

Ofgem Comments on the DCP 181 Draft Change Report

From: Deirdre Bell [<mailto:Deirdre.Bell@ofgem.gov.uk>]
Sent: 20 November 2014 17:08
To: DCUSA
Subject: RE: For Review: Draft DCP 181 Change Report

Hi Claire,

Thank you for your email, and for sending me the relevant information.

Following our review of the draft DCP 181 Change Report we have a number of comments which we would like to raise:

- We are unclear how the terms of an existing agreement can be binding on a new owner/occupier (a third party) unless they have specifically agreed to be bound to the existing agreement (for example through a new agreement). We would agree with the point made in para 4.38 of the change report that “a legal view would be needed to decide if a party can be bound by bespoke terms that they had not formally agreed to as part of the NTC process.”
- The working group considered that clear notification (in advance of transfer of ownership/lease) to the customer of non-standard conditions is critical to this mod (p19 of draft change report). Has any clear solution been found to this issue? Without a clear mechanism to inform consumers of the enduring terms of the connection agreement it is difficult to understand how this mod will work in practice.
- We think it would be useful to check the legal interpretation put forward in paragraphs 2.5 and 2.6 of the draft Change Report. It is not clear to us that the combined reading of ss.16(4) and 21 of the Electricity Act implies that ‘on change of ownership the rights to capacity are maintained’. The reference to the right to connect/maintain is to distribution system, not to the ancillary rights/terms of connection. The legal advice in the Change Report is ambiguous in that it finds ‘whether or not the section 21 terms apply automatically (by virtue of statute) or need to be imposed by contract is...still unclear’. This matter needs to be clarified as it would seriously impact on the enforceability of the mod otherwise.
- We have previously interpreted the duty to maintain a connection to mean physical action being taken to maintain a connection, such as renewing, replacing and repairing.
- In paragraph 4.33 the working group noted the issues with gauging an accurate indication of changes of occupier at a property and agreed to take it into consideration in developing a solution for this charge: has any work progressed on this? Is the intention for a solution to be in place before proceeding with the mod?
- Is there an intention to explore the suggestion in paragraph 4.26? If so does this raise confidentiality/data protection issues?
- Can further explanation be provided on how the modification meets the criteria of objective 2? At the moment only one respondent has provided any detail on this point and more information would be useful.

We would welcome another meeting where these issues can be discussed in detail, before the draft change report is finalised.

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If you have any queries please let me know.

Kind regards,

Deirdre Bell

Senior Policy Analyst

Smarter Grids & Governance: Distribution

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