



DCUSA Consultation

DCP 080 – Theft in Conveyance

1 PURPOSE

- 1.1 The Distribution Connection and Use of System Agreement (DCUSA) is a multi-party contract between electricity Distributors and electricity Suppliers and large Generators. Parties to the DCUSA can raise Change Proposals (CPs) to amend the Agreement with the consent of other Parties and (where applicable) the Authority.
- 1.2 This document is a consultation issued to all DCUSA Parties, Consumer Focus and the Authority in accordance with Clause 11.14 of the DCUSA seeking industry views on DCP 080 'Theft in Conveyance'.
- 1.3 Parties are invited to consider the proposed drafting set out as Appendix A and B and submit comments using the form attached as Appendix C to dcusa@electralink.co.uk by **20 May 2011**.

2 BACKGROUND

- 2.1 DCP 080 'Theft in Conveyance' has been raised as a result of developments under the DCP 054 'Revenue Protection/Unrecorded Units into Settlement' Working Group. The intent of DCP 054 is to ensure that revenue protection procedures are undertaken; that all reported energy illegally extracted reaches and is processed through the settlement process; and that the revenue Protection Code of Practice is incorporated into an appropriate governance framework to ensure it is maintained to reflect best practice. As part of its assessment of DCP 054, the Working Group consulted on a number of matters including the issue of theft in conveyance.
- 2.2 The DCP 054 Working Group found that there is uncertainty as to the definition of theft in conveyance amongst industry parties and this lack of a definition, and hence clarity around the commercial relationships, has led to different interpretations by parties regarding their responsibilities when theft is detected. The DCP 054 Working Group therefore sought legal advice on this issue with the intention of clarifying the interpretation of the Electricity Act on this point. However, different interpretations of certain key statutory provisions have led to difficulties in agreeing the detail of the legislative framework and a consultation exercise on these points carried out in December

2010 confirmed that consensus could not be reached. Wragge & Co had reviewed the consultation comments on theft in conveyance and concluded that the majority of responses agreed that "electricity in the course of being conveyed by an electricity distributor" (paragraph 4(1) of Schedule 6 to the EA) is electricity which is on the distribution network only. Wragges confirmed that the responses did not impact or change the advice that was previously given on electricity theft to the DCP 054 Working Group.

- 2.3 The DCP 054 Working Group concluded that the inclusion in the DCUSA of an approved definition of theft in conveyance, as well as providing clarity around the associated roles and responsibilities of parties, would better enable the future development of theft incentive schemes, help facilitate the entry of stolen units into settlement and aid the development of the Revenue Protection Code Of Practice. DCP 080 has therefore been raised to facilitate that Working Group's conclusion.

3 DCP 080 – THEFT IN CONVEYANCE

- 3.1 DCP 080 was raised by British Gas and submitted to the DCUSA Panel in January 2011. The DCUSA Panel established a Working Group to assess and develop the Change Proposal (CP).
- 3.2 The DCP 080 Working Group was unable to reach agreement that the definition of theft in conveyance proposed in the CP was correct and developed an alternative, DCP 080A to reflect the views of those who did not support DCP 080, which defines it as theft for use at premises where there is no supplier registered in respect of any metering point.
- 3.3 The original proposal (DCP 080) defines theft in conveyance as:

the abstraction of electricity while it is passing through Electric Lines or Electrical Plant provided, owned or operated by the Company. For the avoidance of doubt Theft In Conveyance is not considered to occur where there is a User Registered to the Metering Point and:

- a) electricity is abstracted by means of a meter being damaged or interfered with,

[such as under an offence committed under Schedule 6 paragraph 6, or Schedule 7 paragraph 11 of the Electricity Act 1989], or

b) electricity is abstracted from Electric lines, Electrical plant or Equipment owned by the Customer or for which the Customer is responsible.

3.4 Under the original DCP 080, if electricity is abstracted from any point above the outgoing terminal of the cut-out, then it falls to the supplier to pursue the person responsible. If electricity is abstracted from the cut-out or any point prior to that, then this constitutes theft in conveyance and it falls to the distributor to take action. Paragraph 4(1) of Schedule 6 to The Electricity Act includes provisions which enable the distributor to recover the value of any electricity so taken.

3.5 The alternative proposal (DCP 080A) is based on the concept that theft in conveyance occurs where the electricity abstracted is not for use at a Premises for which a Supplier has responsibility, through registration of an MPAN or MSID.

It defines theft in conveyance as:

the abstraction of electricity for use other than at a Premises where any Metering Points or Metering Systems are Registered by a User

3.6 A Premises is defined in the Electricity Act (see section 64(1) which defines premises to include land, buildings and structures.)

3.7 Under DCP 080A, if a supplier has registered a metering point at a Premises they are responsible for the recovery of costs associated with the abstraction of electricity. If no registration exists then such recovery is the responsibility of the Distributor.

3.8 The Working Group had initially considered using the presence of a supply contract, whether deemed or actual, to indicate the existence of such a relationship but decided that this was sometimes difficult to evidence. However, if a supplier is registered and energy is consumed, the Working

Group's view was that there must be a supply contract, whether deemed or actual, and so the Working Group settled on registration as clear evidence of a relationship.

3.9 The following scenarios highlight the parties deemed responsible under each definition:

Scenario.	DCP 080: Theft in Conveyance is the abstraction of electricity while passing through lines and plant owned / provided by DNO, ie up to outgoing cut- out terminals.	DCP 080A: In circumstances where a Supplier is registered under the definition relating to premises.
Stolen from the meter	Supplier	Supplier
Stolen from the outgoing Terminal of cut out	Supplier	Supplier
Stolen from the cut-out	Distributor	Supplier
Stolen from the incoming Terminal of cut out	Distributor	Supplier
Stolen from the mains	Distributor	Supplier
Stolen from a neighbouring property	Distributor	Supplier
Stolen from the services cable directly	Distributor	Supplier
Taken to a property where there is no supply contract or deemed contract.	Distributor	Distributor
		Note: Under DCP 080 A, where no MPAN or Supplier is present, it will be the Distributor who is responsible for all scenarios.

- 3.10 As part of its discussions, the Working group considered whether either of the proposed definitions had an impact on existing obligations and rights in respect of damage to equipment or in respect of safety. The Working Group agreed that it was not the intent of this change to modify existing responsibility or rights and remedies in respect of damage to equipment or for safety.
- 3.11 The Working Group seeks feedback on the interaction of these definitions with the current rights and responsibilities for damage and safety.
- 3.12 As part of its discussions, the Working group also considered whether either of the proposed definitions had an impact on existing obligations and rights that are specified in the Electricity Act.
- 3.13 The group focused on two particular parts of the Electricity Act. Firstly, Schedule 6, Paragraph 5 of the Electricity Act, which is concerned with the restoration of supply without consent and gives whoever disconnected the supply that has been reconnected the right to disconnect it again. The group was interested in how the definitions of Theft in Conveyance would interact with this right. The group concluded that the rights given by the Electricity Act should not be altered or distorted by the definition of Theft in Conveyance and believed that they would not be.
- 3.14 Secondly, the group considered Schedule 7, Paragraph 11 of the Electricity Act, which is concerned with meter tampering. The group was interested in how the definitions of Theft in Conveyance would interact with this Paragraph. The group concluded that both definitions would place rights and responsibilities for meter tampering with the Supplier, so long as industry rules have been followed, and so on balance the definition of Theft in Conveyance did not impact this Paragraph.
- 3.15 The Working Group seeks feedback on the interaction of these definitions with the provisions of the Electricity Act.
- 3.16 The DCP 080 Working Group proposes that DCUSA Clause 32.3 'Revenue Protection' should be given the status of a Part 1 matter and that an amendment be made to Clause 9.5 of the DCUSA to enable this.

4 ASSESSMENT AGAINST THE DCUSA OBJECTIVES

- 4.1 The proposers of DCP 080 and DCP 080A consider that the Change Proposal will better facilitate General DCUSA Objective 2¹ and 3². The CPs give definition to Suppliers' responsibilities with regard to theft and therefore create a level playing field for all, including new entrants, and also give DNO and IDNO parties a clear understanding of their responsibilities with regard to theft in conveyance.

5 LEGAL DRAFTING

- 5.1 The proposed legal drafting for DCP 080 and DCP 080A is attached as Appendices A and B.
- 5.2 Note that the DCUSA currently makes reference to a Revenue Protection Code of Practice and for clarity this is not the CoP being developed by the DCP 054 Working Group but is a document that originates from 1998. The Working Group recognises that this may subsequently be amended by DCP 054.
- 5.3 The drafting goes on to state that where Theft in Conveyance occurs, the distributor shall be entitled to take action. All other instances of theft are for the User (generally the supplier) to act upon. The drafting does not prescribe what action should be taken as that will be for the relevant party to determine. Note that the Electricity Act gives distributors a right to recover revenue in the event of theft in conveyance, not an obligation to do so.

6 IMPLEMENTATION

- 6.1 DCP 080 is deemed to be a Part 1 matter in accordance with Clause 9.4.2(D). The CP will therefore require Authority consent. The proposed implementation date for DCP 080 and DCP 080A is the next DCUSA Release following Authority approval.

7 CONSULTATION

¹ The facilitation of effective competition in the generation and supply of electricity and (so far as is consistent therewith) the promotion of such competition in the sale, distribution and purchase of electricity

² The efficient discharge by the DNO Parties and IDNO Parties of obligations imposed upon them in their Distribution Licences.

7.1 This consultation seeks general industry views on definitions of theft in conveyance as set out in the original and alternative proposals.

- Do you understand the intent of the CP?
- Are you supportive of the principles established by this proposal?
- Which definition of theft in conveyance do you support? Please give supporting reasons.
- What impact does each definition have on parties and customers?
- Please provide examples if you believe that either of the proposed definitions creates issues with regard to existing obligations or rights under the Electricity Act, for example in Schedule 6 or Schedule 7?
- Does either of the proposed definitions have implications for parties operating under the existing Revenue Protection Code of Practice?
- Are there any unintended consequences of this proposal?
- Under DCP 080A what should happen if more than one supplier were registered to different MPANs at a Premises?
- Are there any scenarios of theft that have not been captured in the list included in paragraph 3.8 of this document?
- Do you agree that the DCUSA should be amended to ensure that any changes to clause 32.3 are classified as Part 1 matters, and therefore require authority consent?
- Do you consider that the proposal better facilitates the DCUSA objectives? Please identify which objective(s) and provide supporting comments.
- Do you have any comments on the proposed legal text?
- Are there any alternative solutions or matters that should be considered?
- Are you supportive of the proposed implementation date?
- Please state any other comments or views on the Change Proposal.

- 7.2 Responses should be submitted using Appendix C to dcusa@electralink.co.uk no later than **20 May 2011**.
- 7.3 Responses, or any part thereof, can be provided in confidence. Parties are asked to clearly indicate any parts of a response that are to be treated confidentially.

8 NEXT STEPS

- 8.1 Following the end of the consultation period the DCP 080 Working Group will consider the responses. The Working Group will liaise with the DCUSA Legal Advisers to ensure that any proposed changes to the text are robust and in keeping with the current DCUSA drafting. The Change Report will then be submitted to the DCUSA Panel before being issued to all Parties for a vote.
- 8.2 If you have any questions about this paper or the DCUSA Change Process please contact the DCUSA Help Desk email to DCUSA@electralink.co.uk or telephone 020 7432 3011.

9 APPENDICES

- 9.1 Appendix A – Proposed legal text DCP 080
- 9.2 Appendix B – Proposed legal text DCP 080A
- 9.3 Appendix C – Response Form