

Modification proposal:	Distribution Connection and Use of System Agreement (DCUSA) DCP208 – Non-veto of Derogations		
Decision:	The Authority ¹ directs this modification ² be made ³		
Target audience:	DCUSA Panel, Parties to the DCUSA and other interested parties		
Date of publication:	10 September 2014	Implementation Date:	Next DCUSA release

Background to the modification proposal

The DCUSA document enables the DCUSA Panel to grant derogations to any Party to the DCUSA from any obligation or obligations arising from the the agreement.⁴ The present wording of the DCUSA specifies that derogations approved by the DCUSA Panel will only be effective if made in conformity with any representations made by the Authority or as otherwise approved by the Authority.

The modification proposal

The proposer of DCP208, Eastern Power Networks, believes the process of granting derogations to the DCUSA would be improved by removing the requirement for explicit Authority approval. The proposal would give the Authority ten working days after the granting of a derogation by the DCUSA Panel (or a retraction, amendment or addition to an existing derogation) to veto that decision. The proposer considers that this will further promote efficiency in the implementation and administration of the DCUSA because it enables the derogation approval process to be 'time-bounded' and removes the requirement for the Authority to effectively approve derogations granted by the Panel.

DCUSA Parties'⁵ recommendation

The Change Declaration for DCP208 indicates that all parties were eligible to vote on DCP208. In each party category where votes were cast (no votes were cast in the DG party category),⁶ there was unanimous support for the proposal and for its proposed implementation date. In accordance with the weighted vote procedure, the recommendation to the Authority is that DCP208 is accepted. The outcome of the weighted vote is set out in the table below:

DCP208	WEIGHTED VOTING (%)							
	DNO ⁷		IDNO/OTSO ⁸		SUPPLIER		DG ⁹	
	Accept	Reject	Accept	Reject	Accept	Reject	Accept	Reject
CHANGE SOLUTION	100	0	100	0	100	0	n/a	n/a
IMPLEMENTATION DATE	100	0	100	0	100	0	n/a	n/a

¹ References to the "Authority", "Ofgem", "we" and "our" are used interchangeably in this document. The Authority refers to GEMA, the Gas and Electricity Markets Authority. The Office of Gas and Electricity Markets (Ofgem) supports GEMA in its day to day work.

² 'Change' and 'modification' are used interchangeably in this document.

³ This document is notice of the reasons for this decision as required by section 49A of the Electricity Act 1989.

⁴ Paragraph 56.1 of the DCUSA.

⁵ The DCUSA Parties are established and constituted pursuant to and in accordance with the section 1A of the DCUSA Agreement.

⁶ There are currently no gas supplier parties.

⁷ Distribution Network Operator

⁸ Independent Distribution Network Operator/Offshore Transmission System Operator

⁹ Distributed Generation

Our decision

We have considered the issues raised by the proposal and the Change Declaration dated 5 August 2014. Having considered and taken into account the vote of the DCUSA Parties on the proposal, We have concluded that:

- implementation of the change proposal DCP208 will better facilitate the achievement of the General DCUSA objectives;¹⁰ and
- directing that the change is approved is consistent with the Authority's principal objective and statutory duties.¹¹

Reasons for our decision

We consider this proposal will better facilitate DCUSA General Objective 3.1.4 and has a neutral impact on the other applicable objectives.

DCUSA General Objective 3.1.4 – the promotion of efficiency in the implementation and administration of this Agreement and the arrangements under it

All voting parties who provided comments agreed DCUSA General Objective 3.1.4 will be positively impacted by this modification. One of the comments stated that this change will provide more self-governance while maintaining appropriate Authority oversight. We agree that enabling the Panel to grant derogations to the DCUSA subject to a right of veto by the Authority will improve efficiency in the implementation of the DCUSA. This will streamline the process whilst continuing to provide a role for the Authority, if appropriate.

Legal drafting

We note that the legal drafting for DCP208 was submitted to us with square brackets contained. This appears to be an administrative oversight and we understand it is not intended to insert these square brackets into the DCUSA.

Decision notice

In accordance with standard licence condition 22.14 of the Electricity Distribution Licence, the Authority hereby directs that modification proposal DCP208: 'Non-veto of Derogations' be made.

Lesley Nugent
Head of Industry Codes and Licensing

Signed on behalf of the Authority and authorised for that purpose

¹⁰ The DCUSA General Objectives (Applicable DCUSA Objectives) are set out in Standard Licence Condition 22.2 of the Electricity Distribution Licence and are also set out in Clause 3.1 of the DCUSA.

¹¹ 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.