

Proposed variation:	<b>Distribution Connection and Use of System Agreement (DCUSA) DCP025: Ofgem Notices</b>		
Decision:	The Authority <sup>1</sup> directs that this variation be made		
Target audience:	Parties to the DCUSA and other interested parties		
Date of publication:	28 August 2008	Implementation Date:	To be confirmed

## Background to the proposed variation

DCP007 was raised in July 2007 to address a perceived discrepancy between the prevailing DCUSA text and that of the Distribution licence, regarding the party to whom our decision notices should be sent. Following the direction of the Authority to implement DCP007: 'Change Determination Notices to Distributors' the DCUSA was amended to reflect a process whereby Ofgem would send decision notices to each Distributor Party. Those Parties would then have obligations to inform the Panel Secretary of the decision, who would in turn notify all other DCUSA Parties. It was considered that this process would better reflect the requirements Standard Condition 9B of the Distributors licence than the prevailing process.

## The proposed variation

The proposed variation seeks to introduce a more efficient process for notifying all DCUSA Parties, whereby Ofgem will issue decision notices directly to the Panel Secretary, who will then forward the notice on to all DCUSA Parties, using the distribution list it maintains. Although this had again become custom and practice and widely accepted to be more efficient, the proposer considered there to be a risk that it was not captured within the DCUSA.

The proposer considered including the process within DCUSA would better facilitate achievement of Applicable DCUSA Objective (d).

## Recommendation to Ofgem

The recommendation of DCUSA Parties was for the proposed variation to be accepted. Of the Party Classes which voted (DNO, IDNO, and Supplier) participants were unanimously in favour of implementation. There was also unanimous support for the proposed implementation date.

## The Authority's decision

The Authority has considered the issues raised by DCP025 and the final Change Declaration dated 23 July 2008. The Authority has considered and taken into account the responses to ElectraLink's<sup>2</sup> consultation which are attached to the Change Declaration<sup>3</sup> and the recommendation of the DCUSA Parties. The Authority has concluded that:

<sup>1</sup> The terms 'the Authority', 'Ofgem' and 'we' are used interchangeably in this document. Ofgem is the Office of the Gas and Electricity Markets Authority.

<sup>2</sup> The role, functions, and responsibilities of Electralink are set out in Section 1B of the DCUSA.

<sup>3</sup> DCUSA change proposals, modification reports and representations can be viewed on the DCUSA website at <http://dcusa.co.uk/Public/Default.aspx>

1. implementation of the proposed variation will better facilitate the achievement of the Applicable DCUSA Objectives<sup>4</sup>; and
2. directing that the proposed variation be made is consistent with the Authority's principal objective and statutory duties<sup>5</sup>.

### **Reasons for the Authority's decision**

We note that this proposal received unanimous support from respondents, though there were no substantive comments to clarify their views.

It seems practical for the Secretariat, who is charged with maintaining accurate contact details of each DCUSA Party, to play a role in notifying them of decisions etc, rather than Ofgem having to notify each and every Distributor, each of whom shall then inform the Panel Secretary. Under the current drafting, only once these two communications have taken place will non-Distributor Parties of the DCUSA be informed. We consider the proposed variation will both streamline the notification process, and reduce the risk for contact lists to become out of date. We therefore agree with the respondents and the DCUSA Panel, who considered that the implementation of this variation will better facilitate applicable objection (d) of the DCUSA: *the promotion of efficiency in the implementation and administration of the DCUSA arrangements.*

We also note the comments with respect to consistency between the DCUSA and the Distribution licence. Although the drafting of the Distribution licence is similar to other licence conditions with respect to directions to implement a modification, the current interpretation that has been taken under DCUSA is inconsistent with that on other, longer established, industry codes. It is commonplace for Ofgem to communicate initially with a Panel secretary or administrator, who will then take responsibility for onward communication. For instance, in the electricity Balancing and Settlement Code we communicate largely with elxon, and in the case of the gas Uniform Network Code, with the Joint Office of Gas Transporters. In these and other instances the relevant licence condition refers to the Authority directing the licensee to make a modification, though it is actually the appointed administrator acting as the licensees' agent to whom we issue the notice in the first instance.

Standard Condition 9B (8) provides that arrangements should be made for the establishment of a Panel, which is to be responsible for the governance and administration of the DCUSA. It also provides for the establishment and funding of a secretariat able to service the Panel in respect of matters that may be specified. We consider that communicating decision notices is an administrative task that would reasonably form part of a secretariat function, as currently. We therefore consider that whilst the legal drafting to be introduced by DCP025 may not be entirely necessary, it has value to the extent it provides further clarity to DCUSA Parties.

As long as the direction to implement is communicated to the licensee, whether directly or via a secretary, the license requirements have been discharged; we therefore consider that this proposal is consistent with applicable objective (c) *the efficient discharge by the licensee of the obligations imposed upon it by this licence.*

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<sup>4</sup> As set out in the Distribution Licence Standard Condition 9B(9), see: [http://epr.ofgem.gov.uk/document\\_fetch.php?documentid=12773](http://epr.ofgem.gov.uk/document_fetch.php?documentid=12773)

<sup>5</sup>The Authority's statutory duties are wider than matters which the Panel must take into consideration and are detailed mainly in the Electricity Act 1989.

## Decision notice

In accordance with Standard Condition 9B of the Distribution Licence, the Authority hereby directs that the proposed variation set out in DCP025: 'Ofgem Notices' be made, and that it shall be implemented on a date to be confirmed by the DCUSA Panel Secretary.



**Mark Feather**  
**Director, Industry Codes and Licensing**

Signed on behalf of the Authority and authorised for that purpose.