



***Response from E.ON: consultation from BEIS proposed changes to the DCC Licence to enable BEIS to set project incentives for the DCC and proposals to extend the date by which Ofgem may modify the OPR using its powers of direction.***

***Question 1: Do you agree that BEIS, rather than Ofgem, should set the incentive regime that places DCC's Baseline Margin associated with the Release 2.0 and SMETS1 Enrolment and Adoption projects at risk (and any potential BEIS driven future projects)?***

No.

Whilst we agree that BEIS has oversight of plans for Release 2.0 and Enrolment and Adoption to ensure policy delivery, it is not clear to us from the consultation which entity will be determining if the incentives have been met. It is important that objectivity is maintained by using a Party that is entirely independent of the delivery strategy, ensuring that successful delivery incentives will be informed by impartial expectations of an adequate delivery for Industry.

In the absence of adherence to the Smart Energy Code release schedule, it is not clear to us how transitional and enduring governance arrangements will work in tandem. The proposals in part provide an insight but also take this a stage further: beyond managing progress and adherence to a SMIP plan, by introducing further incentives for "projects". The proposed framework for these incentives however, do little to provide assurance as to the performance of the DCC in delivering the specific releases mentioned within the consultation, as is outlined in our response to Question two.

***Question 2; Do you agree with our proposed framework for introducing the new incentives? Please provide details of your views.***

No.

We are concerned that the proposals appear to be introducing further complexity to the way that DCC costs are monitored and managed, with no obvious benefit outlined in support of its delivery. The consequences of which will ultimately be borne by consumers.

Without specific details pertaining to the incentives that may be applied to the DCC we are not able to undertake an informed assessment of the potential benefits. As such these proposals



do not offer the necessary assurance that such changes would create benefits that outweigh the additional burden placed on parties.

It is not clear to us how these arrangements will work in tandem with the OPR. We are particularly concerned that the separation of these incentives from the OPR will result in an overall increase in costs through the dissociated monitoring and review of these arrangements under different regimes, managed by different entities. This potentially leaves an overall increase in cost for no discernible improvement in service.

The proposals seem to introduce an effective hierarchy of changes that the DCC will deliver. We request that clarity is provided, as to how the OPR, proposed project incentives directed by BEIS, and industry modifications will operate and be successfully delivered by the DCC.

The proposal to define Release 2.0 and Enrolment and Adoption as a "Project" (i.e. "a change to the nature or scope of the Services") or as a material change to Mandatory Business activities, for which Ofgem would agree to a Baseline Margin Adjustment do not align with the mandatory nature of these deliveries. However we are supportive of the principle of incentivising the delivery of both Release 2.0 and Enrolment and Adoption.

In addition, the proposal to have the Baseline Margin at risk in a different Regulatory Year to that for which the Margin was agreed requires some clarity. It is important for us to be able to understand that there will be no change to the value at risk from the time said value is agreed, to the point in time the decision for its award/refusal is made.

Moreover, the proposed framework allows the DCC to acquire more than 100% of its Baseline Margin. This seems contrary to the fact that these specific releases are already being paid for as part of the DCC's core delivery. The consequences of this serve only to place additional financial burden on the Industry and therefore consumers: whilst we welcome efforts to ensure timely delivery of core services the framework does not provide assurance that this would result in sub-standard quality of the end product. The framework must ensure that early deliveries to meet incentives would not result in a 'rushed' delivery that would result in continual patches, defect fixes, workarounds and modifications etcetera, which would ultimately cost more.

In addition we would draw attention to Ofgem's final OPR proposal<sup>1</sup> in relation this: "1.15 If DCC is able to earn an upside by surpassing targets there is a risk that it will



incur cost increases in doing so that we may find challenging to assess whether economic and efficient when determining what the ex post allowed revenue should be. Under ex ante arrangements, since allowed revenue is set in advance, there is cost certainty for users and regulated entities, therefore exceeding performance targets is easier to incentivise and reward."

***Question 3; Do you agree with our proposal to extend the date by which the Ofgem must develop and implement the OPR using its powers of direction? Please provide details of your views.***

Yes, this is a sensible approach.

---

<sup>1</sup> DCC Operational Performance Regime: Final Proposals, 17 November 2016

***Question 4: Do you have any comments on the proposed legal drafting in Annex B?***

Condition 35

We are concerned that the legal drafting around the concept of "Projects" may lead to a misconception that the projects specified within this consultation are not core deliverables for the DCC i.e. "intended to support a change to the nature or scope of the services". In addition the overlap between the definition of Projects and Mandatory Business activities make it difficult to understand who sets the value to be put at risk and how, when considering the legal drafting as stated below.

Condition 36

It is not clear to us what the relationships between sections A4 and A11 in Part A and B (respectively) of Appendix 2 are with section A15 in Part E, and Appendix 1 of Condition 38, in terms of sections A2 and A7 of Part A and B (respectively) of Appendix 2. It appears that the legal drafting is separating the proposed "Project Baseline Margin" from the Relevant Adjustment process, which raises the question as to how any Adjustment would be made to the values of the Baseline Margin given the overlap in definition (i.e. Condition 36 Appendix 2 Part A A3, and Condition 35 Part B 35.5).

Condition 38



The current drafting has two "Part D"s. We suspect the proposed legal drafting should in fact read as "Part D: Calculation of the value of the BMPPA term" and "Part E: Interpretation".