

DCP 092 – Housekeeping

Removal of Clause 13.10 (and consequential changes)

...

- 11.9 A Change Proposal shall be treated as relating to a Part 1 Matter or a Part 2 Matter in accordance with the determination of the Panel for all the purposes of this Section 1C, unless and until the Authority determines to the contrary under Clause 11.21, Clause 13.1~~9~~⁸ or Clause 13.~~20~~¹⁹.

...

- 11.21.4 the Authority's opinion shall be without prejudice to its right subsequently to make a determination contrary to that opinion under Clause 13.1~~9~~⁸ or Clause 13.~~20~~¹⁹, and any such determination, when made, shall prevail over any earlier opinion of the Authority.

...

The Change Decision – Part 1 Matters

- 13.9 Where the Authority receives notice from the Secretariat of a declaration made under Clause 13.4.3 in respect of a Change Proposal relating to a Part 1 Matter, the Authority shall ~~(subject to Clause 13.10)~~ determine whether that proposal shall be accepted or rejected having regard to:

- 13.9.1 its principal objective and statutory duties under sections 3A to 3D of the Act; and

- 13.9.2 whether in its opinion the proposed variation, if it were made, would better facilitate the achievement of the DCUSA Objectives than if that variation were not made.

~~13.10 In respect only of a Change Proposal to vary one or more of the Charging Methodologies that is subject to paragraph 18 of Condition 22A of the Distribution Licences, the text of the proposed variation and the proposed implementation date (in~~

~~each case as set out in the Change Report submitted to the Voting Procedure) shall (notwithstanding the deemed recommendation of the Parties) be accepted for the purposes of this Clause 13 unless, within 28 days (interpreted in accordance with Condition 2 of the Distribution Licences) of receiving notice from the Secretariat under Clause 13.8, and having had regard to the matters set out at Clauses 13.9.1 and 13.9.2, the Authority has either:~~

~~13.10.1 directed the DNO Parties that the Change Proposal is not to be accepted; or~~

~~13.10.2 notified the DNO Parties that the Authority intends to consult in relation to the proposal, and then within three months of giving that notification directed the DNO Parties that the Change Proposal is not to be accepted, in which case the Change Proposal will be rejected for the purposes of this Clause 13.~~

13.140 In making a determination under Clause 13.9, ~~or determining whether to give a direction under Clause 13.10,~~ the Authority:

13.140.1 may follow such procedure as it considers appropriate;

13.140.2 may have regard to such matters, and to any representations by such Parties, as it considers appropriate; and

13.140.3 shall in any event have regard to the recommendation made by the Parties by virtue of the Voting Procedure.

13.121 Where the Authority is to make a determination under Clause 13.9 ~~or 13.10~~, the Secretariat shall provide the Authority with a copy of the relevant Change Report (with the notice referred to in Clause 13.8 attached) and shall, at the Authority's request, provide any other existing documents or information in respect of the Change Proposal in question.

13.132 Where the Authority, acting in accordance with Clauses 13.9 and 13.140, determines that a Change Proposal shall be accepted or rejected, it shall direct the DNO Parties and IDNO Parties accordingly and that proposal shall be so accepted or rejected for the purposes of this Clause 13.

13.1⁴³ Any direction as referred to in Clause 13.1³², ~~and any direction or notification as referred to in Clause 13.10,~~ will be effectively given if communicated by the Authority to the Panel (which may be care of the Secretariat). Where any such direction or notification is, nevertheless, communicated to the DNO Parties and IDNO Parties ~~(in the case of Clause 13.13) or the DNO Parties (in the case of Clause 13.10),~~ those Parties shall, as soon as practicable following receipt of such direction or notification, forward a copy to the Panel (care of the Secretariat).

13.1⁵⁴ The Secretariat shall, as soon as is reasonably practicable after the receipt, pursuant to Clause 13.1⁴³, by the Panel of a determination by the Authority, as referred to in Clause 13.1³² ~~(or, where Clause 13.10 applies, of a direction as referred to in Clause 13.10 or after the expiry of the relevant period referred to in Clause 13.10),~~ notify the following persons whether the Change Proposal has been accepted or rejected:

13.1⁵⁴.1 each Party;

13.1⁵⁴.2 the National Consumer Council;

13.1⁵⁴.3 the National Electricity Transmission System Operator; and

13.1⁵⁴.4 any person or body that is designated in writing by the Authority for the purpose of Clause 10.2.4,

and shall ensure that the Change Register is updated so as to indicate the determination made in relation to the Change Proposal.

13.1⁶⁵ Where any Change Proposal that relates to a Part 1 Matter is accepted by virtue of Clause ~~13.10 or~~ 13.1³², the Panel shall ensure that the proposal is subject to Implementation in accordance with Clause 14.

The Change Decision – Part 2 Matters

13.1⁷⁶ The Panel shall, in the case of any Change Proposal that relates to a Part 2 Matter and that is accepted in accordance with Clause 13.6, ensure that the proposal is subject to Implementation in accordance with Clause 14.

Appeal of Part 2 Decisions

13.1~~8~~7 Any Party which is aggrieved by the acceptance or rejection of a Change Proposal by virtue of Clause 13.6 or Clause 13.7 may ask the Authority to determine that the proposal relates not to a Part 2 Matter but to a Part 1 Matter.

13.1~~9~~8 Such a request may only be made within 10 Working Days after the Secretariat notifies the aggrieved Party of the acceptance or rejection of the proposal in accordance with Clause 13.8.

13.~~20~~19 Such a request must:

13.~~20~~19.1 be made in writing;

13.~~20~~19.2 state why the Party believes (having regard to the criteria set out in Clause 9.4) that the Change Proposal relates to a Part 1 Matter; and

13.~~20~~19.3 be copied to the Secretariat and to the Panel.

13.2~~4~~0 If the Authority, within 15 Working Days of receiving a request under Clause 13.1~~8~~7 (and after having consulted with any persons and had regard to any information that it thinks fit) determines (having regard to the criteria set out in Clause 9.4) that the Change Proposal relates to a Part 1 Matter:

13.2~~4~~0.1 the acceptance or rejection of the proposal by virtue of Clause 13.6 shall be deemed to have no effect;

13.2~~4~~0.2 on being notified of the determination by the Authority, the Secretariat shall treat the proposal as relating to a Part 1 Matter for the purposes of Clause 13.5 and shall make a declaration under that Clause as if no declaration had previously been made; and

13.2~~4~~0.3 the Change Proposal shall be subject to the process set out at Clauses 13.9 to 13.1~~6~~5 (inclusive).

13.2~~2~~1 If the Authority, within 15 Working Days of receiving a request under Clause 13.1~~9~~8 (and after having consulted with any persons and had regard to any information that it thinks fit) determines (having regard to the criteria set out in Clause 9.4) that the Change Proposal does not relate to a Part 1 Matter, the acceptance

or rejection of the proposal by virtue of Clause 13.6 or Clause 13.7 shall continue to have effect.

Wragge & Co LLP

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