



## DCUSA Consultation

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### DCP 263 – National Terms of Connection Distribution Exemption Holder Gap

**This consultation may affect you if you are a licensed distributor or the owner or operator of a “private” electricity network that distributes electricity to consumers and your point of connection to the national electricity system is not metered.**

**Examples of such private networks may include flats, multi occupancy buildings, house to flat conversions and caravan parks.**

DCP 263 is an electricity industry Change Proposal under the governance of the Distribution Connection and Use of System Agreement that seeks to amend the National Terms of Connection (NTC) so that they apply to Licensed Distributors’ connections to non-metered private (or “Distribution Exemption Holder”) networks.

The NTC are the default terms that apply to connections to Licensed Distributors’ networks in the absence of contractually agreed terms.

This document presents a consultation for DCP 263 and invites all parties to respond on the proposed change by the **03 June 2016**.

The Working Group is particularly interested in the views of Distribution Exemption Holders as they will be impacted by this change.

## 1 PURPOSE

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- 1.1 The Distribution Connection and Use of System Agreement (DCUSA) is a multi-party contract between electricity Distributors, 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. More information is available at [www.dcusa.co.uk](http://www.dcusa.co.uk)
- 1.2 The National Terms of Connection (NTC) are legal terms that apply to connections to Licensed Distributors' electricity distribution systems, where no site-specific agreement exists.
- 1.3 The DCUSA contains the NTC as a schedule within it and so is the mechanism by which the NTC may be varied. A full copy of the NTC is also available at [www.connectionterms.co.uk](http://www.connectionterms.co.uk)
- 1.4 DCP 263 '*National Terms of Connection Distribution Exemption Holder Gap*' is a DCUSA Change Proposal that seeks to amend the NTC. This document is a consultation issued to all DCUSA Parties, interested third parties, and the Authority in accordance with Clause 11.14 of the DCUSA seeking views on DCP 263.
- 1.5 It is noted that "private" network operators or Licence Exempt Distribution Network Operators are known within this document as Distribution Exemption Holders or DEHs.
- 1.6 Parties are invited to consider the points made in this consultation, together with the proposed legal drafting set out in Attachment 2 and submit comments using the response form provided as Attachment 1 to [DCUSA@electralink.co.uk](mailto:DCUSA@electralink.co.uk) by **03 June 2016**.

## 2 CURRENT ARRANGEMENTS

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- 2.1 There are 14 Distribution Network Operators (DNOs) in Great Britain and each is responsible for a regional electricity distribution network. In addition Independent Distribution Network Operators (IDNOs) provide infrastructure embedded within these regional networks. Both DNOs and IDNOs are Licensed Distribution Network Operators

(LDNOs) and rely on the National Terms of Connection. Licensed Distributors are known throughout this document as LDNOs.

- 2.2 The NTC are the default terms of connection that apply when the Connectee does not have a bi-lateral connection agreement with the 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.
- 2.3 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 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).
- 2.4 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.
- 2.5 However, there is a gap 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.

2.6 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.

2.7 The gap in the application of the NTC to DEHs is illustrated by a diagram in Appendix 1.

### **3 INTENT OF DCP 263 'NTC DEH GAP'**

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3.1 DCP 263 has been raised by UK Power Networks and seeks to amend the NTC so that they cater for LDNOs' connections to non-metered DEH networks.

3.2 The intent is that there should be no impact from this change on the applicability of the NTC to boundary metered DEHs or on the contractual terms suppliers put in place by virtue of Schedule 2A of DCUSA.

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

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4.1 A "Distribution Exemption Holder" or "DEH" is a person who Owns and / or Operates an electricity distribution system to distribute electricity to other persons (customers/tenants) and who does not need an electricity distribution licence, i.e. has no need to apply for a licence under the Electricity Act.

4.2 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.

4.3 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.

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

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- 5.1 DCP 263 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.
- 5.2 The terms are identical to those that are in place with metered customers.
- 5.3 Limitations of liability will apply.
- 5.4 The right to be connected and the right to be energised are defined, together with the circumstances where de-energisation or disconnection may occur.
- 5.5 Processes and obligations around the installation of generating equipment, installation of additional equipment and over or under use of the connection are described.

## 6 LEGAL DRAFTING

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- 6.1 The DCP 263 draft legal text seeks to reflect the existence of non-boundary-metered private/DEH networks in the NTC arrangements. The intent is that the same NTC terms will apply to DEHs that would apply if they had a metered boundary. As non-boundary-metered connections with DEHs do not have a supply arrangement with a Supplier, the NTC terms are not applied contractually, and so the application of the NTC to DEHs in this case is due to its statutory nature. The proposed legal drafting is included as Attachment 2.
- 6.2 The DCP 263 draft legal text introduces a new defined term for a 'Licence Exempt System':

<b>Licence Exempt System</b>	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.
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- 6.3 In (DCUSA Schedule 2B) Section 1 (D) of the NTC, the first two bullet points have been modified to ensure that the section of the NTC that will apply will be proportionate to the nature of the connection. Thus, where whole current metering could be used at the boundary the whole current metering section of the NTC will apply and where whole current metering could not be used, the CT metering section will apply.

- 6.4 The impact of these changes, if approved, will mean that connection terms will apply in the absence of a bi-lateral connection agreement between the LDNO and the DEH. These terms describe the rights and obligations of each of the LDNO and DEH, how they will behave towards one another and the limitations of liability. It should be noted that the limitations of liability differ as between those connections that could be whole current metered and those that cannot. The NTC also describe rights to be energised and right to be and remain connected.

## 7 ASSESSMENT AGAINST THE DCUSA OBJECTIVES

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- 7.1 Changes to the DCUSA must better facilitate the DCUSA objectives<sup>1</sup>. The Working Group reviewed the CP against the DCUSA Objectives and agreed that DCP 263 better facilitates DCUSA General Objective 1<sup>2</sup>.

### DCUSA General Objective 1

*“The development, maintenance and operation by the DNO Parties and IDNO Parties of efficient, co-ordinated, and economical Distribution Networks”*

- 7.2 The Working Group believes DCUSA General Objective 1 is better facilitated as 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.

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<sup>1</sup> DCUSA General Objectives

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 IMPLEMENTATION

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- 8.1 The proposed implementation date for DCP 263 is the first practicable DCUSA release after approval of the DCP by Ofgem (if given). The Working Group considers that this would most likely occur on the 03 November 2016. Changes to the NTC must be publicised in the press and the London Gazette is used to announce changes.

## 9 WORKING GROUP AND INDUSTRY ENGAGEMENT

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- 9.1 The DCUSA Panel established a DCP 263 Working Group which consists of DNO representatives, although 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.
- 9.2 The Working Group noted that previous NTC changes had received low engagement from DEHs, particularly those without boundary meters. In its decision letter on a previous attempt to incorporate DEH terms into the NTC, DCP 124, Ofgem stated “we have serious concerns that the main parties affected have not been sufficiently involved in the development of the proposal. We also do not consider that the change report has been drafted in a manner to help them understand how the proposal is likely to affect them. It would be inappropriate for us to approve a proposal when we are unclear whether one of the main parties affected by the proposal fully understands how it will affect them..... We appreciate that the DCUSA Panel has tried to involve DEHs in the DCUSA modification process for DCP 124. However, we are conscious that a DEH’s main purpose is not to operate an electricity network and DEHs’ knowledge of industry arrangements can be limited. Consequently we expect DNOs to consider how to engage more effectively with representatives from the DEH community, including helping them to understand what the obligations in the NTC are intending to achieve, by using plain English to explain the proposal.”
- 9.3 Ofgem subsequently arranged a forum to discuss DEH matters and this was not well attended by non-boundary metered DEHs. In their “next steps” letter Ofgem stated

“There are two broad types of licence exempt networks. Larger networks, such as airports, are likely to have a meter at the boundary between the private network and the licenced operator’s network. There are also networks where there is no meter on the boundary but instead there are number of separate meters embedded in customer premises within the licence exempt network (these might include blocks of flats or light industrial estates). Whilst we were pleased with the contribution made by the licence exempt network operators who attended the forum, we were disappointed that we only had limited involvement from those networks that are not ‘boundary metered’. There is a real challenge in engaging with this group of stakeholders. It may be the case that the owners of these networks do not recognise themselves as exemption holders and are unaware that the legislation affecting them has changed. Despite these difficulties it is important that the licenced network operators try to engage this group in the development of any proposed changes. We expect the licensed network operators to lead the process of engagement going forward, however we will assist and facilitate where appropriate.”

- 9.4 Consequently, each member of this Working Group has used the internet to research a distribution list of DEHs or their representatives to contact as part of this consultation. It is recognised that this may not be exhaustive and recipients of this consultation are asked to pass it on if they know of other interested parties. It is also recognised that there may be errors in that research and if you have received this consultation but are not impacted by this subject we apologise and thank you for your time.

## 10 CONSULTATION

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10.1 The Working Group is seeking views on the below questions:

1. Do you understand the intent of DCP 263?
2. Are you supportive of the principles of DCP 263?
3. Do you have any comments on the proposed legal text?
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.
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?
6. Are you aware of any wider industry developments that may impact upon or be impacted by this CP?
7. Are there any alternative solutions or unintended consequences that should be considered by the Working Group?
- 10.2 Responses should be submitted using Attachment 1 to [DCUSA@electralink.co.uk](mailto:DCUSA@electralink.co.uk) no later than **03 June 2016**.
- 10.3 Responses, or any part thereof, can be provided in confidence. Parties are asked to clearly indicate any parts of a response that are to be treated confidentially.

## 11 NEXT STEPS

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- 11.1 Responses to the Consultation will be reviewed by the DCP 263 Working Group. The Working Group will then determine the progression route for the DCP.
- 11.2 If you have any questions about this paper or the DCUSA Change Process please contact the DCUSA Help Desk by email to [DCUSA@electralink.co.uk](mailto:DCUSA@electralink.co.uk) or telephone 020 7432 3017.

## **12 APPENDICES**

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Appendix 1 - Gap in the Application of the National Terms of Connection (NTC) To Distribution Exemption Holders (DEHs) Diagram

## **13 ATTACHMENTS**

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Attachment 1 – DCP 263 Consultation Response Form

Attachment 2 – DCP 263 Draft Legal Text

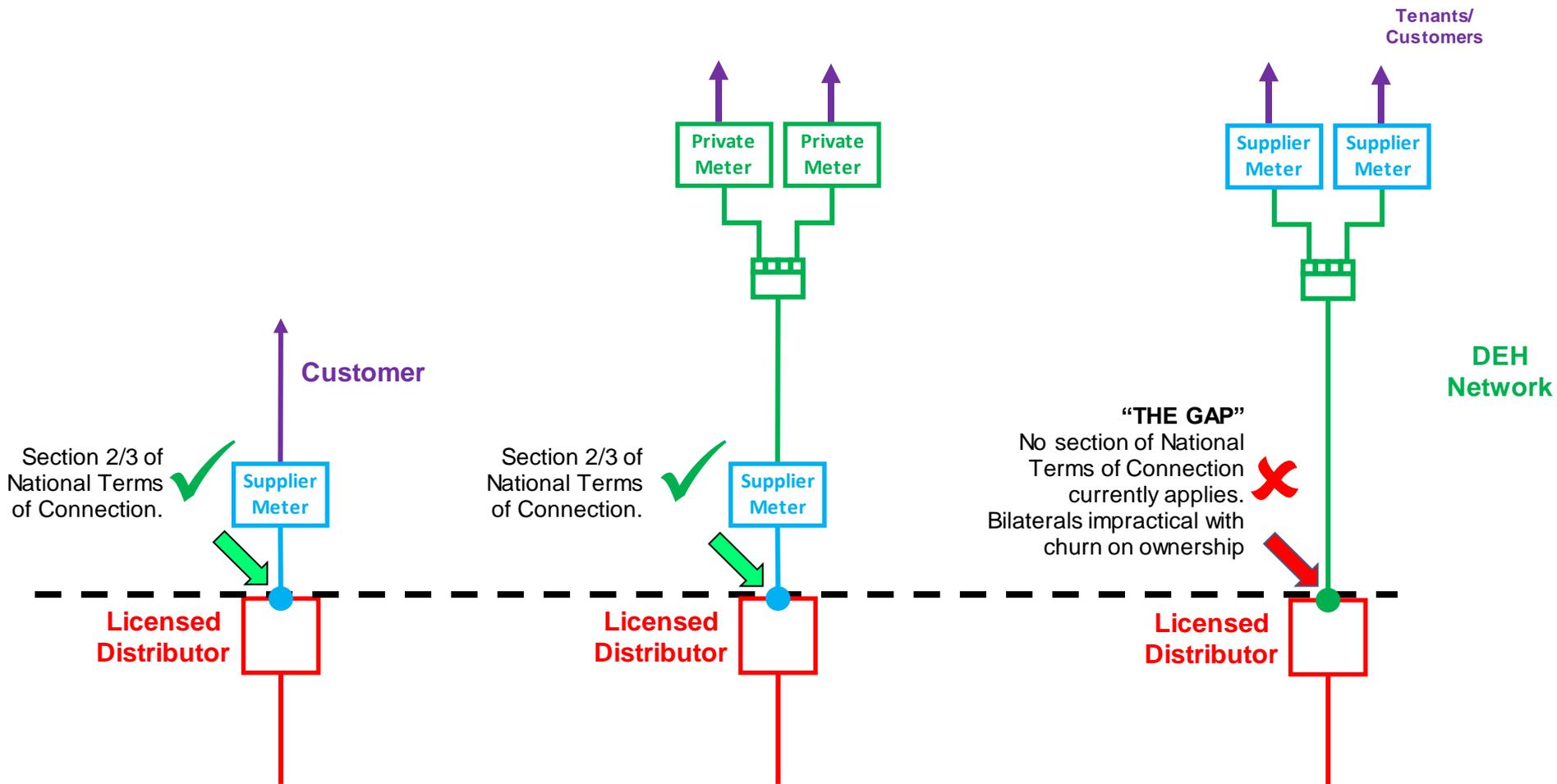
Attachment 3 – DCP 263 Change Proposal

### 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



- 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.