



## **DCUSA Change Report**

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### DCP 081 – Authority Decision Making Process

## **1 PURPOSE**

- 1.1 The Distribution Connection and Use of System Agreement (DCUSA) is a multi-party contract between electricity Distributors and electricity Suppliers and large Generators. Parties to the DCUSA can raise Change Proposals (CPs) to amend the Agreement with the consent of other Parties and (where applicable) the Authority.
- 1.2 This document is a Change Report issued to all Parties in accordance with Clause 11.20 of the DCUSA. The Change Report details DCUSA Change Proposal (DCP) 081 – Authority Decision Making Process and asks parties to vote to accept or reject the proposed modification to the Agreement.
- 1.3 The voting process for the proposed variation and the timetable of the progression of the Change Proposal (CP) through the DCUSA Change Control Process is set out in this document.
- 1.4 Parties are invited to consider the proposed amendment attached as Appendix A and submit votes using the form attached as Appendix C to [dcusa@electralink.co.uk](mailto:dcusa@electralink.co.uk) by 01 March 2011.

## 2 DCP 081 - AUTHORITY DECISION MAKING PROCESS

- 2.1 DCP 081 has been raised by UK Power Networks. The CP seeks to update the DCUSA to reflect the following modifications to the Electricity Distribution Licence scheduled for implementation on 01 April 2011:  
<http://www.ofgem.gov.uk/Licensing/Work/Notices/ModNotice/Documents1/Modification%20Direction%20201210.pdf>
- 2.2 The licence modification will bring the Authority's decision-making process for charging methodology changes into line with that for other DCUSA change proposals (i.e. an Authority determination rather than veto / non veto within 28 days).
- 2.3 DCP 081 has been categorised as an urgent CP in accordance with Clause 10.7.3 of the DCUSA because it is related to an imminent date-related event – the implementation of licence amendments on 01 April 2011.
- 2.4 The CP is classified as a Part 1 matter in accordance Clause 9.5.1 of the Agreement as it seeks to modify Section 1C – Change Control and will require Authority consent.

## 3 CONSULTATION

- 3.1 A consultation on DCP 081 was issued to all DCUSA Parties on 31 January 2011. 9 responses representing 13 parties were received by the closing deadline of 14 February 2011. No late responses were received.
- 3.2 The DCUSA Panel formed a DCP081 Working Group, and this met on 16th February 2011 to consider the responses which are summarised below and attached in detail as Appendix B.
- Do you understand the intent of the CP and are you supportive of its principles?
- 3.3 All respondents confirmed that they understood the CP and are supportive of its principles.
- 3.4 1 Party asked whether the CP could go further by “by adding additional text to cover off CDCM and EDCM changes post 31<sup>st</sup> March 2011 to avoid having to

raise a further CP at a later date". The Working Group considered that the proposed drafting applies to proposals to vary the "Charging Methodologies" and does not differentiate between CDCM and EDCM. However the scope of the DCUSA is limited to the CDCM until the implementation of the EDCM in April 2012. The Panel will review the suitability of the drafting at that time if required.

Do you consider that the proposal better facilitates the DCUSA objectives?

- 3.5 All respondents agreed that DCUSA General Objective 3 is better facilitated on the basis that the implementation of the CP will ensure that the DCUSA fully reflects the Electricity Distribution Licence.
- 3.6 The majority of respondents also felt that the CP will ensure the DCUSA change process is clearly set out for all Parties thereby better facilitating DCUSA General Objective 4.
- 3.7 A small number of respondents highlighted that DCUSA objective 1 and 2 are also better facilitated but did not provide supporting comments. The majority considered that these Objectives were not applicable and the Working Group concurred with this view.
- 3.8 None of the responses indicated that the Change Proposal will have a detrimental effect on any of the DCUSA Objectives.

Objective	Better Facilitated	Worse Facilitated	Neutral / Not Applicable
General 1	1	0	8
General 2	2	0	7
General 3	9	0	0
General 4	5	0	4

Do you have any comments on the proposed legal text?

- 3.9 1 respondent commented on the term 'Condition' highlighting the requirement to capitalise the term throughout the drafting. The Working Group agreed to update the legal drafting to reflect this.
- 3.10 A second respondent suggested adding additional text to Clause 13.10 to specify that changes raised to the CDCM or EDCM will be treated as a Part 1 matter.

The Working Group noted that Clause 9.5.5 of the DCUSA already states that changes to the Charging Methodologies will be deemed a Part 1 matter and that further explanation in the legal text was not necessary.

- 3.11 A third respondent noted that the confirmed Distribution Licence is not readily available and it would be preferable to limit the reliance on a cross-reference to Distribution Licence Condition 22A. The party proposed that in particular the deadline of 31 March 2011 and the CDCM should be explicitly referred to in paragraph 13.10. The Working Group considered the reference to paragraph 18 of Condition 22a to be sufficient as it provides a clear definition of the date. The Working Group noted that should the proposed alternative text be added to the DCUSA, there would need to be a subsequent change to remove the date post implementation and concluded that further clarification is not required in the DCUSA drafting.

Are there any alternative solutions or matters that should be considered?

- 3.12 There were no alternative solutions proposed by respondents.

Are you supportive of the proposed implementation date of 01 April 2011?

- 3.13 All respondents confirmed their support for implementation on 01 April 2011.

Please state any other comments or views on the Change Proposal.

- 3.14 One respondent highlighted two additional comments:

- 3.15 It was recommended that this Change Report clarify that DCP 081 will only affect those Change Proposals that have been sent to Ofgem via a Change Report prior to 01 April 2011. The Working Group agreed to make specific reference in the Change Report (see paragraphs 6.3 and 6.4).

- 3.16 It was further noted that the consultation document refers to a consideration of whether a deletion of this clause post the implementation of DCP 081 would ensure clarity. The respondent noted that prior to such a deletion, the DCUSA needs to ensure that any CPs that are impacted by this Clause have been through the change process and that such a clause covers off inclusive of any consultation stage that Ofgem undertake. It was suggested that the DCUSA

Secretariat could log and monitor progress of CPs impacted by this clause during this period.

- 3.17 The Working Group agreed that this was a pragmatic proposal and agreed to capture the requirement on the DCUSA housekeeping log to ensure the Clause is updated or removed following Authority decision on any CPs submitted to it prior the first of April.

#### **4 ASSESSMENT AGAINST THE DCUSA OBJECTIVES**

- 4.1 The Change Proposal will better facilitate the General DCUSA Objectives 3.2.3<sup>1</sup> and 3.2.4<sup>2</sup>. The implementation of this CP will ensure that the DCUSA accurately reflects the Electricity Distribution Licence thus better facilitating Objective 3. Objective 4 will be better facilitated by ensuring the change process is clearly set out for all Parties.

#### **5 ENVIRONMENTAL IMPACT**

- 5.1 The Working Group, in accordance with its terms of reference, considered that there was no material impact on greenhouse gas emissions as a result of the proposed variation being made.

#### **6 LEGAL DRAFTING**

- 6.1 The proposed legal drafting has been developed by DCUSA Legal Counsel and is attached as Appendix A.
- 6.2 The licence modification makes a number of changes that can be summarised as follows:
1. Condition 13.14(c) - licence clarification with no impact on DCUSA.
  2. Condition 13A.11 - this provision has been moved, but the net impact on DCUSA is nil.

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<sup>1</sup> The efficient discharge by the DNO Parties and IDNO Parties of obligations imposed upon them in their Distribution Licences

<sup>2</sup> The promotion of efficiency in the implementation and administration of this Agreement

3. Condition 13A.12 - this provision has been moved to 22A.17, so the net impact on DCUSA is nil.
  4. Conditions 13A.13 to 13A.15 - these provisions (which have been removed) duplicated the DCUSA licence requirements, so were superfluous - no impact on DCUSA.
  5. Condition 13A.16 - this is the key deletion, which removed the veto process.
  6. Condition 22A.12 - this (correctly) repeats a requirements of condition 50 and 50A (so that it clearly has effect once the CDCM/EDCM has been adopted), but this is how the requirements are interpreted for the purposes of DCUSA in any event - no impact on DCUSA.
  7. Condition 22A.17 - this provision has been moved from 13A.12, so the net impact on DCUSA is nil.
  8. Condition 22A.18 - this is a transitional provision that preserves the veto process for pre-existing change proposals.
  9. Condition 13B.13 to 13B.19 - as for conditions 13A.12 to 13A.16.
- 6.3 The overall consequence is a requirement to remove the veto process, but preserve it on a transitional basis for CDCM (i.e. for changes submitted to Ofgem for determination prior to 31 March 2011).
- 6.4 The veto process is given effect by Clause 13.10 of the DCUSA. The removal of Clause 13.10 would impact on a number of provisions in Clause 13, which cross-refer to Clause 13.10. Given the requirement to preserve the veto process for transition, the drafting for DCP 081 limits the application of Clause 13.10 so that rather than applying to all Charging Methodology proposals it only applies to transitional CDCM proposals (i.e. those submitted to Ofgem for determination before DCP 081 is implemented). This is achieved by referring to proposals that are caught by the relevant distribution licence condition.

- 6.5 Following the implementation DCP 081, the drafting will be reconsidered to see whether Clause 13.10 can be removed altogether, which would make matters clearer going forward.
- 6.6 The proposed legal drafting for DCP 081 has been reviewed by Wragge and Co and is attached as Appendix A.

## **7 IMPLEMENTATION**

- 7.1 The proposed implementation date for the CP is **01 April 2011**.

## **8 PANEL RECOMMENDATION**

- 8.1 The Panel approved the DCP 081 Change Report on the 22 February 2011.
- 8.2 In accordance with Clause 12.4 of the DCUSA the Panel has determined that DCP 081 should be issued to all Parties for voting for a period of 5 Working Days.
- 8.3 The timetable for the progression of the Change Proposal is set out below:

<b>Activity</b>	<b>Latest Date</b>
Change Report Agreed	22 February 2011
Party Voting	22 February– 01 March 2011
Authority Determination <sup>3</sup>	02 March – 31 March 2011
Implementation	01 April 2011

## **APPENDICES**

- Appendix A – Proposed legal text
- Appendix B – DCP 081 Consultation Comments Log
- Appendix C – Voting Form

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<sup>3</sup> This reduced determination period reflects the requirement to implement this urgent CP on 01 April 2011 and has been discussed with Ofgem.