

DCP 412 Working Group Meeting 37

23 October 2024 at 10:00 - Web-Conference

Attendee	Company
Working Group Members	
Edda Dirks	SSE Generation
Simon Vicary	EDF
Seun Adedapo	NGED
Lee Stone	E.ON
Nik Wills	Stark
James Jones	SSE
Sally Musaka	SSE
Victoria Burkett	SSE
Ryan Farrell	NPg
Joshua Robinson	NFU Energy
Karl Maryon	Drax
Monique Pereira	Indigo Networks
Observers	
Iain McKie	Ofgem
Thomas Holderness	Ofgem
Code Administrator	
Craig Booth	Secretariat
Richard Colwill	Chair
Apologies	
Diandra Orodan	BUUK
Joe Boyle	SPEN
Dave Wornell	NGED

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. No comments were received.

3. Open Actions

- 3.1 The Chair noted that all actions had been completed to allow the draft change report to be circulated to the Working Group. All actions were closed.

4. Purpose of the Meeting

- 4.1 The Chair advised that the purpose of the meeting was to review the draft change report and Gowlings' proposed legal text.

5. Draft Change Report Review

- 5.1 The Working Group reviewed comments provided against the draft change report.

DCUSA Charging Objectives

- 5.2 The Chair explained that an assessment against the DCUSA Charging Objectives would be required for all solutions (the proposal and both alternatives). The Chair proposed first getting the Proposer view on each solution and to then reconvene the Working Group to discuss the objectives for each solution.

Supplier Failure

- 5.3 The Working Group discussed whether paragraph 1.6 was correct, as it implied a customer failure could lead to a Supplier failure. Some Working Group members felt this was not a likely outcome but agreed that it would result in an increase of charges to other customers. The paragraph was amended accordingly.

Two-Step Analysis

- 5.4 A Working Group member suggested that paragraph 7.2 did not clearly articulate how it related to the graph below it. The Chair agreed to redraft this offline and to review the graph (labels, colour use, thresholds, etc.)

Action 37/01	Chair to redraft this offline and to review the graph (labels, colour use, thresholds, etc.)
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- 5.5 A Working Group member suggested paragraph 7.6 should be clearer on what the benefit is, in that it allows DNOs to assess applications in two steps and some customers would be assessed as ineligible based on only the first step, leading to improved efficiency in the process.

Action 37/02	Chair to redraft paragraph 7.6 offline.
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Data

- 5.6 A Working Group member noted that paragraph 7.11 used the terms ‘active’ and ‘reactive’ when referring to consumption data, which was not the terminology used in the legal text. Paragraph 7.11 was updated to bring it inline with the legal text.

Periods of De-energisation

- 5.7 The Secretariat noted that Gowlings had removed the requirement for consumption data to be based on consecutive months. The Chair agreed to check with Gowlings whether this was removed for a specific reason.

Action 37/03	Chair to check with Gowlings whether ‘consecutive’ was removed for a specific reason.
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- 5.8 The Working Group discussed that the legal text, as written, did not allow any discretion for DNOs in allowing short periods of de-energisation. The Working Group agreed to update the legal text to allow for a single period of de-energisation not exceeding 7 consecutive days.

Proposed Solution and Alternatives

- 5.9 A Working Group member suggested a table could be created to show the similarities and differences between the proposed solution and the alternative solutions.

Action 37/04	Chair to create a table to show the similarities and differences between the proposed solution and the alternative solutions.
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- 5.10 A Working Group member noted that paragraph 10.10 (and a similar previous paragraph) was not clear when the rebate would be due back to if it’s up to the maximum timescales. The Chair agreed to make this clear in the table to be added under action 37/04.

Impacts & Other Considerations

5.11 A Working Group member suggested the other DCPs identified as impacted by this CP be referenced in this section of the change report.

Action 37/05	Chair to review other impacted DCPs listed and articulate this somewhere in this section.
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6. Legal Text Review

6.1 The Working Group reviewed the feedback from Gowlings on the draft legal text.

Housekeeping Change

6.2 The Working Group discussed whether paragraph 4.6 should be deleted as per Gowlings' feedback. The Working Group noted that this is legacy legal text and does not impact the solutions being taken forward. The Working Group agreed that this should be completed as a housekeeping change, separately to this CP, to ensure all cross-references are removed and paragraphs renumbered accordingly.

Action 37/06	Chair to add removal of paragraph 4.6 of schedule 32, and all cross-references, to the housekeeping log.
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Limiting Applications

6.3 The Working Group discussed whether the limit of one application per each charging year should apply regardless of a change of customer or registrant at the site. The Working Group noted that this goes some way to mitigating issues that could arise from a change of tenancy, in that the DNO would not necessarily know whether a change of tenancy had taken place and would not be able to tell whether the change of tenancy was genuine. The Working Group noted that work is currently underway at the REC, under REC change 0155, to address change of tenancy issues. A Working Group member explained that a lot of non-genuine change of tenancy changes occur to avoid certain charges, and the REC change seeks to set standards for all Suppliers and TPIs to adhere to, to ensure change of tenancy changes are genuine.

6.4 The Secretariat noted that there is a potential interaction with paragraph 6.3A, which allows a site with insufficient data to apply, wait for the assessment and then potentially receive a rebate.

6.5 The Working Group also noted that, as it is currently proposed, a change of tenancy would inherit the status and would be on a lower band as a result. The Working Group discussed that it could be possible to draft some legal text to deal with this issue, but one Working Group member suggested that this CP should avoid looking into change of tenancy as it is a complicated issue in its own right. The Working Group member noted that DNOs will have discretion to reassess a site's eligibility if its behaviour changes in a significant way.

HCULU AAR Exclusion

- 6.6 The Working Group discussed Gowlings' proposed amendment to paragraph 6.5 to exclude HCULU sites from the Annual Allocation Review.
- 6.7 A Working Group member highlighted that a site could meet the definition of HCULU Site without an application having been made, which is not the intent. The definition of HCULU Site was updated accordingly.
- 6.8 The Working Group noted that sites that have applied for HCULU status, but which have not yet been assessed, would still be eligible for inclusion in the Annual Allocation Review. The Working Group also noted that, under paragraph 6.3A, a site would first be reviewed inline with the requirements of the AAR, to determine the band the site should be allocated to prior to assessing HCULU eligibility.
- 6.9 A Working Group member noted that paragraph 6.3A did not appear to limit this to only new sites and would therefore subject all HCULU applications to an assessment of the current band first.
- 6.10 The Secretariat noted that the original legal text specified that only sites allocated in accordance with paragraph 4.1(b)(ii) would have been subjected to a review of the current band prior to an assessment of HCULU eligibility. A Working Group member agreed that paragraph 4.1(b)(ii) was the correct way to determine which customers are subject to a review of their current band first.

Action 37/07	Chair to send feedback re paragraph 4.1(b)(ii) to Gowlings for review.
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Other Solutions

- 6.11 The Chair noted that Gowlings had issued the legal text for only one of the proposed solutions, to get feedback on this first, prior to issuing the legal text for all proposed solutions.

7. Next Steps

- 7.1 The next agenda will be to review the legal text for all solutions and articulate the Working Group's assessment of whether the solutions better facilitate the DCUSA Charging Objectives.
- 7.2 The Chair noted an additional meeting will be required to finalise all of the legal text and the change report.
- 7.3 The next meeting will be arranged via Doodle Poll for week commencing 4 November 2024.

8. Any Other Business

- 8.1 No other business was raised.

New and Open Actions

Action Ref.	Action	Owner	Update
37/01	Redraft this offline and to review the graph (labels, colour use, thresholds, etc.)	Chair	New action
37/02	Redraft paragraph 7.6 offline.	Chair	New action
37/03	Check with Gowlings whether 'consecutive' was removed for a specific reason.	Chair	New action
37/04	Create a table to show the similarities and differences between the proposed solution and the alternative solutions.	Chair	New action
37/05	Review other impacted DCPs listed and articulate this somewhere in this section.	Chair	New action
37/06	Add removal of paragraph 4.6 of schedule 32, and all cross-references, to the housekeeping log.	Chair	New action
37/07	Send feedback re paragraph 4.1(b)(ii) to Gowlings for review.	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.
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.
36/01	Articulate the options around new customers/customers lacking sufficient data in the legal text.	Secretariat	Closed in meeting 37 The legal text was updated.
36/02	Update the 'how' paragraphs of section 1 to articulate the solution being put forward.	Secretariat	Closed in meeting 37 The draft change report was updated.

36/03	Summarise the analysis approach and findings in more detail, as an attachment to the change report.	Secretariat	Closed in meeting 37 The analysis approach was summarised as an attachment to the draft change report.
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