This document is classified as **White** in accordance with the Panel Information Policy. Information can be shared with the public, and any members may publish the information, subject to copyright.

Paper Reference:	**SECP_63_1412_11**
Action:	**For Decision**

SECMP0043 Modification Report

1. Purpose

SECMP0043 'Modification to Services Force Majeure Provisions' has undergone the Refinement Process and the Working Group has now completed its assessment of the areas requested by the Panel and prepared the Modification Report. We are recommending that this modification be progressed to the Report Phase and that the Panel approves the Modification Report, the implementation approach, and that SECMP0043 is an Authority Determined Modification.

This paper provides a high-level summary of the key points. Full details can be found in the draft Modification Report in Appendix A.

2. Summary of the proposal

What is the issue?

In April 2018, Ofgem implemented the Data Communications Company (DCC) Operational Performance Regime (OPR) through modification to the Smart Meter Communication Licence (DCC Licence). The key principles underpinning the design of the OPR performance measures are consistent with the Performance Measures in SEC Section H13. The OPR places performance incentives on the DCC by placing 100% of the value of DCC's smart meter related margin at risk.

Following a review of current regulation, the DCC believes that neither the OPR or the SEC provide an application process for the DCC to apply for relief for 'all categories' of exceptional events (events outside the DCC's control). In the absence of a process for a broader concept of exceptional events in the SEC, the DCC believes there is a risk that it will be unfairly penalised under the OPR for delayed or non-delivery of DCC services due to events outside its control.

An application process does exist under SEC Section M3 for Services Force Majeure (FM) under which the DCC can apply to the SEC Panel for relief for delayed or non-delivery of DCC Services. However, Services FM is narrowly defined and only applies to a limited number of exceptional events, such as acts of terrorism or war; it does not apply to all events outside the DCC's control.

What is the Proposed Solution?

The proposed solution is to introduce a new application process under SEC Section H, which the DCC and the Panel would follow if the DCC wishes to claim relief for exceptional events for its OPR reporting. This new process is distinct from the existing Services FM application process. It introduces a broader concept of exceptional event under a new definition of OPR Exceptional Event and sets out

the relief application process. This solution would apply only to the DCC's reporting under the OPR, and not to the DCC service provider reporting under SEC Section H13.

3. Proposed progression

The Working Group believes the solution put forward by the Proposer is fully developed and that there is no further work that it can do to develop or assess this further. It therefore believes this modification is ready to proceed to a decision.

Self-Governance

The Panel initially determined that SECMP0043 should be submitted for Authority determination, as it would have a material effect on the security of the Supply of Energy, Systems and Smart Metering Systems, in accordance with SEC Section D2.6(c). The Working Group does not believe this has changed.

Implementation approach

The Working Group recommends an implementation approach of:

- 28 February 2019 (February 2019 SEC Release) if a decision to approve is received on or before 14 February 2019; or
- 10 Working Days following approval if a decision to approve is received after 14 February 2019.

4. Recommendations

The Panel is requested to:

- **AGREE** that SECMP0043 should be progressed to the Report Phase;
- **APPROVE** the Modification Report;
- **APPROVE** the implementation approach; and
- **AGREE** that SECMP0043 should be progressed as an Authority Determined Modification.

David Kemp

SECAS Team

7 December 2018

Attachments:

- **Appendix A:** SECMP0043 Modification Report
    - **Annex A:** SECMP0043 Legal Text
    - **Annex B:** SECMP0043 Working Group Consultation responses