

DCP 294 Working Group Meeting 08

09 January 2018 at 10:00am

Web-Conference

Attendee	Company
Working Group Members	
Mark Burton [MB]	UK Power Networks
Michael Doward [MD]	Electricity North West Ltd
Mihaly Orban [MO]	Scottish and Southern Energy Networks
Moshe Kinshuck [MK]	Ofgem
Peter Turner [PT]	Northern Powergrid
Thomas Cadge [TC]	BUUK
Tim Hughes [TH]	Western Power Distribution
Code Administrator	
John Lawton [JL] (Chair)	ElectraLink
Hollie Nicholls [HN] (technical secretariat)	ElectraLink

Apologies	Company
Wendy Mantle	Scottish Power Energy Networks

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 12 December 2017, were a true reflection of the discussions held.

2. Purpose of the Meeting

- 2.1 The Chair set out that the purpose of the meeting is to review the second half of the consultation responses, the proposed legal text and agree the next steps for the change.

3. Review of the DCP 294 consultation responses

- 3.1 The Working Group reviewed the collated consultation responses. These can be found as attachment 1.
- 3.2 The Chair noted that the Working Group had discussed responses to seven consultation questions at the last meeting and so would be continuing with the review at question eight.
- 3.3 The Chair highlighted that question eight is now redundant as the Working Group had previously agreed that the relevant clauses should remain within the Common Connection Charging Methodology (CCCM). The Chair highlighted that there is likely to be changes to both the CCCM and the general provisions of DCUSA so each of the relevant objectives will be considered (Charging objectives where changes are made to the CCCM and the general objectives where changes are made to the general section of DCUSA). The Ofgem representative of the Working Group agreed that they were happy with this approach too.
- 3.4 In regards to question nine, the Working Group highlighted that one of the IDNO responses was applying to DCP 115 rather than DCP 294. The relationship of the Bilateral Connection Agreement (BCA) is between the Distributor and the LDNO rather than the developer and so would not be able to reduce capacity as they have a right to hold on to it if they wanted to. The developers would need to be subject to a different set of terms (e.g. the NTC) and not the ones stated in the BCA between the DNO and LDNO. If the LDNO were going to be impacted, they would have to discuss further with connectees within their network before the BCA could be agreed otherwise they may not be able to meet their customer obligations and who would be protected by their existing contracts.
- 3.5 The majority of responses to question nine also highlighted the Electricity (Connection Charges) Regulations (ECCRs). The ECCR requires a second party to conduct a recalculation of connection charges and so would depend on the circumstances of why the recalculation would be needed.
- 3.6 The Working Group concluded that the responses to question nine needed to be discussed further. Members would need to review the development phase and ensure that the comments are captured within the CCCM.

ACTION 08/01: All WG members

- 3.7 One DNO response to question ten highlighted that they didn't believe that the changes to the development phase definition provided any additional powers when it came to requesting capacity back and the timescales should be put back in. The Working Group agreed that they need to review the development phase definition and update the legal text to provide more clarity.

ACTION 08/02: All WG members

- 3.8 A further DNO response mentioned the disadvantages of moving clauses 39.9A and 39.9B into DCUSA section 2B. The Working Group noted that following on from earlier discussions these will now be retained within the CCCM.
- 3.9 The same DNO also discussed how clause 31.12b.2 requires the DNO to provide reasoning for the proposed variations to the BCA. This is not a requirement under the DCP 115 arrangements and will depend on what reasoning is deemed to be acceptable. Schedule 13 states that there is a right on both the DNO and LDNO to be able to ask for variations. On this basis, the Working Group agreed that this clause was no longer relevant and the Secretariat agreed to remove it from the proposed legal text.

ACTION 08/03: ElectraLink

- 3.10 There was a concern raised about the use of the word “modification” in clause 31.12B.3. A Modification is defined as “any actual or proposed replacement, renovation, modification, alteration or reconstruction” and does not fit with the context of the clause. The Working Group highlighted that use of the word modification in this instance is only for information and to determine whether the modification is required. It was suggested that the wording is changes to “variation” throughout the proposed legal text for consistency. The Working Group agreed and the Secretariat will action.

ACTION 08/04: ElectraLink

- 3.11 It was also suggested that the Working Group refer to Schedule 13 rather than including lots of clauses. The Chair agreed that this would be a sensible approach but it would depend on whether all DNOs use the same BCA template and there is a concern that there is not an obligation for them to do so. Therefore, there would be no protection in association with the variation clause. Another option would be to copy the variation clause from Schedule 13 into section 2B of DCUSA. This would then provide a right on both DNOs and LDNOs to raise a variation to the BCA. All DNOs agreed to check whether they use the BCA template included in Schedule 13 so that this can be reviewed further at the next Working Group meeting.

ACTION 08/05: DNOs

- 3.12 A further response to question ten highlighted that the development phase would need to have a “backstop” date, otherwise it is too open to interpretation. At the moment, the legal text states that

there is a 3-year backstop unless otherwise agreed. All Working Group members agreed that there should be a backstop date in place but they need to understand when it the time period would start. The Proposer of the change highlighted that they would like to discuss this with their design team to see what the average time frame for a network build is. The Working Group agreed that they are happy to keep the backstop as three years for now and see whether there is any beneficial rationale of changing the timeframe after the discussion with the design team has been completed. The Chair suggested that all Working Group members should consider how long the majority (80%) of their connections take to complete to ensure that the backstop is realistic and then this part of the legal text can be updated to reflect this.

ACTION 08/06: All WG Members

- 3.13 In response to question ten, one DNO suggested a housekeeping change to clause 39.12B to include “**Maximum** import of electricity and/or the **Maximum** export of electricity”. After consideration by the Working Group, all members agreed that the information included in the brackets of this clause can be removed.

ACTION 08/07: ElectraLink

- 3.14 In response to question 11, the Working Group noted all of the responses and decided that they will need to discuss further when they come to the Change Report phase.

ACTION 08/08: All WG Members

- 3.15 The Working Group noted all responses to question 12 and highlighted that there are more Ofgem initiatives being introduced all the time that they should be cautious that the change is not better placed elsewhere.
- 3.16 In response to question 13, one DNO suggested that the change should be reviewed by Ofgem’s Network Access Task Force. The Chair highlighted that it is only at the discretion of the Proposer to withdraw a change and for completeness questioned whether the Proposer wished to do so. The Proposer noted that as things stand he did not want to withdraw the change. The DNO also provided a copy of Ofgem’s Access and Forward-Looking Charges Working Paper¹ for reference. All Working

¹ https://www.ofgem.gov.uk/system/files/docs/2017/11/reform_of_electricity_network_access_and_forward-looking_charges_-_a_working_paper.pdf

Group members agreed to review the paper in conjunction with the change and to ensure that there would be no impacts.

ACTION 08/09: All WG Members

- 3.17 One Working Group member explained that at the time of submitting their response to question 14 the response was valid, however, since Working Group discussions had progressed the comment was now redundant. Another DNO representative of the Working Group agreed, and requested that there was time to review their responses to question 14 as the change had developed since responses were submitted.

ACTION 08/10: All WG members

- 3.18 One DNO response to question 14 suggested that there could be an unintended consequence when there is an agreed reduction of the capacity between the host DNO and LDNO but the host DNO has already invested carried out several reinforcements based on the original request. If a reduction in capacity is identified before the connection or reinforcement is completed it could trigger a redesign, incurring additional costs. The Working Group noted the response, however, discussed that these conversations should already be happening without the changes to the legal text for this change. Any potential issues should be being discussed at the negotiation stage with the customer.
- 3.19 One DNO response to question 14 suggested that the Working Group would need to review the clauses and see if there is a need to amend them so that there is one clause for pre-development and one for post development of the connection. However, the Working Group agreed that this should be reviewed as an internal procedure as it would be contract issue and so is not suitable to be discussed as part of a DCUSA change.
- 3.20 A further point raised by a DNO was whether clarity should be sought in terms of the network operator's obligations to notify the downstream distributor of their intent to vary the BCA and reduce the Maximum Import/Export capacity, specifically, if a 'second comer' approaches a DNO wanting to capture capacity. The Chair questioned whether the Working Group would want to codify this and whether they would be happy to reference the ECCRs within the legal text. The Working Group concluded that they would be happy to refer to the ECCRs but if the change is implemented, the DNOs will need to consider how to address the 'second comer' approaching for capacity to ensure that it will develop an efficient network. The Chair agreed and highlighted that it would be an opportunity for DNOs to review all of their internal process and to ensure compliance with the Electricity Act by following correct procedures.

ACTION 08/11: All WG Members

3.21 In regards to question 15, the Working Group noted all of the responses and highlighted that once the legal text has been agreed, the Change Report phase of the change will address the implementation date and any lead times that are required.

4. Review of DCP 294 Legal Text

4.1 The Working Group all agreed to defer reviewing the legal text until all actions have been completed and then Working Group members will be able to take a final view.

5. Work Plan and Next Steps

5.1 The current Work Plan was reviewed by the Working Group and updated to reflect discussions held. An updated version of the Work Plan can be found as attachment 2.

5.2 The Working Group agreed that the next steps were as follows:

- All actions from this meeting to be completed before the next meeting.
- Key areas of further development to be included in a separate “actions log” for review at the next meeting (attachment 3).
- Draft legal text to updated to create Option A and Option B (variation clause copied to section 2B from Schedule 13 or section 2B referring to Schedule 13).
- The next Working Group meeting to be held on 05 February 2018 to review the proposed legal text following on from the actions being completed.

ACTION 08/12: ElectraLink

6. Any Other Business

6.1 One Working Group member provided the Working Group with an update on the Ofgem Access Rights Task Force. The Task Force are looking at how to define access and charging rights. A paper is due to be published early in February 2018. Once this has published the Working Group should be able to determine whether there would be any impacts on this change. This can then be reviewed at the next Working Group meeting.

7. Date of Next Meeting: 05 February 2018

7.1 The Working Group agreed that the next Working Group meeting will be held on Monday 05 February 2018 to review legal text in light of the actions being completed and the consultation responses.

8. Attachments

- Attachment 1 – DCP 294 collated consultation responses
- Attachment 2 – Updated DCP 294 Work Plan
- Attachment 3 – DCP 294 Actions Log

New and open actions

Action Ref.	Action	Owner	Update
08/01	Working Group members will need to review the responses to question nine further to ensure that all comments are included in the CCCM.	All WG Members	
08/02	Working Group members to review the Development Phase definition	All WG Members	
08/03	The Secretariat to remove clause 31.12b.2 from the proposed legal text as it is no longer relevant	ElectraLink	
08/04	The Secretariat to update the wording within the proposed legal text, when discussing changes to the BCA, from “modification” to “variation”	ElectraLink	
08/05	All DNOs to determine whether they use the BCA template included in Schedule 13	DNOs	
08/06	All Working Group members to consider how long the majority of their connections take to complete to ensure that the backstop is realistic	All WG Members	
08/07	The Secretariat agreed to remove the bracketed section of 39.12b from the proposed legal text	ElectraLink	
08/08	Responses to Question 11 need to be reviewed further	All WG Members	
08/09	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	

08/10	Working Group members to re-review their responses to question 14 to determine whether they were still valid after the progression of the change	All WG Members	
08/11	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	
08/12	The Secretariat to update the proposed legal text to create an Option A and Option B	ElectraLink	

Closed Actions

Action Ref.	Action	Owner	Update
01/01	Prepare questions for submission to the DCUSA Legal Advisor.	TC	Action Closed
01/02	Seek Panel approval to request legal advice.	ElectraLink	Action Closed
03/01	ElectraLink to include the suggested questions within the draft consultation document	ElectraLink	Action Closed
03/02	Thomas Cadge to amend the proposed legal text and circulate to ElectraLink for inclusion with the post meeting papers	TC	Action Closed
03/03	ElectraLink to draft the consultation document for circulation on Friday 18 th August 2017	ElectraLink	Action Closed
03/04	ElectraLink to update the Work Plan to reflect the discussion held	ElectraLink	Action Closed
04/01	Peter Turner to circulate the Ofgem document "unlocking capacity in the electricity industry"	Peter Turner	Action Closed
04/02	Thomas Cadge to update the Background sections of the consultation document	Thomas Cadge	Action Closed
04/03	John Lawton to provide details on capacity ramping, customer contributions, underutilisation and make the consultation questions more open	John Lawton	Action Closed

04/04	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
04/05	Thomas Cadge to re-work the legal text to reflect the discussions held during the meeting.	Thomas Cadge	Action Closed
05/01	Thomas Cadge to draft a further paragraph and open question to be included in the consultation document regarding ECCR.	TC	Action Closed
05/02	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
05/03	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
06/01	The Secretariat to update the consultation document to reflect the discussions held, including updating the dates and question numbering.	ElectraLink	Action Closed
06/02	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
07/01	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
07/02	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
07/03	All WG members to review Schedule 13, clause 8.2 to determine whether it would still be required.	All WG members	Action Closed
07/04	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