



DCUSA Change Report

DCP 078 – Reciprocal DUoS Payment Arrangements

1 PURPOSE

- 1.1 The Distribution Connection and Use of System Agreement (DCUSA) is a multi-party contract between electricity Distributors and electricity Suppliers and large Generators. Parties to the DCUSA can raise Change Proposals (CPs) to amend the Agreement with the consent of other Parties and (where applicable) the Authority.
- 1.2 This document is a Change Report issued to all Parties in accordance with Clause 11.20 of the DCUSA. The Change Report details DCUSA Change Proposal (DCP) 078 – Reciprocal DUoS Payment Arrangements.
- 1.3 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.
- 1.4 Parties are invited to consider the proposed amendment attached as Appendix A and submit votes using the form attached as Appendix C to dcusa@electralink.co.uk by 11 August 2011.

2 DCP 078 - RECIPROCAL DUOS PAYMENT ARRANGEMENTS

- 2.1 DCP 078 has been raised by Smartest Energy Limited and seeks to allow payments from Company to User within the DCUSA. This will create equality between the Parties in the arrangements associated with the timing of payments and interest charges on late payments.
- 2.2 The current DCUSA does not facilitate the payment of charges from the Company to the User. Although some Suppliers have bilateral agreements in place with DNOs for the payment of Use of System charges where there is a net positive position due to embedded generation, there is no documented common standard. This has resulted in an inconsistent approach and a delay to some payments which can cause issues for Suppliers who have obligations to pass payments on to embedded generators.
- 2.3 DCP 078 seeks to incorporate a reciprocal relationship between the Company and the User in the DCUSA for the payment of funds owed. It does not seek

to specify any netting off arrangements between Suppliers and Distributors, recognising that it would be impractical to document all the possible scenarios for netting off arrangements in the DCUSA. The CP proposes a backstop approach in which the DCUSA will specify the baseline payment terms, but this does not prevent parties from developing their own practices for netting-off and to agree separate terms bilaterally.

- 2.4 The CP is classified as a Part 2 matter in accordance Clause 9.6 of the DCUSA, and as such will not require Authority consent.

3 DCP 078 WORKING GROUP

- 3.1 The CP was progressed through the Definition Phase and a Working Group was established to assess and develop the CP. The Working Group comprised DNOs and Suppliers and met on 4 occasions between February and June 2011.

4 CONSULTATION

- 4.1 A Consultation was issued to all DCUSA Parties on 14 February 2011 by the DCP 078 Working Group. There were comments received from 14 Parties by the closing deadline of 28 February 2011. The Consultation comments and Working Group responses are attached as Appendix B.
- 4.2 All respondents understood the intent and the majority were supportive of its principles.
- 4.3 Some respondents questioned the justification for the CP highlighting that bilateral arrangements are already in place between Suppliers and DNOs to cover such payments and allow the netting off of debit and credit invoices. Those parties felt that DCP 078 has the potential to overwrite the existing bilateral arrangements which would result in costly system and process changes.
- 4.4 The Working Group agreed that the justification for raising this CP was valid. Members noted that the lack of a documented process in the DCUSA has resulted in an inconsistent approach which could delay some payments and

- cause issues for Suppliers who have obligations to pass payments on to embedded generators.
- 4.5 Recognising that there are instances where DUoS charges could have a net negative position, the group agreed that there is merit in the introduction of a reciprocal relationship between the Company and the User within the DCUSA for the payment of funds owed. The Working Group also noted that new entrants to the market would not have visibility of the bi-lateral agreements that are in place, and therefore a baseline requirement should exist. The Working Group agreed that the CP seeks to specify baseline requirements and it noted that Parties still may agree separate terms bi-laterally.
- 4.6 It was agreed that the intent of the CP is to introduce a reciprocal relationship between the Company and the User within the DCUSA for the payment of funds owed. It does not seek to alter existing bilateral arrangements for netting-off that Parties may have in place. Members proposed that the drafting should be amended to clarify this point but not to specify how such arrangements may work.
- 4.7 Some respondents felt that since the CP introduces reciprocal payments arrangements, the group should also consider similar arrangements for payment defaults between the Company and the User. The Working Group noted that Schedule 4, of the current DCUSA drafting, outlines the payment default process and that the Schedule could subsequently be updated to accommodate the changes brought in by DCP 078.
- 4.8 Some respondents recommended that the credit cover requirements also be reviewed to see if reciprocal measures are required for Distributors. Distributors' credit cover is managed under the License and cover is based on asset revenue. The Working Group did not consider it appropriate for the credit arrangements to be reviewed under DCP 078. Should any Party wish to progress this issue they would need to raise a separate CP.

5 WORKING GROUP ASSESSMENT AGAINST THE DCUSA OBJECTIVES

- 5.1 The Working Group considers that the Change Proposal will better facilitate General DCUSA Objective 2¹ by providing certainty and transparency of process, and by ensuring that fair and equitable payment terms are in place for all Parties.

6 ENVIRONMENTAL IMPACT

- 6.1 The Working Group, in accordance with its Terms of Reference, agreed that there was no material impact on greenhouse gas emissions as a result of the proposed variation being made.

7 PROPOSED LEGAL DRAFTING

- 7.1 The proposed DCP 078 Legal text seeks to address negative DUoS Charges within the DCUSA (without reference to separate arrangements between individual distributors and suppliers):
- a. In accordance with paragraph A2 (b) of Appendix 1 to condition 22, arrangements concerning charges (including payment terms) are squarely within the scope of the matters that must be included within the DCUSA.
 - b. While there is no express requirement that distributors must only contract for Use of System pursuant to the DCUSA (and in fact, there could not be such a requirement because Generators are not obliged to sign the DCUSA), the assumption is that Use of System arrangements with suppliers will be included in the DCUSA.
 - c. Under condition 19, Distributors are required not to discriminate in providing Use of System. By agreeing separate arrangements with individual Suppliers, Distributors are at risk of agreeing different terms and therefore discriminating between Suppliers.

¹ The facilitation of effective competition in the generation and supply of electricity (so far as is consistent therewith) the promotion of such competition in the sale, distribution and purchase of electricity.

7.2 The proposed legal drafting for DCP 078 has been reviewed by Wragge and Co. and is attached as Appendix A.

8 IMPLEMENTATION

8.1 The proposed implementation date for DCP 078 is **03 November 2011**.

9 PANEL RECOMMENDATION

9.1 The Panel approved the DCP 078 Change Report on the 20 July 2011.

9.2 In accordance with Clause 12.4 of the DCUSA the Panel has determined that DCP 078 should be issued to all Parties for voting for a period of 15 Working Days.

9.3 The timetable for the progression of the Change Proposal is set out below:

Activity	Latest Date
Change Report Agreed	20 July 2011
Party Voting	21 July – 11 August 2011
Change Declaration	12 August 2011
Implementation	03 November

APPENDICES

- Appendix A – Proposed legal text
- Appendix B – DCP 078 Consultation
- Appendix C – Voting Form