

DCP 181 Working Group Minutes

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| Meeting Name | DCP 181 Working Group |
| Meeting Number | 06 |
| Date | 12 November 2015 |
| Time | 10:00 |
| Venue | Web-Conference |

| Attendee | Company |
|----------------------------------------|---------------------|
| Peter Waymont [PW] (Chair) | UK Power Networks |
| Alex Seaton [AS] | UK Power Networks |
| Andrew Sherry [AS] | ENWL |
| Deirdre Bell [DB] | Ofgem |
| Gus Wood [GW] | DCUSA Legal Advisor |
| Fungai Madzivadondo [FM] (Secretariat) | ElectraLink |

1 ADMINISTRATION

- 1.1 Apologies were received from Peter Turner (Northern Powergrid).
- 1.2 The minutes of the last meeting were agreed without amendment.
- 1.3 The Working Group reviewed the actions from the previous meeting. A summary of new and outstanding actions is attached as Appendix A.
- 1.4 The Working Group agreed to abide by the Competition Laws Do's and Don'ts for the duration of the meeting.

2 REVIEW OF THE DCP 181 DCUSA LEGAL ADVICE

- 2.1 The Chair briefly summarised the background and purpose of this meeting. The change report was issued to the Working Group to review from the 13 – 20 July 2015. During the review period, feedback was received from Ofgem on this change which acts as Attachment 1. In order to address Ofgem's concerns and provide greater clarity in the report, the Working Group drafted a list of questions which was submitted to the DCUSA legal advisor. This was meeting was convened to consider the legal advice provided by Wragges. It was noted that UK Power Networks also provided comments on the legal text questions.
- 2.2 The Working Group reviewed the DCUSA legal advisors advice (Attachment 2) and the UK Power Networks feedback (Attachment 3) on these questions and considered how to best insert this advice in to the DCP 181 change report.
- 2.3 The Working Group considered whether the National Terms of Connection (NTC) could be varied to place an obligation on the connectee to advise any prospective buyer/new tenant if there is an existing bilateral or existing terms and to disclose them. It was suggested that the NTC could be incorporated through the Supplier contract to ensure the connection is used in the way it was intended to be used. The Working Group clarified that this will not apply to most domestic premises as they will not have a bilateral connection. It was noted that the legal drafting references Section 3 of the NTC and that this is for CT Metered customers only.
- 2.4 Attendees considered whether under s16-s21 of the Electricity Act a capacity agreed with the first connectee can be transferred to a third party without any associated terms. It was noted that a DNO is obliged to maintain a connection and can impose terms which the connectee must accept. An attendee pointed out that that the current regulatory framework does not

provide a record of the connectee accepting the connection terms and that this area needs to be clarified. It was highlighted that by stating this enduring nature of the previous connection terms on the face of the NTC, the DCP 181 change is clarifying the application of an established common law principle.

- 2.5 The Working Group discussed other factors on the National Terms of Connection and the DCP 181 change and agreed to recommend to Suppliers to include in their contracts with connectees the possibility of bespoke terms applying via the NTC. A member of the Working Group pointed out that previously when the Supplier contract wording had to be changed, Suppliers required a derogation from the DCUSA to ensure that they had time to meet their obligations.
- 2.6 It was agreed that Suppliers should be informed that the DCP 181 Working Group is recommending that the wording that Suppliers place within their contracts pursuant to Clause 17 is changed and also ask the Supplier how long it would take for them to implement a change to the supplier contract wording.
- 2.7 Electralink took an action to issue an email to Suppliers requesting a response by 20 November 2015. It was agreed that the change report would be updated based on the feedback received from Suppliers.

ACTION 06/01: PW/ELECTRALINK

- 2.8 In their review of the legal text advice the Working Group also agreed the following:
 - The National Terms of Connection should be properly referenced to draw the attention of the customer.
 - If approved DCP 181 would not conflict with contract Law and GW took an action to clarify if this also applies to Scottish Law.

ACTION 06/02: GW

- Add a recommendation to the bilateral connection for DNOs to advise any prospective buyer/new tenant if there is an existing bilateral or existing terms and to disclose them.
- Add a recommendation to the Change Report for the outgoing customer to inform the incoming customer about any constraints.
- Add a recommendation that a copy of the connection agreements should be requested from the Network operator and that contact details are available from the Energy Networks Association.
- Agreed for paragraph F (existing connection agreement) to reference Section 3 of the NTC.

3 REVIEW OF THE DCP 181 DRAFT CHANGE REPORT

- 3.1 The Chair agreed to amend the change report based on the outcome of discussions on the DCP 181 DCUSA legal advice.

ACTION 06/03: PW

4 NEXT STEPS

- 4.1 The Working Group agreed the next steps as follows:

- PW to update the DCP 181 Change Report and circulate to the Working Group by 23 November 2015.
- Circulate the updated change report to the Working Group for final review and comment; and
- Submit the final change report to the December DCUSA Panel.

ACTION 06/04: ALL

5 ANY OTHER BUSINESS

- 5.1 There were no items of any other business.

6 NEXT MEETING

- 6.1 The next meeting will be scheduled subject to comments received on the Change Report.

7 ATTACHMENT

Attachment 1 – Ofgem Feedback and Resulting Working Group Questions

Attachment 2 – Wragges Note on DCP 181

Attachment 3 – UK Power Networks feedback on DCP 181 legal text

Attachment 4 – DCP 181 Draft Change Report

APPENDIX A: SUMMARY OF ACTIONS

NEW AND OPEN ACTIONS

| Action Ref. | Action | Owner | Update |
|-------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|--------|
| 06/01 | Issue an e-mail to Suppliers informing them that the DCP 181 Working Group is recommending that the wording that Suppliers place within their contracts pursuant to Clause 17 is changed and also ask the Supplier how long it would take for them to implement a change to the Supplier contract wording. <ul style="list-style-type: none"> The DCP 181 change report is to be updated based on the feedback received from Suppliers. | ElectraLink/PW | |
| 06/02 | Clarify that if approved DCP 181 would not conflict with contract Law under Scottish Law. | Gus Wood | |
| 06/03 | Amend the change report based on the outcome of discussions on the DCP 181 DCUSA legal advice. | Peter Waymont | |
| 06/04 | Review the updated change report and submit the final change report to the December Panel meeting. | All | |

CLOSED ACTIONS

| Action Ref. | Action | Owner | Update |
|-------------|--------------------------------------------------------------------------------------------------------------------|-------------------------------|------------|
| 03/06 | Clearly set out the benefits of this change for the customer in the Change Report. | All | Completed |
| 04/05 | Draft some example scenarios to insert into the Change Report showing the implications of this change in practice. | Peter Waymont | Completed |
| 04/07 | Draft the DCP 181 Change Report | ElectraLink and Peter Waymont | Completed. |

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|-------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 05/01 | Add the excel spreadsheet containing the list of companies that the Working Group consulted on as an attachment to the change report | ElectraLink | Completed |
| 05/02 | <p>Complete the following agreed actions:</p> <ul style="list-style-type: none"> • Submit the draft DCP 181 legal text to the DCUSA legal adviser for review; • Draft two examples to incorporate in to the DCP 181 draft change report; and • Circulate the updated change report to the Working Group for final review and comment. • Submit the final change report to the August DCUSA Panel. | All | <ul style="list-style-type: none"> • Completed • Completed • Completed • Closed. The DCP 181 Change Report aims to be submitted to the December DCUSA Panel. |