

DCUSA Code Administrator  
Electralink

27 February 2020

By email only to: [dcusa@electralink.co.uk](mailto:dcusa@electralink.co.uk)

Dear Sir/Madam

## **DCP350 Consultation – Creation of Embedded Capacity Registers**

Thank you for the opportunity to comment on the above consultation.

Our response should be treated as consolidated on behalf of UK Power Networks' three distribution licence holding companies: Eastern Power Networks plc; London Power Networks plc; and South Eastern Power Networks plc. We are GB's largest electricity Distribution Network Operator (DNO) group, dedicated to delivering a safe, secure and sustainable electricity supply to 8.3 million homes and businesses. This response is not confidential.

We are supportive of both the underlying principle behind this change proposal and also the response provided separately by the Open Networks Project which has been jointly developed by DNOs. We would also like to draw your attention to the following points which we would like to raise as part of the consultation notwithstanding that they do not relate to the specific questions posed.

### **1. Capacity Trading**

- 1.1. There are several references in the document to how visibility of the data may enable customers to trade capacity – for example, please see para 1.5, fourth bullet point which states *“New build and existing embedded sites may also be able to better understand who their projects are interacting with for connection capacity and may be able to trade rights (depending on Ofgem’s charging review) or swap locations, etc. to get the most efficient outcome for their investments”*.
- 1.2. Whilst we understand that in certain circumstances capacity trading may become a reality, in other circumstances – if not correctly facilitated – we believe that there is a risk that it may encourage speculators to sterilise capacity on distribution networks so that they can trade such capacity on DNOs' networks at a premium. This may lead to projects that are ready to proceed but are lower down in the “queue” having to pay a premium to third parties to avoid paying for potentially unnecessary reinforcement works. We do not consider the development of this kind of secondary capacity market to be in the best interests of our wider customers.

## **2. Competition Law**

- 2.1. Effective market monitoring will need to be in place to ensure there are no unintended consequences of participants in the market having greater visibility of who else is involved in the market. Visibility of the outcomes of such monitoring should ensure that there is complete confidence that the market is operating appropriately.

## **3. Customer Approval**

- 3.1. The Change Proposal and draft Legal Text are silent on whether the approval of existing customers should be obtained before adding the details of their project to the register.
- 3.2. Further, the Change Proposal and draft Legal Text do not address what DNOs should do where a customer requests/expressly states that their information does not appear on the register. For example, the MoD or key infrastructure projects may wish to keep details of their projects confidential for security reasons.
- 3.3. The draft Legal Text also does not provide clarity on what happens on a change of ownership resulting in the new owner requesting their removal from the register.
- 3.4. It is our view, to assist customers (and DNOs) understand where they stand these issues should be explicitly addressed. If the expectation is that the customer's approval should be sought in advance this will have a significant impact on the timescales and thought will need to be given to how to address the situation where approval is either delayed nor not forthcoming.

## **4. Data to be included**

- 4.1. The draft Legal Text appears to indicate that DNOs will have to provide details of applications for connections as well as applications for variations in addition to accepted offers. This could be unduly onerous and may not give an especially helpful reflection of likely developments to the network – there are often multiple applications for a single site and customers may make applications for multiple sites even if they intend to progress with only one site. We believe that the draft Legal Text should be re-written to omit the requirement to include information relating to applications and make the requirement apply only to accepted connection offers and accepted variations.

## **5. Clarity on expectation on DNOs to validate data**

- 5.1. Clause 35C.3 (of the draft Legal Text) refers to the “latest available information it holds”. However, this is defined broadly due to the inclusion of reference to “construed as (but not limited to)...” in Clause 35C.4.
- 5.2. We would welcome confirmation that the DNO is not expected to revalidate every entry every month (rather than simply update with known new data). We do not believe the intention was to revalidate the data each month. An example that illustrates the issues associated with re-validation is where distributed energy projects are re-financed or sold. This can impact on the ownership of the asset. However, DNOs are not always made aware of such changes in ownership in a timely fashion – particularly where it is an inter-group transfer. If it is construed that the DNO will need to re-validate the accuracy of the

information that it holds, every month the DNO would need to write to (and receive a response from) every customer who has an asset on the register. We assume that it is not the intention.

5.3. We consider the deletion of the reference to "(but not limited to)" in Clause 35C.4 will help address this concern.

## **6. Obligation on DNO to populate data items**

6.1. Under Schedule 31, para 2.3 the DNO is required to use "best endeavours" to populate all data items. The legal impact of an obligation being subject to "best endeavours" is very similar to the imposition of an absolute obligation. In the circumstances, we do not consider this to be appropriate and believe that the reference to "best endeavours" should be replaced with "reasonable endeavours".

## **7. Timing of updates**

7.1. We believe that there are practical issues around the timing of updates. If there is a change to the requirements on DNOs to publish data there should be a minimum period before such change needs to be reflected in the data. As currently drafted, there is a risk that a DNO may be required to provide the information the following day depending on when the request is made. In our view, to ensure that there is consistent and accurate adoption of changes the earliest a change should be required to be implemented should be "the next but one" update.

If you have any queries, please do not hesitate to contact Steve Halsey and Paul Measday in the first instance.

Yours sincerely



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