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DP171

‘Undertaking a FUSA without a Supply Licence’

Modification Report

Version 0.3

19 October 2021



About this document

This document is a draft Modification Report. It currently sets out the background, issue, and progression timetable for this modification, along with any relevant discussions, views and conclusions. This document will be updated as this modification progresses.

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1. Summary

This proposal has been raised by Karen Lee from ESG Global (Energy) Limited.

Following changes to licencing arrangements in 2019, prospective market entrants must now obtain their Supply Licence quite late on in their onboarding process. Without a Supply Licence, Suppliers cannot undertake a Full User Security Assessment (FUSA), preventing them from becoming a Data Communications Company (DCC) User. This could add several further months of delay between gaining a licence and being able to install and support smart metering for consumers. New market entrants are looking to be able to run the FUSA in parallel with the Ofgem licensing process, such that the FUSA is completed subject to successful award of a Supply Licence. This would enable them to be 'smart from the start'.

A second issue has also been identified by the Proposer. The Smart Energy Code (SEC) currently does not allow for an organisation to withdraw from the SEC whilst holding a Supply Licence. This means the Supplier remains obligated to comply with the SEC, even if it has no registered smart metering points. Consequently, the Supplier could be incurring costs for activities such as security assessments, even if it is no longer a DCC User and is trying to exit the energy market.

2. Issue

What are the current arrangements?

The Licensing process and security assessments

Changes to the Licensing process

In 2018-2019, Ofgem undertook a Supplier Licensing Review. In its consultation, Ofgem noted that due to systems testing requirements under the electricity industry Codes, its licensing process typically took place several months (and often more than one year) before a Supplier takes on its first customer. Ofgem recognised that an applicant might have difficulties meeting some of the new information requirements this far in advance of entering the market.

Ofgem decided that the timing of the Supply Licence application process should be moved relative to the electricity market entry processes operated by the industry Codes. Licensing Suppliers closer to the point of market entry will better enable Ofgem to scrutinise the plans of, and engage with, the prospective Supply Licence holder as part of a strengthened entry regime. This increases assurance that entrants are prepared to enter the supply market and meet their obligations. The new requirements also serve to better inform new entrants of the broad range of considerations, risks and obligations involved and help prevent any misconception that entry to the supply market can be taken lightly.

For electricity Suppliers, this means that prospective Suppliers should apply for a licence after having commenced initial entry testing under the Balancing and Settlement Code (BSC) and the Retail Energy Code (REC), but before Controlled Market Entry (CME). Both gas and electricity Suppliers are also required under the licence conditions to be DCC Users. Ofgem was not prescriptive as to whether the applicant must have fully completed these processes before applying for a licence. It considered it possible for licensing to run concurrently with the latter stages of these processes provided the applicant is capable of meeting its criteria.

Managed by

More information on the Supplier Licensing Review can be found in the following links:

- [Ofgem Supplier Licensing Review, 21 November 2018](#)
- [Ofgem Supplier Licensing Review: Final Proposals on Entry Requirements, 11 April 2019](#)
- [Ofgem Decision on new Applications Regulations and guidance document, 18 June 2019](#)

Full User Security Assessments

SEC Section G 'Security' requires those organisations wishing to become DCC Users to undertake a Full User Security Assessment in each of its User Roles. A User can fulfil the following User Roles as defined in Section A 'Definitions and Interpretation'.

- Import Supplier
- Export Supplier
- Gas Supplier
- Electricity Distributor
- Gas Transporter
- Registered Supplier Agent
- Other User

An Eligible User must satisfy SEC Section H3.8, which lists the type of User which can be considered eligible for each User Role. The Import and Export Supplier User Roles refer to a Supplier Party and it must hold the corresponding Electricity and/or Gas Supply Licence.

Therefore, to undertake a FUSA, a Supplier must hold an Electricity Supply Licence.

Ceasing to be a SEC Party

The [Ofgem Supplier Licence Conditions](#) state for both electricity and gas in Condition 48.1 that the licensee must by no later than the Commencement Date, be a Party to the SEC; and thereafter remain a Party to and comply with the SEC. The Commencement Date is defined as either the SEC start date (23 September 2013) or the date that the licensee first starts supplying electricity or gas to Domestic or Designated Premises, whichever is the later. Electricity Designated premises means Non-Domestic Premises at which a metering point falls within profile class 1, 2, 3 or 4 as defined in the BSC. Gas Designated Premises means Non-Domestic Premises at which the measured annual consumption of gas is 732,000 kWh or less.

SEC Section M 'General' 8.9 states the following:

Ceasing to be a Party

M8.9 A Party that holds an Energy Licence that requires that Party to be a party to this Code:

- (a) cannot be expelled from this Code by the Panel unless the Authority has approved such expulsion (and, in the case of any such approval, Section M8.10(a) shall apply as if the Party did not hold an Energy Licence that requires it to be a party to this Code); and*

(b) cannot voluntarily cease to be a Party while that Energy Licence remains in force.

Therefore, unless its Energy Licence is revoked, a Supplier cannot voluntarily cease to be a SEC Party.

What is the issue?

Undertaking a FUSA without a Supply Licence

Prior to changes to licencing arrangements in 2019, obtaining an Energy Supply Licence was one of the first steps a potential Supplier was required to undertake as part of market entry. However, the new process requires that prospective market entrants must now obtain their Supply Licence quite late on in their onboarding process. However, without a Supply Licence, Suppliers cannot undertake a FUSA, preventing them from becoming a DCC User. This could add several further months of delay between gaining a licence and being able to install and support smart metering for consumers.

New market entrants are looking to be able to run the FUSA process in parallel with the Ofgem licensing process, such that the FUSA is assessed subject to successful award of a Supply Licence, thereby enabling them to be 'smart from the start'.

Energy Licensees ceasing to be a SEC Party

The Proposer has also identified a problem with a Supplier wishing to withdraw from the SEC. In February 2021 a Supplier that is a DCC User informed the Smart Energy Code Administrator and Secretariat (SECAS) that it had transferred its Smart Meter customer base to another Supplier. The gaining Supplier confirmed all the customers and Smart Metering Equipment Technical Specifications (SMETS) meters had been transferred successfully to it. The losing Supplier stated that it would be keeping its licences as it would continue supplying to a few industrial & commercial (I&C) non-Domestic customers that only used Advanced (non-SMETS) Meters.

The Supplier notified Ofgem on 12 March 2021 that it wished to withdraw from the smart metering market and notified the SEC Panel on 28 April 2021. The Panel agreed that it would prefer a managed withdrawal of the Supplier, as opposed to expulsion from the SEC. However, as the Supplier still holds a Supply Licence, this is not currently possible. Ofgem confirmed that it could not approve the Party's withdrawal, as it would require a change to the Supplier Licence conditions. However, the Proposer believes a change to the SEC might be able to facilitate Suppliers voluntarily withdrawing from the SEC under certain conditions.

What is the impact this is having?

Undertaking a FUSA without a Supply Licence

This issue of not being able to undertake a FUSA before a Supply Licence is granted is delaying the time for new market entrants wishing to become Supplier Parties from providing smart metering services to consumers. This causes detriment to the consumer, as they cannot choose to switch to the new Supplier without the risk of temporary loss of smart services (as the new entrant cannot offer smart services until they have become a qualified DCC User, which can take many months).

Energy Licensees ceasing to be a SEC Party

In the second issue, a Supplier that holds an Energy Licence and is therefore unable to voluntarily withdraw from the SEC remains obligated to comply with the SEC, even if it has no registered metering points. Consequently, the Supplier could be incurring costs for activities such as security assessments, even if it is no longer a DCC User and is trying to exit the energy market.

Impact on consumers

By delaying the time for new market entrants to provide smart metering services, consumers are left with less Suppliers to choose from to supply their Smart Metering System.

3. Assessment of the proposal

Observations on the issue

Security Sub-Committee views

The Security Sub-Committee (SSC) considered that it did not foresee an issue with new market entrants looking to be able to run the FUSA process in parallel with the Ofgem licensing process, such that the FUSA is assessed subject to successful award of a Supply Licence. However, it advised that Suppliers must only go-live with the DCC once they have obtained a Supply Licence.

Appendix 1: Progression timetable

This proposal will be presented to the Change Sub-Committee (CSC) on 26 October 2021 to be converted to a Modification Proposal. Following this, SECAS will work with the SEC Lawyer to draft the legal text and then present this to the Working Group and the SSC. Following this, SECAS will issue a Refinement Consultation.

Timetable	
Event/Action	Date
Draft Proposal raised	18 Jun 2021
Presented to CSC for initial comment	29 Jun 2021
Draft Proposal converted to Modification Proposal	26 Oct 2021
Draft legal text	Nov – Dec 2021
Modification discussed with Working Group	5 Jan 2022
Modification discussed with SSC	12 Jan 2022
Refinement Consultation	17 Jan 2022 – 4 Feb 2022
Modification discussed with Working Group	2 Mar 2022
Modification Report approved by CSC	15 Mar 2022
Modification Report Consultation	16 Mar 2021 – 6 Apr 2021

Timetable	
Event/Action	Date
Change Board Vote	21 Apr 2022

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
CSC	Change Sub-Committee
BSC	Balancing and Settlement Code
CME	Controlled Market Entry
CSC	Change Sub-Committee
DCC	Data Communications Company
FUSA	Full User Security Assessment
REC	Retail Energy Code
SEC	Smart Energy Code
SECAS	Smart Energy Code Administrator and Secretariat
SMETS	Smart Metering Equipment Technical Specifications
SSC	Security Sub-Committee