

DCP 122 Legal Drafting

Change to Definition of Regulations

Regulation on Cross-Border Exchanges in Electricity means Regulation 2009/714/EC of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation 2003/1228/EC.

3.1.5 compliance with the Regulation on Cross-Border Exchanges in Electricity and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators.

3.2.5 that compliance by each DNO Party with the Charging Methodologies facilitates compliance with the Regulation on Cross-Border Exchanges in Electricity and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators.

10.2.5 the Authority or a DNO/IDNO Party acting at the direction of the Authority (in each case only in relation to amendments which the Authority reasonably considers are necessary to comply with or implement the Regulation on Cross-Border Exchanges in Electricity and/or any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators).

11.9A Where the Authority reasonably considers that the Change Proposal is necessary to comply with or implement the Regulation on Cross-Border Exchanges in Electricity

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and/or any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators, the Authority may by direction specify and/or amend: [...]

- 14.9 Without prejudice to Clause 14.8, where the Authority reasonably considers that the Change Proposal is necessary to comply with or implement the Regulation on Cross-Border Exchanges in Electricity and/or any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators, then: [...]

Clarification of Clause 11.14.4(B)

11.14.4 evaluating the likely impact of the proposed date for implementation of the variation, and where it considers appropriate amending this date, subject to the following:

- (A) an implementation date specified by the Authority in accordance with Clause 11.9A.2 may not be amended;
- (B) (subject to (A) above)~~otherwise,~~ the implementation date should be the date that enables the proposed variation to take effect as soon as practicable after the decision to implement has been reached, taking into account the complexity, importance and urgency of the variation; and
- (C) in undertaking such evaluation in respect of a Change Proposal to vary one or more of the Charging Methodologies, the Working Group shall have regard to the obligations of DNO Parties under this Agreement, and under their Distribution Licences, regarding the frequency of changes to Use of System Charges, and regarding the notice to be given in advance of such changes;

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Clarification in respect of Refusal by the Panel

- 10.13 Subject to Clause 10.14A, ~~t~~The Panel may choose to refuse the referral of a Change Proposal by the Secretariat if that proposal has substantively the same effect as another Change Proposal which was submitted by a Proposer on an earlier date and: [...]
- 10.14 Subject to Clause 10.14A, ~~t~~The Panel may choose to refuse the referral of a Change Proposal by the Secretariat if in its opinion the content of the proposed variation of the Agreement is outside the scope of the Agreement as set out at Condition 22 (as supplemented by Condition 22A) of the Distribution Licences.

10.14A The Panel may not refuse a Change Proposal submitted pursuant to Clause 10.2.5.

Removal of 'best endeavours' in Clause 11.13

11.13 The Panel, the Secretariat and any Working Group shall each:

11.13.1 in the case of a timetable determined in accordance with Clause 11.9A,
complete the respective tasks assigned to them under the Assessment Process
within that timetable; or

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~~11.13.1~~ 11.13.2 in the case of a timetable determined in accordance with Clauses
11.10 to 11.12 (inclusive), use their best endeavours to complete the respective
tasks assigned to them under the Assessment Process within ~~that~~e timetable
~~determined in accordance with Clauses 11.9A to 11.12 (inclusive).~~

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Wragge & Co LLP