

# DCP 294 Working Group Meeting 10

06 March 2018 at 10:00am

Web-Conference

| Attendee                                     | Company                               |
|--|---------------------------------------|
| <b>Working Group Members</b>                 |                                       |
| Mark Burton [MB]                             | UK Power Networks                     |
| Michael Doward [MD]                          | Electricity North West Ltd            |
| Mihaly Orban [MO]                            | Scottish and Southern Energy Networks |
| Peter Turner [PT]                            | Northern Powergrid                    |
| Thomas Cadge [TC]                            | BUUK                                  |
| Tim Hughes [TH]                              | Western Power Distribution            |
| Wendy Mantle [WM]                            | Scottish Power Energy Networks        |
| <b>Ofgem Observer</b>                        |                                       |
| Olivia Powis [OP]                            | Ofgem                                 |
| <b>Code Administrator</b>                    |                                       |
| John Lawton [JL] (Chair)                     | ElectraLink                           |
| Hollie Nicholls [HN] (technical secretariat) | ElectraLink                           |

## 1. Administration

- 1.1 The Chair welcomed the members to the meeting.
- 1.2 The Working Group reviewed the “Competition Law Do’s and Don’ts”. All Working Group members agreed to be bound by the Competition Laws Do’s and Don’ts for the duration of the meeting.
- 1.3 The Working Group agreed that the minutes from the previous meeting, held on 05 February 2018, were a true reflection of the discussions held.

## 2. Purpose of the Meeting

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- 2.1 The Chair set out that the purpose of the meeting is to review the draft Change Report and review the legal advice received on the draft legal text.

## 3. Review of the DCP 294 Legal Text

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- 3.1 The Working Group reviewed the draft legal text and the advice received from the Legal Advisors. An updated version of the legal text can be found as attachment 1.
- 3.2 Gowlings agreed that Ofgem wouldn't have the vires to hear disputes under Section 23 of the Electricity Act. This is because the DCUSA terms associated with disputes are outside of Section 23 and Section 23 is also time-limited so that it only applies during the first six months following the making of the connection. However, the Working Group agreed that this timescale is 12 months, not six months.
- 3.3 Due to the advice received, the Legal Advisor changed clause 39.12A of the proposed legal text to state, "**may** refer the matter to the Authority" rather than "**entitled** to refer the matter to the Authority". The Chair questioned whether this would alleviate the concerns from the Working Group and the Ofgem Observer.
- 3.4 The Ofgem Observer explained that they had discussed the matter with the Ofgem legal team before the meeting and before providing an answer, they would need to look into the issue further. It is not clear what the impacts would be, and it would be inappropriate to extend the vires to Ofgem as this may also need to be a decision made by the Secretary of State.
- 3.5 The Chair questioned how much of an issue disputes are in reality and have there been any referrals made by the DNOs that have not been able to be agreed and have had to go to the Authority for determinations.
- 3.6 It was highlighted that when the CP was originally proposed the intention was that it didn't want Parties to be able to reduce maximum capacity unreasonably. There was no intention of the CP being detrimental as there is a significant benefit for the IDNO community.
- 3.7 The Chair stated that there is nothing in Section 2B in relation to the variation clause on over capacity and the right for disputes to go to the Authority, however, there is a dispute mechanism that is built into DCUSA via the arbitration process which could be utilised in these instances. On this point, the Chair questioned whether the Working Group would be comfortable with removing reference to section 23 of the Electricity Act from the proposed legal text. The Working Group agreed that they would be comfortable with this change being made. The Secretariat agreed to remove this and send the updated legal text to the Legal Advisors for a final review.

## 4. Review of the DCP 294 Change Report

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- 4.1 The Working Group reviewed the draft Change Report and an updated version can be found as attachment 2.
- 4.2 The Chair highlighted that the summary section of the Change Report showcases what the change is trying to do following on from the progression that the Working Group have made. The Working Group confirmed that they are comfortable with this section of the report.
- 4.3 The Working Group discussed the Objectives section of the Change Report and walked through each of the DCUSA General Objectives and DCUSA Charging Objectives to determine whether they believed that the change would have a positive, negative or neutral impact.
- 4.4 In regards to the General Objectives, there was a unanimous decision by Working Group members that General Objectives 1, 3 and 4 would be better facilitated by this change. In regards to the Charging Objectives, the majority view of Working Group members was that there would be a neutral impact on all Charging Objectives.
- 4.5 The Working Group agreed that there were no further comments on the Change Report at this time. The Chair confirmed that this version would be circulated to Working Group members by close of play on Wednesday 07 March and any final comments should be made by close of play on Monday 12 March. The final version of the Change Report can then be included in the papers for the March DCUSA Panel meeting.

**ACTION 10/02: ElectraLink**

**ACTION 10/03: WG Members**

## 5. Work Plan and Next Steps

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- 5.1 The current Work Plan was reviewed by the Working Group and a copy of the Work Plan can be found as attachment 3.
- 5.2 The Working Group agreed that the next steps were as follows:
  - The Secretariat to circulate the updated Change Report to Working Group members by close of play on Wednesday 07 March 2018;
  - All Working Group members to provide any final comments to the Secretariat by close of play on Monday 12 March 2018;
  - The Secretariat to submit the updated legal text to the Legal Advisor for final sign off; and

- The Secretariat to submit the final version of the Change Report to the DCUSA Panel on the 14<sup>th</sup> March 2018 for their consideration.

## 6. Any Other Business

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

## 7. Date of Next Meeting: Not Applicable

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- 7.1 The Working Group agreed that there would be no need for any further Working Group meetings to be held for this change.

## 8. Attachments

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- Attachment 1 – Updated DCP 294 Legal Text
- Attachment 2 – Updated DCP 294 Change Report
- Attachment 3 – DCP 294 Work Plan

## New and open actions

| Action Ref.  | Action  | Owner       | Update |
|--------------|---|-------------|--------|
| <b>10/01</b> | ElectraLink to delete the reference to the Electricity Act in the proposed 39.12A clause and send the updated version to the Legal Advisor for final sign off | ElectraLink |        |
| <b>10/02</b> | ElectraLink to circulate the updated version of the Change Report to Working Group members by close of play on 07 March 2018                                  | ElectraLink |        |
| <b>10/03</b> | Working Group members to send through any final comments on the Change Report by close of play on Monday 12 March 2018  | WG Members  |        |

## Closed Actions

| Action Ref.  | Action  | Owner       | Update        |
|--------------|---|-------------|---------------|
| <b>01/01</b> | Prepare questions for submission to the DCUSA Legal Advisor.  | TC          | Action Closed |
| <b>01/02</b> | Seek Panel approval to request legal advice.  | ElectraLink | Action Closed |
| <b>03/01</b> | ElectraLink to include the suggested questions within the draft consultation document                                 | ElectraLink | Action Closed |
| <b>03/02</b> | Thomas Cadge to amend the proposed legal text and circulate to ElectraLink for inclusion with the post meeting papers | TC          | Action Closed |
| <b>03/03</b> | ElectraLink to draft the consultation document for circulation on Friday 18 <sup>th</sup> August 2017                 | ElectraLink | Action Closed |
| <b>03/04</b> | ElectraLink to update the Work Plan to reflect the discussion held  | ElectraLink | Action Closed |

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|--------------|--|--------------|---------------|
| <b>04/01</b> | Peter Turner to circulate the Ofgem document “unlocking capacity in the electricity industry”  | Peter Turner | Action Closed |
| <b>04/02</b> | Thomas Cadge to update the Background sections of the consultation document  | Thomas Cadge | Action Closed |
| <b>04/03</b> | John Lawton to provide details on capacity ramping, customer contributions, underutilisation and make the consultation questions more open   | John Lawton  | Action Closed |
| <b>04/04</b> | Thomas Cadge to research if there are any other forum that can be included within the impacts and other considerations section of the consultation document.                                       | Thomas Cadge | Action Closed |
| <b>04/05</b> | Thomas Cadge to re-work the legal text to reflect the discussions held during the meeting.   | Thomas Cadge | Action Closed |
| <b>05/01</b> | Thomas Cadge to draft a further paragraph and open question to be included in the consultation document regarding ECCR.  | TC           | Action Closed |
| <b>05/02</b> | The relevant objectives section of the consultation document needed to be updated to reflect the Proposer’s view as to which is better facilitated by the change. ElectraLink to update            | ElectraLink  | Action Closed |
| <b>05/03</b> | Thomas Cadge to amend Clause 12E in the draft legal text to align with the National Terms of Connection and DCP 115 decision.  | TC           | Action Closed |
| <b>06/01</b> | The Secretariat to update the consultation document to reflect the discussions held, including updating the dates and question numbering.  | ElectraLink  | Action Closed |
| <b>06/02</b> | The Secretariat to organise a doodle poll to determine the date of the next meeting so that Working Group members can review the consultation responses.   | ElectraLink  | Action Closed |
| <b>07/01</b> | The Proposer took an action to re-evaluate the clauses in the legal text that discuss how to trigger capacity underutilisation and see if it is possible to move away from the 75% trigger figure. | TC           | Action Closed |
| <b>07/02</b> | The Secretariat agreed to update the proposed legal text to reflect the agreed change of a 3-month timeframe instead of 1-month.   | ElectraLink  | Action Closed |

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| <b>07/03</b> | All WG members to review Schedule 13, clause 8.2 to determine whether it would still be required.  | All WG members      | Action Closed |
| <b>07/04</b> | The Proposer to review Schedule 13 (in full) and suggest some recommended amendments to the Secretariat before the next Working Group meeting.                                 | TC                  | Action Closed |
| <b>08/01</b> | Working Group members to review the development clauses with the CCCM  | All WG members      | Action Closed |
| <b>08/02</b> | Working Group members to review the Development Phase definition   | All WG members      | Action Closed |
| <b>08/03</b> | The Secretariat to remove clause 31.12b.2 from the proposed legal text   | ElectraLink         | Action Closed |
| <b>08/04</b> | The Secretariat to update the wording within the proposed legal text from “modification” to “variation” or “vary” dependent upon the requirement                               | ElectraLink         | Action Closed |
| <b>08/05</b> | All DNOs to determine whether they use the BCA template included in Schedule 13  | DNO representatives | Action Closed |
| <b>08/06</b> | All Working Group members to consider how long the majority of their connections take to complete to ensure that the backstop date included in the legal text is realistic     | All WG members      | Action Closed |
| <b>08/07</b> | The Secretariat agreed to remove the bracketed section of 39.12b from the proposed legal text  | ElectraLink         | Action Closed |
| <b>08/08</b> | Working Group members to review Ofgem’s paper in conjunction with this change to ensure that it would not be better placed in the Network Access Task Force                    | All WG members      | Action Closed |
| <b>08/09</b> | Working Group members to review the legal text and consider whether the inclusion of a reference to the ECCRs would cover the instance of a ‘second comer’ requesting capacity | All WG members      | Action Closed |
| <b>08/10</b> | The Secretariat to split the proposed legal text into an Option A and Option B for inclusion of the variation clauses from Schedule 13   | ElectraLink         | Action Closed |

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| <b>09/01</b> | The Secretariat to update the proposed legal text to reflect the change in the backstop date from three years to five years                       | ElectraLink | Action Closed  |
| <b>09/02</b> | The Secretariat to gain feedback from Stephen Perry (Ofgem) as to whether the change would be better suited under their Network Access Task Force | ElectraLink | Action Closed – Post Meeting Note – Ofgem have confirmed that the change should continue to be progressed via the DCUSA Change Process |
| <b>09/03</b> | The Secretariat to clean up the proposed legal text and circulate to Working Group members for final feedback                                     | ElectraLink | Action Closed  |