

DCP 386:

Sharing Network Information with Owners and Occupiers

Date raised: 26 March 2021

Proposer Name: Peter Waymont

Company Name: Eastern Power Networks

Company Category: DNO

01 – Change Proposal

02 – Consultation

03 – Change Report

04 – Change Declaration

Purpose of Change Proposal:

To amend DCUSA Clause 17.10 and the NTC to clarify how DNOs and IDNOs may share network information with owners and occupiers.



This document is a Consultation issued to DCUSA Parties and any other interested parties in accordance with Clause 11.14 of the DCUSA seeking industry views on DCP 386 'Sharing Network Information with Owners and Occupiers'.

The Working Group recommends that this Change Proposal should proceed to Consultation.

Parties are invited to consider the questions set in section 10 and submit comments using the form attached as Attachment 1 to dcusa@electralink.co.uk by **18 November 2021**.

The Working Group will consider the consultation responses and determine the appropriate next steps for the progression of the Change Proposal (CP).



Impacted Parties: DNOs and IDNOs



Impacted Clauses: Clause 17 & Schedule 2B

Contents

1	Summary	3
2	Governance	4
3	Why Change?	4
4	DCP 386 Working Group Assessment	5
5	Assessment Against the DCUSA Objectives	6
6	Impacts & Other Considerations	6
7	Implementation	7
8	Legal Text	8
9	Code Specific Matters	8
10	Consultation Questions	8
11	Attachments	9

Timetable

The timetable for the progression of the CP is as follows:

Change Proposal timetable

Activity	Date
Initial Assessment Report	21 April 2021
Consultation Issued to Industry Participants	28 October 2021
Change Report Approved by Panel	15 December 2021
Change Report issued for Voting	17 December 2021
Party Voting Closes	10 January 2022
Change Declaration Issued to Parties	12 January 2022
Change Declaration Issued to Authority]	12 January 2022
Authority Decision	February 2022



Any questions?

Contact:

Code Administrator



DCUSA@electralink.co.uk



0207 432 3011

Proposer:

Peter Waymont



**peter.waymont@
ukpowernetworks.co.uk**



07875 112757

1 Summary

What?

- 1.1 This proposal is to amend Clause 17 and Schedule 2B (the NTC) so that it is clearer how the Distributor may communicate with owners and occupiers.

Why?

- 1.2 S105 of the Utilities Act 2000 states that:

“(1) Information which - (a) has been obtained under or by virtue of the provisions of this Act, Part I of the 1986 Act, Part 1 of the 1989 Act, section 184(5) or 185(5) of the Energy Act 2004 or Part 2 or section 27 or 28 of the Energy Act 2010 or section 50 or 51 of the Energy Act 2013 or section 41 or 100 of the Energy Act 2008 or the Domestic Gas and Electricity (Tariff Cap) Act 2018; and

(b) relates to the affairs of any individual or to any particular business,

shall not be disclosed during the lifetime of the individual or so long as the business continues to be carried on, except as provided below.

(2) Subsection (1) does not apply to a disclosure made with the consent of the individual or the person for the time being carrying on the business.”

- 1.3 Distributors can find themselves in conversations with both landlords and tenants of the same premises over time. S105(b) applies to anyone about whom they have received information in the course of conducting their business in relation by virtue of the Acts listed (generally therefore the [bill paying] customer for whom they are providing a connection under the Electricity Act 1989). So where that customer is a tenant, the interpretation is that they should not discuss the affairs of that individual or business with the landlord of the premises. The information relating to the affairs of the individual or business is taken to include the Maximum Import Capacity (MIC) and Maximum Export Capacity (MEC).

- 1.4 This stance is further evidenced by Clause 17.10.1 of DCUSA that Distributors must place in connection agreements, which states:

“The [Connectee] agrees that the [Distributor] shall, on the application of any person purporting to be an owner and/or occupier (or prospective owner and/or occupier) of the [Connected Premises], be entitled to disclose to such person the fact that this [Agreement] contains terms which differ from the terms set out in the National Terms of Connection”

- 1.5 This Clause reinforces the position that Distributors cannot discuss the content of any connection agreement with a landlord without consent, only the existence of an agreement and this is frustrating for landlords.

- 1.6 A similar restriction occurs with purchasers of premises, where for example they contact the Distributor to find out the capacity so they can assess if it will meet their requirement or whether they may wish to upgrade it or reduce it once the purchase is complete. However, risk adversity leads to non-disclosure to avoid the risk of the penalties under s105, being:

“(9) A person who discloses any information in contravention of this section is guilty of an offence and liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.”

How?

- 1.7 By adding terms into the DCUSA and the NTC to clarify that Distributors may disclose the MIC or MEC at a property to a landlord or prospective landlord or customer, even if they are not the current customer.

- 1.8 s105 of the Utilities Act goes on -

“(3) Subsection (1) does not apply to a disclosure if—

(c) it is made by a licence holder and is required to be made by a condition of his licence”

- 1.9 By placing a requirement in DCUSA, with which Distributors have a License obligation to comply, providing information to landlords or a prospective landlord or customer would not be a breach of s105.

2 Governance

Justification for Part 1 and Part 2 Matter

- 2.1 This Change Proposal should be treated as a Part 1 Matter as it is likely to have a significant impact on the interests of electricity consumers

3 Why Change?

Background of DCP 386

- 3.1 To improve stakeholder experience by being able to reveal the MIC or MEC to the owner of a property who is not the customer or to a prospective owner/customer.

Question 1 Do you understand the intent of the CP?

Question 2 Are you supportive of the principles of the CP?

4 DCP 386 Working Group Assessment

- 4.1 The DCUSA Panel established a Working Group to assess DCP 386. This Working Group consists of DNO and Supplier representatives. A meeting was held in open session and the minutes and papers of each meeting are available on the DCUSA website – www.dcusa.co.uk.
- 4.2 As stated above the proposal seeks to amend Clause 17 and Schedule 2B (the NTC) so that it is clearer how the Distributor may communicate with owners and occupiers of property.
- 4.3 Distributors receive enquires from landlords in relation to MIC and MEC, where they are not the (bill paying) customer for whom the DNO is providing a connection under the Electricity Act 1989). At present, Distributors are not allowed to disclose information relating to affairs of the individual or business they provide a connection for, unless they have given their consent. Therefore, if the customer or business is a tenant a Distributor is unable to provide this information to the landlord, unless the customer has given their consent.
- 4.4 Another challenge occurs for prospective purchasers of premises where they may wish to understand the current capacity to determine whether or not it meets their needs. If they contact the Distributor to seek this information, the Distributor is unable to provide it.
- 4.5 The Working Group agreed that this can be problematic and agree with the proposers view to add terms into the DCUSA and the NTC to clarify that Distributors may disclose the MIC or MEC at a property to a landlord or prospective landlord or customer, even if they are not the current customer.
- 4.6 The Working Group discussed whether this proposal should be restricted to just release of MIC and MEC details or whether it would be beneficial to expand so that more information could be disclosed. For example, would it be of benefit if a Distributor could provide information in relation to details around the connection, where a customer may have a constrained connection. Specific contract details would not be shared but generic information regarding the connection may help prospective buyers.
- 4.7 The Working Group is keen to seek industry views on this CP. Particularly, views on whether you support the intent of this CP, and whether the information proposed to be shared could expand to include information regarding the connection, such as any constraints.

Question 3 Do you agree that Distributors should be able to disclose the MIC or MEC at a property to the landlord, even if they are not the bill paying customer, without the need for consent by the customer or business with whom the Distributor is providing a connection under the Electricity Act 1989)? If not, please provide your rationale.

Question 4a Do you agree that Distributors should be able to disclose the MIC or MEC at a property to a prospective purchaser of that property? If not, please provide your rationale.

Question 4b: If you agree, how should prospective owners be dealt with? For example, should the Distributor do any checks or is it acceptable that effectively this allows the information to be shared with any interested party? If you think they should do checks what do you think they can do?

Question 5: Beyond providing details of the MIC and MEC, do you believe that there is any other acceptable information that could be shared? For example, details of the connection where a customer may have a constrained connection.

5 Assessment Against the DCUSA Objectives

5.1 For a DCUSA CP to be approved it must be demonstrated that it better facilitates the DCUSA Objectives. There are five General Objectives and six Charging Objectives. DCP 386 will be measured against the DCUSA General Objectives, which are set out in the table below:

DCUSA General Objectives Please tick the relevant boxes.	Identified impact
<input checked="" type="checkbox"/> 1 The development, maintenance and operation by the DNO Parties and IDNO Parties of efficient, co-ordinated, and economical Distribution Networks	Positive
<input type="checkbox"/> 2 The facilitation of effective competition in the generation and supply of electricity and (so far as is consistent therewith) the promotion of such competition in the sale, distribution and purchase of electricity	None
<input type="checkbox"/> 3 The efficient discharge by the DNO Parties and IDNO Parties of obligations imposed upon them in their Distribution Licences	None
<input checked="" type="checkbox"/> 4 The promotion of efficiency in the implementation and administration of the DCUSA	Positive
<input type="checkbox"/> 5 Compliance with the EU Internal Market Regulation and any relevant legallybinding decisions of the European Commission and/or the Agency for the Cooperation of Energy Regulators.	None

Question 6 Do you consider that the proposal better facilitates the DCUSA General Objectives?

If so, please detail which of the General Objectives you believe are better facilitated and provide supporting reasons.

6 Impacts & Other Considerations

6.1 The change should be supported by an appropriate facility for DNOs to advise Suppliers of the meter being moved.

Does this Change Proposal impact a Significant Code Review (SCR) or other significant industry change projects, if so, how?

6.2 N/A

Does this Change Proposal Impact Other Codes?

BSC	<input type="checkbox"/>
CUSC	<input type="checkbox"/>
Grid Code	<input type="checkbox"/>
MRA	<input type="checkbox"/>
SEC	<input type="checkbox"/>
Other	<input type="checkbox"/>
None	<input checked="" type="checkbox"/>

Consideration of Wider Industry Impacts

6.3 N/A

Confidentiality

6.4 This Change is not confidential.

Question 7 Are you aware of any wider industry developments that may impact upon or be impacted by this CP?

7 Implementation

7.1 It is proposed that this CP should be implemented within the first DCUSA release after Authority approval.

Question 8 Are you supportive of the proposed implementation date being the first DCUSA release following Authority approval?

8 Legal Text

Legal Text

- 8.1 Add New Clause 17.10A (and rename the existing 17.10A as 17.10B, including updating any cross references) -

“On the application of any person purporting to be the owner or occupier of a Premises or a prospective owner or occupier, the Company shall be entitled to disclose the Maximum Import Capacity and/or Maximum Export Capacity details of the Premises.”

- 8.2 Add New paragraph (G) in Section 1 of Schedule 2B (and renumber subsequent paragraphs accordingly, including updating any cross references) -

“If we are contacted by any person purporting to be the owner or occupier of the premises or the prospective owner or occupier, you agree that we shall be entitled to disclose the maximum electrical capacity details (import and/or export) of the premises to them.”

- 8.3 It is believed that the above will give clarity to Distributors in the DCUSA and to customers via the NTC of the approach to the sharing of MIC/MEC data.

- 8.4 The proposed DCP 386 Legal Text can also be found in Attachment 2.

Question 9 Do you have any comments on the proposed legal text?

9 Code Specific Matters

Reference Documents

- 9.1 Not applicable.

10 Consultation Questions

- 10.1 The Working Group is seeking industry views on the following consultation questions:

No.	Questions
1	Do you understand the intent of the CP?
2	Are you supportive of the principles of the CP?
3	Do you agree that Distributors should be able to disclose the MIC or MEC at a property to the landlord, even if they are not the bill paying customer, without the need for consent by

	the customer or business with whom the Distributor is providing a connection under the Electricity Act 1989)? If not, please provide your rationale.
4a	Do you agree that Distributors should be able to disclose the MIC or MEC at a property to a prospective purchaser of that property? If not, please provide your rationale. B) If you agree, how should prospective owners be dealt with? For example, should the Distributor do any checks or is it acceptable that effectively this allows the information to be shared with any interested party? If you think they should do checks what do you think they can do?
4b	If you agree, how should prospective owners be dealt with? For example, should the Distributor do any checks or is it acceptable that effectively this allows the information to be shared with any interested party? If you think they should do checks what do you think they can do?
5	Beyond providing details of the MIC and MEC, do you believe that there is any other acceptable information that could be shared? For example, details of the connection where a customer may have a constrained connection.
6	Do you consider that the proposal better facilitates the DCUSA General Objectives? If so, please detail which of the General Objectives you believe are better facilitated and provide supporting reasons.
7	Are you aware of any wider industry developments that may impact upon or be impacted by this CP?
8	Are you supportive of the proposed implementation date being the first DCUSA release following Authority approval?
9	Do you have any comments on the proposed legal text?
10	Do you have any other comments?

10.2 Responses should be submitted using Attachment 1 to dcusa@electralink.co.uk no later than, **18 November 2021**.

10.3 Responses, or any part thereof, can be provided in confidence. Parties are asked to clearly indicate any parts of a response that are to be treated confidentially.

11 Attachments

- Attachment 1: DCP 386 Consultation Response Form
- Attachment 2: DCP 386 Draft Legal Text
- Attachment 3: DCP 386 Change Proposal Form