

ENERGY

SMART METERS

DRAFT MODIFICATIONS TO THE SMART ENERGY CODE AND THE CONDITIONS OF THE SMART METER COMMUNICATION LICENCES (SMART METERS No. [1] of 2024)

Presented to Parliament pursuant to section 89 of the Energy Act 2008

Draft modifications to the Smart Energy Code and the Conditions of the Smart Meter Communication Licences laid before Parliament under section 89(3) of the Energy Act 2008; draft to lie for forty days pursuant to section 89(4) of that Act, during which period either House of Parliament may resolve that the modifications not be made.

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DRAFT MODIFICATIONS TO THE SMART ENERGY CODE AND THE CONDITIONS OF THE SMART METER COMMUNICATION LICENCES (SMART METERS No. [1] of 2024)

The Secretary of State makes the following licence modifications and modifications to the Smart Energy Code in exercise of the powers conferred by section 88(1) of the Energy Act 2008 ("the Act").

The Secretary of State has consulted the holders of any licence being modified, the Gas and Electricity Markets Authority and such other persons as the Secretary of State considered appropriate in accordance with section 89(1) of the Act.

A draft of these modifications has been laid before Parliament in accordance with section 89(3) of the Act. Neither House of Parliament resolved, within the 40-day period referred to in section 89(4) of the Act, that the Secretary of State should not make the modifications.

Interpretation

- 1 In these modifications –
 - (a) "Smart Energy Code" means the document of that title required to be maintained and in force in accordance with condition 22 of the smart meter communication licences; and
 - (b) "smart meter communication licences" means –
 - (i) the licence granted to Smart DCC Limited on 20 September 2013 under section 7AB(2) of the Gas Act 1986; and
 - (ii) the licence granted to Smart DCC Limited on 20 September 2013 under section 6(1A) of the Electricity Act 1989.

Modifications to the Smart Energy Code

- 2 The Smart Energy Code is modified, in accordance with paragraphs 3 to 5 below, with effect from the day after the day on which this instrument is made.
- 3 In Section A, in Section A1, in Section A1.1 –
 - (a) in the definition of "CH Handover Support Materials" –

- (i) after "means", delete ", in respect of each Region,"; and
 - (ii) after "Appendix H", delete "and applying to that Region";
- (b) in the definition of "CH Installation and Maintenance Support Materials" –
 - (i) after "means", delete ", in respect of each Region,"; and
 - (ii) after "Appendix I", delete "and applying to that Region";
- (c) in the definition of "Region", delete the existing definition and insert a new definition as follows –

"means a combination of Geographical Region and Communications Technology as follows:

 - (a) North;
 - (b) 2G/3G Central;
 - (c) 2G/3G South; and
 - (d) 4G Central/South.";
- (d) in the definition of "SMETS2+ SM WAN", after "SMETS2+ Communications Hub Functions", delete "(which may differ from Region to Region)" and insert ". The Communications Technology utilised for these purposes may differ from Region to Region and there may be more than one Communications Technology utilised within a Geographical Region";
- (e) in the definition of "Special Installation Mesh Communications Hub" –
 - (i) after "means a WAN Variant", delete "(in the central Region and the south Region)"; and
 - (ii) after "aerial port.", insert "These WAN Variants are only used for 2G/3G Central and 2G/3G South.";
- (f) in the definition of "WAN Variants" –
 - (i) after "via the SMETS2+ SM WAN in each", insert "Geographical"; and
 - (ii) after "the Statement of Service Exemptions)", insert "; or, where more than one Communications Technology is used in a Geographical Region, the variations of SMETS2+ Communications Hub that are required in respect of each such Communications Technology"; and
- (g) insert, in alphabetical order, the following new definitions –

"2G/3G Central	is a Region, and refers to the Geographical Region covering central Great Britain and the use of 2G and/or 3G mobile communications technology in that Geographical Region.
2G/3G South	is a Region, and refers to the Geographical Region covering the south of Great Britain and the use of 2G and/or 3G mobile communications technology in that Geographical Region.
4G Central/South	is a Region, and refers to the Geographical Regions covering central Great Britain and the south of Great Britain and the use of 4G mobile communications technology in those Geographical Regions.

Communications Technology	means each of the telecommunications technologies used to provide all or part of the SM WAN, including each of the following: (a) long-range radio; (b) 2G and/or 3G mobile communications technology; and (c) 4G mobile communications technology.
Geographical Region	means each of the three regions of Great Britain recognised for the purposes of this Code, being north, central and south. The region into which a premises (or future potential premises) falls shall be identified by the DCC and confirmed to other Parties on request. Once a premises has been identified by the DCC as being in a particular region, the DCC shall not identify that premises as being in a different region (unless agreed by the Supplier Party or Supplier Parties Registered for the MPAN and/or MPRN at the premises and the Network Party or Network Parties for the network(s) to which the premises is, or is intended to be, connected).
North	is a Region, and refers to the Geographical Region covering the north of Great Britain and the use of long-range radio telecommunications in that Geographical Region."

4 In Section F –

- (a) in Section F5 –
 - (i) in Section F5.4 –
 - (A) delete Section F5.4(b)(i) and renumber existing Sections F5.4(b)(ii) and (iii) as Sections F5.4(b)(i) and (ii) respectively; and
 - (B) in renumbered Section F5.4(b)(ii), after "in respect of each Region", insert "(recognising that there may be only one HAN Variant for some Regions)";
 - (ii) in Section F5.6 after "the same number of Communication Hubs" insert "of each HAN Variant";
 - (iii) in Section F5.8 –
 - (A) in Section F5.8(c), after "locations must be in Great Britain", delete "but need not be in the Region to which the relevant Communications Hub Order relates" and insert "(but not need not be in the Geographical Regions(s) which correspond to the Region to which the relevant Communications Hub Order relates)"; and
 - (B) in Section F5.8(d), after "each Delivery Location", delete "(in each case" and insert "(for each combination of Delivery Location and Device Model"; and
 - (iv) in Section F5.10 –
 - (A) in Section F5.10(a), after "or equal to", delete "the higher of"; and
 - (B) in Section F5.10(b), after "or equal to", delete "the lower of";
- (b) in Section F7 –

- (i) in Section F7.18, after "is located on the installation date", insert "(using one of the WAN Variants for which coverage was indicated)";
 - (ii) in Section F7.18(a), after "such that Communications Hubs", insert "of the relevant WAN Variant";
 - (iii) in Section F7.18(b), after "such that Communications Hubs", insert "of the relevant WAN Variant"; and
 - (iv) in Section F7.19, after "an area in which the SM WAN is available", insert "for the installed WAN Variant"; and
- (c) in Section F9 –
 - (i) in Section F9.16, after "making such return or notification).", insert "In Sections F9.17, F9.18 and F9.18A, the references to 'Communications Hubs' shall be limited, in respect of each Region, to Communications Hubs of the WAN Variant that are (or were) capable of being ordered in respect of that Region.";
 - (ii) in Section F9.17 –
 - (A) before "shall apply in respect of a Region", delete "Section F9.18" and insert "Section F9.18 potentially applies to the North, 2G/3G Central and 2G/3G South (but not 4G Central/South). Section F9.18A potentially applies to 4G Central/South (but not the other Regions). Section F9.19 or F9.18A (as applicable)";
 - (B) after "CH Type Faults relating to that Region", insert ",";
 - (C) after "occurring during that calendar year", insert ","; and
 - (D) after "installed at premises within that Region", insert ",";
 - (iii) after Section F9.18, insert new Section F9.18A as follows –

"F9.18A	Where this Section F9.18A applies in respect of a Region and a calendar year, the DCC shall be liable to pay to Parties collectively an amount of liquidated damages equal to the positive amount (if any) calculated as follows: (a) £55.55; multiplied by (b) the lower of (i) or (ii) where (i) is 1.25 and (ii) is the Consumer Prices Index for April of that calendar year, divided by the Consumer Prices Index for April 2021; multiplied by (c) (i) the number of CH Type Faults relating to that Region occurring during that calendar year; less (ii) 0.5% of the total number of Communications Hubs that are installed at premises within that Region as at the end of that calendar year; less (iii) the number of CH Type Faults relating to that Region and occurring during that calendar year for which the DCC is liable to pay a CH Batch Fault Payment.";
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 - (iv) in Section F9.19, after "under Section F9.18", insert "or F9.18A"; and
 - (v) after Section F9.20, delete existing Section F9.21 and insert new Section F9.21 as follows –

"F9.21 Where a CH Batch Fault occurs in respect of a Delivery Batch, the DCC shall be liable to pay to each Party an amount of liquidated damages (being a "**CH Batch Fault Payment**") equal to:

- (a) for North, 2G/3G Central and 2G/3G South:
 - (i) £50.00; multiplied by
 - (ii) the Consumer Prices Index for April of that calendar year, divided by the Consumer Prices Index for September 2013; multiplied by
 - (iii) the number of CH Type Faults which occurred in respect of that Party and a Communications Hub which formed part of that Delivery Batch, and which occur within 12 months following completion of the installation of that Communications Hub; or
- (b) for 4G Central/South:
 - (i) £55.55; multiplied by
 - (ii) the lower of (A) or (B) where (A) is 1.25 and (B) is the Consumer Prices Index for April of that calendar year, divided by the Consumer Prices Index for April 2021; multiplied by
 - (iii) the number of CH Type Faults which occurred in respect of that Party and a Communications Hub which formed part of that Delivery Batch, and which occur within 12 months following completion of the installation of that Communications Hub."

5 In Section H –

- (a) in Section H8 –
 - (i) in Section H8.4(a), after "(in reasonable detail", insert ", including by reference to which Regions are affected"; and
 - (ii) in Section H8.16(f)(i), after "whether a Communications Hub Function installed in a premises at any given location", insert "(distinguishing by Communications Technology, where more than one Communications Technology is utilised in a Geographical Region)"; and
- (b) in Section H14, in Section H14.31 –
 - (i) after "include the provision of a connection to a simulation of the SMETS2+ SM WAN", insert "(which simulation must cover all Communications Technologies, where more than one Communications Technology is utilised by the DCC in a Geographical Region)"; and
 - (ii) after "for the purpose of such tests", insert ", ".

Modifications to the smart meter communication licences

6 The conditions of the smart meter communication licences are modified, in accordance with paragraphs 7 to 9 below, with effect from the day after the day on which this instrument is made.

7 In Condition 16, in paragraph 16.40 –

- (a) in the definition of "Fundamental Service Capability", delete existing paragraph (a) and replace with a new paragraph (a) as follows –

"(a) means Relevant Service Capability that is provided under:

- (i) Legacy Procurement Contracts (as they are defined and from time to time identified and described in Schedule 1 (Details of Fundamental Service Capability) to this Licence), including the provision of all such capability (including goods and products) as is necessary to enable the Licensee to provide, or arrange for the provision of, the Communications Hub Service pursuant to Part E of Condition 17 (Requirements for the provision of Services); or
- (ii) Network Evolution Arrangement Contracts (as they are from time to time identified and described in Schedule 1 (Details of Fundamental Service Capability) to this Licence); and"

(b) after the definition of "Fundamental Service Capability", insert, in alphabetical order, the following new definitions –

"Network Evolution Arrangements has the meaning given to that term in Condition 13B (Network Evolution Arrangements).

Network Evolution Arrangement Contracts means contracts of equivalent scope and nature to the Legacy Procurement Contracts which have been entered into by the Licensee for the purposes of the Network Evolution Arrangements."

8 In Condition 17 –

(a) after paragraph 17.13, insert a new heading and new paragraph 17.13A as follows —

"Part C1: Provision of Communication Services Using Different Communication Technologies

17.13A To the extent that it is required to do so in any geographic area in accordance with (i) the terms of a plan approved by the Secretary of State under Condition 13B (Network Evolution Arrangements) for the purposes of the Network Evolution Arrangements, (ii) the provisions of the SEC, or (iii) both the terms of that plan and the provisions of the SEC, the Licensee must ensure that:

- (a) the Core Communications Services and the Elective Communications Services are each made available by means of more than one External Electronic Communications Network within that area; and
- (b) each of those External Electronic Communications Networks uses a different Communications Technology of the type identified in the plan or the SEC (as the case may be).";

(b) in paragraph 17.34, insert, in alphabetical order, the following new definitions –

"Communications Technology means each of the communications technologies that may be used for the purposes of providing an External Electronic Communications Network, including in particular: (a) long-range radio; (b) 2G/3G mobile communications technology; and (c) 4G mobile communications technology.

Network Evolution Arrangements has the meaning given to that term in Part D of Condition 13B (Network Evolution Arrangements)."; and

(c) in Appendix 1 –

(i) after paragraph A8., insert new paragraph A8A. as follows –

"A8A. Where, in accordance with paragraph 17.13A, the Licensee has commenced to make available in a geographic area more than one External Electronic Communications Network, each using a different

Communications Technology, it shall ensure that it proposes revisions to the Statement of Service Exemptions in accordance with paragraph A8. which:

- (a) identify the different External Electronic Communications Networks available in that area; and
 - (b) in relation to any premises identified for the purposes of paragraph A3.(a) and any geographic area identified for the purposes of paragraph A3.(b), specify whether the exemption applies in respect of only one of the available External Electronic Communications Networks or to each of them."; and
- (ii) renumber existing paragraphs A22. and A23. as paragraphs A12. and A13. respectively.

9 In Schedule 1 to the Licence (Details of Fundamental Service Capability) –

- (a) in existing paragraph 1.1 –
 - (i) after "or has been provided under", insert a colon ":";
 - (ii) renumber the remainder of the existing text of paragraph 1.1 as new sub-paragraph 1.1(a);
 - (iii) in newly renumbered sub-paragraph 1.1(a), after "in this Schedule 1", insert "; and"; and
 - (iv) after new sub-paragraph 1.1(a), insert new sub-paragraph 1.1(b) as follows –
 - "(b) Network Evolution Arrangement Contracts as from time to time identified and described in this Schedule 1";
- (b) delete existing paragraph 1.2 and insert "[Not Used.]";
- (c) delete existing paragraph 1.3 and insert new paragraph 1.3 as follows –

"1.3 In this Schedule:

 - (a) Part A below defines a Legacy Procurement Contract;
 - (b) Part B below identifies each such contract in force under this Licence and provides brief particulars as to its subject matter, effective date, and purpose; and
 - (c) Part B1 below identifies each Network Evolution Arrangement Contract in force under this Licence and provides brief particulars as to its subject matter, effective date, and purpose."
- (d) in existing paragraph 1.5(2), after "for the provision of" delete "communications" and insert "communications";
- (e) in existing paragraph 1.6, after "as may be necessary from time to" insert "time to";
- (f) after paragraph 1.6, insert a new heading and new paragraphs 1.6A and 1.6B as follows –

"Part B1: Particulars of Network Evolution Arrangement Contracts

1.6A The following contracts are, without limitation, Network Evolution Arrangement Contracts in force under this Licence:

- (1) [intentionally blank]

1.6B The Licensee must make such alterations to the particulars set out under paragraph 1.6A as may be necessary from time to time to reflect changes

(including additions) to them and must immediately notify the Authority of each such alteration.";

- (g) in paragraph 1.7, after "every Legacy Procurement Contract", insert ", every Network Evolution Arrangement Contract"; and
- (h) in paragraph 1.10, after "References in this Licence to Legacy Procurement Contracts", insert "and Network Evolution Arrangement Contracts".

Name

Date Parliamentary Under Secretary of State at the Department for Energy Security and Net Zero