



## **DCUSA Change Report**

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### DCP 156 – Update to Derogation Clause

## **1 PURPOSE**

- 1.1 This document is issued in accordance with Clause 11.20 of the DCUSA and details DCP 156 – Update to Derogation Clause.
- 1.2 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.
- 1.3 Parties are invited to consider the proposed amendments attached as Appendix B and submit votes using the form attached as Appendix D to [dcusa@electralink.co.uk](mailto:dcusa@electralink.co.uk) by **11 January 2013**.

## **2 BACKGROUND AND SUMMARY OF DCP 156 – Update to Derogation Clause**

- 2.1 DCP 156 'Update to Derogation Clause' was initially raised as a housekeeping change by UK Power Networks, following discussions in the Panel meeting. The Panel agreed it should be raised as a CP. DCP 156 seeks to update the derogation clause to specify the Panel will normally consider derogation applications for new or altered obligations and not after a realization of an ongoing non-compliance.
- 2.2 The CP has been classified as a Part 2 matter in accordance with Clause 9.6 as it does not impact any clauses that have been classified as Part 1 matters.
- 2.3 Clause 56 of the DCUSA relates to the derogation process. The Panel's view in its discussions was that this clause should clearly relate to a Party's ability to comply with newly implemented CPs and that parties should not be applying for a derogation some years after the implementation of a CP, having subsequently realised that they are non-compliant.

## **3 ASSESSMENT AGAINST THE DCUSA OBJECTIVES**

- 3.1 The proposer of DCP 156 has indicated that DCUSA General Objective 4 is better facilitated by this CP because it gives clarity as to when a derogation may be sought:

- The promotion of efficiency in the implementation and administration of this Agreement.

#### **4 PROPOSED LEGAL TEXT**

- 4.1 The draft legal text for DCP 156 has been reviewed by Wragge & Co and is attached as Appendix B.
- 4.2 The DCP 156 seeks to add the sentence 'Derogations will normally only be granted in respect of newly introduced or amended obligations (or obligations due to be implemented in the future).' to clause 56.3.

#### **5 IMPLEMENTATION**

- 5.1 The proposed implementation date for DCP 156 is the next release following approval.

#### **6 PANEL RECOMMENDATION**

- 6.1 The DCUSA Panel approved the DCP 156 Change Report at its meeting on 19 December 2012.
- 6.2 The timetable for the progression of the Change Proposal is set out below:

<b>Activity</b>	<b>Target Date</b>
Initial Assessment Report	21 November 2012
Change Report Agreed	19 December 2012
Party Voting Ends	11 January 2013
Change Declaration Issued	15 January 2013
Implementation	Next DCUSA Release following Approval

- 6.3 Parties are invited to vote using the Form attached as Appendix C.

#### **7 APPENDICES:**

- Appendix A – DCP 156 Change Proposal
- Appendix B - DCP 156 Proposed Legal Drafting
- Appendix C – DCP 156 Voting Form