




DCUSA Consultation		At what stage is this document in the process?
<h2>DCP 251 & 252</h2> <p>DCP Title: Clarification And Extension Of The Application Of LDNO Tariffs Under The CDCM and Clarification And Extension Of The Application Of LDNO Tariffs Under The EDCM</p> <p>15 October 2015</p> <p>Standard</p>		01 – Change Proposal
		02 – Consultation
		03 – Change Report
		04 – Change Declaration
<p>Purpose of Change Proposal:</p> <p>DCUSA Change Proposals 251 & 252 seek to:</p> <ol style="list-style-type: none"> 1. Correct drafting errors in the specification of the distribution systems that are eligible for LDNO tariffs under the CDCM and under the EDCM. 2. Ensure that there the charging methodologies do not impose undue discrimination between licensed and licence-exempt distribution systems. <p>This document is a Consultation issued to DCUSA Parties and any other interested Parties in accordance with Clause 11.14 of the DCUSA seeking industry views on DCP's 251 & 252.</p>		
	<p>The Workgroup recommends that this Change Proposal should:</p> <ul style="list-style-type: none"> • proceed to Consultation 	
	<p>Parties are invited to consider the questions set in section 10 and submit comments using the form attached as Attachment 1 to dcusa@electralink.co.uk by DATE</p> <p>The Working Group will consider the consultation responses and determine the appropriate next steps for the progression of the DCUSA Change Proposal.</p>	
	<p>Impacted Parties: DNOs, IDNOs, other parties that are or would be eligible for LDNO tariffs</p>	
	<p>Impacted Clauses: Schedules 16, 17 and 18.</p>	

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? Any questions?

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Timetable

The timetable for the progression of the Change Proposal (CP) is as follows:

Change Proposal timetable

Change Proposal timetable:

Activity	Date
Initial Assessment Report Approved by Panel	21 October 2015
First Consultation issued to Parties	6 May 2016
Second Consultation issued to Parties	October 2016
Change Report issued to Panel	December 2016
Change Report issued for Voting	December 2016
Party Voting Ends	January 2017
Change Declaration issued to Authority	January 2017
Authority Decision	February 2017

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 CPs to amend the Agreement with the consent of other Parties and (where applicable) the Authority.

Why

- 1.2 Currently, LDNO tariffs are only available to licensed distributors in respect of networks where they connect to a 'host' electricity distribution system. The LDNO tariffs are applied by the host licensee on a similar basis to how suppliers are charged i.e.:
- On a portfolio basis for Non-Half Hourly (NHH) and aggregated Half Hourly (HH) customers connected to LDNO owned distribution systems; and
 - On a site specific basis for other HH customers connected to LDNO owned distribution systems.
- 1.3 An issue was raised at the Distribution Charging Methodology Forum (DCMF) Methodology Issues Group (MIG) on LDNO tariffs to determine whether:
- The current applicability was set out clearly enough in respect of licenced Distribution Network Operators (DNOs) who operate networks outside their distribution services area; and
 - Separately, whether the LDNO tariffs should also apply to networks owned and operated under licence exemption.
- 1.4 The issue was developed after being initially discussed at the DCMF MIG in September 2014, before it was raised as a formal DCUSA change in October 2015.
- 1.5 The proposer of the original issue (raised as a Draft Change Proposal at the October DCMF MIG meeting) considered how the legal provisions are supposed to work in the case of unlicensed distribution networks that opt for "full settlement" metering [\[see Elexon's document on full settlement or difference metering\]](#) and use the Meter Point Registration Service (MPRS) from a licensed distributor.

- 1.6 DCP 251 was raised alongside DCP 252 to consider potential updates to both the Common Distribution Charging Methodology (CDCM) and the EHV Distribution Charging Methodology (EDCM). Due to the similar nature of these changes, the DCUSA Panel agreed for both CPs to be considered by a single Working Group.
- 1.7 The proposed legal drafting has been provided as **Attachments 4 and 5**. Within these attachments, amendments have been drafted to:
- Address the drafting errors in the EDCM to ensure that DNO operating outside of their distribution service area are treated in the same manner as IDNOs;
 - Introduce the term Qualifying Network Operator; and
 - Introduce a definition for Qualifying Network Operator, which would allow unlicensed distributors to qualify for LDNO tariffs.

2 Governance

Justification for Part 1 Matter

- 2.1 The DCUSA Panel approved the setting up of a joint DCP 251 & 252 Working Group to develop this CP. CPs 251 & 252 have been classed as a Part 1 matter by the Panel and therefore will go to the Authority for determination after the voting process has completed.
- 2.2 The justification for this classification is that any change to the DNO charging methodologies requires the Authority's approval according to the distribution licence.
- 2.3 The first consultation was issued to the industry in May 2016 and sought industry views on whether they agreed with adding a new definition of 'Qualifying Network Operator', to which all seven respondents agreed. In response to this and the the rest of the consultation responses the Working Group have continued the development of the CP and now seek industry views on whether '*undue discrimination*' is taking place against PNOs where they are not currently able to use the IDNO Tariffs, and the Working Group will use this feedback to further develop this change in readiness for the Change Report stage.

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We need to add here what other areas we are seeking feedback on e.g. have we now agreed on a definition of QNO, any legal changes and the DCUSA Objectives.

3 Why Change?

Background of DCP's 251 & 252

- 3.1 DCP 251 and DCP 252 were raised by The Electricity Network Company Limited so that the issues raised at the DCMF MIG could be considered under DCUSA's formal governance arrangement as the originator of the MIG issue is not a DCUSA party so could not raise the DCUSA changes on its own behalf.
- 3.2 In line with the duties of the Working Group to evaluate, develop and refine the solution, the intent of the change was amended to not include the restoration of the 50 per cent LDNO discount on indirect costs which was removed by the approved legal text for DCP 185 in cases where the fixed adder is negative. These amendments have been reflected in DCP 252. This amendment was agreed with the Panel.

Applicability of the CDCM

- 3.3 The CDCM currently applies the LDNO tariffs to Independent Distribution Network Operators (IDNO) Parties and DNO Parties (where a DNO Party operates network(s) outside its distribution service area). The CDCM does not apply LDNO tariffs to networks operated under licence exemption. This may result in undue discrimination if the networks and the way they are operated by a licensed operator and a licence exempt operator are equivalent. DCP 251 and DCP 252 would allow the application of LDNO tariffs to be extended to licence exempt networks, where the DNO provides use of system services that it would also provide to an IDNO in respect of end users connected to its network.

Applicability of the EDCM

- 3.4 In addition to the applicability matters highlighted in 3.3 above the current drafting of the EDCM legal text wrongly limits the application of LDNO tariffs to "IDNO Parties". This is viewed by the Working Group as an error in the drafting rather than a fundamental issue of applicability as, in practice, DNO companies are already operating outside of their distribution services area (mirroring IDNO activity) and it is understood current practice is to charge such DNOs on the same basis as LDNOs.

4 Code Specific Matters

Background to The Creation of The LDNO Tariffs

- 4.1 The common IDNO tariffs were established in 2010, following the introduction of the Common Distribution Charging Methodology (CDCM). Prior to this each DNO had their own approved

methodology for charging IDNOs. These methodologies had been established and approved by Ofgem on an interim basis on the understanding that the introduction of the CDCM would ensure commonality across all DNOs.

4.2 The LDNO tariffs were developed and introduced in 2010 to recognise the particular features of IDNOs and out of area DNOs and their place in the market for competition of ownership of new networks: Those features were:

- IDNOs (or DNOs operating outside their distribution services area) provide, own and operate the “last mile” of network (i.e. the network between a DNO’s existing distribution system and end customers), and in doing so substitute the activity that the DNO would otherwise provide.
- The Price Control Disaggregation Model (PCDM) allocates total DNO costs between the DNO’s existing network and the last mile network provided by the IDNO or DNO. These costs are allocated using the host DNO’s total average costs to serve an equivalent network. Such cost being dependent on:
 - The amount of last mile network provided by the IDNO or DNO in substitution of the host DNO. The level of substitution is determined from the point (e.g. voltage level) at which the last mile network connects to the DNO network and the network level (e.g. the voltage level) at which the last mile network connects to end customers.
- The PCDM developed for IDNOs and DNOs connecting to a host DNO’s distribution system apply to all such networks connected: The host IDNO/DNO cannot elect to choose to have some sites charged on LDNO tariffs and for other sites to be charged on tariffs designed for end consumers.
- This approach means that the IDNO/ DNO operating the network will typically receive the same margin as the host DNO’s notional “equivalent” business does in operating the same “equivalent” network. This is because under IDNOs’/ DNOs’ licence conditions they are required, in respect of domestic customers, to replicate the host DNOs tariff structure and to charge no more than the host DNO would charge.
- Where the IDNO/DNO procures services from the host DNO in respect of the last mile network it does so on separate contractual terms and charges; i.e. the cost of such services is not recovered through DUoS charges (for example emergency services).

- 4.3 The majority of the Working Group believes that, at the time of developing the LDNO tariffs under the CDCM, explicit consideration of the application of these tariffs to licence exempt networks did not occur.

5 Working Group Assessment

DCP's 251 & 252 Working Group Assessment

- 5.1 The DCUSA Panel has established a Working Group for DCP 251 and DCP 252, which consists of independent representatives from DNO and IDNO parties, an Ofgem observer and the raiser of the original DCMF MIG issue (a non DCUSA party). An open invitation was extended to all DCUSA Parties and to all other interested parties to participate in this Working Group and this invitation remains open for any interested parties.

5.2 Since the last consultation in May 2016 which sought to clarify the applicability criteria of the IDNO tariffs through the creation of a new concept and term in DCUSA called a Qualifying Network Operator (QNO) and how the new term could be used in relation to unlicensed distribution systems.

5.25.3 In order to develop further what the criteria is to be a QNO discussions have ~~moved on~~ ~~to progressed to include~~ specific differences between PNOs and IDNOs.

5.35.4 The Working Group's discussions have been centred around whether the inability for PNOs to use IDNO DUoS Tariffs is considered 'unduly discriminatory' or not as indicated within the wording used in the Change Proposal (CP) documentation. The Working Group have been considering the following points:

Definition of 'Undue Discrimination'

5.45.5 The use of the term 'undue discrimination' has been used in the CP documentation however the Working Group noted that this had not been defined. As this 'undue discrimination' was at the core of the issue it was agreed that this should be made clear moving forward.

5.55.6 The Working Group reviewed a number of regulatory references to Discrimination and undue Discrimination. The Ofcom code states:

Ofcom, Code on the Prevention of Undue Discrimination between Broadcast Advertisers; (<http://stakeholders.ofcom.org.uk/binaries/broadcast/831190/undue-discrimination.pdf>).

“5.2 Any consideration of whether or not a broadcaster that is licensed by Ofcom has engaged in undue discrimination will be a two-stage process. Firstly, Ofcom will assess whether or not the licensee has discriminated between advertisers. If it has, Ofcom will go on to consider whether such discrimination was undue.”

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5.3 In this context, discrimination means that the licensee does not reflect relevant differences between (or does not reflect relevant similarities in) the circumstances of advertisers in deciding whether or not to include advertisements in their licensed service and the terms on which a licensee agrees to broadcast the advertising in question. Discrimination can occur both where a licensee treats one third party advertiser in a different manner to another and where it offers more favourable terms to itself or an associated company.

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5.4 Not all forms of different treatment will amount to discrimination since advertisers may not be in comparable positions. Ofcom will therefore need to consider on a case-by-case basis whether or not the licensee has, in fact, discriminated between advertisers.

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5.5 However, it should be noted that the fact that a licensee has discriminated between advertisers does not of itself lead to a breach of the Rules. In order for a breach of the Rules to have occurred, any discrimination must be "undue".....

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5.8 Discrimination will not be undue where it can be objectively justified. There may be various reasons why terms and conditions and access to airtime may differ between advertisers. The examples below are a non-exhaustive list of examples of potential objective justifications. However, every complaint will be dealt with on a case-by-case basis, taking account of the individual circumstances of each case.

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5-65.7 On this basis the Working Group undertook work to define this term using existing OFCOM definitions as guidance. The Working Group noted that existing OFCOM definitions indicated that 'undue discrimination' deemed undue or not undue based on whether the discrimination can be 'objectively justified'. The Working Group agreed to use the Ofcom code when considering the Distribution Licence obligations covering Discrimination. The Distribution Licence states:

“Without prejudice to paragraph 19.1, and subject to standard condition 14 (Charges for Use of System and connection), the licensee must not make charges for providing Use of System to any person or class or classes of persons which differ from the charges for such provision to any other person or any other class or classes of persons, except insofar as such differences reasonably reflect differences in the costs associated with such provision”.

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Network Structure

5-75.8 It was highlighted in the CP that due to the similar structures of PNO and IDNO network setups, PNOs should be eligible for use of IDNO Tariffs. On this basis the Working Group compared the various setups of PNOs against the baseline of IDNO networks, including:

- Building Network Operator (BNO) networks;
- Private Networks with Competition in Supply;
- Private Networks without Competition in Supply; and
- Private Wire Generation and Local Supply.

5-85.9 These network setup diagrams have been included as Attachment 3.

5-95.10 Analysis of these different structures allowed the Working Group to identify specific differences between PNO and IDNO networks. These differences could then be used to ascertain the scope of additional services IDNO's offer as part of their license obligations against PNOs who are not obligated to offer these services.

Differences between PNO and IDNO network structures

PNO	IDNO
Maintenance of the network	Maintenance of the network
Providing network assets	Providing network assets
Settlement processes on 'bulk' users at boundary	Settlement processes on multiple users rather than 'bulk'
	CoS processes
	Emergency services
	MPAN creation / provision
	Compliance with Licence Conditions and Industry Codes, and associated costs.

Commented [JL2]: This may need further clarity because it is also to certain standards of installation

Commented [DF3R2]: WG to elaborate on.

5-105.11 The Working Group requests that the industry utilise these diagrams and tables when considering the consultation questions set out in Section 8 of this document.

5-115.12 Additionally, it was noted by the Working Group Unmetered Supplies (UMS) could be included in some PNO structures and it was questioned whether UMS fits into the scope of DCP 251 & 252. The Working Group seeks views from industry as to whether UMS arrangements should be considered when reviewing various network set-ups as part of this change.

Provision of Services

5-125.13 The Working Group considered whether the additional services that IDNOs provide which PNOs do not is material when considered in relation to the reduced costs that they are entitled to as part of the IDNO tariffs, and thus the prescribed discrimination against PNOs would be considered 'objectively justified'.

5-135.14 Using the identified differences between PNO and IDNO network structures the Working Group compiled a list of differences in services provided:

Services provided by the PNO	Services provided by the DNO
Maintenance, operation and provision of physical assets	Provides maintenance, operation and provision of physical assets up to the boundary
Billing (as appropriate) of end user customers	Bills the Supplier
Receives a 'bulk' Supply tariff (the end user customers are bundled)	Facilitates settlements (e.g. loss adjustment factors, line loss factor classes etc.)
Benefits from the diversity of its customers' use of the private network	Facilitates the CoS process
	Provides emergency services in respect of the MPAN at the boundary
	Operates as the MPAN point of contacts
	Provides the MPAN at the boundary

5.15 The Working Group requests that the industry consider the differences in PNO and IDNO provided services when considering the consultation questions set out in Section 8 of this document.

5.14

Are PNOs unduly discriminated against?

5.16 A number of Working Group members submitted their views on whether 'undue discrimination' is taking place where Private Network Operators (PNOs) are not currently able to utilise the Independent Distribution Network Operator (IDNO) Tariffs.

5.17 Members of the Working Group had differing opinions as to whether 'undue discrimination' is taking place in relation to PNOs being unable to use IDNO DUoS Tariffs. The Working Group discussed the matter at length with a number of key points being made:

Points Discussed Against 'Undue Discrimination' Taking Place

- Based on Ofgem's 2009 Consultation on the IDNO DUoS Tariffs it appears that the IDNO DUoS Tariffs were designed to have a sound basis for offering a discount;
- PNOs do not offer the same provision of services compared to IDNOs. In instances where a PNO contracts with other parties to offer these services and are not offered IDNO

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We probably need to align the sections with the questions so that we discuss each area and then indicate what the question is. The questions are then summarised later in the document. So please move this to the undue discrimination section which really needs to sit after the comparison of the networks but I am happy that an introductory sentence is placed before both.

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tariffs, this may be considered ‘undue discrimination’. However, if the PNO does not contract to offer these services, ‘undue discrimination’ would not be occurring; and

- All network operators have the option to become a Licensee. If a PNO chooses not to partake in the requirements stated in the Electricity Act then some members of the Working Group postulated that they should not be entitled to IDNO DUoS Tariffs where they are in breach of the Act.

Points Discussed For ‘Undue Discrimination’ Taking Place

- PNOs have similar network structures to IDNOs and thus should be entitled to the IDNO Tariffs;
- DNOs’ use of system charging methodologies are licence obligations, not DCUSA contractual obligations; they apply equally to use of system services that are provided under DCUSA and to use of system services that are provided outside DCUSA. However other Working Group members disagreed, stating that that where DNO use of system charging methodologies do not fall under DCUSA, DCUSA forms the vehicle for these obligations; and
- Use of System arrangements should not be bundled with the provision of other services. For example, BSC services are not Use of System charges and are chargeable to the Supplier and not the network operator. If these services were not bundled, then PNOs and IDNOs would be comparable in function and should be entitled to the same IDNO DUoS Tariffs.

5.18 The Working Group agreed that the general principle of the IDNO DUoS Tariffs was to offer the IDNOs a discount based on the total avoided costs of the services that it would offer which the IDNO delivers instead. However, without a method to prove that PNOs offer these services via contractual arrangements with other organisations to offer these services, there may be instances where PNOs are being unduly discriminated against.

5.19 In order to ascertain whether any Parties are subject to ‘undue discrimination’, the Working Group reviewed and refined the existing QNO definition.

Refinement of ‘Qualified Network Operator’ Definition

5.20 The majority of participants from the last consultation agreed with the inclusion of a new definition for QNO and with the proposed wording of the definition. However more recent developments have resulted in this definition being updated by the Working Group to the following:

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Qualifying Network Operator:

A person who is authorised to distribute electricity:

(a) by an electricity distribution licence and who:

(i) does not have a specified Distribution Services Area; or,

(ii) is a DNO Party operating a network outside its specified Distribution Services Area; or

(b) by exemption under the Act where

- the relevant distribution system forms part of the Total System (as defined by the Balancing and Settlement Code);
- Customers' Entry Points or Exit Points to or from that distribution system are Metering Points;
- the person has notified the DNO Party to whom its distribution system connects that it wishes to be treated as a QNO and has entered into arrangements with a DNO Party or IDNO Party (as the case may be) for the provision of use of system; and
- 5.15– the person responsible for that distribution system demonstrates to a DNO Party or IDNO Party (as the case may be) that it has entered into arrangements for the provision of Data Services as described in the Electricity Distribution Licences.

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5 Relevant Objectives

Assessment Against the DCUSA Objectives

5.10.1 The Working Group considers that the following DCUSA Objectives are better facilitated by DCP's 251 & 252. Additionally, in the first consultation in May 2016, four out of seven respondents agreed that the proposal, as outlined so far, better facilitates the DCUSA objectives detailed below.

Impact of the Change Proposal on the Relevant Objectives:	
Relevant Objective	Identified impact
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.	Positive
Charging Objective Two: That compliance by each DNO Party with the Charging Methodologies facilitates competition in the generation and supply of electricity and will not restrict, distort, or prevent competition in the transmission or distribution of electricity	Positive
General Objective Two: The facilitation of effective competition in the generation and supply of electricity and (so far as is consistent therewith) the promotion of such competition in the sale, distribution and purchase of electricity.	Positive
General Objective Three: The efficient discharge by the DNO Parties and IDNO Parties of obligations imposed upon them in their Distribution Licences.	Positive

General Objective Four: The promotion of efficiency in the implementation and administration of this Agreement

Positive

5.11 The details for the rationale for better facilitation of these DCUSA Objectives are:

Charging Objectives:

1. Correcting errors in the methodology statement facilitates compliance.
2. Distortions to competition are reduced by removing undue discrimination between licensed and licence-exempt distributors, and by removing the irrational treatment of indirect costs that has been introduced by the DCP 185 legal text in cases where the fixed adder is negative.

General Objectives:

2. Distortions to competition are reduced by removing undue discrimination between licensed and licence-exempt distributors, and by removing the irrational treatment of indirect costs that has been introduced by the DCP 185 legal text in cases where the fixed adder is negative.
- 3 & 4. Correcting errors in the methodology statement facilitates compliance and administration.

Commented [JL5]: Still to be determined.

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 No, DCP 251 & 252 is not related to the SCR or other change proposals in other codes.

Consumer Impacts

6.4 The Working Group did not identify any impacts to the end user Consumers, however there are consequences for PNOs.

Commented [JL6]: This may be true for end consumers but there are consequences for PNOs who in certain situations are consumers. We may need to look at this and consider what stills needs to happen re potential for BCAs

Environmental Impacts

6.5 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's 251 & 252 were implemented. The Working Group did not identify any material impact on greenhouse gas emissions from the implementation of this CP.

Commented [DF7R6]: Added a bit of clarity here. Leave a comment here for further development

Engagement with the Authority

6.6 Ofgem has been fully engaged throughout the development of DCP's 251 & 252 as a member of the Working Group.

7 Implementation



7.1 The proposed implementation date for DCP 251 and DCP 252 is five working days following Authority Consent.

8 Legal Text

8.1 The legal text for DCP's 251 & 252 is provided as Attachment xx.

Commented [JL8]: We need to work on this and develop further QNO and put in here that a review of the legal text suggestions from the first consultation as developed further thinking in this area rather than just a one liner. I think it will also result in additional questions.

Commented [DF9R8]: To be considered by the WG.

9 Consultation Questions

9.1 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.

9.2 The Working Group is seeking industry views on the following consultation questions:

9.3 Responses should be submitted using Attachment xx to dcusa@electralink.co.uk no later than, DATE

Attachments

Question Number	Question
1	Do the templates and diagrams provide you with sufficient information to understand the issue?
2	Do you agree with the Working Group's comparison of the differences between DNOs, IDNOs and PNOs, as set out in the diagrams?
3	Do you agree with the view of the Working Group's view that [insert WG's view on undue discrimination]? If not, are there areas that the Working Group has missed which might have resulted in a different view?
4	If there is case that undue discrimination is taking place, due to the nature of how IDNO tariffs were developed, is it appropriate to calculate IDNO and PNO tariffs using the same approach?
5	Do you have any comments on the legal drafting?

• Attachment 1 –

• Attachment 2 –

• Attachment 3 –

• Attachment 4 –