



## **DCUSA Change Report**

### **DCP 238 - Notice Period for Non DUoS Charges**

## 1 PURPOSE

- 1.1 This document is issued in accordance with Clause 11.20 of the DCUSA and details DCP 238 'Notice Period for Non DUoS Charges'
- 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 (Attachment 2) and submit their votes using the form attached as Attachment 1 to [dcusa@electralink.co.uk](mailto:dcusa@electralink.co.uk) no later than **21 August 2015**.
- 1.4 DCP 238 was raised by Northern Powergrid and seeks to amend the legal text in Section 2A to ensure the obligation to provide 15 months' notice of charges only applies to Distribution Use of System (DUoS) charges.

## 2 BACKGROUND AND INTENT OF DCP 238 CHANGE PROPOSAL

- 2.1 DCP 238 was raised by Northern Powergrid and seeks to amend the legal text in Section 2A to ensure the obligation to provide 15 months' notice of charges only applies to DUoS charges.
- 2.2 The Proposer explains that DCP 178 'Notification Period for Change to Use of System Charges' was intended to create an obligation on Distribution Network Operators (DNOs) to provide 15 months' notice when amending DUoS charges. The legal text that has been accepted inadvertently extended this obligation to include other charges such as Meter Asset Provision (MAP), Meter Point Administration Services (MPAS) and Miscellaneous Charges. This was not the intent of the original CP and potentially causes problems for DNOs in meeting their licence obligations as follows:
  - It creates a conflict between DCUSA and the Distribution Licence for MAP where prices are capped within the Charge Restriction Conditions (CRCs) by reference to the average change in RPI between July and December. This value is only known in February for the following year and if DNOs are obligated to provide 15 months' notice then this value will not be known and a DNO could inadvertently set prices

that do not comply with the CRCs.

- A further issue is the revenue protection prices published in the Miscellaneous Charging Statement. The revenue protection market is competitive and DNOs are permitted to make a reasonable margin on the costs of providing this service. If prices are set 15 months ahead, it will remove the DNOs ability to amend prices and ensure they are not recovering an inappropriate margin. As revenue protection is a competitive market, this could be seen as anti-competitive if the prices charged resulted in excessive or negative margins.

2.3 The Proposer notes that this CP will ensure the 15 months' notice of prices only applies to DUoS charges.

### **3 DCP 238 – WORKING GROUP CONSIDERATIONS**

3.1 The DCUSA Panel established a Working Group to assess DCP 238. The Working Group met on two occasions and was comprised of DNOs and Ofgem representatives; it is noted that all DCUSA Parties were invited to join the Working Group.

3.2 Meetings were held in open session and the minutes and papers of each meeting are available on the DCUSA website – [www.dcusa.co.uk](http://www.dcusa.co.uk).

### **4 DCP 238 CONSULTATION ONE**

4.1 The Working Group carried out a consultation to give DCUSA Parties and other interested organisations an opportunity to review and comment on DCP 238. There were nine responses received to this consultation. The Working Group discussed each response and its comments are summarised alongside the collated Consultation responses in Attachment 4.

4.2 A summary of the responses received, and the Working Group's conclusions are set out below:

#### **Question 1: Do you understand the intent of DCP 238?**

4.3 The Working Group noted that all respondents agreed with the intent of DCP 238.

#### **Question 2: Are you supportive of the principles of DCP 238?**

- 4.4 The Working Group noted that all respondents were supportive of the principles of DCP 238.

**Question 3: Do you have any comments on the proposed legal text?**

- 4.5 A DNO Respondent noted that they have identified a couple of changes which they believe are required to the legal text. Firstly, there appears to be either a missing bracket (or brackets are not required) to the end of clause 19.1. At the start of clause 19.1.1 there is a missing opening bracket to 'A', and for clause 19.11 we do not believe that 'Paragraph 20' is correct and it should be 'Part F'. We also believe that the glossary in section 1A of DCUSA requires revision in that other clauses are referenced and require updating. They believe that 'Charges' refers to 19.2 and should be 19.3 & 19.5, 'Payee' and 'Payor' refers to 19.2.1 and should be 19.3 and finally 'Use of System Charges' refers to 19.2.1 and should be 19.3.1
- 4.6 The Working Group agreed to amend the legal text accordingly before submitting it to the DCUSA legal advisors for review and inclusion in the Change Report.

**Question 4: The Working Group feel that DCUSA General Objective 3<sup>1</sup> would be better facilitated by the implementation of DCP 238; please provide your comments on this and any other DCUSA General Objective you feel will be impacted by DCP 238.**

- 4.7 The Working Group note that all respondents agreed with the Working Group regarding General Objective 3 being better facilitated by DCP 238.
- 4.8 A DNO Respondent noted that they agree with the Working Group's assessment that this CP better meets DCUSA General Objective 3 by removing the potential for a licence breach for DNOs when setting non-DUoS charges.
- 4.9 An IDNO Respondent also agreed with the Working Group's assessment that this better facilitates General Objective 3. The current DCUSA obligations as a result of the changes under DCP178 are in conflict with the Distribution Licence requirements.
- 4.10 A Supplier Respondent also agreed with the Working Group's view that DCUSA General Objective 3 would be better facilitated as the change would remove a potential non-compliance between the obligations contained in DCUSA and the Distribution Licence.

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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

**Question 5: This CP proposes to ensure that only Use of System Charges are subject to 15 month notice. Are there any charges which you feel should be subject to the 15 month notice and that should be excluded from this CP? Provide supporting comments.**

- 4.11 The Working Group notes that all respondents agreed that it should be just DUoS charges that are subject to 15 months' notice.
- 4.12 A Supplier Respondent explained that in their view they don't feel there are any charges, other than DUoS, that should be subject to the 15 month notice period.
- 4.13 A DNO Respondent noted that they believe that all charges other than DUoS should be finalised at forty calendar days prior to them taking effect.

**Question 6: Are you aware of any wider industry developments that may impact upon or be impacted by this CP?**

- 4.14 The Working Group noted that the overall majority of respondents were not aware of any other industry developments that would affect this CP.
- 4.15 A DNO Respondent noted that legal text for DCP 236<sup>2</sup> proposes to change clause 19.1 of DCUSA and as such would need to be considered to ensure that the end results for both changes are achieved.
- 4.16 The Working Group note that the legal text changes that were identified earlier will make changes to the same section of DCUSA, but not to the same clause wording; it will be noted to the DCUSA legal advisors that Authority approval of DCP 236 may interact with this CP, however they are not dependent upon one another.

**Question 7: Do you have any alternative solutions that would avoid the licence compliance issues raised?**

- 4.17 The Working Group noted that there were no other suggestions raised by any of the respondents to this consultation.

**Question 8: Are there any unintended consequences that should be considered by the Working Group?**

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<sup>2</sup> Variation of Charges Notice Periods – Embedded Networks

- 4.18 The Working Group noted that no respondents were aware of any unintended consequences.

## **5 EVALUATION AGAINST THE DCUSA OBJECTIVES**

- 5.1 The Working Group considers that DCUSA General Objective 3 is better facilitated by DCP 238 because it removes a potential non-compliance for DNOs between the obligations contained in DCUSA and the Distribution Licence. It enables DNOs to set MAP prices that do not breach the cap set down in the CRCs and to set prices for the provision of revenue protection services that will not result in excessive or negative margins.

## **6 IMPLEMENTATION**

- 6.1 DCP 238 is classified as a Part 1 matter in accordance with Clause 9.4.2 (B) of the Agreement, and therefore will go to the Authority for determination after the voting process has completed.
- 6.2 The implementation date, subject to Authority approval, is 5 November 2015 (The same implementation date as DCPs 178<sup>3</sup> and 236<sup>4</sup>).

## **7 PROPOSED LEGAL TEXT**

- 7.1 The draft legal text for DCP 238 has been reviewed by the DCUSA legal advisors and is included as Attachment 2.
- 7.2 The amendments to legal text are shown in tracked changes on the approved version of the DCUSA which incorporates both DCP 178 and DCP 236, both of which have been approved by the Authority, and will be implemented into the DCUSA on 5 November 2015.

## **8 FINAL CONCLUSIONS ON DCP 238**

- 8.1 The Working Group's conclusion, reflecting Party opinion as presented in the Consultation responses, is that the proposed legal drafting meets the intent of DCP 238.

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<sup>3</sup> Notification period for change to use of system charges

<sup>4</sup> Variation of Charges Notice Periods – Embedded Networks

## 9 ENGAGEMENT WITH THE AUTHORITY

- 9.1 Ofgem has been engaged throughout the progression of DCP 238 as an Observer of the Working Group.

## 3 IMPACT ON GREENHOUSE GAS OMISSIONS

- 3.1 In accordance with DCUSA Clause 11.14.6, the Working Group assessed whether there would be a material impact on greenhouse gas emissions if DCP 238 were implemented. The Working Group did not identify any material impact on greenhouse gas emissions from the implementation of this CP.

## 4 PANEL RECOMMENDATION

- 4.1 The DCUSA Panel approved the DCP 238 Change Report on the 31 July 2015. The timetable for the progression of the CPs is set out below:

Activity	Date
Change Report approved by DCUSA Panel	31 July 2015
Change Report Issued for Voting	31 July 2015
Party Voting Closes	21 August 2015
Change Declaration Issued	25 August 2015
Authority Decision	31 September 2015
Implementation	5 November 2015

## 5 ATTACHMENTS:

- Attachment 1 – DCP 238 Voting Form
- Attachment 2 – DCP 238 Proposed Legal Text
- Attachment 3 - DCP 238 Change Proposal
- Attachment 4 – DCP 238 Consultation Documents