

Modification proposal:	Distribution Connection and Use of System Agreement (DCUSA) DCP114 – National Terms of Connection Amendments – Capacity Management (over-utilisation) and DCP115 – National Terms of Connection Amendments – Capacity Management (under-utilisation)		
Decision:	The Authority ¹ directs that these modifications ² be made ³		
Target audience:	DCUSA Panel, Parties to the DCUSA and other interested parties		
Date of publication:	22 July 2015	Implementation date:	next DCUSA release at least three months after date of Authority approval

Background

These two change proposals clarify the existing rights of Distribution Network Operators (DNOs) to take appropriate action when customers either over or under-use their Maximum Import Capacity (MIC) and/or Maximum Export Capacity (MEC).

A sub-group⁴ of the Distribution Charges Methodology Forum (DCMF) had considered that there were gaps in these rights which could be detrimental to consumers. The two change proposals are the result of considering ways to address these gaps.

The modification proposals

DCP114 and DCP115 were raised by Scottish Power Distribution in December 2011 to address the gaps identified by the Capacity Management sub-group. The proposed changes are to Section 3 of the National Terms of Connection (NTC). As a result, only Current Transformer (CT) metered customers, such as large factories or superstores, are affected by the proposal.⁵

DCP114 addresses the issue of over-use of capacity by formalising a procedure for cases where the customer exceeds its MIC or MEC. It clarifies the rights for the DNO to take appropriate action against persistent over-use of capacity (including fitting current-limiting equipment and, in some circumstances, allowing recovery of the costs of doing so).

The new procedure includes:

- a written notice from the DNO
- an explicit opportunity for the customer to dispute that notice
- a defined timescale for resolution (with an opportunity for the customer to seek an extension to the timetable if appropriate).

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 'Change' and 'modification' are used interchangeably in this document.

³ This document is notice of the reasons for this decision as required by section 49A of the Electricity Act 1989.

⁴ The Capacity Management Sub-Group. This sub-group was made up of Distribution Network Operators (DNOs), Suppliers, Customers and Ofgem.

⁵ Due to metering constraints, there is currently no practical way to determine over or under-use of capacity for whole current metered customers (Section 2) or unmetered customers (Section 4). Smart meter data could inform similar changes to these sections of the NTC in future.

The DNO may offer an increase in MIC or MEC to the customer but no such increase would come into force, and no connection charges would be payable, unless the customer had explicitly accepted the DNO's offer. Repeated breaches could result in the DNO taking technical measures to restrict import or export to the agreed capacity.

This procedure provides clarity in the NTC that a DNO will not recover use of system charges for exceeded capacity directly from the customer (if that money cannot be recovered from the supplier).

DCP115 addresses the issue of under-use of capacity. It clarifies the rights for the DNO to take appropriate action in cases where the customer does not use some or all of the MIC or MEC reserved for its connection. The rights differ for cases of energised sites or de-energised sites.

- For sites that have been de-energised for six months or more, the proposed solution reflects that DNOs may disconnect the site. This requires the DNO to follow a defined procedure to inform the customer that it considers that the connection is no longer required, and an opportunity for the customer to dispute that view.
- For energised sites, where import or export is consistently much lower than MIC or MEC, the DNO will be entitled to make a proposal to the customer for a reduction in MIC or MEC. This approach protects the rights of customers to retain MIC or MEC at sites where it is temporarily not being used, for example during build-up or re-development or for capacity used to provide back-up supplies. No reduction in MIC or MEC would come into force, and no rights to capacity would be lost, without the customer's explicit agreement.

The DCP114 and DCP115 Working Group (WG) considered that both DCP114 and DCP115 facilitate DCUSA General Objective 3.1.1⁶ better because -

- The enhanced NTC will better enable DNOs to ensure that customers' MIC/MEC are aligned with their actual requirements.
- New connection/modification applications will, as a result, be assessed against actual requirements of existing customers on the distribution network. This will ensure that minimum scheme criteria are met and the requirement for network reinforcement is minimised.
- Reinforcement costs can be avoided and/or delayed, and customers are incentivised to maintain MIC/MEC within the agreed levels.

DCUSA Parties' recommendation

The Change Declarations for DCP114 and DCP115 indicate that DNO, IDNO/OTSO, and Supplier parties were eligible to vote on DCP114 and DCP115. In each party category where votes were cast⁷, there was unanimous support for each of the proposals and majority (>50%) support for their proposed implementation date. In accordance with the weighted vote procedure, the recommendation to us is that both DCP114 and DCP115 are accepted. The outcome of the weighted vote for each proposal is set out in the tables below:

⁶ The DCUSA General Objectives (Applicable DCUSA Objectives) are set out in Standard Licence Condition 22.2 of the Electricity Distribution Licence and are also set out in Clause 3.1 of the DCUSA.

⁷ There are currently no gas supplier parties.

DCP114	WEIGHTED VOTING (%)							
	DNO ⁸		IDNO/OTSO ⁹		SUPPLIER		DG ¹⁰	
	Accept	Reject	Accept	Reject	Accept	Reject	Accept	Reject
CHANGE SOLUTION	100%	0%	100%	0%	100%	0%	n/a	n/a
IMPLEMENTATION DATE	100%	0%	100%	0%	67%	33%	n/a	n/a

DCP115	WEIGHTED VOTING (%)							
	DNO ¹¹		IDNO/OTSO ¹²		SUPPLIER		DG ¹³	
	Accept	Reject	Accept	Reject	Accept	Reject	Accept	Reject
CHANGE SOLUTION	100%	0%	100%	0%	100%	0%	n/a	n/a
IMPLEMENTATION DATE	100%	0%	100%	0%	67%	33%	n/a	n/a

Our decision

We have considered the issues raised by the proposals and the Change Declarations and Change Reports dated 17 June 2015. We have considered and taken into account the vote of the DCUSA Parties on the proposals which are attached to the Change Declarations. We have concluded that:

- implementation of the modification proposals will facilitate better the achievement of the DCUSA General objectives; and
- directing that the modifications are approved is consistent with our principal objective and statutory duties.¹⁴

Reasons for our decision

We consider these modification proposals will facilitate better DCUSA General Objectives 3.1.1 and 3.1.3 and have a neutral impact on the other applicable objectives.

DCUSA General Objective 3.1.1 – the development, maintenance and operation by each of the DNO Parties and IDNO Parties of an efficient, co-ordinated, and economical Distribution System

Under or over-use of their MIC and/or MEC by large customers can lead to inefficiencies in the development, maintenance and operation of networks. For example, if a prospective customer applies for a connection to a local network which is constrained,¹⁵ the DNO could need to undertake reinforcement of the network to facilitate the additional capacity, which may be expensive and add to the time it takes to connect. If that network has one or more customers under-using capacity, this unused capacity could be allocated to the new customer instead, avoiding the cost and time associated with reinforcement.

⁸ Distribution Network Operator

⁹ Independent Distribution Network Operator/Offshore Transmission System Operator

¹⁰ Distributed Generation

¹¹ Distribution Network Operator

¹² Independent Distribution Network Operator/Offshore Transmission System Operator

¹³ Distributed Generation

¹⁴ Our statutory duties are wider than matters that the Parties must take into consideration and are detailed mainly in the Electricity Act 1989, as amended.

¹⁵ A constrained network is one where there is insufficient spare capacity on that section of the network to accommodate a new connection.

Alternately, a customer over-using its capacity could compromise the operation of the network by overloading it. Where a network is already constrained, this could lead to non-compliance with Engineering Recommendation P2/6¹⁶ and/or network failure. This could cause the DNO to be in breach of its licence requirements.

One respondent to the WG consultations did not consider that the proposals better facilitated this objective. They considered that efficiency and economy could be read as meeting customers' demand for capacity, irrespective of whether that capacity was used in the recent past or whether the DNO understood why the capacity was required. The respondent considered that while the right to disconnect disused connection points might be necessary, that right already existed in section 17 of the Electricity Act 1989. While we agree broadly in principle with the points raised by this respondent, we consider that the efficient and economic operation of the network includes making the best use of capacity in the overall interests of current and future consumers. All customers would be affected by additional reinforcement costs, a portion of which would be recovered through their charges. The needs of one customer should not disadvantage others unnecessarily.

Another respondent expressed concern that a force majeure event could cause temporary over or under-use of capacity and that the customer should not be penalised in such circumstances. We consider that the provision in the process for customers to respond to the DNO's proposed limitation or reduction of capacity would allow the customer to explain these circumstances before the DNO could take action. We welcome the provision that no change to capacity will be undertaken without the agreement of the customer.

We acknowledge that specific cases may arise where the customer and DNO disagree. We would expect DNOs to endeavour to resolve such disputes, and consider that existing dispute resolution processes are adequate to deal with such situations as and when they arise.

We note that implementation of these rights could in some circumstances lead to situations where customers who have paid connection charges based on a certain capacity may be requested to agree a reduced capacity. In such cases we would expect parties to reach a fair level of compensation in line with the relevant electricity connection charges regulations (ECCR).¹⁷

DCUSA General Objective 3.1.3 – the efficient discharge by each of the DNO Parties and IDNO Parties of the obligations imposed upon them by their Distribution Licences

We agree with the consultation respondents who considered that both change proposals also better facilitate this objective. In particular, we consider that the proposals will help efficient discharge of obligations under Standard Licence Condition 14.21 of the Electricity Distribution Licence, by enabling DNOs to include better data in the capacity report. This capacity report gives insight into present and future capacity, forecast power flows and loading on the part or parts of the DNO's Distribution System.

¹⁶ Distribution Licensees must comply with Engineering Recommendation P2/6 under Standard Licence Condition 24 of the Electricity Distribution Licence
<https://epr.ofgem.gov.uk/Content/Documents/Electricity%20Distribution%20Consolidated%20Standard%20Licence%20Conditions%20-%20Current%20Version.pdf>

¹⁷ The Electricity (Connection Charges) Regulations 2002
http://www.legislation.gov.uk/ukxi/2002/93/pdfs/ukxi_20020093_en.pdf. The Government is introducing an amendment to the Infrastructure Bill which will enable an amendment to the Electricity Connection Charges Regulations 2002. This will bring Independent Connection Providers (ICPs) within scope of the second comer regime, which is designed to ensure the cost of connecting to the electricity distribution network is shared fairly between different parties. Initial work has been completed although the time of implementation has not yet been finalised.

We consider that there could be circumstances where the information available to a DNO on the contracted capacity is either incorrect or out of date. The proposed procedure for addressing over or under-use of agreed capacity provides an opportunity for this information to be of better quality and this could therefore improve future planning.

Other comments

We note that some of the changes proposed by DCP115 are dependent on whether DCP114 is approved. If DCP114 is approved, the numbering of new clauses 12.5A, 12.5B and 12.5C inserted by DCP115 will be different. This will mean references will have to be updated, and the amendments to Clauses 12.6 - 12.8 and Clause 19.5 proposed by DCP115 will not be made. Footnotes in the legal text indicate that these changes are not meant to be duplicative, but no explanation of this is provided in either of the Change Reports. As a matter of good practice, where the changes made by one Change Proposal are contingent on the approval of another Change Proposal, this should be clearly explained in the Change Reports.

Decision notice

In accordance with standard licence condition 22.14 of the Electricity Distribution Licence, we direct that modification proposals DCP114: National Terms of Connection Amendments – Capacity Management (over use) and DCP115: National Terms of Connection Amendments – Capacity Management (under use) be made.

Andrew Burgess
Associate Partner, Electricity Distribution

Signed on behalf of the Authority and authorised for that purpose