

DCP 412 Working Group 21A Draft Minutes

19 September 2023 at 10:00

Location: Teleconference

Attendees		Company
Georgia Preece (GP)		NPg
Simon Vicary (SV)		EDF
Lee Stone (LS)		E.ON
Matt Cullen (MC)		E.ON
Kyran Hanks (KH)		WatersWye
Ryan Farrell (RF)		NPg
David Fewings (DF)		Inenco
Babatunde Olukotun (BO)		National Grid
Observers		
Marlon Mcdonald (MM)		Ofgem
Iain McKie (IM)		Ofgem
Andrew Malley (AM)		Ofgem
Code Administrators		
Craig Booth (CB) (Chair)		ElectraLink
Apologies		
Diandra Orodan		BU UK
Edda Dirks		SSE Generation

1. Administration

- 1.1 The Working Group reviewed the “Competition Law Guidance”. 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 Chair advised the meeting would be recorded and asked the Working Group if there were any objections to this. It was explained that the recording would be deleted 15 working days after the Working Group meeting. There were no objections.

2. Purpose of the Meeting

- 2.1 The Chair explained that the purpose of this meeting is to review the responses to consultation 1.
- 2.2 The actions from this Working Group have been captured in an action log. The action log can be found at **appendix 1**.

3. Action review

- 3.1 **21/01** – The Chair advised that the action remains outstanding and agreed to issue the email after the Working Group meeting.
- 3.2 **21/04** – The Chair advised that the action to split the formula into 2 separate criteria over the analysis was a lark undertaking and was therefore not yet completed. This action remains open.
- 3.3 **21A/01** – This action remains open and will be completed after the consultation review is completed, prior to the first following Working Group meeting.

4. Ofgem Feedback

- 4.1 Ofgem acknowledged the good work that the Working Group had done to define a robust approach and formula.
- 4.2 Ofgem suggested that some discretion could be appropriate for the proposal, such as whether a site that is close to meeting the criteria meets ‘the spirit of the proposal’, to help customers in need of support, with the formula being used as a framework. It was also noted that this could be with DNO discretion or with some Ofgem engagement, though it was highlighted that Ofgem would not be in a position to engage with customers directly.
- 4.3 A Working Group member asked Ofgem for its view on whether DCP 412 goes against the principles of the TCR.
- 4.4 Ofgem clarified that it does, but only in so far as it creates tension between charges needing to be collected and not being so prescriptive that it pushes people off the system. Ofgem referenced its TCR decisions¹ and related CUSC mods² and stated that it had recognised there might be customers that are outside of the norm, edge cases such as those identified under DCP 412, and that it was open to considering changes where there is evidence of a problem. It was explained that there’s no point in having totally homogeneous charges if they require everyone to be so homogeneous that anybody who's not homogeneous gets pushed off the system.

¹ <https://www.ofgem.gov.uk/publications/targeted-charging-review-decision-and-impact-assessment>

² <https://www.ofgem.gov.uk/publications/decision-cmp343>

5. Working Group Discussion Following the Ofgem Feedback

- 5.1 The Working Group discussed the potential for discretion to be provided for in the process. There was some concern that discretion would carry risks for DNOs, Suppliers and customers, such as:
- 5.1.1 DNOs being put under additional pressure by customers to apply discretion, resulting in additional administrative burdens;
 - 5.1.2 Suppliers having customers in multiple areas that are treated differently by each DNO (a Working Group member explained that one such example customer was a national customer, with a presence in multiple areas, and that they already receive inconsistent treatment between DNO areas); and
 - 5.1.3 customers would experience different treatment in different DNO areas, with support becoming a potential postcode lottery; and
 - 5.1.4 national customers, as per the above example in paragraph 5.1.2, would receive inconsistent treatment for sites within their portfolios.
- 5.2 It was noted that there appeared to be little appetite for applying discretion, and that this would need to be discussed again in a future Working Group meeting to arrive at a final decision.

6. Review of Consultation 1 Responses

- 6.1 The Working Group reviewed the consultation 1 responses.
- 6.2 The Working Group noted that one of the responses marked as confidential may be beneficial to publish on the DCUSA website in anonymised form.

Action: Chair to contact respondent and clarify if they would be happy to have their response published in an anonymised form.

Question 7 – Northern Powergrid Response

- 6.3 The Working Group discussed the concern that a customer exceeding their MIC could qualify unfairly for HCULU status as a result. The Working Group noted that this could be constrained in the formula, meaning that where a MIC has been exceeded, it would be capped at 100% utilisation, and no higher.

Question 7 – SSE Business Energy

- 6.4 The Working Group discussed what would happen when a customer changes their MIC during an assessment period or once the customer had qualified for HCULU status and had been re-banded.
- 6.5 There was some concern in the Working Group that customers could game the system, by applying for HCULU status, being re-banded to a lower band, and then increase their MIC.
- 6.6 It was discussed that MIC changes are usually limited to once every 12 months, and would not usually be lowered to a value lower than the peak of the previous 12 months, so this should mitigate any gaming opportunity as this would be picked up in the reassessment. It was also noted that in qualifying for HCULU status this is based on the previous 12 months, which means the customer has objectively qualified for the status, and that it will be the reassessment that reassesses the customer's continued eligibility.
- 6.7 The Working Group also noted that this is related to whether there is any retrospectivity.

Question 7 – Shell Energy UK Response

- 6.8 The Working Group discussed the suggestion to extend the impact analysis to the customers that would be in scope if customers were allowed to exceed their MIC, by up to 5% and 10% respectively. It was agreed that this would be completed after the consultation responses were reviewed.

Action: Chair to facilitate the expansion of the impact assessment to cover customers who exceed their MIC by 5% and 10% respectively.

- 6.9 It was noted that the output of the impact assessment could potentially be plotted on a graph to provide a visual representation of the impact, that would also allow an approximation of the impact at different percentage levels to be made based on the plotted line.

7. Next Steps

- 7.1 The Working Group agreed to meet again on 28 September 2023 at 14:00 to review the consultation 1 responses.

8. Next Meeting

- 8.1 The next meeting will be Monday 28 September 2023 at 14:00.

Appendix 1 – Action Log

New and Open Actions

Action Ref.	Action	Owner	Update
20/01	Working Group to consider questions it would like Ofgem to consider (this action will remain on hold until after the review of consultation 1 responses has been completed.)	Working Group	New action (on hold)
21/01	Chair to contact Pro Roll Ltd. to seek clarification on the two responses received.	Chair	New action
21/02	Working Group to consider what additional analysis is required after the consultation 1 responses review is completed.	Working Group	New action (on hold)
21/03	Working Group to discuss additional re-banding considerations after the consultation 1 responses review is completed.	Working Group	New action (on hold)
21/04	Chair to add the split criteria to the analysis as variables.	Chair	New action
21A/01	Chair to locate or create a 'statement of facts' document that concisely summarises the principles and decisions implemented under the TCR.	Chair	New action
21A/02	Working Group to add clarification/justification for how customers become eligible for HCULU status and for spreading the remaining residual charges over other customers.	Working Group	New action (on hold)
22/01	Chair to contact respondent and clarify if they would be happy to have their response published in an anonymised form.	Chair	New action
22/02	Chair to facilitate the expansion of the impact assessment to cover customers who exceed their MIC by 5% and 10% respectively.	Chair	New action

Closed Actions

Action Ref.	Action	Owner	Update
11/02	The Secretariat to reach out to DNOs to see if they have experienced any cases where there may be a potential blocker to net zero (in relation to DCP 420)	Chair	Closed. No update as of yet. Working Group agreed that this can be picked up as part of the Action list for DCP 420 as opposed to DCP 412.
11/03	The Chair to respond to Ofgem to state that due to confidentiality risks of DNOs, the Working Group would prefer to state the impacts of this CP on TNUoS Customers only (not DUoS)	Chair	Closed. Ofgem agreed that the analysis should be completed.
12/01	LS to provide a proposers view of the impacted DUCSA objectives	Lee Stone	Closed. The Consultation document has been updated accordingly.
12/02	The Chair to share the panels steer on when to assess CPs against charging objectives, general objectives, or both	Chair	Closed. This was circulated to the Working Group.
12/03	The Chair to share updated versions of the legal text and consultation document prior to the next meeting	Chair	Closed. This was circulated to the Working Group.
14/04	The Chair to seek clarification on Ofgem's decision criteria based on the urgency status of the change.	Chair	Closed
10/01	Request half hourly data for the 95% threshold customers from DNOs to allow an assessment of how the bands change based on average daily or monthly maximum demand	Chair	Closed. Complete data set has now been received by all DNOs. Analysis has started, and the number of

			Customers within the 95% threshold for 2022 has increased.
10/02	Perform the same analysis on the customer data provided in action 10/01 above.	MC	Closed. Complete data set has now been received by all DNOs. Analysis has started, and the number of Customers within the 95% threshold for 2022 has increased.
10/03	Show the reduction in DNO income.	MC	Closed. Complete data set has now been received by all DNOs. Analysis has started, and the number of Customers within the 95% threshold for 2022 has increased.
11/06	LS to seek further information around the Distribution Licence in relation to DCUSA Objective 1.	Lee Stone	Closed. No update as of yet.
11/07	The Chair to seek further understanding of where consumer fairness fits in, in relation to the DCUSA Objective	Chair	Closed. Internal view is that this is not a DCUSA issue to fix and is a licence issue. The Chair will discuss with Ofgem that they may want to look at this in the future.
14/01	The Chair to transfer the current Action 11/02 in DCP 412 action log over to the DCP 420 action log.	Chair	Closed
14/02	The Working Group to review paragraphs 6.4H (option 1 and option 2) and make a decision as to whether this should be removed from the draft legal text during the next meeting on 25 July 2023.	Working Group	Closed

14/03	The Chair to make a visual of the examples for the better understanding for the reader – once added within the Consultation document, the original written examples can be deleted.	Chair	Closed
17/01	Working Group members to share the illustrations with colleagues who hadn't had visibility of DCP 412 to check the made sense	All	Closed
18/01	Add definition of HCULU customer in consultation 2.	Chair	Closed
18/02	Simplify how the retrospective treatment process and reassessment process is explained with the consultation document	Chair	Closed
19/01	MC to review and update the paragraph that deals with shared capacity and the forward-looking access SCRs	Matt Cullen	Closed
19/02	MC to check in with LS on what the obligations are on suppliers to return any financial benefits received from distributors back to customers.	Matt Cullen	Closed
19/03	RF to report back to the Working Group on the outcome of a call taking place after this Working Group discussing how financial benefits are returned to customers and what obligations are in place to make sure customers receive the benefits.	Ryan Farrell	Closed
20/02	The Chair to map the processes as they currently stand for presentation at a future Working Group meeting.	Chair	Closed
20/03	BO to map the scenarios he has identified for the enduring retrospective re-banding.	BO	Closed
20/04	Chair to review the data and determine the number of customers that changed from year 1 to year 2.	Chair	Closed
21/05	Chair to share the council responses with the Chair of DCP 420.	Chair	Closed