

Proposed variation:	Distribution Connection and Use of System Agreement (DCUSA) DCP063 – Voting arrangements for IDNOs under Clause 12		
Decision:	The Authority ¹ directs that proposal DCP063 be made ²		
Target audience:	DCUSA Panel, Parties to the DCUSA and other interested Parties		
Date of publication:	03 June 2010	Implementation Date:	24 June 2010

Background to the modification proposal

There is a mechanism³ for calculating the share of votes allocated to each DCUSA Party group within a Party category when they vote on DCUSA change proposals. This mechanism has been in place since the DCUSA was established in 2006. Clause 12.9 of the DCUSA applies to the IDNO/OTSO Party category (and any other Party Category with limited numbers of groups) only and states that Party groups within that category have votes of equal weighting. For example, if there are four Party groups in the category, each would receive a 25% weighted vote. If there are eight Party groups in the category, each would receive a 12.5% weighted vote.

Clauses 12.10 to 12.16 inclusive apply to all other Party categories (Suppliers, DNOs and Distributed Generation). Votes are allocated according to a capped weighting process based on the number of Metering Points that Party groups within each of those categories have registered in the Metering Point Administration Service (MPAS) Registration System (their market share).

The drafting of Clause 12.11 (b) suggests that this capped weighting process also applies to the IDNO Party category. This provision is inconsistent with the stated position on IDNO/OTSO Party category voting set out in Clause 12.9 which refers to equal weighting of votes.

The modification proposal

The proposal (DCP063) seeks to remove the anomalous drafting in Clause 12.11 (b) to ensure that the weighting process for votes in the IDNO/OTSO Party category is not open to misinterpretation. DCP063 is a Part 1 matter as it seeks to amend Clause 12 which is part of Section 1C (Change Control) of the DCUSA and subject to Authority decisions.

The proposer (EdF Energy Networks) considers that DCP063 will better facilitate the General DCUSA Objective in Clause 3.1.4 of the DCUSA (General Objective (d)), namely, the promotion of efficiency in the implementation and administration of the DCUSA and the arrangements under it. In the proposer's view, the existing drafting in Clause 12.11 (b) is anomalous when documenting the correct rules and processes for voting on change proposals, and it is appropriate to change this drafting and remove the anomaly as otherwise it will add uncertainty to Parties' understanding of those rules.

DCUSA Parties' recommendation

The DCUSA Panel determined that only IDNO/OTSO Party groups should vote on DCP063. The Change Declaration for DCP063 states that this Party category unanimously accepted the proposal and its proposed implementation date. Therefore, in accordance with the weighted vote procedure, the recommendation to the Authority is that DCP063 be accepted. The outcome of the weighted vote is set out in the table below:

¹ The terms 'the Authority', 'Ofgem' and 'we' are used interchangeably in this document. Ofgem is the Office of the Gas and Electricity Markets Authority.

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

³ The mechanism is set out in Clauses 12.9 to 12.16 of the DCUSA.

DCP063	WEIGHTED VOTING (%)			
	IDNO		OTSO ⁴	
	A	R	A	R
CHANGE SOLUTION	100	0	n/a	n/a
IMPLEMENTATION DATE	100	0	n/a	n/a

The Authority's decision

The Authority has considered the issues raised by the change proposal and the Change Declaration received on 7 May 2010. The Authority has considered and taken into account the responses to the consultation on the change proposal which are attached to the Change Declaration. The Authority has concluded that:

1. implementation of the change proposal DCP063 will better facilitate the achievement of the General DCUSA objectives; and
2. directing that the change is approved is consistent with the Authority's principal objective and statutory duties⁵.

Reasons for the Authority's decision

We note that all four responses received to the DCUSA consultation on DCP063 were in favour of the proposal and the proposed implementation date.

General objective (d) - the promotion of efficiency in the implementation and administration of the DCUSA and the arrangements under it

The mechanism to determine how voting shares are allocated between DCUSA Party groups in specific Party categories is set out in Clause 12 of the DCUSA and DCP063 is not seeking to change the existing approach. However, anomalies in legal drafting that cause confusion amongst DCUSA Parties regarding the mechanism ought to be removed or amended to ensure efficient implementation and administration of the DCUSA arrangements. We agree with respondents that removing Clause 12.11 (b) will provide a clear understanding of the voting share allocation for IDNO/OTSO Party groups in this voting category.

We therefore consider that DCP063 does better facilitate General Objective (d).

Decision notice

In accordance with standard condition 22.14 of the Electricity Distribution Licence, the Authority hereby directs that modification proposal DCP063: *Voting arrangements for IDNOs under Clause 12* be made with effect from 24 June 2010.

Mark Cox,
Associate Partner, Licensing and Industry Codes

Signed on behalf of the Authority and authorised for that purpose.

⁴ The OTSO Party did not vote on the change proposal.

⁵ The Authority's statutory duties are wider than matters that the Panel must take into consideration and are detailed mainly in the Electricity Act 1989 as amended.