

Legal Feedback on the Confidentiality Clause

Suggested Confidentiality clause wording developed by the DCP 204 Working Group:

9. CONFIDENTIALITY

9.1 Any notice issued by either of the Company or the User pursuant to this Schedule 8 shall be confidential and neither of them shall pass on any information contained in such notice to any other person but shall only be able to say that there has been an incident on the Total System and (if known and if power supplies have been affected) an estimated time of return to service.
For the avoidance of doubt, this does not prevent Users from notifying those customers affected by such notice.

Feedback on the above clause received from the DCUSA Legal Advisor:

From: Gus Wood
Sent: 04 December 2014 09:37
To: DCUSA
Cc: Peter Waymont
Subject: RE: Query from DCP 204 Working Group [EFILE-Legal01.588326.2099789]

Hi Roz

As drafted, paragraph 9 of schedule 8:

- (i) requires suppliers to keep notices from a distributor under schedule 8 confidential. Such notices include Load Managed Area Notices, Provisional SRNs, Firm Security Restriction Notices, Emergency Restriction Notices and Compliance Notices; but
- (ii) allows suppliers to inform others (eg customers) that there has been an incident on the transmission/distribution network, and to provide details of the estimated return to service (if known).

Do you know (or can you please check) whether (ii) above already allows suppliers to disclose what they want to disclose? Of course it may be that suppliers want to be able to pass on further information. If that is the case, we should set out the further pieces of information that suppliers want to be able to share.

In actual fact, however, your email suggested something slightly different. Your email suggested that suppliers should be able to communicate with affected customers but not to publish information on the supplier's website etc. The current wording does not prevent suppliers publishing details on websites. Nor does it limit the class of person to whom the information can be disclosed. It may therefore be that the current wording needs to be narrowed (rather than widened) in this respect.

On this basis, I don't think the wording attached to your email is quite right. I'm not quite clear on what the WG wants to achieve, so this might not be right, but what about –

Any notice issued by either of the Company or the User pursuant to this Schedule 8 shall be confidential and neither of them shall pass on any information contained in such notice to any other person; save that the User may notify any and all of its Connectees which are affected by an interruption in supply that there has been an incident on the Total System and (if known) of the estimated time of return to service.

Gus