

Modification proposal:	<b>Distribution Code: DCRP/21/05 'Distribution Code Compliance'</b>		
Decision:	The Authority <sup>1</sup> has decided to approve <sup>2</sup> this modification		
Target audience:	Distribution licensees, Distribution Code Review Panel, distribution network users and other interested parties		
Date of publication:	14 March 2022	Implementation date:	28 March 2022

## Background

As part of the Accelerated Loss of Mains Change Programme (ALoMCP)<sup>3</sup>, discussions between National Grid Electricity System Operator (NGESO) and Distribution Network Operators (DNOs) identified the need for the development of compliance controls and an enforcement process in relation to Distribution Code obligations.

Distribution Operating Code DOC5.4.8 requires Users shown to be operating outside of the limits of the Distribution Planning and Connection Code to rectify or disconnect the apparatus causing the problem from the network immediately or within a timeframe agreed with the applicable DNO. DOC5.4.9 allows DNOs to de-energise such Users in accordance with their Connection Agreement as a breach of the Distribution Code.<sup>4</sup>, or under the authority of the Electricity Safety, Quality and Continuity Regulations (ESQCR). ESQCR paragraph 26 allows DNOs to disconnect users they consider pose risk or interference with their or any other network after issuing notice, if the agreed remedial works aren't carried out within the specified timeframe. There is currently no process in relation to disconnecting non-compliant Users within the Distribution Code.

<sup>1</sup> 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.

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

<sup>3</sup> The Accelerated Loss of Mains Change Programme was established by NGESO and DNOs to help generators comply with their obligations following Distribution Code Annex 1 document, EREC G59/3-7, which came into effect on 1st September 2019. EREC G59/3-7 implemented a retrospective requirement for generators to apply a new set of protection settings related to Loss of Mains protection.

<sup>4</sup> We note that under the National Terms of Connection, Users are required to comply with all applicable terms of the Distribution Code, failure to do so constitutes a breach of the User's Connection Agreement.

## The modification proposal

This modification proposal was developed by a Distribution Code Compliance Enforcement Working Group (the Working Group) set up by the Distribution Code Review Panel (DCRP). The Working Group was tasked to develop a new Distribution Code process that; (1) enables DNOs to enforce Distribution Code compliance, (2) address the present DNO compliance liabilities and risk concerns, and (3) provides generators and demand customers with sufficient opportunity to comply with the Distribution Code prior to de-energisation. Although this modification was originally triggered by non-compliance of generation equipment (as identified under the ALoMCP), it relates to both generation and demand users. The commercial impacts of this modification were discussed by the workgroup, however these were considered not applicable as the Distribution Code is a technical code rather than a commercial code.

DCRP/21/05 proposes to:

- Amend the Distribution Code Distribution General Condition (DGC) 11 'Modifications to the Distribution Code' such that Users would be required to comply with retrospective modifications.
- Introduce a new section to the DGCs; DGC12 'Customer and Generator Compliance with the Distribution Code' which comprises;
  - A requirement for Customers or Generators to notify the DNO if it becomes aware of non-compliance with a Distribution Code requirement.
  - A Distribution Code Compliance Process (outlined below), and the requirement for DNOs to follow this process where they identify a non-compliance or potential non-compliance (eg through system monitoring or event investigations) that they consider to have a material detrimental impact on the system.
  - A requirement for DNOs to de-energise (also referred to as disconnect) a Customer or Generator's Connection Point if at the end of the compliance process;
    - the Customer or Generator has not provided evidence to the DNO sufficient to demonstrate compliance with the Distribution Code; or,

- the Customer or Generator has not requested a derogation, or a derogation request has not been progressed<sup>5</sup>.
- Introduce new Distribution Code definitions associated with the above (eg a definition for the Distribution Code Compliance Process).

The proposed Distribution Code Compliance Process is a five stage process, commencing when the non-compliance or potential non-compliance is first identified. DNOs are required to submit five notifications to the Customer or Generator initially setting out the non-compliance and action(s) required to rectify this (subsequent notifications also include details of the plan to restore compliance, is agreed with the DNO). The final notification will state the DNOs intent to de-energise the Customer or Generator should insufficient evidence demonstrating compliance be received by the end of Week 26.

We note that the first notification requires DNOs to clarify that the customer or generator may request that the DNO applies to the Authority for a derogation relating to the non-compliance, requesting that if intended, they do so as early as possible<sup>6</sup>. We further note that the proposed Distribution Code Compliance Process allows for DNOs to seek a derogation to apply a different compliance process (eg. shorter timeframe to de-energise), where they consider the 26 week process to be inappropriate.

On 12 August 2021 the DCRP issued a public consultation on the modification proposal, closing 7 October 2021. Six responses were received, five of which supported the modification proposal. One respondent did not support the modification, noting that they considered it would create confusion, and that the National Terms of Connection (NTC) already provides a framework for the removal of a connection if certain issues are not met. The Working Group responded stating that the right to de-energise technically non-compliant connections already exists in the Distribution Connection and Use of System Agreement (DCUSA), and that this modification seeks to obligate DNOs to de-energise (where they consider a non-compliance has a material detrimental impact on the system) and specify a process of communication

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<sup>5</sup> We note that DGC12.5, proposed within this modification, clarifies that whilst Customers or Generators are eligible to request that the DNO applies for a derogation, DNOs are not obliged to act on this request where there is no technical reason preventing the Customer or Generator from complying with the Distribution Code (unless it relates to a requirement arising from an EU Network Code).

<sup>6</sup> We note that unlicensed parties themselves do not require derogation, however the DNO to whose network they connect will require a derogation under Standard Licence Condition 20.7 of the Electricity Distribution Licence in relation to the non-compliance. This derogation will be initiated by the unlicensed party submitting a request to the DNO, asking them to submit a derogation to the Authority.

leading to the de-energisation. They further stated that the DCUSA had been reviewed with regards to this modification and its process for disconnection (de-energisation) is considered compatible with this proposal.

A number of amendments to the proposed changes were highlighted in the consultation responses. The Working Group assessed each point raised and amended the proposal text as necessary.

### **Distribution Code Review Panel (DCRP)<sup>7</sup> comments and licensee recommendation**

At the DCRP Panel meeting held December 2021, the DCRP considered that the modification proposal would better facilitate the Distribution Code objectives and therefore recommended its approval. The DCRP consider that objectives (a), (b) and (d) are better facilitated by the modification, and that it has a neutral impact on objective (c).

### **Our decision**

We have considered the issues raised by the modification proposal and in the Final Report received by us on 7 December 2021. We have considered and taken into account the responses to the consultation on the modification proposal which are included in the Final Report.<sup>8</sup> We have concluded that:

- implementation of the modification proposal will better facilitate the achievement of the applicable objectives of the Distribution Code;<sup>9</sup> and
- approving the modification is consistent with our principal objective and statutory duties.<sup>10</sup>

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<sup>7</sup> The DCRP is established in accordance with SLC 21 of the Electricity Distribution Licence.

<sup>8</sup> Distribution Code proposals, final reports and representations can be viewed at: <http://www.dcode.org.uk/areas-of-work/> and <http://www.dcode.org.uk/consultations/>

<sup>9</sup> As set out in Standard Condition SLC 21.4 of the Electricity Distribution Licence available at: <https://epr.ofgem.gov.uk//Content/Documents/Electricity%20Distribution%20Consolidated%20Standard%20Licence%20Conditions%20-%20Current%20Version.pdf>

<sup>10</sup> The Authority's statutory duties are wider than matters which the Panel and licensees must take into consideration and are largely provided for in statute, principally in this case the Electricity Act 1989.

## Reasons for our decision

We consider this modification proposal will better facilitate Distribution Code objectives (a), (b), (c) and (d).

### ***(a) permit the development, maintenance, and operation of an efficient, co-ordinated, and economical system for the distribution of electricity***

The modification proposal requires DNOs to follow a prescribed process with respect to Customers or Generators with known or suspected non-compliances that are deemed to have a material detrimental impact on the system. The process seeks to restore compliance or ultimately mandates the DNO to de-energise the Customer or Generator after 26 weeks. The mandated removal of non-compliant Customers or Generators from the network reduces the risk of unexpected trips or faults that can adversely impact the distribution system thereby better facilitating this objective.

We note that there may be instances where a high volume of non-compliances of the same type may pose system risks that DNOs are unable to manage for the 26 week duration prescribed by this modification. This was noted by the ESO in their response to the DCRP consultation, with specific reference to Fault Ride Through non-compliances that can pose significant system risk.<sup>11</sup> The Workgroup acknowledged this risk, noting that DNOs would seek a derogation to allow de-energisation in shorter timeframes. We do not consider the derogations process suitable for mitigating issues in real time. We therefore expect DNOs to monitor non-compliances and seek derogation where necessary prior to the volume of non-compliances posing significant system risk. We further expect such derogations to be in relation to specific types of non-compliances rather than specific users.

We consider the modification strikes a balance between providing user assurance with regards to Distribution Code compliance, and mitigating the risk associated with non-compliant users. We therefore consider this modification will better facilitate this Distribution Code objective.

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<sup>11</sup> On 5 November 2021 we approved Grid Code modification GC0151 which allows the ESO to restrict the output of User's considered to be non-compliant with regards to the Grid Code Fault Ride Through requirements immediately until compliance can be agreed. Further detail can be found in our decision document; <https://www.ofgem.gov.uk/sites/default/files/2021-11/GC0151%20Authority%20Decision.pdf>

***(b) facilitate competition in the generation and supply of electricity***

The modification proposal mandates DNOs contact non-compliant generators that they consider to have a material detrimental impact on the system, setting out the steps to be taken to restore compliance, and ultimately de-energising them after 26 weeks if compliance is not restored. We agree with the proposer's view that this will allow a better understanding of the equipment connected to the networks, and improve confidence in developing emergency recovery agreements with generators. We note however, that the modification proposal does not alter the right for a DNO to require User compliance with the Distribution Code, nor the right to de-energise non-compliant Users. We therefore consider that on balance this modification proposal will have a positive on this Distribution Code objective.

***(c) efficiently discharge the obligations imposed upon distribution licensees by the distribution licences and comply with the Regulation and any relevant legally binding decision of the European Commission and/or the Agency for the Co-operation of Energy Regulators***

This modification proposal specifies a process to be followed by DNOs seeking to address Distribution Code non-compliances, and mandates de-energisation should compliance not be restored. It therefore better allows DNOs to implement and comply with the Distribution Code, thus complying with their licence obligations. As mentioned above, the modification doesn't permit DNOs to de-energise non-compliant Customers or Generators prior to the completion of the 26 week compliance process. We expect DNOs to request derogation allowing for earlier de-energisation in relation to specific types of non-compliances prior to the volume of non-compliances having significant system impact.

We note that the Proposer considers this modification proposal will have a neutral impact on this Distribution Code objective. For the reasons noted above, on balance, we consider this modification will better facilitate this Distribution Code objective.

***(d) promote efficiency in the implementation and administration of the Distribution Code.***

The modification proposal prescribes a defined process with relation to Distribution Code non-compliances. We therefore consider this modification will better facilitate this Distribution Code objective.

***Decision notice***

In accordance with SLC 21.11 of the Electricity Distribution Licence, the Authority hereby directs that the modification to the Distribution Code set out in the Final Report received by us on 7 December 2021 be made. We note that this modification will be implemented on 28 March 2022. We expect DNOs to comply with, and apply, the proposed Distribution Code Compliance Process to all identified instances of non-compliance or potential non-compliance that they consider to have a material detrimental impact on the system as soon as the modification is implemented. For the avoidance of doubt, this includes non-compliances associated with the ALoMCP.

**Martin Queen**

**Principal Engineer, Analysis and Assurance**

Signed on behalf of the Authority and authorised for that purpose