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DCP 209 'Resolving Unregistered Customers' Request for legal advice

Dear Colleagues

We are writing to you on behalf of the DCUSA (Distribution Connection and Use of System Agreement) DCP 209 Working Group to seek legal advice on resolving unregistered customers.

Background

Unregistered customers are individuals who are consuming electricity without being contracted to a supplier. The working group is considering measures to require these customers to agree to the terms of a supply contract or face [disconnection] as a last resort.

These customers get free electricity to the detriment of others who must pay for this 'lost' energy. Neither are their installations subject to periodic safety inspections causing risk to themselves and their neighbours. The customer may be comparatively blameless in that no obvious illegal action has taken place to facilitate this state. Rather, something has gone wrong with industry registration processes and, potentially worried about getting a large retrospective bill, they fail to take proactive action to find a supplier.

Alternatively, this situation may arise when unauthorised third parties install rogue services, unauthorised service subdivisions and 'fake' meters. The customer, or their landlord, is wholly culpable for these deliberate criminal acts. The occupier of the premise may be unaware (e.g. short terms tenants) or fully cognisant that rules have been broken and therefore avoids responding to letters from the Distributor. Even in these latter situations there is generally no obvious safety issue on which the Distributor should immediately 'act to make safe' (i.e. de-energise under the auspices of the ESQCR).

The working group is looking to produce standard industry letters or standard letter content (and supporting processes) similar to the letter content presently used in gas, but with letter headings being those for the individual Distributor concerned (the gas letters have an Xoserve heading). Please see the attached gas industry letters.

Additional background

Most distributors send letters to such customers urging them to get a supply contract but with mixed success. Some Distributors imply potential de-energisation / discontinuation and this generally drives the customer to engage with a supplier

with such customers ending up properly metered and registered in an efficient manner. Those Distributors who do not threaten de-energisation / discontinuation have much less success in resolving such sites. However, in seeking advice to support the working group the group does not require or seek advice as to the appropriateness or otherwise of any current actions taken by parties.

The word 'Disconnection' is generally avoided here as this implies physical works and permanency and the working group is trying to incentivise supply contracts and registration where the provenance and safety of the installation permits. Full disconnection remains a valid option in other circumstances or where all reasonable routes to resolve fail.

Advice required

The strength of the letters that Distributors can send will significantly influence the supporting processes that the group is looking to develop. We would therefore like advice on whether the proposed text below could legally be used in communications from Distributors. This text is perhaps most appropriate for those customers thought to have unwittingly become Unregistered Customers with something rather firmer anticipated where there is clear evidence of illegal activity.

'A letter was recently sent to you asking for details of your electricity Supplier but to date the electricity supply remains unregistered. As our records show that the above property has an electricity connection but a contract between yourself and the electricity Supplier is not in place, it is assumed that you are not using the electricity supply.'

Arrangements are now being made for an engineer to visit your property, which may result in your connection being [discontinued], resulting in your supply being 'cut-off' (even if you are not present when we visit).

The supporting process would provide the customer with seven days' notice before the Distributor's field staff attended site (to '[de-energise]' or plan the '[de-energisation]').

We would also like advice on whether a much more strongly worded letter could be sent to those customers that had been connected outside of industry arrangements e.g. via fake meters installed by persons unknown.

The group would also like to know whether any other applicable legislation and or consequences could be referred to in such a letter, for example Section 13 of the Theft Act 1968.

If the advice we seek could be clearer I would be grateful if you could please contact the working group chair prior to carrying out any substantive work.

Terminology

With reference to the proposed letter text above and the words 'discontinued' in the square brackets above; the working group is not particularly wedded to any particular word that describes the stopping of the electricity flowing, in fact 'de-

energisation' may be a more appropriate word as 'de-energisation' describes a temporary status in industry arrangements, whereas 'disconnection' is generally used to describe something more permanent. Noting that the word 'de-energise' is already used in DCUSA 25.78 and 25.9, alternative terminology, described perhaps as 'temporary...' might be also useable by the group, including:

- de-energise;
- discontinue;
- cease to provide

Scope

In developing your advice we would like you to consider the following, plus any additional relevant legislation you feel appropriate.

- The Act, including Section 17 and whether distributors are specifically obliged to maintain such connections under section 17.
- Distributor licences.
- DCUSA provisions including the NTC.
- The ESQCR
- The Health and Safety at work Act.
- Section 13 of the Theft Act 1968

We are aware that different industry legislation/codes uses different terms for discontinuing the flow of electricity e.g. Disconnect (generally referring to something more permanent), De-energise, discontinue or (cease to) maintain and the working group is not wedded to which words could be used in the proposed letters.

We believe gas Transporters use the below power, under the gas act to disconnect unregistered gas customers (as a last resort):

Improper use of gasE+W+S18 (Gas Act, schedule 2B, paragraph 18)

If a consumer improperly uses or deals with gas so as to interfere with the efficient conveyance of gas by the [F1gas transporter] (whether to the consumer or to any other person), the transporter may, if he thinks fit, disconnect the consumer's premises.

Additional supplementary questions

- Is it reasonable for Distributors to maintain connections where there is no contract with a supplier, including because supplier's licence obligations to inspect are not applicable?

- If we found such premises connected and not via the proper process (bringing into question the integrity of the connection point), could a Distributor disconnect as someone has tampered with our assets?
- Being an unregistered consumer who is not under contract with a Supplier, would they be subject to the National Terms of Connection?
- Where there is vulnerability identified on site, is it reasonable for Distributors to maintain connections indefinitely where there is no contract with a supplier, and repeat requests to legitimise the supply have been ignored?

Best Regards,

Chris Allanson (Chair of the DCP 209 Working Group)