



Making a positive difference  
for energy consumers

David Smith  
Chief Executive  
Energy Networks Association  
4 More London  
Riverside  
London

Direct Dial: 07388 857886

Email: [rebecca.barnett@ofgem.gov.uk](mailto:rebecca.barnett@ofgem.gov.uk)

Date: 22 December 2022

Dear David,

I am writing following Akshay Kaul's letter dated 7 December 2022 on the impact of Rota Load Disconnections (RLDs) this winter. We agreed in that letter there must be clarity on the applicability of relevant licence conditions and guaranteed standards so Distribution Network Operators (DNOs) can go about their RLD responsibilities with confidence. DNOs were asked to reply setting out the initial areas they believe were affected.

This letter summarises these concerns and provides our views on DNOs' interpretation of whether derogations would be required in case of a RLD event.

## **Background**

Ofgem, DNOs and the Energy Networks Association (ENA) met on 12 December 2022 to discuss DNOs' obligations in eight areas initially identified which could be affected under a RLD event.

The DNOs' interpretation assumes that measures are implemented by the Electricity System Operator (ESO) under Operating Code 6 (OC6) of the Distribution Code (D Code), and not the Electricity Supply Emergency Code (ESEC). Under ESEC, DNOs understand that the Secretary of State may issue directions under Section 2(1) of the Energy Act 1976 requiring that DNOs implement the RLDs and Authorisations under Section 4(1) of the Energy Act 1976 authorising DNOs to disregard or fall short in meeting regulatory and contractual obligations under the Electricity Act 1989 and the DNOs' respective electricity distribution licences. Should measures be implemented by the ESO under OC6 (via the D Code), or if the Authorisations from the Secretary of State do not apply to DNO licence

obligations, DNOs would still be required to fully comply with the terms of their respective licences when implementing OC6 or RLD, unless a derogation was granted by the Authority.

DNOs consider derogations would be required in the three of the eight areas initially identified. These are:

- Broad Measure of Customer Service (BMCS) surveys
- BMCS unsuccessful calls
- Time to Quote and Time to Connect (TTQ/C)

DNOs consider derogations would not be required in the remaining five areas, subject to Ofgem's agreement with the interpretations set out by DNO's in writing to Ofgem. These are:

- Interruptions Incentive Scheme (IIS)
- Standard Licence Conditions (SLC) 15 Standards for the provision of Non-Contestable Connection Services and SLC15A Connection Policy and Connection Performance
- Electricity Guaranteed Standards of Performance (GSoPs)
- BMCS complaints
- SLC10 Special services

DNOs asked that we provide confirmation that we agree with their interpretation.

### **Areas where a derogation would be required**

We have considered the DNOs' assessment that a derogation would be required in the three areas listed above.

#### BMCS customer surveys

DNOs do not believe it is appropriate that calls and messages in respect of the RLD (both inbound and outbound) should be included in the BMCS. This is because they are in respect of an outage which is the result of the DNO reacting to an obligation to ensure the wider stability of the GB electricity network.

Additionally, based on the significant number of calls expected to be received during a RLD event and the high number of proactive outbound messages and calls to be made, there is a material risk that scores given by customers for an event which is not in respect of the DNO's network overwhelm the scores and resulting service for the remainder of the relevant month(s).

DNOs should therefore seek a derogation under SLC46.21 from Ofgem relieving them of their obligations to:

- 1) record and report calls and messages on the day of a RLD to the survey company for inclusion in the BMCS survey; and
- 2) report any such instances as detailed in the Regulatory Instructions and Guidance (RIGs).

SLC46 sets out the scope, contents, and common governance arrangements for the RIGs published by the Authority. The RIGs are the primary means for directing DNOs how to collect information for, in this case, the BMCS incentive.

This derogation can be requested and granted in advance of an RLD event, as well as subsequently to an event provided DNOs comply with the terms of the derogation.

#### BMCS unsuccessful calls

DNOs expect to receive a significant influx of calls in advance of a RLD event. They consider it is highly likely that even with appropriately worded Interactive Voice Response (IVR) messages and significant numbers of extra call centre agents, there will be a significant number of customers who abandon their calls. These would then get counted as unsuccessful calls as part of the BMCS incentive.

DNOs do not believe it is appropriate that such calls should be included as the unsuccessful calls metric was set up to incentivise DNOs to answer calls regarding issues on their network.

DNOs should therefore seek a derogation under SLC46.21 from Ofgem relieving them of their obligations to report such calls during a RLD event as abandoned calls. DNOs believe and we acknowledge that “during” an event should include the hours immediately after an actual RLD as such calls would be expected to be higher in these periods where a customer in a queue hangs up once power is restored. This derogation can be requested and granted in advance of an RLD event, as well as subsequently to an event, provided DNOs comply with the terms of the derogation.

#### TTQ/C

DNOs consider that the impact of RLDs on TTQ/C is expected to be limited unless there is an extended period of RLDs (ie, longer than one day).

However, should an extended period of RLD events occur, DNOs should therefore seek a derogation under SLC46.21 from Ofgem. This would relieve them of their obligations to

include the time associated with an RLD event within the TTQ/C calculation. This includes the times immediately before a RLD event, during a RLD event and in the recovery period after a RLD event. Any derogation would need to be requested and granted after the RLD event has ended, but soon enough as to enable the DNOs to meet the 31 July requirement to report the data.

#### Our view

We agree that a derogation from DNOs' obligations would likely be appropriate in each of the three circumstances listed above. Any derogation issued would need to be time-bound, potentially by reference to the ESO instruction to proceed with a RLD event. We would look to work with DNOs on including appropriate conditions to achieve this.

With respect to BMCS unsuccessful calls, we agree that there may also be a need for some relief in the time immediately after power is restored and would seek to work with DNOs on what an appropriate timescale is. We do however think there is merit in continuing to record data on unsuccessful calls as this could help identify improvements that could be implemented for future RLD events.

With respect to TTQ/C, any derogation would need to be case specific, based on aspects such as the length of the RLD. We will work with DNOs via the ENA to ensure consistency in defining the start and end of the preparation and recovery periods.

#### **Areas where a derogation would not be required**

The five areas where DNOs consider a derogation is not required are set out in more detail in the Annex to this letter.

#### Our view

We agree with the DNOs' interpretations and therefore no derogations are required in each of these five areas.

In the case of regulation 10 of the Electricity (Standards of Performance) Regulations 2015 (referred to as EGS2A in the Annex), this requires the interruption of supply to more than 500,000 customers in Great Britain to be notified by the Authority to the distributor in order for the DNOs' interpretation to be correct. We cannot issue such a notification in advance as the scale of a future RLD event is unknown, but we note this requirement.

#### **Conclusion and next steps on derogations**

We maintain the view set out in our letter dated 7 December 2022 that we can use our discretion around appropriate licence conditions as we accept these events are not within a

DNOs direct control nor that they form part of normal business operations and we would consider agreeing derogation requests on this basis. Specifically, we agree that a derogation would likely be appropriate in each of the three circumstances described in this letter – subject to the comments above.

Depending upon the circumstances of any RLD event, it may be difficult to issue a derogation in the time between DNOs being notified by the ESO of a RLD, and the RLD taking place (such that the relevant derogation may need to be issued retrospectively). Where a derogation has not been granted, if DNOs can demonstrate that any issues related to compliance with the obligations described in this letter have arisen as a result of a RLD event, we will take full account of this in considering those issues. So long as DNOs do this openly and with the clear intention of protecting consumers, Ofgem should be in a position to support these decisions and should not need to take any enforcement action against network companies. We will also provide relief from penalties under the RIIO-ED1 incentive framework for any shortfalls in performance against targets associated with the events described in this letter, provided the same tests above are satisfied.

I hope this letter provides clarity to the DNOs and all stakeholders on our position with respect to the obligations discussed in this letter. We are happy to continue working with DNOs on the actual wording of any direction should any formal derogations be required.

Yours sincerely,

**Rebecca Barnett**

Interim Director, Networks

A handwritten signature in black ink, appearing to be 'RB' followed by a stylized flourish.

## Annex: Areas where DNOs consider a derogation is not required

Area	DNO interpretation
IIS	<ul style="list-style-type: none"> <li>Paragraph 2.8 of Annex F of RIGs states: "Occurrences that would not lead to an incident are as follows: Interruptions to supply resulting from load shedding in compliance with statutory and/or licence obligations following upstream incidents relating to either transmission or generation activities".</li> <li>DNOs do not therefore believe that any specific consent or derogation is required for IIS as RLD/OC6 events are clearly excluded from the IIS submissions.</li> </ul>
SLC15 and 15A	<ul style="list-style-type: none"> <li>SLC15 and the DG standards Direction issued under SLC15A have inbuilt exemptions which DNOs would apply if necessary, where staff normally dedicated to connections activity are instead deployed to support the RLD/OC6 response (e.g. call centre).</li> </ul>
Electricity Guaranteed Standards of Performance (GSoPs)	<ul style="list-style-type: none"> <li>EGS2 – this standard does not apply because the supply is not interrupted as a result of a failure of, fault in or damage to the DNO's distribution system (paragraph 1 of regulation 5) and, in any event, the outages will be less than 12 hours long so the standard would not be relevant.</li> <li>EGS2A – the interruption does not count towards one of the four periods required under this standard as the cause of the interruption resulted in more than 500,000 customers being affected.</li> <li>EGS2C – this standard does not apply as the RLD/OC6 is not "resulting from a failure of, fault in or damage to that distributor's distribution system" (reg 8 para 1 of SI2015/699).</li> <li>EGS4 – this standard is in respect of interruptions for authorised purposes. The definition of authorised purpose refers to a planned purpose – DNOs do not believe that a RLD/OC6 is such a purpose. Although there has been planning to prepare for RLD/OC6 events, the actual triggering of the RLD/OC6 is more akin to an unplanned fault response to manage an issue on the network as the scale of the RLD/OC6 event (5% etc.) will not be known until an event is declared at short notice. In particular, demand reduction under Distribution Code OC6 is likely to be required within minutes.</li> </ul>

BMCS complaints	<ul style="list-style-type: none"> <li>• DNOs do not believe that complaints in respect of a RLD event are within the scope of the complaints RIGs as they are not in respect of a DNO's product or service (RIGs Annex H para 2.5). This would include complaints relating to the fact a customer was interrupted (in line with paragraph 2.9), and the time taken to answer the call.</li> <li>• DNOs would however include any customer service issues (e.g. complaints about the service provided by the customer service agent) relating to the call.</li> </ul>
SLC10	<ul style="list-style-type: none"> <li>• No derogation is required as DNOs will strive to contact their customers prior to an event and will continue to contact customers during the event.</li> <li>• However, whether they get to the end of the customer list is dependent on the scale of the event and the amount of warning given. DNOs will prioritise contact based starting from medically dependent Priority Service Register (PSR), moving on to standard PSR and then non-PSR customers.</li> </ul>