

Distribution Code Consultation DCRP/MP/21/05

Title: Distribution Code Compliance – Modification to introduce a Distribution Code compliance process

Target Audience: All current and prospective owners and operators of demand and generation (including storage) equipment of any size connected to distribution networks.

Date Published: 12th August 2021

Deadline for responses: 17:00 7th October 2021

Summary

This Distribution Code public consultation is seeking the views from stakeholders on proposed modifications to the Distribution Code to formalise the enforcement process DNOs would apply to existing customers, including generators, where there is a concern that they do not, or might not, comply with the requirements set out in the Distribution Code and / or Distribution Code Annex documents. In such cases, this proposed modification sets out a process by which non-compliance is notified to customers and generators together with the consequences for them of continued non-compliance.

1 Introduction

Distribution Code Annex 1 document, EREC G59/3-7 “Recommendations for the Connection of Demand and generation customers Generating Plant to the Distribution Systems of Licensed Distribution Network Operators”, which came into effect on 1st September 2019, implemented a retrospective requirement for generators to apply a new set of protection settings related to Loss of Mains protection. An Accelerated Loss of Mains Change Programme (ALoMCP) was subsequently established by the National Grid Electricity System Operator (NGESO) and the Distribution Network Operators (DNOs) to help generators comply with their obligations.

As part of this programme, discussions between NGESO and DNOs identified the need for the development of compliance controls and an enforcement process in relation to:

- i) obligations in the Distribution Code and / or its Annex documents introduced by modifications (such as EREC G59/3-7) applied retrospectively to existing users, and
- ii) pre-existing obligations in the Distribution Code and / or its Annex document.

The compliance controls and enforcement process need to clearly define the process and steps that will be taken by DNOs in the event of any such non-compliance.

Discussions regarding any commercial compensation were had as part of the implementation plan for the retrospective application of EREC G59/3-7. As part of this compliance modification proposal the commercial impacts were discussed again but not considered applicable to this modification as the Distribution Code is a technical rather than commercial code.

2 The Defect

It is considered that the current wording in the Distribution Code is not sufficient to fully enforce compliance with either pre-existing Distribution Code obligations or Distribution Code obligations introduced retrospectively, for example those obligations associated with EREC G59/3-7, and more generally any future retrospective Distribution Code changes that are approved by Ofgem.

This Distribution Code modification proposal sets out, in section 2.1, the proposed changes to DGC11 and a new DGC12 required to implement a generic process that would apply to address any non-compliance, or potential non-compliance with the Distribution Code and / or its Annex documents. An overview of this process is set out in section 2.2.

2.1 The proposed Distribution Code changes

To facilitate the development of the modification the Distribution Code Review Panel set up the DCode Compliance Enforcement Working Group. The Group was tasked to develop a new Distribution Code process that enables DNOs to enforce Distribution Code compliance, address the present DNO compliance liabilities and risk concerns and provides generators and demand customers with sufficient opportunity to comply with the Distribution Code prior to de-energisation. Under the proposals DNOs would be obligated to de-energise a customer's or generator's connection if, at the end of the process, compliance had not been achieved.

It is proposed to make the following modifications to the current issue of the Distribution Code.

2.1.1 Section DGC11 Modifications to the Distribution Code

It is proposed to replace DGC11, which currently reads:

- DGC11.1 Modifications to the **Distribution Code** shall be made in accordance with the procedures set out in the Constitution and Rules of the **Distribution Code Review Panel**.
- DGC11.2 Modifications to the **Distribution Code** that change the obligations on **Users** and **DNOs** in relation to the specification of **Equipment** that each has to provide to comply with the **Distribution Code** will not apply retrospectively to **Equipment** already existing at the date of the implementation of the **Distribution Code** change, unless specifically required in the relevant **Distribution Code** clause. However, where the **DNO** or the **User** makes a material alteration to the relevant **Equipment**, then the **DNO** or the **User** will comply with the requirements of the **Distribution Code** currently in force at the date of the material alteration.
- DGC11.3 The **DNO** shall appoint a Code Administrator (as defined in the **Distribution Licence**). The Code Administrator shall (in addition to any powers, duties or functions set out in the **Distribution Code** or the Constitution and Rules of the **Distribution Code Review Panel**):
- (a) together with other code administrators, publish, review, and (where appropriate) amend from time to time the Code of Practice (Code of Practice in DGC11.3 has the meaning defined in the **Distribution Licence**);
 - (b) facilitate the procedures for making a modification to the **Distribution Code**;
 - (c) have regard to, and in particular (to the extent relevant) be consistent with, the principles contained in the Code of Practice;

- (d) provide assistance, insofar as it is reasonably practicable and on reasonable request, to **Authorised Electricity Operators** (including in particular Small Participants as defined in the **Distribution Licence**) and, to the extent relevant, consumer representatives that request the Code Administrator's assistance, in relation to the **Distribution Code** including, but not limited to, understanding the operation of the **Distribution Code** their involvement in, and representation during, the modification processes (including, but not limited to, **Panel** and/or working group meetings), and accessing information relating to modification proposals and/or modifications.

with the following proposed text:

DGC11 MODIFICATIONS TO THE DISTRIBUTION CODE

- DGC11.1 Modifications to the **Distribution Code** shall be made in accordance with the procedures set out in the Constitution and Rules of the **Distribution Code Review Panel**.
- DGC11.2 Subject to DGC11.3, modifications to the **Distribution Code** that change the obligations on **Users** to comply with the **Distribution Code** in relation to their **Equipment** will apply to any **New Equipment** as from the **Effective Date** of the relevant modification.
- DGC11.3 If a modification to the **Distribution Code** is a **Retrospective Modification**, all **Users** must comply with the **Retrospective Modification** in relation to any **Existing Equipment** as from the **Effective Date** of the **Retrospective Modification**.
- DCG11.4 Where the **User** makes a material alteration to the relevant **Equipment**, then the **User** shall comply with the requirements of the **Distribution Code** currently in force at the date of the material alteration.
- DGC11.5 The **DNOs** shall appoint a Code Administrator (as defined in the **Distribution Licence**). The Code Administrator shall (in addition to any powers, duties or functions set out in the **Distribution Code** or the Constitution and Rules of the **Distribution Code Review Panel**):
 - (a) together with other code administrators, publish, review, and (where appropriate) amend from time to time the Code of Practice (Code of Practice in DGC11.5 has the meaning defined in the **Distribution Licence**);
 - (b) facilitate the procedures for making a modification to the **Distribution Code**;
 - (c) have regard to, and in particular (to the extent relevant) be consistent with, the principles contained in the Code of Practice;
 - (d) provide assistance, insofar as it is reasonably practicable and on reasonable request, to **Authorised Electricity Operators** (including in particular Small Participants as defined in the **Distribution Licence**) and, to the extent relevant, consumer representatives that request the Code Administrator's assistance, in relation to the **Distribution Code** including, but not limited to, understanding the operation of the **Distribution Code**, their involvement in, and representation during, the modification processes (including, but not limited to, **Panel** and / or working group meetings), and accessing information relating to modification proposals and/or modifications.

DGC12 CUSTOMER AND GENERATOR COMPLIANCE WITH THE DISTRIBUTION CODE

DCG12.1 Where a **Customer** or a **Generator** becomes aware that it is not, or might not be, compliant with a **Distribution Code** requirement, the **Customer** or **Generator** shall inform the **DNO** as soon as reasonably practicable.

DCG12.2 Non-compliance, or potential non-compliance, with the **Distribution Code**, may be identified through **System** monitoring or from the investigation of an **Event** on the **System**.

DGC12.3 If a **DNO** considers that a **Customer** or a **Generator** is not, or might not be, compliant with a **Distribution Code** requirement and such non-compliance, or potential non-compliance

- (a) relates either to a single item of **Equipment** in a **Customer's** or a **Generator's** installation or items of **Equipment** in multiple **Customers'** or **Generators'** installations, and
- (b) is such that, in the opinion of the **DNO**, it has a material detrimental impact on the **System**,

then the **DNO** shall follow the **Distribution Code Compliance Process**. For example, non-compliance or potential non-compliance of **Equipment** in a **Generator's** installation with the following **Distribution Code** requirements is considered to have a material detrimental impact on the **System**:

- (a) Those requirements introduced by the **G59/3-7 Modification**.
- (b) Those requirements introduced by a **Retrospective Modification**.
- (c) **Embedded Generator** interface protection requirements set out in DPC7.1.4 and EREC G59, as appropriate, identified as having a material detrimental effect by the **DNO**, as part of the Accelerated Loss of Mains Change Programme.

DGC12.4 If, on completion of the **Distribution Code Compliance Process** under DGC12.3 the **Customer** or **Generator** has not implemented such changes to its **Equipment** as may be required to ensure compliance with the **Distribution Code** and / or provided information to the reasonable satisfaction of the **DNO** to demonstrate that its **Equipment** is compliant with the **Distribution Code**, and either:

- (a) the **Customer** or **Generator** has not submitted a competent derogation application to the **DNO** with respect to the non-compliance or potential non-compliance with the **Distribution Code** within the timescale of the **Distribution Code Compliance Process** under DGC12.3, or
- (b) the **DNO** has not submitted a competent derogation application to the **Authority** with respect to the non-compliance or potential non-compliance with the **Distribution Code** within 10 (ten) **Business Days** of completion of the applicable **Distribution Code Compliance Process** under DGC12.3, or
- (c) the **Customer**, the **Generator** or the **DNO** has submitted a competent derogation application, in accordance with DGC12.4 (a) or (b) as applicable, with respect to the non-compliance or potential non-compliance with the **Distribution Code** and the **Authority** has decided to refuse that application,

then the **Customer** or **Generator** shall be in breach of the **Distribution Code** and the **DNO** shall **De-energise** the **Customer's** or the **Generator's Connection Point** as soon as reasonably practicable.

DGC12.5 **Distribution Code Compliance Process**

The **Distribution Code Compliance Process** sets out a detailed prescriptive process and timeline.

Where the **DNO** believes that the application of this process would be inappropriate in relation to a specific non-compliance or potential non-compliance, the **DNO** shall seek derogation from the **Authority** to apply a different process, e.g. a shorter process where a non-compliance or potential non-compliance needs to be addressed urgently.

In the event of non-compliance or potential non-compliance with the **Distribution Code**, identified in accordance with DGC12.3, the **DNO** will follow a five-stage process to resolve the issue. If, after following this process the issue remains unresolved, the **DNO** has an obligation to de-energise the **Customer's** or the **Generator's Connection Point** in accordance with DGC12.4.

A **Customer** or **Generator** may contact the **DNO** to request that the **DNO** applies for derogation, from the **Authority** against the **DNO's** obligation to de-energise a non-compliant installation at any time but it is encouraged to do so as early into the **Distribution Code Compliance Process** as possible. The **DNO** is not obliged to act on such a request from a **Customer** or a **Generator** where there is no technical reason preventing the **Customer** or **Generator** from complying with the **Distribution Code**, unless the derogation relates to non-compliance with a requirement arising from an EU Network Code.

Where it is reasonable to act on a **Customer's** or a **Generator's** request, the **DNO** would apply to the **Authority** for derogation following the process in Ofgem's guidance.¹

Where the **Authority** grants the **DNO** derogation from the obligation to de-energise the specific non-compliant **Customer's** or **Generator's** installation then that installation shall remain connected.

Where the **Authority** rejects the derogation request then the **DNO** shall de-energise that installation as soon as reasonably practicable.

The **DNO** will commence the **Distribution Code Compliance Process** when the non-compliance or potential non-compliance is first identified in accordance with DGC12.3 except where the non-compliance or potential non-compliance relates to Type D **Power Generation Module**; in which case the **Distribution Code Compliance Process** will be initiated following the exhaustion of the Limited Operational Notification process set out in DGC Annex 1 Item 10, Engineering Recommendation G99.

Stage 1 – First Notice (Week 0)

1. The **DNO** will issue notification in writing to the **Customer** or the **Generator**, which:
 - (a) sets out the non-compliance or potential non-compliance;
 - (b) sets out the actions the **Customer** or the **Generator** must take to address the non-compliance or potential non-compliance and the dates by which those actions should be complete, noting that

¹ Guidance on technical derogation requests, Ofgem. 16 November 2017.

compliance is required by no later than 26 weeks from the date of the notification;

- (c) clarifies that, although the **Customer** or the **Generator** may request that the **DNO** applies to the **Authority** for a derogation relating to compliance with the **Distribution Code** at any time during the **Distribution Code Compliance Process**. A **Customer** or a **Generator** that is considering requesting that the **DNO** requests a derogation from the **Authority** must do so as early in the **Distribution Code Compliance Process** as possible; and
 - (e) sets out the timescales associated with the **Distribution Code Compliance Process**.
2. If, by the end of Week 4, the **Customer** or the **Generator** has not demonstrated compliance with the **Distribution Code**, the **DNO** will initiate Stage 2 of the **Distribution Code Compliance Process**.

Stage 2 - Second Notice (Week 4)

- 1. The **DNO** will issue notification in writing to the **Customer** or the **Generator**, which:
 - (a) sets out whether a response has been received from the **Customer** or the **Generator** following Stage 1;
 - (b) sets out whether the **Customer** or the **Generator** has provided evidence to demonstrate its compliance with the **Distribution Code**;
 - (c) sets out whether a compliance plan has been agreed and summarises the plan, including the key dates; and
 - (d) repeats the relevant parts of the notification provided under Stage 1.
- 2. If the **Customer** or the **Generator** does not respond to the notification provided under Stage 1, the **DNO** will attach a laminated copy of that notification to a suitable location at or as close as possible to the **Customer's** or the **Generator's** site, for example to the site gate, fence, door, metering annex etc.
- 3. If, by the end of Week 8, the **Customer** or the **Generator** has not demonstrated compliance with the **Distribution Code**, the **DNO** will initiate Stage 3 of the **Distribution Code Compliance Process**.

Stage 3 – Third Notice (Week 8)

- 1. The **DNO** will repeat the relevant parts of Stage 2 of the **Distribution Code Compliance Process**.
- 2. If, by the end of Week 16, the **Customer** or the **Generator** has not demonstrated compliance with the **Distribution Code**, the **DNO** will initiate Stage 4 of the **Distribution Code Compliance Process**.

Stage 4 – Fourth Notice (Week 16)

1. The **DNO** will repeat the relevant parts of Stage 2 of the **Distribution Code Compliance Process**.
2. If, by the end of Week 22, the **Customer** or the **Generator** has not demonstrated compliance with the **Distribution Code**, the **DNO** will initiate Stage 5 of the **Distribution Code Compliance Process**.

Stage 5 – Final Notice (Week 22)

1. The **DNO** will repeat the relevant parts of Stage 2 of the **Distribution Code Compliance Process**.
2. The notification provided to the **Customer** or the **Generator** will clearly state that, if the **Customer** or the **Generator** has not provided evidence sufficient to demonstrate compliance with the **Distribution Code** by the end of week 26, the **DNO** will make arrangements to de-energise the **Customer's** or the **Generator's Connection Point** in accordance with **Distribution Code DGC12.4**.

DGC12.6 Notification

The **DNO** will give the notifications required under each stage of the **Distribution Code Compliance Process** either by post (i) to the **Customer's** or the **Generator's** registered office address, (ii) to the address contained in the most recent version of the **Connection Agreement** or (iii) to the most recent address held by the **DNO** for correspondence with the **Customer** or the **Generator**. Where the **DNO** holds an email address for the **Customer** or the **Generator** the **DNO** will also email the relevant notification to that email address.

2.1.2 Associated new Distribution Code definitions

It is proposed to add the following new definitions:

Retrospective Modification

A modification to the **Distribution Code** shall be a **Retrospective Modification**, if the modification is either:

- a) Stated to be a **Retrospective Modification** in the relevant Distribution Code Modification Report to the **Authority**; or
- b) A **G59/3-7 Modification**.

G59/3-7 Modification

The modification to the **Distribution Code** to implement Engineering Recommendation G59 Issue 3 Amendment 7, as approved by the **Authority** on 5 August 2019.

De-energise

The deliberate movement of any switch or the removal of any fuse or the taking of any other step whereby no electrical current can flow between the **DNO's Distribution System** and the **User's Equipment** at the **Connection Point** (and "De-energisation" shall be construed accordingly.)

Existing Equipment

User's Equipment, that is connected to the **DNO's Distribution System** before the **Effective Date**.

New Equipment

User's Equipment, that is connected to the **DNO's Distribution System** for the first time on or after the **Effective Date**.

Effective Date

The **Effective Date** specified in the relevant modification to the **Distribution Code**, which may be after the implementation date of the modification to allow time for **Users** to make any arrangements that may be necessary in order to comply with that modification.

Distribution Code Compliance Process

The process set out in DGC12.5.

Business Day

Any day other than a Saturday, a Sunday, Christmas Day, Good Friday, or a day that is a bank holiday within the meaning of the Banking and Financial Dealings Act 1971.

A consequential change to DOC5.6.4.2 is to bold the existing term Business Day so that it relates to the new defined term. The revised paragraph is shown below:

DOC5.6.4.2 The **DNO** has the responsibility under the **Grid Code** to forward the report of DOC5.6.4.1 above to **NGESO**. This report must be provided within five **Business Days** of the test. If a dispute arises relating to the failure, **NGESO**, the **DNO** and the **Generator** shall seek to resolve the dispute by discussion, and, if they fail to reach agreement, either of the **DNO** or **Generator** may by notice respectively:

2.1.3 Proposed consequential change to DOC5 Testing and Monitoring

It is proposed to make a consequential change to DOC5.6.4.2 to bold the existing term Business Day so that it relates to the new defined term. As shown above.

2.2 The proposed Compliance Enforcement Process

The compliance enforcement will follow a detailed prescriptive process and timeline.

In the event of non-compliance or potential non-compliance with the Distribution Code and / or the Annex documents the DNO will follow a five-stage process to resolve the issue as detailed in the proposed DGC12.5 legal text. If, after following this process the issue remains unresolved, the DNO has an obligation to de-energise the customer's or generator's connection point.

A customer or generator may contact the DNO to request that the DNO applies for derogation, from Ofgem, against the DNO's obligation to de-energise a non-compliant customer's or generator's installation at any time but is encouraged to do so as early into the enforcement process as possible. The DNO is not obligated to act on such a request from a customer or generator where there is no technical reason preventing them from complying with the relevant obligations.

Where it is reasonable to act on a customer's or generator's request, the DNO would apply to Ofgem following the process in the Ofgem guidance². Where Ofgem grants the DNO derogation from the obligation to de-energise the specific non-compliant customer's or generator's installation, then it would remain connected, where Ofgem rejects the derogation request, then it will be de-energised at the end of the process or upon confirmation from Ofgem that the derogation request has been rejected, whichever is the later.

² [Guidance on technical derogation requests, Ofgem. 16 November 2017.](#)

The application of this process, which is set out in the proposed DCG12.5 legal text above, will commence on 1st September 2022.

3 Applicable Distribution Code Objectives

The applicable Distribution Code Objectives are to:

- (a) permit the development, maintenance, and operation of an efficient, co-ordinated, and economical system for the distribution of electricity;
- (b) facilitate competition in the generation and supply of electricity;
- (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; and
- (d) promote efficiency in the implementation and administration of the Distribution Code.

4 Consultation Questions

- 1. Do you agree with the general intent of the proposed modification? If not, please explain your views.
- 2. Do you agree that the proposed modifications satisfy the applicable Distribution Code objectives? If not, please explain your concerns.
- 3. Do you agree with the proposed enforcement process and the timeline associated with it? If not, please explain your concerns.
- 4. The implementation date of the Process described is 1st September 2022 and will coincide with the closure of the Accelerated Loss of Mains Change Programme on 31st August 2022. Do you agree with the proposed implementation date of the Process? If not, please explain why.
- 5. Do you have any comments on the proposed legal text drafting?
- 6. Do you have any other comments?

5 Next Steps

Responses to this consultation should be sent to the Distribution Code Review Panel Secretary at dcode@energynetworks.org by 17:00 7th October 2021 on the pro-forma provided expressly for the purpose, or via any other convenient means. Responses after this date may not be considered.

For more information, please contact:

Code Administrator - dcode@energynetwork.org