

Meeting Session	DCUSA Panel (Open Session)
Paper Reference	Panel_2020_0916_AOB_DCP 314 – Ofgem Decision to Send Back
Action	For Decision

## DCP 314 – Authority ‘send back’ Decision

### 1. Synopsis

- 1.1 This paper briefs the DCUSA Panel the Authority’s decision to ‘send back’ DCUSA Change Proposal 314 ‘Appropriate treatment of Bad Debt following appointment of Supplier of Last Resort’.

### 2. Background

- 2.1 DCP 314 was raised on the 02 January 2018 by ESP Electricity Limited with the intention to implement a process that is triggered in the event that a Supplier of Last Resort (SoLR) is appointed following a supplier default. Under these circumstances, it is proposed that Distribution Network Operators (DNOs) must credit Licensed Distribution Network Operators (LDNOs) for the amount of DUoS charges attributable to the defaulting supplier where the LDNO has not received payment.
- 2.2 Following an industry consultation issued on 31 August 2018, the Working Group wrote and agreed the Change Report which was approved at the January 2019 DCUSA Panel meeting and issued for voting two days later. The Party vote resulted in a recommendation to the Authority to reject DCP 314, and this outcome was presented to Parties and the Authority in a Change Declaration that was issued on 12 February 2019.

### 3. Authority ‘Send Back’ Letter

- 3.1 On Thursday, 10 September, we received confirmation from the Authority of their decision to ‘send back’ DCP 314 as they had not been able to form an opinion on whether or not DCP314 should be approved based on the Change Declaration submitted to them. In their ‘send back’ letter, Ofgem explains the reason for sending the proposal back to industry for further work is because they consider there might be a defect with the legal drafting, which were highlighted by Parties upon voting on DCP 314. Specifically, the following two issues were raised with the legal text:
  1. The legal text does not require the Distribution Network Operator (DNO) to take any action. An affected party commented that the legal text introduces a set of requirements for Licenced Distribution Network Operators (LDNOs) to provide data and calculations to the DNO but does not appear to change the process for the DNO in calculating Distribution Use of System (DUoS) invoices, nor introduce any new requirement for DNOs to credit LDNO DUoS invoices.
  2. The process might raise a risk of double recovery by the DNO. An affected party commented that a credit would reduce billed revenue and so create a revenue under-recovery. Any under-recovery of Allowed Revenue is carried forward through the K-factor to be recovered from DUoS charges in the subsequent years. This raises the concern that the process might raise the risk of double recovery; once through the K-factor and a second time through the DNO’s bad debt claim. We would expect the proposed legal text drafting to require DNOs to review bad debt claims before submission to avoid claiming twice.

## 4. Considerations and next steps

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### Previous updates from the Authority

- 4.1 There have been a number of previous discussions and updates provided with respect to an Authority decision on DCP 314, including:
- There was a view that this CP may not be needed and therefore rejected as Ofgem consider the obligations are sufficiently addressed within the License Conditions.
  - Ofgem requested for contact to be made with the Proposer to understand whether they'd be happy to withdraw the CP as this was considered to be a more expedient way of closing it down, but upon further guidance, noted it appeared to be past the point which a Proposer could intervene, although the DCUSA doesn't disallow such an action.
  - And finally, a 'send-back' approach has been suggested over the last few months, but a formal decision had been delayed due to the COVID-19 pandemic.

### An update on the Proposer

- 4.2 The named proposer is no longer employed by the ESP Electricity and so the Secretariat has issued an email to the Contract Manager for ESP Electricity to confirm whether or not they wish to progress DCP 314 and if will update the Panel if we receive a response by the Panel meeting.

### Potential changes to relevant licence conditions

- 4.3 On 07 August 2020, the Authority issued an open letter titled *'managing network charge bad debt – proposal enabling networks to recover potential bad debts arising from COVID-19 related deferred network charge payments and to introduce an enduring solution to bad debt recovery in general'*<sup>1</sup>.
- 4.4 The proposed changes are with respect to the Network Charge Deferral (NCD) scheme, announced by Ofgem on 02 June 2020 and run by the ENA, to help minimise disruption to customers and other market participants, by assisting Suppliers who face cash-flow issues due to the unprecedented public health crisis triggered by COVID-19.
- 4.5 The proposed licence modifications provide DNOs the ability to recover outstanding bad debt within the year 2021-22 in the situation where a Supplier who had taken advantage of the scheme and then has subsequently gone into administration and where a DNO has pursued any debt through the liquidation process but has not been successful. The letter states that the proposed licence modifications will also allow for the recovery of other bad incurred due to non-payment of network charges, net of interest income accrued, on an enduring basis.
- 4.6 Finally, the Authority have set out which of a set of three options they consider to best deliver the policy intent alongside their rationale, which is set out below:
- Introduce a new NCD specific bad debt term (CBDt,) similar to existing business rates/licence fee terms in the RIIO-1 licence. This would involve setting a provisional allowance, based on estimated values provided by the licensee, which is trued-up in the following period through RIGs reporting. This would allow for recovery of bad debt costs directly resulting from the NCD scheme only. We propose to eventually replace this with the proposed all-purpose bad debt term, BDt in the RIIO-ED2 licence, to make it consistent with the other sectors.

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<sup>1</sup> [https://www.ofgem.gov.uk/system/files/docs/2020/08/managing\\_network\\_charge\\_bad\\_debt\\_open\\_letter\\_1.pdf](https://www.ofgem.gov.uk/system/files/docs/2020/08/managing_network_charge_bad_debt_open_letter_1.pdf)

- This approach involves a relatively simple pass-through term, which can be reported through the RIGs. This option is both easier to implement and maintain in comparison to the other options. Additionally, this approach would ensure consistency across all sectors and would provide the appropriate level of transparency. For Electricity Distribution this alternative approach is preferred as it is the simplest way to modify the existing ED1 licence conditions in comparison to the other options. This approach avoids the complexities of modifying the existing EBD<sub>t</sub> term, and allows for the recovery of NCD specific bad debt in 2021/22 through the CBD term.

## 5. Recommendation

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5.1 The DCUSA Panel is invited to:

- **NOTE** the content of this paper
- **REVIEW** the Authorities Decision to 'Send Back' DCP 314; and
- **AGREE** on any next steps with respect to progressing DCP 314l.

## 6. Attachments

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6.1 Attachment 1 – DCP 314 Ofgem 'Send Back' Decision Letter

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