

## DCP 314 Meeting 10 (Teleconference)

23 November 2018 at 10:00

ElectraLink, Third Floor, Northumberland House, 303-306 High Holborn, London, WC1V 7JZ / Teleconference

Attendee	Company
<b>Working Group Members</b>	
Donna Townsend [DT]	ESP
Andrew Enzor [AE]	NPG
Chris Parish [CP]	Ofgem
Chris Barker [CB].	BU-UK
<b>Code Administrator</b>	
John Lawton [JL] (Chair)	ElectraLink
Huw Neyroud [HN] (Secretariat)	ElectraLink
<b>Apologies</b>	
Dave Wornell	WPD
Lee Wells	NPG

### 1. Administration

- 1.1 The Chair welcomed the members to the meeting and noted two apologies from Dave Wornell and Lee Wells received prior to the meeting.
- 1.2 The Working Group reviewed the “Competition Law Guidance” All Working Group members agreed to be bound by the Competition Laws Guidance for the duration of the meeting
- 1.3 The Working Group ran through the actions from the previous meeting and the updated actions are shown in Appendix 1.
- 1.4 The Working Group updated the previous meetings minutes with suggestions from the Working Group and will be circulated with the draft minutes.

**Action 10/01 - Update the minutes with the suggestion from the Working Group members and circulate with the draft minutes.**

## 2. Review Change Report

- 2.1 The Chair directed the Working Group to the Draft Change report amended prior to the meeting by a Working Group member, with the aim of finalising the report ready for Panel review in December.
- 2.2 The Working Group progressed through the report accepting the changes made by the Chair and Working Group member, with the addition of Extra Energy to the list of Defaulted Suppliers.

**Action 10/02: Update SoLR list included in the Change Report to be up to date for December Panel**

- 2.3 It was also agreed within the General objectives of the Change Report under the First objective to note that the majority of the Working Group indicated this change would introduce an administrative burden into the DCUSA requirements for the DNO and IDNOs Parties.
- 2.4 The final addition to the Change Report the Working Group made was under Section 6 to include a link to the Informal consultation being completed by Ofgem on SoLR.

**Action 10/03: include a link to the Informal consultation being completed by Ofgem on SoLR under section 6.**

## 3. Review legal texts DCP 314

- 3.1 The Working Group then proceeded on to the legal text for DCP 314, it was noted that the legal text has now been reviewed by Gowlings PLC and returned for a assessment by the Working Group. To see the full amended text please refer to the most recent legal text sent out in the meeting pack for Meeting 11 on the 26 of November found at this [Link](#).
- 3.2 The first point considered by the Working Group within the legal text was the definitions section at the top of the text, the Working Group noted that Gowlings had made the addition of SoLR to the definition of Defaulting Supplier, which they didn't agree with and asked for this to be amended back to just "Defaulting Supplier". The Working Group also agreed the definition itself of Defaulting Supplier needs to be tightened and made more concise to make it explicit that it is the Defaulting Supplier that has their licence revoked rather than a process in which the Authority can choose to revoke the licence.
- 3.3 The Working Group agreed to amend the text in the document during the meeting to the below text;

<b>Defaulting Supplier</b>	means, the supplier party whose licence the Authority has revoked.
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- 3.4 It was also agreed that the Change Report would need to be revisited to check for references to the Defaulting Supplier to make sure it was showing the correct definition and stated the revocation of the licence and not the Authority issuing the Supplier of Last Resort Direction.

**Action 10/04: check for references to the Defaulting Supplier to make sure it was showing the correct definition.**

- 3.5 The Working Group then proceeded onto the current definition of Unrecovered EDNO UoS Bad Debt, with the Working Group concluding the main issue with the current text leading to the potential for confusion around the bad debt and final invoice. This was explained as currently the text doesn't consider an invoice after the licence is revoked however, in the process the Supplier is billed up to the Final Day of Supply. The Working Group concluded that a further definition will need to be added the legal text for "Final Day of Supply".

**Final Day of Supply** means, the final date for which the Defaulting Supplier Party was responsible for the supply to premises.

- 3.6 This definition was needed due to the potential for the current definition of Unrecovered EDNO UoS Bad Debt leading to the process not considering invoices after the event of default. With the addition of this definition it will aim to cover this foreseen issue.
- 3.7 For the current legal text, it was also decided that there was no need for the inclusion of "Last Resort Supply Direction" as in the DCP 314 process this is not the trigger for the bad debts and the revocation of the licence is the true trigger for DCP 314 to commence. During the meeting the mentions of Last Resort Supply Direction were removed from the text in tracked changes.
- 3.8 Once the Working Group agreed the addition of "Final Day of Supply" they returned to finalising the definition of Unrecovered EDNO UoS Bad Debt. The amendment included referencing to the Final Day of Supply within the definition to make sure of fully covering the whole invoicing process even after the revocation of Supply Licence.

**Unrecovered EDNO UoS Bad Debt** Means, the Use of System Charges payable (but not yet paid) to the EDNO by the Defaulting Supplier in respect of Settlement Days prior to and including the Final Day of Supply.

- 3.9 Once the definition section was amended the Working Group progressed to the next section 1.5 of the legal text around the disputes which the Working Group accepted as it was in the amended text after reading through the embedded comment from Gowlings PLC.
- 3.10 The next amendment was under the new section due to be added to Schedule 19 and was included to make sure the party was aware that they must comply with Section 1 of DCUSA when proceeding through this process before actually commencing the process.

3.11 The addition to the text reads:

*8.1 This section only applies where the EDNO has complied with Schedule 1 in respect of the Defaulting Supplier.*

3.12 The action was taken to make sure the paragraph references throughout are updated to match the addition of the new paragraph.

**Action 10/05: update paragraph references throughout to match the addition of the new paragraph.**

3.13 The Chair then noted that throughout the rest of the legal text the reference to Defaulting “SoLR” Supplier in the text will need to be amended to purely Defaulting Supplier.

**Action 10/06: update references to Defaulting SoLR Supplier to Defaulting Supplier.**

3.14 The Chair asked the Working Group about paragraph 8.2 (d) and the wording of the paragraph, the Working Group agreed that the paragraph was too great a length and attempted to reword the sentence to make it more concise.

3.15 The original wording of the section was;

*8.2 (d) the periods up to and including the Final Day of Supply to which the Unrecovered EDNO Bad Debt relates, the amount of the DNO Party's charges to the EDNO under this Schedule 19 in respect of the premises covered by the Last Resort Supply Direction and those periods (in the formats specified in Paragraphs 8.3 and 8.4), and the number of days (if any) for which the Unrecovered EDNO Bad Debt for each such period was outstanding past its due date as at the end of the Final Day of Supply;*

3.16 With the Working Group suggesting breaking the paragraph into bullet points to cover the point in a shorter more concise way as below.

*8.2 (d) the amount of the DNO Party's charges to the EDNO under this schedule 19 (In the formats specified in Paragraphs 8.4 and 8.5) in respect of:*

- *Settlement Days (or in the case of Non HH settlement and HH aggregated settlement runs) up to and including the Final Day of Supply for which the EDNO has not received payment from the Defaulting Supplier; and*
- *Premises to which the Defaulting Supplier was responsible for the supply of electricity.*

*And the number of days (if any) for which the Unrecovered EDNO Bad Debt for each such period was outstanding past its due date at the end of the Final Day of Supply.*

- 3.17 This was not accepted as an agreed amendment to the section as some members felt that this didn't define the point any more effectively than the legal text had previously done and therefore the Legal text was accepted to be recirculated with the updates from the meeting for review and for Working Group members to make amendments and suggestion where they felt necessary.

**Action 10/07: Circulate the updated Legal text to the Working Group for thoughts on how to improve the text.**

- 3.18 While working through section 8.2 (e) a potential issue was raised by one member of the Working Group around a section of the legal text that may impact IDNOs.

*(e) the total of **any and all Collateral** which the EDNO held in respect of the Defaulting SoLR Supplier Party and the Unrecovered EDNO UoS Bad Debt, as at the end of the Final Day of Supply; and*

- 3.19 The issue raised, was around the potential for confidential information being shared through the Unrecovered Bad Debt Models, currently the Model shows the cover held by the IDNO and this is provided to the DNO as an input to work out the final payment due back to the IDNO. The Working Group member explained to the rest of the group that from this data you could potentially work out annual sales of the IDNO and other sensitive information and asked if there was a way in which this could be made confidential or hidden from the DNO to make sure the information is not compromised.
- 3.20 The argument from one Working Group member for not providing the information was that by agreeing to in Section 8.1 in the legal text meant compliance to Schedule 1 meaning that the IDNO would be self-certifying that they are compliant to the Credit Cover Arrangements therefore, there is no need to provide the additional value that could release commercially sensitive information to the DNO.
- 3.21 From this point another Working Group member explained that without these numbers being provided in the current Model there is an issue with being able to validate the amounts. The Working Group discussed the issue with no resolution and it was decided that from this discussion an email would be issued to the IDNO parties to find out if they agreed with the Working Group member that it could a confidentiality issue or if they are happy to proceed as is.

**Action 10/08: Send email to IDNO parties regarding the issue around potentially confidential data being shared.**

## 4. Unrecovered Bad Debt Models Option A and C

- 4.1 The Working Group decided that due to the issues identified while reviewing the legal text there is no need to update the Models until the text is agreed.

## 5. Work Plan

- 5.1 The Working Group agreed the next steps as follows:
- 5.2 Meeting on the 3<sup>rd</sup> of December 2018 to discuss the:

- legal text; and
- Change Pack Contents

## 6. Agenda Items for the Next Meeting

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6.1 The following agenda items will be discussed at the next meeting:

- Change Report;
- Legal Texts; and
- Unrecovered Bad Debts Models.

## 7. Any Other Business

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7.1 There were no items of AOB and the Chair closed the meeting.

## 8. Date of Next Meeting: 3rd December 2018 at 9am

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8.1 The Working Group agreed that the next meeting will be held on 03 December at 9am via teleconference.

## 9. Attachments

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9.1 Below are attachments to the Minutes;

- Attachment 1 – Meeting 09 Final Minutes
- Attachment 2 – DCP 314 Work Plan

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### Actions DCP 314 Meeting 10

Action Ref.	Action	Owner	Update
10/01	Update the minutes with the suggestion from the Working Group members and circulate with the draft minutes.	HN	Completed
10/02	Update SoLR list included in the Change Report to be up to date for December Panel	HN	<b>Ongoing</b> – Spark have now also Defaulted
10/03	include a link to the Informal consultation being completed by Ofgem on SoLR under section 6.	HN	Completed
10/04	check for references to the Defaulting Supplier to make sure it was showing the correct definition.	HN	<b>1.4 of the Change Report</b> - One reference to LRSD in the text under 1.4. “where there is a defaulting supplier resulting in a LRSD being issued by the Authority”

<b>10/05</b>	update paragraph references throughout to match the addition of the new paragraph.	HN	Completed
<b>10/06</b>	update references to Defaulting SoLR Supplier to Defaulting Supplier.	HN	Completed
<b>10/07</b>	Circulate the updated Legal text to the Working Group for thoughts on how to improve the text.	HN	Completed
<b>10/08</b>	Send email to IDNO parties regarding the issue around potentially confidential data being shared.	HN	Completed

#### Closed Actions DCP 314

Action Ref.	Action	Owner	Update
<b>09/01</b>	investigate the contractual agreements in place with CEPA/TNEI in relation to the creation of Models.	HN	Completed
<b>09/02</b>	Process flow diagram to be updated to include a Step F after Step E to make sure the LDNO is covered within the guidance note.	HN/JL	Completed
<b>09/03</b>	Legal text amendments to be made to both DCP 314 and DCP 314A and then sent to Gowlings PLC for legal review with the aim for these to be circulated on the 19 November to the Working group for final review.	JL	Completed
<b>09/04</b>	Secretariat to email reminder to the industry post-Christmas regarding voting for DCP314 Change report	HN	Completed
<b>09/05</b>	Working Group member to amend the Why Change Section of the Change Report and provide an updated section to the Secretariat and Chair for redrafting of the Final Report.	AE	Completed



<b>09/06</b>	Check the change report for the references to revocation of a Supplier license being the start of this process, and update to Supplier failure to match the correct process	HN	Completed
<b>09/07</b>	Take on board comments from the meeting and the tracked comments added to the Change Report and redraft a more concise General objectives section for the next Working Group meeting	JL	Completed
<b>09/08</b>	Circulate the Legal texts one final time before sending to Gowlings for final amendments	JL	Completed