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# MP076 ‘Pursuing Non-Payment in Events of Default’ Refinement Consultation responses

## About this document

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This document contains the full collated responses received to the MP076 Refinement Consultation.

## Question 1: Do you agree with the solution put forward?

Question 1			
Respondent	Category	Response	Rationale
SMS Plc	Other SEC Party	Yes	-
Scottish and Southern Electricity Networks	Network Party	Yes	The amendment to section (b) now makes it explicit that the DCC should seek the SEC panels agreement.
EDF Energy	Large Supplier	Yes	We agree with the changes to the legal text that have been proposed.
Electricity North West Limited	Network Party	Yes	We agree with the proposed solution to amend Section J2.5(b) by obliging the DCC to show all reasonable steps and proceedings to gain agreement from the Panel, as well as consult with the Panel on matters regarding pursuing non-payment. This will provide clarity for the Panel as well as the DCC in how to manage such scenarios in future, as well as limit the risk of increased costs to be socialised amongst SEC Parties in Events of Default by ensuring action is taken swiftly enough to prevent this from happening.
E.ON Energy Solutions	Large Supplier	No	<p>E.ON believes that the existing SEC &amp; DCC Licence provisions are sufficient, with the fall-back that the Authority can take action should the DCC not have taken sufficient action to recover debt in the event of default.</p> <p>SEC Panel are not credit management experts, and it appears to be an overextension of the remit of that group to provide direction on these matters, which leaves the DCC needing to decide whether to act on their advice or not. It will inevitably complicate an Authority review if debt has not been recovered, however DCC acted fully upon SEC Panel advice.</p> <p>The solution is not recommended by the SEC Lawyer, and further the Lawyer provided wording has not been utilised in the proposal.</p>

Question 1			
Respondent	Category	Response	Rationale
SmartestEnergy Ltd	Small Supplier	Yes	Providing evidence of all reasonable steps and actions taken in pursuing non-payment, is the best way to have clear evidence of why certain actions are being taken. Where the DCC will consult with the panel anyway, this will allow quicker and more informed decisions/responses to be made.
Smart DCC Limited	Other respondent	-	DCC has concerns the modification will not operate as hoped without further development work, such as around managing appeals, conflicts of interest and processes to ensure timely decision making.

## Question 2: Will there be any impact on your organisation to implement MP076?

Question 2			
Respondent	Category	Response	Rationale
SMS Plc	Other SEC Party	No	-
Scottish and Southern Electricity Networks	Network Party	No	N/A
EDF Energy	Large Supplier	No	-
Electricity North West Limited	Network Party	No	This modification will impact the DCC in pursuing non-payment in Events of Default. The ambiguity around the wording of Section J2.6 will be removed and the DCC will have to follow any instructions given by the Panel in the pursuit of non-payment.
E.ON Energy Solutions	Large Supplier	No	-
SmartestEnergy Ltd	Small Supplier	No	N/A
Smart DCC Limited	Other respondent	Yes	DCC has concerned that the current process of debt collection will be slowed by the introduction of structured decision timings (monthly Panel meetings) and delays around appeals. Otherwise we envision a small additional amount of staff time dedicating to interactions with Panel around decisioning making.

### Question 3: Will your organisation incur any costs in implementing MP076?

Question 3			
Respondent	Category	Response	Rationale
SMS Plc	Other SEC Party	No	-
Scottish and Southern Electricity Networks	Network Party	No	The implementation of MP076 will not require SSEN to make any changes in any capacity, meaning zero costs will be incurred.
EDF Energy	Large Supplier	No	-
Electricity North West Limited	Network Party	No	See rationale in response to Question 2.
E.ON Energy Solutions	Large Supplier	No	No direct costs – however our concern is that future pass through of debt could become more likely as a result of this change.
SmartestEnergy Ltd	Small Supplier	No	N/A
Smart DCC Limited	Other respondent	-	Our processes have been reviewed in line with feedback in 2018/19, but another review to ensure we are fully compliant will be carried out. The overall costs are not envisioned to be material.

## Question 4: Do you believe that MP076 would better facilitate the General SEC Objectives?

Question 4			
Respondent	Category	Response	Rationale
SMS Plc	Other SEC Party	Yes	-
Scottish and Southern Electricity Networks	Network Party	Yes	SSEN also agree that this better facilitates general SEC objectives as highlighted in the Modification Report
EDF Energy	Large Supplier	Yes	We agree that MP076 would better facilitate SEC Objective (d) by reducing the bad debt that needs to be recovered from Parties, which would then support more effective competition.  We also agree that MP076 would better facilitate SEC Objective (g) as it would clarify the relationship between DCC and the SEC Panel in regards to the non-payment process, and the steps the DCC should be taking as part of this process.
Electricity North West Limited	Network Party	Yes	We agree with the Proposer that the modification benefits SEC Objectives (b), (d) and (g).
E.ON Energy Solutions	Large Supplier	No	See Question 1 response.
SmartestEnergy Ltd	Small Supplier	Yes	This modification would better facilitate General SEC Objectives:  (d) as this will help reduce exposure of bad debt  (g) increases transparency of the actions the DCC are taking along with making the process more efficient.
Smart DCC Limited	Other respondent	-	No comment

## Question 5: Noting the costs and benefits of this modification, do you believe MP076 should be approved?

Question 5			
Respondent	Category	Response	Rationale
SMS Plc	Other SEC Party	Yes	-
Scottish and Southern Electricity Networks	Network Party	Yes	Noting the cost in the Modification Report, the modification helps remove some of the risk around pursuing non-payment and ambiguity around the process.
EDF Energy	Large Supplier	Yes	-
Electricity North West Limited	Network Party	Yes	Refer to our responses to Questions 1 and 4.
E.ON Energy Solutions	Large Supplier	No	See Question 1 response.
SmartestEnergy Ltd	Small Supplier	Yes	This modification should be approved as it allows more transparency into some of the work being done as part of this process, allowing trends to be utilised and precautions put into place before future 'Events of Default' take place. It will also help to reduced socialised costs and a clearer direction to take with any cost recovery
Smart DCC Limited	Other respondent	-	No comment. We would consider it prudent for additional cost benefit information be provided Ofgem with this report.

## Question 6: How long from the point of approval would your organisation need to implement MP076?

Question 6			
Respondent	Category	Response	Rationale
SMS Plc	Other SEC Party	N/A	-
Scottish and Southern Electricity Networks	Network Party	N/A	As this Mod looks to change SEC wording only, SSEN do not require any time to implement MP076.
EDF Energy	Large Supplier	N/A	We would not require any lead time to implement MP076.
Electricity North West Limited	Network Party	We would require no lead time as the modification impacts the DCC	Refer to our responses to Questions 2 and 3
E.ON Energy Solutions	Large Supplier	N/A	-
SmartestEnergy Ltd	Small Supplier	N/A	Implementation will have no impact
Smart DCC Limited	Other respondent	None	As the Panel is aware, DCC is currently pursuing debts. A change could occur by the selected Implementation Date.  Our concern is the amount of time that the approval process takes from the Panel and Secretariat side. There is no process for dealing with Appeals, either to Ofgem or to the

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Question 6			
Respondent	Category	Response	Rationale
			Panel over their decisions. This would need to be part of DCC's process for implementation of this change.

## Question 7: Do you agree with the proposed implementation approach?

Question 7			
Respondent	Category	Response	Rationale
SMS Plc	Other SEC Party	Yes	-
Scottish and Southern Electricity Networks	Network Party	Yes	SSEN agrees with the proposed dates.
EDF Energy	Large Supplier	Yes	We agree with the implementation approach and would like to see this change implemented as part of the November 2019 SEC Release.
Electricity North West Limited	Network Party	Yes (to the earliest implementation date of 7 November 2019)	We agree with an implementation date of the 7 November 2019 as a decision to approve should be received on or before 24 October. We do not see any reason why the implementation date should be delayed to the 27 February 2020. This modification should be treated as urgent in light of nine Parties exiting the SEC in the last financial year.
E.ON Energy Solutions	Large Supplier	No	See Question 1 response.
SmartestEnergy Ltd	Small Supplier	Yes	As the changes/implementation will be minimal, the date provided is fine
Smart DCC Limited	Other respondent	-	No comment. We believe before implementation more work should be done to help Panel understand the mechanisms of debt pursuit and the costs, benefits and risks of these processes. In addition implementation should include detailed procedures to deal with conflicts and appeals from defaulters. In addition, plans and processes, not within the Code but agreed by Panel should be properly documented and agreed to allow the calling of

Question 7			
Respondent	Category	Response	Rationale
			emergency Panel meetings, legal advice and approval of costs to occur outside of the Panel schedule.

## Question 8: Do you agree that the legal text will deliver MP076?

Question 8			
Respondent	Category	Response	Rationale
SMS Plc	Other SEC Party	Yes	-
Scottish and Southern Electricity Networks	Network Party	Yes	SSEN agree that the text will deliver MP076, the changes make it clear DCC now need to have agreement from SEC panel as now defined and continue with proceedings until notified otherwise.
EDF Energy	Large Supplier	Yes	We have not identified any issues with the legal text. We agree with the Proposer's concerns regarding the legal text proposed by the SEC lawyers, especially in regards to the clarity of that text.
Electricity North West Limited	Network Party	Yes	The proposed legal text would oblige the DCC to follow any instructions given by the Panel in pursuing non-payment, and the DCC would have to take all reasonable steps and proceedings in consultation with and in agreement with the Panel.
E.ON Energy Solutions	Large Supplier	No	We note that the SEC Lawyer does not fully support the change, and the proposed legal text provided has not been used by the Proposer.
SmartestEnergy Ltd	Small Supplier	Yes	Changes are minimal and ensures it's in keeping with modification
Smart DCC Limited	Other respondent	-	Neutral, but would point to the additional issues that are currently not covered by the text change.

## Question 9: Please provide any further comments you may have

Question 9		
Respondent	Category	Comments
SMS Plc	Other SEC Party	N/A
Scottish and Southern Electricity Networks	Network Party	N/A
EDF Energy	Large Supplier	-
Electricity North West Limited	Network Party	n/a
E.ON Energy Solutions	Large Supplier	-
SmartestEnergy Ltd	Small Supplier	N/A
Smart DCC Limited	Other respondent	<p>We have concerns that the sections of the SEC around invoicing and debt collection are relatively clear as is. Changes like those proposed will leave greater scope interpretation and delay. These changes would make default pursuant a Panel decision, subject to Ofgem appeal. No mechanism is detailed for this case and it is not clear how DCC should proceed in those circumstances. We have concerns that this process be as quick as possible and that the invoicing timeline and Panel timeline follow as closely as possible to minimise delays around arranging extraordinary Panel meetings.</p> <p>We have concerns that the text and process do not anticipate the possibility that the defaulting Party will supply a Panellist and whether that Panellist should be able to vote on these measures. In addition, we consider the DCC's unique position, with a licence condition demanding we treat all Parties fairly and</p>

Question 9		
Respondent	Category	Comments
		promote competition in the Supply industry to provide safeguards against potentially anticompetitive moves and the perception of anti-competitive actions.