DCUSA

DCUSA Change Declaration	At what stage is this document in the process?
# 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 this 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.

✔	DCUSA Parties have voted on DCUSA Change Proposal (DCP) 386 with the outcome being a recommendation to the Authority as to whether or not the Change Proposal (CP) should be accepted. As DCP 386 is considered to be a Part 1 Matter, the recommendation will be issued to the Authority for their final decision. The DCUSA Parties consolidated votes are provided as Attachment 2.
✔	**For DCP 386, DCUSA Parties recommend to the Authority to:** • **Accept the proposed variation (solution); and** • **Accept the implementation date.**
!	**Impacted Parties:** DNO parties and IDNO parties
!	**Impacted Clauses:** Clause 17 & Schedule 2B

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Timetable

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

Change Proposal timetable

Activity	Date
Initial Assessment Report Approved by Panel	21 April 2021
Consultation issued to Parties	28 October 2021
Change Report approved by Panel	19 January 2022
Change Report issued for Voting	21 January 2022
Party Voting Ends	11 February 2022
Change Declaration issued to Authority	15 February 2022
Authority Decision	March 2022
Implementation	Next DCUSA release following Authority decision.

Any questions?

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1 Executive 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:

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"(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 on the application of any person purporting to be the owner and/or occupier of a Premises (or prospective owner and/or occupier) who can show a reasonable cause for requiring the information, the Distributor will be entitled to disclose the MIC and/or MEC details of the Premises, together with whether the connection is constrained.

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 Part 1 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.

Next Steps

2.2 DCUSA Parties have voted and the outcome of the Party vote acts as a recommendation to the Authority as to whether or not this CP should be accepted. Parties recommend that DCP 386 should be accepted and therefore, that the change should be made.

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3 Why Change?

Background of DCP 386

3.1 To improve stakeholder experience by being able to reveal the MIC and/or MEC details of the Premises, together with whether the connection is constrained to the owner of a property who is not the customer or to a prospective owner/customer.

4 Solution

4.1 The DCUSA Panel established a Working Group to assess DCP 386. This Working Group consists of DNO, IDNO 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.

4.7 The Working Group sought industry views on this CP. Particularly, views on whether they 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.

DCP 386 Consultation

4.8 In order to develop the proposed solution further the DCP 386 Working Group issued a consultation to industry.

4.9 The consultation received 8 responses to the consultation comprising of three DNOs, three IDNOs, and two Party responses submitted confidentially. The full response (confidential responses

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excluded) to the consultation and Working Group feedback can be found in Attachment 3. The responses are summarised below.

Q1: Do you understand the intent of DCP 386?

4.10 All respondents understood the intent of this CP.

Q2: Are you supportive of the principles of DCP 386?

4.11 All respondents were supportive of the principles of the CP.

Q3: 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.

4.12 All respondents agreed 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.

4.13 A few respondents noted that at present they request a Letter of Authority from any other party making the request.

Q4a: 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.

Q4b: 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?

4.14 All respondents agreed that Distributors should be able to disclose the MIC or MEC at a property to a prospective purchaser of that property.

4.15 There were mixed views in relation to how these requests should be dealt with some stating formal evidence of a legitimate reason should be provided and others leaning towards no evidence being required.

Q5: 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.

4.16 Some respondents did not believe other information should be in scope and others felt that information in relation to whether the connection is constrained would be of benefit. One respondent noted that consideration could be given to providing information regarding the number of phases and security of supply.

Q6: Do you consider that the proposal better facilitates the DCUSA General Objectives?

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

If not, please provide supporting reasons

4.17 A majority of respondents believe that DCUSA General Objectives 1 and 4 would be better facilitated as a result of the Change Proposal.

Q7: Are you aware of any wider industry developments that may impact upon or be impacted by this CP?

4.18 No respondent stated they were aware of any wider industry developments that may impact upon this CP.

Q8: 8) Are you supportive of the proposed implementation date being the first DCUSA release following Authority approval?

4.19 All respondents agreed that that if this CP is approved it should be implemented within the first DCUSA release following approval.

Q9: Do you have any comments on the proposed legal text?

4.20 There were no comments submitted in relation to the proposed legal text.

Working Group Conclusions and next steps

4.21 The Working Group identified the following areas of further work having discussed the parties' responses to the consultation:

- Determine whether beyond providing details of the MIC and MEC there is any other acceptable information that could be shared.
- Determine whether it is acceptable to provide this information to the landlord or prospective owner without the need for consent by the customer or business with whom the Distributor is providing a connection under the Electricity Act 1989.
- Agree how prospective owners or customers requesting this information should be dealt with.
- Agree implementation date (see Section 8).
- Agree legal text (see Section 9).

What network information should be shared and who should it be shared with?

4.22 After review of the consultation responses and further discussion, the Working Group agreed that the scope should be expanded to allow Distributors to disclose MIC and/or MEC details of a Premises, together with whether the connection is constrained. It was also agreed that this information should be disclosed to any person purporting to be the owner and/or occupier of a Premises (or prospective owner and/or occupier).

4.23 In relation to constraints the intent is that the Distributor would simply indicate whether there is a constraint or not and indicate they may want to discuss further with the customer. The reason for this

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is to avoid commercially sensitive information specific to another customer's connection agreement being disclosed.

4.24 The Working Group believe that sharing this network information supports the Energy Data Taskforce principles.

Identification of a prospective owner and/ or occupier

4.25 The Working Group discussed how a Distributor would identify if a person was a prospective owner and/ or occupier. As stated above, there were mixed views from the consultation responses in relation to how these requests should be dealt with some respondents stating formal evidence of a legitimate reason should be provided and others leaning towards no evidence being required.

4.26 It was noted that the ESQCR currently places an obligation on Distributors in relation to providing information regarding consumer installation to any person who can show a reasonable cause for requiring the information. In particular, the below text contained within the ESQCR was reviewed:

Information to be provided on request

28. A distributor shall provide, in respect of any existing or proposed consumer's installation which is connected or is to be connected to his network, to any person who can show a reasonable cause for requiring the information, a written statement of—

(a)the maximum prospective short circuit current at the supply terminals;

(b)for low voltage connections, the maximum earth loop impedance of the earth fault path outside the installation;

(c)the type and rating of the distributor's protective device or devices nearest to the supply terminals;

(d)the type of earthing system applicable to the connection; and

(e)the information specified in regulation 27(1),

which apply, or will apply, to that installation

4.27 It was noted that much of this information is out of scope of DCP 386, however in relation to whether a Distributor should do any checks (i.e if DCP 386 is approved and someone is purporting to be a prospective owner), utilising a similar approach would be appropriate.

4.28 It was therefore agreed to add the following statement to the legal text in relation to when a Distributor can disclose this information "Any person who can show a reasonable cause for requiring the information". Each Distributor would then need their own internal processes of satisfying this.

Summary

4.29 In summary, the DCP 386 Working Group believe that Distributors should be entitled to disclose the MIC and/or MEC details of a Premises, together with whether the connection is constrained to the owner and/or occupier of a Premises (or prospective owner and/or occupier), without the need for

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consent from the [bill paying] customer for whom they are providing a connection under the Electricity Act 1989.

4.30 The full legal text for DCP 386 can be found in Attachment 1.

5 Code Specific Matters

Reference Documents

5.1 None

6 Relevant Objectives

Assessment Against the DCUSA Objectives

6.1 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	Identified impact
☒ 1 The development, maintenance and operation by the DNO Parties and IDNO Parties of efficient, co-ordinated, and economical Distribution Networks	Positive
☐ 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
☐3 The efficient discharge by the DNO Parties and IDNO Parties of obligations imposed upon them in their Distribution Licences	None
☒ 4 The promotion of efficiency in the implementation and administration of the DCUSA	Positive
☐ 5 Compliance with the Regulation on Cross-Border Exchange in Electricity and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators.	None
DCUSA General Objectives 1 and 4 are better facilitated by this change, as it would make it clear to Distributors that the MIC and/or MEC details of the Premises, together with whether the connection is constrained can be shared. This will ensure that Distributors are more efficient in their operation, it also adds additional clarity to the operation of DCUSA.	

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7 Impacts & Other Considerations

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

7.1 N/A

Does this Change Proposal Impact Other Codes?

BSC	☐
CUSC	☐
Grid Code	☐
REC	☐
SEC	☐
Other	☐
None	☒

Consumer Impacts

7.2 By adding terms into the DCUSA and the NTC to clarify that Distributors may disclose the MIC and/or MEC details of the Premises, together with whether the connection is constrained to a landlord or prospective landlord or customer, even if they are not the current customer will ensure timely release of information to consumers.

Consideration of Wider Industry Impacts

7.3 N/A

Confidentiality

7.4 This Change is not confidential.

8 Implementation

Proposed Implementation Date

8.1 If approved, it is proposed that this CP should be implemented within the first DCUSA release after Authority approval.

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9 Legal Text

9.1 It is proposed to add the following to the DCUSA and NTC.

Add a new Clause 17.10B (and heading) as follows:

Disclosure of Information

17.10B On the application of any person purporting to be the owner and/or occupier of a Premises (or purporting to be a prospective owner and/or occupier of a Premises and who can show a reasonable cause for requiring the information), the Company shall be entitled to disclose to such person the following information relating to the Premises:

17.10B.1 the Maximum Import Capacity and/or Maximum Export Capacity; and/or

17.10B.2 whether or not the connection is subject to any constraints.

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 and/or occupier of the premises (or purporting to be a prospective owner and/or occupier of the premises and who can show a reasonable cause for requiring the information), you agree that we shall be entitled to disclose to such person the following information relating to the premises: the maximum electrical capacity (import and/or export); and/or whether or not the connection is subject to any constraints.

9.2 The DCP 386 legal text can also be found in Attachment 1.

10 Voting

10.1 The 386 Change Report was issued to DCUSA Parties for Voting on 21 January 2022.

Part 1 Matter: Authority Decision <u>is</u> Required

DCP 386: Proposed Variation (Solution)

10.1 With regards to DCP 386, the Parties' recommendation to the Authority is that the change solution is accepted. For the majority of the Party Categories that were eligible to vote, the sum of the Weighted Votes of the Groups in each Party Category which voted to accept the change solution was more than 50%.

DCP 386: Implementation Date

10.1 The Parties' recommendation to the Authority is that the implementation date is accepted. For the majority of the Party Categories that were eligible to vote, the sum of the Weighted Votes of the Groups in each Party Category which voted to accept the implementation date was more than 50%

The table below sets out the outcome of the votes that were received in respect of the DCP 386 Change Report that was issued on 21 January 2022 for a period of 15 working days.

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DCP 386	WEIGHTED VOTING				
	DNO	IDNO	SUPPLIER[1]	CVA REGISTRANT[2]	GAS SUPPLIER[3]
CHANGE SOLUTION	Accept	Accept	Not Eligible	Not Eligible	Not Eligible
IMPLEMENTATION DATE	Accept	Accept	Not Eligible	Not Eligible	Not Eligible

11 Recommendations

DCUSA Parties Recommendation

11.1 DCUSA Parties have voted on DCP 386 and in accordance with Clause 13.5, the Parties have been deemed to recommend to the Authority that the Change Proposal be Accepted.

12 Attachments

- Attachment 1: DCP 386 Legal Text
- Attachment 2: DCP 386 Consolidated Party Votes
- Attachment 3: DCP 386 Consultation and Industry Responses
- Attachment 4: DCP 386 Change Proposal

[1] This Party Category was not eligible to vote on this CP

[2] This Party Category was not eligible to vote on this CP

[3] This Party Category was not eligible to vote on this CP

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