

Proposed variation:	Distribution Connection and Use of System Agreement (DCUSA) DCP045 – Connection terms change notification		
Decision:	The Authority ¹ directs that proposal DCP045 be made ²		
Target audience:	DCUSA Panel, Parties to the DCUSA and other interested Parties		
Date of publication:	15 October 2009	Implementation Date:	22 October 2009

Background to the modification proposal

Clause 17 of section 2A of the DCUSA sets out obligations on Users (typically suppliers)³ to act as the distribution company's⁴ agent and procure connection agreements between its customers and the Company. The terms of the connection agreement are standard (the National Terms of Connection) and are set out in Schedule 2B of the DCUSA⁵.

In accordance with paragraph 11 of Schedule 2B of the DCUSA, any change to the National Terms of Connection that are approved by the Authority must be "published on the website of the Energy Networks Association and in the national press".

The National Terms of Connection are currently being reviewed by the industry as part of a DCUSA Change Proposal entitled 'DCP033 – National Terms of Connection'. The purpose of DCP033 is to introduce standard terms of connection that relate to customers with large connections and unmetered supplies.

The modification proposal

On 8 July 2009, EDF Energy Networks raised DCP045 to amend the obligation that any change to the National Terms of Connection should be published in the national press. This is because they consider that the proposed changes being developed under DCO033 would require considerable space in a national paper and would be expensive for DCUSA Parties to procure.

EDF therefore recommend that an alternative notifications mechanism with a more effective communications process is implemented. In particular, DCP045 proposes to amend paragraph 11 of Schedule 2B to require only that notice is published in the national press of any changes to the National Terms of Connection. The detail of any changes would still be published on the Energy Network Association's (ENA) National Terms of Connection website⁶.

The DCP045 Change Report⁷ also proposes that the national press notice would contain details for contacting the ENA for those without internet access so that alternative means of obtaining the terms would be available. However, we note that this aspect of the proposal is not reflected in the legal drafting which accompanied the Change Report at Appendix A.

¹ The terms 'the Authority', 'Ofgem' and 'we' are used interchangeably in this document. Ofgem is the Office of the Gas and Electricity Markets Authority.

² This document is notice of the reasons for this decision as required by section 49A of the Electricity Act 1989.

³ In accordance with clause 15.2 of the DCUSA, 'Users' are either, or both of, a Supplier Party or Distributed Generator Party for the purpose of section 2A of the DCUSA,

⁴ 'The Company' is the relevant distribution company, as defined in clause 15.1 for the purposes of section 2A, and clause 36.1 for the purposes of section 2B.

⁵ Unless the Company negotiates non-standard terms in accordance with clause 17.10.

⁶ See <http://www.connectionterms.co.uk/>.

⁷ DCUSA change proposals, change reports, representations and change declarations can be viewed on the DCUSA website at <http://dcusa.co.uk/Public/Default.aspx>.

The proposer considered that DCP045 would better facilitate applicable DCUSA objective c)⁸ because it would facilitate more efficient notification of changes to the National Terms of Connection.

For further details of the change proposal, please see the Change Report.

DCUSA Parties' recommendation

In accordance with the Change Declaration⁹ for DCP045, DCUSA Parties unanimously recommended to the Authority that DCP045 be accepted and that the implementation date is also accepted.

We note that only Distribution Network Operator (DNO) and Independent Distribution Network Operator (IDNO) Parties were invited to vote on the proposal. The minutes of the DCUSA Panel meeting on 15 July 2009 explain that Supplier Parties were not invited to vote because the National Terms of Connection are a contract between distributors and customers and that the changes proposed in DCP045 do not directly impact Suppliers. DCP045 seeks only to amend the process for notifying customers of changes to the Terms. Suppliers will have full visibility of any changes to the actual terms through the DCUSA change process.

The Authority's decision

The Authority has considered the issues raised by the change proposal and the final Change Report dated 19 August 2009. The Authority has considered and taken into account the responses to the consultation on the change proposal which are attached to the Change Declaration. The Authority has concluded that:

1. implementation of the change proposal DCP045 will better facilitate the achievement of the applicable DCUSA objectives; and
2. directing that the change be made is consistent with the Authority's principal objective and statutory duties¹⁰.

Reasons for the Authority's decision

The Authority considers that DCP045 will better facilitate the achievement of applicable DCUSA objective d) - the promotion of efficiency in the implementation and administration of the DCUSA arrangements.

The specific reasons for our decision are below.

⁸ The applicable DCUSA Objectives, as set out in the Distribution Licence Standard Condition 22.2, are:

- a) the development, maintenance and operation by the licensee of an efficient, co-ordinated, and economical Distribution System;
- b) 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;
- c) the efficient discharge by the licensee of the obligations imposed upon it by this licence; and
- d) the promotion of efficiency in the implementation and administration of the DCUSA arrangements.

⁹ See footnote 5.

¹⁰ The Authority's statutory duties are wider than matters that the Panel must take into consideration and are detailed mainly in the Electricity Act 1989, the Gas Act 1986, the Utilities Act 2000, the Competition Act 1998, the Enterprise Act 2002, the Energy Act 2004 & 2008 as well as obligations arising under Community legislation.

Applicable objective d) - the promotion of efficiency in the implementation and administration of the DCUSA arrangements;

Paragraph 11 of Schedule 2B of the DCUSA requires that any changes to the National Terms of Connection that are approved by the Authority are published in the national press. This activity is an administrative function under the DCUSA.

Should DCP033 be implemented it could have a substantive effect on the existing National Terms of Connection by significantly extending the detail of terms that apply to larger demand, generation and unmetered customers. Ofgem notes the view raised by the proposer that publishing the changes introduced by DCP033 would require significant space in a national newspaper and would be expensive to procure by DCUSA Parties.

We consider that the change under DCP045 is a practical solution that would continue to ensure transparency of changes to the National Terms of Connection and would be less costly and more efficient. Therefore, we consider that the proposal will better facilitate the achievement of Applicable DCUSA Objective d). We also note that whilst cost savings made by improving the efficiency of implementing and administering the DCUSA are initially to the benefit of DCUSA Parties, they are ultimately shared with customers.

Notice of any change to the National Terms of Connection which is approved by the Authority following implementation of DCP045 will be advertised in the national press, and the terms as amended will be published on the internet at www.connectionterms.co.uk. For the avoidance of doubt, we expect that the advertisement in the national press will include reference to the nature of the change and that the amended terms can be viewed at the aforesaid internet address. The advertisement will also contain contact details for the ENA so that persons without internet access have a means of obtaining the terms as amended. Notwithstanding that these aspects of the Change Proposal are not reflected in the legal drafting, we expect any advertisement in the national press following implementation to comply with these requirements of the Change Proposal, and that that the necessary housekeeping changes are brought forward to reflect this requirement in the DCUSA as soon as possible.

As mentioned above, we note that only DNO and IDNO Parties were invited to vote on DCP045. On this occasion, we consider that this was appropriate, particularly as the proposal only relates to the notification of changes to the National Terms of Connection. However, we consider that where amendments to the DCUSA directly impact on customers we would expect suppliers to be invited to vote on such amendments.

Decision notice

In accordance with standard condition 22.14 of the Electricity Distribution Licence, the Authority hereby directs that modification proposal DCP045: '*Connection terms change notification*' be made with effect 22 October 2009.

**Rachel Fletcher,
Partner, Distribution**

Signed on behalf of the Authority and authorised for that purpose.