

DCP 255 Working Group Minutes

Meeting Name	DCP 255 Working Group
Meeting Number	03
Date	16 March 2016
Time	10:00
Venue	Web - Conference

Attendee	Company
Neil Magrath [NM] (Chair)	UK Power Networks
Gwen McIntyre [GM]	SSE
Lesley Ferrando [LF]	Ofgem
Michael Walls [MW]	ESP Electricity
Miha Orban [MO]	SSE
Peter Turner [PT]	Northern Powergrid
Claire Hynes [CH] (Secretariat)	ElectraLink

1 ADMINISTRATION

- 1.1 The minutes of the previous meeting were agreed without amendment. The actions log is included as Appendix A. During the review of the meeting minutes, members agreed that the DCP 255 draft legal text should not replicate how DNOs estimate the refund under the second comer rule as set out in the Electricity (Connection Charges) Regulations (ECCR) 2016 but instead refer Customers to the ECCR 2016 for this detail.
- 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.

2 REVIEW OF THE ECCR 2016

- 2.1 The Working Group agreed to set out a description of the changes to the ECCR and how it will impact Parties in the change report.

ACTION 03/01: NM

- 2.2 The Working Group walked through the ECCR 2016 and highlighted the following areas:
 - Additional text was added for the concept of an **Eligible person**. Members noted that an Independent Connection Provider (ICP) is now considered an Eligible person.

Refunding the Customer

- The Working Group considered that the spirit of the change to the ECCR indicated that DNOs under the second comer rule would be refunding the ICPs first comer i.e. the connecting Customer and retaining those details on their systems for this purpose.

Refunding the ICP

- From a finance department point of view, the ICP¹ paid for the initial connection and it would be standard practice to refund the payee. The ICP is now considered an Eligible party and this legal text could be interpreted as the ICP being required to be refunded. It could be presumed that the ICP would then refund the first comer.
- Another interpretation of this additional legal text is that in certain circumstances the ICP could be considered to be the first comer. For example where the ICP installs extension assets and the DNO is paid to do the closing joint if another Customer benefits from the closing joint downstream then the ICP should receive a payment as the initial contributor.

NM agreed to contact Julian Rudd to ascertain DECC's view on the correct interpretation of this legal text.

ACTION 03/02: NM

- Members highlighted the 'net first connection expenses' text and considered the point that if a DNO fully funds a primary substation in anticipation of load growth and new connection, the DNO cannot recover monies from subsequent connectees. This text limits help with investment in the DNO infrastructure ahead of demand.
- Where a Distributor determines that there is an Eligible person where the first connection was made by a person other than the relevant electricity distributor then the distributor is obliged to demand a reimbursement payment from the person obtaining the second connection. The normal process should be for the second comer charge to be included in the quote. The practical implication of this legal text, is that the distributor could demand payment from the second comer right up until they had accepted the quote to get connected. The Working Group suggested that this point be considered in the Ofgem guidance which should be issued in October 2016.
- In certain circumstances such as where a land developer of a consortium requests that capacity be provided at a development site and subsequently specific plots are provided to individual developers to connect a certain capacity, the application of the second comer rule would be convoluted and administratively impractical. The legal text allows for the first comer to notify the *"distributor in writing that they do not wish to receive a reimbursement payment"*. This could be requested by the distributor as a point of contract where the application of the second comer rule is impractical. The ECCR also allows for the scenario where the distributor has been unable to acquire the initial contributors information and is therefore not required to process a refund.
- The Working Group agreed to seek further detail on the ECCR 2016 5 (3) where under the title '*Obligation to Make a Reimbursement Payment*' the legal text refers to a person appointed by the Authority to determine the dispute.

ACTION 03/03: LF

2 REVIEW OF THE DCP 255 DRAFT LEGAL TEXT

¹ Independent Connection Provider

2.3 The Working Group reviewed and amended the DCP 255 draft legal text which acts as Attachment 1 in light of the ECCR 2016. The main discussion points are highlighted below:

- In Clause 1.22, members agreed to retain the wording that that costs of Reinforcement are borne in full rather than in whole or in part as had been amended previously as the Customer if paying in part has paid in full what was required under the ECCR.
- The Working Group agreed to consider the correct drafting for the scenario where an ICP has a client who is a first comer or a second comer. The proposed wording for the last sentence of Clause 1.29 is '*If ECCR 2016 applies, an ICP may now be a first comer and a second comer*'. The Working Group are asked to consider this proposed text in light of:
 - the new definition of Eligible Person and
 - the clarification from DECC on who receives this refund i.e. the ICP or the ICPs client on completion of Action 03/02.

ACTION 03/04: ALL

- All Working Group members agreed to seek an example where the application of Clause 1.36 may occur for discussion at the next meeting.

ACTION 03/05

- The CCCM does not contain a specific legal text section to reflect the ECCR changes and members should be cognizant in their review that these references are throughout the legal text under multiple headings such as '*Costs to be apportioned between you and us*' and '*Rebates*' potentially requiring the legal text to be updated in multiple locations to accurately reflect its content.
- One member suggested that wording be added to Clause 1.38 to address the point that the Customer may be entitled to a rebate where the Distributor has adopted the connection assets from an ICP as set out in the ECCR 2016. This does not apply to the ECCR 2012. NM and PT agreed to consider the purpose of the legal drafting in Clause 1.38 ex-committee and provide their final view to the Working Group for consideration

ACTION 03/06: PT AND NM

2.4 The secretariat agreed to notify the DCUSA Panel that the implementation date for this change has been amended to October 2016 and to reconsider the designation of this CP as urgent. The Working Group are aiming to submit the change report to the May DCUSA Panel and the DCP 255 work plan will be updated accordingly.

ACTION 03/07: ELECTRALINK

2.5 On review of the ECCR Prescribed definition, members discussed that between the date of the commissioning of assets and the date of the second connection the ECCR 2016 does not define when the 10 year period ends as initially expected. The Working Group suggested that this discussion be considered in the Ofgem guidance note.

3 NEXT STEPS

3.1 The DCP 255 Working Group agreed the next steps as follows:

- The Working Group has scheduled its next meeting on the 13 April 2016 to finalise the legal text for submission to the DCUSA legal advisor.

4 ANY OTHER BUSINESS

4.1 There were no items of any other business.

5 NEXT MEETING

5.1 The next meeting is scheduled for 10:00am on Wednesday, 13 April 2016 via web-conference.

6 ATTACHMENTS

- Attachment 1 - DCP 255 Draft Legal Text

APPENDIX A: SUMMARY OF ACTIONS**NEW AND OPEN ACTIONS**

Action Ref.	Action	Owner	Update
01/02	Seek the proposers views on the changes that they have made to the draft legal text.	ElectraLink	On-going.
03/01	Set out a description of the changes to the ECCR and how it will impact Parties in the change report.	Neil Magrath	
03/02	Contact Julian Rudd to ascertain DECC's view on the correct interpretation of who is refunded in the ECCR legal text	Neil Magrath	
03/03	Seek further detail on the ECCR 2016 5 (3) where under the title 'Obligation to Make a Reimbursement Payment' the legal text refers to a person appointed by the Authority to determine the dispute.	Lesley Ferrando	
03/04	Consider whether the proposed wording for the last sentence of Clause 1.29 of 'If ECCR 2016 applies, an ICP may now be a first comer and a second comer' best meets its purpose in light of: <ul style="list-style-type: none"> - the new definition of Eligible Person and - the clarification from DECC on who receives this refund i.e. the ICP or the ICPs client on completion of Action 03/02. 	All	
03/05	Seek an example where the application of Clause 1.36	All	

	may occur for discussion at the next meeting		
03/06	Agree the purpose of legal text drafting in Clause 1.38 ex-committee and provide your view to the Working Group for consideration.	Neil Magrath and Peter Turner	
03/07	Notify the DCUSA Panel that the implementation date for this change has been amended to October 2016 and to reconsider the designation of this CP as urgent and update the DCP 255 work plan accordingly	ElectraLink	

Closed Actions

Action Ref.	Action	Owner	Update
02/01	Re-draft Clause 1.38	Neil Magrath	<p>Completed. Neil provided the following draft legal text via e-mail:</p> <p><i>For Distribution System assets previously installed to provide connection and where the connection was provided on or after XX October 2016, the arrangements for recovery of costs and rebates will also apply where those assets were installed by an ICP and adopted by us. These arrangements are as described in the ECCR.</i></p>