

Minutes

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| Meeting Name | DCP 054 Working Group | Meeting Number | 017 |
| Meeting Date | 14 January 2011 | Meeting Time | 10:00 |
| Venue | ElectraLink, 2-3 Golden Square, London, W1F 9HR | | |

Attendee

Glenn Sheern (Chair)
Andrew Wallace
Angela Mann
Chris Harding
Derek Beale (Teleconference)
Heath Watts-Robinson (Teleconference)
Jon Spence
Kevin Woollard
Tony Savka
Sasha Pearce
Alex Burford (Secretary)

Company

E.ON UK
Ofgem
E.ON UK
EDF Energy Customers
UK Power Networks
Central Networks
ELEXON
British Gas
Electricity North West
NPower
ElectraLink Limited

1. ADMINISTRATION

- 1.1 Apologies were received from and Donna Townsend (ESP Electricity).

2. MINUTES MEETING 016

- 2.1 The minutes of the previous meeting were agreed with one amendment to 6.4 to ensure clarity.

3. OUTSTANDING ACTIONS

- 3.1 An updated action log is attached as Appendix A.

4. DCP 054 SUBGROUP UPDATE

- 4.1 SP provided an update on the work done by the DCP 054 Subgroup. The group noted the draft Theft of Electricity and Gas Code of Practice (CoP) document, which was circulated to the group for information prior to the meeting. It was noted that progression of electricity elements of the CoP is dependent on a decision to the legal questions around the roles and responsibilities in theft in conveyance but that the gas elements can continue to be developed. SP confirmed that the Subgroup is set to meet on the 21 January 2011.

5. ISSUE 039 UPDATE

- 5.1 JS gave an update to the group on the development of the Standing Issue 039 - Processing Unrecorded Units identified by Revenue Protection Services. He noted that the group has now completed its work and will issue a paper to the BSC Panel highlighting its findings and proposing a number of options that could be progressed. It was noted that it will then be up to a BSC party to raise an options as a formal modification.
- 5.2 Members noted that the decisions reached in relation to theft in conveyance may also impact the work carried out under Issue 039 and that there is still also a dependence on Ofgem's impact assessment on revenue protection, which is due in April 2011.

6. REVIEW OF DCP 054 THEFT OF ELECTRICITY CONSULTATION COMMENTS

- 6.1 The group reviewed the DCP 054 Theft of Electricity consultation responses, which sought industry views on interpretations of certain key statutory provisions, in order to assist the development of the CoP and the BSC Issue 39. The group noted that 11 respondents replied to the consultation and each comment was reviewed in detail:

Contractual Disconnection Rights.

- 6.2 The group noted that respondent's views were split between the two definitions of the Contractual Disconnection rights as opposed to statutory disconnection rights. A number of parties highlighted their interpretation. KW noted that there was a split view between domestic and commercial contracts. The group noted that due to the unclear definition of this issue, the issue should be considered again at its next meeting, following internal discussions with the Ofgem legal representatives, who will review the comments.

Interpretation of paragraph 1(1) of Schedule 7 to the EA

- 6.3 The group noted that the majority of respondents agreed with position B.

"It has been suggested that while paragraph 1(1) imposes a duty on a supplier to ensure that a meter is provided, it would be unduly onerous to construe a supplier to be in breach of that duty where (despite the supplier having provided a meter) that meter is circumvented by the criminal acts of a consumer. In such circumstance, as long as the supply contract was worded to cover all electricity supplied to the premises (as opposed to just electricity supplied through the meter) the supplier would be able to recover relevant charges in respect of the abstracted electricity under an express supply contract."

- 6.4 It was noted that Ofgem's view was that any form of tampering to the meter should be charged at the billing contract rate, however currently this is optional.

- 6.5 The group agreed with the definition of position B.

Application of Deemed Contracts

- 6.6 The group noted that the majority of respondents agreed with Position B.

"The suggestion is that only one supply contract (either express or deemed) can exist at any one time in respect of a supply taken at a single premises. Paragraph 3(2)(c) refers to a supply having been previously made; a deemed contract will only therefore be created where an express contract (or a previous deemed contract) ceases to exist."

- 6.7 The group noted that the position may be different under an express contract and may impact charges to customers. AW noted a difference in relation to charges for metering. GS noted if the meter is bypassed, parties may not be able to charge for the meter, as it is not damaged.

- 6.8 The group agreed with the definition of position B.

Interpretation of paragraph 4(1) of Schedule 6 to the EA

6.9 The group noted the definition:

“Where any person takes a supply of electricity which is in the course of being conveyed by an electricity distributor, the distributor shall be entitled to recover from that person the value of the electricity so taken.”

- 6.10 The group reviewed comments on the above definition. It noted that there is still no clear agreement as to the definition of theft in conveyance. It was noted that if a supplier is responsible under a deemed contract then it is up to the supplier to pursue the theft. The group noted that the worst outcome is that no party takes responsibility for the theft and it goes un-investigated. The group agreed that theft in conveyance stops when the supplier takes responsibility; the issue is at what physical point of the metering system the supplier becomes responsible for the theft. The group noted that in order for work to progress a CP should be raised seeking to clarify the roles and responsibilities around theft in conveyance. Ofgem indicated its support for such a proposal.

Interpretation of paragraph 11 of Schedule 7 to the EA

- 6.11 The group reviewed the comments in relation to the interpretation of Paragraph 11 Schedule 7 of the Electricity Act. The group noted that the consensus view is that the responsible party is the supplier of the individual committing the illegal action. The group also discussed disconnection and noted that supply can be withheld in certain circumstances and the customer will not be reconnected until the debt has been resolved.

Additional Comments

- 6.12 The group reviewed the additional comments from Central Networks which noted its view that the consultation questions are supplier orientated. The group considered the response and noted that distributors and Ofgem have been present during the development the issues and were involved in the drafting of the consultation.
- 6.13 The group noted additional comments from the Electricity Network Company which stated that as a distributor it is no longer mandated to provide metering services and those distributors who chose not to be active meter operators do not necessarily have the required skills base to deal with meter tampering instances. ENC suggested that such parties could, therefore, experience high costs to procure those services. The party also asked whether the work carried out by this workgroup has been/should be linked to the Revenue Protection work developed by the Gas Forum, to ensure consistency. The group was of the opinion that the benefits across the industry would outweigh the costs to individual parties and noted that there has been open communication between the DCP 054 Working Group and the Gas Forum as well as the SPAA Expert Group.
- 6.14 The group considered comments from SSE Energy Supply Limited, which suggested that given the other consultations and work on this issue being carried out by the industry and Ofgem at the current time, it is premature to carry out further work on this matter under the DCUSA. The group noted that the work is being carried out in parallel with the other codes and comes in line with the Ofgem Impact Assessment on the issue expected in April 2011.
- 6.15 The group also noted comments from SSE Power Distribution which questioned the reasonableness of some of the positions presented in the

consultation. The group noted that the areas for consultation were the outcome of discussions between Ofgem and DCUSA legal advisers. They went on to note that work is being conducted by Ofgem on this issue and that the DCUSA is not the relevant area for progression. The group considered that Ofgem is aware of, and contributing to, the developments under the DCUSA and areas that are not relevant to the DCUSA are being progressed under other industry codes.

- 6.16 The group noted that Ofgem will review all consultation comments and take them into consideration when drafting its impact assessment on theft. AW took an action to relay comments back initially at Ofgem for comment.

Action: AW

7. INCENTIVE SCHEMES UPDATE

- 7.1 KW gave an update on the SETS incentive scheme for the gas industry noting that it is still being discussed internally at British Gas and may be taken forward at a future date. He noted that there has yet been a decision on what an electricity scheme would include but agreed to draft a proposal for discussion at the next meeting.

Action: KW

- 7.2 KW updated the group on the progress of a Reasonable Endeavours Incentive scheme. KW confirmed that British Gas is still considering its position on the proposal but is minded to submit a change to the DCUSA.
- 7.3 KW noted that the National Revenue Protection Service (NRPS) for the gas industry is still being progressed under the Gas Forum. He went on to note that an electricity equivalent of the NRPS may be progressed by British Gas following the conclusion of the Gas Forum project.

8. NEXT STEPS

- 8.1 The group agreed to progress with a separate change address the issue of Theft in Conveyance and bring a definition into the DCUSA. The group noted that once the CP has been agreed and there is a clear definition work will be able to progress on BSC Issue 39 and the DCUSA Code of Practice. KW took an action to raise a CP setting out the definition of theft in conveyance as developed by Wragge and Co. The group noted that any party will be able to raise an alternative to that CP to be considered by parties and the Authority.

Action: KW

- 8.2 It was agreed that the Working Group will meet again on 11 February 2011 to have a discussion in relation to any developments.

9. ANY OTHER BUSINESS

- 9.1 There were no other items of business.

10. DATE OF NEXT MEETING

- 10.1 The next DCP 054 Working Group will convene at 10.00 am on 11 February 2011 at ElectraLink, London.

APPENDIX A – ACTIONS**OPEN ACTIONS**

| No. | Action / Update | On | Due |
|------------|--|-----------|------------|
| 005/02 | Speak with the Information Commissioner's Office (ICO) to understand the potential for / impact of having a flag placed in Data Collector's systems to highlight theft. Ongoing AM is awaiting response from ICO. | AM | 04/02/11 |
| 014/02 | Raise a Reasonable Endeavours Change Proposal under the DCUSA so that it is available for inclusion in the Ofgem Impact Assessment. Ongoing, see minutes incentive scheme update. | KW | 04/02/11 |
| 014/03 | Discuss the issue of Gas Forum funding for NRPS discussions at the next Panel meeting. Ongoing, will address at next panel meeting. | GS | 04/02/11 |
| 017/01 | AW took an action to relay comments back initially at Ofgem for comment. | AW | 04/02/11 |
| 017/02 | Draft a scheme similar to the Gas Sets Incentive Scheme, for a discussion at the next meeting. | KW | 04/02/11 |
| 017/03 | Raise a CP give a definition of theft in conveyance. | KW | 04/02/11 |

CLOSED ACTIONS – at this meeting

| No. | Action / Update | On | Due |
|------------|---|-------------|------------|
| 016/01 | Update the theft of electricity consultation and issue to DCUSA parties on 08 December. Complete, see item 6 of the minutes. | ElectraLink | 08/12/10 |
| 016/02 | Circulate the theft of electricity consultation collated comments to the Working Group by 12 | ElectraLink | 07/01/11 |

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| | January 2011. Complete, the consultation was agreed by the group and issued to parties. | | |
| 016/03 | Provide a detailed update on the progress of the electricity Incentive Schemes to the Working Group at its next meeting. Complete, see item 7 of the minutes. | KW | 07/01/11 |