

| DCUSA CONSULTATION DOCUMENT | |
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| DCUSA ISSUE | Proposal to Change the National Terms of Connection |
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1 PURPOSE

The purpose of this consultation is to seek views from Customers and their representatives and other interested parties on proposed changes to the National Terms of Connection.

2 BACKGROUND TO DCUSA

2.1 The Distribution Connection and Use of System Agreement (DCUSA) is a multi-party contract between electricity Distributors and electricity Suppliers, among others. It governs the main relationship between the people who sell electricity (Suppliers) and the owners of the networks that transport it (Distributors). Its governance is managed by DCUSA Ltd. which sub-contracts secretarial and administrative duties to ElectraLink Limited. More information about DCUSA is available at www.dcusa.co.uk

2.2 Parties to the DCUSA can raise Change Proposals to amend the Agreement. Change Proposals should better facilitate the objectives of the DCUSA document which are:

- the development, maintenance and operation by each of the DNO Parties and IDNO Parties of an efficient, co-ordinated, and economical Distribution System;
- the facilitation of effective competition in the generation and supply of electricity and (so far as is consistent with that) the promotion of such competition in the sale, distribution and purchase of electricity;
- the efficient discharge by each of the DNO Parties and IDNO Parties of the obligations imposed upon them by their Distribution Licences; and
- the promotion of efficiency in the implementation and administration of this Agreement and the arrangements under it.

2.3 Amendments to DCUSA may only be made with the consent of a majority proportion of Parties to the DCUSA, through a voting process, or (where applicable) the Gas and Electricity Markets Authority.¹

¹ For more information about GEMA visit the Ofgem website: <http://www.ofgem.gov.uk/TheAuthority>

- 2.4 When a Change Proposal is raised, a Working Group is established to assess and develop the proposal in consultation with industry parties. This document is a consultation issued by such a Working Group in accordance with Clause 11.14 of the DCUSA and seeks views on a Change Proposal (DCUSA Change Proposal 033) that has been raised to amend the National Terms of Connection.

3 BACKGROUND TO DCUSA CHANGE PROPOSAL 033 – NATIONAL TERMS OF CONNECTION

- 3.1 There are a total of 19 Distribution Licence holders in Great Britain. 14 of these are the “ex-regional board” companies. The other 5 are independent distributors, who own and run smaller networks embedded on the 14 larger networks.
- 3.2 Each Distributor has a legal obligation under the Electricity Act 1989 to offer to make a connection to his network if requested to do so by the owner or occupier of premises, amongst others. In making such an offer, an agreement is entered into between the Distributor and the requesting party; this agreement usually requires physical works. This consultation is not concerned with those agreements.
- 3.3 Distributors require that the users of already constructed or newly constructed connections enter into an agreement (a “Connection Agreement”) with them to govern the terms and conditions of use of the connection. This effectively means that an agreement is required between the “end-Customer” and the Distributor. Distributors enter into such an agreement in one of two ways: either by negotiating a bi-lateral agreement with the Customer; or through the National Terms of Connection.
- 3.4 Distributors enter into bi-lateral Connection Agreements with Customers according to their own policies but typically might require them at higher voltages, with large generators or where the use or nature of the connection is relatively unusual. The National Terms of Connection are terms and conditions which govern the use of connections to distribution systems by Customers (which include generators for the purpose of this consultation) by default, where a bi-lateral contract between the Customer and the Distributor does not exist.
- 3.5 Under the terms of the DCUSA, electricity Suppliers entering into contracts with end Customers, for the supply or purchase of electricity, are obliged to incorporate, by reference, the National Terms of Connection into all such contracts. This way, all connections are covered by a form of Connection Agreement. The current National Terms of Connection are available at www.connectionterms.co.uk
- 3.6 The existing National Terms of Connection are derived from terms that previously governed arrangements with “tariff” Customers (those who were not entitled to take advantage of the competitive electricity market at the time when the distributor and supplier were the same entity – typically domestic and small industrial / commercial customers).
- 3.7 DCP 033 was raised by EDF Energy Networks in order to expand the National Terms of Connection. EDF Energy Networks’ view was that the National Terms of Connection were appropriate terms and conditions for the type of Customer who in 1998 would have been on a tariff and did not have the opportunity until then to choose their Supplier. However, they consider

that these terms are not sufficient for larger Customers, those with a capacity requirement of greater than or equal to 100kVA, or unmetered Customers. Larger Customers would, prior to 1998, have entered into a bi-lateral Connection Agreement on quite different terms with the Distributor as a condition of choosing their Supplier (which only they could at that time). Similarly, unmetered Customers enter into bi-lateral Connection agreements with Distributors on terms that are quite different to the current National Terms of Connection due to the different nature of their connections.

- 3.8 EDF Energy Networks considers that there are scenarios where the opportunity to negotiate a bi-lateral Connection Agreement does not exist. For example, where a change of occupancy occurs, large Customers often do not contact the Distributor to arrange a Connection Agreement (and often do not advise the Distributor that they have taken on a property). Such Customers default to the National Terms of Connection through taking a supply of electricity from their Supplier. However in doing so, EDF Energy Networks feels that the terms and conditions applying by default, The National Terms of Connection, are not sufficient for either party.
- 3.9 EDF Energy Networks has therefore raised DCP 033 with a view to amending the National Terms of Connection to make them fit for purpose for different types of Customers.
- 3.10 A Working Group was established under DCUSA to develop the terms. The Working Group agreed with EDF Energy Networks' proposal that its objective should be to develop a set of terms based on the status quo and that reflect Distributors' current terms (which have evolved from those developed jointly at market opening) and to reflect best practice where differences exist between Distributors.
- 3.11 The Working Group considers it more pragmatic to reach a baseline National Terms of Connection that are fit for purpose based on a review of those existing terms, and that any fundamental change to those terms should be approached as subsequent change proposals.
- 3.12 The Working Group has therefore developed the attached terms with a view to taking best practice from Distributors' current terms and consolidating them in the National Terms of Connection. Any further changes to current practice that might be desired by an individual party can instead be raised following the implementation of DCP 033 and assessed independently of the change being proposed here. This will also ensure that subsequent changes can be assessed individually on their own merits and will not impact, or be impacted by, the progression of DCP 033 or any other proposal.

4 NEW TERMS

- 4.1 The proposed National Terms of Connection are split into three main sections:
 - i. One set of terms in Section 2 for whole current metered Customers (Customers whose entire electrical current is put through the meter and measured – for example domestic or small business Customers).
 - ii. One set of terms in Section 3 for CT metered Customers (Customers whose power requirement is larger than can be put

through a meter and so a current transformer is used to put a proportion of the current through the meter and the resulting meter reading is then multiplied up to a true consumption figure based on the proportion – for example large factories or superstores).

- iii. One set of terms in Section 4 for unmetered Customers (Customers whose consumption does not have to be metered – for example local authority street lights).

Sections 3 and 4 are the new terms and conditions while Sections 1 and 2 are the current National Terms of Connection split into 2 sections and with slight amendment so that existing aspects that will apply to all Customers will be in Section 1 and so be applied to all subsequent sections.

- 4.2 The National Terms of Connection are a default and do not prohibit Distributors and Customers entering into site specific agreements on different terms. Alternatively they could be referenced in site specific connection agreements (e.g. which specify site technical characteristics) with minor or no variation from them.

5 COMPARISON

- 5.1 The Working Group has asked Wragge & Co (DCUSA Ltd's Legal Advisors) to compare the proposed new terms with the terms of EDF Energy Networks and Western Power Distribution as they existed at the start of its process. Wragge and Co's findings are attached as Appendix B.
- 5.2 This exercise was performed to demonstrate that proposed additions to the National Terms of Connection are consistent with the intent to maintain the status quo, while recognising best practice where differences exist, for larger CT metered Customers and unmetered Customers. The Working Group believes that a comparison of two companies' terms is sufficient to demonstrate this, given that there was a common template at market opening, and that it would not be economical or necessary to compare all Distributors' existing terms. However, respondents should note that other Distributors' may have terms that differ to those being consulted upon.

6 CONSULTATION

- 6.1 The DCUSA Working Group is:
 - Seeking confirmation that the proposed terms are fit for purpose and reflect Distributors' current terms.
 - Seeking views on its position of maintaining the status quo as a baseline.
 - Interested in hearing about any future changes that Customers would like to see made to the terms once a baseline is established through this process.

7 CONSULTATION QUESTIONS

1. Does the Change Proposal better meet the DCUSA objectives? Please explain your reasoning.
2. Is the Working Group right to use the status quo as a baseline? Please explain your reasoning.
3. Do you have any concerns with the proposed changes to the National Terms of Connection? Please explain your reasoning.
4. Do you believe the proposed terms differ from the terms currently offered by Distributors? Please explain any differences.
5. What changes would you like to see made to these terms in future if this baseline is implemented?
6. Do you have any other comments or observations on the proposed terms as a whole or on any specific clauses of the proposed terms?

8 RESPONDING TO THE CONSULTATION

- 8.1 You are asked to review the proposed drafting attached as Appendix A and submit comments using the review form attached as Appendix C.
- 8.2 Responses should be submitted to dcusa@electralink.co.uk no later than 25 May 2010.
- 8.3 You are asked to provide as much relevant detail as possible to enable your comments and the reasons behind them to be fully understood.
- 8.4 Responses, or any part thereof, can be provided in confidence. You are asked to clearly indicate any parts of a response that are to be treated confidentially. Non-confidential responses will be available to DCUSA parties, their nominees and Ofgem.

9 NEXT STEPS

- 9.1 Following the end of the consultation period the responses will be considered by the Working Group which will consider whether any changes are required to the drafting. The Change Proposals will then be issued to all DCUSA Parties for voting and following the vote will be issued to Ofgem for final determination.
- 9.2 If you have any questions about this paper or the DCUSA Change Process please contact the DCUSA Help Desk by email to dcusa@electralink.co.uk or telephone 020 7432 3011.

APPENDICES

- Appendix A – DCP 033 – Legal Drafting
- Appendix B – 1 NTC - Comparison of Unmetered Terms
2 NTC - Comparison of Metered Terms
- Appendix C – Consultation Response Form