

# DCP 358, 359 & 360 Combined Legal Text

For this document, the legal text for DCPs 358, DCP 359 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 359 - legal text covers Paragraph 1.10 and the table below it, Paragraph 4.6, Paragraph 5 and any applicable definitions
- DCP 360 - legal text covers Paragraphs covers 4, 6 and 7 and any applicable definitions.

The legal text has been split into the separate documents relating to each Change Proposal, each of which acts as Attachment 1 to the related Change Report.

## **SCHEDULE [XX] – RESIDUAL CHARGING BANDS**

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### **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 In the case of Unmetered Supplies, all residual charges will be applied on a consumption basis, so premises which receive Unmetered Supplies are not subject to this Schedule.
- 1.3 Subject to Paragraph 1.2, residual fixed charges will be applied to all premises other than Non-Final Demand Sites.
- 1.4 This Schedule describes how the charging bands for residual fixed charges are to be determined in respect of Non-Domestic Premises. Domestic Premises are allocated to a single charging band and are not therefore covered by this Schedule.
- 1.5 Non-Domestic Premises which are Final Demand Sites are divided into a number of groups as follows (as such groups are further described in Schedule 16 and Schedule 17 or 18):
  - (a) Designated EHV Properties;
  - (b) Designated Properties connected at HV;
  - (c) Designated Properties connected at LV, with a Maximum Import Capacity as the basis for their current Use of System Charge; and
  - (d) Designated Properties connected at LV, without a Maximum Import Capacity as the basis for their current Use of System Charges.

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- 1.6 Each of these groups will then be sub-divided into four charging bands based on the criteria set out in Paragraph 2.1.
- 1.7 These charging bands will be reviewed periodically and be implemented effective from the beginning of each onshore electricity transmission owner price control period.
- 1.8 This Schedule sets out:
- (a) the process for the initial determination of the charging bands for each group of Final Demand Sites to apply from 1 April 2022 to 31 March 2026 (see Paragraph 2);
  - (b) the process to be used to review and determine the charging bands for subsequent onshore electricity transmission owner price control periods (see Paragraph 3);
  - (c) the process for allocating Final Demand Sites to each of those charging bands (see Paragraph 4); and
  - (d) the processes via which a site can be moved from one charging band to another part way through an onshore electricity transmission owner price control period (see Paragraphs 5, 6 and 7).
- 1.9 The Use of System tariffs that will be applicable to each of the groups of Final Demand Sites identified under Paragraph 1.5 will be defined in Schedule 16, 17 or 18.
- 1.10 The DNO/IDNO Party will use the criteria in the table below to determine whether a Single Site is considered to be a Final Demand Site or a Non-Final Demand Site, and therefore whether or not to apply the residual fixed charge to that site.

<b>Criteria</b>	<b>Meets the criteria</b>	<b>Outcome</b>
DNO/IDNO Party has been provided with valid certification that a Single Site is an Non Final Demand Site	Yes	Single Site is a Non-Final Demand Site
	No	Single Site is a Final Demand Site

## 2. INITIAL DETERMINATION OF CHARGING BANDS

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- 2.1 On or before 30 September 2020, each DNO/IDNO Party shall provide to the Banding Agent the following information (and shall take reasonable steps to ensure that such information is accurate):
- (a) for each Final Demand Site within the groups identified in Paragraph 1.5(a), 1.5(b) or 1.5(c), 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; and
  - (b) for each Final Demand Site within the group identified in Paragraph 1.5(d):
    - (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 that is not available, the most recent Estimated Annual Consumption from an earlier P0222 Report).
- 2.2 On or before 31 October 2020, the Banding Agent shall provide to each DNO/IDNO Party the boundaries of each charging band for each of the groups of Final Demand Sites identified under Paragraph 1.5, such boundaries being at the 40th, 70th and 85th percentiles when all the Final Demand Sites in the given group (on a GB-wide basis) are listed in ascending order of Maximum Import Capacity or annual consumption (using the figures provided under Paragraph 2.1).
- 2.3 Each of these boundaries will then be rounded-up to the nearest kVA/kWh integer.
- 2.4 These rounded boundaries will then be used to identify four charging bands within each of the groups of Final Demand Sites identified under Paragraph 1.5 as follows:
- (a) Residual Charging Band 1: where the Maximum Import Capacity or annual consumption (as applicable) 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 applicable) 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 applicable) is greater than the 70th percentile band boundary and less than or equal to the 85th percentile band boundary; and

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- (d) Residual Charging Band 4: where the Maximum Import Capacity or annual consumption (as applicable) is greater than the 85th percentile band boundary.

### 3. REVIEW OF CHARGING BANDS

- 3.1 On or before 31 March in the Regulatory Year (t-2) two years prior to the commencement of the onshore electricity transmission owner price control period (t), each DNO/IDNO Party shall provide to the Banding Agent the following information (and shall take reasonable steps to ensure that such information is accurate):
  - (a) for each Final Demand Site within the groups identified in Paragraph 1.5(a), 1.5(b) or 1.5(c), the Maximum Import Capacity used as the basis for the Use of System Charge billed by the DNO/IDNO Party in February of that Regulatory Year, which will be in respect of the Maximum Import Capacity held as at January in that Regulatory Year.
  - (b) for each Final Demand Site within the group identified in Paragraph 1.5(d):
    - (i) if half hourly settled, a calculated estimate of the annual metered import consumption prior to February of that Regulatory Year; or
    - (ii) if non-half hourly settled, the Estimated Annual Consumption from the P0222 Report for the February of that Regulatory Year (or, if that is not available, the most recent Estimated Annual Consumption from an earlier P0222 Report).
- 3.2 On or before 30 April following the 31 March referred to in Paragraph 3.1, the Banding Agent shall provide to each DNO/IDNO Party the boundaries for each charging band for each group of Final Demand Sites on the same basis as that set out in Paragraph 2.2.
- 3.3 Each of these boundaries will be rounded-up on the same basis as that set out in Paragraph 2.3.
- 3.4 These rounded boundaries will then be used to identify four charging bands within each of the groups of Final Demand Sites identified under Paragraph 1.5 on the same basis as that set out in Paragraph 2.4.
- 3.5 On or before 30 June following the 31 March referred to in Paragraph 3.1, each DNO/IDNO Party shall provide each Supplier Party with a list of each and every MPAN associated with a Non-Domestic Premises for which that Supplier Party is (at or around the time the list is provided) the Registrant, identifying the charging band to

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which each such MPAN has been allocated (in accordance with the allocation rules in Paragraph 4).

- 3.6 The charging bands revised in accordance with this Paragraph 3 will be applicable from the commencement of the next onshore electricity transmission owner price control period commencing after completion of the review under this Paragraph 3.

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

- 4.1 For Final Demand Sites within the groups identified in Paragraph 1.5(a), 1.5(b) or 1.5(c), each DNO/IDNO Party shall allocate its Final Demand Sites to the relevant charging band based on the following criteria:

- (a) if 24 months of data is available, the 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 average of Maximum Import Capacity over that period for which data is available; or
  - (ii) if no such data is available, other available information that is appropriate for a typical profile of a similar site to best estimate the expected demand of the Final Demand Site.

- 4.2 For Final Demand Sites within the group identified in Paragraph 1.5(d), each DNO/IDNO Party shall allocate its Final Demand Sites to the relevant charging band based on the following criteria:

- (a) for a Final Demand Site that is half hourly settled:
  - (i) if 24 months of data is available, the average annual import consumption based on metered data over the 24 months; or if not available
  - (ii) when a minimum of 12 months of data is available, the average annual import consumption over the period for which metered data is available; or if not available
  - (iii) other available information that is appropriate for a typical profile of a similar site to best estimate the expected annual import consumption of the Final Demand Site.

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- (b) for a Final Demand Site that is non-half hourly settled:
- (i) 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 site to best estimate the expected annual import consumption of the Final Demand Site.

4.3 Each Final Demand Site will be allocated in accordance with Paragraphs 4.1 and 4.2 to the charging band where its capacity or consumption (as applicable) is greater than the minimum threshold for that charging band, and less than or equal to the maximum threshold for that charging band (as determined under Paragraph 2 or 3).

4.4 The allocation of each Final Demand Site will be re-assessed by the DNO/IDNO Party prior to the start of each onshore electricity transmission owner price control period, following the relevant review under Paragraph 3.

4.5 **Subject to Paragraph 4.6**, Final Demand Sites 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 6 and/or a successful dispute as defined in Paragraph 7.

4.6 **During the period to 31 October 2021**, a site may be re-classified as a Final Demand Site (from a Non-Final Demand Site) or as a Non-Final Demand Site (from a Final Demand Site) in accordance with Paragraph 5.

### **5. TRANSITIONAL PERIOD AS A RESULT OF A RE-CLASSIFICATION OF A SINGLE SITE**

5.1 **Subject to Paragraph 5.3**, a DNO/IDNO Party shall no longer treat a Single Site as a Final Demand Site (and shall re-classify it as a Non-Final Demand Site) if the DNO/IDNO Party has, by no later than 31 July 2021, been provided with the certification necessary to satisfy the definition of a Non-Final Demand Site.

5.2 **Subject to Paragraph 5.3**, a DNO/IDNO Party shall no longer treat a Single Site as a Non-Final Demand Site (and shall re-classify it as a Final Demand Site) if the

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DNO/IDNO Party has not, by 31 July 2021, been provided with the certification necessary to satisfy the definition of a Non-Final Demand Site.

- 5.3 Where Paragraph 5.1 or 5.2 applies, the DNO/IDNO Party will notify the relevant Customer's import/export Registrant(s) of the re-classification and the new charging band by 31 August 2021. A Customer, its Registrant or an agent authorised to act on the Customer's behalf (in each such case, the 'appointed agent') can challenge the new charging band by notifying the DNO/IDNO Party of such challenge by no later than 30 September 2021. Where a DNO/IDNO Party and the Customer (or its appointed agent) cannot come to an agreement with respect to the new charging band by 31 October 2021, then the charging band determined by the DNO/IDNO Party shall be used (subject to Paragraph 6 and/or Paragraph 7).

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

- 6.1 A Final Demand Site may be reallocated to a different charging band if one or more of the following criteria apply:
- (a) the voltage of connection of the Final Demand Site changes;
  - (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; and/or
  - (c) the Final Demand Site moves from one of the groups identified in Paragraph 1.5 to another, and as a result it becomes a site for which the Maximum Import Capacity is to be used under Paragraph 2.1 (when annual consumption was previously to be used) or becomes a site for which annual consumption is to be used under Paragraph 2.1 (when Maximum Import Capacity was previously to be used).
- 6.2 Where a Customer or its Registrant applies to the DNO/IDNO Party to have a Final Demand Site reallocated as described in Paragraph 6.1(b), such application must be accompanied by:

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- (a) for Paragraph 6.1(b)(i), a signed Connection Agreement for the Final Demand Site, and a signed letter from the Customer's company director (or equivalent) confirming exceptional and significant changes to the use of the site; or
  - (b) for Paragraph 6.1(b)(ii), a signed letter from the Customer's company director (or equivalent) confirming exceptional and significant changes to consumption (including historical consumption) for the Final Demand Site and the reason for the change of use or change of site configuration.
- 6.3 The exceptional circumstances described in Paragraph 6.1(b) will be subject the following materiality threshold: the Maximum Import Capacity and/or consumption at a Final Demand Site must have either increased or decreased by more than 50 percent in comparison to the Maximum Import Capacity and/or consumption which was used for the purposes of the allocation which the applicant is seeking to have changed.
- 6.4 Reallocation of a Final Demand Site to a different charging band may result in the Registrant for the Final Demand Site being either eligible for a rebate (which shall be backdated to the time when the request was received) or subject to an additional charge (which shall be backdated to the date on which the DNO/IDNO Party notified the Registrant of the charge's application). The revised charging band will be applied from the next billing period.

## 7. DISPUTES

### Initial Notification

- 7.1 Each DNO/IDNO Party shall take reasonable steps to ensure that each Final Demand Site is allocated to the correct charging band (as determined in accordance with this Schedule).
- 7.2 Where the Customer or its Registrant or an agent authorised to act on the Customer's behalf (in either case, being the 'appointed agent'), has contacted a DNO/IDNO Party with sufficient information disputing the allocation to a charging band of a Customer's Final Demand Site, then that DNO/IDNO Party shall be required to investigate. Such an investigation shall be carried out using the information provided by the Customer or its appointed agent and the information available to the DNO/IDNO Party. The DNO/IDNO Party will initiate good faith negotiations with any such Customer or its appointed agent to find a resolution to the dispute.

### Formal Dispute Notice

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- 7.3 Where a DNO/IDNO Party and the Customer or its appointed agent cannot come to an agreement with respect to a Final Demand Site's allocation to a charging band, then the Customer or its 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; and
  - (b) contain a detailed description of the Customer's case for why the Final Demand Site should be reallocated to a different charging band, including reasonable evidence to support the dispute.
- 7.4 Where the Secretariat receives a Dispute Notice, it shall within two Working Days, issue the Dispute Notice to the relevant DNO/IDNO Party. Upon receipt of the Dispute Notice, the relevant DNO/IDNO Party shall provide its case for why the Final Demand Site should not be reallocated, and shall send this to the Secretariat within 10 Working Days.
- 7.5 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 its appointed agent provide confirmation that it wishes to progress the dispute to the Disputes Committee. Upon issuing the whole Dispute Notice, the Secretariat shall notify each recipient that progression to the Disputes Committee is subject to such confirmation, which is time limited to 10 Working Days. If no such confirmation is received by the Secretariat within such period, the Secretariat shall not put the dispute before the Disputes Committee and the dispute shall be considered closed.
- 7.6 Any additional information received from either party to the dispute as a consequence of the information shared under Paragraph 7.5 will be added by the Secretariat to the Dispute Notice for consideration by the Disputes Committee.

### **Disputes Committee**

- 7.7 The Panel shall establish a Working Group to be known as the Disputes Committee for the purpose of facilitating the resolution of an unresolved disputes between DNO/IDNO Parties and Customers or their appointed agents. The remit of the Disputes Committee shall only be in respect of Dispute Notices for which confirmation has been received in accordance with Paragraph 7.5.

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- 7.8 The Disputes Committee shall consist of:
- (a) three individuals elected by the DNO/IDNO Parties, each with an alternate
  - (b) three individuals elected by the Supplier Parties, each with an alternate,
  - (c) any additional individuals appointed by the Authority in accordance with Paragraph 7.9; and
  - (d) any of the currently serving Panel Members but only acting in that capacity when called upon by a member of the Disputes Committee or the Secretariat to act in the capacity of a reserve member, where a scheduled meeting of the Disputes Committee would not otherwise be quorate.
- 7.9 Where at any time, the Authority considers that there is a class or category of person having an interest in the distribution of electricity in Great Britain whose interests are not adequately represented in the composition of the Disputes Committee at that time, and whose interests would be better represented if a particular individual was appointed as an additional Disputes Committee member, the Authority may (by notice to the Panel and the Secretariat) appoint that particular individual as a Disputes Committee member. The Authority may, at any time thereafter by notice to the Panel and the Secretariat, remove that individual from the Disputes Committee.
- 7.10 The following persons shall be entitled to attend and speak (but not vote) at any meeting of the Disputes Committee:
- (a) one person appointed from time to time, by notice to the Secretariat, by the Authority; and
  - (b) one person appointed from time to time, by notice to the Secretariat, by the Consumer Body (Citizens Advice and Citizens Advice Scotland acting together to jointly appoint one person).
- 7.11 Dispute Committee members and their alternates:
- (a) shall be elected in accordance with the provisions for the election of Panel Members, except where such provisions could only apply to the election of the Panel Members themselves; and
  - (b) shall be subject to the same term of office and removal of office process and timeline as that of the Panel Members.

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### Meetings of the Disputes Committee

- 7.12 All meetings of the Disputes Committee shall be convened by the Secretariat in accordance with the Dispute Committee's terms of reference.
- 7.13 The notice of each Disputes Committee meeting shall contain the time, date and venue and/or teleconference/web conference details, and an agenda and any supporting papers for, the relevant meeting (including the Dispute Notice). The Secretariat shall circulate amendments to the agenda where necessary.
- 7.14 For a meeting of the Disputes Committee to be quorate, a minimum of three members must attend, at least one of whom must have been elected by the Supplier Parties and at least one of whom must have been elected by the DNO/IDNO Parties; and all of whom must be independent of the dispute (meaning that none of the parties to the dispute are a Related Person of the member).
- 7.15 A decision to reallocate a Final Demand Site from one charging band to another requires a vote in favour by a simple majority of the Disputes Committee members who vote at the meeting. Such a decision shall be binding for the purposes of this Agreement, but is without prejudice to any statutory rights that the Customer may have.
- 7.16 The data on the Dispute Notice is confidential and can only be viewed by the Disputes Committee, the DNO/IDNO Party which the dispute is against, the Customer (and/or its appointed agent) which raised the dispute, the Secretariat, and the Authority.
- 7.17 Where the decision of the Disputes Committee is that a Final Demand Site be reallocated from one charging band to another, the Registrant for the Final Demand Site will be eligible for a rebate. The rebate for that Final Demand Site will be backdated to the time when the analysis shows that the Customer was first charged the incorrect residual fixed charge, up to a maximum of six years (five years in Scotland). The revised charging band will be applied from the next billing period.

### **8. DEFINITIONS**

- 8.1 Words beginning with a capital letter that are not otherwise defined in this Schedule have the meanings given to them in Clause 1 of the main body of this Agreement, and the rules of interpretation set out in that Clause 1 also apply.
- 8.2 In this Schedule, unless the context otherwise requires, the expressions below shall have the meanings set out below:

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<b>Banding Agent</b>	is the National Electricity Transmission System Operator or its appointed agent, as notified by the National Electricity Transmission System Operator to the DNO/IDNO Parties from time to time.
<b>Customer</b>	for each Single Site, is either the user as described in Schedule 16, or the EHV Customer as described in Schedule 17 and Schedule 18.
<b>Default Estimated Annual Consumption</b>	has the meaning to that term in the Balancing & Settlement Code.
<b>Disputes Committee</b>	is the committee established under Paragraph 7.7.
<b>Domestic Premises</b>	means premises at which a supply of electricity is taken wholly or mainly for domestic purposes.
<b>Estimated Annual Consumption or EAC</b>	as the meaning to that term in the Balancing & Settlement Code
<b>Electricity Storage</b>	is the conversion of electrical energy into a form of energy which can be stored, the storing of that energy, and the subsequent reconversion of that energy back into electrical energy.
<b>Electricity Generation</b>	is the process of generating electricity.
<b>Final Demand</b>	means electricity which is consumed other than for the purposes of generation or export onto the electricity network.
<b>Final Demand Site</b>	means a Single Site at which there is Final Demand, as determined in accordance with Paragraphs 1.10 and 5.
<b>Non-Domestic Premises</b>	means premises which are not Domestic Premises.
<b>Non-Final Demand Site</b>	<p>is a Single Site at which either or both Electricity Storage and/or Electricity Generation occurs (whether the facility(ies) at the site are operating or being commissioned, repaired or decommissioned), and that:</p> <p>(a) has an export MPAN and an import MPAN with associated metering equipment which only measures export from Electricity Storage and/or Electricity Generation and import for or directly relating to Electricity Storage and/or Electricity Generation (and not export from another source and/or import for another activity); and</p>

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	<p>(i) if registered in an MPAS Registration System, is subject to certification from a Supplier Party that the site meets the criteria in paragraph (a) above, which certificate has been provided to the DNO/IDNO Party;</p> <p>or</p> <p>(ii) if registered in CMRS, is subject to certification from the Customer (or its CVA Registrant) that the site meets the criteria in paragraph (a) above, which certificate has been provided to the DNO/IDNO Party.</p>
<b>P0222 Report</b>	<p>is 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’.</p>
<b>Registrant</b>	<p>for each Metering Point or Metering System, the Supplier Party or CVA Registrant that is Registered for that Metering Point or Metering System.</p>
<b>Single Site</b>	<p>means one or more Non-Domestic Premises that are connected to the distribution system pursuant to a single Connection Agreement (whether a Bespoke Connection Agreement or one created via the National Terms of Connection).</p>