

Proposed variation:	Distribution Connection and Use of System Agreement (DCUSA) Change Proposal 191 (DCP191) – Publication Of The Revenue Protection Code Of Practice		
Decision:	The Authority ¹ directs that proposal DCP191 be made ²		
Target audience:	DCUSA Panel, parties to the DCUSA and other interested parties		
Date of publication:	4 December 2013	Implementation Date:	6 December 2013

Background to the modification proposal

Theft of electricity increases the costs paid by consumers and can have serious safety consequences. Some estimates put the cost of stolen electricity at around £200m per year. This problem can be compounded where these costs are misallocated among suppliers, distorting competition and hampering the efficient functioning of the market.

On 25 September 2013 we directed that DCP054: *'Revenue Protection: Unrecorded Units into settlements'* be made³. This change sought to ensure that an appropriate revenue protection service is put in place and that DCUSA Parties adhere to a revenue protection Code of Practice to be incorporated into the DCUSA.

Following the acceptance of DCP054 some concerns were raised that the availability of the Code of Practice could assist electricity thieves avoid detection. However, the DCUSA is currently required to be published in full on the DCUSA website and made available to any party who requests a copy.

The modification proposal

DCP191 seeks to modify the DCUSA in order to clarify that the Code of Practice will be published on the password protected area of the DCUSA website where documents such as the minutes of Panel or workgroup meetings are placed, rather than the usual open access area where the DCUSA itself can be found.

In order to gain access to this restricted area of the DCUSA website, users must first apply for a password and accept certain terms and conditions⁴. Applicants who are not (employed by) DCUSA Parties must be sponsored by an existing DCUSA Party.

DCUSA Parties' recommendation

There was unanimous support from both Distributors and Suppliers for the proposal and its proposed implementation date. Therefore, in accordance with the DCUSA weighted vote procedure, the recommendation to us is that DCP191 is accepted.

DCP191	WEIGHTED VOTING (%)							
	DNO		IDNO/OTSO		SUPPLIER		DG	
	Accept	Reject	Accept	Reject	Accept	Reject	Accept	Reject
CHANGE SOLUTION	100	0	0	0	100	0	n/a	n/a
IMPLEMENTATION DATE	100	0	0	0	100	0	n/a	n/a

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 www.ofgem.gov.uk/ofgem-publications/83406/dcp054authoritydecisionletter.pdf

⁴ www.dcuda.co.uk/Public/Terms.aspx

Our decision

We have considered our statutory duties and functions in reaching this decision. We have considered the issues raised by DCP191, the comments of consultation respondents and the results of the Change Declaration issued 30 October 2013. We have concluded that:

1. the implementation of the change proposal DCP191 will better facilitate the achievement of the DCUSA objectives; and
2. directing that the change is approved is consistent with our principal objective and statutory duties⁵.

Reasons for our decision

We note that this change proposal received unanimous support from voting parties in all relevant party categories. However, it is disappointing that there were no substantiating comments in relation to which objectives are better facilitated, and why.

It is also disappointing that this issue was not raised and fully addressed during the four years that DCP054 and the associated revenue protection Code of Practice were under development, prior to being submitted to us for a decision. However, now that DCP054 has been implemented, it is pragmatic to consider whether the availability of that Code of Practice may inadvertently aid a current, or potential, energy thief.

It is not clear whether the concerns about publication stem from specific areas of text within the Code of Practice or its disclosure more generally. There is a general reference in the change report to availability of the Code of Practice providing an opportunity for thieves to monitor the way in which electricity theft is being detected and reported upon; thus enabling them to avoid detection. In addition to the responses provided by DCUSA parties, Ofgem received one submission directly from a non-DCUSA Party. They suggested that there is nothing in the Code of Practice other than a single, what they considered to be cryptic, reference which may give rise to such concerns. They also suggest that it is wrong in principle for mandatory rules not to be published.

We agree that the DCUSA should be as transparent as possible. This is both in keeping with the principles of good governance and our own duty to have regard to best regulatory practice. We consider that it would be preferable for the Code of Practice to be made available on the public access part of the website alongside the DCUSA itself. We also note that irrespective of DCP191 being implemented, a hard copy of the document would still need to be made available, in full, to any person requesting one⁶. To the extent the concerns relate to specific sections of the Code of Practice and may have substance we consider that a review of the document should be undertaken at the earliest opportunity.

We do not consider that it would be appropriate to withhold publication of the Code of Practice in its entirety for a prolonged period. We therefore view DCP191 and its proposed treatment of the Code of Practice as a short term pragmatic step in order to mitigate the perceived risk, until such time as a revised Code of Practice can be published in full on the open access area of the DCUSA website.

Objective a) the development, maintenance and operation by the licensee of an efficient, co-ordinated, and economical Distribution System;

The proposer stated simply that this objective would be met if theft is better prevented. We do not dispute that this may be the case, but in the absence of further evidence on the nature of the concerns, we have concluded that DCP191 would have a neutral impact against this objective.

⁵ The Authority's statutory duties are wider than matters that the Panel must take into consideration and are detailed mainly in the Electricity Act 1989 as amended.

⁶ In accordance with Standard Condition 22.1 c) of the Electricity Distribution Licence

Objective b) the facilitation of effective competition in the generation and supply of electricity;

We accepted DCP054 on the basis that the introduction of minimum standards of investigation for all DCUSA parties will improve the rigour with which electricity theft is investigated. This, together with the clarity provided by the development and documentation of best practice and clarity on the existing regulatory framework, should improve the overall performance of the industry in detecting theft and thereby increase the accuracy of cost allocation. Whilst we are unable to fully assess the likely impact of DCP191 on theft, we consider that even the perceived risk that the Code of Practice may inadvertently aid potential or current electricity thieves is detrimental to its purpose and may undermine its credibility. We therefore consider that DCP191 will facilitate the realisation of benefits attributed to DCP054 and have a positive effect on this DCUSA objective.

Objective d) the promotion of efficiency in the implementation and administration of the DCUSA arrangements;

The proposer considered that this objective is better met as the success of the revenue protection Code of Practice is less able to be undermined. We agree that this may be the case, though we consider that this should more appropriately be considered in the context of objective b), as set out above, consistent with the nature of the benefits we ascribed to the Code of Practice when accepting DCP054.

Decision notice

In accordance with standard condition 22 of the Electricity Distribution Licence, the Authority hereby directs that modification proposal DCP191: *'Publication of the Revenue Protection Code of Practice'* is made.

Rob Church

Associate Partner, Smarter Markets and Smart Metering

Signed on behalf of the Authority and authorised for that purpose