

Modification proposal:	Distribution Connection and Use of System Agreement (DCUSA) DCP211 and 211A – Enhance transparency of DCUSA change management		
Decision:	The Authority ¹ directs DCP211 modification ² be made ³		
Target audience:	DCUSA Panel, Parties to the DCUSA and other interested parties		
Date of publication:	20 October 2015	Implementation date:	30 Working Days from Approval

Background

Currently, not all information regarding the DCUSA change process is accessible on the DCUSA website, with a significant amount of information stored in a password controlled area.⁴ Only a limited group are given access to this area, including the DCUSA Parties and, on a case by case basis, DCUSA sponsored parties.⁵ Changes to the DCUSA affect more than just those who have access to this area. For example potential new entrants into the generation, supply or distribution businesses need to understand the prospective costs and revenues governed by the DCUSA and the future risks associated with any DCUSA changes. There is a case for information of this nature to be made more accessible.

The modification proposal

DCP211 was raised by Reckon LLP, the proposer, on 20 May 2014. It proposes to increase transparency in the DCUSA by providing for all minutes, reports, consultation responses, data and other information issued after 31 May 2014 (except in cases covered by the confidentiality clause in the DCUSA⁶) to be made publicly available on the DCUSA website (ie. without requiring a password). It also proposes that all documents of this type, including those that pre-date 31 May 2014 would be made available on request for a reasonable charge.

Following an industry consultation, the workgroup was split as to whether the publication of DCUSA documents on the public facing DCUSA website should be applied from 31 May 2014 or from the date that the change proposal is implemented. They were also split on whether historical documents should be available on request. Due to these differences DCP211A was raised by the workgroup to give parties the opportunity to vote on two options. DCP211A proposes access to the same type of information as DCP211. However, under DCP211A only information postdating the implementation date of DCP211A would be made available (ie. no documentation pre-dating the implementation date would be made available on the website or on request).

The workgroup identified that both modifications better facilitate General Objective 2⁷ of the DCUSA with the majority preferring DCP211A.

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. This decision is made by or on behalf of GEMA.

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 <http://www.dcusa.co.uk/SitePages/Home.aspx>

⁵ The rules around such web access are contained in Schedule 14 of the DCUSA document.

⁶ Clause 57.1 or 57.3.1.

⁷ The facilitation of effective competition in the generation and supply of electricity and (so far as is consistent with that) the promotion of such competition in the sale, distribution and purchase of electricity.

DCUSA Parties' recommendation

All parties were eligible to vote on DCP211 and 211A. Votes were only cast in the DNO and Supplier party category.⁸ In accordance with the weighted vote procedure, the recommendation to the Authority is that DCP211A is accepted and DCP211 is rejected. The outcome of the weighted vote is set out in the table below:

DCP211	WEIGHTED VOTING (%)							
	DNO ⁹		IDNO/OTSO ¹⁰		SUPPLIER		DG ¹¹	
	Accept	Reject	Accept	Reject	Accept	Reject	Accept	Reject
CHANGE SOLUTION	8%	92%	n/a	n/a	50%	50%	n/a	n/a
IMPLEMENTATION DATE	34%	54%	n/a	n/a	50%	50%	n/a	n/a

DCP211A	WEIGHTED VOTING (%)							
	DNO ¹²		IDNO/OTSO ¹³		SUPPLIER		DG ¹⁴	
	Accept	Reject	Accept	Reject	Accept	Reject	Accept	Reject
CHANGE SOLUTION	72%	28%	n/a	n/a	100%	0%	n/a	n/a
IMPLEMENTATION DATE	72%	28%	n/a	n/a	100%	0%	n/a	n/a

Our decision

We have considered the issues raised by the proposal and the Change Declaration and Change Report dated 21 August 2015. We have considered and taken into account the vote of the DCUSA Parties on the proposal which is attached to the Change Declaration. We have concluded that:

- implementation of the modification proposal DCP211 will better facilitate the achievement of the DCUSA General objectives;¹⁵ and
- directing that DCP211 is approved is consistent with our principal objective and statutory duties.¹⁶

Reasons for our decision

We consider that both modification proposals will better facilitate DCUSA General Objective 2 and have a neutral impact on the other applicable objectives.

DCUSA General Objective 3.1.2 – the facilitation of effective competition in the generation and supply of electricity and (so far as is consistent with that) the promotion of such competition in the sale, distribution and purchase of electricity

The workgroup considered that this objective is better facilitated by both proposals as:

- the proposals make information about DCUSA-governed charges, revenue opportunities and associated risks available to potential new entrants, so that they are better able to identify opportunities to compete; and

⁸ There are currently no gas supplier parties.

⁹ Distribution Network Operator

¹⁰ Independent Distribution Network Operator/Offshore Transmission System Operator

¹¹ Distributed Generation

¹² Distribution Network Operator

¹³ Independent Distribution Network Operator/Offshore Transmission System Operator

¹⁴ Distributed Generation

¹⁵ 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.

¹⁶ The Authority's statutory duties are wider than matters that the Parties must take into consideration and are detailed mainly in the Electricity Act 1989 as amended.

- making this information available to potential customers will facilitate competition as they will be better informed about how the industry operates.

All respondents to the industry consultation considered that DCP211 better facilitated this objective with one respondent suggesting that it better facilitates General Objective 4¹⁷ but without giving a reason.

We agree that both modifications better facilitate this objective. By having access to DCUSA documents potential new entrants to the market are better able to prepare themselves to compete in it. We agree that having such information available, potential customers can also use this to their advantage.

We note that the majority of the workgroup members preferred DCP211A as the proposal takes effect from the date of the DCUSA version it is first included in rather than, as in the case of DCP211, what they consider to be an arbitrary retrospective date. They also suggest that DCP211, unlike DCP211A, will require the Secretariat to undertake the potentially significant task of managing the risk that documents are disclosed in breach of confidentiality clauses, which would be paid for by DCUSA Parties rather than the person making the request.

Concerns were raised by respondents to the industry consultation on DCP211 about publishing documents that date back to 31 May 2014, including that those documents were written under the assumption that they would not be publicly available and so should not now be made public. Respondents also were of the view that checking whether information is confidential would represent a large administrative burden on the Secretariat.

However, the Change Report describes an existing process by which parties can request, giving reasons, that documents that they have previously submitted be made confidential prior to the implementation of DCP211. Such requests require the consent of the DCUSA Panel. The Change Report also sets out that the estimated time to publish all documents from 31 May 2014 is 1.5 FTE days of work for the Secretariat. This time could increase by at least 1 day depending on the number of confidential documents involved.

We note that DCUSA Parties have been able to identify any document they submit as confidential, and will continue to be able to do so. Documents that they have not identified as confidential have been published on the password protected pages of the DCUSA website for all parties with access to this area to view. Therefore parties should already have been mindful of this when submitting documentation. In addition, as parties will have the option to request that documents previously submitted be made confidential and removed from the website, we do not consider the concern raised around publishing past documents to be a material issue. The time estimations given for the administrative task also appear proportionate to the task. The aim of this modification is to increase the transparency of the DCUSA and so the more documents that are made available the more transparent it is and the more useful it is for potential new market entrants. Therefore, as DCP211 makes more DCUSA documents available on the public facing website than DCP211A and provides a means to access other historic documents whilst providing adequate protection for genuinely confidential documents, we believe it better meets General Objective 2 than DCP211A.

¹⁷ The promotion of efficiency in the implementation and administration of this Agreement and the arrangements under it.

Decision notice

In accordance with standard licence condition 22.14 of the Electricity Distribution Licence, the Authority hereby directs that modification proposal DCP211: Enhance transparency of DCUSA change management be made.

Declan Tomany

Associate Legal Partner

Signed on behalf of the Authority and authorised for that purpose