

Modification proposal:	Distribution Connection and Use of System Agreement (DCUSA) DCP407 – Access SCR: Speculative Development (DCP407)		
Decision:	The Authority ¹ directs this modification ² be made ³		
Target audience:	DCUSA Panel, Parties to the DCUSA and other interested parties		
Date of publication:	8 March 2023	Implementation date:	1 April 2023

Background

We published our Decision and associated Direction on the Access and Forward-looking Charges Significant Code Review⁴ (Access SCR) in May 2022 (the 'Access Decision' and 'Access Direction'). The implementation of the Access Decision will lead to reduced connection charges, and better defined and standardised access right options, enabling more flexible access rights, reducing barriers to entry and supporting the transition to net zero.

The objective of the Access SCR was to ensure that electricity networks are used efficiently and flexibly, reflecting users' needs and allowing consumers to benefit from new technologies and services while avoiding unnecessary costs on energy bills in general. To achieve this, the Access SCR included a review of capacity and financial barriers for connecting to the electricity distribution network, resulting in the following decisions:

- The overall connection charge faced by those connecting to the distribution network will be reduced – removing the contribution to wider network

¹ References to the "Authority", "Ofgem", "we" and "our" are used interchangeably in this document. The Authority refers to GEMA, the Gas and Electricity Markets Authority. The Office of Gas and Electricity Markets (Ofgem) supports GEMA in its day to day work. This decision is made by or on behalf of GEMA.

² 'Change' and 'modification' are used interchangeably in this document.

³ This document is notice of the reasons for this decision as required by section 49A of the Electricity Act 1989.

⁴ The Access SCR refers to the Access and Forward-looking charging Significant Code Review, available at: <https://www.ofgem.gov.uk/publications/access-and-forward-looking-charges-significant-code-review-decision-and-direction>

reinforcement costs for Demand Connections and reducing it for Generation Connections.⁵

- Existing protections for bill payers will be retained and strengthened.⁶
- Standardised non-firm access options will become available for larger distribution network users.
- Clear curtailment limits and end dates for non-firm access arrangements will be introduced.

Our access rights reforms are designed to complement our decision on the connection charging boundary, enabling network capacity to be brought forward in a strategic and cost-effective manner.

As noted above, alongside our Access SCR Decision, we issued the Access SCR Direction which required the Distribution Network Operators (DNOs) to bring forward proposals to modify the DCUSA. Specifically, we directed changes in relation to curtailable connections, Speculative Developments and connection charging methodologies. This resulted in five complementary change proposals brought forward for decision by the Authority, which collectively aimed to implement the Access Decision.⁷

The Speculative Developments provisions in DCUSA aim to protect wider billpayers from bearing costs associated with network investments that may have a higher risk of being underutilised. Where a development is determined to be speculative, such as when a party seeks to reserve more capacity than it immediately requires, it will face the full costs of reinforcement works needed to provide its required capacity and any associated operations and maintenance costs. This differs from non-speculative connections where a portion of the costs are borne by wider billpayers. The result is that connection costs for Speculative Developments can be significantly higher than the share of costs faced by non-speculative customers under the applicable connection boundary.

Speculative Developments are currently defined in clause 1.39 of DCUSA Schedule 22, which provides that where a site has one or more of a list of characteristics, it may be considered speculative. Otherwise, the provisions provide little clarity about how the

⁵ Also referred to as 'shallow' and 'shallow-ish' connection boundaries respectively.

⁶ Such protections include provisions for Speculative Developments, which are the subject of this proposal, and the high-cost cap which is a £/kW value above which the connecting customer is presently required to pay in full for any reinforcement costs and which limits the cost burden of an individual connection, which is shared with DUoS bill payers.

⁷ DCP 404 (Access SCR: Changes to Terms of Connection for Curtailable Customers) and DCP 405 (Access SCR: Managing Curtailable Connections between Licensed Distribution Networks) were approved by us on 15 December 2022. Our decisions on DCP 406 (Access SCR: Changes to CCCM) and DCP 406A DCP 406 (Access SCR: Changes to CCCM) were published on 9 February 2023.

various criteria should be applied by DNOs or what supporting information or evidence may inform the decision.

Our Access Decision cited the lack of clarity in the current arrangements and found that they leave scope for inconsistencies in the treatment of sites, particularly across DNO regions. We also signalled that sites with reasonably certain phased development plans need not be deemed speculative, where a case can be made for cost efficiency and wider network benefits.

This need for a clearer, standardised approach is strengthened by the reduced connection boundary introduced by another of the modifications arising from the Access Direction: DCP406⁸. As DCP406 reduces the sums payable by users connecting under standard non-speculative terms, the difference in charges between connections found to be speculative vs non-speculative will increase following these reforms. As such, the relative penalty for Speculative Developments increases.

DCP407 aims to provide a clearer definition of Speculative Developments and the process by which a user is categorised as speculative or not, addressing the specific requirements in the Access Direction to consider cases where phased developments may provide network benefits.

The modification proposal

Electricity North West Limited (the 'Proposer') raised modification DCP407 (the 'Proposal') on 6 May 2022. DCP407 was raised in order to implement the changes to Speculative Development arrangements required by paragraph 16 of our Access Direction. This required three changes to be made to the existing criteria used to define Speculative Developments:

"1. Greater clarity on the characteristic "the capacity requested caters for future expansion rather than the immediate requirements of (an) end user(s)", provided through clearer indication of the information required to determine whether the connection should be treated as speculative.

⁸<https://www.ofgem.gov.uk/publications/decision-dcp406-access-scr-changes-cccm>

2. Greater clarity on the characteristic "the capacity requested caters for future speculative phases of a development rather than the initial phase(s) of the development", provided through clearer indication of what constitutes a "speculative phase" or an "initial phase", and what information is required to determine this distinction. This should include clarification that phased developments are not always treated as speculative developments where the customer can provide sufficient relevant evidence.

3. Consideration of introducing a methodology for connections with planned phases or future expansion which would otherwise be deemed speculative, where a case can be made for the cost efficiency and wider network benefit."

No changes were required to the connection charging treatment of Speculative Developments. This means that should a connection be deemed speculative, the existing arrangements will continue to apply, ie it will pay the cost of reinforcement in full and will not benefit from the Cost Apportionment Factor (where the reinforcement costs are split between the connecting customer and wider DUoS billpayers according to the capacity the customer is using).

DCP407 proposes the creation of a Speculative Scoring Methodology, a new defined concept of Phased Capacity Sites under Schedule 22, and an amendment to ensure the concept of Phased Capacity Sites are appropriately reflected in residual charging provisions under Schedule 32. The Working Group ('WG') concluded that in addition to the specific areas highlighted for reform in the Access Direction, it would be appropriate to conduct a broader review of wider relevant factors that could help better determine the appropriate treatment of a site as speculative or not. DCP407 includes two alternative solutions, referred to as Solution 1 and Solution 2. These are broadly similar, and differ primarily in relation to Criteria 3 and 4 of the proposed Speculative Scoring Methodology, as explained in further detail below.

Speculative Scoring Methodology

The WG reviewed how different DNOs interpret the current definition of Speculative Developments, comparing the approaches to identify discrepancies. By considering a series of connection examples, the WG identified a number of criteria against which the various examples could be assessed in order to inform whether they should be treated as Speculative Developments or not, taking into account the areas specified in the Direction. This led to the formulation of a "Speculative Scoring Methodology", which would allow

sites to be assessed against the criteria identified and scored as non-speculative, neutral or speculative depending on the site's characteristics.

The scoring was further developed to include a high priority (2 points) and low priority (1 point) score, depending on how impactful the criteria is on determining if a development is speculative. This scoring is then used to determine whether a site should be deemed speculative or not. Should a site receive either more non-speculative points than speculative points, or if the points are equal between both, then the site is deemed non-speculative. Conversely, should a site receive more speculative points than non-speculative points, then the site is deemed speculative. As directed, the modification does not change the connection charges which apply to Speculative Developments, rather it establishes a consistent methodology to determine if a development is speculative.

Phased Capacity Sites

The WG have proposed to establish "Phased Capacity Sites", addressing aspects of the Access Direction relating to developments with planned future phases. The new definition provides that a Phased Capacity Site must have agreed an appropriate capacity ramp profile for its entire development with the DNO, and provided the associated financial commitment to pay DUoS charges from energisation of the connection, in line with its planned capacity profile.

This definition is the basis for a development to earn points towards being considered non-speculative under criteria 3 (Load profile) of the Speculative Scoring Methodology, with high significance under Solution 1 of the Proposal (ie where a site meets the terms of the definition, it is awarded points towards being classed as non-speculative). In contrast, Solution 2 does not draw directly on this definition in its assessment and is scored as low significance. Under both solutions, this definition has a role in relation to residual charging treatment, described further below.

Application of residual charging to phased developments

The WG identified a potential distortion that could arise in relation to DUoS residual charges for Phased Capacity Sites. As set out in Schedule 32 of DCUSA, Final Demand Sites are allocated to one of four DUoS residual charging bands, dependent on their Maximum Import Capacity (MIC) or average import consumption, where such data is

available for a period of 24 months.⁹ This allocation determines the level of charge faced by the site.

Schedule 32 further provides that a Final Demand Site will remain in the same residual charging band for the duration of the transmission price control period unless exceptional circumstances can be demonstrated. The exceptional circumstances are set out in paragraph 6 of Schedule 32 and include a materiality threshold, requiring that reallocation be triggered where there is a 50% increase or decrease in comparison to the MIC/consumption value in the final month of the period for which data was used to allocate the site to the charging band.¹⁰

Since Phased Capacity Sites will be increasing their capacity over time, there is a risk that they will not satisfy the exceptional circumstances criteria, and therefore the DNO/IDNO would be unable to reallocate the Phased Capacity Site to a different band to reflect their revised capacity. To mitigate this, a sub-paragraph has been added to Paragraph 6.1 of Schedule 32 to set out that a Final Demand Site which is classed as a Phased Capacity Site may be reallocated to a different residual band in line with increases in their capacity through the development phase.¹¹

Solution 1 and 2

Solution 1 and Solution 2 for DCP407 are broadly similar proposals which differ in relation to two of the six Speculative Scoring Methodology criteria (3 and 4).

Criterion 3 (Load Profile): Under Solution 1, Criterion 3 requires a development to meet the requirements of a Phased Capacity Site, including providing financial commitment to pay the associated DUoS residual charges in line with its planned increase in capacity, and is awarded high significance, scoring 2 points. Solution 2 assigns Criterion 3 a low priority in this assessment (1 point), being based solely on the less onerous requirement to provide a capacity ramp profile.

⁹ Where 24 months' worth of data is available, DNO/IDNO parties allocate Final Demand Sites to a residual charging band based on their average MIC or average import consumption over the 24 months. Other arrangements existing for new sites or sites without the requisite data.

¹⁰ The Authority approved DCUSA modification DCP389 on 22 February 2023, which proposed that the comparison be made against the MIC/consumption value at end of the 24-month banding period, rather than the average MIC/consumption value. Oud decision on DCUSA modification proposal DCP389 is available at <https://www.ofgem.gov.uk/publications/decision-dcusa-modification-proposal-dcp389>

¹¹ The legal text also clarifies that the Annual Allocation Review provisions introduced by DCP389 do not apply to Phased Capacity Sites, as the review only applies to new sites or sites allocated to bands using a 'best estimate' on the basis that sufficient information is not available.

Criterion 4 (Financial Commitment): Solution 1 awards a point under this Criterion where a development provides a financial commitment by funding assets at initial connection which are sized to meet future requirements, along with the associated Operation and Maintenance (O&M) costs. While Solution 2 also requires these additional financial commitments to be met in order for a development to meet this threshold, it also includes the commitment to pay DUoS residual charges corresponding to its increasing capacity, a requirement which sits under Criterion 3 in Solution 1.

There are also minor language differences in the legal text for Criteria 3 and 4, however these do not substantially change the effect of either Criteria.

The Views of the Proposer

The Proposer believes that DCP407 would better facilitate the DCUSA Charging Objectives, specifically Charging Objective 1, by ensuring DNOs are compliant with licence requirements in relation to Significant Code Reviews (SCRs) and by implementing specific requirements set out in the Access Direction.

We note that the Proposer also believed that DCP407 would have a negative impact on Charging Objective 6¹², but note the working group was of the view that this impact would be neutral.

DCUSA Parties' recommendation

Across the two party categories where votes were cast, an overall majority support was not expressed in favour of either solution. In accordance with the weighted vote procedure, the recommendation to the Authority is that both DCP407 Solution 1 and DCP 407 Solution 2 be rejected.

The recommendation to reject both solutions arises due to the nature of the weighted vote procedure. As the IDNO/OTSO group's vote was split equally, neither solution enjoys a majority support. As such, both solutions are rejected according to the voting rules. Similarly, whilst the DNO group voted to accept Solution 1 of the modification, as the IDNO group has recommended to reject this solution, once again no overall majority in favour of accepting Solution 1 exists across the industry groups which voted and therefore the recommendation is to reject the modification.

¹² DCUSA Charging Objective 6 that compliance with the Charging Methodologies promotes efficiency in its own implementation and administration.

The outcome of the weighted vote is set out in the table below:

DCP407	WEIGHTED VOTING (%)							
	DNO ¹³		IDNO/OTSO ¹⁴		SUPPLIER		CVA ¹⁵ REGISTRANT	
	Accept	Reject	Accept	Reject	Accept	Reject	Accept	Reject
DCP 407 SOLUTION 1	87%	13%	50%	50%	None received	None received	n/a	n/a
DCP 407 SOLUTION 2	13%	87%	50%	50%	None received	None received	n/a	n/a
IMPLEMENTATION DATE	100%	0%	100%	0%	None received	None received	n/a	n/a

We note that twelve out of fourteen DNO parties were in favour of Solution 1, whereas of the two IDNO parties that cast a vote each was in favour of a different solution. Overall, Solution 1 was the most favoured solution. We also note that no party voted to reject both solutions and that all parties voted in favour of the implementation date proposed.

Our decision

We have considered the issues raised by the proposal, the Change Declaration and Change Report ('CR') dated 23 November 2022. We have considered and taken into account the responses to the consultation that the Working Group issued and the vote of the DCUSA Parties on the proposal which is attached to the Change Declaration. We have concluded that:

- implementation of DCP407 Solution 1 will better facilitate the achievement of the Applicable DCUSA Charging Objectives;¹⁶ and
- directing that DCP407 Solution 1 is approved is consistent with our principal objective and statutory duties.¹⁷

¹³ Distribution Network Operator.

¹⁴ Independent Distribution Network Operator/Offshore Transmission System Operator.

¹⁵ Central Volume Allocation

¹⁶ The Applicable Charging Methodology Objectives are set out in Standard Licence Condition 22A Part B of the Electricity Distribution Licence.

¹⁷ The Authority's statutory duties are wider than matters that the Parties must take into consideration and are detailed mainly in the Electricity Act 1989 as amended.

Reasons for our decision

We consider Solution 1 of the modification proposal will better facilitate DCUSA Charging Objectives 1 and 2 with a neutral impact on the other applicable objectives.

DCUSA Charging Objective 1 that compliance by each DNO Party with the Charging Methodologies facilitates the discharge by the DNO Party of the obligations imposed on it under the Act and by its Distribution Licence

The Working Group View

The WG considered that this change proposal ('CP') was raised to comply with an Ofgem direction arising from the Access Decision and as such it directly supports Charging Objective 1. The WG noted that this consideration equally applies to both Solutions presented in the CP.

The Voting Party View

Voting parties unanimously stated their view that Charging Objective 1 is better facilitated by the CP, though, as explained above, no agreement was reached by party categories on which solution should be recommended.

Our View

We directed DNOs to implement the Access Decision by better defining Speculative Developments and considering new arrangements for planned phases or future expansion which would otherwise be deemed speculative, where a case can be made for the cost efficiency and wider network benefit. We agree that DCP407 better facilitates this objective as the Working Group has brought forward proposed solutions that meet the Access Direction, an obligation imposed on licensees by their licence.

Specifically, we consider that the proposals achieve the requirements of Paragraph 16 of the Access SCR Direction, addressing all three of the aspects specified, and in some areas going beyond these to bring forward holistic solutions. This constitutes compliance with an obligation imposed on the DNO's by their licences, and we conclude that both solutions of DCP407 positively impact Charging Objective 1.

We also consider that DCP407 facilitates compliance by the DNOs with the duty placed on them under the Act to develop and maintain an efficient, co-ordinated, and economical

system.¹⁸ These proposals were raised to improve clarity and consistency across DNOs in identifying Speculative Developments, against the backdrop of shallower connection charges. The changes enable viable projects to progress under more affordable connection terms, while reducing the risk to consumers of funding underutilised assets.

We consider both solutions support this requirement, although we consider Solution 1 may better identify developments with increased risk of assets being underutilised, and hence should be considered speculative, while supporting the DNOs' ability to deliver the required capacity in the most efficient way over time, to meet the customer's needs.

The assessment under Solution 1 (Criteria 3) is based on robust capacity phasing plans, agreed with the DNO and underpinned by a commitment to pay corresponding residual charges, which together give credence to the phased plan. Phased Capacity Sites are of significant importance in this modification as key characteristics reflecting a degree of certainty that the capacity provided will be utilised in line with that requested. We consider the resulting Load Profile criteria is appropriately afforded a high priority weighting in this assessment (2 points), with a further point available (under Criteria 4) where projects put forward additional financial contributions to assets which reflect their future capacity requirements.

In contrast, we consider the proposed criteria under Solution 2 set a less robust threshold of an expected capacity ramping profile which we expect the vast majority of customers would be able to meet, while requiring a prohibitively high standard for financial commitment, which may be inappropriate in certain scenarios (requiring 3 distinct elements of commitment, which some customers may not be able to achieve in tandem).

Overall, we conclude that both solutions better facilitate Charging Objective 1, but have a preference for Solution 1 as explained above.

DCUSA Charging Objective 2 that compliance by each DNO Party with the Charging Methodologies facilitates competition in the generation and supply of electricity and will not restrict, distort, or prevent competition in the transmission or distribution of electricity or in participation in the operation of an Interconnector (as defined in the Distribution Licences)

¹⁸ Section 9(1), Electricity Act 1989.

The Working Group View

The WG assessed the CP as neutral against Charging Objective 2. No further details were provided in the CR.

The Voting Party View

Voting parties did not express any views on facilitation of this objective by the CP.

Our View

We consider that implementation of either solution would better facilitate achievement of Charging Objective 2. Implementation of this modification will open up the opportunity for connecting customers that can demonstrate a clear, well thought out business plan which requires scaling over time, to enter the market without facing high, potentially prohibitive costs, relative to charges faced by other customers.

Connection requests that cater for future expansion as opposed to immediate need may currently be treated as speculative. This restricts the ability for a number of parties to connect to the grid who can reasonably expect an increase in demand over time. This may be especially prevalent for certain low carbon technologies, where uptake may be reasonably low at present, however, is very likely to increase over time. Further, the current treatment gives rise to the potential for inconsistencies which may potentially affect the relative competitiveness of parties in different areas.

Implementation of DCP407 will address both of the above issues. It will reduce barriers to entry for parties with robust plans by applying the standard charging arrangements, even if their demand is likely to grow over time, while mitigating risks to consumers. Implementation will also establish a clearer, more objective assessment of whether a proposed development is speculative or not, supporting consistent treatment for connecting customers across GB and reducing the potential for locational differences present in the current assessment, which should level the playing field between similar sites.

We therefore consider both Solution 1 and Solution 2 to better facilitate achievement of Charging Objective 2.

OFGEM's Principal Objective and statutory duties

Our assessment suggests that the Proposals align with our Principal Objective to protect the interests of existing and future consumers and our other statutory duties which are largely contained in S3A of the Electricity Act 1989.

Overall assessment

As set out in our Access Decision, we consider that better defined assessment criteria for Speculative Developments, as proposed under DCP407, will help bring forward investment in low carbon technologies, reducing and removing barriers to connection. The changes should also allow for more strategic reinforcement, ahead of customer need, where it is in the interests of customers to do so, reducing costs for consumers and supporting the net zero transition.

The more appropriate Speculative Scoring Methodology will help reduce the risk of stranded assets and unduly high costs for DUoS billpayers, while better enabling more certain developments to proceed, and to be facilitated in an efficient way. This contributes to benefits for current and future consumers in terms of reduced network costs and supporting the transition to a low carbon system.

Solution 1 and Solution 2

As described above, we consider Solution 1 better differentiates developments which are likely to pose a risk of underutilised assets, and hence should be considered speculative, while supporting the DNOs' ability to deliver the required capacity in the most efficient way over time, to meet the customer's needs.

Recognising the common framework and strong similarities between the two solutions, it is our view that the criteria set out in Solution 1 are better balanced and more adequately scored, which will strengthen the Speculative Scoring Methodology and take fuller account of key characteristics in ensuring connections are correctly deemed non-speculative or speculative according to their level of risk.

We therefore consider the proposals are aligned with our Principal Objectives and Statutory Duties, protecting current and future consumers by reducing the risk of wider billpayers bearing costs associated with underutilised assets whilst removing barriers to the development of Low Carbon Technologies. In more effectively categorising these sites, we consider Solution 1 better supports these objectives than Solution 2.

Other comments

We encourage DNOs to continue to engage through forums like the ENA in order to ensure that the new Speculative Scoring Methodology is applied in a consistent manner and any clarifications or refinements can be identified and brought forward.

Recognising the novel nature of many types of developments these provisions may apply to, we expect DNOs to monitor the treatment of relevant developments under this new framework in practice and keep its application under review to ensure it is achieving its intended aims. As they build this practical experience, we would expect DNOs to bring forward any adjustments which may be needed to support ongoing efficient development of the distribution network while meeting the needs of connecting customers. We would consider any proposals which may be brought forward to us on their merits.

Decision notice

In accordance with standard licence condition 22.14 of the Electricity Distribution Licence, the Authority hereby directs that Solution 1 of modification proposal DCP407: 'Speculative Development' be made.

Amy Freund

Head of Electricity Connections

Energy Systems Management & Security

Signed on behalf of the Authority and authorised for that purpose