

DCP 358 & DCP 360 Combined Draft Legal Text

For this joint consultation the legal text for both DCP 358 and DCP 360 have been combined for ease of reading.

DCP 358 - legal text covers Paragraphs 1, 2 and 3 and any applicable definitions.

DCP 360 - legal text covers Paragraphs covers 4, 5 and 6 and any applicable definitions.

The legal text will be split into the separate documents relating to each change proposal at the time of the Change Report.

This legal text is to be read in conjunction with DCP359 'Ofgem Targeted Charging Review (TCR) implementation – customers: who should pay?'

SCHEDULE [XX] – RESIDUAL CHARGING BANDS

1. SCOPE

- 1.1 Residual charges are levied once forward-looking charges have been applied, to ensure the DNO Party recovers the revenue allowed under the price control conditions.
- 1.2 Residual fixed charges will be applied to metered Final Demand customers only and levied on a Single Site basis. A Single Site that receives a residual fixed charge will be a Final Demand Site. For domestic customers there is a single charging band. For non-domestic customers, these are divided into a number of groups based on the voltage of connection. Each of these groups will then be sub-divided into a number of charging bands based on the criteria set out in Paragraph 2.1.
- 1.3 Charging bands will be reviewed periodically and be implemented effective from the beginning of each onshore electricity transmission owner price control period.
- 1.4 This schedule sets out:
 - (a) the process for the initial determination of the charging bands for each of the non-domestic distribution-connected customer groups to apply from 1 April 2022 to 31 March 2026;
 - (b) the process to be used to review and determine the charging bands for subsequent onshore electricity transmission owner price control periods;
 - (c) the process for allocating relevant customers to each of those charging bands;and

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- (d) the disputes process where customers or other relevant parties can challenge the charging band to which customers have been allocated.

1.5 [an additional paragraph may be added here regarding the exemptions to a Final Demand Site. This is catered for in the legal text for DCP359]

2. **INITIAL DETERMINATION OF CHARGING BANDS**

2.1 No later than 30 September 2020 each DNO/IDNO Party will provide to the Banding Agent the following information:

- (a) the Maximum Import Capacity used as the basis for the Use of System Charge billed by the DNO/IDNO Party in August 2020, which will be in respect of the Maximum Import Capacity held as at July 2020, of each Final Demand Site in each of the following distribution-connected groups:

- (i) Designated EHV Properties;
- (ii) Designated Properties connected at HV; and
- (iii) Designated Properties connected at LV with a Maximum Import Capacity as the basis for their current Use of System Charge.

- (b) For non-domestic Designated Properties connected at LV without a Maximum Import Capacity as the basis for their current Use of System Charge and which are a Final Demand Site:

- (i) if half hourly settled, a calculated estimate of the annual metered import consumption prior to August 2020; or
- (ii) if non-half hourly settled, the Estimated Annual Consumption from the August 2020 P0222 Report; or if not available
- (iii) the most recent Estimated Annual Consumption from an earlier P0222 Report;

2.2 The Use of System tariffs that will be applicable to each of the distribution connected groups identified in accordance with Paragraph 2.1 will be defined within Schedules 16, 17 and 18.

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- 2.3 No later than 31 October 2020 the Banding Agent will provide to each DNO/IDNO Party the boundaries for each charging band for each of the non-domestic distribution-connected groups. These are determined by the number of Final Demand Sites on a GB-wide basis, set at the 40th, 70th and 85th percentiles using the data set out in Paragraphs 2.1, that will be ranked in ascending order as set out in Paragraph 2.5 below.
- 2.4 For each of the following distribution-connected groups, the charging band boundaries shall be rounded up [to the nearest integer; or as follows:
- (a) Designated EHV Properties, to the nearest [100kVA];
 - (b) Designated Properties connected at HV, to the nearest [10kVA];
 - (c) Designated Properties connected at LV, with a Maximum Import Capacity as the basis for their current Use of System Charge, to the nearest [10kVA]; and
 - (d) Non-domestic Designated Properties connected at LV, without a Maximum Import Capacity as the basis for their current Use of System Charges, to the nearest [100kWh].]
- 2.5 The rounded charging band boundaries are used to identify four charging bands as follows, and subject to distributional impacts as a result of using GB-wide data:
- (a) Residual Charging Band 1: where the Maximum Import Capacity or annual consumption as appropriate is less than or equal to the 40th percentile band boundary;
 - (b) Residual Charging Band 2: where the Maximum Import Capacity or annual consumption as appropriate is greater than the 40th percentile band boundary and less than or equal to the 70th percentile band boundary;
 - (c) Residual Charging Band 3: where the Maximum Import Capacity or annual consumption as appropriate is greater than the 70th percentile band boundary and less than or equal to the 85th percentile band boundary; and
 - (d) Residual Charging Band 4: where the Maximum Import Capacity or annual consumption as appropriate is greater than the 85th percentile band boundary.

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- 2.6 Each DNO/IDNO Party shall use its reasonable endeavours to provide the required data (set out in Paragraph 2.1) to the Banding Agent to enable it to determine the band boundaries described in Paragraphs 2.4 and 2.5 above.

3. REVIEW OF CHARGING BANDS

- 3.1 No later than 30 September in the Regulatory Year two years prior to the commencement of the onshore electricity transmission owner price control period, each DNO/IDNO Party will provide to the Banding Agent the following information:

- (a) the Maximum Import Capacity used as the basis for the Use of System Charge billed by the DNO/IDNO Party in August of that year, which will be in respect of the Maximum Import Capacity held as at July in that year, for each Final Demand Site in each of the following distribution-connected groups:

- (i) Designated EHV Properties;
- (ii) Designated Properties connected at HV; and
- (iii) Designated Properties connected at LV with a Maximum Import Capacity as the basis for their current Use of System Charge.

- (b) For non-domestic Designated Properties connected at LV without a Maximum Import Capacity as the basis for their current Use of System Charge and which are a Final Demand Site:

- (i) if half hourly settled, a calculated estimate of the annual metered import consumption prior to August 2020 prior to August of that year; or
- (ii) If non-half hourly settled, the Estimated Annual Consumption from the August of that year P0222 Report; or if not available
- (iii) the most recent Estimated Annual Consumption from an earlier P0222 Report;

- 3.2 No later than 31 October of that year the Banding Agent will provide to each DNO/IDNO Party the boundaries for each charging band on the same basis of that set out within Paragraph 2.3.

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- 3.3 The charging band boundaries shall be rounded up in accordance with Paragraph 2.4.
- 3.4 The charging bands revised in accordance with Paragraph 3.1 will be applicable from the commencement of the next onshore electricity transmission owner price control period.

4. **ALLOCATION OF CUSTOMERS TO CHARGING BANDS BY DNO** **PARTIES**

- 4.1 Where the charging bands are determined in accordance with Paragraph 2.1(a) above the Final Demand Site is allocated to a charging band based on the following criteria:
- (a) When 24 months of data is available, the weighted average Maximum Import Capacity over that period; or if not available
 - (b) allocation to a charging band will be based on the following criteria:
 - (i) The weighted average of Maximum Import Capacity over that period for which data is available; or if not available
 - (ii) Other available information that is appropriate for a typical profile of a similar customer to best estimate the expected demand of the Final Demand Site.
- 4.2 Where the charging bands are determined in accordance with paragraph 2.1(b) above the Final Demand Site is allocated to a charging band based on the following criteria:
- (a) For a Final Demand Site that is half hourly settled:
 - (i) when 24 months of data is available, the average annual import consumption based on metered data; or if not available
 - (ii) when a minimum of 12 months of data is available, the sum of the metered import consumption over that year; or if not available
 - (iii) other available information that is appropriate for a typical profile of a similar customer to best estimate the expected annual import consumption.
 - (b) For a Final Demand Site that is non-half hourly settled;

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- (i) when 24 months of data is available, the most recent Estimated Annual Consumption for that Final Demand Site; or if not available
 - (ii) The Default Estimated Annual Consumption for that class of Final Demand Site; or if not available
 - (iii) Other available information that is appropriate for a typical profile of a similar customer to best estimate the expected annual import consumption of the Final Demand Site.
- 4.3 Final Demand Site(s) will be allocated in accordance with Paragraphs 4.1 and 4.2 to the charging band where its capacity or consumption, as appropriate, is greater than the minimum threshold for that charging band, and less than or equal to the maximum threshold for that charging band.
- 4.4 Final Demand Site(s) will be re-allocated by the DNO/IDNO Party to the charging bands prior to the start of each onshore electricity transmission owner price control period.
- 4.5 Final Demand Site(s) will remain in a charging band for the duration of the onshore transmission owner price control period, subject to any exceptional circumstances as defined in Paragraph 5 below and/or a successful dispute as defined in Paragraph 6 below.

5. EXCEPTIONAL CIRCUMSTANCES RESULTING IN RE-ALLOCATION TO A DIFFERENT BAND WITHIN A PRICE CONTROL PERIOD

- 5.1 Final Demand Site(s) may be reallocated to a different charging band if the following criteria applies:
 - (a) the voltage of connection of the Final Demand Site changes; or
 - (b) the Final Demand Site has a change of use or change of site configuration and this is reflected by a significant change to its:
 - (i) Maximum Import Capacity; or
 - (ii) forecast annual consumption.

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- 5.2 The proof required from the Final Demand Site(s) of a significant change should be accompanied by:
- (a) For Paragraph 5.1b(i), a signed Connection Agreement for the Final Demand Site(s) and a signed letter from the company Director (or equivalent) confirming exceptional and significant changes to the use of the site; or
 - (b) For Paragraph 5.1b(ii), a signed letter from the company Director (or equivalent) confirming exceptional and significant changes to consumption (including historical consumption) for the Final Demand Site(s) covered by Paragraph 2.1(b) and the reason for the change of use or change of site configuration.
- 5.3 The exceptional circumstances in accordance with paragraph 5.1b will be subject to a materiality threshold.
- (a) where a change in the Maximum Import Capacity and/or consumption at a Final Demand Site is either more than double, or less than or equal to half, of the existing Maximum Import Capacity and/or consumption, which results in a change to the charging band allocated to that Final Demand Site.
- 5.4 Reallocation of a Final Demand Site to a different charging band may result in the Supplier Party of the Final Demand Site being eligible for a rebate and shall be backdated to the time when the request was received. The revised charging band will be applied as of the next billing period.

6. **DISPUTES**

Initial Notification

- 6.1 The DNO/IDNO Party shall use reasonable endeavours to ensure Final Demand Site(s) are allocated to the correct charging band.

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- 6.2 Where a customer or a customer's Supplier Party or an agent authorised to act on the customers' behalf (together being the 'appointed agent'), having contacted a DNO/IDNO Party with sufficient information disputing the allocation to a charging band, then that DNO/IDNO shall be required to investigate. Such an investigation shall be carried out using the information provided by the customer or the customer's appointed agent and the information available to the DNO/IDNO Party which was used for the purposes of allocation of customers to charging bands. The DNO/IDNO Party will initiate good faith negotiations with any such customer or their appointed agent to find a resolution to the dispute.

Formal Dispute Notice

- 6.3 Where a DNO/IDNO Party and the customer or or their appointed agent cannot come to an agreement with respect to the allocation to a charging band then the customer or or their appointed agent may send a formal dispute notice (a "**Dispute Notice**") to the Secretariat, which shall:
- (a) be in the format of any proforma made available for such purpose on the Website;
 - (b) be split into four sections according to the persons required to complete each section, with such persons being:
 - (i) the customer and/or their appointed agent;
 - (ii) the DNO/IDNO Party;
 - (iii) the Secretariat; and
 - (iv) the Disputes Committee; and
 - (c) contain sufficient information detailing the disputed allocation to a charging band including reasonable evidence to support the dispute.

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- 6.4 Where the Secretariat receives a Dispute Notice, it shall within two Working Days, issue the Dispute Notice to the relevant DNO/IDNO Party, and in doing so, will remove, or otherwise make hidden, the detailed information of the dispute and any reasonable evidence as so provided by the customer or their appointed agent. Upon issuing the Dispute Notice to the relevant DNO/IDNO Party, the Secretariat shall inform that DNO/IDNO Party that it is required to complete the section of the Dispute Notice that is relevant to it, and send the form back to the Secretariat within ten Working Days.
- 6.5 Following receipt of the relevant section of the Dispute Notice completed by the DNO/IDNO Party, the Secretariat shall issue the whole Dispute Notice to both parties to the dispute and request that the customer or their appointed agent provide confirmation that they wish to progress the dispute to the Disputes Committee. Upon issuing the whole Dispute Notice, the Secretariat shall notify each party that progression to the Disputes Committee is subject to such confirmation, which is time limited to ten Working Days, after which, the Secretariat shall not put the dispute before the Disputes Committee and the dispute shall be considered closed.
- 6.6 Any additional information received from either party as a consequence of the confirmation to progress to the Disputes Committee will be added to the Dispute Notice for consideration by the Disputes Committee.

Disputes Committee

- 6.7 The Panel will establish a Disputes Committee and shall consist of, three DNO/IDNO Parties, two Supplier Parties and their alternates, all of which will be independent of the dispute (where possible). The Authority will be able to appoint an Observer to the Disputes Committee if it wishes.
- 6.8 Nominations for Dispute Committee members and their alternates will follow the same process and timeline as that of Panel appointments.
- 6.9 For a meeting of the Disputes Committee to be quorate, a minimum of three members will be required to attend, at least one of whom will have been elected by the Supplier Parties and at least one of whom will have been elected by the DNO/IDNO Parties.
- 6.10 The decision of the Disputes Committee will be final and based on a simple majority of members. However, this is without prejudice to:

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- (a) the rights that the customer of the Final Demand Site will still have to submit a complaint against the DNO/IDNO Party to the Authority, which, acting as a dispute settlement authority, shall issue a decision within the prescribed timescales; or
 - (b) the rights of the complainant to appeal that decision according to law.
- 6.11 The data on the Dispute Notice is confidential and can only be viewed by the Disputes Committee, the DNO/IDNO Party to which the dispute is against, the customer, and/or their appointed agent, the relevant Supplier Party(s) and the Authority.
- 6.12 Where a customer of the Final Demand Site has been successful regarding the dispute and has moved from one charging band to another, their Use of System Charges will be backdated to the time when the analysis shows they were first charged in the incorrect band, up to a maximum of six years (five years in Scotland).

7. **DEFINITIONS**

- 7.1 In this Schedule XX, unless the context otherwise requires, the expressions below shall have the meanings set out below.

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| Banding Agent | means the NETSO or their appointed agent. |
| Default Estimated Annual Consumption | as the meaning to that term in the Balancing & Settlement Code |
| Disputes Committee | As defined in Paragraph 6.7 |
| customer | means where appropriate, either the user as described in Schedule 16 or EHV Customer as described in Schedule 17 and Schedule 18. |
| Estimated Annual Consumption or EAC | as the meaning to that term in the Balancing & Settlement Code |

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| EHV | EHV refers to nominal voltages of at least 22kV and less than 132kV; network elements with a nominal voltage of 132kV are excluded from EHV for the purpose of this Schedule XX. |
| Final Demand | [to be agreed in DCP359] |
| Final Demand Site | [to be agreed in DCP359] |
| HV | nominal voltages of at least 1kV and less than 22kV. |
| LV | nominal voltages of less than 1kV |
| NETSO | means the holder, from time to time, of the NETSO Licence |
| NETSO Licence | means the electricity transmission licence granted, or treated as granted, pursuant to Section 6(1)(b) of the Act and in which section C of the standard transmission licence conditions applies |
| P0222 Report | The P0222 ‘EAC Data to Distributor Data Report’ as set out in Balancing and Settlement Code Procedure (BSCP) 505 ‘Non Half Hourly Data Aggregation For SVA Metering Systems Registered in SMRS’. |
| Single Site | [to be agreed in DCP359] |