



## DCUSA Change Report

### DCP 263 – ‘NTC DEH Gap’

#### Executive Summary

DCP 263 seeks to amend the National Terms of Connection (NTC) so that they cater for DNOs' connections to non-metered DEH networks.

This document presents the Change Report for DCP 263 and invites all Parties to vote on the following:

- whether to accept or reject DCP 263, noting whether or not DCP 263 better facilitates the DCUSA Objectives; and
- the implementation date for DCP 263.

The voting deadline for DCP 263 is **09 September 2016**.

## 1 PURPOSE

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- 1.1 This document is issued in accordance with Clause 11.20 of the DCUSA and details DCP 263 – ‘NTC DEH Gap’.
- 1.2 This change seeks to amend the National Terms of Connection (NTC) which are legal terms that apply to connections to Licensed Distributors’ electricity distribution systems, where no site-specific agreement exists.
- 1.3 It is noted that “private” network operators or Licence Exempt Distribution Network Operators are known within this document as Distribution Exemption Holders or DEHs.
- 1.4 The voting process for the proposed variation and the timetable of the progression of the Change Proposal (CP) through the DCUSA Change Control Process is set out in this document.
- 1.5 Parties are invited to consider the proposed amendments (**Attachment 2**) and submit their votes using the form attached as **Attachment 1** to [dcusa@electralink.co.uk](mailto:dcusa@electralink.co.uk) no later than **09 September 2016**.

## 2 INTENT OF DCP 263 CHANGE PROPOSAL

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- 2.1 DCP 263 has been raised by UK Power Networks to amend the NTC so that they cater for DNOs’ connections to non-metered DEH networks.
- 2.2 This CP has been designated as a Part 1 Matter as the proposed change impacts both Distributor and Customers.

## 3 CURRENT ARRANGEMENTS

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- 3.1 The NTC are the default terms of connection that apply when the Connectee does not have a bi-lateral connection agreement with the Licensed Distribution Network Operators (LDNO). The NTC sets out terms that the network operator requires the Customer to accept in order to maintain their connection to the LDNO’s network.
- 3.2 LDNOs need standard terms to efficiently govern the large numbers of connections to their system and to enable them to be consistent and fair, to be transparent and to be efficient across more than 30 million customers in total. This avoids the need for bilateral connection agreements unless absolutely necessary and so avoids the need to handle changes of

Commented [CH1]: Lifted from the consultation

ownership and occupation which would need constant novation or reissue to new owners or occupiers (most of which changes the LDNO is unaware of in advance).

- 3.3 Suppliers generally incorporate the National Terms of Connection by reference within their Supply Contracts. This binds their customer to the terms. In addition, where no supply contract exists but there is a connection, then the NTC apply by virtue of Section 21 of the Electricity Act.
- 3.4 There is a gap in the arrangements whereby not all connections to LDNO networks are covered by the NTC in the absence of a bi-lateral contract. This arises due to the wording in the NTC which contain a number of sections that each have specific applicability. The issue arises because the sections in the NTC refer specifically to metered connections or to specific defined categories of unmetered supplies such as street lighting. However, where a connection is to a network operated by a Distribution Exemption Holder (DEH and the connection to the LDNO is NOT Supplier Metered and has no bi-lateral connection agreement, then the DEH has no connection terms in place at all for the boundary between it and the LDNO. This means unlimited liabilities for both the DEH and for the LDNO. In addition, key Balancing and Settlement Code compliance controls and distribution licence obligation controls are not in place and there is complete absence of any statement of obligations and protections, which all other classes of customer enjoy and gain confidence from.
- 3.5 This DCUSA Change Proposal seeks to put in place a set of terms in order that these non-metered DEH connections are covered by the NTC in the absence of a bi-lateral connection agreement. The gap in the application of the NTC to DEHs is illustrated by a diagram in Appendix 1.

#### 4 DCP 263 WORKING GROUP

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- 4.1 The DCUSA Panel established a Working Group to assess DCP 263. The Working Group met on **three** occasions and was comprised of DNO representatives and an Ofgem observer. An open invitation was issued to all DCUSA Parties and persons who have previously expressed interest in DCUSA Working Groups. Under DCUSA there is a continuous open invitation to any experts in the relevant subject matter who wish to join this Working Group.

- 4.2 The Meetings were held in open session and the minutes and papers of each meeting are available on the DCUSA website – [www.dcusa.co.uk](http://www.dcusa.co.uk).

## **5 WHAT ARE DISTRIBUTION EXEMPTION HOLDERS?**

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- 5.1 For the purpose of this change DEHs are defined as a person who Owns and / or Operates an electricity distribution system to distribute electricity to other persons (customers/tenants) and who do not need an electricity distribution licence .i.e. has no need to apply for a licence under the Electricity Act.
- 5.2 DEHs are often private landlords, local landlords, caravan parks, airport and port operators, or Local Authorities. The most prevalent DEH is a Building Network Operator (BNO). A BNO owns and / or operates an electricity distribution network within a multiple occupancy building between the intake position and the customer's installation.
- 5.3 DEH connections may be metered, for example where the DEH buys and resells the boundary metered electricity to his tenants. More often, the LDNO's system is connected to the private network with no boundary metering because each of the tenants is metered and so buys their own electricity directly from an electricity Supplier.

## **6 WORKING GROUP ANALYSIS OF DCP 263**

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- 6.1 This change seeks to have the same National Terms of Connection apply to a DEH that would apply if they had a metered boundary. The Working Group developed the following definitions to aid the DEHs application under Section 2 and 3 of the NTC:
- "Licence Exempt System" means an electricity distribution system that is not owned or operated by a holder of an Electricity Distribution Licence and which is used for the purpose of conveying electricity to or from Third Party Customers; and
  - "Third Party Customers" means electricity customers at the Premises other than the Customer.

## **7 WHAT DOES DCP 263 MEAN FOR A DEH?**

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- 7.1 The application of the NTC to the DEH will mean that there are always connection terms in place between the LDNO and the DEH in the absence of a bi-lateral signed connection agreement.
- 7.2 The terms are identical to those that are in place with metered customers. Limitations of liability will apply. The right to be connected and the right to be energised are defined, together with the circumstances where de-energisation or disconnection may occur.
- 7.3 Processes and obligations around the installation of generating equipment, installation of additional equipment and over or under use of the connection are described.

## 8 DCP 263 CONSULTATION ONE

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- 8.1 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 263 solution. The consultation was distributed to just under 1000 ~~parties~~[industry parties](#) (please see [Attachment 5](#)) There were nine responses received to the consultation. Six respondents were DNOs, three respondents were Suppliers, one IDNO respondent, one consultant respondent and one anonymous respondent. The Working Group discussed each response and its comments are summarised alongside the collated consultation responses in [Attachment 4](#).
- 8.2 A summary of the responses received, and the Working Group's conclusions are set out below:

### Question 1: Do you understand the intent of the DCP 263 change?

- 8.3 All respondents understood the intent of the CP.

### Question 2: Are you supportive of the principles of the DCP 263 change?

- 8.4 All respondents to this question were supportive of the principles of the CP.

**Question 3: Do you have any comments on the proposed legal text?**

8.5 Two respondents had no comments on the proposed legal text. Seven respondents requested that the draft legal text be clarified on the key points set out in the table below:

Author	Draft Legal Text Comments
Respondent	One respondent advised that <i>“Under this DCP section 3 is intended to apply where the connection could not reasonably be CT metered (where the connection is to a Distribution Exemption Holder (‘DEH’). Under these circumstances our understanding is that section 3 will apply to the DEH’s network and not to any installation connected to the DEH network. So any obligation on the DNO to legally de-energise or disconnect relates to the DNO/DEH boundary and the DNO is not required to de-energise or disconnect customers connected to the DEH’s network”</i> .
Working Group	The Working Group agreed to check with a legal advisor that the NTC refers to the non-metered boundary and not directly to customers connected to the private network beyond. The Working Group clarified that the DEH is responsible for customers connected to its network in so far as they impact on the use of the boundary connection point.
Respondent	Another respondent advised that <i>“in paragraph (D), the proposed use of the phrase “license exempt distribution system” (uncapitalised and not defined anywhere) implies that the rules only apply where the general distribution exemption conditions are met or there is a site-specific exemption from distribution licensing”</i> .
Working Group	The Working Group agreed to reference Section 64 of the Electricity Act’s definition of DEH and the Authority decision on DCP 124 and ask the DCUSA legal advisor to consider what to do if a company is acting like a DEH but does not meet the exemption criteria.

Respondent	The definition of <i>“Licence Exempt System”</i> <i>“appears to include systems that are unlicensed but do not have an exemption or meet the general exemption conditions; it appears to include distribution systems located outside the jurisdiction; it might include embedded transmission systems”</i> .
Working Group	The Working Group agreed to seek guidance on referencing the distribution or transmission licence pursuant to the Electricity Act.
Respondent	One respondent highlighted a contradiction in the drafting of the legal text. The proposed header of Section 2 covers any low-amperage unmetered connection suggesting that there is no express limitation to unmetered distribution systems but there is a limitation to (undefined) licence exempt distribution systems in paragraph (D).
Working Group	The Working Group agreed to clarify in the legal text that unmetered supplies covered by Section 4 are excluded. Members noted that there is a statutory instrument BSCP and BSC Charge Code for unmetered supplies which clearly delineates the difference.
Respondent	The respondent asked whether in the definition of <i>“Third Party Customers”</i> , private networks are treated as <i>“Premises”</i> on their own or whether the entire site served by a private network is treated as a single <i>“Premise”</i> .
Working Group	The Working Group considered that the definition was to set out that Distributors did not have control over the private network other than their interactions at the boundary. The Working Group agreed to confirm with the DCUSA legal advisor.
Respondent	A respondent queried that if distributors are required to give the DEH notice of De-energisation by law, e.g. for planned works under Clause 5.5, how do they comply if they don’t know the identity of the DEH?
Working Group	The Working Group agreed that the legal text should not create additional obligations on Distributors that should not be applicable and agreed to confer with the DCUSA legal advisor on this point.

Respondent	On review of Clause 9.1 the respondent asked should the DEH have an obligation to ensure that Third Party Customers do not interfere with or damage the distributor's Plant and Apparatus?
Working Group	The Working Group agreed to ask the DCUSA lawyers to ensure that any obligations on the DEH also fall on the management of their customers.
Respondent	One respondent suggested a need to define Licence Exempt System more clearly with reference to the Electricity Act and/or the relevant class exemption regulation.
Working Group	<p>The Working Group agreed that they would define Licence Exempt System more clearly with reference to the Electricity Act.</p> <p>The scope should include those that operate without a licence or an exemption order as those that have been accepted through custom and practice and it is not for the DNO to police the need for a license following customer load growth etc.</p>



**Question 4: Which DCUSA General Objectives does the CP better facilitate? Please provide supporting comments.**

1. The development, maintenance and operation by each of the DNO Parties and IDNO Parties of an efficient, co-ordinated, and economical Distribution System.
2. The facilitation of effective competition in the generation and supply of electricity and (so far as is consistent with that) the promotion of such competition in the sale, distribution and purchase of electricity.
3. The efficient discharge by each of the DNO Parties and IDNO Parties of the obligations imposed upon them by their Distribution Licences.
4. The promotion of efficiency in the implementation and administration of this Agreement and the arrangements under it.
5. Compliance with the Regulation on Cross-Border Exchange in Electricity and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators.

8.6 The following table provides a summary of the responses to this question.

Respondent Party Type	Objective 1	Objective 2	Objective 3	Objective 4	Objective 5	No Comment	Comment
DNOs	6	0	0	0	0	0	0
IDNO	1	0	0	0	0	0	0
Consultant	0	0	0	0	0	0	1
Anonymous	0	0	0	0	0	1	0
Total	7	0	0	0	0	1	1

8.7 The majority of respondents considered that General Objective 1 was better facilitated by this change for the following reasons:

- *“it will ensure the efficient management of all private networks, not just those where a bi-lateral connection agreement is in place”.*
- *“it is estimated that private networks are in the order of one hundred thousand or more and it is not administratively practical to conduct efficient management of LDNO to DEH arrangements without these changes. It would not be possible to deliver a robust transparent and codified approach to co-ordinating the management of the sum of those distribution networks in an economical way.”*
- *It “would significantly improve the efficiency of administration and application of contractual terms associated with a class of connection which has previously been largely overlooked”*

- *“it would enable distributors to maintain their distribution systems with a greater degree of confidence regarding the DEH networks that are connected to their own distribution systems”.*
- *“Enables a default position to be established and a practical solution to be enacted for the vast number of DEH boundaries that are not metered”.*
- *“it will provide an effective and economical process for administering contractual terms for the significant volume of DNO to DEH connections”.*

8.8 One respondent commented that *“the consultation document provides no source for the claim that this change would affect “one hundred thousand or more” networks”*. This respondent considered that *“the consultation document does not identify any actual management tasks that cannot currently be performed efficiently”*.

8.9 The Working Group noted the responses. Please refer to **Section 11** of this report for the Working Groups rationale on which Objectives are best facilitated by this CP.

**Question 5: It is proposed that DCP 263 be implemented in the first practicable DCUSA release following approval, which is likely to be 3 November 2016. Do you have a preference on the date that DCP 263 is implemented into the DCUSA?**

8.10 Five respondents agreed with the proposed implementation date for this change. Three respondents did not have a preference on the date that DCP 263 is implemented in to the DCUSA.

8.11 The Working Group noted that all respondents to this question were in agreement with the implementation date of the first DCUSA release following approval for this change.

**Question 6: Are you aware of any wider industry developments that may impact upon or be impacted by this CP?**

8.12 All respondents were not aware of any wider industry developments that would impact upon this CP.

**Question 13: Are there any alternative solutions or unintended consequences that should be considered by the Working Group?**

8.13 Seven respondents did not have any alternative solutions or matters to be considered by the Working Group.

8.14 One respondent considered that if the 100,000 or more networks on which DNOs cannot currently perform management tasks efficiently is an unsupported claim then site-specific connection agreements might provide an alternative solution. The Working Group agreed that this change was looking to set out a standard set of terms which DNOs can apply efficiently and consistently across all connectees.

8.15 Another respondent requested that the Working Group “consider whether s21 of the Electricity Act can be considered to impose the National Terms of Connection on licence exempt distribution system operators and whether all potential classes of licence exempt distribution systems are covered by s21”. The Working Group agreed to submit this question to the DCUSA legal advisor for consideration.

8.16 This respondent asked that “If s21 can be construed as applying to licence exempt networks then we would seek clarification and confirmation that the changes which are made to the NTCs will be able to retrospectively cover connections made prior to this change proposal” The Working Group advised that the intent is that this change would apply to existing DEHs.

## 8 ACTIONS UNDERTAKEN BASED ON FEEDBACK FROM THE CONSULTATION

**Commented [CH2]:** To be updated following discussions on the legal text advice received at the next meeting.

8.1 The Working Group considered the consultation responses and subsequent legal advice received on the DCP 263 draft legal text and agreed the way forward as follows:

## 9 PROPOSED LEGAL TEXT

9.1 The proposed legal text has been reviewed by the DCUSA Legal Advisor and acts as **Attachment 2**.

## 10 DCP 263 – WORKING GROUP CONCLUSIONS

10.1 The Working Group reviewed each of the responses received to consultation one and concluded that all of the respondents understood the intent of DCP 263.

10.2 The Working Group agreed that all respondents were supportive of the principle of the CP.

10.3 The Working Group noted that the majority of respondents felt that specifically DCUSA General Objectives 1 was better facilitated by this change.

10.4 The Working Group concluded that the primary benefits of this CP is:

- the ability to efficiently manage the licensed distribution networks interactions with the licence exempt distributors arrangements.

## 11 EVALUATION AGAINST THE DCUSA OBJECTIVES

11.1 The Working Group considers that DCUSA General Objective 1 is better facilitated by DCP 263. The reasoning against the objectives is set out in the table below:

### DCUSA General Objective One - The development, maintenance and operation by the DNO Parties and IDNO Parties of efficient, co-ordinated, and economical Distribution Networks

DCUSA General Objective 1 is better facilitated as it is ~~known~~<sup>estimated</sup> that ~~there are a substantial number of~~ private networks, ~~such as blocks of flats, BNO's, caravan sites etc,~~ ~~are in the order of one hundred thousand or more~~ and it is not administratively practical to conduct efficient management of LDNO to DEH arrangements without these changes. It would not be possible to deliver a robust transparent and codified approach to co-ordinating the management of the sum of those distribution networks in an economical way.

**Commented [CH3]:** Working Group: Do you still consider this change is best facilitated by the objective set out below?

**Commented [CH4]:** Can we footnote where this figure has been obtained from?

## 12 IMPACT ON GREENHOUSE GAS OMISSIONS

12.1 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 263 were implemented. The Working Group did not identify any material impact on greenhouse gas emissions from the implementation of this CP.

## 13 IMPLEMENTATION

13.1 Subject to Party approval and Authority consent, DCP 263 will be implemented in the first DCUSA release following Authority approval.

## 14 PANEL RECOMMENDATION

14.1 The DCUSA Panel approved the DCP 263 Change Report on 17 August 2016. The timetable for the progression of the CP is set out below:

Activity	Date
Change Report approved by DCUSA Panel	17 August 2016
Change Report Issued for Voting	19 August 2016
Party Voting Closes	09 September 2016
Change Declaration Issued	13 September 2016
Authority Decision	18 October 2016
Implementation <sup>1</sup>	First DCUSA Release Following Authority Approval

## 15 ATTACHMENTS:

- Attachment 1 - DCP 263 Voting Form
- Attachment 2 - DCP 263 Proposed Legal Text
- Attachment 3 - DCP 263 Change Proposal
- Attachment 4 - DCP 263 Consultation Documents
- Attachment 5 – DCP 263 Consultation Distribution List

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<sup>1</sup> The next DCUSA release is scheduled for the 03 November 2016

APPENDIX 1 – GAP IN THE APPLICATION OF THE NATIONAL TERMS OF CONNECTION (NTC) TO DISTRIBUTION EXEMPTION HOLDERS (DEHs) DIAGRAM

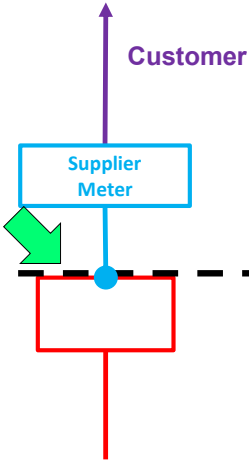
Fig 1

Fig 2

Fig 3

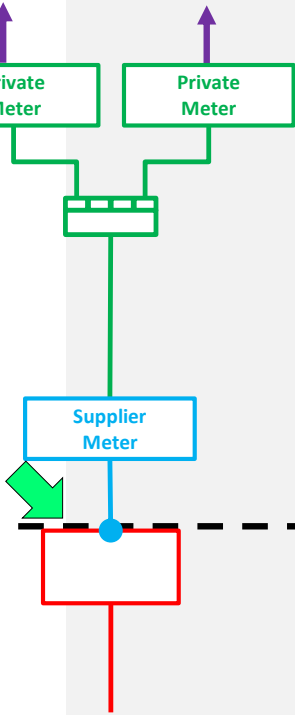
Section 2/3 of National Terms of Connection ✓

Licensed Distributor



Section 2/3 of National Terms of Connection ✓

Licensed Distributor



No section  
Bilaterals in

- 1.1 The “National Terms of Connection” apply to all connections to Licensed Distributors by statutory default or via supply contracts. BUT they are based on specifically worded criteria.
- 1.2 The National Terms of Connection are subdivided into three sections (Sections 2, 3 and 4) according to the nature of the Licensed Distributor connection. Each section is as follows;
  2. Whole current Supplier-measured connection  
**All** the power passes directly through a Supplier meter e.g. domestic and small commercial customers
  3. Current Transformer Supplier-measured connection  
**All** the power passes through a current transformer driving a Supplier meter e.g. for large industrial or commercial customers (because the load is too big to go straight through a meter).
  4. ‘Unmetered Settlements’ Supplier measured connection  
**All** consumption is based on estimation and is subject to the Unmetered Supply Regulations e.g. street lighting.
- 1.3 A metered (directly connected) customer is covered by Section 2 or 3 of the National Terms of Connection (Fig. 1)
- 1.4 A DEH network whose connection to the Licensed Distributor IS Supplier metered will be covered by Section 2 or 3 of the National Terms of Connection (Fig 2)
- 1.5 This means for example that Docks, Airports, Datacentres, Business Parks, etc. will be bound by the National Terms of Connection, normally Section 3. However, these customers may have bilateral connection agreements in place with the Licensed Distributor which take precedence over the National Terms of Connection.

- 1.6 A DEH network whose connection to the Licensed Distributor is NOT Supplier metered is NOT covered by the National Terms of Connection as no existing part of the NTC applies (Fig 3). This means that the vast majority of DEH Networks, such as multiple occupancy buildings that only have Supplier meters at the ends of the private networks, do NOT have connection terms in place with the Licensed Distributors unless they have a bilateral connection agreement.