

Meeting Session	DCUSA Panel (Open Session)
Paper Reference	Panel_2019_0515_01_Derogation Application
Action	For Decision

## Derogation Application

### 1. Synopsis

- 1.1 In accordance with Clause 56 of the DCUSA, Parties are entitled to seek derogations from obligations set out in mandatory schedules within the Agreement.
- 1.2 The Panel may resolve to grant a derogation and specify any conditions as well as the term, scope and application of the derogation. The Panel may also amend or retract any such derogation, or any such conditions relating thereto, from time to time as it sees fit.
- 1.3 The Secretariat has received one derogation application as set out in Section 2 below. The Panel is invited to consider and determine whether or not the derogation be granted and any associated conditions.

### 2. Applications

- 2.1 We have received a derogation application as set out in the table below. The full detail of the application is contained in within the attachments to this paper.

Party	Derogation From	Summary of Supporting Comments	Proposed Timescales
Foxglove Energy Supply	Schedule 25, Paragraph 8	Foxglove Energy had made significant steps in order to submit, however due to increasing wholesale prices, company priorities changed towards the time of derogation end. They aim to submit data by August 2019 hence are requesting a 4-month derogation. The actions being taken by Foxglove Energy in order to become complaint are: regular meetings between operations and senior staff being held and significant improvement with their CRM provider in order to better manage the data received.	4 Months

- 2.2 It is noted that Foxglove Energy Supply Ltd was previously granted a time limited derogation from the requirements as set out in TRAS Schedule 25, Section 8 – ‘Supplier Data’ of the DCUSA on the grounds that they were not yet established enough to be able to meet the relevant obligations. This derogation expired on 19 December 2018.

### 3. Representations and Objections

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- 3.1 The Secretariat has processed the applications in accordance with Clause 56.5, which sets out that following receipt of a Derogation Application, we shall give notice to all the Parties and to the Authority, at least 10 Working Days before the Panel meeting in question. Within this notice we:
- set out the identity of the Parties by whom applications had been made and the terms of each derogation sought;
  - specified the date on which the Panel is due to consider the matter; and
  - invited representations or objections with respect to the derogation before that time.
- 3.2 As a result of this exercise and with respect to the Derogation Application submitted by Foxglove Energy Supply Ltd, the Secretariat received representations or objections from one Party. This has been provided for consideration by the Panel and is enclosed within Attachment 2.

### 4. Decision Making Process

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- 4.1 Clause 56.1 of the DCUSA states that the Panel may resolve “to grant a derogation to any Party or Parties in relation to any obligation or obligations contained in this Agreement” and that the Panel shall “specify the term, scope and application of such derogation”.

### 5. Recommendations

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- 5.1 The DCUSA Panel is invited to:
- **NOTE** the contents of this paper;
  - **NOTE** the representation received; and
  - **DETERMINE** whether to grant a Derogation to the Party listed in Section 2 and set out any associated terms.

### 6. Attachments

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- Attachment 1 - Derogation Application Form – Foxglove Energy Supply Ltd
- Attachment 2 – Representations or objections

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