

Proposed variation:	Distribution Connection and Use of System Agreement (DCUSA) DCP003: Communication re Damage or Interference (DCP003)		
Decision:	The Authority¹ directs that this variation be made²		
Target audience:	Parties to the DCUSA and other interested parties		
Date of publication:	19 June 2007	Implementation Date:	28 June 2007

Background to the proposed variation

Ofgem has undertaken a review of the gas and electricity supply licences. As a result of this review Ofgem has proposed that obligations in the electricity supply licence in Standard Licence Condition 16 (2), (3) and (4) be removed. These obligations require electricity suppliers to inform the relevant distribution company where they discover damage or interference to electrical plant, electricity lines, or metering equipment. DCP003 was raised by EDF energy as the company considered that placing the requirement to report damage or interference within the DCUSA would be appropriate.

The proposed variation

DCP003 seeks to insert in the DCUSA the requirements for suppliers to inform distribution companies where they discover damage or interference to electrical plant, electricity lines, or metering equipment that are currently set out in the supply licence. The Working Group³ considering the proposed variation noted that Applicable DCUSA Objective 9(a) would be better facilitated by inserting a provision into the DCUSA requiring suppliers to report to the relevant distributor where they discovered damage or interference to networks or to meters. The Working Group also agreed that the requirement would reduce safety risks and under-recording of electricity consumption. They concluded that the requirement is a sensible and necessary one that would be better placed in the DCUSA than in the Supply Licence.

Recommendation to Ofgem

Proposed variation

The DCUSA Parties recommendation was for the proposed variation to be accepted. Of the Party Classes which voted (DNO, IDNO, and Supplier) over 50% of participants voting in each class favoured implementation of the proposed variation.

Implementation date

The DCUSA Parties recommendation was for the proposed implementation date to be accepted. Of the Party Classes which voted (DNO, IDNO, and Supplier) over 50% of participants voting in each class favoured implementation of the proposed variation.

¹ The terms 'the Authority', 'Ofgem' and 'we' are used interchangeably in this document. Ofgem is the Office of the Gas and Electricity Markets Authority.

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

³ As defined in DCUSA.

The Authority's decision

The Authority has considered the issues raised by DCP003 and the final Change Report (CR) dated 8 May 2007. The Authority has considered and taken into account the responses to ElectraLink's⁴ consultation which are attached to the CR⁵ and the recommendation of the DCUSA Parties. The Authority has concluded that:

1. implementation of the proposed variation will better facilitate the achievement of the Applicable DCUSA Objectives⁶; and
2. directing that the proposed variation be made is consistent with the Authority's principal objective and statutory duties⁷.

Reasons for the Authority's decision

Consideration against the Applicable DCUSA Objectives

We agree with the conclusions of the working group that the DCUSA is the appropriate governance mechanism for dealing with the reporting requirements for suppliers to inform distributors when they discover damage or interference to electrical plant, electricity lines, or metering equipment. Such damage or interference, if not reported would be expected to result in a decrease in safety levels, inaccurate reporting of electricity flows and consequently, increase in costs. We consider that inserting provisions within the DCUSA which will make these obligations bi-laterally enforceable between industry participants, rather than requiring the intervention of the regulator, will better facilitate Applicable DCUSA Objective 9(a) 'the development, maintenance and operation by the licensee of an efficient, co-ordinated, and economical distribution system'.

Industry Views

We note that one DNO rejected the proposal on the grounds that a) DCP003 should only be considered if the proposal to remove Standard Condition 16 of the Electricity Supply Licence is accepted, and b) that a number of further changes should be made to the DCUSA to properly implement DCP003.

We have carefully considered these comments and have concluded that DCP003 should be implemented. Ofgem issued the modification notice for the Electricity Supply Licence on 1 June 2007. This included a proposal to remove the obligations in Standard Licence Condition 16 (2), (3) and (4). If the proposals are accepted, we expect to implement the changes to the Supply Licence at the end of July.

We acknowledge that until the change to the standard conditions of the Electricity Supply Licence have been made, suppliers will have similar obligations in both the supply licence and the DCUSA relating to communicating information about damage and interference to electrical plant, electricity lines, or metering equipment. However, we do not consider that this should prevent the Proposal from being implemented. We note that suppliers, who would be faced with similar obligations in the supply licence and DCUSA did not object to the proposed variation. We consider it prudent that the Proposal to modify the

⁴ The role, functions, and responsibilities of Electralink are set out in Section 1B of the DCUSA.

⁵ DCUSA change proposals, modification reports and representations can be viewed on the ElectraLink website at www.electralink.co.uk

⁶ As set out in the Distribution Licence Standard Condition 9B(9), see: http://195.12.224.140/document_fetch.php?documentid=8378

⁷ 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.

DCUSA is made in advance of any changes to the supply licence to ensure that there is no period during which suppliers would not have to meet this reporting obligation.

We have also considered the detailed comments made by some Parties that indicated a number of suggested textual changes to the Proposal. One party also proposed a number of additional changes to the DCUSA. We do not consider the issues raised in respect of the proposed variation, or the consequential changes suggested to DCUSA clause 9.5.2 and Schedule 7 are sufficient to prevent the proposed variation being made, but note that parties may wish to consider further modifications in the future to deal with the issues.

Modification process

We are however concerned that the DCUSA modification procedure did not permit parties to raise the issues referred to above during a consultation period and note that consulting parties on proposed variations, and any proposed legal text associated with them, is a key feature of other industry codes and agreements where compliance is an obligation under licence conditions.

Decision notice

In accordance with Standard Condition 9B of the Distribution Licence, the Authority hereby directs that the proposed variation set out in DCP003: "Communication re Damage or Interference" be made, and that it shall be implemented on 28 June 2007.



Philip Davies
Director, GB Markets

Signed on behalf of the Authority and authorised for that purpose.