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| Proposed modification: | Distribution Connection and Use of System Agreement (DCUSA) DCP124: Third Party Network – National Connection Terms Amendment | | |
| Decision: | The Authority ¹ has decided to reject modification DCP124 ² | | |
| Target audience: | DCUSA Panel, Parties to the DCUSA and other interested parties | | |
| Date of publication: | 15 November 2013 | Implementation Date: | n/a |

Background to the modification proposal

The National Terms of Connection (NTC) are standard terms and conditions for connection to electricity distribution systems contained in Schedule 2B to the DCUSA. These are the terms and conditions that the network operator requires a customer to accept in return for maintaining the connection of the premises to the network.³

The NTC does not currently refer specifically to licence exempt networks, also known as Distribution Exemption Holders⁴ (DEHs), connected to a licensed distribution network. DEHs can be large networks, including, for example, ports and airports, or much smaller sites such as caravan parks and blocks of flats.

DCP124 seeks to apply the NTC terms and conditions explicitly to DEHs where a bilateral agreement is not already in place. It builds on two previous DCUSA modification proposals, DCP033⁵ and DCP079.⁶ Prior to DCP033, the NTC only applied to domestic customers and other small metered connections through their supply contract.⁷

The combined impact of DCP033 and DCP079 was to make the NTC the standard terms of connection under section 21 of the Electricity Act. It applies to all metered and unmetered customers in the absence of a bilateral agreement with the licensed Distribution Network Operator (DNO).

On 10 November 2011 the Gas and Electricity (Internal Markets) Regulations⁸ came into force. The regulations enabled certain customers connected to DEH networks to choose their supplier.

The modification proposal

DCP124 was raised by UK Power Networks (UKPN) (the “proposer”). It seeks to place standard connection terms, as set out in the NTC, on DEHs who do not have a bilateral connection agreement in place with a DNO, whose agreement cannot be found or where

¹ The terms ‘the Authority’, ‘Ofgem’ and ‘we’ are used interchangeably in this document. Ofgem is the Office of the Gas and Electricity Markets Authority.

² This document is notice of the reasons for this decision as required by section 49A of the Electricity Act 1989.

³ For further information on the NTC and to download a copy of it please see

<http://www.connectionterms.org.uk/>

⁴ Distribution exemption holder is defined under section 64 of the Electricity Act 1989 as “a person who (a) is distributing electricity for the purpose mentioned in 4(1)(bb) [of the Electricity Act 1989]; and (b) is authorised to do so by an exemption”.

⁵ <https://www.ofgem.gov.uk/ofgem-publications/62549/dcp033-d.pdf>

⁶ <https://www.ofgem.gov.uk/ofgem-publications/62536/dcp079-d.pdf>

⁷ When a customer signs a contract with a supplier they are also agreeing to the NTC. The supplier, therefore, acts as an agent to the distributor in relation to the customer.

⁸ Gas and Electricity (Internal Markets) Regulations SI 2011/2704.

the agreement has lapsed. The NTC would apply to both existing and new DEH connections to a licensed distributor's network.

The NTC currently contains four sections. Section one applies to all premises and the other three sections apply depending on the metering equipment that the customer has in place. Section two applies to domestic and small industrial and commercial properties.⁹ Section three applies to large industrial and commercial properties.¹⁰ Section four applies to unmetered connections such as street lighting, where consumption is not metered.

At present the NTC does not refer specifically to DEHs. The proposer considers that the NTC may not apply to certain DEHs. Some DEHs, for instance, do not have a meter at the boundary with the DNO so it is not clear that either section two or three of the NTC can be applied. Equally, however, it may not be appropriate to classify these DEHs as unmetered sites¹¹ and so section four of the NTC can also not apply.

DCP124 seeks to introduce a new section (section 5) to the NTC which would apply to all DEHs regardless of the metering arrangements in place. Section 5 would place additional obligations on the DEH including allowing a DNO rights of access to the DEH's property, the rights of both parties to terminate the agreement, setting out the DEH's exposure to liability and requiring a DEH to provide metering data.

DCUSA Parties' recommendation

The Change Declaration for DCP124 indicates that DNO, IDNO/OTSO,¹² supplier and Distributed Generation (DG) parties were eligible to vote on DCP124. There were two industry consultations on DCP124 during its progression through the DCUSA modification process. Following these industry consultations, eligible parties voted on DCP124. There were no responses from the IDNO/OTSO or DG party categories. In the DNO party category, there was unanimous support for the proposal and for its proposed implementation date. In the supplier party category, the majority of respondents rejected the proposal. One supplier voted to accept the proposal and two voted to reject the proposal.

For a change proposal to be recommended to us for approval there needs to be majority approval in each of the voting party categories. Since a majority of the suppliers who voted rejected the proposal, the recommendation to us is that DCP124 be rejected, in accordance with the weighted vote procedure. The outcome of the weighted vote is set out in the table below:

| DCP124 | WEIGHTED VOTING (%) | | | | | | | |
|---------------------|---------------------|--------|-----------|--------|----------|--------|--------|--------|
| | DNO | | IDNO/OTSO | | SUPPLIER | | DG | |
| | Accept | Reject | Accept | Reject | Accept | Reject | Accept | Reject |
| CHANGE SOLUTION | 100 | 0 | N/A | N/A | 33% | 66% | N/A | N/A |
| IMPLEMENTATION DATE | 100 | 0 | N/A | N/A | 33% | 66% | N/A | N/A |

⁹ For domestic and small industrial and commercial properties the volume of electricity consumed is small enough for it to be economical to meter the entire volume of electricity. This is because the size and cost of the meter is proportional to the volume of electricity consumed. The larger the volume of electricity consumed the larger the meter needs to be.

¹⁰ For large industrial and commercial properties, to limit the size and cost of the meter, the properties use current transformers to measure a percentage of the electricity consumed. The meter reading is multiplied up to calculate the total volume of electricity consumed.

¹¹ Some DEHs have metering equipment embedded in their network to calculate the volume of electricity consumed by the DEH's customers.

¹² Independent Distribution Network Operators and Offshore Transmission System Operators.

Ofgem consultation

On 16 August 2013, we issued our own consultation on DCP124 because we were concerned that only one DEH had responded to both of the DCUSA consultations.

We had eleven responses to our consultation.¹³ These were as follows-

- five responses from DEHs of which none supported the proposal
- three responses from DNOs of which all supported the proposal
- two responses from suppliers of which one was neutral and one did not support the proposal, and
- one response from a customer of a DEH who supported the proposal.

All the DEHs who responded considered that the DCP124 change report and associated documents were complex, too legalistic and not written in a way that was easy for DEHs to understand how the proposal was likely to affect them.

The DNOs who responded considered that the proposal was intended to clarify DEH obligations, where they did not have a bilateral contract in place. It allowed the NTC to be applied even if the DEH did not have a meter at the boundary with the DNO. One DNO argued that DCP124 protected DEHs who might currently be exposed to unlimited liability through a lack of a connection agreement.

Our decision

We have considered the issues raised by the proposal and the change declaration dated 17 May 2013. We have considered and taken into account the vote of the DCUSA Parties on the proposal which is attached to the change declaration, and the responses to our own consultation.

We consider that the change proposal does not demonstrate that implementation of DCP124 will better facilitate the achievement of the General DCUSA objectives.¹⁴ We therefore support the recommendation to reject this proposal.

Reasons for our decision

We have assessed the proposal against DCUSA general objective 3.1.1 below. We consider that the proposal has a neutral impact on the other objectives.

DCUSA General Objective 3.1.1 – the development, maintenance and operation by each of the DNO Parties and IDNO Parties of an efficient, co-ordinated, and economical Distribution System

The proposer considers that this objective would be met by ensuring that default connection arrangements are in place following the introduction of the Electricity and Gas (Internal Markets) Regulations 2011. These place obligations on the DEHs to facilitate competition in supply on their network. We agree with the proposer that it is important to develop default terms of connection. However, we consider that the DNO parties can only develop an efficient and co-ordinated solution with the involvement of DEHs and an

¹³ The responses can be found here: <https://www.ofgem.gov.uk/publications-and-updates/consultation-distribution-connection-use-system-agreement-dcusa-change-proposal-dcp-124-third-party-network-national-terms-connection>

¹⁴ The DCUSA General Objectives (Applicable DCUSA Objectives) are set out in Standard Licence Condition 22.2 of the Electricity Distribution Licence and are also set out in Clause 3.1 of the DCUSA.

understanding of their needs. We are not satisfied that this is the case (discussed further below), and therefore that the proposal better facilitates this objective.

Additional Comments

While we support the intent of DCP124, we have serious concerns that the main parties affected have not been sufficiently involved in the development of the proposal. We also do not consider that the change report has been drafted in a manner to help them understand how the proposal is likely to affect them. It would be inappropriate for us to approve a proposal when we are unclear whether one of the main parties affected by the proposal fully understands how it will affect them. We also have concerns that if DEHs do not have sufficient understanding to be able to fulfil their obligations under the NTC, an efficient, co-ordinated, and economical distribution system would not be better facilitated.

We appreciate that the DCUSA Panel has tried to involve DEHs in the DCUSA modification process for DCP124. However, we are conscious that a DEH's main purpose is not to operate an electricity network and DEHs' knowledge of industry arrangements can be limited. Consequently we expect DNOs to consider how to engage more effectively with representatives from the DEH community, including helping them to understand what the obligations in the NTC are intending to achieve, by using plain English to explain the proposal.

One of the DEH respondents was concerned that the section of the NTC that would apply to DEHs applied to both those who are metered at the DNO boundary and those who are not. For example, both would have the same obligations with respect to the treatment of theft of electricity. The DEH considered that DNOs should not have the right to disconnect customers of the DEH where there is a meter at the boundary, because only the DEH and its customers would be affected by the theft. We consider that DNOs need to understand better the characteristics of the DEHs to assess whether different obligations are appropriate depending on existing metering arrangements.

One supplier respondent stated that a co-ordinated industry solution was needed which allowed the related issues being considered by the Energy Networks Association (ENA) and Balancing and Settlement Code (BSC) to be considered alongside the DCUSA. This would ensure all parties could understand how the provisions would affect them. We agree with this approach.

We consider that an industry forum should be set up to develop default standard connection terms to apply to DEHs who do not have a valid bilateral agreement in place. This body should also consider the wider ramifications of the introduction of competition in supply on DEH networks on the DCUSA and other industry agreements. To facilitate this, we will be contacting relevant parties shortly to set up an initial meeting. We would expect DNOs to manage these meetings on an ongoing basis. Parties can express an interest in attending this industry forum by sending an email to: licence.exempt@ofgem.gov.uk.

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Signed on behalf of the Authority and authorised for that purpose