

DCP 412 Working Group Meeting 36

1 October 2024 at 13:00 - Web-Conference

Attendee	Company
Working Group Members	
Edda Dirks	SSE Generation
Simon Vicary	EDF
Dave Wornell	NGED
Lee Stone	E.ON
Nik Wills	Stark
James Jones	SSE
Ryan Farrell	NPg
Kyran Hanks	WatersWye
Chris Barker	ENWL
Mark Bellman	ENWL
Monique Pereira	Indigo
Joe Boyle	SPEN
Joshua Robinson	NFU Energy
Observers	
Iain McKie	Ofgem
Code Administrator	
Craig Booth	Secretariat
Richard Colwill	Chair
Apologies	
Victoria Burkett	SSE
Thomas Holderness	Ofgem

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.

3. Open Actions

Action 34/02

- 3.1 The Chair recalled that the Proposer had 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 and had not yet had a chance to locate the BSC modification that potentially had retrospectivity within the solution. The Proposer was happy that this action be closed.

Action 34/04

- 3.2 The Chair explained that the Change Report will need to explain the rationale for providing alternatives and be clear how voting will be handled, citing DCP 406 as an example of this. This action was closed.

Action 35/01

- 3.3 The Chair explained that the legal text had been updated and circulated. This action was closed.

Action 35/02

- 3.4 The Chair confirmed that the potential interaction with DCP 420 had been raised at that Working Group and that DCP 420 was due to be consulted on. This action was closed.

Action 35/03

- 3.5 The Chair noted this action had been completed and the analysis articulated in the draft change report. 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 draft change report and legal text, and make key decisions to allow the change report and legal text to be finalised.

5. Change Report Decisions

When to Review Sites in Advance of the Next Price Control Period

- 5.1 The Working Group discussed whether DNOs would assume that, and the review for the next Price Control Period, customers who have HCULU status would retain their status.
- 5.2 The Working Group considered that otherwise the customer's current supplier would know of the customer's HCULU status whilst the other suppliers would not, resulting in a potential competition issue. The Working Group agreed, in order to mitigate this, that DNOs would assume customers would retain their status.
- 5.3 The Working Group discussed when the DNO would reassess customers' eligibility for HCULU status leading up to the start of the next Price Control Period.
- 5.4 The Proposer suggested that the review could be performed in the last quarter of the year prior to the next Price Control Period (i.e., 1 October to 31 December inclusive).
- 5.5 The Working Group discussed that this would likely affect a very small number of customers, which was also application driven, and that the impact may therefore be very small meaning the burden on DNOs should be relatively small. The Working Group noted that a DNO could run the sites through a script to determine eligibility.
- 5.6 The Working Group discussed that using the most recent data was preferred, to ensure customer behaviours had not recently changed resulting in ineligible customers benefitting from the change proposal.
- 5.7 A Working Group member noted that April tends to be busy from a contract point of view and that performing the review so close could be problematic, as customers would be looking at their contracts from around 6 months prior. The Proposer stated it was between assessing up to 19 months in advance, with the data being largely out of date by the Price Control Period and potentially causing a competition issue or moving closer to the commencement of the Price Control Period, which is a lesser impact to competition.
- 5.8 The Chair suggested customers could be assessed between 1 January and 31 March, preceding the Price Control Period, using the previous calendar year's data. The Proposer agreed that this would be acceptable, and no Working Group members disagreed with this position. The Working Group decision was, therefore, that:
 - 5.8.1 at the Price Control Period assessment (t-2), DNOs would assume HCULU customers retain the status; and
 - 5.8.2 the HCULU assessment would be performed between 1 January and 31 March, prior to the commencement of the Price Control Period, using the previous calendar year's data.

Applying Before or After the Annual Allocation Review

- 5.9 The Working Group discussed the three options articulated in paragraph 5.8 of the minutes of the previous meeting.
- 5.10 The Working Group discussed whether this issue existed, as customers that agree a MIC are placed into a charging band and would not be subject to the Annual Allocation Review, and that this was the case for the majority of new connections.
- 5.11 The Working Group discussed that once a customer has 12 months data and believes they may be eligible for a HCULU customer, the customer could be assessed using the 12 months data to determine the customer's correct initial banding and whether the customer is eligible to be re-banded as a HCULU customer, and that these customers would therefore not need to go through the Annual Allocation Review.
- 5.12 The Working Group also discussed that the simplest approach, consistent with other exceptional circumstances for these sites, would be to limit the ability to apply for HCULU status until after the Annual Allocation Review, but that this would not be as beneficial to customers.
- 5.13 The Chair asked if such customers would be able to apply prior to having 12 months data and, if successful, be rebated back to their application date, or would need to wait until they have 12 months data and, if successful, be re-banded effective from the first day of the month following their application date, with no rebates due.
- 5.14 The Working Group agreed that customers would have to wait until they have 12 months of data and that rebating back to their application date would be in line with the options put forward (e.g., under option 1, these customers will not be eligible for a rebate, whilst under options 2 and 3, customers would be eligible for a rebate).
- 5.15 The Working Group agreed that HCULU customers would be reviewed as soon as they have 12 months data available, firstly to determine the customer's correct initial banding and secondly to whether the customer is eligible to be re-banded as a HCULU customer, and that these customers would not need to go through the Annual Allocation Review.
- 5.16 A Working Group member provided an initial draft of legal text and stated that there needed to be at least a reference in the section that covers the initial allocations so that this is not missed by the DNOs:

Price Control Period HCULU Review

In the period 01 January to 31 March in the Regulatory Year (t-1) prior to the commencement of the onshore electricity transmission owner price control period (t) each DNO/IDNO Party shall:

- *Review the eligibility of all HCULU sites based on 12-months billing data from 01 January (t-2) to 31 December (t-1) of the prior calendar year.*
- *Provide each Supplier Party with a list of each and every MPAN that has been reallocated as a result of the HCULU Review, identifying the Old Charging Band and New Charging Band to which each such MPAN has been allocated, and the LLFC Id which is assigned to the MPAN.*

5.17 The Chair agreed to articulate the above in the legal text.

Action 36/01	Secretariat to articulate the options around new customers/customers lacking sufficient data in the legal text.
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6. Change Report Review

6.1 The Chair reviewed the structure of the change report with the Working Group, noting that an amendment to the 'how' paragraphs of section 1 needed to be updated to articulate the solution being put forward.

Action 36/02	Secretariat to update the 'how' paragraphs of section 1 to articulate the solution being put forward.
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6.2 The Secretariat presented the analysis completed as a result of action 35/03, explained the findings of the analysis and where this is articulated in the change report. The Secretariat agreed to summarise the analysis approach and findings in more detail, as an attachment to the change report.

Action 36/03	Secretariat to summarise the analysis approach and findings in more detail, as an attachment to the change report.
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7. Work Plan

7.1 The Chair noted the change proposal would more likely be presented at the November Panel meeting, rather than the October Panel meeting, and asked if it was acceptable to update the timetable accordingly. The Proposer confirmed this was acceptable.

8. Next Steps

8.1 The Secretariat will update the change report and legal text, circulate these to the Working Group and send them to Gowlings for review.

8.2 The next meeting will be on 23 October 2024 at 10:00 to review the change report and legal text.

9. Any Other Business

9.1 No other business was raised.

New and Open Actions

Action Ref.	Action	Owner	Update
36/01	Articulate the options around new customers/customers lacking sufficient data in the legal text.	Secretariat	New action
36/02	Update the 'how' paragraphs of section 1 to articulate the solution being put forward.	Secretariat	New action
36/03	Summarise the analysis approach and findings in more detail, as an attachment to the change report.	Secretariat	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.
34/02	Send examples of retrospectivity in other proposals (DCUSA or otherwise).	Proposer	Closed in meeting 36 The Chair recalled that the Proposer had 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 and had not yet had a chance to locate the BSC modification that potentially had retrospectivity within the solution. The Proposer was happy that this action be closed.

34/04	Check with Panel re submitting the DCP 412 change report with two alternatives without the need for additional sponsoring Parties.	Chair	Closed in meeting 36 The Chair explained that the Change Report will need to explain the rationale for providing alternatives and be clear how voting will be handled, citing DCP 406 as an example of this.
35/01	Secretariat to draft legal text for the three annual allocation review options, including impacts to paragraph 6.7 of schedule 32.	Secretariat	Closed in meeting 36 The Chair explained that the legal text had been updated and circulated.
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	Closed in meeting 36 The Chair confirmed that the potential interaction with DCP 420 had been raised at that Working Group and that DCP 420 was due to be consulted on.
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	Closed in meeting 36 The Chair noted this action had been completed and the analysis articulated in the draft change report.