

## DCP 439 Working Group Meeting 01

08 May 2024 at 10:00 - Web-Conference

Attendee	Company
<b>Working Group Members</b>	
David Fewings [DF]	Inenco
Emma Clark [EC]	SSE
Jenny Harvey [JH]	NGED
Jo Brown [JBr]	NGED
Joe Boyle [JB]	SPEN
Michael Hewitson [MH]	Trident Utilities
Peter Waymont [PW]	UKPN
Robert Mottershead [RM]	Sedulity Energy
Victoria Burkett [VB]	SSE
<b>Code Administrator</b>	
Andy Green [AG]	Chair
Hannah Proffitt [HP]	Secretariat
<b>Apologies</b>	
Chris Ong [CO]	UKPN
Lee Stone [LS]	EON

### 1. Administration

#### Recording

- 1.1 The Chair asked members if they were comfortable for this Working Group to be recorded. No members objected to this request. The purpose of this recording is purely to aid the Technical Secretariat in producing an accurate report of the meeting. The recording will be deleted after 15 Working Days.

## Apologies

- 1.2 Apologies are noted in the table above.

## Competition Law Guidance and Terms of Reference

- 1.3 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.

## Action Log

- 1.4 The Chair noted that actions would be recorded in the Actions Log as needed.

## 2. Purpose of the Meeting

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- 2.1 The Chair set out that the purpose of the meeting was to review the Change Proposal and solution and to establish next steps.

## 3. Overview of DCP 439

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- 3.1 The Proposer of the change provided the below overview.

*During the consultation for DCP 433 ‘Limitation for backdating of rebates/charges under Schedule 32’, various concerns were identified.*

*Currently where an MPAN is identified as having an incorrect LLFC due to the Distributor’s oversight, the charging statements say it must be corrected up to six years back. This proposal seeks to change that to a more sensible time period.*

*With MMHS migration, some DNOs will use a new billing system for migrated MPANs and will look to wind down their legacy systems post migration. The current six year period for backdating means that legacy systems could require supporting for six years on the chance that an LLFC/DUoS Tariff is found to have been wrong. The ability to correct data in registration systems is already time limited and the existing six year period causes workarounds.*

*Moreover, under MHHS, the registration system is recognised as the master for this data and so we should at least reflect the backdating limitations already agreed for use there.*

## 4. Review and Discussion of Change Proposal

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- 4.1 The Proposer noted that the charging statement outlines tariff changes will be back dated up to a maximum of six years in line with the Limitation Act. The Proposer advised that on reviewing the Limitation Act, it seemed as though that is a limitation for the period in which you can bring an action for a breach of contract. The Proposer noted that the Supplier could bring an action going back six years, but that there is the limitations of the system restrictions.
- 4.2 The Chair noted that they had referred this to the DCUSA legal advisers, Gowling WLG, who confirmed there are statutory limitations which prevent claims being brought after a period of time (6 years for E&W breach of contract claims) however, these are limits and not minimum

requirements. There is nothing to prevent parties agreeing shorter time periods within which claims must be brought.

- 4.3 Members suggested that it is likely there would be an indication of any issues well before six years had passed, especially with Market Wide Half Hourly Settlement where data is going to be received more regularly.
- 4.4 One member asked for examples of situations in which 6 years is the limit but that shorter time scales have been agreed upon. The Chair agreed to add examples of these processes to the Consultation and Change Report.
- 4.5 Another member highlighted that parties can agree an amendment to the timescale between themselves, but that ultimately it is the end user that is going to see the difference in these tariffs. The Proposer noted that if you back date six years, there is no guarantee that it gets passed back to customers, particularly where there has been many changes of supplier over that period.
- 4.6 A DNO representative advised that they encounter instances around once a month where a customer is on the wrong tariff and must be back billed 6 years. The member noted that these are significant rebates and are often identified by an energy broker. Another DNO representative agreed and noted that even where different Suppliers are involved, this should still be passed on.
- 4.7 Another member highlighted that the majority of customers do not realise there is an issue and that the responsibility being on them rather than on the DNOs to check is unreasonable. The member noted that if the DNOs were to check every LV supply and show that they are on the correct tariff then the issue should be resolved.
- 4.8 One member raised that limiting the backdating period to 14 months is not going to be representative of what the customer has been charged over the period. The member noted that Suppliers are going to have to explain the changes to customers and that they need to understand the charges and how they have been applied.
- 4.9 Another member noted that the Limitation Act Section 32 contains information on the customer being an innocent party, and suggested that this could be relevant to discussions.
- 4.10 The Proposer noted the challenges raised and highlighted that they are keen to progress to consultation to determine how often these situations occur and to receive legal feedback on the Limitation Act.
- 4.11 The Working Group discussed the legal text and drafted text to be included in the consultation.
- 4.12 The Working Group agreed for the following questions to be asked in the consultation.
  - Do you understand the intent of the CP?
  - Are you supportive of the principles of the CP?
  - Have you backdated tariff changes for the following reasons?
    - The voltage of connection
    - Import/export details

- Metering location
- Multi MPAN sites
- LV or HV Substation Tariff
- Please complete the table below to highlight how many times backdated tariff changes have been made in the last 12 month period

Period	Overall volumes	Volume of the voltage of connection from LV to LV Sub	Volume of HV to LV sub	Volume HV to LV	Others
12-24 months					
24-36 months					
36-48 months					
48-60 months					
60-72 months					
72 and above					

- Where you have volume in the 'Other' column, please expand on these scenarios.
- What are the root causes of backdating tariffs beyond 12 months?
- Are there any other reasons DUoS tariffs are backdated other than banding?
- If this change is not implemented, what are the potential impacts, i.e. system constraints, additional manual intervention etc.
- Do you have any comments on the draft legal text?
- Do you consider that the proposal better facilitates the DCUSA objectives? Please give supporting reasons.
- Are you supportive of the proposed implementation date?
- Do you have any other comments on the DCP?
- Are you aware of any wider industry developments that may impact upon or be impacted by this CP?

## 5. Review/Update Work Plan

- 5.1 The Chair agreed to draft the consultation and to issue this to the Working Group for review.
- 5.2 The Working Group agreed to meet again on Monday 20 May 2024, 10am to 1pm.

## 6. Any Other Business

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6.1 No other business was raised.

## New and Open Actions

Action Ref.	Action	Owner	Update
	N/a		

## Closed Actions

Action Ref.			Update
	N/a		