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MP288 'Erroneous Section J Default Notices'

Modification Report

Version 1.0

10 June 2025

Corporate member of
Plain English Campaign
Committed to clearer
communication

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About this document

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

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This document also has two annexes:

- **Annex A** contains the redlined changes to the SEC required to deliver the Proposed Solution.
- **Annex B** contains the full responses received to the Refinement Consultation.

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1. Summary

This proposal has been raised by Catherine Duggan from Electricity North West Ltd.

Smart Energy Code (SEC) Section J outlines Data Communications Company (DCC) Charges, Credit Cover Requirements and the review and forecasting of DCC Charges. Section J.1 'Payment of Charges' details how SEC Parties will be invoiced by the DCC for their Charges.

Section J2 'Payment Default and Disputes' lists the actions the DCC could take in the event of a payment failure. Where a Party fails to pay an amount set out in an Invoice by the relevant Due Date, Section J2.1 enables the DCC to issue an Event of Default Notice to that Party setting out the unpaid amount and other aspects where applicable.

Section J2.6 requires the DCC to notify the SEC Panel that an Event of Default has occurred within three Working Days of non-payment by the defaulting Party following the notice.

The Proposer has identified instances where the DCC did not collect the amount invoiced to the Party by the Due Date via Direct Debit. In one instance, this resulted in the DCC then issuing an erroneous Event of Default Notice to the Proposer due to the late collection of the Direct Debit. The DCC only confirmed after five working days the notice was sent in error (which is after the date the DCC were required to inform the SEC Panel). The Proposer subsequently identified there is no provision within the SEC for the prevention or exclusion of the DCC issuing an Event of Default Notice to a Party due to DCC's late Direct Debit collection.

A Party can receive an erroneous Event of Default Notice, which has the potential of causing reputational damage to the Party in question. In addition to potential reputation damages, there is also likely resource impacts associated with all those involved, including that of the SEC Panel.

The Proposer would like to place an obligation within the SEC preventing the DCC from raising an Event of Default Notice against a Party on the grounds of the DCC's late Direct Debit collection.

This modification will impact all SEC Parties. Costs are limited to that of just Smart Energy Code Administrator & Secretariat (SECAS) implementation costs. This is a Self-Governance Modification.

2. Issue

What are the current arrangements?

SEC Section J 'Payment of Charges'

SEC Section J outlines DCC Charges, Credit Cover Requirements and the review and forecasting of DCC Charges. Section J.1 'Payment of Charges' details how SEC Parties will be invoiced by the DCC for their Charges. A DCC invoice must contain various details outlined below:

- The date by which payment is due (pursuant to Section J1.5);
- A breakdown (in reasonable detail) of the Charges incurred by that Party in that month;
- Subject to Section J1.4, the amount of VAT payable on the above amounts;

- Any adjustment required (pursuant to Section J1.9);
- The total amount payable by that Party in respect of the above.

Communications Hubs (CH) Finance Charges, which are required to be invoiced separately, will also contain the same information outlined above.

Section J1.5 notes that each Party shall pay the amount set out in an Invoice issued to it by the DCC by the “Due Date” for payment; being the later of five Working Days following receipt of such invoice or eight Working Days following the end of the month to which such Invoice relates.

Section J2 ‘Payment Default and Disputes’ lists the actions the DCC could take in the event of a payment failure. Where a Party fails to pay an amount set out in an Invoice by the relevant Due Date, Section J2.1 enables to the DCC to issue a notice to that Party setting out the unpaid amount and other aspects where applicable such as Default Interest (Section J.2.2), Resolution of Payment Disputes (Sections J2.4 & J2.5), Credit Assessment Reports (Section J3.16) and Events of Default (SEC Section M ‘General’, Section M8.1(c)). Section J2.6 requires the DCC to notify the SEC Panel that an Event of Default has occurred within three Working Days on non-payment by the defaulting Party following the notice.

An Event of Default can be triggered by any of the below criteria as defined by Section M8.1:

- the Defaulting Party has committed a material breach of SEC Section I ‘Data Privacy’ Section I1.2 ‘User Obligations’;
- the Defaulting Party has failed in a material respect to comply with an enforcement notice served by the Information Commissioner pursuant to the Data Protection Legislation, whether such failure has been notified to the Panel by the Information Commissioner or the Panel has otherwise become aware of such failure;
- the DCC has served a notice on the Defaulting Party in accordance with Section J2.1 ‘Notification of Payment Failure’ in respect of Charges payable by the Defaulting Party, and such Charges have not been paid within three Working Days following that notice;
- the DCC has issued a notice to the Defaulting Party in accordance with Section J3.14 ‘Breach of Credit Cover Obligations’ in respect of Credit Support required to be procured by the Defaulting Party, and such Credit Support has not been provided within three Working Days following that notice;
- the Defaulting Party has not paid any amount other than in respect of the Charges (failures in respect of which are subject to Section M8.1(c)), which the Defaulting Party is due to have paid under the SEC, and does not remedy such failure within five Working Days after a notice requiring it to do so (which notice must refer to this in SEC Section M8);
- the Defaulting Party has made a material misrepresentation in its Application Form;
- the Defaulting Party is in material breach of any of its material obligations under the SEC and/or any Bilateral Agreement (other than those that are subject to another paragraph of Section M8.1) and the Defaulting Party has failed to remedy the breach (or to desist from the breach and mitigate its effects insofar as it is reasonably practicable to do so) within 20 Working Days after a notice requiring it to do so (which notice must describe the breach in reasonable detail and refer to SEC Section M8); and/or
- the Defaulting Party suffers an Insolvency Type Event.

What is the issue?

The Proposer has identified instances whereas the DCC have not collected the amount via Direct Debit invoiced to the Party by the Due Date. The DCC have then issued an erroneous Event of Default Notice due to the DCC's late collection of the Direct Debit to the Party.

The Proposer subsequently identified there is no provision within the SEC for the prevention or exclusion of the DCC issuing an Event of Default Notice to a Party due to late Direct Debit collection by the DCC.

What is the impact this is having?

A Party can receive an erroneous Event of Default Notice which has the potential of causing reputational damage to the Party in question. Pursuant to Section J2.6, Events of Default Notices must be referred to the Panel within three working days of continued non-payment. If an erroneous Event of Default notice issue were to be referred to the Panel relating to the DCC's late Direct Debit collection, this may reflect negatively on both the DCC, due to the administrative error leading to the dispute, and the Party in question as their reputation may be questioned.

In addition to potential reputation damages, there is also likely resource impacts associated all those involved, including that of the Panel. Pursuant to Section J2.4, disputes relating to Events of Default Notices may also be referred to the Panel by the Party. Escalations for determination would require additional administrative burdens on all Parties involved, with time utilised having associated costs and impacts.

Impact on consumers

There are no impacts to Consumers relating to this issue.

3. Solution

Proposed Solution

The Proposed Solution is to make an amendment to SEC Section J – 'Payment of Charges', Clause J2.1 to clarify that an Event of Default Notice shall not be raised in instances where failure to take a payment via Direct Debit is liable only to the DCC, and not to the DCC User.

The changes to the SEC required to deliver the proposed solution can be found in Annex A.

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

This modification indirectly impacts the DCC, and no other SEC Parties. The proposed solution would require the DCC to modify their process for issuing Event of Default notices. However, it is deemed that this change of behaviour for the DCC is both indirect, as they are being asked to not do something, as opposed to actively doing something new. It is also deemed that this indirect impact is relatively small, as Event of Default notices in relation to DCC-liable payment failures are uncommon.

DCC Systems

DCC System changes/traffic

There are no impacts on the DCC System or traffic across the DCC System because of this modification.

SEC and subsidiary documents

The following parts of the SEC will be impacted:

- Section J 'Payment of Charges'

The changes to the SEC required to deliver the proposed solution can be found in Annex A.

Consumers

There are no impacts on Consumers because of this modification.

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 because of this modification.

5. Costs

DCC costs

No DCC costs have been identified in relation to the proposed solution, as this is a legal text only modification that does not require any DCC System changes.

SECAS costs

The estimated SECAS implementation cost to implement this as a stand-alone modification is one days 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

SECAS does not anticipate any costs on Parties because of this Modification. This position is supported by responses to the Refinement Consultation, where all respondents indicated that they had not identified any costs.

6. Implementation approach

Recommended implementation approach

SECAS is recommending to the Change Sub-Committee an implementation date of:

- **Ad hoc SEC Release (1 Working Day following the Change Board decision)**

SECAS are recommending this approach as this is a legal text only Modification with no DCC technical impact, and with no impact (either operationally or financially) on any SEC Party. Furthermore, having the proposed solution in place as soon as possible will provide immediate confidence to SEC Parties engaging with the DCC for the purposes of payment for services.

7. Assessment of the proposal

Areas for assessment

Sub-Committee input

As this modification only impacts the Operations Group (OPSG), no other Sub-Committees were consulted on this modification.

Observations on the issue

OPSG agreed with the proposed solution. They noted that it would be beneficial for Network Parties or members of the Energy Network Association (ENA) to provide feedback on the modification, to capture any issues or concerns.

SECAS drafted the proposed solution in collaboration with the Proposer, a Network Party. They confirmed that in their view the legal drafting delivered the intent of the modification, and that the legal drafting did not result in any unforeseen issues such as unintended consequential impacts on other areas of Section J.

SECAS also sought views from affected Parties during the Refinement Consultation. Three responses were received, all from Network Parties, and all provided support for the Modification, the proposed solution, the legal drafting, and did not identify any other issues, concerns or impacts. As a result, SECAS have addressed the point raised by OPSG which requested engagement with Network Parties.

Discussion points

SECAS discussed this Modification with the Working Group in June 2025, following closure of the Refinement Consultation. A Working Group member confirmed that they were supportive of the Modification, and that the responses to the Refinement Consultation seemed sensible. There were no other comments on the Refinement Consultation.

8. Case for change

Business case

Approval of the modification

Inappropriately raised Event of Default notices, i.e., those notices raised where the DCC are liable for failing to take a payment, rather than the DCC User, result in reputational risk for the DCC User in question. Additionally, these notices represent a waste of resource that could otherwise be deployed elsewhere for all groups involved with the resolution of the notice. The Proposed Solution will prevent this scenario from re-occurring.

Against approval of the modification

No comments were received against approval of the modification.

Views against the General SEC Objectives

Proposer's views

The Proposer believes that this modification better facilitates SEC objectives (b¹) and (g²). They have justified this on the basis of both a reduction in reputational risk for SEC Parties, as well as a reduction in the operational resource burden required by the DCC, SEC Parties & SEC Panel to resolve inappropriate Event of Default notices. In the proposer's view, escalations require additional administrative resource, and so by avoiding these notices entirely, these resources are saved.

Industry views

SECAS conducted a Refinement Consultation between 7 May 2025 and 29 May 2025. Of the three responses received, all three identified SEC Objective (g) and one (the Proposer) identified both Objectives (g) and (b). Of the other two respondents who identified Objective (g) only, one justified this on the basis of reduction of risk of reputation damage, and the other provided no justification.

At the June 2025 Working Group, members considered the above Refinement Consultation responses on SEC Objectives and provided no further comment than that which had already been provided in the Refinement Consultation.

Views against the consumer areas

Improved safety and reliability

This modification has a neutral impact on improving safety and reliability

Lower bills than would otherwise be the case

This modification has a neutral impact on lowering bills than would otherwise be the case.

Reduced environmental damage

This modification has a neutral impact on reducing environmental damage.

Improved quality of service

This modification has a positive impact on quality of service, as it would prevent the DCC from issuing inappropriate Event of Default notices to DCC Users. This would result in improved service quality from the DCC to its Users.

Benefits for society as a whole

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

¹ enable the DCC to comply at all times with the General Objectives of the DCC (as defined in the DCC Licence), and to efficiently discharge the other obligations imposed upon it by the DCC Licence

² facilitate the efficient and transparent administration and implementation of this Code

Final conclusions

As a legal text only Modification with no DCC System impacts, with benefits to SEC Parties including mitigation of reputation risk and reduction in resourcing requirements, there is a clear case for change. For minimal resource requirement, the Proposed Solution will provide confidence to DCC Users who are paying for services that they will not suffer undue reputational damage or need to expend resource to resolve Event of Default notices issued against payment failures for which they are not liable. The Proposed Solution will be beneficial to the DCC also, who will be able to provide services and expect payment for those services with more confidence in the robustness of those payment arrangements.

These views have been reported to SECAS in the Refinement Consultation and confirmed by the June Working Group. No issues, concerns or problems have been identified by any SEC Party that SECAS have engaged with in the progression of this Modification and development of its Proposed Solution, and on that basis, it can be deemed that the case for change has been met.

Appendix 1: Progression timetable

Timetable	
Event/Action	Date
Draft Proposal raised	11 Mar 2025
Presented to the Change Sub Committee (CSC) for initial comment	18 Mar 2025
CSC converts Draft Proposal to Modification Proposal	18 Mar 2025
Modification presented to the OPSG	8 Apr 2025
Refinement Consultation	7 May–29 May 2025
Modification presented to the Working Group	4 Jun 2025
<i>Modification Report approved by CSC</i>	<i>17 Jun 2025</i>
<i>Modification Report Consultation</i>	<i>18 Jun – 9 Jul 2025</i>
<i>Change Board Vote</i>	<i>23 Jul 2025</i>

Italics denote planned events that could be subject to change

Appendix 2: Glossary

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

Glossary	
Acronym	Full term
CH	Communications Hub
CSC	Change Sub-Committee
DCC	Data Communications Company
OPSG	Operations Group
PSC	Privacy Sub-Committee
SEC	Smart Energy Code
SECAS	The Smart Energy Code Administrator and Secretariat
SMKI PMA	Smart Metering Key Infrastructure Policy Management Authority
SSC	Security Sub-Committee
TABASC	Technical Architecture and Business Architecture Sub-Committee
TAG	Testing Advisory Group