

# DCP 403 Working Group - Meeting 07

24 October 2022 at 14:00

Location/ Web-Conference/Teleconference

| Attendee                                       | Company               |
|--|-----------------------|
| <b>Kyran Hanks(KH)</b>                         | Waters Wye Associates |
| <b>Chris Ong(CO)</b>                           | UKPN                  |
| <b>Andy Pace(AP)</b>                           | Energy Potential      |
| <b>Edda Dirks(ED)</b>                          | SSE Generation        |
| <b>Ryan Farrell(RF)</b>                        | Northern PowerGrid    |
| <b>James Jones SSE (JJ)</b>                    | SSE                   |
| <b>David Fewings(DF)</b>                       | Inenco                |
| <b>Simon Vicary (SV)</b>                       | EDF                   |
| <b>Lorna Murray (LM)</b>                       | SPEN                  |
| <b>Shannon Murray (SM)</b>                     | Ofgem                 |
|  |                       |
| Code administrator                             |                       |
| <b>Andy Green [AG] (Technical Secretariat)</b> | ElectraLink           |
| <b>John Lawton (JL) Chair</b>                  | ElectraLink           |
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| <b>Apologies</b>                               |                       |
| <b>David Wornell (DW)</b>                      | Wester Power          |
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## 1. Administration

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- 1.1 The Working Group reviewed the “Competition Law Guidance” and “Terms of Reference”. All Working Group members agreed to be bound by the Competition Law Guidance for the duration of the meeting and agreed to the Terms of Reference
- 1.2 The minutes were reviewed from the last Working Group. It was noted that the date was incorrect and that the minutes didn’t show that Gus Wood had attended so these were updated The Chair suggested the Working Group review the actions from the last meeting before moving on to the legal text discussion.
- 1.3 It was noted that action 5.2 could be closed as the new legal text drafting had been shared with the Working Group.
- 1.4 SM gave an update on action 5.1. SM sought advice from colleagues who had said that the Ofgem TCR decision document’s intent was that consumption should be used within the band to derive all revenue to be recovered from that band.
- 1.5 SM also advised that in terms of the redundancy provisions, Ofgem’s intent was to not charge residual to redundant connections as long as evidence can be provided to show that the capacity can’t be used in parallel to other connections and that the capacity doesn’t exceed the primary connection.
- 1.6 The actions from the previous Working Group were reviewed and the action log was updated accordingly. The action log can be found at **appendix 1**.

## 2. Purpose of the Meeting / Timeline for Delivery

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- 2.1 The Chair explained that the purpose of this meeting is to review and discuss the DCP 403 legal text provided by the legal advisor and to make decisions on the outstanding issues like GSP, implementation date and then, time permitting, review the Change Report.

## 3. Review of Legal Text Drafting

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- 3.1 The Working Group began reviewing the draft legal text by starting with Paragraph 1.2A. ED had provided some comments around the use of the term “Final Demand Site’ as she believed using ‘Single Site’ may be more appropriate. ED had also suggested adding in “under a single Connection Agreement” because more than one back up connection could be under one single agreement.
  - 3.2 AP suggested we could amend the definition of Back-up Connection instead of inserting “under a single Connection Agreement” in the main body of the legal text. The Working Group agreed this would be a better option rather than adding so “under a single Connection Agreement” was not added to the legal text drafting in paragraph 1.2A .
  - 3.3 The Working Group then discussed the use of Final Demand Site. SV noted that these charges are only made to Final Demand sites and not Non-Final Demand Sites so that would explain why the legal steer is to use Final Demand Site.
  - 3.4 ED advised that her thoughts around the use of Single Site and not Final Demand Site was to future proof the change in case future change proposals were looking to make changes, specifically where a site has mixed demand but appreciated that it would be difficult to predict what any future change
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may include and stated she would be comfortable to leave the text as Final Demand Site as originally drafted. The Working Group agreed with this, so this amendment was not included in the draft legal text.

- 3.5 The Working Group then reviewed comments on paragraph 5A.1A. ED had made a suggestion to replace “premise” with ‘Single Site.’ After a review of the Ofgem’s TCR decision ED advised that she now had a better understanding of the TCR decision and that she agreed with the original drafting which used the term “premise” and subsequently withdrew her suggestion.
- 3.6 ED also raised concerns with the third sentence of the draft legal text as the use of the term premise in this sentence would mean that the site could be allocated to two residual charging bands, one for main and one for back up which this change was looking to avoid. It was suggested that removing this sentence could resolve the issue of a building falling into two charging bands so deleting it would remove the confusion. ED asked if this concern could be taken to the legal advisor to see if the intent of the draft legal text was for a premise to be allocated to two charging band. The Working Group agreed this would be a sensible approach to take.
- 3.7 ED agreed to draft her questions outlining the above concern and send it to the secretariat so they can seek guidance from the legal advisor.
- 3.8 It was requested by AP that these questions be shared with the Working Group. JL agreed to share ED’s questions with the Working Group before they get issued for legal advice.
- 3.9 The Working Group reviewed the Definitions for Back-up Connection and Single Site that had- been drafted and agreed they were appropriate for this change in the main with the exception of the use of the term “back up connection” in the description, as it was circular.
- 3.10 LM stated that she believed that “back up connection” at the start of the backup connection definitions description should be retained as it is used quite a few times throughout the definition, and it wasn’t capsulised so it wouldn’t create a circular reference back to the definition. ED who initially suggested removing it from the draft legal text was content with it staying within the legal text which was the view held by the rest of the Working Group.
- 3.11 It was agreed by the Working Group that further discussion was also needed around GSP Groups within the Back-up Connection definition and the treatment of customers where a there is a private network in use.
- 3.12 SM advised that we do want to make sure that customers on a private network and customers on a DNO network are treated the same and what’s currently in the draft legal definitions for Back-up Connection does make sure these types of connections get equivalent treatment and is in line with the intent of the Ofgem TCR decision. The Working Group agreed with this approach.
- 3.13 The Working Group then discussed the treatment of customers with connection agreements on different GSPs.
- 3.14 It was noted by AP that as the customer has to provide evidence that the back up connection can’t be used in parallel, and its capacity can’t exceed the primary connection that would allow customers on GSPs to be treated consistently with sites with back up connections that were on the same GSP.
- 3.15 The Working Group reviewed the definition of Back-up Connection in draft legal text where GSP Groups had been mentioned to review if it was fit for purpose. It was agreed that where the draft Back-up Connection definition stated GSP Group, that the word Group should be removed as this was more appropriate to what was consulted on.

- 3.16 The Work Group agreed to leave the draft Back-up Connection definition as it was apart from deleting Group from GSP Group.
- 3.17 The Chair asked SM if it would be possible to get some clarity how sites, where the back-up connection was with the same DNO as the primary but on a different GSP should be treated. It was believed that in these scenarios the back up should be exempt, but the Working Group agreed clarity from Ofgem would help as GSP wasn't mentioned in the Ofgem TCR decision document.
- 3.18 The Working Group then discussed implementation dates. The consultation responses presented 3 options,
- as soon as possible,
  - back dating to April 2022
  - implementing in April 2023.
- 3.19 The Working Group had discussed this previously in Work Group meeting 5 which original concluded that backdating could be risky as it could create a precedent for further changes to be backed. The Working Group concluded that this was still the case so backdating was not taken forwards as an implementation date.
- 3.20 The Working Group reached a consensus that April 2023 would be the most sensible implementation date for this change as it was likely that as soon as possible would likely also be April 2023 if this change was to be presented at the November DCUSA panel.
- 3.21 It was also noted that as there aren't many of these types of sites this meant the risk of waiting until April 2023 was small as the issue was a fairly rare scenario for all DNOs/IDNOs.

## 4. Next Steps

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- 4.1 The Working Group agreed to meet again on 7 November 2022 at 2pm to review the change report and finalise the legal text.
- 4.2 The secretariat took an action to update and share the change report and legal text with the Working Group before the next meeting.
- 4.3 ED also confirmed her action to draft her questions to put to the legal advisors around how using the term premise may lead to a building being allocated to two charging bands.

## 5. Attachments

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- Attachment 1 \_DCP403\_Colated\_Consultation\_Responses
- Attachment 2 \_DCP403\_Action\_Log

## 6. Next Meeting – 7 November 2022

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8.1 The next Working Group to be held on 7<sup>th</sup> of November at 2pm.

## Appendix 1 – Actions Log

### New and Open Actions – (Open/Closed Session) or (Board)

| Ref. | Action  | Owner          | Update |
|------|---|----------------|--------|
| 7.1  | Draft a question to for legal advisor asking if it is possible to allocate premises to a residual charging band.                          | Edda Dirks     | Open   |
| 7.2  | Draft new legal text and share with Working Group.  | Secretariat    | Open   |
| 7.3  | Draft change report and share with Working Group.   | Secretariat    | Open   |
| 7.4  | Clarify how sites with back up connections with the same DNO as the primary connection but where the back up connection should be treated | Shannon Murray | Open   |

### Closed Actions – (Open/Closed Session) or (Board)

| Ref.  | Action   | Owner           | Update |
|-------|--|-----------------|--------|
| 03/01 | Claire Campbell to check if the example given by SP's response to question 5 in the RFI document would have a single connection agreement or separate agreements | Claire Campbell | Closed |

|       |   |                 |  |
|-------|---|-----------------|--|
| 03/02 | Secretariat to align the final two questions in the RFI response document with the RFI that was issued  | Secretariat     | Closed,  |
| 03/03 | Secretariat would update the draft consultation document with the draft legal text, how that text was landed on and to include the request for information responses. | Secretariat     | Closed,  |
| 03/04 | Shannon Murray to clarify if within the TCR, were Ofgem referring to one customer to one site relationship or is it multiple customers to one single site             | Shannon Murray  | Closed,  |
| 04/01 | Update the paragraph and consultation questions numbering sequences within consultation document and share updated version with the Working Group.                    | Secretariat     | Closed,  |
| 03/01 | Claire Campbell to check if the example given by SP's response to question 5 in the RFI document would have a single connection agreement or separate agreements      | Claire Campbell | Closed.  |
| 05/01 | 05-10-22 SM to clarify paragraph 3,57 (10) SM to also clarify the use of the word "consumption" in paragraph 3.57 (9) and what this means.                            | Shannon Murray  | Open. SM to review and provide clarity to the Working Group. |
| 05/02 | New legal text to be drafted and shared with the Working Group  | Secretariat     | Closed.  |

**DCUSA**