

## DCP 412 Working Group 28 Minutes

07 December 2023 at 10:00

Location: Teleconference

Attendees	Company
Babatunde Olukotun (BO)	NGED
Edda Dirks (ED)	SSE Generation
Diandra Orodan (DO)	BU UK
Simon Vicary [SV]	EDF
Lee Stone (LS)	E.ON
Chris Ong [CO]	UKPN
Sally Musaka (SM)	SSE
Ryan Farrell (RF)	NPg
Kyran Hanks (KH)	WatersWye
Matt Cullen (MC)	E.ON
Observers	
Thomas Holderness [TH]	Ofgem
Andrew Malley [AM]	Ofgem
Code Administrators	
Richard Colwill (RC) (Chair)	ElectraLink

## 1. Administration

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- 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.
- 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

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- 2.1 The Chair explained that the purpose of the meeting was to review the proposer’s preferred solution and determine next steps.

## 3. Review proposers preferred approach

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- 3.1 At the last meeting, the Working Group were keen to understand what the proposer’s preferred solution was at this stage.
- 3.2 A summary of the proposer’s preferred approach and the Working Groups discussions can be found below:

- 2 step process and 90% for each step threshold
- Retrospectivity with sunset clause after 6 months
- 1-year historical data
- Review connected to price control period.
- Rebanding to one band lower for simplicities stake
- No discretion for customer not meeting criteria

### **2 step process and 90% for each step threshold**

- 3.3 The proposer expressed that their preferred approach was the 2 step approach. The first step being capacity utilisation and the second step being load factor.
- 3.4 The Working Group agreed to lead the second consultation with the proposer’s preference.

### **Retrospectivity with sunset clause after 6 months**

- 3.5 The proposer’s preference is that customers would have an opportunity to apply retrospectively for a rebate backdated to 01 April 2023 should this CP be approved. They believe there should be a sunset clause.
- 3.6 After discussion, the Working Group agreed to take the proposer’s approach into the second consultation which is that customers can apply retrospectively with a sunset clause of six months. For example, if this CP was approved and implemented on 01 April 2024, existing customers would have until 30 September 2024 to apply retrospectively. It was agreed that there would need to be a minimum of 12 months data to be eligible for retrospective treatment and if customers wanted to apply retrospectively back to 01 April 2023, then data for all months from when they apply would be needed.

## 1-year historical data

- 3.7 Regardless of whether a customer is applying retrospectively or after the sunset clause, 12 months data is required to have the opportunity to be considered a peaky customer.
- 3.8 The Working Group agreed to lead the second consultation with the proposer's preference.

## Review connected to price control period

- 3.9 The proposer's preferred approach is that customers that meet the criteria will be reviewed at each price control period. It was noted that there should be some DNO discretion if, for example, a customer's behaviour changes significantly. Consideration is needed as to what would trigger a DNO review before the price control period. For example, is it if they fall below 70% threshold?
- 3.10 The Working Group agreed to lead the second consultation with the proposer's preference, once finalised.

## Rebanding to one band lower for simplicities stake

- 3.11 The proposer's view is that if a customer is eligible, they should move to the next lowest band. This will make the process simpler.
- 3.12 The Working Group agreed to lead the second consultation with the proposer's preference.

## No discretion for customer not meeting criteria

- 3.13 At the previous meeting, the Working Group discussed whether there should be a discretionary step, where the DNO is allowed some discretion if they felt like the customer was unique enough to still be treated as a peaky customer. The proposer's view is that this should not be included in this CP, and it was also noted that discretion may be a wider issue within the TCR and not just for this CP.
- 3.14 It was noted that if a Working Group member did want discretion included, they could raise an alternative to current DCP 412 solution.
- 3.15 The Working Group agreed to lead the second consultation with the proposer's preference.

## New customer treatment

- 3.16 The Working Group also discussed how new customer should be treated. It was agreed that new customers will be banded as per existing TCR rules. However, they can register their intent of being treated as a "peaky" customer within the first 12 months and once the 12 month data is available it can be backdated to the date they registered their intent if they are indeed "peaky".

## 4. Next Steps

- 4.1 LS took an action to draft some legal text in relation to the proposed approaches above and an action was also taken by the Secretariat to update the draft consultation in relation to discussions to date.

**ACTION 28/01: Produce legal text based on proposer's preferred approach.**

**ACTION 28/02: Update consultation document in relation to discussions to date.**

## 5. Next Meeting

- 5.1 The next DCP 412 Working Group meeting is scheduled for Monday, 18 December starting at 10am. Microsoft Teams invites have been issued.

## 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)
21/02	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	Ongoing
21A/01	Chair to locate or create a 'statement of facts' document that concisely summarises the principles and decisions implemented under the TCR.	Chair	Ongoing
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)
22/02	Chair to facilitate the expansion of the impact assessment to cover customers who exceed their MIC by 5% and 10% respectively.	Chair	Ongoing
26/01	Working Group to conclude on how customers who have exceeded their MIC will be treated.	All	Ongoing
26/02	MC to draft a process for how this second step (DNO discretion) could work.	MC	Ongoing
28/01	Produce legal text based on proposer's preferred approach.	LS	Ongoing
28/02	Update consultation document in relation to discussions to date.	Secretariat	Ongoing



## 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
22/01	Chair to contact respondent and clarify if they would be happy to have their response published in an anonymised form.	Chair	Closed



21/01	Chair to contact respondent to seek clarification on the two responses received.	Chair	Closed
23/01	Chair to update the minutes of meeting 22 to add a reference to the aforementioned documents.	Chair	Closed
26/02	MC to undertake additional analysis to understand the cost impact on other customers if the threshold is lowered (i.e 90%, 85%, 80%).	MC	Completed
27/01	Proposer to provide their current thinking on preferred approach.	MC/ LS	Completed