

DCP 411 – Charging De-energised Sites

Draft Legal Text

Add a new Clause 19.8A

Use of System Charges for De-energised Entry/Exit Points

19.8A If the Company has agreed with the Connectee that the Company will charge Use of System Charges whilst an Entry Point and/or Exit Point is De-energised (including if this is provided for in the Connection Agreement), then the Company shall notify the User within 10 Working Days after having agreed the same (or, if such agreement is conditional on an event occurring, after that event has occurred).

Amend Clause 12 of Section 3 of the NTC (DCUSA Schedule 2B) as follows:

12 LIMITATION OF CAPACITY

- 12.1 The Company shall only be obliged to allow the import of electricity from, and/or the export of electricity to, the Distribution System through the Connection Point at levels equal to or below the Maximum Import Capacity and/or the Maximum Export Capacity (respectively).
- 12.2 Subject to the other provisions of this Agreement, the Company shall use reasonable endeavours to:
- 12.2.1 ensure that the Maximum Import Capacity and the Maximum Export Capacity is available at the Connection Point at all times during the period of this Agreement; and
- 12.2.2 maintain the connection characteristics at the Connection Point.

Exceeding Capacities

- 12.3 The Customer shall ensure that the import of electricity from, and/or the export of electricity to, the Distribution System through the Connection Point does not (at any time) exceed the Maximum Import Capacity and/or the Maximum Export Capacity (respectively). Where the Customer is unsure of the Maximum Import Capacity and/or the Maximum Export Capacity, it shall contact the Company (and the Company will inform the Customer of the applicable capacities).

- 12.4 On each occasion that the Customer breaches Clause 12.3 (and without prejudice to the Company's other rights and remedies, including under Clause 5), the Company may serve a written notice on the Customer specifying the circumstances of the breach and the courses of action available to the Customer under Clauses 12.5.1 to 12.5.3.
- 12.5 The Customer shall, on receipt of such a written notice (or, where the Customer disputes the content of the notice in accordance with Clause 12.6, following resolution of such dispute in favour of the Company), take the necessary actions to reduce the import and/or export of electricity to within the Maximum Import Capacity and/or the Maximum Export Capacity within the period of time specified in the notice; and within 30 Working Days after such notice or resolution:
- 12.5.1 propose a variation to the Maximum Import Capacity and/or the Maximum Export Capacity in accordance with Clause 12.12; or
 - 12.5.2 provide the Company with an explanation as to why the Customer does not wish to submit a variation at this time; or
 - 12.5.3 propose to the Company an alternative timescale for the Customer to take one of the courses of action referred to in Clause 12.5.1 or Clause 12.5.2, such timescale to be subject to the Company's approval (such approval not to be unreasonably withheld or delayed); or
 - 12.5.4 propose that an alternative connection agreement is entered into pursuant to Clause 22.2.
- 12.6 If the Customer disputes the Maximum Import Capacity and/or Maximum Export Capacity (as applicable) specified in the notice given by the Company under Clause 12.4 (or otherwise disputes that a breach of Clause 12.3 has occurred), the Customer and the Company shall attempt to resolve the dispute in good faith. Where the dispute remains unresolved after 20 Working Days, the provisions of Clause 21 shall apply.
- 12.7 Without prejudice to the Company's other rights and remedies, including under Clause 5), where the Customer:
- 12.7.1 fails to reduce the import and/or export of electricity to within the Maximum Import Capacity and/or the Maximum Export Capacity in accordance with Clause 12.5; or

- 12.7.2 proposes a variation pursuant to Clause 12.5.1, but no variation is agreed within a reasonable period thereafter (save where the variation has been referred to the Authority and pending determination by the Authority); or
- 12.7.3 provides an explanation referred to in Clause 12.5.2, but the Customer continually or repeatedly breaches Clause 12.3; or
- 12.7.4 proposes an alternative timescale pursuant to Clause 12.5.3, but that timescale is rejected by the Company (acting reasonably) or the Customer fails to comply with the alternative timescale,

then Clause 12.8 shall apply.

12.8 Where this Clause 12.8 applies (as described in Clause 12.7), then the Company shall be entitled to:

- 12.8.1 propose a variation to the Maximum Import Capacity and/or the Maximum Export Capacity (as applicable) in accordance with Clause 12.12; or
- 12.8.2 provide the Customer with a Modification Offer as if the Customer had submitted an Application for a Modification requesting a Modification incorporating an increase in the Maximum Import Capacity and/or the Maximum Export Capacity (as applicable).

~~12.9 — Not Used.~~

~~12.9~~ Where a variation or Modification Offer under Clause 12.8 has not been accepted in accordance with its terms (save where such variation or Modification Offer has been referred to the Authority and pending determination by the Authority), then the Company may install additional equipment at the Connection Point designed to limit the import and/or export of electricity from or to the Distribution System to an amount equal to the Maximum Import Capacity and/or the Maximum Export Capacity (as applicable).

~~12.10~~ Provided (and to the extent) the installation of additional equipment in accordance with Clause ~~12.9~~ is reasonably necessary to prevent danger or interference with the Distribution System or to avoid costs being borne by the Company or another customer in the case of future breaches of Clause 12.3, the Customer shall pay to the Company forthwith upon demand an amount equal to the reasonable costs and expenses incurred by the Company in installing and maintaining such equipment.

Reductions in MIC/MEC by the Company

12.11 The following provisions apply:

12.11.1 If at any time the Connection Point is De-energised for a continuous period exceeding 6 months, then the Company may (at any time thereafter while the Connection Point is De-energised, and having due regard to all the circumstances) give notice to the Customer that the Company considers that the Maximum Import Capacity and/or Maximum Export Capacity is no longer required. Such notice must refer to the Company's right to reduce the Maximum Import Capacity and/or Maximum Export Capacity to zero if there is not a continuing need for the capacity, and must invite the Customer to provide its justification for the continued need for the capacity (in writing) within 30 Working Days. Such notice from the Company must also inform the Customer that use of system charges will apply if the Maximum Import Capacity and/or Maximum Export Capacity are maintained, and that the Customer must (unless it is itself the Registrant) have an active supply contract (and power purchase contract, if there is an export capacity) to enable the Registrant to recover those use of system charges from the Customer.

12.11.2 Where the Company (having taken into account any representations and alternative proposals received from the Customer within the period referred to in Clause 12.11.1) considers that there is not a continuing need for the Maximum Import Capacity and/or Maximum Export Capacity, then the Company may by 10 Working Days' notice to the Customer and (save where the Customer has within that period referred the matter to the Authority pursuant to the Act, and pending determination by the Authority) thereafter reduce the Maximum Import Capacity and/or Maximum Export Capacity to zero and notify the Customer accordingly.

12.11.3 Where the Company has not reduced the Maximum Import Capacity and/or Maximum Export Capacity to zero in light of representations from the Customer under Clause 12.11.2 (or pending determination by the Authority), then use of system charges in respect of the connection shall apply from the first day of the month following expiry of the notice under Clause 12.11.2 (to be billed to the Registrant).

12.11A.4 If at any time the Connection Point is De-energised for a continuous period exceeding 126 months, then the Company may (at any time thereafter while the Connection Point is De-energised, and having due regard to all the circumstances) give notice to the Customer that the Company~~#~~ considers that the connection is no longer required and request that the Customer responds in writing within 30

Working Days. Such notice must refer to the Company's right to Disconnect the Connection Point if it is not reasonable in all the circumstances for the Company to maintain it.

12.11~~B.5~~ Where the Company (having taken into account any representations and alternative proposals received from the Customer within the period referred to in Clause 12.11.1A) reasonably considers that the Company is not required under the Act to maintain the connection in respect of the Premises, then the Company may (save where the Customer has referred the matter to the Authority pursuant to the Act, and pending determination by the Authority) give notice to the Customer in compliance with section 17(3) of the Act and thereafter Disconnect the Connection Point thereby terminating this Agreement.

12.11~~C.6~~ If the import of electricity from and/or export of electricity to the Distribution System through the Connection Point does not, at any time during any period of 12 consecutive months, exceed 75% of the Maximum Import Capacity and/or of the Maximum Export Capacity (respectively), then the Company may (at any time during the following month, and having due regard to all the circumstances):

~~12.11C.1(A)~~ notify the Customer that the Company proposes to vary this Agreement in accordance with Clause 12.12; or

~~12.11C.2(B)~~ provide the Customer with a Modification Notification incorporating a reduction in the Maximum Import Capacity or Maximum Export Capacity (as applicable), and Clause 14 shall apply,

the reduction being (in each case) to such amount as the Company reasonably considers to be appropriate (being not less than the import of electricity and/or export of electricity through the Connection Point at any time during such 12-month period). For the avoidance of doubt, neither the variation under Clause 12.11.6(A)~~C.1~~ nor the modification under Clause 12.11.6(B)~~C.2~~ are binding unless and until otherwise agreed or determined pursuant to Clause 12.12 or 14 (as applicable).

Agreed Changes to the MIC/MEC~~General~~

12.12 Except where a variation requires a Modification, either Party may propose a variation to the Maximum Import Capacity and/or Maximum Export Capacity by notice in writing to the other Party. The Company and the Customer shall negotiate in good faith such a variation, but where

it is not agreed section 23 of the Act may entitle either Party to refer the matter to the Authority.

12.13 Any reduction in the Maximum Import Capacity or the Maximum Export Capacity pursuant to Clause 12.12 shall, where the Parties have within the preceding 12 months agreed the Maximum Import Capacity or the Maximum Export Capacity (as applicable), only take effect following the expiry of 12 months from the date of such previous agreement (unless the Company expressly agrees otherwise).

12.13A No reduction in the Maximum Import Capacity or the Maximum Export Capacity pursuant to Clause 12.12 shall have effect prior to the first day of the month following the date of the notice properly given under Clause 12.12, stating the required capacity (being, if the reduction initially requested is not agreed, the request for the reduction which is subsequently agreed).

Notices under this Clause 12

12.14 For the avoidance of doubt, all notices under this Clause 12 shall be sent, and shall be deemed to be served and received, in accordance with Clause 23.

Amend Clause 23 of Section 3 of the NTC (DCUSA Schedule 2B) as follows:

23. NOTICES

23.1 Any notice, ~~demand, certificate~~ or other communication required to be given or sent under this Agreement shall be in writing and delivered by hand, by first class post, by facsimile or by email.

23.2 ~~Subject to Clause 23.3, the~~ contact details~~required address~~ for the delivery of notices or other communications to the Company shall be:

23.2.1 any address, facsimile number and/or email address from time to time notified by the Company to the Customer, in accordance with this Clause 23, for the purpose of receiving communications in respect of this Agreement; or

23.2.2 if the Company has not notified any such address, facsimile number and/or email address, then the Company's~~its~~ registered address (in which case delivery must be by hand or by first class post), ~~and~~.

23.3 The Company shall be entitled to validly serve notices or other communications to the Customer under this Agreement via any one or more of the following (at the Company's discretion):

23.3.1 any address, facsimile number and/or email address from time to time notified by the Customer to the Company, in accordance with this Clause 23, for the purpose of receiving communications in respect of this Agreement;

23.3.2 any address, facsimile number and/or email address which the Company from time to time obtains from the Registrant in respect of the Premises;

23.3.3 for delivery to the Customer shall be the Premises (in which case delivery must be by hand or by first class post); and/or

23.3.4 the Customer's registered or principal business address (in which case delivery must be by hand or by first class post).

~~23.3 Either Party may, from time to time, notify the other in accordance with this Clause 23 of the address, facsimile number and/or email address at which the first Party will accept delivery of notices for the purposes of this Agreement.~~

23.4 If correctly addressed as required by Clause 23.2 or 23.3, a notice or other form of communication shall be deemed to have been served and received as follows:

23.4.1 if given or delivered by hand, at the time when given or delivered;

23.4.2 if sent by first class post, at the expiration of two Working Days after the document was delivered (~~bearing the correct address and being~~ pre-paid) into the custody of the postal authorities;

23.4.3 if sent by facsimile, upon production by the sender's equipment of a transmission report indicating that the message was sent to the correct number in full and without error; and

23.4.4 if sent by email, at the time when delivered to the recipient's email server.

Amend Paragraph 139 of Schedule 16 (CDCM)

139. There will be no charges applied to correctly de-energised HH MPANs/sites as determined by the de-energisation status in MPAS, unless the DNO Party has agreed otherwise with the customer (including as may be provided for in the connection agreement).

Add a new Paragraph 22A in Schedule 17 (EDCM)

22A. CHARGES FOR DE-ENERGISED SITES

- 22A.1. There will be no charges applied to correctly de-energised sites as determined by the de-energisation status in MPAS, unless the DNO Party has agreed otherwise with the Connectee (including as may be provided for in the connection agreement).

Add a new Paragraph 22A in Schedule 18 (EDCM)

22A. CHARGES FOR DE-ENERGISED SITES

- 22A.1. There will be no charges applied to correctly de-energised sites as determined by the de-energisation status in MPAS, unless the DNO Party has agreed otherwise with the Connectee (including as may be provided for in the connection agreement).

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