

DCP 412 Working Group Meeting 38

28 November 2024 at 10:00 - Web-Conference

Attendee	Company
Working Group Members	
Chris Barker [CB]	ENWL
Chris Ong [CO]	UKPN
David Fewings [DF]	Inenco
Edda Dirks	SSE Generation
Iain McKie [IM]	Ofgem
Kyran Hanks [KH]	Waters Wye
Lee Stone	E.ON
Monique Pereira	Indigo Networks
Nik Wills	Stark
James Jones	SSE
Ryan Farrell	NPg
Sally Musaka	SSE
Seun Adedapo	NGED
Simon Vicary	EDF
Tom Holderness [TH]	Ofgem
Victoria Burkett	SSE
Observers	
Iain McKie	Ofgem
Thomas Holderness	Ofgem
Code Administrator	
Mel Kendal [MK] (Technical Secretariat)	ElectraLink
Richard Colwill [RC] (Chair)	ElectraLink
Apologies	

Craig Booth [CB]	ElectraLink
Mark Bellman [MB]	ENWL

1. Administration

- 1.1 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.
- 1.2 The Working Group reviewed the previous meeting minutes and agreed them to be an accurate reflection of the discussions held.
- 1.3 An action log has been created and all updates are provided in **Appendix A**.

2. Purpose of the Meeting

- 2.1 The Chair explained that the purpose of this meeting is to review both the draft Change Report and draft legal text (for all solutions) within the Working Group and agree next steps.

3. Review Draft Legal Text & Draft Change Report

- 3.1 The Working Group reviewed and provided feedback on the draft legal text for all solutions.
- 3.2 The key updates can be found below:
- 3.3 Proposed Solution
- 3.4 In regard to 6.3A, ED queried whether this paragraph was going to be split into two as previously discussed so that one paragraph is a new application and the other is an existing application with some data – it was suggested that this paragraph appears complex in deciphering the two.
- 3.5 Gowlings provided a comment in relation to this paragraph asking whether it needs to be (b)(ii) because b(i) could apply based on (e.g. 6 months) – the Working Group confirmed that is specific to 4.1.b(ii) sites as it relates to the need for an annual review as 4.1(i) is based on capacity data and do not have an annual allocation review.
- 3.6 The Working Group discussed this and agreed that the intent of this paragraph is not clear. It was suggested that the intent of the paragraph (set out below) is provided to Gowlings to further review and suggest alternate wording to ensure the intent is clear (i.e., potentially splitting the paragraph).
 - The intent is to do a one-off annual review once a site has got the 12 months of energised data available and the banding can then be done under the new process. For 4.1.b (1), the banding has already been done and the high-capacity utilisation review can take place (and re-band if eligible).
- 3.7 ED noted that this paragraph is not about an annual allocation review process but is about HCULU sites being an exceptional circumstance.

- 3.8 Following this, the Secretariat agreed to take an action to have these discussions with Gowlings to see if the paragraph can be reworded to ensure the intent is clear.

ACTION 38/01: The Secretariat to have discussions with Gowlings around the intent of paragraph 6.3A in the proposed solution draft legal text to see if the wording can be amended to ensure the intent is clear.

3.9 Alternate Solution 1

- 3.10 The Working Group reviewed and discussed both paragraphs 6.3A and 6.3B and agreed that the current wording is unclear and the intent of the paragraphs unknown.
- 3.11 RF also noted that the recent implementation of DCP 433 *'Limitation for backdating of rebates/charges under Schedule 32'* may need to be considered as this now allows for a 14-month backdating window under the annual allocation review.
- 3.12 The Secretariat agreed to speak with Gowlings in regard to paragraph 6.3B (a) and 6.3 (b) to see if the wording can be amended to give further clarity.

ACTION 38/02: The Secretariat to have discussions with Gowlings in regard to paragraphs 6.3B (a) and 6.3B (b) to see if the wording can be amended to give further clarity.

- 3.13 ED suggested paragraphs 6.3B (a) and 6.3B (b) could be swapped to provide further clarity as this is how it is presented within the Change Report. The Chair agreed to share the wording from the Change Report with Gowlings to show the intent as this may be beneficial when rewording.
- 3.14 CB queried whether the implementation date will be changed from the date the change is implemented to a specific date and how this would be done – the Chair confirmed that a housekeeping change can be progressed in order to replace the date once implemented.
- 3.15 CB suggested that both a third and fourth criteria (i.e., 6.3B c/d) may need to be considered when rewording the paragraphs. The possible effective from dates can be found below:
- A) 01 April 2023.
 - B) Date of connection of the Customer.
 - C) 12 months prior to implementation date of change proposal (with provision for the to be 1st of month).
 - D) 12 months prior to date of application.
- 3.16 It was noted that for all dates above, the Customer must have at least 12 months supporting data.
- 3.17 RF also suggested that for the alternative 1 solutions, the Customer will receive 12 months if eligible and then each prior month will be tested until such time that the Customer no longer qualifies for HCULU status – to a maximum of 01 April 2023.
- 3.18 The Working Group reviewed the summary of solutions table (within the draft Change Report). It was noted that the most recent 12 months data will be needed for the initial assessment to determine eligibility (rather than stating 12 months data).

- 3.19 The Working Group agreed to state that Customers no longer eligible lose the status of HCULU. It was also agreed to remove 'Sites lacking data wait 12 months', 'Newly connected sites wait 12 months' and 'Newly connected sites have their initial band assessed prior to a HCULU assessment' as members thought this wording did not add any benefit to the table. To replace these deletions, it was agreed that the Secretariat seek legal advice to ensure the intent still remains.

ACTION 38/03: The Secretariat to have discussions with Gowlings in regard to the wording within the summary of solutions table (within the Change Report).

- 3.20 In regard to 'HCULU sites are exempt from the annual allocation review', ED does not believe this correct as the intention is not to exempt them, its if they have already been recently assessed as part of the HCULU process then they do not need an annual allocation review. It was noted that this sentence has the potential to be misunderstood.
- 3.21 Following this, the Working Group agreed to amend the wording to state 'HCULU sites are not included in the annual allocation review'.
- 3.22 After further discussion, the Secretariat agreed to take an action to review the draft Change Report and ensure it aligns with the legal text across all three solutions.

ACTION 38/04: The Secretariat to review the draft Change Report and ensure it aligns with the legal text across all three solutions.

4. Review DCUSA Charging Objective for all Solutions

- 4.1 The Chair presented the DCUSA Charging Objectives for all solutions to the Working Group for further discussion.
- 4.2 The key updates can be found below:
- 4.3 The Chair confirmed that this change is only being assessed on the DCUSA Charging Objectives, and the Change Report was updated to reflect this.
- 4.4 ED stated that they do not believe that this change improves competition between Suppliers – CB stated that it is impossible for it to not facilitate competition as it can be used by everyone; but favouring a particular end user and those end users being unevenly distributed amongst Suppliers is not facilitating competition. The Working Group agreed that some commentary around this should be included within the Change Report – CB agreed to draft some wording to be included in relation to the facilitation of competition.

ACTION 38/05: CB to draft wording in relation to the facilitation of competition, to be included within the Change Report.

- 4.5 During the meeting, CB provided the below examples of wording in relation to facilitating competition:

- Facilitation of competition in the supply market

The existing scheme of tariffs might be seen to restrict the activities of Customers such as charge point operators as it imposes a disproportionately high tariff that makes their operations uneconomic. This then has a distorting effect on the supply market as potential Suppliers to that customer group are disadvantaged relative to those Suppliers that are focused on the supply of other customer groups.

- Facilitation of competition in the supply market

- The existing scheme of tariffs might be seen to restrict the activities of Customers that would be eligible for HCULU status, such as drainage boards, as it imposes a disproportionately high tariff that makes their operations less economically viable. This then has a distorting effect on the supply market as potential Suppliers to that customer group are disadvantaged relative to those Suppliers that are focused on the supply of other customer groups.

4.6 The Working Group agreed to review the suggestions above at the next meeting.

4.7 After further discussion, the Working Group suggested that the December Panel was no longer realistic to present the Change Report, and therefore agreed to delay this until January 2025.

4.8 The Working Group agreed to have two more meetings prior to submitting the Change Report to review and finalise the draft legal text for all solutions and draft Change Report and ready for submission to the January 2025 DCUSA Panel.

5. Agenda Items for Next Meeting

5.1 The Working Group discussed the next steps, and the following items were captured:

1. The Secretariat to seek legal advice from Gowlings in regard to both the draft legal text and draft Change Report.
2. The Working Group to review and finalise the draft legal text for all solutions.
3. The Working Group to review and finalise the draft Change Report.

6. Any Other Business

6.1 The Chair asked the group whether there were any other items of business to discuss.

6.2 There were no other items raised.

7. Date of Next Meeting – 16 December 2024 / 06 January 2024

7.1 The next Working Group meeting (39) will be held on 16 December 2024 at 10am.

7.2 The Working Group also agreed to schedule in a second meeting (40) which will be held on 06 January 2024 at 1pm.

New and Open Actions

Action Ref.	Action	Owner	Update
38/01	The Secretariat to have discussions with Gowlings around the intent of paragraph 6.3A in the proposed solution draft legal text to see if the wording can be amended to ensure the intent is clear.	Secretariat	New Action.
38/02	The Secretariat to have discussions with Gowlings in regard to paragraphs 6.3B (a) and 6.3B (b) to see if the wording can be amended to give further clarity.	Secretariat	New Action.
38/03	The Secretariat to have discussions with Gowlings in regard to the wording within the summary of solutions table (within the Change Report).	Secretariat	New Action.
38/04	The Secretariat to review the draft Change Report and ensure it aligns with the legal text across all three solutions.	Secretariat	New Action.
38/05	CB to draft wording in relation to the facilitation of competition, to be included within the Change Report.	CB	Closed. <i>Provided suggested wording during the meeting.</i>

Closed Actions

Action Ref.	Action	Owner	Update
37/01	Redraft this offline and to review the graph (labels, colour use, thresholds, etc.)	Chair	Closed. <i>It was noted that the graph has now been deleted and the text was re-worded.</i>
37/02	Redraft paragraph 7.6 offline.	Chair	Closed.
37/03	Check with Gowlings whether 'consecutive' was removed for a specific reason.	Chair	Closed.
37/04	Create a table to show the similarities and differences between the proposed solution and the alternative solutions.	Chair	Closed.
37/05	Review other impacted DCPs listed and articulate this somewhere in this section.	Chair	Closed.
37/06	Add removal of paragraph 4.6 of schedule 32, and all cross-references, to the housekeeping log.	Chair	Closed.
37/07	Send feedback re paragraph 4.1(b)(ii) to Gowlings for review.	Chair	Closed.