

Modification proposal:	Distribution Connection and Use of System Agreement (DCUSA) Modification Proposal (DCP) 389: TCR - Clarification on Exceptional Circumstances and Allocation Review for 'New' Sites (DCP389)		
Decision:	The Authority ¹ directs that this modification be made ²		
Target audience:	DCUSA Panel, Parties to the DCUSA and other interested parties		
Date of publication:	22 February 2023	Implementation date:	1 April 2023

Background

In November 2019, we published our Decision (and associated Direction) on the Targeted Charging Review (TCR) Significant Code Review.³ Once the Decision is implemented, the costs of operating, maintaining and upgrading the electricity grid will be spread more fairly and, through reducing harmful distortions, will save consumers approximately £300m per year, with anticipated £4bn-5bn consumer savings in total over the period to 2040.

The TCR included a review of how residual network charges are set and recovered. The aim of the TCR is to ensure that these charges are recovered from network users in a way that meets the following principles (TCR Principles):

- reducing harmful distortions;
- fairness; and
- proportionality and practical considerations.

¹ References to the "Authority", "Ofgem", "we" and "our" are used interchangeably in this document. The Authority refers to GEMA, the Gas and Electricity Markets Authority. The Office of Gas and Electricity Markets (Ofgem) supports GEMA in its day-to-day work. This decision is made by or on behalf of GEMA.

² This document is notice of the reasons for this decision as required by section 49A of the Electricity Act 1989.

³ https://www.ofgem.gov.uk/system/files/docs/2019/12/full_decision_doc_updated.pdf

We decided that residual charges should apply to Final Demand⁴ consumers and that residual charges will be fixed charges. For domestic consumers, we decided that there will be a single transmission residual charge and a single distribution residual charge within each of the 14 distribution licensed areas. For distribution and transmission connected non-domestic consumers, we decided that a structure of banded fixed charges should be used for residual charges. The changes were implemented in April 2022 for distribution residual charges and will be implemented for transmission residual charges in April 2023.⁵

Alongside our TCR Decision⁶, we issued Directions (the 'TCR Directions'⁷) to National Grid Electricity System Operator (NGESO) and Distribution Network Operators (DNOs) to raise one or more modifications to the Connection and Use of System Code (CUSC) and Distribution Connection and Use of System Agreement (DCUSA), respectively, to implement the TCR Decision.

As a result of our TCR Directions, DCUSA change proposals DCP358 and DCP360⁸ were raised and accepted

- a) DCP358 added a new schedule to DCUSA (Schedule 32 - Residual Charging Bands⁹) to define residual charging bands for non-domestic users. DCP358 also set out the process for reviewing charging bands prior to each electricity transmission price control period; and
- b) DCP360 introduced a process to allocate customers to charging bands ahead of each electricity transmission price control period (as defined in DCP358) and reallocate customers, where necessary, into different charging bands within the price control period, in defined exceptional circumstances. DCP360 also introduced a tightly defined disputes process to ensure that market participants have the opportunity to challenge their band allocation and have it amended, where appropriate.

⁴ Final Demand is defined as "electricity which is consumed other than for the purposes of generation or export onto the electricity network".

⁵ We decided in our approval of CMP343 WACM2 that there would be four residual charging bands transmission connected users: [CMP343 Decision.pdf](#)

⁶ <https://www.ofgem.gov.uk/publications-and-updates/targeted-charging-review-decision-and-impact-assessment>

⁷ [DCUSA Direction \(ofgem.gov.uk\)](#)

⁸ [DCP358: Determination of Banding Boundaries and DCP360: Allocation to Bands and Interventions](#)

⁹ [DCUSA Schedule 32](#)

The methodology for the allocation of users to residual charging bands for each transmission price control period is set out in paragraphs 4.1 and 4.2 of Schedule 32 of the DCUSA. Where 24 months' worth of data is available, it requires that DNO/IDNO parties allocate Final Demand Sites to a residual charging band based on their average Maximum Import Capacity (MIC)¹⁰ or average annual import consumption over 24 months (the exception being Non-Half Hourly (NHH) settled sites allocated based on the most recent Estimated Annual Consumption (EAC)¹¹). Where 24 months' worth of data is not available, paragraphs 4.1 and 4.2 set out that the average over the period for which data is available, or other available information that is appropriate for a typical profile of a similar site to make a best estimate, can be used.

The exceptional circumstances in which users may be reallocated to a different band within a price control period are set out in paragraph 6 of Schedule 32 of the DCUSA. Within paragraph 6, it specifies that reallocation can occur where a Final Demand Site has a change of use or change of site configuration which is reflected by a significant change in its MIC or forecast annual consumption. Paragraph 6.3 provides a materiality threshold for what will be considered a 'significant change', namely that the MIC and/or consumption at a Final Demand Site has increased or decreased by more than 50% in comparison to the average MIC and/or consumption value which was used for the purposes of the initial allocation.

The modification proposal

Northern Powergrid (the 'Proposer') raised modification DCP389 (the 'Proposal') on 14 April 2021 to:

- a) clarify the circumstances in which the **exceptional circumstances** set out in paragraph 6 of DCUSA Schedule 32 apply; and
- b) introduce a process to **review the allocation of 'new' sites and sites where no data is available**, to residual charging bands.¹²

¹⁰ "Maximum Import Capacity" means, in respect of a Connection Point (or the Connection Points collectively), the maximum amount of electricity (expressed in kW or kVA) which is permitted by the Company to flow from the Distribution System through the Connection Point (or the Connection Points collectively)

¹¹ Estimated Annual Consumption (EAC) is, for each Settlement Register, an estimate of Consumption over a year.

¹² Paragraph 4.1 of DCUSA Schedule 32.

Exceptional circumstances

The Proposal clarifies the exceptional circumstances process which is used to reallocate customers into a different charging band within an electricity transmission price control period, where there has been a change of use or change of site configuration as provided for in paragraph 6.1 of DCUSA as a result of DCP360.

Specifically, DCP389 seeks to change the calculation of the materiality threshold provided for in paragraph 6.3 of DCUSA. It adds sub-paragraphs 6.3(a) to 6.3(d) which specify the process for different circumstances, but in general terms, provides that in determining whether a 'significant change' has occurred, a comparison will no longer be made against the average MIC and/or consumption value which was used for the purposes of the initial allocation. Instead, the comparison will be against the MIC and/or consumption value at the end of the period for which data was used to allocate the site to a charging band ('the end value').¹³ As such, the materiality threshold will be met where there is a 50% increase or decrease in comparison to the end value.

DCP389 also seeks to clarify that any reallocation under paragraph 6.1 can only occur following the Final Demand Site's allocation to a charging band under paragraph 4.

Review of the allocation of 'new' sites and sites where no data is available

The Proposal also introduces a charging band allocation review process for new sites and sites where no data is available, which have been allocated on the basis of a 'best estimate' with reference to a typical profile of a similar site.

DCP389 seeks to introduce an Annual Allocation Review¹⁴ for sites allocated to bands using a 'best estimate'. This review will enable these sites to be allocated to residual charging bands based on the average of a minimum of 12 months of actual data, or in the case of Non-Half Hourly (NHH) non-MIC sites, they will be allocated based on the

¹³ Paragraph 6.3(d) differs in that it provides that for Final Demand Sites allocated under paragraph 4.2, the forecast annual consumption must have increased or decreased by more than 50% in comparison to the consumption which was used for the purposes of allocation which the applicant is seeking to have changed. Paragraph 6.3(c) provides for the circumstance where sites which have already been reallocated to a different charging band, but are reallocated again during a price control due to a significant change, in that the comparison would be made against the MIC at the end of the period used for reallocation.

¹⁴ Allocation Review is carried out only once for each relevant Final Demand Site (unless there is a change in the voltage of connection or the Final Demand Site changes between MIC and non-MIC charging bands).

most recent EAC. DCP389 adds sub-paragraphs 6.5 to 6.11 to paragraph 6 of Schedule 32 of the DCUSA to specify the Annual Allocation Review for new Final Demand sites, and those where no data is available.

The Proposer views the Proposal to be positive against three of the DCUSA Charging Objectives¹⁵ based on the following justifications:

- The first DCUSA Charging Objective, by ensuring DNOs are compliant with licence requirements in relation to a Significant Code Review, and properly implementing the specific requirements set out in the TCR Decision.
- The second DCUSA Charging Objective, by ensuring network costs are recovered fairly from network users and by reducing harmful distortions which impact competition in the market. This is achieved by reviewing the allocation of Final Demand Sites to charging bands once actual data becomes available.
- The sixth DCUSA Charging Objective, by adding clarity on the treatment of new sites and when exceptional circumstances apply. This should help reduce DNO resource requirements to deal with requests to reallocate Final Demand Sites, including potential disputes.

DCUSA Parties' recommendation

In each party category where votes were cast (no votes were cast in the Gas Supplier party or CVA Registrant party categories), there was unanimous support for the Proposal and for its proposed implementation date. In accordance with the weighted vote procedure, the recommendation to the Authority is that DCP389 is accepted. The outcome of the weighted vote is set out in the table below:

DCP410	WEIGHTED VOTING (%)				
	DNO	IDNO ¹⁶	Supplier	CVA Registrant ¹⁷	Gas Supplier ¹⁸
CHANGE SOLUTION	100% Accept	100% Accept	100% Accept	Not received	Not Eligible

¹⁵ The DCUSA Charging Objectives (Relevant Objectives) are set out in Standard Licence Condition 22A Part B of the Electricity Distribution Licence.

¹⁶ Independent Distribution Network Operator

¹⁷ Central Volume Allocation

¹⁸ There are currently no gas supplier parties.

IMPLEMENTATION DATE	100% Accept	100% Accept	100% Accept	Not received	Not Eligible
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Our decision

We have considered the issues raised by the Change Declaration dated 12 July 2022 including the responses to the Working Group consultation. We have considered and taken into account the vote of the DCUSA Parties on the proposal which is attached to the Change Declaration. We have concluded that:

- implementation of the modification proposal will better facilitate the achievement of the Applicable DCUSA Objectives¹⁹; and
- directing that the modification be made is consistent with our principal objective and statutory duties.²⁰

Reasons for our decision

We consider the Proposal will better facilitate the first, second and sixth DCUSA Charging Objectives and has a neutral impact on the other applicable objectives.

First DCUSA Charging Objective - that compliance by each DNO Party with the Charging Methodologies facilitates the discharge by the DNO Party of the obligations imposed on it under the Act and by its Distribution Licence

The majority of the DCUSA voting parties agreed with the Proposer that DCP389 would have a positive impact on the first DCUSA Charging Objective. There were no negative impact responses against this objective and the majority of the respondents to the consultation agreed with the view of the Proposer. They highlighted that it would enable the DNOs to meet their licence obligations with respect to our TCR Decision by ensuring a more consistent approach to residual charging band implementation.

¹⁹ The Applicable DCUSA Objectives are set out in Standard Licence Condition 22.2 of the Electricity Distribution Licence.

²⁰ The Authority's statutory duties are wider than matters which the Panel must take into consideration and are detailed mainly in the Electricity Act 1989 as amended.

Our position

In our TCR Decision we requested that DNOs consider a mechanism that would cater for “*substantial changes in use of a site during a fixed band period*”. We consider that DCP389 represents a refinement to the arrangements implemented by DCP360, which allows for the continued and improved implementation of residual charge banding as provided for in our TCR Direction. Therefore, we consider that the Proposal better facilitates the first DCUSA Charging Objective. Specifically:

- By clarifying that a change in circumstances at a Final Demand Site must occur after the site has been allocated to a charging band, this Proposal removes ambiguity from the DCUSA and aligns it more closely with our policy intent that the exceptional circumstances under which Final Demand Sites can be reallocated only occur under tightly restricted circumstances, where substantial changes in usage occur, resulting in significant changes in the level of agreed capacity.
- By introducing an Annual Allocation Review for new sites and sites where no relevant data is available at the time of residual charging band allocation, the Proposal ensures consistency of treatment of these sites across transmission and distribution²¹ as the process aligns with our decision on CMP336 WACM1.²²

Second DCUSA Charging Objective – that compliance by each DNO Party with the Charging Methodologies facilitates competition in the generation and supply of electricity and will not restrict, distort, or prevent competition in the transmission or distribution of electricity or in participation in the operation of an Interconnector (as defined in the Distribution Licences)

The majority of DCUSA voting parties agreed with the Proposer that DCP389 would have a positive impact on the second DCUSA Charging Objective. One consultation respondent was not certain that DCP389 “*reduced harmful distortions which impact competition in the market*”. However, the majority of respondents to the consultation agreed with the Proposer’s view, highlighting that DCP389 would help ensure that network costs are

²¹ This was a requirement of our TCR Directions. See paragraph 34 of the DCUSA Direction.

²² WACM1 of CMP336 ‘Transmission Demand Residual, billing and consequential changes to CUSC’, introduces an annual review of the allocation of ‘new’ Final Demand Sites once actual data is available - [CMP336 \(ofgem.gov.uk\)](https://www.ofgem.gov.uk/cmp336).

recovered fairly from network users by reducing harmful distortions which impact competition.

Our position

We consider that calculating the materiality threshold by reference to the end value (rather than the average value) will mitigate the risk of minor changes in capacity triggering a charging band reallocation (e.g. where the average MIC used is greater than the current MIC because it decreased during the period in which the average MIC was calculated). As a result, exceptional circumstances will only be triggered under limited conditions. This could result in scenarios of reduced flexibility for Final Demand Sites to be reallocated to a different band where this can no longer be justified. However, by making the exceptional circumstances process more robust, thereby ensuring similar sites are treated consistently, we consider that overall the Proposal better facilitates the second Applicable DCUSA Objective.

The introduction of an Annual Allocation Review for the residual charge band allocation of new sites and sites where no data is available will help mitigate inappropriate charging band allocations. These amendments will therefore facilitate competition in the market by enabling a more consistent approach to the allocation and reallocation process. This will thereby reduce the potential for users to remain or be allocated to an incorrect charging band, which will enable network costs to be recovered fairly from network users.

Sixth DCUSA Charging Objective - that compliance with the Charging Methodologies promotes efficiency in its own implementation and administration

The majority of DCUSA voting parties agreed with the Proposer that DCP389 would have a positive impact on the sixth DCUSA Charging Objective. There were no negative impact responses against this objective and the majority of the respondents to the consultation agreed with the view of the Proposer. They highlighted that it would improve the implementation of the TCR requirements by increasing clarity.

Our position

We consider that the Proposal better facilitates the sixth Applicable DCUSA Objective. The additional clarity provided by DCP389 will help ensure that charging band reallocation will

occur only after the 24-month allocation period, facilitating a consistent approach across DNOs. Removing ambiguities in the legal text will promote efficiency in the code, by reducing the resource requirements on DNOs to resolve reallocation queries, requests and potential disputes.

The introduction of an Annual Allocation Review for new sites and sites where no data exists will enable Final Demand Sites to be allocated to charging bands based on real data rather than estimates, thus improving efficiency and ensuring the intent of our TCR Decision is applied fairly and effectively.

Interactions

We note a potential interaction with the separate change proposals DCP410 and DCP407. Given that all proposals are making changes to Schedule 32 of the DCUSA and have been developed in parallel, a further change might be required to ensure that the approved solutions work consistently together. We note that we have approved DCP410 on 22 February 2023 and that DCP407 is currently with the Authority for decision. Should a further change proposal(s) be required, we will consider such a proposal on its merits once received.

Decision notice

In accordance with standard licence condition 22.14 of the Electricity Distribution Licence, the Authority hereby directs that modification proposal DCP389: *TCR-Clarification on Exceptional Circumstances and Allocation Review for 'New' Sites* be made.

Tom Kenyon-Brown

Head of Electricity Network Charging

Signed on behalf of the Authority and authorised for that purpose