











DCUSA Change Declaration		At what stage is this document in the process?
<h1>DCP 294</h1> <h2>Capacity Management following acceptance of connection offer</h2> <p><i>Raised on 01 March 2017 as a Standard Change</i></p>		01 – Change Proposal
		02 – Consultation
		03 – Change Report
		04 – Change Declaration
Purpose of Change Proposal: <p>DCP 294 seeks to put arrangements in place that set out the principles under which the unutilised maximum capacity specified in connection offers or in bilateral connection agreements with IDNOs can be managed in an economic and efficient manner whilst protecting the legitimate requirements of parties requiring capacity which was agreed in connection offers.</p>		
	<p>DCUSA Parties have voted on DCUSA Change Proposal (DCP) 294 with the outcome being a recommendation to the Authority on whether the Change Proposal (CP) should be accepted or rejected.</p> <p>The DCUSA Parties consolidated votes are provided as Attachment 1.</p>	
	<p>For DCP 294, DCUSA Parties have voted and recommended to the Authority to determine that:</p> <ul style="list-style-type: none"> • the proposed variation (solution) should be accepted; and • the implementation date should be accepted 	
	<p>Impacted Parties: Distribution Network Operators (DNOs) and Independent Distribution Network Operators (IDNOs).</p>	
	<p>Impacted Clauses:</p> <p>Section 2B of DCUSA: Clause 39</p> <p>Schedule 22 of DCUSA (the CCCM): An amendment to the definition of Development Phase</p>	

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		 Any questions? Contact: Code Administrator  DCUSA@electralink.co.uk  0207 432 3011 Proposer: Thomas Cadge  Thomas.Cadge@bu-uk.co.uk  01359 243308
Timeline		
The timetable for the progression of the CP is as follows:		
Change Proposal timetable		
Activity	Date	
Initial Assessment Report Approved by Panel	08 March 2017	
Consultation issued to Parties	27 October 2017	
Change Report issued to Panel	14 March 2018	
Change Report issued for Voting	23 March 2018	
Party Voting Ends	17 April 2018	
Change Declaration issued to Authority	19 April 2018	
Authority Decision	25 May 2018	
Implementation Date	First DCUSA release after Authority approval	

1 Summary

What?

- 1.1 The Distribution Connection and Use of System Agreement (DCUSA) is a multi-party contract between electricity Distributors and electricity Suppliers and large Generators. Parties to the DCUSA can raise Change Proposals (CPs) to amend the Agreement with the consent of other Parties and (where applicable) the Authority.
- 1.2 This Change Proposal (CP), is seeking to:
- ensure that the right to vary the capacity of a connection between Distribution Network Operators (DNOs) and Licensed Distribution Network Operators¹ (LDNOs) is clarified and that any such variation considers the development phase of such a connection; and
 - Amend the timeframe of the development phase.

Why?

- 1.3 The rights to vary the capacity of a connection is either silent, contained in bi-lateral agreements between each company or subject to an interpretation of the Electricity Act.
- 1.4 The development phase of an LDNO network is currently three years and does not cater for the majority of connections.

How?

- 1.5 Include a variation clause within the main body of DCUSA to cover the rights of both DNOs and LDNOs and change the timeline within the definition of Development Phase from three years to five years.

2 Governance

Justification for Part 1 Matter

- 2.1 DCP 294 has been designated as a Part 1 Matter as the proposed change potentially impacts on both 9.4.1 and 9.4.2 of DCUSA.
- 9.4.1 – it is likely to have a significant impact on the interests of electricity consumers; and
 - 9.4.2 – it is likely to have a significant impact on competition in distribution.

¹ LDNOs covers both IDNOs and DNOs operating out of area as defined in the electricity distribution licence 13A.15 under the definition of LDNO Distribution System and contained within Schedule 16 of DCUSA.

3 Why Change?

Background of DCP 294

- 3.1 Where LDNOs request a connection from a DNOs' distribution system they will often be building out a new network to serve a development that comprises many premises. These developments may take months or years to complete so the maximum capacity required on the completion of the new network will not be required at the initial energisation of the connection between the LDNOs and the DNOs' distribution systems.
- 3.2 Presently the provisions for managing the capacity during the build out of the new network and up to the completion of the network is covered by the "Capacity Ramping for LDNOs" provisions in Schedule 22 of DCUSA – "the Common Connection Charging Methodology". The Proposer's view is that this process is better managed through Section 2B of the DCUSA – "Distributor to Distributor Relationships" – and that the process for managing capacity at the connection between the LDNO's and DNO's network should be updated to be clear and transparent.
- 3.3 The Proposer is of the view that Capacity Ramping was originally included in the Common Connection Charging Methodology (CCCM) to address issues caused by margin squeeze on LDNOs because of bulk supply tariffs. The Proposer also believes that since the introduction of portfolio billing these arrangements are no longer required for that purpose. DCP 114²/115³ sought to introduce mechanisms to the National Terms of Connection (NTC) where distributors could manage capacities on connections to end customers. Since the connection between the DNO and the LDNO is not covered by the NTCs, the arrangements put in place by DCP 114/115 does not cover those connections. DCP 294 seeks to put in place similar arrangements to manage instances where capacity is underutilised.
- 3.4 In some instances, the development that the connected LDNO is providing connections to will differ to that which was proposed initially and for which the LDNO and the DNO agreed a Bilateral Connection Agreement (BCA). When the development is fully completed the actual Maximum Import Capacity (MIC) or Maximum Export Capacity (MEC) may differ from the value that was agreed in the BCA. The Proposer believes that, in order to prevent capacity in LDNO networks becoming sterile, there should be a consistent and transparent process for DNOs to request reductions in the MIC or MEC in the BCA where it considers appropriate. Section 2B of the DCUSA already contains provisions for instances where the LDNO exceeds the capacity stated in the BCA. It is not proposed that any changes are made to these provisions by DCP 294.

² DCP 114 – NTC Amendments – Capacity Management (Over-Utilisation)

³ DCP 115 – NTC Amendments – Capacity Management (Under-Utilisation)

4 Solution

DCP 294 Working Group Assessment

- 4.1 The DCUSA Panel established a Working Group to assess DCP 294. This Working Group consists of DNO and IDNO representatives and an Ofgem observer. Meetings were held in open session and the minutes and papers of each meeting are available on the DCUSA website – www.dcusa.co.uk.
- 4.2 DCP 294 was raised by The Electricity Network Company and seeks to put arrangements in place that set out the principles under which the unutilised maximum capacity specified in connection offers or in bilateral connection agreements with IDNOs can be managed in an economic and efficient manner whilst protecting the legitimate requirements of parties requiring capacity which was agreed in connection offers.
- 4.3 After discussing the intent of the CP, the DCP 294 Working Group highlighted a number of potential areas of concern. These being; impacted parties, connection offers and underutilised maximum capacity.

Impacted parties

- 4.4 The intent of this CP is specific to IDNOs only whereas the information provided in the CP and contained in the suggested legal text opened this up to all customers. The Proposer acknowledged that this was the case, however, it was the intention to include customers and as such this was an omission. Both the Working Group and the Proposer agreed that the intent could not be amended to include references to customers since this would be outside of the guidelines provided within the terms of reference for the Working Group. It was the view of the Working Group that such instances of underutilisation of capacity is already addressed in the NTC for customers in any event.
- 4.5 However, it was acknowledged that where the reference to IDNOs was used, this should also include DNOs operating out of area. This is because the suggested legal text within Schedule 22 associated with capacity ramping and within Section 2B of DCUSA impact both IDNOs and DNOs operating out of area (together known as LDNOs).

Connection Offers

- 4.6 The Working Group agreed that since customers were out of scope for the CP, any such reference to connection offers reflects an offer made to a LDNO. It was also agreed that paragraph 1.5 covering speculative developments would also not need to be considered further by this CP.
- 4.7 The Proposer was of the view that a reference to connection offers will still need to be referred to since a BCA is not always put in place between the Host Distributor and the LDNO so any reference to the agreed maximum capacity would be lost.

- 4.8 It was highlighted that within Section 2B of DCUSA, paragraph 38.1 provides the LDNO with the right to request a BCA and that the Host Distributor has to comply with such a request. It was therefore felt that the BCA, which would include a reference to the agreed maximum capacity, is the only document that needs to be referred to within this CP and not both.
- 4.9 The Working Group and the Proposer agreed that the reference to connection offers needs not be made based on the above.

Unutilised Maximum Capacity

- 4.10 The Working Group were comfortable with the CP being specific to unutilised maximum capacity, however, the Proposer was also considering introducing paragraphs related to overutilized maximum capacity. It was brought to the attention of the Proposer that DCUSA, within Section 2B, already caters for overutilized maximum capacity and that this CP should therefore only consider unutilised maximum capacity as per the intent of the CP.
- 4.11 The Working Group also agreed that the rights covered in the Electricity Act and those contained within any BCAs will be unchanged, though the terms under DCUSA will be in line with the legal text amendments.

Intent of the CP

- 4.12 Based on the above discussions, the Working Group agreed to refine the solution for the change and therefore agreed the following:

“DCP 294 seeks to put arrangements in place that set out the principles under which the unutilised maximum capacity specified in BCAs with LDNOs can be managed in an economic and efficient manner whilst still protecting the legitimate requirements of the LDNOs.”

- 4.13 The Working Group then discussed the Proposer’s principles of the CP. These are summarised as:
- Where capacity is not fully utilised in connection projects or there is no contracted prospect of this capacity being utilised by the LDNO, the Host Distributor is able to ensure that this capacity is available for other connecting customers; and
 - If a LDNO reduces the Maximum Capacity, the basis on which the charge for providing the original connection should be reviewed.
- 4.14 The first principle introduced a discussion on the legal interpretation of the Electricity Act and advice that was provided to a number of DCUSA changes and the Energy Networks Association (ENA) in relation to maximum capacity. The Working Group’s conclusion on the legal advice is that the connectee has enduring rights to retain the maximum capacity as long as the connection is required, and the Host Distributor must maintain such a connection unless the connection is no longer require or the connectee agrees to a reduction.
- 4.15 The Working Group therefore agreed that the principle needs to be amended to introduce appropriate arrangements for managing unutilised maximum capacity on similar grounds to that introduced by DCP 115. DCP 115 addresses the issue of under-use of capacity. It clarifies the

rights for the Distributor to take appropriate action in cases where the customer does not use some or all of the MIC or MEC reserved for its connection.

- 4.16 On the second principle, the Working Group agreed that both the Host distributor and the LDNO will have designed and built their network based on the maximum capacity requested at the time and based on the connection offer.
- 4.17 The Working Group therefore concluded that the principle should be clarified and relate to where unutilised capacity has been agreed to be made available to the Host distributor (i.e. an agreed reduction in capacity with the LDNO) and a new customer takes advantage of this then the second comer rules associated with the relevant Electricity (Connection Charges) Regulations (ECCRs) may apply.
- 4.18 Based on this amended principle the Working Group agreed that there was no need to change DCUSA since distributors must comply with the relevant ECCRs.

DCP 294 Consultation

- 4.19 The Working Group carried out a consultation (Attachment 4) to give DCUSA Parties and other interested organisations an opportunity to review and comment on the proposed DCP 294 solution. The Working Group issued the consultation to DCUSA Contract Managers and Ofgem on 27 October 2017 to gather Party opinion on:
- The approach to be adopted for unutilised capacity;
 - Capacity Ramping; and
 - Treatment of customer contributions.
- 4.20 there were nine responses to the consultation. Six respondents were Distribution Network Operators (DNOs) and three respondents were Independent Distribution Network Operators (IDNOs). The Working Group discussed each response and its comments are summarised alongside the collated consultation responses in Attachment 4.

Working Group Conclusions

- 4.21 The Working Group agreed that the following key areas needed to be addressed in order to finalise the CP:
- In considering a variation clause, to decide whether to refer to Schedule 13 of DCUSA or put a specific clause within section 2B; and
 - To review the capacity ramping clauses.

4.22 In order to develop the above the Working Group requested information from the DNOs in the Working Group (all DNOs being represented in the Working Group) on the following:

- Do you use the template BCA as the basis of the BCAs in place with LDNOs, and if not do you include a variation clause;

and from all Working Group members on:

- review the development phase clauses; and
- consider how long the majority of their connections take to complete.

4.23 The responses received from DNOs was that they all use the template BCA when developing their BCAs with LDNOs. One Working Group member pointed out that since these are bi-lateral agreements they can be changed and that to ensure that such a variation is a right, consideration needs to be made to capturing the clause within section 2B rather than referring to Schedule 13. The Working Group agreed with this approach and also agreed to replicate as much as possible the words contained within Schedule 13, para 8.2 which covers variations.

4.24 Contained within Schedule 13, para 8.2 is the right for either party to vary the BCA (which includes the maximum import capacity and maximum export capacity), as well as a timescale (20 Working Days) to agree to the proposed amended and a right for either party to refer the matter to the Authority under section 23 of the Electricity Act.

4.25 Concerns were raised by Working Group members and the Ofgem observer regarding the right to refer any lack of agreement to the Authority under section 23 of the Electricity Act within the new clause 39.12A. The Working Group agreed to seek legal opinion when the legal text was passed to them for their review.

4.26 Having sought legal review and noting that DCUSA already caters for dispute resolution under clause 58.1, the Working Group agreed to remove the reference to section 23 of the Electricity Act in clause 39.12A of the proposed legal text and agreed to the minor amendments suggested by the legal advisor.

4.27 The Working Group reviewed the feedback on the development phase clauses and all agreed that no changes were needed.

4.28 When discussing the Development phase timeline, one Working Group member indicated that 90% of the sites which have adopted (or are adopting) since 1st January 2015 complete in five years. The current three-year definition would only capture roughly 52%. Other views mentioned in the consultation suggested that a backstop date of eight years be considered, while other Working Group members preferred the status quo. The majority of the Working Group agreed to change the Development phase definition from three years to five years and retain 'unless otherwise agreed'

5 Relevant Objectives

Assessment Against the DCUSA Objectives

5.1 For a DCUSA CP to be approved it must be demonstrated that it better meets the DCUSA Objectives. The Working Group unanimously agreed that DCUSA General Objectives one, three and four would be better facilitated by DCP 294. There was also a majority view that the DCUSA Charging Objectives would remain neutral if this change was implemented, however, a minority of Working Group members thought that DCUSA Charging Objective one would be better facilitated by this DCP 294. The rationale for these decisions can be found in the table below.

Impact of the Change Proposal on the Relevant Charging Objectives:	
Relevant Objective	Identified impacts and rationale
General Objective One – The development, maintenance and operation by the DNO Parties and IDNO Parties of efficient, co-ordinated and economical Distribution Networks	<p>Positive</p> <p>By including a clause to open up discussions on the freeing up of capacity for use elsewhere on the network</p>
General Objective Three – The efficient discharge by the DNO Parties and IDNO Parties of obligations imposed upon them in their Distribution Licences	<p>Positive</p> <p>By opening dialogue between DNOs and LDNOs, it makes it more transparent that the obligations imposed on their licences are being met.</p>
General Objective Four – The promotion of efficiency in the implementation and administration of the DCUSA	<p>Positive</p> <p>Provides clarity on the right of both Parties to vary the BCA</p>
Charging Objective One – That compliance by each DNO Party with the Charging Methodologies facilitates the discharge by the DNO Party of the obligations imposed on it under the Act and by its Distribution Licence	<p>Positive</p> <p>It allows distribution parties to have a better understanding of the capacity (through the Development Phase) that will be connected to our networks and will allow those parties to more easily manage an efficient, economic and co-ordinated distribution system.</p> <p>Neutral</p> <p>There are no additional processes or obligations/ the only change is how long the Development Phase will last.</p>

6 Impacts & Other Considerations

Does this Change Proposal impact a Significant Code Review (SCR) or other significant industry change projects, if so, how?

- 6.1 The Working Group considered the views from some respondents that the Change Proposal may be better suited under Ofgem's Network Access Task Force as part of their Charging Futures Forum (CFF) work.
- 6.2 After discussion, the Working Group agreed that the Task Force was still deciding on its scope of work although there are some links between the two and since the change was coming to the end of the DCUSA Change Process they preferred to continue with progressing the change rather than withdrawing the change and putting it on hold.

Consumer Impacts

- 6.3 No consumer impacts have been identified.

Environmental Impacts

- 6.4 In accordance with DCUSA Clause 11.14.6, the Working Group assessed whether there would be a material impact on greenhouse gas emissions if DCP 294 were implemented. The Working Group did not identify any material impact on greenhouse gas emissions from the implementation of this CP.

Engagement with the Authority

- 6.5 Ofgem has been fully engaged throughout the development of DCP 294 as an observer on the Working Group.

7 Implementation

- 7.1 The proposed implementation date for DCP 294 is the first DCUSA release after the Authority decision has been made.

8 Legal Text

- 8.1 The legal text for DCP 294 has been drafted to align to the proposed solution for this change. The legal text provided in Attachment 2 encapsulates the legal text changes for DCP 294 and showcases the amendments made to Section 2B of DCUSA by specifically including a variation clause within clause 39 and also amending the definition of 'Development Phase' in Schedule 22 (CCCM) from three years to five years.

9 Code Specific Matters

Modelling Specification Documents

9.1 Not applicable.

Reference Documents

9.2 Not applicable

10 Voting

10.1 The DCP 294 Change Report was issued to DCUSA Parties for voting on 23 March 2018.

Part 1 Matter: Authority Decision Required

DCP 294: Proposed Variation (Solution)

10.2 For the majority of the Parties that were eligible to vote, the sum of the Weighted Votes of the Groups in that Party Category which voted to accept the proposed variation was more than 50%.

10.3 DCUSA Parties' have voted and recommend to the Authority to determine that the proposed variation (solution) is accepted for DCP 294.

DCP 294: Implementation Date

10.4 For the majority of the Parties that were eligible to vote, the sum of the Weighted Votes of the Groups in that Party Category which voted to accept the implementation date was more than 50%.

10.5 DCUSA Parties' have voted and recommend to the Authority to determine that the implementation date is accepted for DCP 294.

The table below sets out the outcome of the votes that were received in respect of the DCP 294 Change Report that was issued on 23 March 2018 for a period of 15 working days.

DCP 294	WEIGHTED VOTING				
	DNO	IDNO	SUPPLIER	DISTRIBUTED GENERATOR	GAS SUPPLIER
CHANGE SOLUTION	Accept	Accept	n/a	n/a	n/a
IMPLEMENTATION DATE	Accept	Accept	n/a	n/a	n/a

11 Recommendations

DCUSA Parties Recommendation

11.1 DCUSA Parties have voted on DCP 294 and in accordance with Clause 13.5 of the DCUSA, recommend to the Authority to determine that the Change Proposal be accepted and thus that the proposed variation to the DCUSA should be made.

12 Attachments

- Attachment 1 – DCP 294 Consolidated Party Votes
- Attachment 2 – DCP 294 Legal Text
- Attachment 3 – DCP 294 Change Proposal
- Attachment 4 – DCP 294 Consultation and Collated Responses