DCP 314 Draft Legal Text

Appropriate treatment of Bad Debt following appointment of Supplier of Last Resort

Add the following new definitions to Clause 1:

Defaulting Supplier	means a Supplier Party which has had its licence revoked by the Authority.
Final Day of Supply	means, in respect of a Defaulting Supplier, the final day for which the Defaulting Supplier was responsible for the supply of electricity to premises.
Final Reconciliation Settlement Run	has the meaning given to that expression in the Balancing and Settlement Code.
Unrecovered EDNO UoS Bad Debt	means, in respect of a Defaulting Supplier and each EDNO, 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.
Unrecovered EDNO UoS Bad Debt Model	means the model made available from time to time on the DCUSA Website by the Panel for the purposes of calculating the amount of Unrecovered EDNO UoS Bad Debt that can be re-distributed from the EDNO to the DNO Party, as described in paragraph 8 of Schedule 19 (Portfolio Billing).

Add the following new paragraph 1.5 to Schedule 19:

1.5   Notwithstanding Paragraph 1.4, where Paragraph 8 applies, the DNO Party and the EDNO shall use reasonable endeavours to resolve any dispute in good faith. Where a dispute remains unresolved after 20 Working Days, either the DNO Party or the EDNO may, on notice to the other:

(a)   refer the dispute to arbitration in accordance with Clause 58; or

(b)   elect not to rely on arbitration, in which case arbitration will not apply and either of them may refer the dispute to the Authority for its determination, which shall be final and binding.

Add the following new paragraph 8 to Schedule 19:

8   <u>SUPPLIER OF LAST RESORT</u>

8.1   This Paragraph 8 only applies to the EDNO in respect of a Defaulting Supplier where the EDNO has complied with Schedule 1 in respect of the Defaulting Supplier.

8.2   Where an EDNO is seeking re-distribution of Unrecovered EDNO UoS Bad Debt, the EDNO shall, in line with the timescales detailed in Paragraph 8.4 and 8.5, provide to the DNO Party:

(a)   the name of the Defaulting Supplier;

(b)   the Final Day of Supply;

(c)   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) for periods up to and including the Final Day of Supply in respect of which the EDNO has not received payment from the Defaulting Supplier, 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;

(d)   the total of any and all Collateral which the EDNO held in respect of the Defaulting Supplier expressed as a percentage of the total Unrecovered EDNO UoS Bad Debt, as at the end of the Final Day of Supply; and

(e)   the total of Unrecovered EDNO UoS Bad Debt which the EDNO is seeking to re-distribute to the DNO Party, calculated in accordance with Paragraph 8.3, along with calculations clearly setting out how this total has been determined.

8.3   In order to calculate the amount of Unrecovered EDNO UoS Bad Debt which is to be re-distributed from the EDNO to the DNO Party, the EDNO shall:

(a)   calculate the amount of the DNO Party's charges to the EDNO under this Schedule 19 in respect of the premises previously supplied by the Defaulting Supplier and the periods to which the Unrecovered EDNO UoS Bad Debt relates (as detailed in Paragraphs 8.4 and 8.5);

(b)   determine the total of those charges which the EDNO can offset using Collateral using the percentage determined in Paragraph 8.2(d), with the Collateral being used to offset the DNO Party's charges with the earliest associated invoice due date; and

(c)   determine the Unrecovered EDNO UoS Bad Debt to be re-distributed from the EDNO to the DNO Party by reducing the charges calculated under Paragraph 8.3(a) which have not been offset by Collateral under Paragraph 8.3(b) to reflect the proportion of such bad debt which would be recoverable if the unpaid invoices had been levied by the DNO Party, based on the number of Working Days from (but excluding) the due date to (and including) the Final Day of Supply, as detailed in Paragraph 8.6.

8.4   In order to calculate the invoices for Use of System Charges attributable to the EDNO's non-half-hourly-settled and half-hourly-aggregated-settled Connectees produced under Paragraph 2, within two months after receipt of the Final Reconciliation Settlement Run for the Final Day of Supply, the EDNO shall create a report using the latest version of the Unrecovered EDNO UoS Bad Debt Model, and data extracted from that sent from the Supplier Volume Allocation Agent to the EDNO via the D0030 data flow, which relates to the period for which the EDNO has payments outstanding from the Defaulting Supplier.

8.5   In order to calculate the invoices for Use of System Charges attributable to the EDNO's site-specific half-hourly-settled Connectees produced under Paragraph 3, concurrent with the timing of the report sent in accordance with Paragraph 8.4, the EDNO shall create a report using the latest version of the Unrecovered EDNO UoS Bad Debt Model, and the half-hourly DUoS reports which relate to sites that were

Registered to the Defaulting Supplier and which relate to a period for which the EDNO has payments outstanding from the Defaulting Supplier.

8.6   The EDNO shall calculate the amount referred to in Paragraph 8.3(c) as follows:

(a)   for invoices raised by the DNO Party for which the corresponding Unrecovered EDNO UoS Bad Debt was not yet overdue for payment by the Defaulting Supplier as at the end of the Final Day of Supply and which cannot be offset by Collateral under Paragraph 8.3(b): 100% shall count as recoverable for the purposes of Paragraph 8.3(c); and

(b)   for invoices raised by the DNO Party for which the corresponding Unrecovered EDNO UoS Bad Debt was overdue for payment by the Defaulting Supplier as at the end of the Final Day of Supply and which cannot be offset by Collateral under Paragraph 8.3(b): the following percentage shall count as recoverable for the purposes of Paragraph 8.3(c):

No. of Working Days overdue	Percentage
1-30	100
31-35	90
36-40	80
41-45	70
46-50	60
51-55	50
56-60	35
61-65	20
>65	5

8.7   Where the EDNO receives further payments in respect of the Unrecovered EDNO UoS Bad Debt after the Final Day of Supply (including from a liquidator, administrator or similar, but excluding via the Collateral), then such payments shall be applied to reduce the debt that can be re-distributed from the EDNO to the DNO Party under this Paragraph 8 in the same way as applies in respect of the Collateral. Where such further payments are received by the EDNO before it provides its reports under Paragraph 8.2, such further payments shall be added to the Collateral

referred to in Paragraph 8.2(d). Where such further payments are received by the EDNO after it provides its reports under Paragraph 8.2, the EDNO shall pay to the DNO Party the amount which would not otherwise have been paid by the DNO Party had such further payments been added to the Collateral referred to in Paragraph 8.2(d).

8.8   The DNO Party may include the EDNO data relating to the Defaulting Supplier as part of the DNO Party's submission for cost recovery to the Authority.

8.9   Where the Authority requests additional information to that provided under Paragraph 8.2 and that additional information relates to the EDNO data, the EDNO shall provide such information to the DNO Party in a timely manner in order that the DNO Party meets the timetable provided by the Authority. If the Authority has not provided a timetable, then such information shall be provided within 10 Working Days from the DNO Party's request.

Gowling WLG (UK) LLP

8 January 2019