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MP219 'Accessing Consumption Data on behalf of SEC Parties'

March 2023 Working Group – Meeting Summary

Attendees

Attendee	Organisation
Ali Beard (AB)	SECAS
Bradley Baker (BB)	SECAS
Rachel Black (RB)	SECAS
Kev Duddy (KD)	SECAS
Ben Giblin (BG)	SECAS
Mohammedanwar Sumro (MS)	SECAS
Rainer Lischetzki (RL)	SECAS
Julie Brown (JB)	British Gas
Beth Davey (BD)	Calvin Capital
Mike Pyke (MP)	Chameleon
Abhijit Pal (AP)	DCC
Chris Thompson (CT)	DCC
David Walsh (DW)	DCC
Alex Hurcombe (AH)	EDF
Daniel Davies (DD)	ESG Global
Craig Biffen (CB)	EUA
Stephanie Richards (SR)	Northern Powergrid
Stuart Blair (SB)	Northern Powergrid
Ralph Baxter (RBa)	Octopus
Jamie Flaherty (JF)	Ofgem
Audrey Smith-Keary (ASK)	Ovo Energy
Mahfuzar Rahman (MR)	Scottish Power
Michael Snowden (MS)	Secure Meters
Karen Jacks (KJ)	Sierra
Jeff Studholme (JS)	Smart Meter Assets
Shuba Khatun (SK)	SSE Networks
Kevin Clark (KC)	Utilita
Kelly Kinsman (KK)	WPD

Overview

Frequently, when a Supplier or Network Party wishes to collect Consumption Data from an Energy Consumer which is their customer, they can do so without gaining the Consumers Unambiguous Consent.

Issue

Occasionally, Smart Energy Code (SEC) Parties may employ an Other User to collect Consumption Data on their behalf. As the Other User is not the Supplier or Network Operator for that Energy Consumer, they do not have the Appropriate Permission. As such, the Other User needs to collect the Unambiguous Consent of every Consumer before collecting their Consumption Data. Due to the high number of customers which need to be contacted, this is preventing Other Users from commercially offering their services to SEC Parties.

Solution

This modification requires changes to the definition of Appropriate Permission and SEC Section I1.2 'Data Privacy'. The full legal text changes can be viewed [here](#).

Working Group Discussion

SECAS (BG) provided an overview of the issue, solution and updated legal text since this modification was last presented to the Working Group in December 2022.

A Working Group member (JS) noted that this had been discussed recently at an Other User Group recently where concerns had been raised about MP219 and two other Draft Proposals (DP234 and DP235) which have been raised by the same Proposer. The member expressed concern that these modifications were being introduced for the Proposer to be able to build sellable services, rather than for the benefit of Other Users. The member also mentioned '[DP218 'Review of the SEC Charging Methodology'](#)' and highlighted that if the benefits highlighted in the modification report were sought by Suppliers then this modification would have been raised by the Suppliers/Network Parties, rather than the Other User trying to sell these services.

SECAS (BG) explained the objectives of '[DP234 - Addition of GDPR Principles of Public Task and Legitimate Interests into the SEC](#)' and '[DP235 'Enhanced Meter Data Access for Other Users'](#)'. DP234 seeks to add selected GDPR principles into the SEC to allow SEC Parties to act on behalf of Local Authorities who use these principles to collect data from Energy Consumers who they have a duty to protect. DP235 aims to allow Other Users access to an additional 15 Service Requests. (JS) noted that if the Public Bodies which are mentioned in DP234 were experiencing issues with collecting Consumption Data then they would have approached SECAS in the past to address the problem. The member also mentioned a possibility of increased traffic across the DCC System from DP235.

Another member (SB) also highlighted the potential of increased traffic. They believed Suppliers and Network Parties will continue to request data from their customers meters, rather than letting the Other User collect it on their behalf. They also did not envisage a change whereby Suppliers would cease to collect data from the Consumers in their portfolio and let Other Users do this on their behalf. Rather than benefitting Consumers, the member believed this modification for the benefit of a sellable

product. SECAS (AB) highlighted that this modification is a text-only change to the SEC. As such, it is difficult to predict if or how much change they may be to traffic across the DCC System.

A Working Group member (BD) asked if this modification had been discussed with legal and data privacy experts. They also asked whether the Energy Consumer would know that their data is being handled by an Other User on behalf of their Supplier, rather than their Supplier. SECAS (BG) noted that on some occasions the Consumer would be aware, depending on what contractual agreement there was between the Supplier/Network Party and Other User. He also confirmed that SECAs have consulted Data Privacy and Legal advisors.

A Working Group member (JS) noted that the use of the term 'implicit consent' in the legal text could cause issues. They also questioned if this modification should be advanced through the modification process without support from SEC Parties, given their belief that this has been proposed for an Other User to sell a service. SECAS (AB) highlighted the Code Administration Code of Practice (CaCOP) rules which allow any SEC Party to have their modification pass through the modification process. AB also highlighted that Parties will have the opportunity to provide formal feedback through the Refinement Consultation and Modification Refinement Consultation periods, and that this will be voted on at Change Board.

A Working group member (RBa) asked about when the Energy Consumer would know that an Other User is accessing their Consumption Data. SECAS (AB) noted that the legal text has been written in such a manner that the employing party can decide when the Other User contacts the Consumer. (RBa) asked if the Consumer wanted to know who has access to their data, are there tools for them to find out. The member highlighted the importance of clarity regarding when the circumstances when the Consumer is alerted to an Other User handling their information. SECAS (AB) noted there is nothing in the SEC forcing the Supplier to divulge that data is being collected by an Other User, and if the Consumer asked the Energy Supplier, the Other User may have already accessed their data. (RBa) mentioned an example of Consumers being contacted by third parties offering them services when the Consumer was unaware the Other User had access to their Consumption Data. SECAS (BG) referred to the legal text for this modification which ensures the Other User can only use the Consumption Data as directed by the employing Party. (BG) explained that the employing party is still responsible for the actions of the Other User, and the Other User is constrained as it can only act in accordance with the employing party's Licence.

A Working Group member (ASK) noted that this modification may appear to be a simple and low-cost modification, however as the Proposer is an Other User, they are not paying for this modification given the current SEC Charging methodology. The member noted they fail to see the benefits of this modification for the SEC Parties which will pay for this modification, in addition to the possibility of increased traffic across the DCC System.

A Working Group member (SK) asked who would bear responsibility if an Other User acted in a manner outside of their remit. SECAS (BG) confirmed that the employing party is responsible for the behaviour of the Other User and this has been included in the legal text.

A Working Group member (DD) noted that the SEC Parties who will pay for this modification would not receive any benefits. They highlighted that Consumers using online websites are asked for consent every time they enter the website and questioned why Other Users could not continue to ask for Unambiguous Consent from every Consumer. SECAS (BG) explained that this has been raised so Other Users can offer their services without having to ask every Consumer for Unambiguous Consent as this is taking lots of time and effort and limits Other Users in their ability to offer their services. (JS) added a comment that this modification is about enabling one Other User to offer a service, rather than benefitting a wider group of SEC Parties.

A Working Group member (SB) highlighted the implications of removing the Unambiguous Consent from each Energy Consumer. They noted that although this may be compliant legally, there are various ways in which Other Users can gain consent from Consumers and questioned whether removing the need to ask for Unambiguous Consent completely was the correct decision.

The DCC (AP) noted that the current SEC model works in such a way that when Other Users retrieve Consumption Data they are responsible for decrypting the data and this is why explicit consent is currently needed. The member noted that there is a relationship between personal data and the Party which is decrypting it.

A Working Group member (JB) noted that this modification could touch on changes being raised by the Market-Wide Half Hourly (MWHH) programme. The member also questioned why Suppliers were not able to collect information from their customers, and why they would not continue to attempt to retrieve the information from the meter. The member highlighted the MP219 modification report stating a benefit allowing Time Of Use (TOU) data being retrieved. They highlighted the fact that the employing party and contracted party could take half-hourly data at the same time, leading to an increase in DCC traffic. They also sought clarity in the modification report about the links to [MP162 'SEC changes required to deliver MHHS'](#). They noted that extensive discussion had already taken place on the MDR User Role, with the member believing this modification could allow Other Users access to request data, bypassing the rules for MDR's. SECAS (BG) noted that investigation was ongoing into MP162 and the potential impacts on the MDR User Role.

A Working Group member (AH) noted that this modification focuses on the topics of data privacy and Consumer consent and expressed their belief that both areas were weakened by this modification. In addition, the potential impact on DCC traffic could be significant for SEC Parties. They expressed their lack of support for MP219, DP234 and DP235.

A Working Group member (DD) asked whether the Proposer could approach the DCC to pursue this modification as an Elective Service. SECAS (AB) clarified that the Elective Service route is not applicable for this modification as it is not within the DCC's remit to allow Other Users to access Consumer Data without their consent. They continued by saying that the Elective Service route could be an option for DP234 and DP235, which have been raised by the same Proposer.

A Working group member (RBa) highlighted the need to split the issues of Consumer consent and the consequential costs of increased traffic across the DCC system. They noted the capacity implications which could be addressed in the changes being discussed in DP218. They highlighted the necessity that when this modification is presented to Ofgem that these issues should be clearly defined. SECAS (AB) agreed that the issues will be discussed separately in the modification report, but noted it was not possible for SECAS to quantify the potential increased traffic as there is no information available and impossible to predict how much it might be used..

A Working Group member (AH) asked whether this modification would be discussed at any other Sub-Committees before being issued for a Refinement Consultation. SECAS (BG) confirmed that the Chairs of the Sub-Committees had been engaged with and this would not be presented to any other Sub-Committees before Refinement Consultation.

SECAS (BG) noted that because of the extensive comments on potential increases in traffic across the DCC system, it would be valuable for the DCC to provide a statement. The DCC (DW) stated that demand management is a topic which is being investigated within DCC. They also noted that an investigation is taking place into forecasting across the DCC System. They noted there was not an official statement from the DCC in relation to MP219. They noted that as DP235 names some specific Service Request Variants it may be possible for calculations to be produced for that Draft Proposal.

A Working Group member (JB) noted the framework associated with MP162 and limits on when SEC Parties can send Alerts. They noted this modification has very few constraints described which could lead to issues. Another Working Group member (RBa) noted this point and added that capacity issues needed to be addressed, some of which is part of DP218. SECAS (AB) confirmed that these issues will be highlighted in the Modification Report prior to the Refinement Consultation being issued. SECAS (AB) also asked that when Parties respond to the Refinement Consultation they should make their views on the topics of data privacy and traffic management explicit.

A Working Group member (JS) asked what the next steps for this modification will be, given the largely negative comments from Working Group members. They asked if the modification should carry on throughout the process with this feedback and questioned whether it was worth SECAS time and effort to continue. SECAS (AB) confirmed that the issues raised by Working Group members had already been investigated by SECAS and therefore very little further work needed to be undertaken for this modification to proceed through the modification process. SECAS (AB) also confirmed that under CACoP rules the Proposer has the right for their modification to go through the modification process and be voted on. They also confirmed Citizens Advice and other bodies which represent Energy Consumers are being kept aware of this modification. (JF) noted that Ofgem are monitoring this modification and this will be an Authority Determined decision.

A Working Group member (BD) asked what would occur to the Proposers other modifications (DP234 and DP235) if this modification is rejected. SECAS (AB) confirmed each modification addresses different topics and if any one of the modifications was rejected the others could process throughout the modification process.

SECAS (AB) asked Working Group members to confirm that the legal text fulfils the Proposed Solution. (JB) agreed this was the case but noted their negative feeling towards this modification.

SECAS (BG) assured Working Group members their comments would be detailed in the Modification Report and gave members the dates of the Refinement Consultation period.

Next Steps

The following actions were recorded from the meeting:

- SECAS (BG) to confirm the circumstances in which Energy Consumers are actively made aware that an Other User is collecting their data.
- SECAS to issue Refinement Consultation.