Derogation Criteria for the Demand Connection Network Code

Consultation Paper

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Regulating Water, Energy and Energy Safety in the Public Interest
Executive Summary

Commission Regulation (EU) 2016/1388 of 17 August 2016 a Network Code on Demand Connection (DCC)\(^1\) is one of a suite of European network codes and guidelines that have been developed following implementation of the European Third Energy Package.

The DCC is one of three regulations related to grid connection that specify the requirements that apply to all new demand (not storage devices) connections including:

- New distribution networks connecting to the transmission system;
- New demand users connecting to the transmission system; and
- New customers wanting to provide demand side response services.

The DCC allows all affected parties to seek derogations from the CER from one or more of the provisions of the DCC.

The purpose of this paper is to consult on the CER’s proposed criteria for granting derogations pursuant to Articles 52 and 53 of the DCC. This paper outlines (in section 2.1) the proposed criteria that the CER would use when assessing derogation requests.

The CER will carry out a holistic assessment against all of the criteria and the CER’s decision will depend on the specific case. In other words, the application will be viewed in the round against the criteria, failure to meet an individual criterion will not necessarily mean that the application fails.

Taking into account the CER’s duties under the required legislation and the requirements of the DCC, the CER proposes that the following criteria be applied when a derogation from one or more provisions of the DCC is considered:

- The Impact on the Electricity System of Non-compliance;
- The Reason for Non-compliance/Technical Limitation;
- The Level of Non-compliance and Efforts Made to Improve/Achieve/Maximise Compliance;
- The Costs Involved to Achieve Compliance;
- The Impact on the Interests of Consumers/Other Parties;
- The Potential for Discriminating Treatment of Existing Demand Units;
- The Effect on Cross-Border Trade;
- The Cost-Benefit Analysis Pursuant to Requirements of the DCC Article 49;

The Required Duration of Derogation.

Existing demand connections are not subject to the requirements of the DCC except where they have had substantial modifications. In addition the National Regulatory Authority may decide, following an application by the TSO to require compliance by an existing demand connection.

The CER welcomes comments on the proposed criteria to assess an application for a derogation pursuant to Articles 52 and 53 of the DCC. The CER will consider the submissions it receives prior to making a final decision. In summary the CER is asking the following questions:

1. Do you agree with the CER’s proposed DCC criteria for derogations assessment and that they properly reflect the requirements set out in the DCC?
2. Are there other derogation criteria the CER should consider in relation to compliance of demand units to the DCC?
3. Are there any other issues the CER should consider in relation to this matter?

Following the public consultation the CER will notify the European Commission of the CER’s decision and will publish its decision on the DCC derogation assessment criteria on the CER’s website.

Responses to the consultation should be sent to dcc@cer.ie by 17.00 Friday, 12th May 2017.
Public Impact Statement

The DCC should help make it easier and more efficient to operate the electricity system, by introducing a common, clear set of requirements which every new demand connection to the electricity network across Europe will need to meet. The DCC will provide a clear legal framework for grid connections, facilitate Union-wide trade in electricity, ensure system security, facilitate the integration of renewable electricity sources, increase competition, and allow more efficient use of the network and resources, for the benefit of consumers.

The swift completion of a fully functioning and interconnected internal energy market in Europe is crucial to maintaining security of energy supply, increasing competitiveness and ensuring that all consumers can purchase energy at affordable prices. DCC is seen as one of the main drivers for creating harmonised solutions and products necessary for an efficient pan-European (and global) market in generator technology.

Together, the network codes will facilitate the achievement of the three objectives of the Third Package:

- The secure operation of European power systems;
- The integration of large volumes of low carbon generation; and
- The creation of a single European electricity market.
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# Glossary of Terms and Abbreviations

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<tr>
<td>DCC</td>
<td>Commission Regulation (EU) 2016/1388 of 17 August 2016 on Demand Connection</td>
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<tr>
<td>TSO</td>
<td>Transmission System Operator</td>
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<td>DSO</td>
<td>Distribution System Operator</td>
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1 Introduction

1.1 Commission for Energy Regulation

The CER is Ireland’s independent energy and water regulator. The CER was established in 1999 and now has a wide range of economic, customer protection and safety responsibilities in energy. The CER is also the regulator of Ireland’s public water and wastewater system.

Further information on the CER’s role and relevant legislation can be found in here.

1.2 Purpose of this Paper

The purpose of this paper is to consult on the CER’s proposed criteria for granting derogations pursuant to Articles 52 and 53 of the DCC.

1.3 Background

1.3.1 EU Network Codes

The European network codes intend to deliver a harmonised set of rules for the operation of the gas and electricity sector in Europe. Commission Regulation (EU) 2016/1388 of 17 August 2016, Network Code on Demand Connection (DCC), is one of a suite of European Electricity network codes and guidelines that have been developed following implementation of the Third Package. This consultation paper is driven by the Demand Connection Code network code, which specifies the technical connection requirements that new distribution networks connecting to the transmission system, new demand users connecting to the transmission system and new customers wanting to provide demand side response services, must adhere to. There are seven other European Electricity network codes:

- Requirements for Grid Connection of Generators network code (RfG) – specifies the technical connection requirements that new generators must adhere to;
- High Voltage Direct Current network code (HVDC) – specifies the technical connection requirements that new long distance DC connections, new links between different synchronous areas (e.g. interconnectors) and new DC-connected generation (e.g. offshore wind farms) must adhere to;
- Transmission System Operation Guideline (SOGL) – specifies the requirements for assessing the adequacy and operational security of the interconnected power systems.

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system and for planning outages required by TSO’s and grid users when they have cross borders impacts on power flows;

- Emergency and Restoration network code (ER) – deals with the procedures and remedial actions to be applied in the Emergency, Blackout and Restoration states;
- Electricity Balancing Guideline (EB) – defines the roles and responsibilities of TSOs and market participants in balancing electricity networks, and will drive harmonisation of balancing markets across Europe;
- Capacity Allocation and Congestion Management network code (CACM) – specifies the requirements for operating pan-European day ahead and intraday markets, and sets out the processes for determining how capacity is calculated, congestion is managed and the criteria and process for reviewing bidding zones;
- Forward Capacity Allocation network code (FCA) – specifies the requirements for calculating and buying capacity in forward markets (before day ahead). It also sets rules for hedging price risk between bidding zones in these markets.

The DCC entered into force on 7 September 2016. The DCC is one of three regulations related to grid connection that specify the requirements that apply to all new demand (not storage devices) connections included new distribution networks connecting to the transmission system, new demand users connecting to the transmission system and new customers wanting to provide demand side response services. The DCC sets out the technical requirements that will apply to all new demand “main plant and equipment” procured after 7 September 2018 and does not apply to existing demand connections.

The CER has nine months from the date of entry into force to consult and decide upon the criteria that the CER will use to assess derogation applications. The CER notes that the full implementation of the requirements of the DCC will entail changes to Grid Code requirements, connection contracts etc. for all new demand (not storage devices) connections, which the TSO and DSO are currently assessing. As this process is still ongoing the CER has developed and is proposing derogation criteria that aim to cover the high level assessments that will need to be undertaken when reviewing derogation requests. The full suite of implementation processes and requirements for the DCC are required to be in place by 7 September 2018.

1.3.2 Parties affected by the DCC

Existing demand connections are not subject to the requirements of the DCC except where an existing transmission-connected demand facility, an existing transmission-connected distribution facility, an existing distribution system, or an existing demand unit within a demand facility at a voltage level above 1,000V or a closed distribution system

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3 Any pump-storage Power Generating Module which has both generating and pumping operation mode does not have to meet the requirements of this Network Code. Any pumping module within a pump-storage station which only provides pumping mode is subject to the requirements of this Network Code.

4 See Article 4 of the DCC
connected at a voltage level above 1,000V is modified to the extent where its connection agreement has to be substantially revised. In addition the National Regulatory Authority may decide, following an application by the TSO to require compliance by an existing demand connection.

The DCC allows demand facility owners or prospective owners, and distribution system operators or closed distribution system operators, and relevant system operators or prospective operators to seek derogations from the CER from one or more of the provisions of the DCC\textsuperscript{5}. Moreover, DCC Article 52(11) allows for third parties to apply for derogations for demand units within a demand facility or a closed distribution system connected at a voltage level of or below 1,000V. A request for a derogation under this Article may be made by a third party on behalf of the demand facility owner or prospective owner, or on behalf of the closed distribution system operator or prospective operator. Such a request may be for a single demand unit or multiple demand units within the same demand facility or closed distribution system.

1.3.3 Derogations

The DCC contains articles that describe the process for derogating from the DCC. Derogation requests from demand facility owners or prospective owners are to be filed with the relevant System Operator (DSO or TSO). Additionally relevant System Operators can also file request derogations for transmission-connected demand facilities, transmission-connected distribution facilities, distribution systems, or demand units within a demand facility or a closed distribution system connected or to be connected to their network. The DCC gives the CER the role of reviewing, and making decisions on the DCC derogation requests. At the end of the implementation phase, the CER may review and if necessary revise and refine the criteria to assess derogation requests under the DCC. The DCC provides for the revision and modification of the criteria, at most once a year.

1.4 Legal Background

Regulatory authorities may grant demand facility owners or prospective owners, and distribution system operators or closed distribution system operators, and relevant system operators or prospective operators derogations from one or more provisions of this Regulation for new and existing transmission-connected demand facilities, transmission-connected distribution facilities, distribution systems and demand units in accordance with Articles 51 to 53 of the DCC.

Regulatory authorities shall specify, after consulting relevant system operators and demand facility owners and other stakeholders whom it deems affected by the DCC, the criteria for granting derogations pursuant to Articles 52 and 53. The criteria should be published on its website. Regulatory authorities should notify the European Commission within nine months of the entry into force of the DCC. Regulatory authorities may review

\textsuperscript{5} See Articles 50-55 of DCC
and amend at most once every year the criteria for granting derogations in accordance with paragraph 1.

1.5 Related documents

- Commission Regulation (EU) 2016/1388 of 17 August 2016 a Network Code on Demand Connection

1.6 Structure of this paper

This consultation paper is structured as follows:

- **Section 1**, introduction and background.
- **Section 2**, provides an overview of the proposed DCC derogation criteria.
- **Section 3**, outlines conclusions and next steps.

1.7 Responding to this Consultation

The deadline for submitting responses to the CER regarding the criteria for granting derogations pursuant to Articles 52 and 53 of the DCC is 17.00 Friday, 12th May 2017. Responses to this consultation should be sent to dcc@cer.ie at the CER.

In this paper the CER is consulting on the criteria that the CER should use to assess derogation requests under the DCC. The CER is not consulting or amending the criteria used to assess the Grid and Distribution Codes derogations.

Moreover, please note that the CER intends to publish all responses received unless marked confidential. Where your responses includes confidential information please put this in a separate annex where possible.
2 Criteria for Derogation

2.1 Proposed Criteria for Derogation Request

Demand facility owners or prospective owners, and distribution system operators or closed distribution system operators, and relevant system operators or prospective operators in accordance with the DCC, may request a derogation to one or several requirements of the DCC for demand units within their facilities. Also, third parties on behalf of the demand facility owners or prospective owners, or on behalf of the closed distribution system operators or prospective operators in accordance with the DCC, may request a derogation for demand units within a demand facility or a closed distribution system connected at a voltage level of or below 1,000V.

A request for a derogation should be submitted to the relevant System Operator. The CER will seek the view of the relevant System Operator(s) before reviewing an application for a derogation. The CER will provide further guidance on this process in due course.

The CER will carry out a holistic assessment against all of the criteria and the CER’s decision will depend on the specific case. In other words, the application will be viewed in the round against the criteria, failure to meet an individual criterion will not necessarily mean that the application fails.

Taking into account the CER’s duties under the required legislation and the requirements of the DCC, the CER proposes that the following criteria be applied when a derogation from one or more provisions of the DCC is considered:

1. **The Impact on the Electricity System of Non-compliance**
   The applicant has demonstrated that the derogation request will not have adverse effects on the electricity network system.

2. **The Reason for Non-compliance/Technical Limitation**
   The reason for non-compliance provided by the applicant has been justified.

3. **The Level of Non-compliance and Efforts Made to Improve/Achieve/Maximise Compliance**
   The applicant has demonstrated that the applicant has investigated reasonable solutions to non-compliance and has made reasonable efforts to maximise compliance.

4. **The Costs Involved to Achieve Compliance**
   The applicant has demonstrated evidence of the materiality of the issue and demonstrated that the cost involved to achieve compliance is material and sufficiently high to justify a derogation.
5. **The Impact on the Interests of Consumers/Other Parties**

The applicant has proved that the derogation request will not have negative impact on the interest of consumers (e.g. competition, sustainable development, health and safety and other affected parties).

6. **The Potential for Discriminating Treatment of Existing Demand Units**

The applicant has confirmed with the relevant system operator that none of the other comparable demand units (in terms of size and technology) facility owners have already demonstrated that it is possible to comply with the relevant provision of the DCC.

7. **The Effect on Cross-Border Trade**

The applicant has demonstrated that the requested derogation would have no adverse effect on cross-border trade.

8. **The Cost-Benefit Analysis Pursuant to Requirements of the DCC Article 49**

The applicant has presented a robust, economic case that supports the application for a derogation.

9. **The Required Duration of Derogation**

The applicant has demonstrated that the time period requested for the derogation is appropriate.
3 Conclusion & Next Steps

The CER welcomes comments on the proposed criteria to assess an application for a derogation pursuant to Articles 52 and 53 of the DCC. The CER will consider the submissions it receives prior to making a final decision. In summary the CER asks the following questions:

1. Do you agree with the CER’s proposed DCC criteria for assessment of derogations and that they properly reflect the requirements set out in the DCC?

2. Are there other derogation criteria the CER should consider in relation to compliance of demand units to the DCC?

3. Are there any other issues the CER should consider in relation to this matter?

Following the public consultation the CER will notify the European Commission of the CER’s decision and will publish its decision on the DCC derogation assessment criteria on the CER’s website.

The deadline for submitting responses to the CER regarding the criteria for granting derogations pursuant to Articles 52 and 53 of the DCC is 17.00 Friday, 12th May 2017. Responses to this consultation should be sent to dcc@cer.ie at the CER.

Please note that the CER intends to publish all responses received unless marked confidential. Where your responses includes confidential information please put this in a separate annex where possible.