PARLIAMENTARY DEBATES

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Public Bill Committee

SMART METERS BILL

Sixth Sitting

Tuesday 28 November 2017

(Afternoon)

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Saturday 2 December 2017

The Committee consisted of the following Members:

Chairs: Mike Gapes, † Mrs Cheryl Gillan

Carden, Dan *(Liverpool, Walton)* (Lab)
† Debbonaire, Thangam *(Bristol West)* (Lab)
† Freer, Mike *(Finchley and Golders Green)* (Con)
† Gibson, Patricia *(North Ayrshire and Arran)* (SNP)
† Grant, Bill *(Ayr, Carrick and Cumnock)* (Con)
† Harrington, Richard *(Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy)*
† Kerr, Stephen *(Stirling)* (Con)
† Lewis, Clive *(Norwich South)* (Lab)
† McCabe, Steve *(Birmingham, Selly Oak)* (Lab)
† Morris, Grahame *(Easington)* (Lab)
† Pawsey, Mark *(Rugby)* (Con)
Quince, Will *(Colchester)* (Con)
† Ross, Douglas *(Moray)* (Con)
† Smith, Laura *(Crewe and Nantwich)* (Lab)
† Tolhurst, Kelly *(Rochester and Strood)* (Con)
† Warman, Matt *(Boston and Skegness)* (Con)
† Watling, Giles *(Clacton)* (Con)
† Western, Matt *(Warwick and Leamington)* (Lab)
† Whitehead, Dr Alan *(Southampton, Test)* (Lab)

Jyoti Chandola, Clementine Brown, *Committee Clerks*

† **attended the Committee**

Public Bill Committee

Tuesday 28 November 2017

(Afternoon)

[Mrs Cheryl Gillan *in the Chair*]

Smart Meters Bill

Clause 3 ordered to stand part of the Bill.

Clause 4

Application of certain provisions of the Energy Act 2004

2 pm

Dr Alan Whitehead (Southampton, Test) (Lab): I beg to move amendment 16, in clause 4, page 4, line 9, at end insert—

"(ba) in paragraph 33(3), for "negative" substitute "affirmative"

This amendment would apply the affirmative procedure to the use of provisions of Schedule 20 of the Energy Act 2004 under this Act.

The amendment, which I alluded to this morning, relates to a further clause in the Bill to allow regulations to be made by the negative procedure, not the affirmative procedure that I think hon. Members would prefer in most circumstances. Clause 4(1) deals with the possibility that, as smart metering develops, the licence holder of the Data Communications Company could be a non-GB company. The clause sets out what would be the conditions of administration of the future DCC in the event that the company that was the ultimate owner was not a UK company; separate arrangements might have to be made for it. In the memorandum from the Department for Business, Energy and Industrial Strategy to the Delegated Powers and Regulatory Reform Committee, which I have mentioned previously, the procedure that is set out in the clause is described thus:

"We consider that the negative resolution procedure is justified for providing for what would be detailed modifications narrowly focused on particular provisions of insolvency legislation and their specific application to a non-GB company. Affirmative resolution procedure or new primary legislation is not considered to be appropriate given the nature of the changes."

No particular reason is given for the fact that affirmative legislation is not considered to be appropriate. A further consideration that is new in this clause—it was not the case with the previous clause that we discussed in relation to affirmative resolution procedures—is that, as the memorandum states at the beginning of the paragraph, legislation on what would happen if the owner was a non-GB company would be undertaken using a Henry VIII power. We have not yet discussed Henry VIII powers in this Committee, although we discussed them in a previous Committee in which the Minister and I were involved. On that occasion it was generally concluded that the use of Henry VIII powers in legislation was a bad idea. As I am sure hon. Members will know, Henry VIII powers essentially allow primary legislation that is on the statute books to be amended by secondary means. As a general principle in this House, one would have thought that enabling the Government to do that—depending on what bounds have been placed on the procedure—is potentially a worrying development. Without recourse to the Floor of the House and a full debate on the legislation, a Government can, if that legislation contains Henry VIII clauses, use secondary legislation to alter what Parliament had previously discussed during the full process of Second Reading, Committee, Report and so on, through both Houses of Parliament. The Government can amend that legislation through a regulation that substitutes for a piece of the primary legislation that was discussed previously by the House. That seems a bad principle of legislation, and if it is to be used, it should be used extremely sparingly and only in emergency circumstances.

This Bill is generally quite benign and innocuous, but surprisingly it contains a Henry VIII power to amend the Insolvency Act 1986 and the Energy Act 2004 and its schedule by secondary legislation. In this instance, the proposal to allow that is not only suggested in terms of providing detailed modifications on particular aspects of the insolvency rate legislation by secondary legislation, but it enables a Henry VIII power to be put through Parliament on the basis of a negative resolution which, as I said this morning, would give Parliament very little scrutiny of the whole process.

This morning we discussed the difficult conditions that might apply if the DCC became insolvent, and the need for speed and urgency might conceivably justify passing such a measure through the House by negative resolution. We cannot, however, really apply those arguments to this clause because this is not something that will need to be done as a matter of urgency. As the memorandum states:

"The earliest the licence is expected to be re-tendered and could potentially be transferred to a non-GB company would be 23 September 2025."

What we are considering is not exactly an urgent process, and neither is it in parallel with the ideas put forward when we discussed the previous clause. This is a Henry VIII power that proposes to amend primary legislation by means of a negative procedure where no urgency is envisaged—it is as simple as that. In those circumstances, it seems to me, and even given the Minister's own words, that there can be little justification for taking through these legislative procedures with a negative resolution. That is why the amendment substitutes the word "affirmative" for "negative". Bad though we think Henry VIII powers are generally, if there is to be such a power, it should at least be passed by affirmative, rather than negative procedure, and I hope that the Committee will accept the amendment.

The Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy (Richard Harrington): I thank the hon. Gentleman for his comments. Henrys were discussed in the Committee that considered the Nuclear Safeguards Bill, including under the illustrious chairmanship of the then Mr McCabe, whom we must now refer to as the hon. Member for Birmingham, Selly Oak. It was interesting to hear contributions from the hon. Gentleman not just about Henry VIII, but about Henry VII, the French king, I seem to recall, who I looked up on Wikipedia that very evening.

Dr Whitehead: I need to put a correction on the record in that case, Mrs Gillan, because I did mention Henry IX, the French king. It was, in fact, Henry IX of Bavaria. I was mistaken at that point, but there was indeed a Henry IX and he lived in Bavaria.

The Chair: Thank you very much, Dr Whitehead.

Richard Harrington: I must formally apologise and hope that the *Hansard* writers are able to expunge the fact that I got the wrong Henry in the wrong country at the wrong time. In no way was it meant as any form of insinuation, implication or anything improper about the historical knowledge, or indeed, any knowledge, that the hon. Gentleman has. I must apologise for any offence caused. If this were outside in the world where one gets sued, I would have to make a donation to the charity of his choice, but I do not think the difference in Henrys is quite the point he was making.

It is a true and interesting point, which is relevant to so much legislation in this place—many things far more politically contentious than what we are discussing here today. Where it is appropriate for Government to have powers that are delegated is a big issue. I know that in the European Union (Withdrawal) Bill that is going through at the moment this has become quite a big cause célèbre, and it is one with which I have a lot of sympathy. I will try before you rule me completely out of order, Mrs Gillan, to talk about the specifics of this particular Bill, which, by powers of the Henrys, is quite limited in the powers it asks for.

The powers we need are of two types: first, as the hon. Gentleman gracefully and properly conceded, in some cases there is the need for urgency; a Secretary of State of whichever political complexion may need to be able to act quickly. Secondly, there is the question of the general type of statutory instruments, which are dealt with in the affirmative or negative way.

Stephen Kerr (Stirling) (Con): Is there any precedent for using negative resolutions in relation to non-UK companies that have been awarded licences in any facet of our economy?

Richard Harrington: I cannot tell him about companies generally, but I know within energy, which is my field, that there are precedents within the Energy Act 2004. My hon. Friend the Member for Finchley and Golders Green next to me has told me the actual point—in fact he has not, he has told me exactly what I have just said. I was trying to be clever and remember the clauses, but I know it was the Energy Act 2011, which set up other special administrative regimes. This is a common system for SARs. There is ample precedent for that and it would seem very strange, for no particular reason, to give this special administrative regime a different rule to others. I hope that the hon. Gentleman will take that point into consideration.

The SAR has largely been formulated with GB-registered companies in mind, since a GB company is the current Smart Meter Communications Licence holder; that is true. However, there is a possibility that at some point in the future the licence holder could be a non-British company. He is right to say that the earliest the licence is expected to be re-tendered is September 2025. I know that delegated legislation moves slowly, but I accept his point that this is not a speed matter. I could not even try to argue in front of him or yourself, Mrs Gillan, that this was the case.

Although a number of adaptations to the special administration regime catering for non-GB companies have already been made by the Energy Act 2004 applied by this Bill, we may find that further modifications are needed to account for a non-British company becoming active in the provision of smart meter communications services.

2.15 pm

In effect, clause 4 extends the application of the existing power and procedure in the Energy Act 2004 in relation to the network operator SAR to the Smart Meter Communication SAR, so there are two there. As we have said, there is a precedent for this provision in the Energy Act 2011 in relation to the energy supplier SAR.

We suggest that the negative resolution procedure provides Parliament appropriate oversight for introducing what would be very detailed, narrowly focused modifications. They are very narrowly focused, as these powers should be. In fact, even the Bavarian powers referred to by the hon. Gentleman in the last Bill Committee were probably quite narrow. Actually, they may well have included execution and things; I do not really know what Henry IX got up to in Bavaria. They would probably have involved delegated legislation of a different nature. In this case, these are detailed modifications, narrowly focused on particular provisions of insolvency legislation, and their specific application to a non-British company. I would argue—he may choose not to accept the argument—that it is important that we are consistent in the procedures we apply to the exercise of these powers in different energy SARs. It does not make sense to have one that is different from the others. I do hope that the hon. Member for Southampton, Test will understand my concerns about his amendment and agree to withdraw it.

Dr Whitehead: The Minister tried quite hard, but did not actually say anything new, other than what is already on the delegated legislation memorandum that I myself read out to the Committee. That was essentially the Minister's defence of the procedure he is seeking to introduce.

I might have anticipated some other, particular reason—in addition to it not being urgent—for putting this forward as a negative resolution. There apparently is not one, other than that it is fairly narrowly drawn and relates to the Insolvency Act 1986, but nevertheless it amends the Insolvency Act 1986 by secondary legislation and negative procedure. That is the point that I was making: it is not the narrowness of it but the procedure by which the legislation is amended. This is an important principle for legislation in general, and I am therefore afraid that I do not think we can withdraw the amendment this afternoon. We would like to see this an affirmative procedure. In the absence of any good ideas that might arise in the next few minutes—a bit like the EU negotiations on the border—we may have to divide the Committee on this.

Richard Harrington: I hope the hon. Gentleman knows that I do try to accommodate wherever I can. To disagree with the argument I have put forward—which is "the other ones are like that"—would be basically to say that the other ones are wrong. I cannot see any rationale—perhaps the hon. Gentleman will enlighten me—why one should be different from the other energy one. To me that is the important point; to him, I do not think that it is.

I would ask him to reconsider. If it is really important to him, rather than put it to a vote—which he is welcome to—he could sit down and discuss it with me before Report, when he would still have the option to do what he wanted. I am very happy to do that, but it seems to me to be an administrative matter and, to him, it does seem to be a point of principle. It if is a point

[Richard Harrington]

of principle, I cannot really accommodate him because I have to show the precedents, but there may be other things we could explore. If that were a suitable option, I would be very happy to do it.

Dr Whitehead: I am afraid that we must press the point.

The fact that there is some bad legislation on the statute book does not mean there should automatically be more. I am afraid that that does not take us much further forward.

Question put, That the amendment be made.

The Committee divided: Ayes 8, Noes 9.

Division No. 2]

AYES

Debbonaire, Thangam	Morris, Grahame
Gibson, Patricia	Smith, Laura
Lewis, Clive	Western, Matt
McCabe, Steve	Whitehead, Dr Alan

NOES

Freer, Mike	Ross, Douglas
Grant, Bill	Tolhurst, Kelly
Harrington, Richard	Warman, Matt
Kerr, Stephen	Watling, Giles
Pawsey, Mark	

Question accordingly negatived.

Question proposed, That the clause stand part of the Bill.

Richard Harrington: I have discussed the clause extensively and will not repeat my points other than to say that the powers are absolutely necessary. Hundreds of pages of things, such as quorums of meetings, have to be dealt with in this way. We propose to extend the application of the existing power, for which there is plenty of precedent, in relation to the energy supply company special administration regime.

Dr Whitehead: There is a new clause that refers effectively to what we are considering here, but I am happy for it to be discussed separately, even though it has a substantial bearing on whether a non-GB company might be a successor to the DCC. As far as this stand part debate is concerned, I have no further comments other than that I will save my fire for later when we discuss the new clause.

Question put and agreed to.

Clause 4 accordingly ordered to stand part of the Bill.

Clause 5 ordered to stand part of the Bill.

Clause 6

Modifications of particular or standard conditions

Steve McCabe (Birmingham, Selly Oak) (Lab): I beg to move amendment 10, in clause 6, page 5, line 20, at end insert—

"(aa) the public; and"

This amendment would require the Secretary of State to consult the public before making a modification to particular or standard conditions of gas or electricity licences when these powers are being used in connection with the smart meter communication licensee administration provisions.

No doubt you have observed, Mrs Gillan, as will have members of the Committee, that there are some similarities between this amendment and amendment 8 to clause 3, which we discussed earlier. They are part of the effort I have been making to ensure that the public have a slightly bigger voice in what happens in the programme, particularly in the event of something going wrong with it. I mentioned earlier the number of groups and organisations that have expressed anxiety, and these include the Public Accounts Committee, the National Audit Office and the Energy and Climate Change Committee. I was particularly struck to see that Centrica itself had reached the stage where it thought the cost of the programme should be met from general taxation, rather than a charge on the customer. That led me to wonder.

As I hope I have indicated throughout, I do not hold the Minister responsible because I appreciate that he was bequeathed the current state of affairs by his predecessor—but I wonder if the Minister believes that, if this were a Treasury programme, it would have been allowed to continue in its present form for this length of time, with the escalating cost. I would be very curious to hear his response —if possible; I am not trying to put him in a difficult position. The Minister did tell us earlier about one of the first questions he asked when he arrived in the Department and he went on to explain that he had some doubts about the information he was being given. I am really curious to know what he felt when he first encountered the programme and whether he was confident that all was well with it, because it seems to me that there are grounds for some doubt. I want to refer to the cost-benefit analysis, on the basis that the 2016 analysis was significantly revised downwards. We have never had an explanation for exactly why that was the case. It is probably reasonable to guess that it is partly about the delay in the roll-out, but the way things are going at the moment, with delays in the roll-out and escalating costs, we could end up in a situation where the benefit for the customer turns into a big fat negative. It seems to me that it would be a bit remiss of us not to pay some attention to that.

I do not know if I have got this wrong, but it looks to me as if, every way we turn, there is only one person footing the bill for any aspect of the programme. The Minister tells us that the energy suppliers can be fined if they do not achieve the roll-out, but presumably that means another cost that gets passed on to the customer. I would be grateful if the Minister could tell us whether he envisages any protections to ensure that, were he to use his powers to fine the supplier for failing to comply with the roll-out deadline, that would simply not be, in effect, yet another charge imposed on the customer. Certainly, as a customer and as someone who represents lots of constituents who are customers, I would like to know if that is the case and if that is what I am being asked to support today. It would be reasonable to know. As far as I understand it, the power to fine is up to 10% of turnover. Perhaps the Minister can give us some clue as to what that works out at per customer—funnily enough, I would expect that it is quite a tidy sum of money.

In the past, the Government have said that they would intervene to make sure the benefits of the roll-out were realised, if they believed the costs were being passed on to the customers to an unacceptable extent. In the context of the amendment, is the Minister happy that the current escalation in the costs is acceptable? At what point does he think his Department might be moved to intervene?

We are repeatedly asked to recognise that the DCC is unlikely to fail and that everything we are being asked to undertake here is simply on the basis of extra protection in the event of failure, but what I am saying is—

2.30 pm

The Chair: Mr McCabe, I am loth to interrupt you when you are in full flow, but the cost-benefit analysis is in new clause 11, which is going to be debated later. The focus of your speech should be on the text of this amendment. I do not mean to cut you off in full flow, but I think you understand what I mean.

Steve McCabe: Perish the thought that you would cut me off in full flow, Mrs Gillan. I was about to conclude by saying that the reason why I have laboured the point about the cost is that that seems to be the essential public interest. The programme has been designed so that the last people to have any say in what happens are the public, who are picking up the tab. The point of the amendment is to give the Minister an opportunity to redress what I assume was an oversight; I cannot think of any other reasonable explanation why the very people who are supposed to be at the centre of the programme have absolutely no say, and are not consulted—or considered, it would appear—in any way at any stage of the process.

The Chair: Just to reassure you, Mr McCabe, you will have the opportunity to visit this point briefly when we discuss new clause 11. I think you will find that a good place for it.

Richard Harrington: Many of the points made by the hon. Member for Birmingham, Selly Oak had to do with the general costs passed on to customers in the electricity market, a small part of which involve the smart meters that we are discussing. The justification for smart meters, as far as I am concerned, is ultimately to give customers a control over their electricity bills that they do not have now. Now they have one choice, which is to move. It is a good choice, and one that I have exercised myself, but compared with what they will get out of smart meters, it is crude.

I am not making light of the costs charged—this amendment is not about the general costs—but I hope that they will be small fry compared with the huge savings that they will create over the years, although the costs of installation have unquestionably gone up; I will not pretend that they have not.

I will try to deal with the amendment generally. I made a note of the hon. Gentleman's questions while he was speaking, as you would expect me to do, Mrs Gillan. He asked about the fines that can be levied. I point out that the fines are levied by Ofgem rather than by the Department via the Secretary of State. By the way, I was most impressed and surprised to hear the hon. Gentleman quote Centrica and its complaints as an example to all of us. Apparently, it did not want to bear the costs of smart meters or charge its customers for them; it wanted to pass them on to the general taxpayer.

Grahame Morris (Easington) (Lab): The Minister's defence is that lots of the powers rest with the regulator, Ofgem. However, the explanatory notes say that the Energy Act 2008 and later Acts have given the Secretary of State powers to veto any proposals by Ofgem to consent to a number of things, including the transfer of the DCC licence, which we discussed earlier. He already has extensive reserved powers.

Richard Harrington: To continue with the comments of the hon. Member for Birmingham, Selly Oak: if British Gas was fined 10% of its turnover, in theory that would be passed on to its consumers. In practice, of course, that would make it so uncompetitive that all its consumers would move somewhere else. The purpose of these measures is not the fines; it is all the things that happen before the fines to make suppliers comply.

Technically, the hon. Gentleman's point is correct: in theory, all costs go on to consumers, just as in general Government finances all Government expenditure goes on to the taxpayer. I do not think the point is that relevant, but I cannot disagree with what he said other than to say that the fines are not a tool for compliance; they are the ultimate response.

It is true that Ofgem administers the programme and the legal requirements are on it to take all reasonable steps to ensure that households and small businesses have smart meters. The fine is for Ofgem to decide. I remind the hon. Gentleman, before I move to the substance of the amendment, that we have to consider the net benefits as well as the costs. Every single consumer who has a smart meter is making savings on their bill from day one, so experience shows. The real prizes are for the future: the information the meter gives and the change in behavioural habits that happens surely make this worthwhile.

It is not appropriate or feasible to change the policy to move the cost on to the general taxpayer, but it is for us to monitor the situation carefully. With volume, the cost will go down. Compared with many other costs in the generation and supply of gas and electricity, the smart meter bill is quite small given the price of the physical SMETS 2 meter, which, as we have discussed in previous sessions of the Committee, is lower than the SMETS 1 meter's, and given the cost of the installation and administration that goes with it, which is the same for SMETS 1 and SMETS 2.

I return to the specifics of the amendment. The Bill allows us to reclaim the administration costs that effectively come from the end user via the companies—that is true. It allows the Secretary of State to make such modifications to the licence conditions, where he considers it appropriate to do so, in connection with the special administration regime. The key point is that the clause requires the Secretary of State to consult affected licensees and such other persons as he considers appropriate prior to making modifications to licences. The licence modifications envisaged under this power have been drafted and a version has already been made available along with the explanatory notes to the Delegated Powers and Regulatory Reform Committee and to the public via the parliament.uk website.

[Richard Harrington]

The licence conditions try to allow the administration costs to be recouped from the industry insofar as there is a shortfall in the property available for meeting the costs. I accept that, in any business, recouping something from the industry involves recouping it from the customer in the end, which is the point I conceded to the hon. Member for Birmingham, Selly Oak. In the crudest sense, that is true of purchasing anything: the cost of the manufacturer, importer or distributor in any form of good or service is met in the end price. That is bad unless consumers have the choice and the ability to easily switch to a supplier that does not have that incumbence, as is the case here.

I have always envisaged that when we formally consult on those modifications in due course, the consultation will be published. If it is helpful to the hon. Member for Birmingham, Selly Oak, I am happy to provide him and everyone else with an undertaking that the consultation will be publicly available and addressed to the public, as well as to the other consultees involved. On the basis of that undertaking, I hope the hon. Gentleman will withdraw the amendment.

Steve McCabe: The Minister made a very helpful offer at the end. He says that every single consumer is making a saving, but I repeat that that is not true if the smart meter is in dumb mode. People are not making a saving in those circumstances.

Stephen Kerr: The consumer with a dumb meter may very possibly make a saving; I give myself as an exhibit. I changed suppliers. My meter is no longer smart—I grant the hon. Gentleman that—but I have made a saving, because I had a smart meter in the first place.

Steve McCabe: I congratulate the hon. Gentleman on his wisdom and semantics. Clearly, in those circumstances, the saving he is making is not to do with the smart meter, but with his judgment in switching supplier—that is the saving he has made.

Stephen Kerr: It is because I had a smart meter that I was able to make the saving in the first place.

Steve McCabe: As I do not live anywhere near Stirling, I concede that up there, the canny wisdom of the inhabitants is such that they almost certainly have found a way of screwing the best possible deal out of the system. Unfortunately, as somebody who represents the humble folk of Selly Oak, I encounter the people who do not do quite as well out of the programme—hence my desire to represent their interests.

The essence of the amendment is to try to shed light and ensure that the public have a greater understanding of what is going on. I feel that that is absent. If the Minister says that he is going to share the information, that is good enough for me. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Steve McCabe: I beg to move amendment 11, in clause 6, page 6, line 22, at end insert—

'(15) Prior to making modifications under this section the Secretary of State shall commission an independent evaluation on the potential impact the modifications available to the Secretary of State to secure funding of smcl administration could have on consumer energy prices and shall lay the report of the evaluation before each House of Parliament."

This amendment would require that, before considering modifications to ensure funding of smcl administration, the Secretary of State must seek independent evaluation of the impact such modifications would have on consumer energy prices.

Steve McCabe: Thank you, Mrs Gillan. *[Interruption.]* If I could find my notes, I would be doing absolutely fine; I will have to call on the assistance of the hon. Member for Stirling at any second now.

The Chair: I am sure that the Committee will be perfectly happy to allow you to hunt for the correct notes. I think we have all been there, but there is only so much time.

Steve McCabe: The purpose of the amendment is to ensure that any potential modifications are subject to an independent valuation. The reason why I ask the Committee to consider this is relatively simple. The Committee will recall that the Minister told us earlier in the proceedings that he thought some people—may be even some Members—were a little cynical about the DCC. I am not sure that people are necessarily cynical, but I think it is important for a programme in which there are already seven or eight world-first technological developments, including device level interoperability and a separate communication system, to highlight some of the substantial commercial and operational costs in play.

I am sure that the Minister has been doing his homework and I hope that he can provide a bit of insight to the Committee into what he foresees as the risks and difficulties in the months ahead. When I was pursuing the issue of meter asset providers in an earlier sitting, I think the Minister said—I wrote it down at the time—that he regarded the role that these people were playing as "a failure", but he thought it was a technical failure that he hoped would be changed within months by the technical interoperability changes that he was planning.

I am not sure that I believe that is absolutely accurate. It seems to me that MAPs are an issue affecting not only SMETS 1 meters but the roll-out of SMETS 2. The danger relates to the deemed rental—the charge that the MAP people make to the supplier for the first arrangement. When someone makes the smart move, like the hon. Member for Stirling, to somewhere else, the owner—the MAP—may then say, "We are going to change the basis of rental," and the deemed rental costs will go up.

2.45 pm

It has been suggested that that is a particular deterrent for some of the smaller suppliers, which, I am advised, have made a presentation to BEIS on the subject. If the issue is not addressed, the danger is that the deemed rentals will prevent the success of the DCC project, and therefore the Minister's ambitions and the wider aims. I do not know whether the Minister is in a better position today to tell us how that is going—he has been generous in his offers to consult with, meet and talk to people—but BEIS's plans for the enrolment and adoption of SMETS 1 meters are supposed to be with us before the end of this year. As I look at my little Christmas calendar, it seems to me that the days are ticking away, and I was wondering where we have got to.

The amendment's purpose is, I hope, relatively straightforward. It is designed to protect customers and prevent the potentially large costs of smart meter communication licensee administration from being passed from one to the other. One of the expert witnesses we heard from claimed that the suppliers providing the many DCC SMETS 1s were doing so at 10% of the money already spent by the DCC. That is a huge amount of cash, so we cannot take this lightly.

If I have understood it correctly, this is the situation we find ourselves in. Clause 7(1) and (2) states that the modifications can be made using the powers in clause 6 to raise the prices that the licence holders charge their customers until we reach the point where they have got enough money to pay for the smart meter communication licensee administration.

Effectively, this is about where that money is being transferred. It would not make sense for the Minister to make that judgment or to encourage anyone else to do so without some kind of independent analysis of what is happening. I assume that the Minister does not know what the cost of a smart meter communication licensee administration scheme will be; I would not expect him to. In the unlikely event of a catastrophic failure, he may be the person in the driving seat who is forced to make these changes, so it seems to me that the cost of any such administration and the impact it will have on the consumer and therefore on energy prices should be properly evaluated with a pretty good degree of oversight. That is the purpose of the amendment.

I do not expect the Minister to agree to the amendment with open arms, but there is nothing in it that undermines what he is trying to achieve. All it is trying to do is ensure that the rest of us know what is likely to be involved if we get to that stage.

Dr Whitehead: My hon. Friend the Member for Birmingham, Selly Oak made a very good case for this amendment, to which I want to add only the question of what is happening throughout the roll-out process. My point relates to the cost of the process and the cost-benefit analysis. There will be a better opportunity in discussing a later clause to go into that in greater depth. For the purposes of this particular amendment, the act of funding an administration without knowing the amount involved, which will inevitably go on to customers' bills, could result in a further deterioration of the cost-benefit arrangements in the context of the process as a whole.

We see already a number of areas in the August 2016 cost-benefit analysis. Page 15 of that analysis sets out how a whole series of areas reduced their net present value by substantial amounts, sliding away from the previously positive cost-benefit finding, with an overall reduction in net present value of some £500 million.

We may well be in for further considerations as more cost-benefit issues arise, and as the programme unfolds we could be in the position of considering the statements made about the benefits to the public of smart meters overall. Let us not forget that the initial cost-benefit analyses looked very rosy compared with the programme's predicted cost. One could argue that although there may be higher consumer bills to cover the programme's implementation, the benefits to the customer, consumers and the country as a whole would be considerable.

I will quote from an academic paper entitled "Vulnerability and resistance in the United Kingdom smart meter transition": the authors describe the expected combined total cost of the programme as being "at least £11 billion", or more than £200 per household. It adds:

"Even the marketing campaign inspires awe, with £100 million committed over a five-year duration of the program, convincing Barnett"—

an academic authority—

"to estimate that it is the biggest advertising campaign in the world in the 'next five years.'"

All these costs will go on customers' bills, one way or another, and will be subject to that cost-benefit analysis as it comes through. In the event that administration is required of the DCC, it seems essential for us to know the impact of that administration on total bills to the public, and the impact on the net benefit. There might be circumstances in which the DCC goes into administration, is rescued in the manner suggested in the Bill, is put forward on a different basis and ends up being a net cost benefit to the public. But, apparently, we do not know the likely cost in such circumstances or what the benefit might be, and we do not have any mechanism for appraising that against what else is in the cost-benefit analysis.

The purpose of the amendment, admirably crafted by my hon. Friend the Member for Birmingham, Selly Oak, is to do just that. It would not stop the Minister from doing anything in particular; it is simply saying, "Have a good mind to that overall cost-benefit situation. Make sure you are clear about the costs and benefits of that process. Make sure that that gets reported and sees the light of day as far as the public are concerned." That seems to me to be a sensible coda to put in the process that does not in any way put a brake on it. I think the whole Committee could support the amendment.

Richard Harrington: I thank the hon. Members for Southampton, Test and for Birmingham, Selly Oak for their contributions. Clause 6 grants the Secretary of State the power to make modifications to licensing conditions when he or she considers it appropriate to do so in connection with the special administration regime for the smart meter communication licensee.

The licence modifications envisaged under the power are already drafted and publicly available. They allow the costs of administration—however unlikely we agree such an event to be—to be recouped from the industry where there is a shortfall in the assets it gets back to meet the costs. As the hon. Members for Southampton, Test and for Birmingham, Selly Oak have said, it is hard—indeed, almost impossible—to estimate the cost of administration up front, and I fully accept their point that there cannot be a blind process or an open cheque; a firm of accountants should not be able to do what they want, when they want, and then charge for it.

One reads about insolvency operations in the press and sometimes one gets the impression that the costs of the administration are more than the insolvency achieves. However, I think that is very unlikely in this case, simply because of the guaranteed revenue stream and all the things we have been through before. The point made in moving the amendment is right: we should try to understand what the costs would be.

[Richard Harrington]

It has been estimated that the DCC has cost billions, and that is basically everything aggregated over the period. To put the issue in perspective, it projects its annual costs to be £67 million in 2019-20. Obviously, a significant part of the administration costs would pay the ongoing costs while the business is kept going to get more revenue and find a buyer. Those are already planned for; they are not new costs. In layman's terms, new costs would be the fees for accountants and lawyers to deal with the actual physical administration itself. Those new costs are not to do with the actual running of the business, and I believe them to be limited. On the issue of scale, I cannot see the administration costs being disproportionate to the annual costs or the huge amount of set-ups.

The key point of the amendment is that the hon. Member for Birmingham, Selly Oak and the shadow Minister feel that we should try to estimate the costs and that a lot more knowledge is needed and should be made available to the public. When the Government come to formally consult on the modifications, which they will in due course, the consultation document will provide an assessment of the potential scale of the cost that might need to be recouped from the industry. That can only be an estimate, because no one knows the exact figures, but there must be comparables. I suspect that the accountancy firms and other relevant parties, such as a regulator, will put in their estimates. I am very happy to provide that assessment in the consultation document. The responses that come in should be very helpful.

On the scale of cost, the assessment will need to take a variety of factors into account. Part of that is the running costs of the licensee and an estimate of the special administration cost. We will take advice from relevant parties—including the independent regulator, Ofgem—when providing the estimate of the potential cost. I undertake that the consultation on the licence modifications will be published and that we will invite comments from energy consumers as well as other representative bodies. One of the questions that we will expressly ask is whether the consultees agree with the assessment that we are laying out in the consultation. I undertake that, prior to the licence modifications being made, I am happy to make available to both Houses of Parliament the Government's response to the consultation, which will report on the conclusions on the estimated potential scale of costs.

Having considered those points, I hope that the hon. Member for Birmingham, Selly Oak will withdraw the amendment.

3 pm

Steve McCabe: Again, the Minister has been quite helpful. We need to remember that we are talking about a circumstance where there has been a catastrophic economic failure of the DCC. That is why the Minister would be in that position. It would inevitably be—in part, at least—because of doubts about the system, resulting in escalating costs. It would be against a background of an ongoing dispute about SMETS 1 and SMETS 2 meters and the whole question of interoperability, and it would of course then feed into the question whether the meter asset providers were also adding to the cost because of the new role in which they found themselves. That is why we would be in that situation.

In such a situation, I certainly would not want to be the Minister putting my name to something without having some reasonable evaluation of what exactly had happened; how much the cost was likely to escalate; and whether or not this thing was turning into a white elephant. It seems to me that it would be pretty necessary to do that.

If the Minister is confident that the information he will glean from the consultation and that he will make public will be enough to provide him and his colleagues with the cover they might require if they ever find themselves in that situation, I am happy to accept his judgment. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 6 ordered to stand part of the Bill.

Clause 7 ordered to stand part of the Bill.

Clause 8

MODIFICATIONS UNDER THE ENTERPRISE ACT 2002

Question proposed, That the clause stand part of the Bill.

Dr Whitehead: We are overrun with Henrys again this afternoon: there are more Henrys in clause 8. I have not tabled an amendment because the question of amendments to Henry VIII clauses has been tested, but the Committee should be aware that clauses 8 and 9 are substantial Henry VIII clauses. Both seek to make regulations by negative procedure. The clause to which I drew attention earlier is therefore not an accident; it is part of a theme that runs right through this Bill and that theme ought to be looked at.

We could have a debate about the justification for the procedure in clauses 8 and 9. Frankly, I think they have been written to make the Government's life easier. That is not a sufficient reason to justify the enactment of legislation. I hope that I can recruit the Minister on future occasions for what I might call a crusade—

Richard Harrington: Wrong Henry.

Dr Whitehead: Different Henrys. I hope to recruit the Minister to drive such arrangements as far as possible out of our legislative procedure. I appreciate that there are circumstances in which they are necessary, but they do not apply to clauses 8 and 9. I want to register my concern about what is in the Bill, but I will not take the matter further at this stage.

Richard Harrington: I have carefully noted the shadow Minister's comments. I would call this a minor piece of Henrying—not a Henrietta but a Henryette. I think we disagree on the scale. The powers are very limited and very necessary. I accept the good spirit in which the shadow Minister made his comments, but the powers are necessary for the reasons I have already given. We disagree, but I thank him for his good grace and his acceptance that I have made the arguments before, albeit unsuccessfully as far as he is concerned.

Question put and agreed to.

Clause 8 accordingly ordered to stand part of the Bill.

Clauses 9 and 10 ordered to stand part of the Bill.

Clause 11

SHORT TITLE, COMMENCEMENT AND EXTENT

Richard Harrington: I beg to move amendment 17, in clause 11, page 9, line 19, at end insert—

"(2A) Sections *(Modification of electricity codes etc: settlement using smart meter information)* to *(Date from which modifications of electricity licence conditions may have effect)* come into force on such day as the Secretary of State may by regulations appoint.

(2B) Regulations under subsection (2A) are to be made by statutory instrument."

This amendment gives the Secretary of State power to bring NC8 to NC10 into force by regulations.

The Chair: With this it will be convenient to discuss the following:

Government new clause 8—*Modification of electricity codes etc: settlement using smart meter information.*

Government new clause 9—*Modification under section (Modification of electricity codes etc: settlement using smart meter information).*

Government new clause 10—*Date from which modifications of electricity licence conditions may have effect.*

Government amendments 18 and 19.

Richard Harrington: I find myself in the rare position, in any Committee, of moving an amendment. I usually spend my time responding to amendments, but I shall do my best because these amendments and new clauses are important. They refer to half-hourly settlement.

Before I set out the detail of each new clause, I will, if I may, set out the broader context in which the proposals apply. Smart meters, as we have explained throughout the Committee stage, are a critical foundation for the development of a smart energy system, and provision of the relevant functionality is a core part of our programme. I explained on Second Reading, and have done so again since, my and the Government's vision, which I think is commonly held: in time to come, when we consider history, the current roll-out of smart meters will be seen as a small part of that programme, providing individuals in their homes and small businesses with more flexibility and information. Everyone will accept that, in the modern age, the old-fashioned system of meters, which were predominantly read by estimation, with the gas or electricity man—they were men in those days—coming occasionally with their brown overalls and torch to do a reading, is totally unacceptable. Most people I speak to still have that system at home, despite the fact that everything else they have—their televisions and computers and so on—is of a completely different era.

Half-hourly billing will provide the platform for that kind of flexibility. I would not argue that people will suddenly wake up and think, "I'm going to change my electricity and gas all the time by pressing a button", but I do foresee situations in which people will have that kind of flexibility, through their phones, and where they will subscribe to sophisticated services continually whizzing around the whole of the UK and beyond to find the cheapest point of any particular time of supply. That will allow people to choose when their appliances are switched on or off, when they are used, and whether they are necessary.

Under previous clauses we have talked a lot about the costs of smart meters and the administration—the DCC—which is basically the big software interface, but let us not forget that the idea is to reduce system costs by what I hope will be tens of billions of pounds by 2050. The Government's smart systems and flexibility plan, published in July 2017, set out a number of actions that will build on the smart meter roll-out and deliver a smarter energy system for consumers. That includes the half-hourly settlement, which will help deliver benefits to both consumers and the energy system, by providing commercial incentives on the suppliers to develop and offer time-of-use tariffs, which they have not really had to face before.

As I have explained, such tariffs enable customers to choose, when energy is cheaper, to reduce their bills and the costs of the future energy system. That will help make the energy system more resilient, because as we move towards an increasingly low-carbon generation mix, people will want to make more of those kinds of choices. Smaller suppliers—I should not mention my supplier by name, but I am sure many of them do this—already enable people to tick a box electronically in order to choose to receive energy from a particular renewable source. That is a tiny part of the total array of options available to people, as is half-hourly billing.

Ofgem has already delivered changes to provide more cost-effective settlement arrangements for suppliers that want to offer those tariffs, but that is only the first step. We believe that moving to market-wide half-hourly settlements will help deliver the full benefits of the smart meter roll-out. A market-wide approach will also ensure that any necessary consumer protection can be implemented effectively.

Steve McCabe: This is a genuine inquiry born out of curiosity. The Minister is making a perfectly reasonable case. Why has the amendment been tabled at this stage, and why on earth did we not hear anything about the issue on Second Reading? The Minister is making a very good case—I am not disputing that—but it sounds like an afterthought. Could he explain how we have got into this position?

The Chair: Before the Minister responds to the intervention, I have had a request from members of the Committee to allow the gentlemen to remove their jackets if they so wish, and I am minded to allow that. If you wish to remove your jackets, please feel free to do so.

Richard Harrington: Although it is in your power to decide on the jacket rule, Mrs Gillan, I personally think that people should keep their jackets on. That is probably why I will never be Chairman of a Committee.

The Chair: I am sure you would not want to make any Member who wishes to remove their jacket uncomfortable.

Richard Harrington: Certainly, the next time I appear before Mr McCabe in his capacity as Chairman, I hope that he will not be as liberal as you on the dress codes.

The Chair: Let us return to the amendments.

Richard Harrington: The hon. Gentleman asked a valid and important question, and I thank him for his preliminary support. He asked why this Government amendment was not included in the first place. I take full responsibility for that. The original intention was

[Richard Harrington]

that it should be a separate piece of legislation, but I took my chance with this Bill. As those who were involved on Second Reading will know—I think that most members of the Committee were present—it came very quickly. I took my chance in that slot and I thank everybody for voting in support of Second Reading, which is why we are here today, and I also took my chance to table this amendment.

The issue went through pre-legislative scrutiny in 2016, I think—the exact date is in my notes—and I hope that it is non-contentious. I hope that the hon. Gentleman will accept that the clumsiness of its being a Government amendment—I think that is what he was referring to—is not because of any tricks or because we are trying to hide anything. I took my chance. It seemed like the right thing to do and it seemed non-contentious. Given what is going on in both Houses of Parliament at the moment—there is a lot of legislation to do with Brexit—I thought, rather than hope to get another slot, it would be better to take my chances.

I apologise that the process has not been as seamless as it should have been, but the hon. Gentleman asked me a straight question and I have tried my best to give him a straight answer. I will probably be told off by quite a lot of people for putting it like that, but that is exactly how it is. I hope that hon. Members on both sides of the Committee will accept that explanation in good faith, because this is a really good thing to do.

3.15 pm

Ofgem committed to take a decision on it and on how to implement a market-wide half-hourly settlement by the second half of 2019. We are not saying in this amendment that it will happen like that, straightaway—that is bad for *Hansard*, clicking my fingers. It will not happen instantaneously, but it gives Ofgem the power to get on with it when it judges that the time is right—Ofgem said it wanted that, by the way. Ofgem is working closely with industry, consumer groups and others to ensure that the reforms are done in the most effective way, to deliver the best outcomes for customers.

However, these reforms will require changes to a number of industry codes, involving a level of co-ordination that is expected to be challenging under the current industry code processes. In addition, under the existing procedures, industry parties are ultimately responsible for delivering the reform. On the basis of previous significant code reviews, we have concerns as to whether the reforms will be delivered in a timely way. To explain in plainer English, in effect, under the existing codes, the suppliers themselves could delay the implementation of what they may not want—some will and some will not—in this half-hourly billing. The amendment is a way of reinforcing Ofgem's powers but also of making the procedure happen more quickly and not giving industry the right to delay it for quite some time. That is a very worthy thing to do, because the consumers will be the big beneficiaries.

New clause 8 introduces new powers to allow Ofgem to deliver market-wide half-hourly settlements more swiftly and smoothly than under the existing process, without it having to rely on the industry code processes to the same extent. That will ensure that the benefits to consumers of these new tariffs—remember, it will be products and services enabled by smart metering, all of which we have discussed—and half-hourly settlements will come sooner. The new clause provides that these powers may only be used to deliver half-hourly settlements and they expire after five years from entering into effect. Alongside this, new clause 9 sets out the procedural framework that Ofgem must follow when it seeks to exercise the powers proposed in new clause 8. They include consulting relevant parties on proposed modifications and following impact assessment procedures—I know they are very popular with hon. Members, particularly among the Opposition—before any changes can be made.

New clause 10 provides a mechanism for Ofgem where it can demonstrate that it is justified to reduce the 56-day standstill period between confirming a change to industry licence conditions and the change taking effect. Reducing the 56-day standstill period will enable better co-ordination of code and licence changes when they are made in tandem. Incidentally, the power requires Ofgem to explain why it considers a shorter standstill to be necessary—it will have to justify it—and it will still have to consult industry on the proposed alternative standstill period. This requirement to consult will allow parties to make representations to Ofgem, which Ofgem must take into account, and to ensure that licence changes are not imposed more quickly than 56 days without justification. They have to be justified. As with new clause 8, these powers also only apply in the context of delivering half-hourly settlement and they expire five years after they take effect.

Returning to new clause 11, amendment 17 provides that the new powers conferred by new clauses 8, 9 and 10 come into force by regulation. As I said, they have an expiry period, and the intention of the amendment is to reduce the risk that the powers expire before the changes have taken effect. Finally, amendments 18 and 19 amend the long title of the Bill to reflect the proposed inclusion of new clauses 8, 9 and 10.

Mark Pawsey (Rugby) (Con): The Minister has given some accounts of why these clauses are being introduced at this stage. Has he consulted the energy companies, Ofgem and the other bodies that are referred to, to ensure that they are aware of the amendments to this Bill?

Richard Harrington: Yes, I can confirm to my hon. Friend that there has been widespread consultation. The amendments are very well spoken about in the industry and they will not come as a surprise at all. In fact, the general reaction is that the industry is very pleased that we have managed to introduce them with an act of pure opportunism of getting them through parliamentary scrutiny—assuming that we do—not as a standalone piece of legislation but as an important amendment.

Dr Whitehead: I am in some difficulty here, inasmuch as what the Minister said about the content of the Government amendments is sound and clear. Indeed, they make an addition to the Bill and take us forward on getting ready for some of the benefits of smart meters, such as half-hourly settlements. However, as he indicated, this is effectively a separate Bill that has been lowered into the Smart Meters Bill and attached to it as Government amendments. He quite candidly stated that he took his chance—fair enough—to put it in the Bill, but it creates problems, some of which are at the very least technical, and some of which are possibly of a far wider nature.

As my hon. Friend the Member for Birmingham, Selly Oak pointed out, none of this was mentioned on Second Reading. We went into Second Reading on the basis of the long title of the Bill, which was very restrictive. Indeed, I counselled a number of my colleagues who wanted to table wider amendments to the Bill that the long title prevented that. I said that it is a closely drawn long title, and we are required to stick to what it says. We have done that in this Committee. We have had a good debate about a number of issues within the terms of the long title, but there is a range of issues that hon. Members would very much have liked to discuss, and for perfectly proper reasons relating to the long title it has not been possible to discuss them in this Committee.

Once we got through Second Reading, we found that a procedure had been used that I am not aware has been used regularly—if at all in recent years—for a piece of legislation: changing the long title of a Bill during its passage. That is a very rare procedure in this House. I refer to the authority of Wikipedia—I say that for what it is worth. The Wikipedia people say:

"In the United Kingdom, the long title is important since, under the procedures of Parliament, a Bill cannot be amended to go outside the scope of its long title. For that reason, modern long titles tend to be rather vague".

This one was not vague, but amendments have clearly been introduced that are outside the scope of the long title.

There are some precedents, albeit not from this Parliament but from associated Parliaments whose precedents nevertheless have some relevance to this Parliament through the processes of the Privy Council. In Australia, a Department wished to amend a Bill whose title was "A Bill to amend the XX Act, and for related purposes". My note, which is a drafting direction from Parliamentary Counsel, states that:

"The proposed amendments were not related to the subject matter of the Bill, but would have amended an Act administered by the relevant Minister. The Deputy Clerk advised that if proposed amendments fall a long way outside the subject matter of the Bill, it could be considered a misuse of the House's powers for a motion to be moved to suspend the standing orders. Accordingly, the amendments were not able to be included in the Bill."

A version of suspending the Standing Orders has been undertaken in this House. Amendments 18 and 19 actually add some new words to the long title of the Bill, so apparently, by magic, things that were outside the scope of the Bill are now inside the scope of the Bill.

The Chair: Order. Dr Whitehead, may I just help you with your peroration? If any of these amendments were outside the scope of the Bill, they would not have been selected for debate. I hope that comes as some comfort to you.

Dr Whitehead: Thank you, Mrs Gillan. I was coming to that precise point.

Steve McCabe: I do not have any argument with what the Minister is trying to do, but I am intrigued by whether or not a precedent is being set. Is it my hon. Friend's understanding that if this can occur in this situation, there is no reason why in the future, on any Bill—Private Member's Bill, or anything else—a Member could not seek to change the long title of the Bill and therefore introduce additional components to the Bill that were not part of the original intention of the legislation?

The Chair: Order. Before Dr Whitehead answers that intervention, I have taken advice and I understand that it is all in order to proceed in this fashion.

Dr Whitehead: Thank you for that clarification, Mrs Gillan. Indeed, in order or not, the conclusion we seem to have to reached is that my hon. Friend is right: this does appear to suggest ways in which Bills that have not been considered on Second Reading in a certain light can simply have their direction changed at a later date by the long title being widened by particular amendments that are forthcoming after Second Reading.

Douglas Ross (Moray) (Con): I am sorry, but I am a new Member and slightly confused. I am hearing positive comments about what the Minister has proposed, but also concerns raised through Wikipedia, with mention of magic and all sorts. Is there not a worry—one that I would have—that this opposition from Labour Members might stop reasonable measures, such as those that the Minister has put forward, coming in the future because the precedent seems to be that Labour will oppose something even though there are good reasons for these proposals and they will enhance the Bill, as I think Members agree?

Dr Whitehead: It is not a precedent that Labour will oppose it; it is a precedent that this particular arrangement has been put before us. We are saying that we ought to be clear that this is a precedent. Whatever we may think of the merits of the amendments as they are described, the way of doing legislation in this House may have been significantly altered by what is effectively some form of precedent.

Douglas Ross: But it may have been significantly altered for the good of the Bill.

Dr Whitehead: The hon. Gentleman could argue that we can dispense with procedure and just get good things through this House. Clearly, that would not be a terribly good idea because of how we need to structure our legislation.

I can see that the hon. Gentleman is a little concerned about the relationship between what everyone in this Committee can agree in terms of the wording of the amendment—

Clive Lewis (Norwich South) (Lab): I believe the expression is, "The road to hell is paved with good intentions".

Dr Whitehead: Indeed, my hon. Friend puts it more succinctly.

It is important not only that we do good things in this House, but that we do good things in the right way so that, in those circumstances where there might not be such good things coming forward, we are protected from doing those less good things in the wrong way. Whether or not it is technically in order, my contention is that it appears to be a very strange way of taking a piece of legislation through the House.

3.30 pm

Furthermore, even if it were thought that changing the long title was fully in order—clearly we have received guidance that it is in order, albeit a very rare and odd event—one might think logically that if we are taking forward amendments to a Bill that does not have the

scope in its long title to do what they propose, we ought to discuss those amendments after the long title of the Bill has been changed, so that those amendments are put in order.

This afternoon we are doing things in a great big mélange of one group of amendments, some of which deal with the substance of the change, which we can agree on, and some of which deal with procedural change. It seems logical to me that procedural change has to take precedence over the substance of the change. A logical procedure would be that if the Government decide that they wish to change the long title of the Bill during its passage, they should make the case why that should be so. They should put the change to the long title in place in amendments. We can then consider whether the amendments that come forward with the new long title in place are in scope or not.

The position we have at the moment is that two amendments are potentially in scope because they change the long title. However, they have not yet changed the long title because they have not been agreed.

Stephen Kerr: I am also a new Member and a bit confused. The hon. Gentleman's objection seems to be not about the substance of what the Minister has brought forward, but that he does not like the way in which it has been done. On that basis, surely the shadow Minister is not prepared to sacrifice the substance of what is being proposed, on the basis of a procedural question of how many angels are dancing on the head of a pin.

Dr Whitehead: Forgive me, Mrs Gillan. It is not about angels dancing on the head of a pin; it is an important issue about the procedures of the House. I can see that the hon. Gentleman is puzzling over whether we would "sacrifice the good" of what is before us because of concern about a procedure. That is not a position that the Opposition have put ourselves in; it is a position that we are all in because these amendments have all been grouped together when they refer to two different things, one of which is a procedure and the other of which is substance.

As far as the substance is concerned, the hon. Gentleman may rest assured that we think the substance is good and we do not wish the Bill to be sabotaged because we have concerns about how those good things came to be, but I think the hon. Gentleman will clearly understand that if that procedure is taken as a usual state of affairs in this House, without anybody drawing attention to it for the future, there may in future be circumstances in which someone wishes to introduce a much worse series of amendments than the one that we have today. We know, because the Minister was clear about it, that another Bill was effectively grafted on to this Bill. I can understand the reasons why the Minister wanted to do that.

Steve McCabe: Is it fair to say that my hon. Friend is seeking to guarantee that there is an accurate *Hansard* record that describes the doubt about the process, because it may well be a process that will be challenged in the future? This is not about the detail of the changes that the Minister is seeking to make, which I think there is broad agreement on and support for, but rather my hon. Friend has the parliamentary opportunity to get a *Hansard* record of what the anxiety is about the process.

The Chair: Order. Before I call you to resume, Dr Whitehead, may I try to be of assistance to you? The selection in this grouping was chosen by the Chair; it was made available to the Committee for comment and was capable of having amendments tabled to it. The reason why it is grouped in this fashion is that it was chosen by the Chair and notified as such to all members of the Committee. I do hope that is helpful to you.

Dr Whitehead: Indeed, that is helpful, Mrs Gillan, but particularly in relation to the intervention by my hon. Friend the Member for Birmingham, Selly Oak I would further draw attention to the fact that the amendments that are grouped together are essentially of two different types. One set of amendments is, in essence, amendable because it is to do with the substance—and as hon. Members have seen, no amendments to those amendments have been forthcoming from the Opposition because, essentially, we agree with the substance of what has been put before us—but two other amendments, which effectively seek to pave the way for those amendments to exist, are not amendable inasmuch as if the Opposition were to seek to table an amendment to those amendments, the Opposition in turn would be trying to amend the long title of the Bill. That is something we do not want to do, and we do not think it is a terribly good way of proceeding with legislation in the first place, whatever we may think about the final constitutionality—one might say—in terms of the overall order and the scheme of things.

I think it is legitimate, regardless of whether these amendments are regarded as being in order, to draw attention to the fact that one would think, logically, that the procedure could, and perhaps should have been as I have mentioned: anyone seeking to change the long title of a Bill—this is important for possible future legislation—should first make a case for changing that long title, get the Committee's agreement that the long title should be changed and then introduce amendments, or amendments that themselves are amendable, subsequent to that agreement having been achieved. The position that we are in at the moment, as hon. Members are spotting, is that if Opposition Members say that we do not like that procedure very much and we think it causes precedents, the only way in which we can express our concern is to chuck those amendments out, and that is not really a very good way to proceed as far as discussions in Committee are concerned.

I want to express my strong concern about the procedural implications of this particular way of doing things. My concern, in terms of how the Committee is proceeding with its business, is that we will not be able to carry out our business in the way that we would like to—

The Chair: Order. Dr Whitehead, may I again interrupt you in full flow? I have taken further advice on this. I think I made it very clear that the selection is a matter for the Chair. However, the decision on each of the Government amendments and new clauses happens separately. In fact, we will not be taking a decision on the long title of the Bill until the end, as you will see from the way in which the amendments are placed on the amendment paper. I hope that is of comfort and is good information for you at this stage.

Dr Whitehead: Thank you for that, Mrs Gillan, but I think you will appreciate that even in those circumstances—where we get to a position where we

can conceivably vote in favour of the amendments this afternoon because we think they are good amendments—and then we get to the end of the process, whereby we vote against the extension of the long title of the Bill, that automatically, if it succeeds, invalidates the existence of those amendments in the first place, because the long title of the Bill will not have been changed at that point, and therefore those amendments will not have existed. That also seems to me to be a potential concern about procedure for the future.

The Chair: Order. Again, I hate to interrupt you, but I have taken further advice on this because it is unusual; I think you are right in saying that and I think the Minister acknowledged that earlier on. The amendments are in scope and the change to the title does not change that. We decide on the long title at the end of proceedings.

Dr Whitehead: I must confess that I am a little bit confused by that ruling. I take your point, Mrs Gillan, but my understanding is that we did have a long title of the Bill and that was the long title that we have been speaking to until this moment, and that was the long title that we spoke to on Second Reading. That was the basis on which all amendments to date, except these amendments, have been drafted into the Bill. So it does create a different series of circumstances, and one that I believe merits at least some kind of review for the future. Although I take your concerns very strongly on board, Mrs Gillan, I think it would be remiss of me not to express those points on the position we find ourselves in as far as the Bill is concerned. *[Interruption.]* I can see that I am not necessarily gaining the full acclaim of all members of the Committee in pursuing this particular point, but it is important procedurally to put it on the record. I hope we can have some further thoughts on that at a future date.

I turn to the substance of the amendments. What they do is a good idea and, had the Minister been able to bring the amendments on board by slightly different means, we would have had no concerns at all about what they say, what they add to the Bill, and why they are important in taking us to the next stage in terms of some of the benefits that smart meters may bring in the future. We would be happy to give those amendments, therefore, our wholehearted support. We are not going to press any of the amendments to a vote this afternoon, but I am pleased that our concerns are now on the record, as my hon. Friend the Member for Birmingham, Selly Oak suggested. It may well be the case that we have not heard the last of the matter.

Richard Harrington: I thank the shadow Minister for his comments. I am quite a simple person. When I was looking at this bit of the legislation, I asked a very simple question of the experts in the Department—the parliamentary advisers and lawyers: is it acceptable, is it within the rules and within the scope of the Bill, to include the half-hourly settlement? The answer was, "It is the decision—many things are—of the House authorities and the Chair, but it seems to us that it is very much within scope."

I would like to make it clear that the scope of the Bill has not changed with this Government amendment. It remains about smart metering and data from smart meters. As Mrs Gillan has confirmed, the House authorities have said that. As such, the amendments in scope would have been in scope then. Half-hourly settlements are not possible without smart metering.

I promise I am not making light of the comments of the hon. Member for Southampton, Test. He means to get them on the record and he has explained that very reasonably. I thank him for his general support for the amendments, but at the same time I hope that he gives me the credit that this was not some charlatan move to slip something round the corner that was marginal in nature.

3.45 pm

Dr Whitehead: Forgive me, but the Minister cannot proceed in this manner. The long title makes it evident to all those sitting here. It is to

"Extend the period for the Secretary of State to exercise powers relating to smart metering and to provide for a special administration regime for a smart meter communication licensee."

It clearly and narrowly states two things. It does not even say "for related purposes." It refers to extending the period for smart meter licensing arrangements, and to a special administration regime. That is it. As the Minister himself acknowledges, it has been necessary to move two amendments to change the scope of the Bill, essentially in order to omit those elements. So that is the basis on which we should discuss this, whatever the rights and wrongs of the amendments otherwise are.

Richard Harrington: I fully accept the hon. Gentleman's right to discuss the matter, and I did not suggest for a moment that he was doing wrong in bringing this forward, or placing it on the record—far from it. I am just saying that, from my point of view, this was acting upon advice, that it was perfectly proper to get something that I felt was very important. I believe that it has the support of—I hope—most Members in the House generally, because we all think that it is a very good thing. I am sorry that the hon. Gentleman feels as he does, but I thank him for accepting that it was done for the right reason. I believe, as he does, that parliamentary procedure is important.

These rules have evolved over centuries for reasons, and—quite rightly—neither I nor anyone else on behalf of the Government can get things in round the side, or bring in things that should never be. When we decided to introduce the amendment, I did have a meeting with the hon. Gentleman to explain it to him, I suppose in an official capacity but obviously not within a Bill Committee capacity, and he did explain his support generally for it. His points have been noted on the record. I hope that my response—which I do not think he found satisfactory—is also on the record.

The amendments support the move to a smarter, more flexible energy system. Half-hourly settlement billed directly on a smart metering platform is a central aspect of the smart systems and flexibility plan that was published in July. The proposals will allow Ofgem to take forward the reforms in a more streamlined way, and I thank the shadow Minister for his support for the substance of the amendments.

Amendment 17 agreed to.

Clause 11, as amended, ordered to stand part of the Bill.

New Clause 8

MODIFICATION OF ELECTRICITY CODES ETC: SETTLEMENT USING SMART METER INFORMATION

"'(1) The Gas and Electricity Markets Authority ("the Authority") may—

(a) modify a document maintained in accordance with an electricity licence, and

(b) modify an agreement that gives effect to such a document,

if the condition in subsection (2) is satisfied.

(2) The condition is that the Authority considers the modification necessary or desirable for the purposes of enabling or requiring half-hourly electricity imbalances to be calculated using information about customers' actual consumption of electricity on a half-hourly basis.

(3) The power to make modifications under this section includes—

(a) power to make provision about the determination of amounts payable in connection with half-hourly electricity imbalances;

(b) power to remove or replace all of the provisions of a document or agreement;

(c) power to make different provision for different purposes;

(d) power to make incidental, supplementary, consequential or transitional modifications.

(4) A modification may not be made under this section after the end of the period of 5 years beginning with the day on which this section comes into force.

(5) In this section—

"balancing arrangements" means arrangements made by the transmission system operator for the purposes of balancing the national transmission system for Great Britain;

"electricity licence" means a licence under section 6(1) of the Electricity Act 1989;

"half-hourly electricity imbalance" means the difference between the amount of electricity consumed by an electricity supplier's customers during a half-hour period and the amount of electricity purchased by the electricity supplier for delivery during that period, after taking into account any adjustments in connection with the supplier's participation in balancing arrangements;

"supply", in relation to electricity, has the same meaning as in Part 1 of the Electricity Act 1989 (see section 4(4) of that Act);

"transmission system" has the same meaning as in Part 1 of the Electricity Act 1989 (see section 4(4) of that Act);

"transmission system operator" means the person operating the national transmission system for Great Britain."—*(Richard Harrington.)*

This new clause gives Ofgem power to modify documents maintained in accordance with an electricity licence, or agreements giving effect to such documents, so as to enable half-hourly electricity imbalances to be calculated using information obtained from smart meters.

Brought up, read the First and Second time, and added to the Bill.

New Clause 9

MODIFICATION UNDER SECTION(MODIFICATION OF ELECTRICITY CODES ETC: SETTLEMENT USING SMART METER INFORMATION)

"(1) Before making a modification under section(Modification of electricity codes etc: settlement using smart meter information), the Gas and Electricity Markets Authority ("the Authority") must—

(a) publish a notice about the proposed modification,

(b) send a copy of the notice to the persons listed in subsection (2), and

(c) consider any representations made within the period specified in the notice about the proposed modification or the date from which it would take effect.

(2) The persons mentioned in subsection (1)(b) are—

(a) each relevant licence holder,

(b) the Secretary of State,

(c) Citizens Advice,

(d) Citizens Advice Scotland, and

(e) such other persons as the Authority considers appropriate.

(3) The period specified under subsection (1)(c) must be a period of not less than 28 days beginning with the day on which the notice is published.

(4) A notice under subsection (1) must—

(a) state that the Authority proposes to make a modification,

(b) set out the proposed modification and its effect,

(c) specify the date from which the Authority proposes that the modification will have effect, and

(d) state the reasons why the Authority proposes to make the modification.

(5) If, after complying with subsections (1) to (4) in relation to a modification, the Authority decides to make a modification, it must publish a notice about the decision.

(6) A notice under subsection (5) must—

(a) state that the Authority has decided to make the modification,

(b) set out the modification and its effect,

(c) specify the date from which the modification has effect,

(d) state how the Authority has taken account of any representations made in the period specified in the notice under subsection (1), and

(e) state the reason for any differences between the modification set out in the notice and the proposed modification.

(7) A notice under this section about a modification or decision must be published in such manner as the Authority considers appropriate for bringing it to the attention of those likely to be affected by the making of the modification or decision.

(8) Sections 3A to 3D of the Electricity Act 1989 (principal objective and general duties) apply in relation to the functions of the Authority under section (Modification of electricity codes etc: settlement using smart meter information) and this section with respect to modifications of documents maintained in accordance with electricity licences, and agreements giving effect to such documents, as they apply in relation to functions of the Authority under Part 1 of that Act.

(9) For the purposes of subsections (1) to (10) of section 5A of the Utilities Act 2000 (duty of Authority to carry out impact assessment), a function exercisable by the Authority under section (Modification of electricity codes etc: settlement using smart meter information) is to be treated as if it were a function exercisable by it under or by virtue of Part 1 of the Electricity Act 1989.

(10) The reference in subsection (8) to the functions of the Authority under section(Modification of electricity codes etc: settlement using smart meter information) includes a reference to the Authority's functions under subsections (1) to (10) of section 5A of the Utilities Act 2000 as applied by subsection (9).

(11) In this section—

"electricity licence" has the meaning given in section (Modification of electricity codes etc: settlement using smart meter information);

"relevant licence holder" means, in relation to the modification of a document maintained under an electricity licence or an agreement that gives effect to such a document, the holder of a licence under which the document is maintained."—*(Richard Harrington.)*

This new clause sets out the procedural requirements that apply to the exercise of the power under NC8.

Brought up, read the First and Second time, and added to the Bill.

New Clause 10

DATE FROM WHICH MODIFICATIONS OF ELECTRICITY LICENCE CONDITIONS MAY HAVE EFFECT

"(1) The Electricity Act 1989 is amended in accordance with this section.

(2) In section 11A(9) (modifications of electricity licence conditions not to have effect less than 56 days from publication of decision to modify), at the end insert ", except as provided in section 11AA".

(3) After that section insert—

"11AA Modification of conditions under section 11A: early effective date

(1) The date specified by virtue of section 11A(8) in relation to a modification under that section may be less than 56 days from the publication of the decision to proceed with the making of the modification if—

(a) the Authority considers it necessary or expedient for the modification to have effect before the 56 days expire,

(b) the purpose condition is satisfied,

(c) the consultation condition is satisfied, and

(d) the time limit condition is satisfied.

(2) The purpose condition is that the Authority considers the modification necessary or desirable for purposes described in section (Modification of electricity codes etc: settlement using smart meter information)(2) of the Smart Meters Act 2017 (enabling or requiring half-hourly electricity imbalances to be calculated using information about customers' actual consumption of electricity on a half-hourly basis).

(3) The consultation condition is that the notice under section 11A(2) relating to the modification—

(a) stated the date from which the Authority proposed that the modification should have effect,

(b) stated the Authority's reasons for proposing that the modification should have effect from a date less than 56 days from the publication of the decision to modify, and

(c) explained why, in the Authority's view, that would not have a material adverse effect on any licence holder.

(4) The time limit condition is that the specified date mentioned in subsection (1) falls within the period of 5 years beginning on the day on which section (Modification of electricity codes etc: settlement using smart meter information) of the Smart Meters Act 2017 comes into force."

(4) In paragraph 2 of Schedule 5A (procedure for appeals under section 11C: suspension of decision), after sub-paragraph (1) insert—

'(1A) In the case of an appeal against a decision of the Authority which already has effect by virtue of section 11AA, the CMA may direct that the modification that is the subject of the decision—

(a) ceases to have effect entirely or to such extent as may be specified in the direction, and

(b) does not have effect, or does not have effect to the specified extent, pending the determination of the appeal.'"—*(Richard Harrington.)*

This new clause allows licence modifications under NC8 to become effective before 56 days have elapsed.

Brought up, read the First and Second time, and added to the Bill.

New Clause 1

REVIEW OF SMART METER ROLLOUT TARGETS

"(1) Within 3 months of this Act coming in to force, the Secretary of State must prepare and publish a report on the progress of the smart meter rollout and lay a copy of the report before Parliament.

(2) The report under subsection (1) shall consider—

(a) progress towards the 2020 completion target;

(b) smart meter installation cost;

(c) the number of meters operating in dummy mode;

(d) the overall cost to date of the DCC;

(e) the projected cost of the DCC; and

(f) such other matters as the Secretary of State considers appropriate." —*(Steve McCabe.)*

This new clause would require the Secretary of State to publish details about the cost and progress of the smart meter roll out, with reference to the 2020 deadline.

Brought up, and read the First time.

Steve McCabe: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss the following:

New clause 7—*Review: smart meter installation rates*—

"(1) The Secretary of State shall commission an annual review of attainment rates of smart meter installation, this review must include—

(a) information on the total number of functioning smart meters at the end of each attainment period,

(b) analysis of any discrepancy between attainment numbers and total functioning numbers.

(2) The Secretary of State shall lay the report of the review in subsection (1) before each House of Parliament."

This new clause requires the Secretary of State to review attainment rates annually.

New clause 11—*Smart meter roll out cost benefit analysis*—

"(1) Within one year of this Act coming into force, the Secretary of State shall lay a report on the costs and benefits of the smart meter rollout before each House of Parliament.

(2) The report under subsection (1) must include an independent cost benefit analysis of the smart meter rollout programme."

Steve McCabe: I am not sure this need necessarily take long. As we have heard, it is a legal obligation on the energy suppliers to take all reasonable steps to meet the 2020 target of every household being offered a smart meter. Both new clause 1 and new clause 11 outline some steps that the Secretary of State could take to ensure timely completion of the roll-out while protecting consumers and ensuring the benefits of the roll-out are fully realised.

New clause 1 is fairly specific in the information it asks the Secretary of State to publish, and includes the progress toward the 2020 target as well as information on the costs and projected costs of DCC and the installation of meters more generally. I listened to the Minister earlier making a commitment to publish an annual report on the progress of the roll-out. Most people, certainly on this side, thought that was a helpful and reasonable offer.

[Steve McCabe]

It is important to point out to the Committee that the Government's commitment to annual progress reports has fallen by the wayside. What we actually heard today was an offer from the Minister to reinstate them, as far as I can see. In December 2012 the Government published their first annual progress report on the roll-out, which gave an overview of the programme and the progress to date. They subsequently published two further progress reports in 2013 and 2014, but since then there have been none. Obviously, we know that from 2014 the progress was not quite so good to report on; I do not know whether that is the reason, but my point is that we stopped getting the reports.

That is why I thought it would be helpful to have on the face of the Bill a commitment for a regular progress report. I was pleased to hear the Minister say earlier that it is his intention to provide it anyway, and that is good enough for me, but I cannot guarantee that the Minister will be in his post even for the duration of the Bill, can I? I have no way of knowing what a successor might do. Goodness, I wish the Minister well and I hope he is in post much longer than the duration of the Bill, but I am simply recognising that, if I look around the present Government, quite a few people who were in post a few weeks ago are no longer there. These things happen, and they happen quickly in politics. We can never tell what is around the corner.

I am simply observing that the Minister's word in itself is not sufficient for the purpose, because what the Government have previously done was publish reports and then stop publishing them when the information became less convenient. I thought it would make sense to make a request to have it on the face of the Bill, and that is what new clause 1 seeks to do.

New clause 11 requires the Secretary of State to commission an updated, independent cost-benefit analysis of the roll-out. Mrs Gillan, you will not want me to go over all this again, but we know that the cost-benefit analysis from 2016 showed a downward trend. Although I hear the Minister and I know his intentions are good, my concern throughout has been that we could reach a stage where those benefits turn negative. That is why I raise this matter.

We heard from Audrey Gallacher of Energy UK. She said that she thought it was time for a new impact assessment to ensure that the benefits case is still alive. The value of the assessment that I am calling for—an independently led assessment, as mentioned in new clause 11—is that it would bring confidence to all stakeholders. They would have a chance to consider independent information, so it would be good for the suppliers. It would be good for the Department and for the DCC and customers. If it were to show that the benefits case is no longer as strong as it was, it would give us the opportunity to look at other approaches that the Government might choose to pursue. It would take us back to the question of whether there is a different model—with the SMETS 1 and the mini DCC we heard the evidence about—as opposed to the elaborate DCC model that has taken up so much of the consideration of this Committee.

In the situation of uncertainty surrounding the roll-out, an updated cost-benefit analysis would be a sensible commitment to include on the face of the Bill. It would provide stakeholders with certainty and transparency and improve the credibility of the smart meter roll-out. For those reasons I suggest that the Committee considers adopting both new clauses 1 and 11.

Dr Whitehead: I want to speak in favour of new clause 7 and to support what my hon. Friend the Member for Birmingham, Selly Oak says about the merits of new clauses 1 and 11, and taking into account the fact that the Minister has already indicated that he is prepared to produce publicly available annual reviews on aspects of the smart meter roll-out. *[Interruption.]*

The Chair: Order. Will the hon. Member for Crewe and Nantwich turn her phone off, or leave the Committee and deal with it outside?

Dr Whitehead: I thought I was throwing my voice for a moment. I have other talents, but not that.

The content of new clauses 1, 7 and 11 can essentially be tucked into what the Minister has said about an annual report. The desired outcome of this debate might be to obtain an indication from the Minister on whether the concerns raised are the sort of thing he thinks might be in the annual report he has mentioned. New clause 7 draws particular attention to the relationship between the total number of smart meters that have been installed at the end of particular attainment periods and what is happening to the functionality of those meters in those periods. That relates to some extent to a concern about what companies are required to do, so far as their agreements with Ofgem are concerned, about each period that they have to report on for the purpose of the roll-out and what attainment they are expected to achieve as part of their legal requirements to roll out smart meters in that period.

4 pm

A little while ago, Ofgem issued a direction to those energy companies setting out what attainment periods would consist of and what would be regarded as reasonable attainment by companies installing smart meters against the target set for each attainment period. The position in that legal direction was that those companies should achieve 95% attainment in each period to be regarded as within the terms placed on them by Ofgem. If their attainment is outside that, they may be regarded as not having fulfilled their legal obligations and may be liable for fines or other intervention.

Attainment periods were used, at least in part, to inform the recent consultation about what level of SMETS meters can be installed beyond April 2018 to use up stocks of SMETS 1 meters. Large energy companies' entitlement to undertake further installation in the next period relates to what they attained so far as roll-out is concerned in the previous quarter. There is a series of related things, all of which are concerned with attainment in a particular period, in those energy companies' agreements.

What the attainment periods and numbers do not show is what is actually happening in terms of what might be called nailing meters on the wall. Concern has been expressed in various quarters as the roll-out has progressed about the extent to which the meters that are being installed really work. There are certainly reports that in some circumstances, as the roll-out has increased, people have set aside a day to have their meter put in

and it has been installed very quickly, but it has turned out not to function at all, or to function to only a limited extent. Those meters have to be visited again, sometimes on a number of occasions, and rectified before roll-out can be said to be complete, but it appears that attainment is measured by whether the visit for the smart meter to be installed takes place, whether the meter subsequently functions or not.

As roll-out increases and there are issues with the functionality of meters in the transfer from the SMETS 1 regime to the SMETS 2 regime as far as DCC is concerned, there will undoubtedly be a pool of meters that do not function for one reason or another. Some will be non-functioning because of switching, some because of when they were installed and some because of how they were installed. There will also be circumstances in which installations are marginal to the existing DCC operating system. Meters may just about get a signal and just about work, or may turn out not to work as well as they should do, and might then be subject to the additional procedures that we have discussed—the procedures for patching systems and the various systems for making meters in flats fully communicable. In areas of Scotland in particular but also in other parts of the United Kingdom, the area network will operate only partly so far as receiving signals from smart meters is concerned and will have to be patched and extended, possibly on the basis of experience—that is, on the basis of whether, after installation, meters turn out to work as they should.

The new clause therefore suggests that there should be information in an annual review on the total number of functioning smart meters at the end of each attainment period so that companies cannot simply report that they are reaching their 95% attainment target, or whatever it is, but actually walk away at the end of each attainment period and leave the position much worse than it appears. That is an important element of the roll-out, not only in terms of those attainment periods being an accurate depiction of what has actually happened so far as installation is concerned, but in giving the public confidence that the roll-out is actually a roll-out and not an exercise in trying to get numbers up regardless of what they report on the objective circumstances they find themselves in once the meters have been installed.

Steve McCabe: My hon. Friend says he is offering protection for the public, which is true, but is he not actually offering a bit of protection for the Minister? As I said before, if this goes wrong, only one person will carry the can. My hon. Friend proposes a way of guaranteeing that the information provided—or filtered through BEIS—to the Minister is actually real information about what is happening, in terms of functional meters, as opposed to this fantasy information about cold calls or visits that have not resulted in any activity.

Dr Whitehead: Indeed; my hon. Friend makes an important point. As we have discussed, there remains a little bit of a discrepancy, one might say, between the ambition of those responsible for it for what the roll-out looks like and the Government's claim that the target really is that everyone will have been offered a smart meter by 2020. It seems important to me that we reconcile those two positions as the roll-out progresses. In a way, Ofgem is actually reconciling those positions in terms of getting a picture of what is actually happening so far as the roll-out is concerned on the actual number of meters installed in homes after the end of the visits, but it is not quite yet getting to the position of whether the meters are operating as they should.

My hon. Friend is also right that I am anxious to make sure the Minister is as well protected as possible; I always am. It is a personal ambition of mine that the Minister should be properly protected under all circumstances, and the new clause will help him in that respect. It will give us, I hope—among other things in the Minister's annual reports—an accurate depiction of the real picture, so that the defence of that picture can be undertaken by the Minister on the basis of accurate information that will not come back to whack him around the head.

I can think of no better protection for the Minister than being assured that he will not be whacked around the head by statistics at a later date. I am therefore sure that he will take the substance of the new clause on board in his response, if not the whole new clause, particularly in terms of what may well be in the report he has promised us for the future.

Patricia Gibson (North Ayrshire and Arran) (SNP): I am keen to say a few words on new clauses 1 and 7, because I feel they concern matters that have to be put in front of the Minister at this juncture in the consideration of the Bill to remind him about the progress of the roll-out and the review of the installation of these meters.

The point I was trying to make this morning—I accept that it was perhaps an inopportune time—was that there is a difficulty because Energy UK and Ofgem agree that aggressive selling is not appropriate, but that will not give us comfort until it is properly and comprehensively addressed. I am sure the Minister will correct me if I am wrong, but it is my understanding that Ofgem has the power to fine energy companies up to 10% of their annual turnover if they fail to meet their licence conditions. One of the licence conditions is for each energy company to install smart meters in consumer homes by the end of 2020. Failure to do so can result in a massive penalty for the energy company. I think the hon. Member for Birmingham, Selly Oak has already alluded to this.

The use of aggressive selling starts to make sense if the energy companies are under pressure to deliver these things into people's homes. Will the Minister consider the balance between customer choice and meeting this target? I certainly have questions about that. I know from speaking to my own constituents that there is some suspicion of smart meters. Whether it is real or misplaced is not the point. The people into whose homes they go are not 100% on board. When we are talking about the roll-out and monitoring the progress of the installation, there is a job of work to do with consumers and energy companies. I am not making accusations, but there are allegations that energy companies go after customers quite aggressively to get meters put into their homes.

The Minister may be interested to know about work called "deemed appointments". Energy companies tell their customers that they are going to be in their area on a particular day. They give a specified time and date; there is no consultation with the customer. The customer is merely informed. The customer is able to cancel or

[Patricia Gibson]

rearrange the appointment, but if the customer does not respond to the notification, the company will turn up prepared and ready to install a smart meter. We have evidence from Audrey Gallacher of Energy UK, who said:

"We have also had some feedback from Ofgem, the regulator, that companies should be taking a much more assertive approach,"—[*Official Report, Smart Meters Committee Public Bill Committee,* 21 November 2017; c. 10, Q14.]

That is quite worrying because already we are hearing of companies taking what many would consider an over-assertive approach. When we are talking about the progress of the roll-out, we have to be mindful of the need to put the customer at the heart of the process, and Ofgem should perhaps monitor how the smart meters are sold to the public and what the response might be. The Minister might already be aware that the Trading Standards Institute believes it has some grounds for believing that the energy companies may be committing offences under the Consumer Protection Act 2015. I think that should give us real cause for concern; we surely hope to roll out smart meters with the public fully on board. This does not breed trust between the energy companies and the consumers into whose homes we expect the meters to go.

We need to be very careful when talking about the roll-out and installation. Nobody in this room would not want that to go smoothly, but there are already difficulties. Citizens Advice has already reported difficulties in a report released in September. It said that it was not happy and had real concerns about the way in which consumers were being treated. Citizens Advice also believes that offences may be taking place in the way that this is being rolled out. I know that that will give the Minister some cause for concern.

The hon. Member for Birmingham, Selly Oak has set out new clause 11 very clearly and I do not want to add too much to what he has said. However, we have to remember that the cost is £11 billion and rising. That cost is borne by every single household. Smart Energy GB has previously referred to a Government cost-benefit analysis; of course there are cost benefits, but the figure of £11 billion is one to watch, because we really do not want that figure to rise. It is about consumer confidence; we do not want the consumer to feel that they have been financially imposed upon. The hon. Member for Birmingham, Selly Oak set that out so well that I will not say any more.

4.15 pm

Matt Western (Warwick and Leamington) (Lab): Clearly, the scheme is an incredibly ambitious one; the scale of it as a consumer programme is virtually unprecedented. That is why the hon. Member for North Ayrshire and Arran, my hon. Friend the Member for Birmingham, Selly Oak, and others have said that we have to ensure that what we do is in the public eye, the public interest and the consumer interest.

The intention behind the reporting is clearly a good one, not just for us in terms of monitoring but also for raising the visibility and the importance of the programme. A public relations exercise almost needs to be done because there seems to be so much confusion out there, particularly among consumers. The points made by my hon. Friend the Member for Birmingham, Selly Oak in terms of those metrics are critical, but it is also critical that we begin to understand the sort of behavioural change among consumers, in terms of that cost-benefit analysis for the whole programme and for individual households.

I do not want to spin the wheels and repeat what has been said. The only thing that I would urge is a little more ambition in the reporting. The annual report is not bad—it is a good idea—but like most businesses, which give quarterly updates, given those really important metrics and given that the ambition was set for 2020, arguably there are not many annual reports left between now and then. Perhaps a quarterly summary report would be valuable to see the progress that has been made and, critically, how the scheme has been adopted or accepted and how it is working with the consumer.

Richard Harrington: I thank hon. Members for their contributions, particularly the shadow Minister—or should I now call him my protection officer? I have never had one of those before and thought that I was not likely to, but I am very pleased that he has taken it upon himself to appoint himself to that position, which I warmly endorse, I thank him for that.

The new clauses give me the chance to set out the Government's commitments for reporting on the smart meter roll-out, which is very important and something that I have given a lot of thought to. Before I do, I want to mention a couple of points that the hon. Member for North Ayrshire and Arran made, because they are quite different. She said that consumers were being misled by their energy companies and bullied into getting a smart meter—which is really what she was saying. I reiterate that it is not compulsory for anyone to have a smart meter installed. Consumers have a right to decline them.

Patricia Gibson: The Minister knows, as do I and everyone in this room, that smart meters are not compulsory, but my concern is that consumers are not always told that.

Richard Harrington: They should be, and I will do everything to make sure that they are. Suppliers have to treat their customers fairly, and that means being transparent and accurate in their communications. Ofgem has been in touch with energy suppliers to remind them of their obligations. It has written to all suppliers about deemed appointments—one of the points she made—to make clear that they have to consider whether deemed appointments are appropriate. Ofgem have marked their card on that because they have to take into account the consumers' circumstances, for example ability to communicate, whether they may have not got the letter, and more. While I know that the hon. Lady is speaking entirely in good faith and that there have been examples of that, Ofgem is on it, and I shall monitor it carefully, as well as the other points she raised.

There is a conflict between us all wanting smart meters to be installed, because we think it is of long-term benefit to everyone, and protecting people's right not to have one if they do not want one, for whatever reason, and to be informed of that right. We are putting pressure on the energy companies to install more, in keeping with the targets; the hon. Lady is right about that.

However, we do not want any of the mis-selling cases that were well publicised some years ago, of people knocking on doors and getting householders to change supplier on false pretences. While the intentions are much more noble in this case, and however much we might think it is a good thing to have smart meters, we certainly do not want any form of pressure or inappropriate behaviour to mislead people. I tell everyone that it is brilliant to have a smart meter, and hopefully most of us will, but it is not for everybody. People should not feel under any pressure, and they should only want to have one for the best reasons.

I can be accused of many things, but lack of enthusiasm is not one of them. This is a really important element of the modernisation of the country's energy infrastructure. Supplier switching is good, and I have done it myself, but it is not the answer. It is a right and a good thing to do, but the answer lies in what the smart meters will produce. I keep coming back to that in my head. I will not go through the reasons for it again, because hon. Members have been patient all day and on other days.

I understand and welcome the appetite for information on progress. It is right for us, as parliamentarians, to want that, and it is right for the Government and the Department to want to give that. It is right that customers generally should know, from the general public to what one paper calls the chattering classes—in other words, people who write on it, comment on it and study it. The more knowledge they have, the more it is part of the smart meter revolution, and the more people who have smart meters do not think they are alone and do not listen to the stories I have been sent by constituents—scare stories from the United States, conspiracy theories that MI5 is listening through smart meters and that sort of thing.

Steve McCabe: What?!

Richard Harrington: I have my own protection officer, so I am not bothered about that kind of thing, but other people are.

The new clauses would require the Government to publish information on programme costs and benefits, as well as details of installation activity and whether meters are operating in smart mode. I would like to address those in turn, to the satisfaction of all hon. Members, and particularly the hon. Member for Birmingham, Selly Oak and the shadow Minister—I always refer to him by his official title, but he is the hon. Member for Southampton, Test.

The programme costs and benefits are dealt with in new clauses 1 and 11. The Government published their initial assessment in 2008. Since then, the Government have updated and published their cost-benefit analysis a number of times, including in 2014 and 2016. Those publications included quite detailed breakdowns of the costs and benefits of the programme, including the DCC cost, which has been discussed before, and the installation of smart meters.

While there have been changes in the estimated costs and benefits over the years as our evidence base has developed, the business case for smart meters has remained good value for money. The benefit-to-cost ratio has remained stable since 2011, at around £1.50 of benefit for every £1 invested. Our latest cost-benefit analysis, published in November 2016, outlines net benefits of the smart meter roll-out of £5.7 billion. It is easy to talk in billions, but that is quite a lot of money, whichever way we look at it.

Our approach on the smart metering programme has been to update the cost-benefit analysis when substantive new evidence on costs and benefits for the programme comes to light through our monitoring and tracking. For example, the most recent update in November 2016 replaced estimates in a number of areas, including meter asset costs and financing and installation costs, with actuals based on information obtained from industry. It is right that estimates are replaced with actuals as soon as we have the information for it.

The hon. Member for Birmingham, Selly Oak asked why costs increased between the 2014 and 2016 assessments. The difference was about 0.5%, which is £500 million. Again, lots of zeroes; not a number to make light of. The increase is roughly equivalent to changes in the cost of fossil fuels, which impacts the value of the energy savings in our assessment. That was really his point; he asked that question before and I found out the answer for him. It is a reasonable question to ask.

It is important to know that it is not common practice for Government policies and programmes to update their cost-benefit analysis regularly in this way, and certainly not beyond the assessment made to inform the panel's policy decision. With smart meters, we have done so in order to provide the additional public information and transparency. This is such a major upgrade of our energy infrastructure and will be transformational for people when the programme evolves further.

We have no immediate plans to publish an upgraded cost-benefit analysis, but we are regularly monitoring costs and benefits and would certainly update our analysis if there were new or substantive evidence or changes in policy design. I would like to make it clear that if there were substantive changes in the evidence, of course we would. I hope we have a track record that demonstrates that, if and when such evidence emerges, we will update our assessment. We would be negligent if we did not, and I am sure we would be held to account. In addition, the Data Communications Company regularly publishes budgets and cost projections on its website.

In relation to the installation activity mentioned in new clauses 1 and 7, the Government regularly publish statistics on the progress of the smart metering roll-out. Independent official quarterly statistics on the progress of the smart meter roll-out by the large energy suppliers are published every quarter and have been since September 2013. They are a report on the number of smart and advanced meters installed, as well as the number of meters in operation at the end of a reporting quarter. In addition, a summary of annual roll-out progress for the calendar year of the roll-out is published every March. This captures performance of both small and large suppliers for the preceding calendar year. The number of smart meters operating in traditional mode can be determined from these reports, but I am happy to look at ways to express that more clearly, because I think, as my protection officer has requested, clear and accurate information is important for people. There is no reason to provide clouds of vagueness on this. It is in everybody's interest to be clear.

Steve McCabe: The Minister is giving the Committee helpful information. Why, after 2014, did the Department abandon the progress reports that he is now proposing to reinstate? Was there an obvious explanation for that?

Richard Harrington: I do not have an obvious explanation for the hon. Gentleman, but I am perfectly prepared to find out and write to him. As far as I am concerned, when I took over, annual reports seemed an obvious thing to do. I would like them to be as comprehensive as possible. I think that that is in everybody's interest. I hope that they get press coverage and that people read them and say "I want one of these." That is what we want.

In his erudite speech, the hon. Member for Warwick and Leamington made a point about changing behavioural patterns. In my previous job in pensions, they called it nudging people. Publicity about the annual report or anything else to do with it is going to nudge people's behaviour. Instead of people reacting to nonsense offers that pretend that it is compulsory, as mentioned by the hon. Member for North Ayrshire and Arran, I hope that they will think, "I want to find out about those. I'll go online or call. I want one." That is what the advertising campaign on buses, the tube and so on is doing: it is nudging people and trying to change their behavioural pattern. The reporting side of it, which should be as comprehensive as possible, is very much part of that.

The smart metering programme is being delivered with a high degree of transparency through our existing reporting regime, and I am certainly going to reflect on how reporting can be made clearer. In particular, I undertake to deliver further information via the annual update of the smart meter implementation programme, and I will make copies available to both Houses. If there are changes in the interim, I do not think it would be right to undertake to produce quarterly reports. That would be a very bureaucratic process. There would probably not be enough information to change, and they would quickly become outdated. I do not think that would be reasonable. However, if there are fundamental changes, or even good incremental changes—or, indeed, bad incremental changes—it is in our interests to publicise them and to deal with them. I am going to look at ways to make this as sharp and clear as possible. In the light of that explanation and commitment, I hope that the hon. Member for Birmingham, Selly Oak will withdraw the motion.

4.30 pm

Steve McCabe: In view of the Minister's words, I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 2

REVIEW OF PUBLIC AWARENESS LEVELS AND SATISFACTION WITH SMART METER ROLLOUT

"(1) Within 3 months of this Act coming into force, the Secretary of State shall commission an independent review of current public awareness of smart meter rollout and public satisfaction with the rollout.

(2) The report under subsection (1) shall consider—

(a) the effectiveness of consultation between industry and the public about the rollout process;

(b) the awareness among vulnerable groups of smart meter rollout;

(c) the satisfaction of the public, in particular vulnerable groups and people living in rural areas, with the information available on smart meter rollout.

(3) The Secretary of State must lay a copy of the report before Parliament and arrange for an opportunity for the report to be debated within 6 weeks of the report being laid."—*(Steve McCabe.)*

This new clause would require the Secretary of State to commission an independent review of public awareness and satisfaction of smart meter rollout and for the review to be debated in the House of Commons.

Brought up, and read the First time.

Steve McCabe: I beg to move, That the clause be read a Second time.

I shall be brief. This is almost where my interest in this subject started. When I first came across smart meters, I thought "Hey, that is a really clever idea". Then, like the hon. Member for North Ayrshire and Arran, I started to attend to stories of people saying that they were being pressed to have these meters and that they were being treated in a fairly cavalier fashion. As I have said at various stages, I felt that public certainty, public satisfaction and, indeed, basic public knowledge was a problem.

New clause 2 is self-explanatory: it calls for a review of public awareness levels and satisfaction with the roll-out. I want to know in particular about the effectiveness of the consultation between the industry and the public. I know that this was not particularly about satisfaction levels—it was more about roll-out procedures—but I found the funnel evidence pretty bamboozling. It did not do anything for my confidence as I listened to that. We need to know how effective that consultation is.

I am particularly concerned that awareness is raised among those people whom we might call vulnerable groups or vulnerable users. It should be a central concern of the Minister that they benefit.

We heard from the hon. Member for Moray during the evidence session that he was particularly concerned, and rightly so, about satisfaction and roll-out in rural areas. It would do no good at all were we to embark on a multi-billion pound project and then discover that consumers in certain parts of the country were getting a poorer deal.

Douglas Ross: Does the hon. Gentleman accept, however, that my concerns are about the availability of smart-meter installation—rural constituencies such as my own in Moray seem to be at the back end—rather than about the overall perception of smart meters and their success or otherwise?

Steve McCabe: I accept that, although I interpret "satisfaction" to also mean satisfaction with the delivery and benefit of the meter.

What I am asking for is self-explanatory. It will not do us any good if I keep going on about it. I have made the point to the Minister, so he knows why I think it is important.

Patricia Gibson: I shall be brief. I agree with everything that the hon. Member for Birmingham, Selly Oak said—I fear that this is turning into a bit of a mutual admiration society. I will say no more, except that, alongside the public awareness for which the new clause calls, we would expect public confidence and transparency. The Minister has talked a great deal today about transparency. What I would like, but suspect I will not get, is an assurance from the Minister on public awareness and the confidence we would expect to come with it. Customers have raised

the issue with me, and I know that it has also been raised in other arenas. They fear that when their energy usage is known in such detail, it will be used, at some point in the future, as a lever to smooth out demand by having different price bands.

Peak times such as 4 o'clock to 7 o'clock are a real worry for families who are already struggling with energy bills—indeed, with all their bills. We have talked about nudging, and people are concerned that this might be used as a way of nudging their behaviour and when they use their energy, and about what they should do during peak times to avoid using energy as much as they possibly can—that is not entirely possible for everybody. The fear is that this measure may be used to raise charges.

Stephen Kerr: I wonder whether that is entirely a bad thing, given that there will potentially be quite rich savings for people who are prepared to change their behaviour and their use of appliances—especially energy-heavy ones—during peak times.

Patricia Gibson: It may not be a bad thing for certain people who are in a position to do that, but when kids come in from school and they need to have their dinner—people cannot really work around that and say "You need to wait until 8 o'clock to get your dinner because energy is cheaper then." There are people for whom that might yield great benefits, but some are trapped in that peak period and cannot work around it. That is a real concern for a lot of consumers, as I am sure the Minister will understand.

Richard Harrington: As per the practice that I started in discussing the previous group of amendments, before addressing the substantive point perhaps I could try to answer the hon. Lady's questions. The sentiments expressed by my hon. Friend the Member for Stirling are right—this issue is a double-edged sword. The very people that the hon. Lady described, who have children coming home and need to get the tea on, might also have a choice about when to do their washing and such things. The smart meter and the information that comes from it, can help as well as hinder people in those circumstances.

The choice of which tariffs to accept, even with the smartest of smart meters, will remain entirely with the customer. Smart meters facilitate time-of-use tariffs, which can influence demand and help to shift consumption away from peak times—that is a good thing—but they will also give people a choice that they do not have now. At the moment, if someone does not have the meter to give them the information, they cannot take an informed decision. Based on conversations I have had, I expect that suppliers will develop and offer new, smart, time-of-use tariffs that will be attractive to most consumers and help them to realise their benefits.

I accept the hon. Lady's core point—people must be aware of the choices available, and they must be the type of customer that can take advantage of that choice. If their only function, apart from basic lighting and heating, is to hugely increase their use of electricity at a certain time because of cooking and children coming home, I accept that such a tariff would not be suitable for them. People must have the information to take that decision. I think I have laboured the point, but the hon. Lady raises an interesting issue that is not at all unreasonable—that is what I would expect, given her other consumer-based questions.

I shall try to deal briefly with the new clause in the spirit in which it was meant. Should the Secretary of State commission an independent review of public awareness and satisfaction of the roll-out? That is what is being asked. In answering, perhaps I should outline our approach to smart meter and consumer engagement in our programme up until now. It is set out formally in the programme's consumer engagement strategy, which was published in December 2012, and it was based on extensive consultation and evidence gathering, as well as polling and market research. Although energy suppliers are at the forefront of installing smart meters, it was recognised that their consumer engagement would benefit from support by a central body that was independent of them and Government. We heard evidence from a representative of that body—Smart Energy GB—which enables consumers throughout the country to get consistent messages from a single simple campaign, rather than from multiple suppliers who are jumping over one another to get customers.

Both Smart Energy GB and the energy suppliers therefore have a role. The energy suppliers have the primary consumer engagement role, because they have the main contact with customers—they are who customers get their bills from and have their contracts with. Smart Energy GB, which is an independent, not-for-profit organisation, leads a national awareness and advertising programme to drive the behavioural change that the hon. Member for Birmingham, Selly Oak mentioned and to help consumers to benefit from smart metering.

The energy supply licence conditions require that Smart Energy GB assists consumers on low incomes or with prepayment meters. Bill Bullen explained in our evidence session that that is his main market. That is really good—it is to those consumers' advantage and I hope it is to his commercial advantage, too. From what he said, he seems to have done a good job of it.

That two-pronged approach has increased awareness of smart metering from 40% to 80% of consumers in three years, and it has driven a lot of demand. A recent survey of 10,000 people from all demographics and all parts of Great Britain showed that 49% of people would like to get a smart meter in six months. The campaign is resonating with people all over the country. Independent audits of Smart Energy GB show that two in three people recall its campaign. That is actually quite a lot in advertising. Findings from the latest "Smart energy outlook", the independent barometer of national public opinion, show that detailed knowledge of smart metering is high—in some cases higher than in the general population—among groups that we might consider to have vulnerabilities, such as elderly people.

But nobody underestimates the challenge—I absolutely do not. We get a lot of information from Smart Energy GB. Suppliers share their information with it and with us, because it is in everyone's interests to do so. They are transparent about their activities, both because it is in their interests and because they are required by law to publish an annual report outlining their performance against targets, alongside an updated consumer engagement plan. All that is available to the public via the internet and the usual channels.

As recently as August, the Government published the findings of external research that we commissioned on consumer experience of smart metering. We will produce further findings from ongoing fieldwork in the next few

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months. Our evidence to date shows that consumer satisfaction with smart meters is high. Some 80% of consumers are satisfied with them and 7% are dissatisfied. That information is all publicly available. Interestingly—I know that vulnerability is of interest to every Committee member, but particularly to the hon. Member for North Ayrshire and Arran—there was higher satisfaction among prepayment respondents, who are much more likely to be vulnerable consumers.

I support the positive intention behind the new clause. The Government really have to consider how consumer engagement can be better reflected in annual reports, which have to be consumer-facing as well as Parliament-facing. I am not quite sure about the answer, but that needs to be considered in detail. On balance, though, I consider that the requirements of the new clause are well met by existing arrangements. I promise that I do not say that through complacency. I have explained about external research agencies, and Smart Energy GB, which is independent, continually reviews consumer engagement. A review is therefore not needed at this stage—not because we do not intend to do that or because it does not need to be done, but because it would duplicate existing activities and would not represent good value for money. I hope that the hon. Member for Birmingham, Selly Oak will withdraw the motion.

Steve McCabe: The Minister has persuaded me. I am happy to beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 3

OWNERSHIP RESTRICTIONS TO SUCCESSOR LICENSEES

"(1) The Secretary of State may impose conditions on to the future DCC successor licensee as appropriate.

(2) Conditions in subsection (1) may include restrictions to British owned companies subject to the expiry of any contrary obligations under EU or retained EU law, as defined in the EU (Withdrawal) Act 2018."—*(Dr Whitehead.)*

This new clause allows the Secretary of State to restrict future DCC successor licensees to British owned companies.

Brought up, and read the First time.

4.45 pm

Dr Whitehead: I beg to move, That the clause be read a Second time.

The new clause, as I flagged up to the Committee earlier, relates to clause 4(1) and to the circumstances in which a successor to a company that has gone into administration might be brought about, and the safeguards concerning the identity of that successor company should it take over the reins. My understanding of those circumstances is that, should there be a period of administration, a successor company would take over prior to 2025 when administration is determined. There could then be a retendering, as it were, of the process by which a company runs the DCC in 2025. At both of those points, there would potentially be a question about the identity of that company. We know the identity of the company at present: Capita is running the DCC, and the DCC as an organisation is a fully owned subsidiary of Capita.

I must say for the record that my ideal way of running the DCC would be for it to be a public body and not responsible to a company. The formation of the DCC, maybe at a future date should the circumstances be different, as a not-for-profit public interest body concerned with the proper administration of the whole smart meter arrangement, in the public interest and for the public good, would be the best way to organise things. That is not the position now, however, and it may not be for some while.

The amendment would look at how one might align the public interest and public good with circumstances under which a successor company might be called on, in the event of administration procedures. On this occasion it would give a power to the Secretary of State, since it would give the Secretary of State discretion to look at the circumstances of a tender or a post-administration arrangement—presumably also by tender—in circumstances where a non-GB company were to become the successor or putative successor company running the DCC.

Without entering into any great conspiracy theories, we have to have some regard for the ownership and running of an organisation that holds a huge amount of information about what we do, who we are and how we work. That is vital information concerning not just our activities but our aggregate activities. Ensuring that the company running the DCC is working appropriately in the national interest with that information and that crucial role seems to me quite an important thing, which we ought to consider.

As things appear to stand at the moment—I do not wish to name any companies for fear that, outside the privilege of the House, they decide to deal with me appropriately—

Richard Harrington: You might need protection.

Dr Whitehead: Indeed. I was going to say to the Minister, who has gone on the record as having nudged people in his previous post, that I cannot offer him full protection if he carries on nudging people, particularly in pubs. My protection is conditional.

We ought to consider the issue seriously. I appreciate that under the present circumstances of our membership of the EU it would be difficult for the Secretary of State to exercise the sort of powers I am suggesting he might have. However, by the time 2025 comes around, one way or another we will not be a member of the EU. The Secretary of State could therefore exercise that power in the public and the national interest, unfettered by other considerations.

It would be prudent for the Secretary of State to have that power available to him or her so that we can put our affairs in order concerning what I agree continues to be an unlikely sequence of events. We ought to have it on our minds, however, in case those events occur. In that way, we can rescue not only the position of the administrator but what the company subsequently does in the national interest as far as keeping control of all this data and running a smart meter programme are concerned.

Richard Harrington: I thank the shadow Minister for his comments. The important part of the amendment is valid. Again, it is "what if", and we have to consider that. I have tried to assess those points. The new clause

would give the Secretary of State a non-time-limited power to impose conditions on future smart meter communication licences as appropriate, which could include restricting future licensees to being British-owned companies.

The licences that are valid at the moment were granted to Smart DCC Ltd in 2013 for a period of 12 years, which is why 2025 has been mentioned quite a few times. That would be the earliest time at which they could be re-tendered. It is the intention that any competition to grant a new smart meter communication licence carried out after November 2018 would be conducted by Ofgem, the first one being appointed by the Secretary of State. That reflects our policy of transferring responsibility from the Government to the smart metering programme, from the Government to the regulator, and recognising that smart metering will eventually become business as usual for the energy industry after this period.

Grahame Morris: I know that the Minister is the soul of reasonableness, but is the issue not so much about the regulator? The regulator's principal task is the interest of the consumer. Are there not political considerations if a foreign-owned company becomes the regulator? There is an elephant in the room that no one is mentioning, but that is at the back of everyone's mind. It would surely be prudent to take steps to ensure that the Secretary of State or the Minister has reserve powers to prevent that from happening, given the sensitive and pervasive nature of the data involved.

Richard Harrington: The hon. Gentleman makes a very good point. If he will be patient with me for a few minutes, his good constituents in Easington will, I hope, be reassured by what I am about to say about foreign ownership.

The shadow Minister's point was not directly about nationalising the DCC but about whether this kind of organisation would be better off as a not-for-profit publicly owned organisation. That, obviously, was not the Government's policy. The Government's policy is to favour competition while protecting the interests of the consumer.

For those less familiar with the details of the licence than I am and the shadow Minister is—he knows it intimately—I should say that the licence's clear objective is to foster the competitive supply of energy. As a natural monopoly, which is what it is—that is what it would be, whether state owned or privately owned—the price is regulated by Ofgem, so that the costs flowing to consumers are controlled. I felt it worth while to make that point.

The new clause seeks to ensure that the process for awarding the next licence is future-proofed and that the interests of consumers, industry and the country as a whole are protected, irrespective of who is responsible for running the future licensing competition, be it Capita, another company or a not-for-profit organisation.

I would like to highlight two areas. This, I hope, is the answer to the question of the hon. Member for Easington. On the critical national infrastructure point, which this is part of, the shadow Minister mentioned the strategic value—not in money terms but foreign power terms—of this database on all the millions of people who will hopefully have these meters. The Government take the issue seriously.

Under the Enterprise Act 2002, Ministers have the ability to intervene in mergers and takeovers that give rise to public interest concerns, including those relating to national security. That means the Government can ensure that any national security issue arising from mergers or takeovers is correctly investigated and that mitigating measures are put in place.

Our review of the existing regime has highlighted that it needs to be updated to take into account the changing structure and size of companies and the sophistication of this kind of corporate movement, which is why the Government are looking again at how best to scrutinise the ownership of our important infrastructure and have committed to a White Paper next year as the next step in our strategic reforms. That cuts across the new clause.

We recently published a Green Paper review in this area. The proposed reforms have a particular focus on ensuring adequate scrutiny of whether significant foreign investment in our most critical business, which this would be, raises any national security concerns. Those businesses are, by definition, essential to our country and society, and clearly a company or entity carrying out this DCC operation would be, because of the significant data points mentioned.

The aim of the proposed reforms in this area will be to provide Government with the ability to act in circumstances where security concerns are raised. In that context, the Government seek to strike the right balance between protecting national security, having general competition and investment, and being an open and liberal international trading partner, which has worked very well. It is a balance, and the security side is very important.

As far as the EU exit point is concerned, notwithstanding the proposal outlined in the Green Paper, the UK takes its international obligations seriously. We need to ensure that any ownership restrictions are lawful, under not only retained EU law but future trade agreements with countries across the world. We all know that this precise form of agreement between the UK and the EU will be subject to negotiations. It is stating the obvious, but the Government are looking at all possible options. It would therefore not be appropriate at this stage to introduce provisions that may contradict or conflict with the Government's approach to foreign investment. I hope the hon. Gentleman finds my explanation reassuring and will withdraw the amendment.

5 pm

Dr Whitehead: I thank the Minister for his explanation. Perhaps I could seek a slight amount of further clarification on his confidence that, in these particular circumstances, he would be able, in principle, to intervene using the powers he has set out that exist elsewhere in Government. He appears to be saying that powers already exist that would allow him to address the issue, and that new clause 3 is therefore not necessary. Is he confident that in the specialised circumstances pertaining to administration and subsequent events, those powers would be fully applicable in terms of the concerns that I have raised?

Richard Harrington: Yes, I am satisfied, but subject to the fact that the legislation on the security aspect of it is evolving and currently under consultation. From what I have read in the Green Paper and all the work that has

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gone into it, it is precisely the security aspects of the circumstances the hon. Gentleman is describing that would be covered.

Dr Whitehead: I thank the Minister for that clarification. In those circumstances, I beg to ask leave to withdraw the clause.

Clause, by leave, withdrawn.

New Clause 5

REVIEW: USE OF POWERS TO SUPPORT TECHNICAL DEVELOPMENT

'(1) Within 12 months of this Act coming into force, the Secretary of State shall commission a review which shall consider how the extended use of powers provided for in section 1 will support the technical development of smart meters, with reference to—

(a) alternative solutions for Home Area Network connections where premises are not able to access the HAN using existing connection arrangements,

(b) hard to reach premises.

(2) The Secretary shall lay the report of the review in subsection (1) before each House of Parliament."

This new clause requires the Secretary of State to review how the extension of powers support technical development of smart meters.—(Dr Whitehead.)

Brought up, and read the First time.

Dr Whitehead: I beg to move, That the clause be read a Second time.

I am afraid, Mrs Gillan, that you have got me for the rest of the running. New clause 5 relates back to clause 1 and deals with the extent to which, as a result of the extension of time for the exercise of powers, the Minister may consider what licensing may be necessary over the period in respect of particular aspects of the roll-out: in this instance, the use of the home area network and wider area network. Hon. Members will know the distinction: the home area network is the communications that happen between the meter, the house and the immediate external data receiver. The second, the wide area network, relates to the extent to which data receivers can operate in certain areas where population is sparse, there are geophysical difficulties in getting coverage and so on.

In those circumstances, the Government reported in the documents that went before the regulatory committee:

"Smart meters make use of a home area network to link the smart meter to consumer devices such as the in-home display or smart appliances. The technical solutions already being delivered currently apply to approximately 96.5% of premises. In some premises such as apartments in high-rise buildings where there is a long distance between the smart meter and the premises, these solutions are not viable."

Essentially, the Government are saying that they know that under the present comms arrangements, all but 3.5% of properties can reasonably reliably be considered as covered, but there are certain circumstances, such as some basement buildings or high-rise flats, in which the home area network cannot easily communicate its data properly and safely back to the external devices. The Government state:

"It is necessary to provide a technical solution to ensure that all devices in these premises are linked to the smart meter using the home area network. This work is currently being progressed through the Alternative HAN Forum".

I am not sure whether anybody would get very far at parties by saying they were a member of the Alternative HAN Forum, but such a body exists and it brings together suppliers to develop and procure new solutions for those premises.

The Department then states:

"It might be considered appropriate to separately license these activities to provide a greater degree of regulatory control over them."

It is considering whether there is a need for a separate licence arrangement, so far as those activities are concerned, to ensure that, when solutions for that 3.5% of premises come about, they should be properly controlled by licensing within the terms of the roll-out. Similarly, the Department considers that a little over

"99% of premises in Great Britain are capable of connecting to the DCC through the wide area network".

That is the WAN. I do not know if there is an alternative WAN forum as well as an Alternative HAN Forum, but under those circumstances it would clearly be thinking about that 1% of premises that look unlikely to be able to connect through that wide area network. The Department states:

"A different solution may be necessary to provide coverage to smart meters in the remaining hard to reach premises which the wide area network does not cover. It might be considered appropriate to create a licensable activity that relates to arranging the establishment of communications to these properties."

The Department has in mind two licensable activities that may arise when those solutions are under way. I certainly understand, so far as the wide area network is concerned, that technical solutions such as patching—essentially patching in areas that are not available to the wide area network to what is available—are in a reasonably advanced state.

The new clause essentially asks the Minister to consider these two particular issues relating to the licensing of those activities and asks the Secretary of State to commission a specific review to look at how the extended use of powers provided for in proposed new section 1 will support those two areas of development—alternative solutions to the home area network and hard-to-reach premises that the wide area network cannot reach. Rather than there being a feeling that it might be appropriate to create a licensable activity, the new clause will make it rather more formalised by requiring the Secretary of State to actually produce a report on those particular issues and how they can be sorted out as the roll-out progresses.

Clearly, the extension of time for the roll-out gives the Secretary of State the ability to consider the issue in more detail and get, at a reasonably early stage, licensable arrangements, or would-be licensing arrangements, in such a report that would cover those activities in those particular areas. That would also be a sensible addition to the Bill—either securely in the Bill or, alternatively, through an acknowledgement and understanding that this is an issue for the future that needs to be considered and which should come under licensing arrangements, and that work will be undertaken to ensure that that happens.

Richard Harrington: The new clause has two points, as I see it. First, the smart meter system establishes a wireless home area network—HAN—in a consumer's home that links the gas and electricity meters' in-home

display and the communications hub; and the communications hub establishes the network and manages the data across it. As with any wireless technology, various physical factors affect the performance of the HAN, such as what the building is made of or the thickness of the walls, as indeed we find with mobile phones in parts of the Palace of Westminster—in some places it works and in some it does not.

Thangam Debbonaire (Bristol West) (Lab): Mostly not!

Richard Harrington: The hon. Lady has been to my office. She is welcome again any time.

Those things do affect the signal strength in exactly the way that we are joking about—it is actually true. The distance between the various pieces of smart meter equipment will also affect the performance of the HAN—for example, where a meter is located away from the main residence or in the basement of a block of flats—but it is important that the HAN works, to deliver the benefits for consumers, such as the in-home display.

For the vast majority of premises the communications hub provides the necessary home network. In the small number of premises that it does not, some form of alternative will be needed to ensure there is a working HAN. If there is not, how can we ask people to take on smart meters? We have already used our section 88 powers to place obligations on energy suppliers to develop and deliver an alternative to this, which—to continue the use of expressions and abbreviations by the shadow Minister—I would call "Alt HAN." The Alt HAN Forum, the Alternative Home Area Network Forum—believe me, there is one—has been established along with the Alt HAN Company and its board. This gives suppliers the framework to get on and develop the solutions they will need. The forum has developed a commercial strategy, which is being implemented, and a procurement exercise is currently under way, and we expect the pace of delivery to pick up next year. It is an important part of the roll-out and the Department has worked closely with the forum throughout the early stage of its setup, and we are continuing to do so. We are tracking progress through the smart metering implementation programme's governance, and we will monitor on an ongoing basis and determine whether further regulation is needed—so it is ongoing work.

The second point mentioned in the new clause was the arrangement for the so-called "hard-to-reach" premises. Here we are talking about communication of data to and from the premises through the Wide Area Network—referred to so gracefully by the shadow Minster as the WAN—to energy suppliers via the DCC. There are some premises that it may be difficult for WAN communications to reach, due to the location's surroundings, for example in built-up areas with tall buildings, but also in remote and mountainous areas. By the end of 2020, on the basis of existing solutions, we expect that 0.75% of premises will be without DCC WAN and reaching these will be disproportionately expensive, with costs likely to exceed benefits, but it is not a static solution. Through its licence we placed obligations on the DCC to take steps to explore other solutions, which could be used to fill any coverage gap. We have to look for ways to ensure that these premises are serviced, because otherwise they will never get full access to smart services, and we are pushing suppliers to innovate to find solutions that work for them and their customers. We have facilitated an industry-led group for this purpose, to consider possible solutions. Finally, customers without DCC WAN can still benefit from some smart services, such as consumption data shown on the in-home display.

Those are important areas, and I know they are quite technical and not of interest to many people, but I felt it was necessary to take the opportunity to explore them. As I have outlined, we are closely monitoring activity and development—we really are. That is very important and is part of the whole development. I do not consider it necessary to add a separate review process on top of the existing working arrangements, which are all very comprehensive. I hope the shadow Minister finds my explanation reassuring and on that basis will agree to withdraw the amendment.

Dr Whitehead: I do find that reassuring and it is good to know that these processes are under way, albeit under circumstances where we are a little way from where we want to go. I hope that those processes can lead to a good result for what I appreciate are fairly small proportions of the population that one way or another cannot access the HAN or the WAN. Hopefully, we will be able to provide that reassurance that the roll-out really will be the roll-out that we want it to be in terms of the full connectivity of everyone who is being offered a smart meter for the future. That is an important consideration that we have on the table in the latter stages of the roll-out, and I hope that the current developments can reach that happy conclusion. Under those circumstances, I beg to ask leave to withdraw the clause.

Clause, by leave, withdrawn.

New Clause 6

REVIEW: USE OF POWERS TO SUPPORT ROLLOUT OF SMART METERS

"(1) Within 12 months of this Act coming into force, the Secretary of State shall commission a review which shall consider how the extended use of powers provided for in section 1 will support the rollout of smart meters, with reference to—

(a) providing for efficient removal and disposal of old meters,

(b) reviewing the exemptions for smaller suppliers from a legally binding requirement to roll out smart meters.

(2) The Secretary of State shall lay the report of the review in subsection (1) before each House of Parliament."

This new clause requires the Secretary of State to review how the extension of powers supports the rollout of smart meters.—(Dr Whitehead.)

Brought up, and read the First time.

5.15 pm

Dr Whitehead: I beg to move, That the clause be read a Second time.

I think that the Minister's defence may be that the new clause is not properly drafted and therefore he cannot accept it. It is not the case that it is not properly drafted in terms of being in order or making sense, but it states something about smaller suppliers that is not quite right. Nevertheless, I want to set out the sentiment of the paragraph that refers to smaller suppliers and seek the Minister's view on what might be done. We have already had a substantial debate on the subject of paragraph (a)—the efficient removal and disposal of old meters—so I want to concentrate my thoughts and remarks on the second part of the clause.

[Dr Whitehead]

Although it is the case that smaller suppliers—non-obligated suppliers that have fewer than 250,000 customers, including dual-fuel customers—are not as obligated as companies that have more than 250,000 customers in the smart meter roll-out, it is true that all suppliers eventually are obligated to get meters into homes by the end of the roll-out period. Smaller suppliers are not legally obligated in the way that larger suppliers are to reach the milestones and the attainment agreements in place, which I mentioned earlier and which are undertaken through a legal directive from Ofgem. Therefore, it would be quite possible for those suppliers not to install smart meters until the last quarter of the last year of the roll-out, and then rush and install them all, while still meeting their final obligations, because they are not subject to milestones in the way larger suppliers are.

It can be suggested that that non-obligation means that smaller suppliers, by and large, are not very advanced in smart meter installation programmes. Obviously, there is a question about arrangements that smaller suppliers have to make when dealing with their often dispersed group of customers—if, for example, they are responsible for installing five smart meters in Congleton, three smart meters in Biggleswade and six smart meters in Clacton, depending on the distribution of their customers. In those circumstances, they will clearly factor out the installation of those smart meters to a third party. We have already discussed what happens with third-party meter installation arrangements on occasions in this Committee.

Overall, there are a number of not exactly worrying incidents but incidents in which it appears that smaller suppliers are slow off the mark in getting smart meters installed. Clearly, as we approach the point at which we have to get those smart meters in—towards the end of the 2020 period—that could become a significant factor, even though small suppliers of fewer than 250,000 represent about 6.5% of the total market. That is not an insignificant amount, particularly towards the end of the smart meter roll-out period.

The new clause, or certainly its sentiment, indicates that the particular circumstances might be reviewed as the roll-out progresses. The smaller suppliers should be more closely bound into the milestones than is the case at the moment so that we can have reasonable certainty that we are progressing across the board so that, by the time we get towards the end of 2020, we will not have a bit of the roll-out jigsaw that is not in place, possibly to the detriment of the roll-out as a whole. Will the Minister assure me that he is actively considering how that particular problem might be resolved? That would in turn be very helpful in my considerations about the new clause.

Richard Harrington: I thank the hon. Gentleman for his contribution. His new clause would require the Secretary of State to review how the extended use of powers will support the efficient removal and disposal of the old meters that are replaced by smart meters, as well as to review the roll-out obligations applicable to smaller energy suppliers.

As the shadow Minister said, we have discussed the first one at some length. A meeting is being convened with officials from BEIS and DEFRA and, I believe, the hon. Member for Birmingham, Selly Oak. I hope that the shadow Minister will also be available—I hope both Members will be because the purpose is to discuss fully the valid points that they made.

On the exemptions for small energy suppliers, it is true that the pressure is not on them as it is on the larger suppliers, for reasons that have been explained formally and informally. At the moment, the smaller suppliers are growing but they have a very fragmented customer base, as the shadow Minister explained well. That does not mean that they are being let off. In fact, Ofgem asked smaller suppliers for annual reports on progress and, ultimately, will take a view on it and whether it needs to be speeded up, noting that the progress has still to be consistent with taking all reasonable steps to comply with the 2020 regulations. They are not exempt; practically, however, the regulator has gone for the suppliers with the larger consumer bases first, to give the smaller ones a chance to get a mass of membership. In my area, I keep speaking to people who have basically followed the same thought process as me and gone for my smaller supplier, just on the internet. I can see that happening in practice.

In developing the regulations, the Government have been cognisant of the fact that the resources of smaller suppliers and big ones are different. That is a question—a point I have made—not only of the bulk of customers being concentrated but of the necessary IT systems and completion of the requisite security assessment to become a DCC user, which they can do six months later than large suppliers, for good reason.

We have also taken steps to manage the financial burden on small energy suppliers. The policy is to get as many smaller companies into the market as possible, for reasons of competition. The charges—the costs of the DCC data and communications services—are proportionate to an energy supplier's market share. The larger suppliers pay the most and the smallest the least; it is not a flat rate at all. The Government have also made explicit provisions to facilitate an active market for a number of IT service businesses to provide the connection between the DCC and small energy suppliers, rather than allowing large companies to have a monopoly of it.

In conclusion, the design of the smart metering infrastructure means that, regardless of size, an energy supplier can access any smart meter enrolled on the DCC system and can therefore operate on a level playing field with all other energy suppliers. That is constantly under review by Ofgem. I repeat that their progress and their obligations are exactly the same, it is just a question of when and how. I hope the hon. Member for Southampton, Test finds my explanation reassuring and will agree to withdraw the new clause on that basis.

Dr Whitehead: I do find the Minister's explanation reassuring. I hope, however, that what those smaller suppliers are doing is kept closely under review as the roll-out progresses. They are an integral part of the roll-out process, and they should not be able easily to evade their responsibilities to ensure that the roll-out is a success due to their circumstances. The Minister has reassured me that light that will be shone on that progress so I beg to ask leave to withdraw the new clause.

Clause, by leave, withdrawn.

Title

Amendments made: 18, title, line 2, leave out "and".

See the note to amendment 19.

19, title, line 3, at end insert "and to make provision enabling half-hourly electricity imbalances to be calculated using information obtained from smart meters".—*(Richard Harrington.)*

This amends the Bill's long title so that it covers the provision about smart meters made by NC8 to NC10.

The Chair: Before I put the final question, on behalf of the Committee I would like to thank everybody who has looked after us, particularly the members of the Committee, but also the Clerks, *Hansard*, the doorkeeper and the officials who have supported the Government Front Bench team.

Question proposed, That the Chair do report the Bill, as amended, to the House.

Richard Harrington: I would like to thank you, Mrs Gillan, and Mr Gapes for chairing so well and for having such patience with the shadow Minister, me and others. I reinforce what you said about the Clerks and the House authorities who have equally behaved in an exemplary manner. I also take this chance to thank my Bill team, who have lived and breathed this Bill. I commend them for everything that they have done. I thank members of the Committee on both sides for their patience and for all their good intentions to try to make something of the Bill and to improve it.

Dr Whitehead: I add my thanks to the members of the Committee for the positive way in which our debate has been conducted and for the conclusions that we have reached at the end of the Bill, and to you, Mrs Gillan, for your superb chairing of our proceedings and for your patience with me when I no doubt tested you to some considerable extent on matters of arcane constitutional interest. You conducted proceedings with complete impartiality, fairness and concern for the welfare of all members of the Committee. I pay specific thanks to our outstanding Committee Clerks, who have been of tremendous assistance to Opposition Members in getting our material together for the Committee, and who went way beyond the call of duty in ensuring that that happened. I thank them for that considerably.

The Chair: After that joyful moment of consensus, I echo all those remarks.

Question put and agreed to.

Bill, as amended, accordingly to be reported.

5.30 pm

Committee rose.

Written evidence reported to the House

SMB 07 Richard Wiles, Trilliant, Supplementary to oral evidence

SMB 08 Citizens Advice

SMB 09 Richard Harrington, Minister of State for Industry & Energy

SMB 10 SSE

SMB 11 Rob Salter-Church, Ofgem, Supplementary to oral evidence