

DCP 412 Working Group Meeting 35

9 September 2024 at 10:00 - Web-Conference

Attendee	Company
Working Group Members	
Edda Dirks	SSE Generation
Simon Vicary	EDF
Victoria Burkett	SSE
Lee Stone	E.ON
Nik Wills	Stark
James Jones	SSE
Ryan Farrell	NPg
David Fewings	Inenco
Kyran Hanks	WatersWye
Mark Bellman	ENWL
Monique Pereira	Indigo
Joe Boyle	SPEN
Sally Musaka	SSE
Observers	
Thomas Holderness	Ofgem
Code Administrator	
Craig Booth	Secretariat
Richard Colwill	Chair
Apologies	
Dave Wornell	NGED
Matt Cullen	E.ON

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 upon the approval of these draft minutes, or after 60 days.

Competition Law Guidance and Terms of Reference

- 1.2 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.

2. Previous Meeting Minutes

- 2.1 The Chair asked for any comments on the accuracy of the previous meeting minutes.
- 2.2 The Secretariat noted that paragraph 5.13 of the draft minutes had been amended to add the words “subject to” in relation to the sunset clause.
- 2.3 A Working Group member noted an error in action 34/05, which referenced sites “lacking insufficient data” instead of “lacking sufficient data”. The Secretariat updated the meeting minutes accordingly.

3. Open Actions

Action 34/01

- 3.1 The Chair noted this action had been completed by producing the legal text. This action was closed.

Action 34/02

- 3.2 The Proposer stated that the DCP he believed to be relevant had not in fact referenced retrospectivity, as the rebates due would already go back to statute. The Proposer stated that he had not yet had a chance to locate the BSC modification that potentially had retrospectivity within the solution. This action remains open.

Action 34/03

- 3.3 The Working Group discussed the post-meeting note related to this action and that in both options, to rebate up to 12 months prior to the implementation date or to rebate up to 12 months prior to the application date, would lead to rebates of greater than 12 months. In the first scenario, rebating up to 12 months prior to the implementation date, could lead to rebates of up to 18 months if customers were to apply towards the very end of transition period. In the second scenario, to rebate up to 12 months prior to the application date, delays in processing applications (e.g., due to a logjam of applications) could mean additional months rebates become necessary.
- 3.4 The Chair noted this action had been completed by producing the legal text. This action was closed.

Action 34/04

- 3.5 The Chair explained that the Panel session was due to take place on 18 September 2024 and that the topic of alternatives without additional sponsoring Parties would be raised at that meeting. This action remains open.

Action 34/05

- 3.6 The Chair noted this action had been completed by producing the legal text. This action was closed.

4. Purpose of the Meeting

- 4.1 The Chair advised that the purpose of the meeting was to continue reviewing the consultation responses and agree necessary next steps.

5. Consultation Responses Review

Application Dates and Rebates for Sites Lacking Sufficient Data

- 5.1 The Working Group discussed whether customers lacking sufficient data should be rebated back 12 months or back to their application date.
- 5.2 The Working Group discussed the potential for customers to receive different treatment based on the date they applied for HCULU status. The Working Group discussed that two sites, which for all intents and purposes are the same, could receive different rebates based purely on the date they apply for HCULU status.
- 5.3 The Working Group deliberated on whether it was fair to customers to receive different treatment as a result of the application date and noted that such a precedent existed for non-final demand. It was noted that customers who apply for non-final demand are subject to this classification from the next billing month and that any customers who fail to apply in a timely manner will miss out. Some Working Group members felt that some of the onus needed to be placed on the customer to know when to apply.
- 5.4 The Working Group concluded that rebates would only be made to the application date and that it was for customers to ensure they submit their applications in a timely manner.
- 5.5 The Working Group discussed whether the customer should require 12 calendar months of data to perform the assessment (rather than allowing part months at either end of the assessment period.) The Working Group noted that the impact on the customer would be minimal (delaying the benefit by less than one calendar month) but would make the assessment process simpler. The Working Group agreed to update the legal text accordingly.

Applying Before or After the Annual Allocation Review

- 5.6 The Working Group discussed whether new connection customers should be able to apply for HCULU status prior to undergoing the first annual allocation review. The Working Group noted that the majority of consultation responses supported waiting until after the annual allocation review.

- 5.7 The Working Group discussed that some sites may be on a default or estimated MIC, as per Schedule 31 paragraph 4ii(b) and that these sites, assuming they had 12 months of data available, would be potentially re-banded following the annual allocation review and could be subject to a rebate or additional charges.
- 5.8 The Working Group considered three options:
 - 5.8.1 that customers must wait until after the first annual allocation review before they can apply for HCULU status;
 - 5.8.2 that customers can apply for HCULU status before the first annual allocation review but would not be re-banded until after the first annual allocation review; and
 - 5.8.3 that customers can apply for HCULU status and be re-banded before the first annual allocation review.
- 5.9 The Working Group discussed that the first option, not allowing an application prior to the first annual allocation review, was the simplest option but resulted in the least benefit to customers.
- 5.10 The Working Group discussed that the second option would require DNOs to hold the applications until after the first annual allocation review, delaying the benefit to the customer, to perform the review whilst considering the site's HCULU eligibility and potentially to rebate the customer.
- 5.11 The Working Group discussed that the third option would allow DNOs to progress the application sooner, delivering the benefit to the customer sooner, and require the DNOs to note the HCULU status during the annual allocation review.
- 5.12 The Working Group noted that under option 3, it was possible that HCULU customers would be subject to additional charges at the first annual allocation review. For example, if a customer on band 2 successfully applied for HCULU status prior to the first annual allocation review, they would be re-banded to band 1. If the annual allocation review subsequently concluded that the customer should have been in band 3, the customer would therefore be re-banded to band 2 as a HCULU customer and would be liable for the difference in charges between the two bands.
- 5.13 The Working Group discussed that it would be useful to see these options drafted in the legal text for its consideration.

Action 35/01	Secretariat to draft legal text for the three annual allocation review options, including impacts to paragraph 6.7 of schedule 32.
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Definition of HCULU

- 5.14 The Working Group discussed the feedback that the definition of 'High Capacity Usage, Low Utilisation' was not clear and that it would benefit from a clearer explanation of what is meant by utilisation and load factor.
- 5.15 The Working Group noted that load factor was not a defined term in the DCUSA but was included in the glossary of terms under schedule 16. The Working Group agreed to include this in the definition.

5.16 The Working Group noted that it was potentially not clear what capacity utilisation meant. The Working Group agreed to amend the definition to read ‘the utilisation of its Maximum Import Capacity is greater than or equal to 90%’.

Interaction with DCP 420 ‘Include Car Charging Stations In The Definition For Non Final Demand’

5.17 The Working Group discussed the potential interaction with [DCP 420](#), which aims to provide relief from residual charges for eligible EV charging sites.

5.18 The Working Group noted that it could be possible for an EV charging point operator to qualify for relief from residual charges under both DCP 412 and DCP 420, due to EV sites potentially being peaky in nature depending on the site characteristics.

5.19 The Working Group discussed that it may be necessary to draft a carve out of these customers under DCP 412 or DCP 420, noting that both proposals would individually be subject to an Authority decision and that drafting a carve-out for these customers could be tricky. The Secretariat proposed drafting legal text to provide this carve out with an explanation that it should be removed if the other proposal is rejected.

5.20 The Chair advised that, as Chair of DCP 420, he will raise this in the other Working Group.

Action 35/02	Chair to raise the interaction with the DCP 420 Working Group and agree how to prevent EV charging site operators benefitting from both remedies.
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Customer Declaration

5.21 The Working Group noted that one consultation response stated the legal text around the customer justifying their reasons for being a HCULU customer was open to interpretation.

5.22 The Working Group discussed that it had previously considered whether this was necessary, but that it had concluded it should be kept to:

5.22.1 prompt the customer to consider whether they could change their behaviours and/or capacity; and

5.22.2 ensure the DNOs are not seen to re-banding and rebating customers without just cause.

Boundary for HCULU Status

5.23 The Working Group noted that one consultation response stated that the proposal creates an unjustified arbitrary boundary for a HCULU customer.

5.24 The Working Group discussed that it had used the analysis performed on the data obtained from industry to determine a threshold that provided the benefit to genuinely peaky customers whilst limiting the scope of the support to only those customers genuinely needing it.

5.25 The Working Group discussed whether the boundary under the two-step process had been assessed for impact on the customers eligible for HCULU status and for all other customers. The Chair agreed to review the data obtained from industry and engage with the Proposer to articulate the impact.

Action 35/03	Chair to review the data obtained from industry and engage with the Proposer to articulate the impact (for both no rebates and up to two years rebates).
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6. Work Plan

- 6.1 The Work Plan will be updated at the conclusion of the next Working Group meeting.

7. Next Steps

- 7.1 The next meeting will be on 1 October 2024 at 13:00 to continue the review of the consultation responses.

8. Any Other Business

- 8.1 No other business was raised.

New and Open Actions

Action Ref.	Action	Owner	Update
34/02	Send examples of retrospectivity in other proposals (DCUSA or otherwise).	Proposer	DCP 174 does not contain the retrospective elements it was believed to contain. There may be BSC modifications that do, which will be checked. This action remains open.
34/04	Check with Panel re submitting the DCP 412 change report with two alternatives without the need for additional sponsoring Parties.	Chair	The Chair is due to raise this at the next Panel meeting on 18 September 2024. This action remains open.
35/01	Secretariat to draft legal text for the three annual allocation review options, including impacts to paragraph 6.7 of schedule 32.	Secretariat	New action
35/02	Chair to raise the interaction with the DCP 420 Working Group and agree how to prevent EV charging site operators benefitting from both remedies.	Chair	New action
35/03	Chair to review the data obtained from industry and engage with the Proposer to articulate the impact (for both no rebates or up to two years rebates).	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 customer 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	Closed
27/01	Proposer to provide their current thinking on preferred approach.	MC/ LS	Closed
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	Closed
21/02	Working Group to consider what additional analysis is required after the consultation 1 responses review is completed.	Working Group	Closed
21/03	Working Group to discuss additional re-banding considerations after the consultation 1 responses review is completed.	Working Group	Closed
21/04	Chair to add the split criteria to the analysis as variables.	Chair	Closed
21A/01	Chair to locate or create a 'statement of facts' document that concisely summarises the principles and decisions implemented under the TCR.	Chair	Closed
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	Closed
22/02	Chair to facilitate the expansion of the impact assessment to cover customers who exceed their MIC by 5% and 10% respectively.	Chair	Closed
26/01	Working Group to conclude on how customers who have exceeded their MIC will be treated.	All	Closed
26/02	MC to draft a process for how this second step (DNO discretion) could work.	MC	Closed

28/01	Produce legal text based on proposer's preferred approach.	LS	Closed
28/02	Update consultation document in relation to discussions to date.	Secretariat	Closed
30/01	Take change of intent to Panel and ask Panel to consider whether the change of intent is necessary.	Chair	Closed
31/01	Secretariat to update the title and intent of the CP on the DCUSA website.	Secretariat	Closed
31/02	Secretariat to add a paragraph to the consultation to explain the change of title and intent (as paragraph 1.2)	Secretariat	Closed
31/03	Secretariat to update the consultation to summarise the issue.	Secretariat	Closed
31/04	Secretariat to add a question to the consultation around the customer being able to opt out.	Secretariat	Closed
31/05	Secretariat to review the consultation to ensure definitions are in the correct place in the document.	Secretariat	Closed
31/06	Secretariat to update the consultation to expand on the explanation for the two-part process.	Secretariat	Closed
31/07	Secretariat to update the draft legal text.	Secretariat	Closed
31/08	Secretariat to add the summary of the issue around customers paying higher charges in the lower band.	Secretariat	Closed
31/09	Secretariat to add outcome of the above conversation in the consultation and add a question around 5.16 above.	Secretariat	Closed
31/10	Secretariat to add clarification around the impact to TNUoS charges as a result of the current proposed solution to re-band HCULU customers.	Secretariat	Closed
32/01	Secretariat to book in meeting to review analysis with Matt Cullen.	Secretariat	Closed
34/01	Draft legal text drafts for three points and circulate to the Working Group:	Secretariat	Closed in meeting 35 The Secretariat updated the legal text as per the action.

	<ul style="list-style-type: none"> • when the review of HCULU sites' eligibility for the next transmission price control period should be (e.g., 14 months in advance or closer to the commencement of the price control period); • if closer to the commencement of the price control period, whether the review be based on using the previous calendar year's data; and • whether there should be a review window for the reviews to be conducted (e.g., from Jan to March prior to the price control period). 		
34/03	Create first draft legal text for the scenarios under paragraphs 5.18.1 and 5.18.2.	Secretariat	Closed in meeting 35 The Secretariat updated the legal text as per the action.
34/05	Create first draft legal text for sites lacking sufficient data.	Secretariat	Closed in meeting 35 The Secretariat updated the legal text as per the action.