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MP171

‘Undertaking a FUSA without a Supply Licence’

Modification Report

Version 0.3

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About this document

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

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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 and is trying to exit the smart energy market.

Modification Withdrawn

Following discussions with the Security Sub-Committee (SSC), our legal team and the Proposer. It is now believed that the objectives of this modification can be achieved without the need for a modification to the SEC. Therefore, the Proposer has decided to withdraw the modification.

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.

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

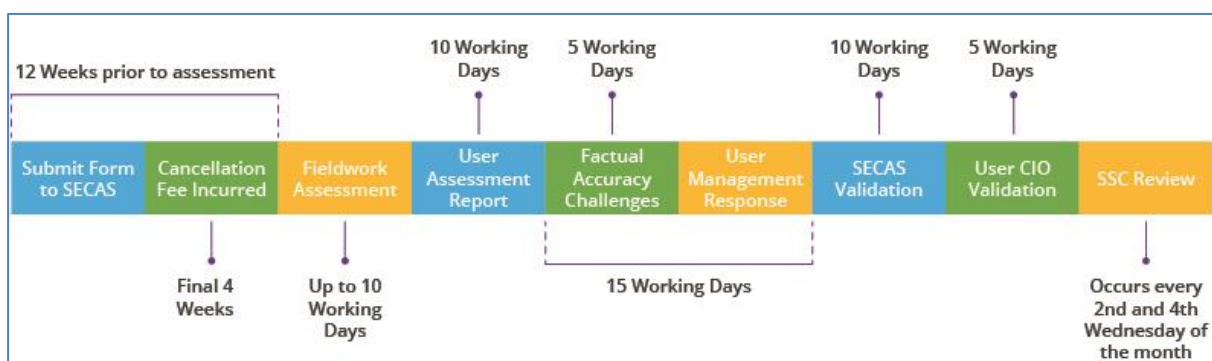
An Eligible User must satisfy SEC Section H3.8, which lists the type of User which can be considered eligible for each User Role. The Import and Export Supplier User Roles refer to a Supplier Party and it must hold the corresponding Electricity and/or Gas Supply Licence.

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

Recent changes to the process

Since this modification was raised, Ofgem has updated their Supplier Licence Conditions (SLC) due to more Supplier of Last Resort (SoLR) in recent years. A Supplier License application has now been extended from 75 Working Days to nine months.

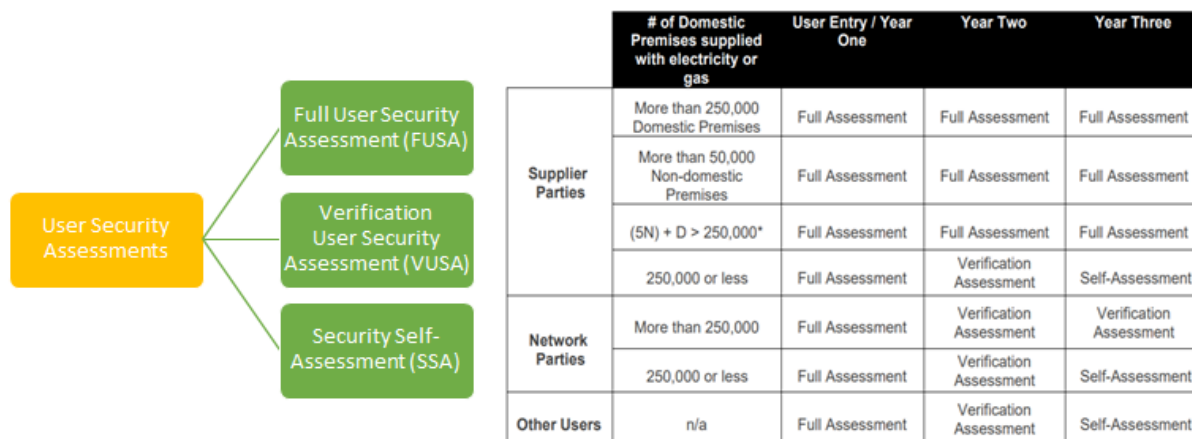
Overview of FUSA Process



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Some sections of the FUSA process can be sped up, however usually takes 4-5 months to go through the FUSA process.

FUSA is valid for one year, following which, dependant on Supplier size, if the new market entrant will need to do another FUSA, or a Verification User Security Assessment (VUSA) instead as per the diagram below:



*Where N is the number of Non-Domestic Premises and D is the number of Domestic Premises supplied with electricity and/or gas through one or more Smart Metering Systems for which it is the Responsible Supplier.

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'.

In addition, in February 2022, in response to the number of suppliers failing in the last two years, Ofgem has brought in more stringent requirements. The Supply License application period from 75 Working Days to nine months.

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).

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.

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.

3. Solutions

Proposed Solution

The Proposed Solution for the first issue in MP171 'Undertaking a FUSA without a Supply License' is to provide an option for new market entrants to apply for Supply License and FUSA concurrently, with a clause whereby the FUSA is not granted until the Supply License has been approved. New market entrants cannot be approved for a FUSA without holding a Supply License.

The proposed solution for the second issue in MP171 'Undertaking a FUSA without a Supply License' is to provide an option for Energy Licensees to cease being a SEC Party member.

4. Impacts

This section summarises the impacts that would arise from the implementation of this modification.

SEC Parties

SEC Party Categories impacted			
✓	Large Suppliers	✓	Small Suppliers
	Electricity Network Operators		Gas Network Operators
	Other SEC Parties		DCC

DCC System

There are no DCC Systems changes required for this modification.

SEC and subsidiary documents

There will be no changes to the SEC as a result of this modification.

The following parts of the SEC will be impacted:

- Section G 'Security'
- Section H 'DCC Services'

- Section M 'General'

The changes to the SEC required to deliver the proposed solution can be found in Annex A.

Technical specification versions

There will be no technical specifications as a result of this modification.

Consumers

Consumers are not expected to be directly impacted by this modification but are expected to benefit from the solution once implemented. Consumers will have no loss of smart capabilities if switching to new entrant as their provider.

Other industry Codes

There will be no changes to other industry Codes as a result of this modification.

Greenhouse gas emissions

This modification is not expected to impact on greenhouse gas emissions.

5. Costs

DCC costs

There are no DCC Costs associated with this modification.

SECAS costs

The estimated SECAS implementation cost to implement this as a stand-alone modification is one day of effort, amounting to approximately £600. This cost will be reassessed when combining this modification in a scheduled SEC Release. The activities needed to be undertaken for this are:

- Updating the SEC and releasing the new version to the industry.

SEC Party costs

The SEC Party costs will be gathered as part of the Refinement Consultation.

6. Implementation approach

Recommended implementation approach

SECAS is recommending an implementation date of:

- **3 November 2022** (November 2022 SEC Release) if a decision to approve is received on or before 20 October 2022; or
- **23 February 2023** (February 2023 SEC Release) if a decision to approve is received after 20 October 2022 but on or before 9 February 2023.

As this is a text only change Modification, the earliest SEC Release this modification could be implemented in is the November 2022 SEC Release. This modification does not have any DCC System impacts so if a decision is received after the cut-off date, it could be implemented in the February 2023 SEC Release.

7. 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.

Solution development

The Solution for the first issue, undertaking a FUSA without a Supply License, was discussed with the SSC, an SSC member pointed out that a FUSA cannot be granted until the supply license has been approved by Ofgem.

When investigating this further with SSC Panel member and the SECAS lawyer, we found that although the current SEC Section G8 does refer to Users/Eligible Users/User Roles throughout, there is a clear overriding statement at Section G8.32 which applies in respect of the initial FUSA. Section G8.32 states that for the initial FUSA all references to User (and related expressions applying to Users) are to be read as including a Party which wishes to become a User for the relevant User Role.

Therefore, an entity wishing to complete its initial FUSA to become a Supplier must be a Party but need not yet have a supply licence.

Working Group members were concerned about FUSA costs and wanted some protection in place to avoid costs being socialised to SEC Party members. However, within the Competent Independent Organisation (CIO) contracts for payment of FUSA, any default or withdrawal from the FUSA process, will mean costs will be pursued legally instead of socialised to SEC Parties.

SECAS discussed this modification with Ofgem, who did not have any outright objections of having a FUSA run concurrently with an Supply Licence Application, however was very clear that the FUSA would not be granted until the Supply Licence was granted.

The SECAS lawyer has found there is nothing in the SEC which explicitly states a new market entrant cannot apply for a FUSA without a Supply license. However, the SSC Chair believes otherwise and believes it is not clear whether a new market entrant can or cannot apply for a FUSA prior to obtaining a Supplier License.

The solution for the second issue, to provide an option for Energy Licensees to cease being a SEC Party member, was discussed with the SSC and the SECAS lawyer. They agreed that the solution is already in the existing SEC in SEC Sections H1.15 to H1.18. These clauses state that a Supplier must formally notify Smart Energy Code Administrators and Secretariats (SECAS) that the Supplier no longer wishes to be a User. SECAS must then inform the SEC Panel and the DCC. The DCC must then update its systems so that the Supplier is no longer recognised as a User.

Therefore, as there are solutions for both the issues set out, the Proposer decided to withdraw this modification.

8. Appendix 1: Progression timetable

This modification has been withdrawn.

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	Feb – Mar 2022
Draft legal text	Mar – Apr 2022
Modification discussed with Working Group	6 Apr 2022
SECAS developed solution with Proposer	Mar – Apr 2022
Modification withdrawn	22 Apr 2022

9. 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
CIO	Competent Independent Organisation
CME	Controlled Market Entry
DCC	Data Communications Company
FUSA	Full User Security Assessment

Glossary	
Acronym	Full term
I&C	industrial & commercial
REC	Retail Energy Code
SEC	Smart Energy Code
SECAS	Smart Energy Code Administrator and Secretariat
SLC	Supplier License Conditions
SMETS	Smart Metering Equipment Technical Specifications
SoLR	Supplier of Last Resort
SSA	Security Self-Assessment
SSC	Security Sub-Committee
VUSA	Verification User Security Assessment