

DCP 360 - Ofgem Targeted Charging Review Implementation: Allocation to Bands and Interventions

Draft Legal Text

The legal text for DCP 360 should be read in conjunction with and be applied alongside that which is provided for by DCP 358 ‘Ofgem Targeted Charging Review Implementation: Determination of Banding Boundaries’ and DCP 359 ‘Ofgem Targeted Charging Review Implementation: Customers - who should pay?’.

Implementation of DCP 360 is conditional on DCP 358 and DCP 359 being approved and implemented at the same time.

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Add a new Paragraph 4 to Schedule [XX]¹ (Residual Charging Bands)

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.

¹ This is the new schedule which is proposed by DCP358.

- 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.
 - (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 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.

Add new Paragraphs 6 and 7 to Schedule [XX] (Residual Charging Bands)

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:

- (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

- 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.

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.

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.

Add the following new definitions to Paragraph 8 of Schedule [XX] (Residual Charging Bands)

Default Estimated Annual Consumption	has the meaning to that term in the Balancing & Settlement Code.
Disputes Committee	is the committee established under Paragraph 7.7.

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