Minutes

Meeting Name	DCP 173 Working Group
Meeting Number	01
Date	16 July 2013
Time	10:00
Location	Institute of Physics, 76 Portland Place, London, W1B 1NT

Attendee	**Representing**
Pat Wormald [PW] (Chair)	Northern Power Grid
Anika Brandt [AB]	SSE Distribution
Ben Tucker [BT]	EDF Energy
Bethany Hanna [BH]	Ofgem
Chris Ong [CO]	UKPN
Jonathan Wisdom [JW]	NPower
Martin Chitty [MC]	PCMG
Richard Ellis [RE]	WPD
Michael Walls [MW] (Secretariat)	ElectraLink Limited

1 ADMINISTRATION

1.1 Apologies were received from Rob Garner (ENWL).

2 REVIEW OF THE TERMS OF REFERENCE

2.1 The Working Group reviewed the DCP 173 Terms of Reference and all Working Group Members agreed to be bound by these terms for the duration of the Working Group.

2.2 It was noted to the Working Group members that the Terms of Reference is published on the DCUSA website.

3 COMPETITION LAW

3.1 The Working Group then reviewed the "CDCM Competition Law Dos and Don'ts" and all Working Group members agreed to the terms set out in the document.

3.2 It was noted to the Working Group members that the guidance is published on the DCUSA website with the meeting papers.

4 APPOINTMENT OF CHAIR

4.1 PW was appointed as the Working Group Chair.

5 BACKGROUND AND INTENT OF DCP 173

5.1 DCP 173 has been raised by UKPN as a result of an issue being raised within the Distribution Charging Methodologies Forum (DCMF) Methodologies Issues Group (MIG). The intent of the CP is to define within clause 19 of DCUSA an absolute time period within which a change of Tariff (LLFC / Unique Identifier) is allowed to be retrospectively applied by a DNO party. This time period would overrule any previous retrospective periods whether laid out within previous Charging Statements, the DCUSA, Use of System Agreements, any other such documents or not previously specified.

5.2 It was highlighted that this issue was discussed in the MIG at several meetings and the draft CP circulated to members; with the finalised version being the one that was submitted.

5.3 CO noted that the intent is written in such a way to remove any historical obligations; it was explained that the options listed within the CP form may not be an exhaustive list but is a good starting point for discussion. CO thought that the time period associated with this change should be raised within the consultation to gather Industry views.

6 WORKING GROUP ASSESSMENT AND REVIEW OF THE LEGAL TEXT

6.1 The Working Group then discussed the legal text as drafted by CO. It was explained how the legal drafting was developed, and noted that this will also go out to consultation for further review and opinion.

7 WORKING GROUP ASSESSMENT

7.1 PW explained that this issue came about within the MIG as a result of discussion of other issues and it was realised that DNOs are not doing things consistently, and this CP will address that fact and ensure that a standardised approached will be used by DNOs going forward.

7.2 PW noted that there is an obligation on DNOs and Suppliers to look at these customers and determine what tariff (LV Sub v LV Network) they should be assigned.

7.3 It was explained that when the CDCM was developed it was agreed that DNOs would look at this issue when approached by customers, but some DNOs looked at the entire customer group at one time, whilst others did not, which led to different approaches by different DNOs.

7.4 PW then took the group through the eight different options as drafted on the CP form.

7.5 It was noted that this will mainly cover Half Hourly as Non Half Hourly will not be able to go back past 14 months due to the settlement process.

7.6 PW then reviewed the options to gather views from the group to see initial opinions on each:

Option 1 –

7.7 It was noted that this was open-ended. MC thought this option put a lot of responsibility on the customer and if they don't act then they would get billed. CO thought that this option could be perceived as unfair.

Option 2 –

7.8 PW thought as there is a precedent here in the NHH market and this may be a reason to align them. JW explained that depending on how long the enquiry takes, it could take longer than 14 months; therefore the main issue here would be how to define the 14 month period – and also should it be 'enquiry' or 'agreement'. MC thinks that the 14 month period does not entirely make sense, as the general time frame Suppliers use is 6 years. MC explained that the Line Loss Factor Class (LLFC) is not tied to the DUoS tariff and therefore did not necessarily have to align with the settlement process. JW explained that as an industry we are very reliant on the settlement process; and for NHH we will have to rely on this process. MC thinks that the 14 month window is too short as, in his view, this issue is not related to the settlement process, but the distribution tariffs.

7.9 MC then took the group through a survey which his organisation completed. It was noted that this data has been anonymised. He explained that from the results you can surmise that the majority are overcharged. MC thought that limiting to 14 months works more against the customer, than protecting them from the overcharge.

7.10 RE considered the 14 months is also too short and would prefer the 6 year time period which matches the statute of limitations.

7.11 CO explained that as a Working Group we should try to reach agreement, and if the group does not, alternatives can be raised and voted upon by Parties.

7.12 JW thought that it needs to be looked at in both ways – liability and opportunity.

7.13 PW then asked if the data shown in the survey are all queries to be changed, and MC explained that this was a sample from last year's data so some have been resolved, and some are still outstanding.

7.14 BT asked if this survey represents the scale of the problem within the industry, and it was explained how the survey was derived, and that further information could be gained from the consultation.

7.15 There was then discussion about the definitions of the tariffs and how they are applied. PW thought that looking at the survey results most affected are LV Sub.

Option 3 –

7.16 PW noted that this was an arbitrary date that was developed, and given the debate earlier in the meeting that this option is not acceptable. BT thought that it would be hard to rationalise this one.

Option 4 –

7.17 PW noted that the tariff could have been allocated for a number of reasons, and this one could be difficult to quantify. MC thought that this option on its own would take the window of opportunity/liability too far back.

Option 5 –

7.18 PW noted the rationale for this is that if you had a change of supplier during a 6 year period could be a bit of a hassle to find out how the money/refund should be allocated. JW thought that this is a difficult situation, and would need industry views on this within the consultation. MC thought it does not make sense to limit to the current supplier, as nothing else is like this within the industry. CO noted that not all DNOs would be able to do this type of credit, but some would do.

7.19 JW noted that the difficulty is that they no longer have a contractual relationship with the customer anymore, and it will have to focus on how you get address this issue. It was further noted that these types of relationships are out of scope for this group.

Option 6 –

7.20 This one option is about backdating to 2010 as that is the date when the new methodology came into effect, and there would be a consistent definition from that period forward.

7.21 MC thought that the legacy issues are not always the problems, and does not see that a 'line in the sand' should be drawn. Although he did see how this would be good for a simplification of the process. However, he thought that if there were other changes it could then be limited further.

7.22 JW explained that this is a liability/opportunity option and this limits how long this should be available for customers and companies.

Option 7 –

7.23 CO has a concern with this option as it says a 'maximum up to 6 years' and explained that in his view it should state a defined period. MC explained that this should be interpreted that it is up to 6 years, on the basis that it has been wrong for up to 6 years. MW noted that the actual drafting can be reviewed by Wragges & Co at a later stage for a legal perspective on how to proceed.

7.24 MC explained that The Statute of Limitations Act is 6 years, except in Scotland where it is 5 years. JW reiterated his view that a 6 year time period is a very long period of time for liability/opportunity.

7.25 MC thought that this option aligns with the other areas of charging that customers have exposure to, whether it is opportunity or liability.

7.26 MC thought that it is fair to say date of enquiry as long as the customer provides the required information to the DNOs enabling them to investigate the claims. CO then asked if it would be 6 years plus the enquiry time, and MC confirmed that this is his interpretation.

7.27 It was discussed that the enquiries should require sufficient supporting documentation explaining why they feel they are on the incorrect tariff. JW thought that the same type of wording that will accompany DCP 174[1] should be stated within this CP as well.

Option 8 –

[1] Qualification and Application of LV Sub-Station Tariffs

7.28 PW noted that this option aligns with the DCUSA, and is there to say that this is an Industry responsibility and not solely the DNOs. CO noted that this is a payment/billing dispute and this option aligns with the DCUSA.

7.29 However, the Working Group considered that this option is very restrictive.

Summary

7.30 PW then summarised the discussion, and thought that the Working Group should strike some options out of consideration, and keep the others for further review by the Industry, this decisions of the members were:

- Option 1 – Cross Off
- Option 2 – Keep and Consult
- Option 3 – Cross Off
- Option 4 – Cross Off
- Option 5 – Keep and Consult
- Option 6 – Keep and Consult
- Option 7 – Keep and Consult
- Option 8 – Cross Off

7.31 MW noted that for the consultation a table listing the advantages/disadvantages of each option should be provided. The group then went through each option listing those which they felt should be included. The table will be circulated with the draft consultation documents.

8 CONSULTATION QUESTIONS

8.1 The group then discussed potential consultation questions that should be asked alongside the standard consultation questions.

- Date of enquiry v Date of agreement – it was agreed that this should be defined and asked to the industry
- To ask the Industry about any other options that the Working Group should consider during the course of its work
- In case of a revised LLF should Suppliers be raising disputes beyond 14 months
- Any system/data restrictions that you see that would restrict any of these options being progressed – and costs associated with it
- Are there any impacts on allowed revenues/recovery positions and effects from this CP being implemented

9 WORK PLAN AND NEXT STEPS

9.1 The Working Group agreed the following work plan:

- MW to circulate the draft table and consultation by 18 July 2013
- Working Group to review for 2 weeks
- Meeting the following week on 2 August 2013 by teleconference/webinar at 10:00
- Aim to issue the consultation on 9 August 2013 for a period of 3 weeks
- Meet the first week of September 2013 to review the responses

10 ANY OTHER BUSINESS

10.1 There were no other items of business raised at the meeting.

11 DATE/LOCATION OF NEXT MEETING

11.1 The Working Group agreed to meet on 2 August 2013 to finalise all comments on the consultation document.

APPENDIX A: SUMMARY OF ACTIONS

NEW AND OPEN ACTIONS

Action Ref.	Action	Owner	Update
01/01	ElectraLink to progress the CP through the Work Plan, and its associated actions, as agreed by the Working Group	ElectraLink	

ACTIONS AGREED CLOSED AT THE MEETING

Action Ref.	Action	Owner	Update