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<b>Meeting Name</b>	DCP 127 Working Group
<b>Meeting Date</b>	27 November 2012
<b>Paper Title</b>	DCP 127 – Legal and Regulatory Document Review
<b>Purpose of Paper</b>	For Information
<b>Synopsis</b>	This paper provides a summary of the conclusions from a review by the DCUSA legal advisor of the legal and regulatory documents that may be impacted by the DCP 127 solution.

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## **1. Background**

1.1. At its meeting on 19 October 2012, the DCUSA Change Proposal (DCP) 127<sup>1</sup> Working Group considered a request from Ofgem to further investigate impacts of the proposed gas first solution on other legislation, codes and licences. The Working Group agreed to request a formal legal review of whether the relevant documents either prohibit the implementation of DCP 127, or would be impacted by its implementation. This paper presents the conclusions of that review.

## **2. Legal and Regulatory Review**

2.1. The legal and regulatory documents reviewed were:

- The Electricity Act 1989
- The Gas Act 1996
- The Standard Conditions of Electricity Supply Licences (the consolidated document available on Ofgem's e-public register as consolidated to 1 November 2012)
- The Standard Conditions of Gas Supply Licences (the consolidated document available on Ofgem's e-public register as consolidated to 1 November 2012)
- The Electricity Safety, Quality and Continuity Regulations 2002 (as amended)

### **The Electricity Act 1989**

2.2. The review has not highlighted any provisions which prohibit or would be impacted by the implementation of DCP 127.

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<sup>1</sup> Gas First Smart Meter Installation

## **The Gas Act 1996**

- 2.3. The review has not highlighted any provisions which prohibit or would be impacted by the implementation of DCP 127.

## **Standard Conditions of Electricity Supply Licences**

- 2.4. Our review has not highlighted any provisions which prohibit or would be impacted by the implementation of DCP 127.

## **Standard Conditions of Gas Supply Licences**

- 2.5. The review has not highlighted any provisions which prohibit or would be impacted by the implementation of DCP 127.
- 2.6. However, it may be appropriate to consider whether, given that the person installing the Communications Hub will be interrupting the supply of electricity, the DCUSA should also contain a requirement which is comparable to Condition 13 – Arrangements for Site Access of the gas licence. The requirement would be that those persons visiting premises to install the Communications Hub should be able to inform the Customer, on request, of a contact point for any help and advice that he may require in relation to the supply of electricity (Condition 13 covers the gas sector).

## **The Electricity Safety, Quality and Continuity Regulations 2002**

- 2.7. The review noted that amendments to Regulation 24 have already identified. These were premised on the basis that the Communications Hub was not part of the 'consumer's installation' on the basis that it was not under the control of the consumer. However, 'consumer's installation' is not defined by reference to whether or not it is under the control of the consumer but as –

*"means the electric lines situated upon the consumer's side of the supply terminals together with any equipment permanently connected or intended to be permanently connected thereto on that side"*

- 2.8. 'Supply terminals' is defined as *"means the end of the electric lines at which the supply is delivered to a consumer's installation"*.

- 2.9. It may well be that given the above definitions the Communications Hub is part of the “consumer’s installation” but it is recommended that technical advice (including that of the HSE) is sought to determine the full and final position as to whether the Communications Hub is equipment that is or is intended to be permanently connected on the consumer’s side of the supply terminals.
- 2.10. In addition the following provisions may also need to be amended to reflect or recognise the existence of the Communications Hub:

Regulation 26(1) – This provides that where a connection to a distributor’s network is made or proposed and that distributor is satisfied that the consumer’s installation, other distributor’s network or street electrical fixture which is or would be connected to his network is not constructed, installed etc. in a way so as to prevent danger or interference with (i) his or any other distributor’s network, (ii) the supply to any consumer’s installation or street electrical fixture, then the distributor may give notice to the consumer, the other distributor or the owner of the street electrical fixture to undertake remedial works.

The question that arises in the context of Regulation 26 is whether it encompasses the Communications Hub and if not whether it needs to. In other words does the Communications Hub fall within the definition of “consumer’s installation”?

If so then further consideration is required as to whether any remedial measures that may be required can indeed be undertaken by the customer in accordance with the provisions of Regulation 26(4). Regulation 26(5) also raises similar considerations.

On the other hand if the Communications Hub is not within the definition of “consumer’s installation” yet is or is to be connected to the distributor’s network, does provision need to be made for it to be constructed, installed etc, in a way so as not prevent danger or interference.

Regulation 31 - Similar considerations apply in respect of whether the Communications Hub is included by the provisions of this Regulation and if not whether it needs to be included. Again this will be informed by whether or not the Communications Hub falls within the definition of “consumer’s installation”.

Regulation 34 – Again consideration needs to be given to whether the existence of the Communications Hub is already reflected in this regulation and if not whether it needs

to be. The starting point will be to determine whether or not it falls within the definition of “consumer’s installation”. If the Communications Hub does not fall within the definition of “consumer’s installation” but ought to be included in this provision, Regulation 34(2) will then also need to provide for the Secretary of State to be able to serve a notice on the gas supplier (as the person who owns/is responsible for the Communications Hub).

Regulation 35 – If Regulation 34 is amended to include the Communications Hub otherwise than it being part of the “consumer’s installation”, then Regulation 35 will also need to be amended so as to refer to gas supplier. There was a discussion on the proposal for Industrial & Commercial Suppliers to accede to the SPAA. Some gas parties were not clear on the benefits of doing so, and expressed concern that obligations are being introduced into existing codes, when there are similar/equivalent processes that will be in the SEC.

### **3. Recommendations**

3.1. The DCP 127 Working Group is asked to:

- Note the information in this paper.