section 9 of this report.

What is the issue?

Appropriate Permission

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 or Other User must collect Unambiguous Consent from every consumer. Due to the amount of time and effort this takes, it is difficult for Other Users to commercially act on behalf of the employing Party. In addition, SECAS has received feedback that many consumers will not complete the existing consent methods needed to provide Unambiguous Consent and allow an Other User to collect their data.

What is the impact this is having?

When SEC Parties seek 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 DFS, 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 must provide their Unambiguous Consent when they have already provided permission to the Supplier or Network Party. Several Suppliers informed SECAS that having to complete additional consent methods does not provide a good customer experience, with one Other User reporting they experienced a 78% drop off in engagement when these extra consent steps were needed. Due to the fact that many Suppliers are reliant on Other Users to collect Consumption Data required for the DFS, where consumers do not engage with the consent methods, they are unable to take part in the scheme and receive any financial benefits.

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 Consumption Data on their behalf as they already have the Appropriate Permission of the Energy Consumer. The employing Party will remain as the Data Controller, whilst the Other User will act as the Data Processor. This step is the similar to the existing current first step, other than the Other User would be able to collect data if the employing Party has any other legal basis permitted by their Energy Licence.
2. The Other User collects the Consumption Data on behalf of the employing Party using the employing Party's Appropriate Permission. This information is passed back to the employing Party, with the Other User only keeping a record of this for their SEC audit purposes.

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

If this modification is approved changes to the PCF will also be needed. These have been drafted and can be seen in Annex D. These new requirements will be introduced as arrangements and evidence which the IPA will look for during privacy assessments. The assessments will also determine if the exception to allow the Other User to collect Consumption Data without collecting Unambiguous Consent applies.

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 are a summary of the additions to the PCF. The full changes can be found in Annex D which is classified as a Green document under SEC Panel policy:

- *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.*
- *"Where the User is acting on behalf of an Import Supplier, Export Supplier, Electricity Distributor or Gas Transporter for that Smart Metering System who already has the Appropriate Permission through their Energy Licence, the User shall remain responsible for*

compliance with SEC I1.2 and the confirmation and evidencing of controls introduced by the employing Party to discharge its obligations under SEC I1.2”.

- *“Where the User is acting on behalf of an Import Supplier, Export Supplier, Electricity Distributor or Gas Transporter for that Smart Metering System who already has the Appropriate Permission through their Energy Licence, evidence of arrangements or a procedure for the employing Party to notify the User of any Energy Consumers who have switched Energy Supplier and whose Consumption Data can no longer be accessed by the User with Appropriate Permission*
- *“Where the User is acting on behalf of an Import Supplier, Export Supplier, Electricity Distributor or Gas Transporter for that Smart Metering System ('Employing Party') who already has the Appropriate Permission through their Energy Licence, the Other User would need to provide evidence of arrangements, or the technical ability, to provide the Energy Consumer with the ability to access information related to Consumption Data obtained by the User, which should be accessible by the Energy Consumer at any point in time during the processing. This information shall include, in particular:*
 - *the contact details of the User's Data Protection Officer (DPO) where relevant;*
 - *the purposes for which that Consumption Data is to be processed by the User;*
 - *the time periods (by reference to length) in respect of which the User and/or Employing Party has Appropriate Permission to obtain Consumption Data from the Smart Metering System;*
 - *the time periods (by reference to length) in respect of which the User will process the Consumption Data obtained from the Smart Metering System;*
 - *that the User is acting on behalf of an Import Supplier, Export Supplier, Electricity Distributor or Gas Transporter for that Smart Metering System who already has the Appropriate Permission through their Energy Licence”*
- *“Where the User is acting on behalf of an Import Supplier, Export Supplier, Electricity Distributor or Gas Transporter for that Smart Metering System ('Employing Party') who already has the Appropriate Permission through their Energy Licence, the Other User will be required to determine that the employing Party has provided notification, in plain English, to Energy Consumers, at the point, or prior to, the Other User accessing Consumption Data and at such intervals as are reasonably determined appropriate thereafter, that:*
 - *The Other User will be accessing Consumption Data on the employing Party's behalf*
 - *The purposes, in plain English, for which the Other User will be accessing Consumption Data on the employing Party's behalf*
 - *A clear description of how the Energy Consumer can withdraw consent (as the case may be) before and during processing”.*

SECAS will present the full changes to the PCF to the SEC Panel on 28 November 2023 for them to determine whether the additions are acceptable and what level of assurance the IPA should look for when auditing Other Users. The draft PCF will then be consulted on as part of the Modification Report Consultation. Any comments will be considered, confirmed by Panel and any changes presented to the Change Board before the final vote.

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, for a specific purpose, 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. This is through allowing Other Users to act on behalf of SEC Parties to enable consumers to take part in the Demand Flexibility Service (DFS).

DCC System

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

It is likely that DCC System traffic will increase as a result of this modification. SECAS has provided some estimates within Section 9, based upon the uptake of the DFS scheme in 2022 and the Proposer's/interested Supplier's estimates of consumer uptake should this modification be approved.

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'

There will also be changes to the Privacy Controls Framework (PCF)

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

Consumers

In terms of participation in the DFS, consumers will be able to provide consent through a one-step consent process to the employing Party, rather than fulfilling the consent verification methods that Other Users currently have to employ to collect Unambiguous Consent.

Alternatively, consent may not be required at all if the employing Party does not require this under its Energy Licence, as determined by the definition for Appropriate Permission in SEC Section A. One example of this is where the Supplier or Network Party uses the Consumption Data for calculating and sending a bill or statement of account as permitted by its Energy Licence.

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 only for the purposes for which the employing party has agreed to.

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:

- **Ad-hoc SEC Release** one Working Day following Ofgem's decision.

This modification will require text-only changes to the SEC, therefore no system testing or lead time is required before implementation.

7. Assessment of the proposal

Observations on the issue

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 have provided the following statement:

'The Data Access and Privacy Framework, which underpins the access by Parties to Smart Meter data, was developed following wide public consultation including input from Suppliers, Smart Energy GB, Citizens Advice, and many other stakeholders. This Framework gave assurance to consumers, consumer groups, ministers, government departments, Ofgem, and others as to how data would be accessed and used. The BEIS Review of the Data Access and Privacy Framework November 2018¹ (pages 10-11) points to the current arrangements where explicit consent was the basis for third parties (termed Other Users) to access such data.

We are aware from our own research of the concerns of consumers as to the access and usage of their data. They want to know who is using their data and for what purposes, and how to refuse or withdraw access. 89% of consumers said the current opt-out abilities are either important or very important². A consumer data consent dashboard has been discussed in the past, and agreed by relevant stakeholders to be an important and necessary data portal, so that consumers can see who is using their data, be able to understand why it is being used, and allow for ready withdrawal of consent. That dashboard has yet to come into being and should be a precondition to allowing any further access to consumer data without explicit opt-in consent.

¹ https://assets.publishing.service.gov.uk/media/5bf582ed40f0b6078acc6f98/Smart_Metering_Implementation_Programme_Review_of_the_Data_Access_and_Privacy_Framework.pdf

² <https://www.citizensadvice.org.uk/about-us/our-work/policy/policy-research-topics/energy-policy-research-and-consultation-responses/energy-policy-research/clear-and-in-control/>

We have strong concerns regarding MP219 and believe that a change to the current explicit consent requirements should not be amended by the use of a SEC modification process which is not subject to the much wider consultation process as was used to develop the Data Access and Privacy Framework. We also believe that the absence of a consumer data dashboard weakens consumer protections in consumers being able to understand access to and usage of consumers' data. Without such a dashboard being in place, we believe it is premature to allow for Other Users to access consumer smart meter data without explicit consent.

More broadly we see a consistent flow of contacts from consumers with concerns about how their smart meter data is used, and recently a notable increase in direct contacts from consumers who do not want a smart meter. At the heart of consumer concerns around smart is control. This can take various forms: control over payment mode, control over new tariffs and dynamic pricing and control over the data that smart meters make available. Granting consumers the ability to opt-out affords them leverage in a market where they have little. Effectively allowing them to say "what is the benefit to me of sharing my detailed personal data with you?" and incentivising product and service providers to give a compelling answer to that question in order to persuade the consumer to give consent. Eliminating or reducing consent rights not only weakens consumer trust, it also weakens market incentives to deliver consumer benefits in exchange for their data.

Confidence in the processes for accessing data and how it is used is essential to ensure the wider rollout of smart meters. A weakening of consumer protections in this regard may undermine the Smart Meter Implementation Programme as a whole which is a necessary part of meeting net zero government timeframes.'

Proposer's 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 by the Supplier or Network Party. However, they would like to be able to offer a service to Suppliers and Network Parties to reduce their administrative burden and management of initiatives such as the DFS. The Proposer, various Suppliers and an Other User that have provided feedback to SECAS have also noted that these changes will provide an improved customer journey and expect it to increase uptake of the DFS which will have consumer benefits and environmental benefits.

The Proposer believes it will even help prevent the possibility of energy outages occurring in Great Britain because a higher number of consumers will be able to participate in DFS.

The Proposer has highlighted the importance of implementing 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 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 believe that although existing data privacy arrangements will be altered, strict controls on Other Users still exist 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 the difficulty they experience when having to collect Unambiguous Consent, noting that the consent methods have issues associated with them. For example, many consumers may not have a working IHD or may have difficulty reading the numbers on the Device. Due to the issues with the consent methods, the Proposer believes having to collect the

Unambiguous Consent again from the consumer causes unnecessary issues which prevent consumers from engaging.

The Proposer has provided SECAS with a response to the statement provided by Citizens Advice which is below:

'The proposed change does not change the model agreed previously but allows Suppliers and Networks to utilise their existing legal mechanisms (called Appropriate Permission in the SEC) with their contracted third party. MP219 does not allow free access, without consent, to data but specifically allows Suppliers and Networks to direct a third-party Other User to access and process the data on their behalf using the standard GDPR rules for a Data Processor. It does not change anything from a consumer perspective as Suppliers already have the ability to contract third parties for processing consumer data the Supplier already has, MP219 simply allows the Supplier to direct the third party to perform collection as well as process.'

'The mechanism that already exist for consumers to opt out of data sharing will remain unchanged, however I agree that a consent dashboard will improve visibility of who has access to the consumers data. N3rgy has offered this dashboard since launch 4 years ago where it provides full details of who has consent to access their data and the ability to remove that consent. We have previously also offered this dashboard (without license cost) to both SEC, DCC and Ofgem for wider implementation'.

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 'Discussion Points' 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 already send the relevant Service Requests to the DCC, but there are random IPA checks which take place on Other Users to ensure they are not collecting data which they should not be. 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?

The term 'Consumption Data' as defined in the SEC 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 Energy Security and Net Zero (DESNZ), 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.

The details around when and how the employing Party should make consumers aware that an Other User is collecting data on their behalf will be included in the PCF as agreed by Panel.

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 seven 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.

A summary of the other draft changes to the PCF are available in Section 3 as part of the 'Solution' part of this report.

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

Where an employing Party uses consent (including Unambiguous Consent) for accessing Consumption Data, then the Energy Consumer will be able to opt-out to the data sharing with an Other User, and existing PCF obligations on the Other User will require it to facilitate these opt-outs with the employing Party.

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

Can Energy Consumers access the data that has been obtained?

Under proposed amendments to the PCF, the Consumption Data collected by the Other User must be made available to the consumer upon request.

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

A CSC member asked whether the Other User will continue to collect data from the Energy Consumer upon a Change of Supplier (CoS). SECAS notes that this is the same as the current process whereby 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 to the proposed legal text detailing 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. Furthermore, SECAS has also drafted an addition to the PCF to ensure that employing Parties inform the Other User when a consumer has switched Supplier:

"Where the User is acting on behalf of an Import Supplier, Export Supplier, Electricity Distributor or Gas Transporter for that Smart Metering System who already has the Appropriate Permission through their Energy Licence, evidence of arrangements or a procedure for the employing Party to notify the User of any Energy Consumers who have switched Energy Supplier and whose Consumption Data can no longer be accessed by the User with Appropriate Permission".

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 GDPR³. 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 is not obtained directly from a Data Subject. As detailed above, these obligations sit and will remain with the employing Party as a Data Controller, rather than the Data Processor. The GDPR requirements are therefore different to the operation of the SEC.

Changes to Supplier processes

A CSC 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 User's services. If SEC Parties do not employ an Other User, no changes are needed to their privacy notice.

Data Processor and Data Controller

A CSC 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. In GDPR terms, 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 (this is described in Section 2 of this Report). SECAS presented an example provided by the Proposer where the consumer did not own an IHD. The Supplier had to ask the consumer for their energy bill in the course of seeking 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

³ [General Data Protection Regulation \(GDPR\) – Official Legal Text \(gdpr-info.eu\)](https://gdpr-info.eu/)

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.

SECAS has engaged with Parties who noted that assuming the customer is at home, with the IHD ready to complete the process, the entire process can take between three and five minutes. SECAS notes the comments from Suppliers that may consumers who do not have an IHD are unable to participate, as well as other existing consent methods putting consumers off completing the entire Unambiguous Consent process.

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 and Other Users. SECAS has subsequently spoken to several Suppliers who have expressed an interest in using this service.

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.

In the scenario where MP219 is approved, if the Other User was found to have collected Consumption Data without the relevant Appropriate Permission of each Energy Consumer, they would 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, therefore 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 has produced some assumptions based on an increase in participation to the DFS that the Proposer believes is possible if this modification was approved. It is expected there would be a 1-2% increase in traffic on the DCC's 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 modification will better facilitate SEC Objective (a)⁴ and (c)⁵ by enabling Other Users to access consumer data, which will be passed back to the employing Party and enable more consumers to engage in the DFS.

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)⁶. They noted that this modification would allow Other Users access to Consumption Data which will be passed to the employing Party. Furthermore, they believe that this will help Network Parties to use

⁴ 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.

⁵ 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.

⁶ 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.

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 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. In addition, Third Parties could offer Suppliers services to allow consumers to access the DFS, thereby saving consumers money.

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 positive impact on benefits for society as a whole by allowing more consumers to access the DFS, thereby promoting a more efficient use of power.

9. Ofgem send back direction

On 6 October 2023 the Authority sent MP219 back to SECAS as they decided they were unable to form an opinion based on the evidence in version 1.0 of the Modification Report. Ofgem directed SECAS to complete further work on the Modification Report and resubmit it once completed. The full send back letter from Ofgem is available in Annex C. SECAS has undertaken the additional work and further information has been added to the Report, with specific answers set out below.

Ofgem noted four key areas which they considered they had not been provided with. These were:

Managed by

- A sufficient level of evidence regarding the issues that the modification is trying to resolve;
- The impacts on DCC network traffic;
- An understanding of how the current processes are insufficient, and
- How the safeguards for consumers provided by the current process will be protected if this modification is implemented.

SECAS notes the four key areas which Ofgem would like further information on and split these into sections and questions which are detailed below.

Ofgem Direction

“We note that page 3 of the FMR outlines the current arrangements and on page 5 of the FMR, the impact of the issue is discussed which states that it is ‘difficult’ for Other Users to collect data on behalf of a SEC Party.

It is also noted within the FMR that there are a ‘variety of ways in which consumers can provide consent for their data to be collected’, this Proposal suggests that these arrangements are insufficient.

However, the FMR does not provide any detail on why these arrangements are being labelled as ‘difficult’ or explain why the usual timeline for obtaining Unambiguous Consent is unreasonable, but rather states that it takes ‘time and effort’.

We would require further information on all these points to fully understand the drivers behind this modification and how this modification will better facilitate the SEC Objectives identified within the FMR. The FMR does not clearly articulate why the current process is insufficient and the challenges that would arise as a result of these”.

What do Other Users need to fulfil when collecting Unambiguous Consent?

As detailed in this report, there are a number of consent methods which Parties can use to collect the Unambiguous Consent of the Energy Consumer. The PCF contains methods and guidance on what Other Users need to include to fulfil their obligations, however it is the responsibility of the Other User on which method they use. The PCF provides guidance on what the IPA might expect to see when the Other User submits their information as part of an assessment, with the IPA and SECAS validating the method the Other User has chosen to use against the principles in the PCF.

What issues do Other Users, Suppliers and Network Parties experience with the current arrangements?

SECAS has engaged with a number of Parties to gain feedback on the issues with the current SEC arrangements. These have been split into SEC Party type to summarise the differing issues they experience.

Response 1 – Large non-domestic Supplier: One of the main methods of providing consent is through the IHD. Customers of non-domestic Suppliers do not routinely possess IHDs and therefore cannot consent this way. Another option is to use a bank card check, however this is perceived an inappropriate method for a business customer. These are the two most common consent methods used by domestic Suppliers which are not available to non-domestic Suppliers. In absence of these

options, non-domestic Suppliers frequently use copies of a customer's energy bill from the previous three months to determine the consumer has provided Unambiguous Consent. However, this means there is a need for bills to be downloaded from the Suppliers database, sent to the consumer and then provided to the Other User. In this scenario, the consumer's perception is that they are having to resubmit their bill to the Party which distributed it to them. This creates an additional step in the process and can disrupt a smooth customer journey. Estimates provided to SECAS state that this method takes an average of three days after the customer signs up, as the energy bill has to be identified by the employing Party, distributed to the consumer and then emailed back to the Other User. One Large Supplier noted that after signing up to allow an Other User to collect their Consumption Data, around 50% of consumers did not complete the process because of the issues relating to providing consent.

Response 2 - Large Supplier with domestic consumers: The two commonly used consent methods for domestic consumers to prove they are authorised to provide consent are an IHD Check (where the GUID needs to be provided and the MPAN confirmed) and a bank card check. For the IHD check, many consumers do not always have an IHD and on occasions when they do this is frequently not to hand. Should the customers have an IHD they are required to enter the GUID and confirm the MPAN, which is likely to put many elderly or disabled consumers off if they have difficulty reading numbers. If the consumer has access to the IHD, they need to be at the property to complete the process, which lengthens the timeline for providing Unambiguous Consent. SECAS notes that in March 2023 the National Audit Office reported that 9% of Smart Metering Systems had technical issues, many of which related to the IHD not working correctly⁷. As such, this means these consumers cannot engage in this consent process. In addition, where consumers have had multiple Smart Meters installed (e.g., SMETS1 to SMETS2 or issues with Devices), the asset register with the DCC is not always updated to display only the existing Devices. Consequently, this means that consumers may provide details which do not match the DCC and therefore the consent cannot be collected. Overall, respondents to SECAS noted that the dependency on using IHD's increases risk and reduces registration rates.

A number of Parties provided estimates to SECAS about how long it would take a consumer to consent using an IHD. Under the current arrangements, assuming the customer is close to the IHD after they have agreed to sign up to the DFS scheme, estimates range from between three to five minutes. Whilst this is not a long time for the consumer it does still put some consumers off. This also means that if a Supplier has to get consent from 100,000 consumers this would be between 300,000 and 500,000 minutes which equates to approximately 5000-8300 hours.

The second commonly used confirmation is that of checking a bank card. SECAS has spoken with multiple Suppliers who note that although no money is being exchanged, consumers are hesitant to provide their name, address and financial details. Using this method also requires a payment gateway facility, with consumers being very hesitant to provide any financial or personal information. Suppliers noted that this hesitancy is not limited to participating in the DFS scheme, but frequently occurs when taking any sort of payment via phone. Suppliers noted that this consent process takes around three minutes to complete.

One Large Supplier noted that more than a quarter of the calls from their customers wishing to participate in DFS during 2022 were queries regarding the means of giving Unambiguous Consent as their offering relied upon an Other User service. The Supplier noted that 10% of customers failed to register after completing the sign-up process and being eligible to participate in DFS. The Supplier

⁷ [Update on the rollout of smart meters \(nao.org.uk\)](https://nao.org.uk/publications/2023/03/09/nao-report-smart-meters-rollout/)

then contacted consumers to gather feedback on the service, which highlighted that many consumers were dissuaded from even commencing the sign-up journey because of the requirement to evidence Unambiguous Consent. One Supplier noted that 48% of consumers who had already signed up to allow the Supplier to access their half-hourly Consumption Data did not engage with the process for providing consent for an Other User to collect their data.

SECAS acknowledges there are other consent methods which Parties can use to fulfil their obligations. Parties must follow and fulfil obligations set out in the Privacy Controls Framework to complete compliance with SEC obligations, namely ensuring that the person providing consent is the person responsible for the energy supply. SECAS has engaged with numerous Parties who have stated that they use these methods to collect Unambiguous Consent, with no other examples provided.

Response 3 – Other Users: SECAS engaged with a number of Other Users who noted that the current consent methods cause disruption, with one Other User noting that they experienced a 78% drop off in customers engaging with them when the additional Unambiguous Consent methods were needed. One Other User noted that when trying to collect Unambiguous Consent using the bill from the customer, that there are issues with the Smart Meter being incorrectly registered to the wrong address or to no property at all. In this situation, the Other User is unable to correct this information and the customer is unable to provide consent.

If MP219 was implemented how would the consent process change?

If MP219 is implemented this would allow Suppliers and Network Parties to contract an Other User to collect Consumption Data on their behalf. The Supplier or Network Party will need to contact the consumer to register their interest in a scheme, such as the DFS with the Supplier or Network Party noting their details. The employing Party will then issue a notice in plain English to the consumer regarding why their data is being collected and by whom (details set out in the PCF) and how to opt out. If the consumer does not opt out, then the Other User would collect their Consumption Data and pass this back onto the employing Party.

If the consumer wanted to alter or remove the consent at any point, they will have already had communication from the employing Party in plain English of how to remove their consent.

Ofgem Direction

The FMR should highlight example scenarios where a ‘Supplier or Network Party’ would be unable to retrieve this data, what the cause of this would be, and how this modification would impact that process or bring about an additional benefit.

Why would a Supplier or Network Party be unable to collect Consumption Data?

One Large Supplier noted that they are currently undergoing internal customer system changes and as such additional system changes are not desirable. Therefore, they would seek to use an Other User in order that their customers can engage with the DFS programme whilst not causing disruption to their internal business processes. The Party also noted that they outsource various other activities to relieve pressure on them internally.

Two Large Suppliers informed SECAS that collection of half hourly data for the purposes of the DFS is not something they can complete at scale. One Large Supplier noted they did not have the capacity

to determine the scheduling needed for collecting half hourly data. The other Large Supplier noted that to collect half-hourly data this would require significant investment in integration between their 3rd party DCC Adapter and DFS provider which they could not fulfil. In addition, they commented that bringing this service in-house would require substantial changes operationally and to their systems.

A number of small Suppliers told SECAS that they do not currently have the capability to collect half-hourly Consumption Data due to the size of their business or the lack of financial and personnel capacity to do so. These Suppliers noted that without being able to outsource the collection of Consumption Data for the purposes of the DFS then they are unable to offer the service to their customers who will lose out on the opportunity to participate.

What benefits would SEC Parties receive if MP219 is approved?

Suppliers and Network Parties would be able to offer an improved customer service as they would not need to complete the steps outlined for providing Unambiguous Consent. This would enable a larger pool of consumers to take part in the DFS. Some smaller Suppliers currently use an Other User to collect Consumption Data (consumers have already given Unambiguous Consent). If the Supplier also wanted to offer the DFS to these consumers using a service offered by a different Other User, the consumer would currently have to provide Unambiguous consent again to either the Supplier or the second Other User. If this modification is approved the Supplier could simply ask the consumer if they wanted to opt in to the DFS (using the new requirements added to the PCF where the Supplier would have to state who is collecting the data, for what purpose and for what period of time the data will be collected as well as how to opt out) and the second Other User could collect the data and provide it to the Supplier.

One Party noted that they are too small (lack of the necessary resource) to offer the DFS to their customers, unless they are able to outsource the process. They believe that approval of this modification will allow them to offer a better customer experience, otherwise their customers will lose out on any savings that may be made through taking part in the DFS.

Parties would also be able to take advantage of the services offered by the Other User, who has the specialist skills to collect the data for the purposes of the DFS and can quickly allow Suppliers and Network Parties to offer the service to their consumers. Parties commented that they have other internal priorities which would mean they will not have the capability to process half-hourly data in such a way as needed for the DFS.

Several Parties noted the issues with providing consent, namely through the method of reading the GUID from the IHD. With the approval of MP219, an increased number of consumers who do not have IHDs, have issues with the registration of their IHDs or do not want to provide the bank card validation could partake in schemes such as the DFS.

Ofgem Direction

“We would require some sort of estimation of the impact of this type of modification on the DCC system’s network traffic.

Without some type of view on the potential impact of this modification, we are unsure how SEC Parties or Ofgem will be able to make an informed decision. If there are expected impacts, we would also have expected to see evidenced mitigations included within the report.

Traffic across the DCC System

The Proposer estimates that traffic will increase by less than 1% if MP219 is approved.

In 2022/2023 over 1.6 million households participated in the DFS, with the DFS test events usually running for one hour but live events running for up to four hours each. ⁸

SECAS has estimates from Parties that expressed an interest in this modification that approval of MP219 could lead to an increase in consumer engagement between 50% to 70%.

The DCC's website states that in October 2023, there were 1,729,889,372 messages sent across the DCC System. ⁹ This equates to 55,802,883 messages per day.

This table assumes that once a Supplier or Network Party has contracted an Other User to collect Consumption Data on their behalf that only the Other User will collect the Consumption Data from those consumers. Noting the 2022/2023 DFS scheme had 1.6 million consumers participating, SECAS has calculated the potential increased numbers of consumers future programmes and the potential of increased volumes of traffic across the DCC System.

% Increase in participation	Increase in reads per day*	Increase in traffic across DCC System
50%	800,000	1.4%
60%	960,000	1.7%
70%	1,120,000	2%

*The Proposer has stated that they will be issuing one SRV per day to collect 48 HH reads.

Ofgem Direction

“We require further information about how the Proposal intends to consider the issues raised by Citizens Advice regarding the collection of consumption data without gathering Unambiguous Consent, and it's impacts on consumers”.

What protections are in place to ensure a consumer's data is not being collected incorrectly once they have switched Supplier?

SECAS acknowledges the concern from Citizens Advice that consumers may have their data collected by an Other User who is unaware they have switched Supplier. As such it is possible that the Other User may collect the data incorrectly. SECAS has drafted this addition to the Privacy Controls Framework to specify controls and evidence required from Other Users so that there is a procedure in place to ensure the Other User is made aware when the Energy Consumer has switched Supplier and their data must no longer be collected:

“Where the User is acting on behalf of an Import Supplier, Export Supplier, Electricity Distributor or Gas Transporter for that Smart Metering System who already has the Appropriate Permission through their Energy Licence, evidence of arrangements or a

⁸ [Demand Flexibility Service \(DFS\) | ESO \(nationalgrideso.com\)](#)

⁹ [Smart meter statistics and network coverage | Smart DCC](#)

procedure for the employing Party to notify the User of any Energy Consumers who have switched Energy Supplier and whose Consumption Data can no longer be accessed by the User with Appropriate Permission”.

What changes have been made to address the issues raised by Citizens Advice?

SECAS has engaged with Citizens Advice throughout the modification process to gain feedback on the modification. Following Ofgem’s send back and request for further information SECAS facilitated a meeting specifically between the Proposer and Citizens Advice. Citizens Advice had two main concerns. Firstly, that consumers could easily opt out of any data collection (this has been included in the PCF changes) and secondly that a consumer can easily see who is accessing their data, how often and when it began. In addition, Citizens Advice believe the consumer should be able to easily query and change access to their data. The Proposer highlighted during the meeting that they offer an information dashboard where consumers can access this information. Citizens Advice were keen to see this kind of information offered more widely so in response to these concerns, SECAS has drafted this addition to the PCF:

"Where the User is acting on behalf of an Import Supplier, Export Supplier, Electricity Distributor or Gas Transporter for that Smart Metering System ('Employing Party') who already has the Appropriate Permission through their Energy Licence, the Other User would need to provide evidence of arrangements, or the technical ability, to provide the Energy Consumer with the ability to access information related to Consumption Data obtained by the User, which should be accessible by the Energy Consumer at any point in time during the processing. This information shall include, in particular:

- *the contact details of the User's Data Protection Officer (DPO) where relevant;*
- *the purposes for which that Consumption Data is to be processed by the User;*
- *the time periods (by reference to length) in respect of which the User and/or Employing Party has Appropriate Permission to obtain Consumption Data from the Smart Metering System;*
- *the time periods (by reference to length) in respect of which the User will process the Consumption Data obtained from the Smart Metering System;*
- *that the User is acting on behalf of an Import Supplier, Export Supplier, Electricity Distributor or Gas Transporter for that Smart Metering System who already has the Appropriate Permission through their Energy Licence”.*

SECAS and the Proposer also acknowledge that Citizens Advice have been clear that communications to the consumer need to be written in plain English. As such, SECAS has drafted this addition to the PCF:

"Where the User is acting on behalf of an Import Supplier, Export Supplier, Electricity Distributor or Gas Transporter for that Smart Metering System ('Employing Party') who already has the Appropriate Permission through their Energy Licence, the Other User will be required to determine that the employing Party has provided notification, in plain English, to Energy Consumers, at the point, or prior to, the Other User accessing Consumption Data and at such intervals as are reasonably determined appropriate thereafter, that:

- *The Other User will be accessing Consumption Data on the employing Party's behalf*

- *The purposes, in plain English, for which the Other User will be accessing Consumption Data on the employing Party's behalf*
- *A clear description of how the Energy Consumer can withdraw consent (as the case may be) before and during processing".*

Ofgem Direction

We note that changes will be made to the SEC Privacy Controls Framework (PCF) which will require the employing SEC Party to notify the consumer, potentially through marketing emails or Terms and Conditions, that the Other User is accessing the consumer's consumption data on the Party's behalf. Given the significance to the consumer protections these changes are affecting, we would expect to see them in a more developed manner in an updated FMR to ensure that there is a specific obligation on employing Parties to notify energy consumers prior to the Other User accessing their consumption data".

What are the full changes to the Privacy Controls Framework?

The proposed changes to the PCF can be seen in Annex D. This document will be presented at the November Panel meeting for endorsement and then will be consulted on as part of the Modification Report Consultation. Any feedback from the consultation will be reported back to Panel and any changes made by Panel before the Change Board vote. This means that the proposed changes sent to Ofgem will be final and will be implemented should the modification be approved.

Ofgem Direction

We would also like to see detailed explanations of how any type of unauthorised access to this data is handled and how ultimately this will be reported on. An example would be where an energy consumer has switched suppliers and is no longer covered under the agreement. We would like to fully understand how this type of scenario would be handled and when it would be reported to the energy consumer, Information Commissioner's Officer (ICO), SEC Panel and the Authority".

How is unauthorised access to Consumption Data handled and reported to the Energy Consumer, ICO, SEC Panel and Authority?

There are no proposed changes to the current process. Identifying unauthorised handling would come through existing SECAS procedures, including assessments conducted by the IPA on how Other Users are complying with the updated PCF requirements. Other Users are assessed when joining the SEC, in addition to the annual self-assessment and random sample assessments at timescales required by the PCF. For SECAS or the IPA to be able to identify unauthorised access as part of this modification, Other Users will maintain a list of the Energy Consumers whose MPANs they can access Consumption Data for. Suppliers would need to ensure that any Energy Consumers who have switched Supplier must not have their Consumption Data collected.

Through the initial, annual self-assessment and random sample assessments, the IPA would identify any non-compliances with the SEC based on an assessment of the Other User's processes and sample evidence of the relevant MPxNs of Energy Consumers whose data the Other User has accessed. The assessment report would then be validated by SECAS and presented to the SEC Panel – during which any unauthorised access to Consumption Data would be identified to the SEC Panel for action.

This could occur, for example, where the Other User does not have Appropriate Permission to access the relevant Energy Consumers' consumption data, or other controls within Section I or the PCF are not satisfied.

Alternatively, SEC Parties (including Other Users), SECAS and the IPA retain the ability to voluntarily report any non-compliances with the SEC identified with their or Other Users' practices to the SEC Panel for its consideration at any time.

Where any unauthorised access to Energy Consumers' data in breach of the SEC or PCF is reported to the SEC Panel, the Panel would take such action with respect to the Other User to the extent it is a breach of the SEC. There would then be ramifications for the Other User which could mean suspension or expulsion by the Panel.

To the extent this is a breach of Data Privacy law, SECAS/SEC Panel would then inform the ICO under the existing Memorandum of Understanding with the ICO.

Ofgem Direction

"We need to fully understand how the consumer is protected in this modification from start to finish".

How is the consumer protected?

Primarily, only the Supplier or Network Party for the Energy Consumer can access their Consumption Data through their Appropriate Permission. If any other Party other than the Energy Consumer's Supplier or Network Party sought to directly access Consumption Data from the Energy Consumer, they would still need to collect the Unambiguous Consent or Appropriate Permission for that consumer. The consumer will still have to opt in to any scheme (such as DFS) and will be given clear instructions on how to opt out if they change their mind.

In the scenario proposed in this modification, the employing Party will provide notification to the Energy Consumer that the Other User will be collecting their data and the purposes for doing so. In this scenario, the Other User is being employed as a Data Processor, using the employing Parties Appropriate Permission to collect Consumption Data from the consumer. Once the data has been retrieved, the Other User would pass the Consumption Data back to the employing Party, the Data Controller, and would not be permitted to use the Consumption Data for any other purpose or provide it to another Party for any purpose. In order to fulfil reporting obligations set on them by SEC Panel, the Other User would be required to keep a record of the Energy Consumers whose data they have collected in order to ensure that they are customers of the employing Party. This information would then be used as part of the assessment of the Other User by the IPA.

As detailed above, SECAS has also drafted seven additions to the PCF to ensure that consumers are protected. Notably that the Energy Consumer will be informed in plain English before the Other User collects their data, there must be arrangements for the employing Party to inform the Other User if any consumer has switched Supplier and there must be arrangements for the Energy Consumer to have the ability to access information related to the Consumption Data obtained by the Other User during the processing.

10. 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
Modification Report approved by CSC	21 Nov 2023
SEC Panel approves PCF changes	28 Nov 2023
Modification Report Consultation (13 days)	29 Nov 2023 – 18 Dec 2023
Change Board Vote	20 Dec 2023
<i>Authority decision (anticipated date expected by)</i>	<i>Early February 2024</i>
<i>Implementation Date</i>	<i>Ad-hoc SEC Release</i>

Italics denote planned events that could be subject to change

11. 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
COS	Change of Supplier
CSC	Change Sub-Committee
DCC	Data Communications Company
DESNZ	Department for Energy Security and Net Zero
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

Glossary	
Acronym	Full term
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 1.0

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 with 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 provider 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	

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.

Angela Love
Smart Energy Code Panel Chair
Smart Energy Code Company Ltd
8 Fenchurch Place
London, EC3M 4AJ

Date: 6 October 2023

Dear Angela,

Authority¹ decision to send back Smart Energy Code (SEC) Modification Proposal (MP) 219 'Accessing Consumption Data on behalf of SEC Parties'

On 23 August 2023, the SEC Panel submitted a Final Modification Report (FMR) for SECMP 219² to the Authority, following the SEC Change Board's recommendation that SECMP 219 should be accepted. We have decided that we are unable to form an opinion on SECMP 219 based on the evidence submitted within the FMR. We therefore direct that further work on the FMR is required and it should be resubmitted to us once this is completed.³

Background

On 10 October 2022, n3rgy raised SECMP 219 'Accessing Consumption Data on behalf of SEC Parties'. SECMP219 is intended to allow Other Users⁴, on behalf of SEC Parties such as Suppliers and Network Parties⁵, to collect the consumption data of energy consumers without obtaining the Unambiguous Consent⁶ of the consumer.

Reasons for our decision

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

² ['Accessing Consumption Data on behalf of SEC Parties. SECAS. 2023.](#)

³ [Modification Process. Section D. Smart Energy Code.](#)

⁴ Other Users is defined in SEC Section A – Definitions and Interpretations.

⁵ Network Parties is defined in SEC Section A – Definitions and Interpretations.

⁶ Unambiguous Consent is defined in SEC Section A – Definitions and Interpretations.

The reason we have decided to send back the FMR is that we consider that we have not been provided with:

- a sufficient level of evidence regarding the issues that the modification is trying to resolve,
- the impacts on Data Communications Company (DCC) network traffic,
- an understanding of how the current processes are insufficient, and
- how the safeguards for consumers provided by the current process will be protected if this modification is implemented.

Therefore, we are currently unable to form an opinion on it.

Direction

We therefore direct that additional steps are undertaken to address these concerns, and a revised FMR should include further information on the following areas:

1. Further detail on the current impact of the issue that this Proposal is attempting to resolve.

We note that page 3 of the FMR outlines the current arrangements and on page 5 of the FMR, the impact of the issue is discussed which states that it is 'difficult' for Other Users to collect data on behalf of a SEC Party. It is also noted within the FMR that there are a 'variety of ways in which consumers can provide consent for their data to be collected', this Proposal suggests that these arrangements are insufficient. However, the FMR does not provide any detail on why these arrangements are being labelled as 'difficult' or explain why the usual timeline for obtaining Unambiguous Consent is unreasonable, but rather states that it takes 'time and effort'. We would require further information on all these points to fully understand the drivers behind this modification and how this modification will better facilitate the SEC Objectives identified within the FMR.

2. Insight on the current arrangements

Suppliers⁷ and other Network Parties already have a variety of existing arrangements and processes in place for obtaining Unambiguous Consent from a consumer when they wish to utilise Other Users to collect consumption data. This is evidenced within the 'current arrangements' section of the FMR. However, the FMR does not clearly articulate why the

⁷ Suppliers is defined in SEC Section A – Definitions and Interpretations.

current process is insufficient and the challenges that arise as a result of these. We would also have expected the timelines for obtaining this type of consent to be evidenced within the FMR.

On page 7 of the FMR, it notes that there may be 'instances where Suppliers or Network Parties are unable to retrieve consumption data' and may employ Other Users to collect this data on their behalf. The FMR should highlight example scenarios where a 'Supplier or Network Party' would be unable to retrieve this data, what the cause of this would be, and how this modification would impact that process or bring about an additional benefit.

This information should be fully articulated within the FMR so that we are able to understand the solution, the full extent of the problem the Proposal is attempting to resolve, all existing processes and how this modification will benefit consumers and the industry.

3. We would require some sort of estimation of the impact of this type of modification on the DCC system's network traffic.

It is explained in the FMR that this is not possible to estimate; however, without some type of view on the potential impact of this modification, we are unsure how SEC Parties or Ofgem will be able to make an informed decision. If there are expected impacts, we would also have expected to see evidenced mitigations included within the report.

4. We require further information about how the Proposal intends to consider the issues raised by Citizens Advice regarding the collection of consumption data without gathering Unambiguous Consent, and its impacts on consumers.

Ofgem's decision on directing whether a modification is made is judged on whether it is consistent with our principal objective and statutory duties.⁸ The Authority's principal objective is to protect the interests of existing and future consumers which includes considering the concerns of consumers in relation to data privacy.

We note that changes will be made to the SEC Privacy Controls Framework⁹ (PCF) which will require the employing SEC Party to notify the consumer, potentially through marketing emails or Terms and Conditions, that the Other User is accessing the consumer's consumption data on the Party's behalf. Given the significance to the consumer protections these changes are affecting, we would expect to see them in a more developed manner in

⁸ The Authority's statutory duties are wider than matters which the SEC Panel must take into consideration and are detailed in the Electricity Act 1989 and Gas Act 1986 as amended.

⁹ Privacy Controls Framework is defined in SEC Section A – Definitions and Interpretations.

an updated FMR to ensure that there is a specific obligation on employing Parties to notify energy consumers prior to the Other User accessing their consumption data. However, within the FMR, the changes to the PCF are noted in draft form, on page 6. We do not believe they have been sufficiently developed to inform our decision-making.

In addition to this, we would also like to see detailed explanations of how any type of unauthorised access to this data is handled and how ultimately this will be reported on. An example would be where an energy consumer has switched suppliers and is no longer covered under the agreement. We would like to fully understand how this type of scenario would be handled and when it would be reported to the energy consumer, Information Commissioner's Officer (ICO), SEC Panel and the Authority. We need to fully understand how the consumer is protected in this modification from start to finish.

After addressing the issues highlighted above, and after revising the FMR accordingly, the SEC Panel should resubmit it to us for decision as soon as practicable.

Yours sincerely,

Michael Walls

Head of Retail Market Operations

Signed on behalf of the Authority and authorised for that purpose.