



## **DCUSA CHANGE REPORT**

### **DCP 256 – Change to DCUSA to mitigate risks of non-payment of DCUSA invoices**

#### **Executive Summary**

DCP 256 was raised by British Gas to improve the transparency of the DCUSA invoicing process and to improve the effectiveness of the non-payment arrangements. This change was assessed by the DCP 256 Working Group, who convened on six occasions since December 2015.

DCP 256 has been developed based on six principles, that seek to add additional clarity around the DCUSA invoicing process from when the annual DCUSA budget is circulated through to the late payment escalations process.

This document presents the Change Report for DCP 256 and invites respondents to vote on the proposed change.

## 1 PURPOSE

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- 1.1 This document has been issued in accordance with Clause 11.20 of the DCUSA, and details DCP 256 – Change to DCUSA to mitigate risks of non-payment of DCUSA invoices. 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.
- 1.2 Parties are invited to consider the proposed amendment (Attachment 1) and submit their votes using the Voting form (Attachment 2) to [dcusa@electralink.co.uk](mailto:dcusa@electralink.co.uk) by **12 August 2016**.

## 2 BACKGROUND AND SUMMARY

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- 2.1 DCP 213<sup>1</sup> was raised in late 2014 to provide clarity and incorporate into governance the fact that Late Payment of DCUSA's 'Recovery of Budgeted Costs' invoices would be considered a breach of the DCUSA and as a result, the Parties concerned will have their voting rights suspended. This CP was subsequently withdrawn due to the proposed solution not covering the intent of the change.
- 2.2 Due to the perceived benefits of DCP 213, a further change was raised in early 2015 to incorporate the management of late payment of DCUSA Ltd invoices into governance. However, upon further analysis DCP 223<sup>2</sup> sought to introduce additional powers to the DCUSA Panel that it already had the vires for. As such this change was withdrawn from the DCUSA Change Process.
- 2.3 Following the introduction of the Theft Risk Assessment Service (TRAS) into the DCUSA, the value of invoices raised to meet DCUSA costs has increased significantly and the risks

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<sup>1</sup> DCP 213 – Providing Clarity on Late Payment of DCUSA Invoices Being Considered in Breach of DCUSA

<sup>2</sup> DCP 223 - To Introduce into Governance a Process to Effectively Manage the Late Payment of DCUSA Ltd Invoices by Parties

associated with late payments has become apparent. As a result, DCP 256 was raised by British Gas to:

- Improve the transparency of likely DCUSA costs to enable Parties to better plan and budget for DCUSA invoices.
- Improve the effectiveness of the arrangements for following up a non-payment of DCUSA invoices.

### **3 WORKING GROUP**

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3.1 The DCUSA Panel established a Working Group to assess DCP 256. This Working Group consists of DNO, Supplier, IDNO and Ofgem representatives. 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).

3.2 The Working Group considered a number of elements with regard to DCP 256, which have been summarised below:

#### Naming Non-Paying Parties

3.3 The Working Group discussed whether DCUSA Parties should have visibility of which Parties have not paid, agreeing that it would not be appropriate to share this information.

#### Suspension of Registration Rights

3.4 The Working Group noted that in terms of the actions that can be taken where a Party has not paid, suspending registration rights is an additional tool that can be used for Suppliers but is not available for Distributors.

#### Late Payment Fees

3.5 The Working Group noted that DCUSA includes the ability to apply late payment fees. The group considered whether these fees should be applied in all circumstances or whether the Panel should have the ability to exercise discretion in applying them. The Working Group concluded that it is for the Panel to review how it exercises its discretion and to ensure this is applied in a fair and consistent manner.

#### Invoice Delivery Method

3.6 It was observed that issuing invoices via email may be preferable, as they will be received

the same day they are sent and the risk that they will be lost in the post is removed. The Working Group agreed to ask a consultation question on whether Parties have a need to receive paper invoices.

### Raising Purchase Orders

- 3.7 The Working Group was advised that one reason why payments are sometime received late is that some Parties have not been able to raise a Purchase Order internally in time to make the payment date. The group agreed to ask a consultation question on whether DCUSA Ltd could provide additional information that would assist with Purchase Order facilitation.
- 3.8 The Working Group developed a consultation document ( Attachment 4) to gather information and feedback from market participants.
- 3.9 Whilst assessing DCP 256, the Working Group established a set of principles for ensuring that Parties have sufficient information about their charges to aid them in paying promptly and the process for addressing non-payment. These have been listed below:
- 3.10 Principle 1: When the annual DCUSA budget is circulated for consultation it will:
- a) Separately identify how much is payable by Distributors and Suppliers;
  - b) Set out how the charges will be phased over each quarter (for example, are they evenly split over each quarter?);
  - c) Specify the expected rebate for the current year; and
  - d) Specify the dates that invoices will be issued on over the coming year.
- 3.11 Principle 2: Invoices will:
- a) Be issued at the end of the third week after the start of the quarter;
  - b) Parties will have the opportunity to request their invoices via paper, email or both (which can be amended at a later date);

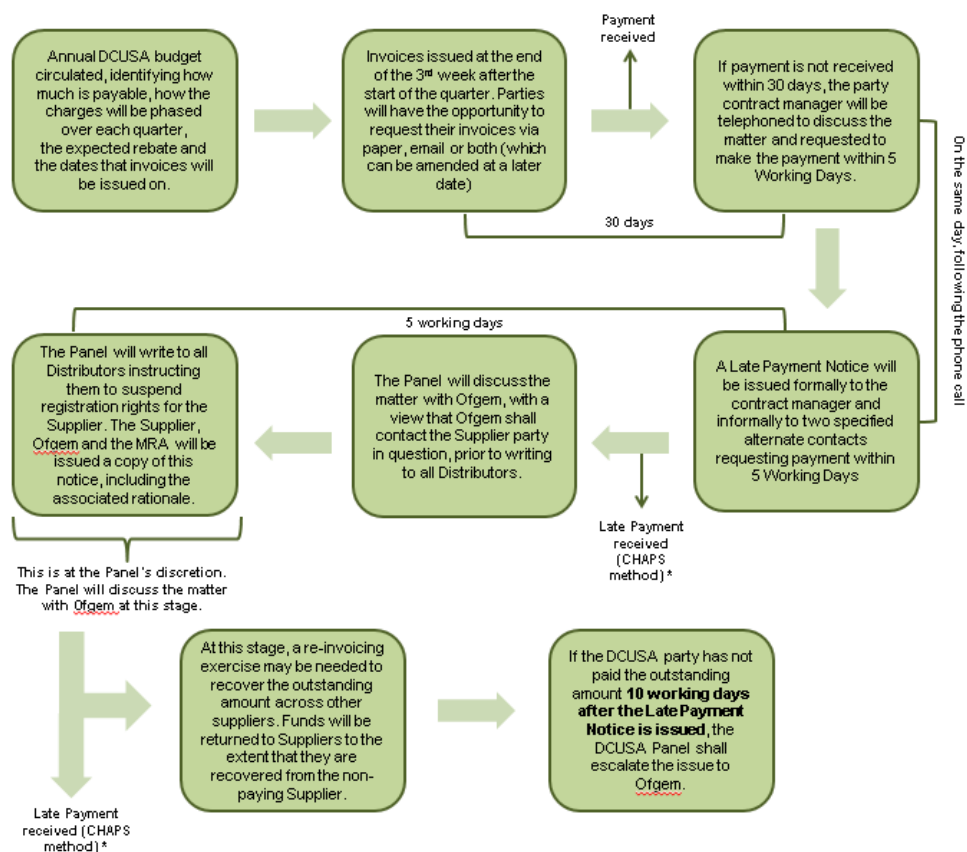
- c) Separately identify recoverable costs for TRAS liabilities and the energy theft tip off service;
- d) Payment will be due within 30 days; and
- e) If payment is not received within 30 days, the party contract manager will be telephoned to discuss the matter and requested to make the payment within 5 Working Days. Following this phone call, and on the same day as the call is made, a Late Payment Notice will be issued formally to the contract manager and informally to two specified alternate contacts requesting payment within 5 Working Days from the email being issued. This notice will be issued via an email that requires confirmation that the recipient has received the email (i.e. read receipts will be used).

3.12 Principle 3: Where a Supplier party does not pay within 5 working days of the Late Payment Notice being sent, at the Panel's discretion, the following steps will be taken until payment is received:

- a) The Panel shall discuss the matter with Ofgem, with a view that Ofgem shall contact the Supplier party in question, prior to writing to all Distributors.
- b) The DCUSA Panel will write to all Distributors instructing them to suspend registration rights for the Supplier. The Supplier, Ofgem and the MRA will be issued a copy of this notice, which will include the rationale behind the suspension request; and
- c) If DCUSA Ltd does not have sufficient funds to make payments due with regards to TRAS liabilities, a re-invoicing exercise may be needed to recover the outstanding amount across other Suppliers using the same method of calculation. The payment timescales for this re-invoicing exercise may be shorter than standard timescales. The funds will subsequently be returned to

Suppliers to the extent that they are recovered from the non-paying Supplier;  
and

- 3.13 Principle 4: If 10 working days after the Late Payment Notice is issued the DCUSA Party (i.e. Distributors and Suppliers) has not paid the outstanding amount, the DCUSA Panel shall escalate the issue to Ofgem.
- 3.14 Principle 5: Where a payment is late, the Party will be required to use a same day payment method (e.g. CHAPS).
- 3.15 Principle 6: Once the Late Payment has been received, a notification will be issued to the contract manager to confirm the receipt. Following this, and where registrations have been suspended, an instruction shall be given to the DNOs and copied to the late payer to confirm that registration rights should be re-instigated.



\* Once the Late Payment has been received, a notification will be issued to the contract manager to confirm the receipt. Following this, and where registrations have been suspended, an instruction shall be given to the DNOs and copied to the late payer to confirm that registration rights should be re-instigated.

## 4 DCP 256 CONSULTATION

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4.1 The DCP 256 consultation was issued on 25 January 2016 to all DCUSA Contract Managers and has been provided as Attachment 4.

4.2 The consultation received eight responses, which have been provided as Attachment 5 alongside the Working Group's comments.

4.3 A summary of the Working Group's conclusions have been provided below.

### **Question 1 - Do you understand the intent of the CP?**

4.4 The Working Group noted that all of the respondents understood the intent of DCP 256.

### **Question 2 - Are you supportive of the principles established by this proposal?**

4.5 The Working Group noted that six of the respondents were supportive of the principles of DCP 256. One respondent agreed with Principles 1 and 2 and provided comments with regard to the remaining principles. The final respondent partly agreed with the principles, providing further information as part of Question 7 and 10.

4.6 The Working Group considered a suggestion for the Supplier Party in default to decide whether to pay by CHAPS or BACs, concluding that CHAPS would be required due to the payment being received the following day rather than three days later when using BACs

### **Question 3 – Do you have a preference to receive paper or electronic (a PDF version that is eMailed) invoices or both a paper and an electronic invoice?**

4.7 Five respondents confirmed that they preferred to receive electronic invoices, with the remaining three respondents confirming that they preferred both electronic and paper invoices. As such, the Working Group agreed that the legal text should allow for both paper and electronic invoices to be issued due to the varying responses received.

### **Question 4 – Can DCUSA Ltd provide any additional information to assist your organisation with Purchase Order facilitation?**

4.8 The Working Group noted that five respondents did not require any additional information to assist their organisation with Purchase Order facilitation. Three respondents provided suggestions with regard to Purchase Order facilitation, which included additional information being provided on the budget throughout the year, the

completion of a pro-forma and the use of Direct Debits. The viability of Direct Debits was considered further by the Group, with the concluding view being that the use of Direct Debits would not be practicable for DCUSA.

**Question 5 – Is there any additional information that you would like to receive in your invoice that would aid you in paying promptly?**

- 4.9 Six respondents confirmed that the invoices did not need to include any additional information in order to aid them paying the invoice promptly. Two respondents requested that backing data would be useful to be provided, which the Working Group agreed could be issued to Parties upon request. In addition, a suggestion was made for the invoices to specify how many days a party has to pay however, the Working Group concluded that the invoice due date (which is already included on all invoices) was sufficient.

**Question 7 – Do you have any comments on the straw man principles (including the proposed timescales)?**

- 4.10 The Working Group noted that three respondents did not have any comments on the straw man principles, four respondents provided comments on the principles and one respondent provided comments within their response to Question 7. The Working Group reviewed each of the comments received and the responses have been summarised below:

- Payment Default should remain as five Working Days;
- Registrations should be suspended forthwith and the written request to Distributors should clarify the reasons behind the suspension request;
- The DCUSA Panel should consider whether, following a Payment Default, additional funding would be required or whether the cost can be recovered from the contingency; and
- All reasonable steps should be taken to ensure that a party receives their Late Payment Notice, as such two alternative contacts and read receipts were introduced into the principles.

**Question 8 – Do you have any comments on the proposed sanction to suspend registration rights (Principle 4)?**

- 4.11 The Working Group noted that four respondents did not have any comments on the proposed sanction to suspend registration rights, two respondents provided comments within Question 9 and Question 7 respectively and two respondents provided comments



for consideration by the Working Group.

- 4.12 The Working Group considered and agreed with the suggestion for three point of contacts to be included within the principles as well as for the Secretariat to include read receipts on communications issued regarding late payments.
- 4.13 In addition, the Working Group considered the appropriateness of the timescales surrounding Principle 4, agreeing that the legal drafting allowed for a degree of flexibility.

**Question 9 – Is there anything that would prevent DNOs from suspending registration rights as envisaged within the legal text?**

- 4.14 Four respondents did not provide any comments and one respondent referred to their response provided in Question 7. Three respondents highlighted potential issues that would prevent DNOs from suspending registration rights as envisaged in the legal text. The issues were a result of an earlier version of the legal text being provided with the original consultation, however this was corrected and re-issued to all DCUSA Parties on 26 January 2016. The later version of the legal test addressed all of the potential issues that were highlighted.
- 4.15 The Working Group reviewed the comments made and agreed for the drafting to undergo a legal review, which would consider the implications of the drafting on other industry codes.

**Question 10 – Do you have any comments on the proposed legal text?**

- 4.16 The Working Group noted that four respondents did not have any comments on the proposed legal text, three respondents provided comments on the proposed legal text and one respondent did not have any further comments other than those made in their response to Question 7 and Question 9. The Working Group reviewed each of the comments received and agreed to further consider the implications of terminating a Parties accession to DCUSA as part of the legal review.
- 4.17 Following legal advice, the Working Group agreed to remove the provision to terminate a Parties accession. This has been reflected in the legal text.

**Question 11 – Which DCUSA General Objectives does the CP better facilitate?**

- 4.18 The Working Group noted that all eight respondents agreed that DCP 256 better

facilitates DCUSA General Objective Four.

**Question 12 – Are you aware of any wider industry developments that may impact upon or be impacted by this CP?**

- 4.19 The Working Group noted that seven respondents were not aware of any wider industry developments and one respondent suggested that the late payments process in other industry codes should be considered. The Working Group agreed that considering other industry code processes would be prudent, noting that the Master Registration Agreement (MRA) and Balancing and Settlement Code (BSC) had been considered during the assessment stage of the change.

**Question 13 – Do you have a preference on the date that DCP 256 is implemented into the DCUSA?**

- 4.20 The Working Group noted that three respondents agreed that DCP 256 should be implemented in the next release following Authority consent and the remaining four respondents did not have a preference on the date that DCP 256 is implemented into the DCUSA.

**Question 14 – Are there any alternative solutions or matters that should be considered by the Working Group?**

- 4.21 Five respondents did not have any alternative solutions or matters, with two respondents providing suggestions regarding the original solution and the final respondent suggesting an alternative solution for consideration. The Working Group considered each of the suggestions provided and agreed that:

- The prescription of a time period for invoices could not be further defined and that the current drafting for Clause 8.10.2 (which details the invoicing process) was sufficient; and
- The Late Payment Guidance should be updated in accordance with DCP 256 and issued alongside the DCUSA Annual Budget. It was suggested that this could be included and/or appended to the DCUSA annual budgets.

## 5 ASSESSMENT AGAINST THE DCUSA OBJECTIVES

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- 5.1 The Working Group considers that the following DCUSA Objective is better facilitated by DCP 256:

**General Objective Four - The promotion of efficiency in the implementation and administration of this Agreement**

- 5.2 General Objective Four is better facilitated by DCP 256 because the Panel will be able to improve the management of 'late payers' with respect to late payment of their share of the budgeted costs.

## 6 DCP 256 - LEGAL DRAFTING

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- 6.1 The DCP 256 legal drafting seeks to clarify the process surrounding the draft budget as well as introducing a new process for DCUSA Payment Defaults as defined by the Working Group.
- 6.2 The red-lined drafting, which has undergone a legal review, has been provided as Attachment 3.

## 7 ENVIRONMENTAL IMPACT

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- 7.1 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 256 were implemented. The Working Group did not identify any material impact on greenhouse gas emissions from the implementation of this Change Proposal.

## 8 ENGAGEMENT WITH THE AUTHORITY

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- 8.1 Ofgem has been engaged throughout the development of DCP 256 as a member of the Working Group.

## 9 IMPLEMENTATION

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- 9.1 The proposed implementation date for DCP 256 is five Working Days following Authority consent.

## 10 PANEL RECOMMENDATION

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- 10.1 The Panel approved this Change Report at its meeting on **20 July 2016**. The Panel considered that the Working Group had carried out the level of analysis required to enable Parties to understand the impact of the proposed amendment and to vote on DCP 256.
- 10.2 The timetable for the progression of the CP is as follows:

Activity	Date
Change Report issued for voting	22 July 2016
Voting closes	12 August 2016
Change Declaration	16 August 2016
Authority Determination	21 September 2016
DCP 256 Implemented	5 Working Days following Authority Consent

## 11 NEXT STEPS

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- 11.1 This Change Report will be issued to DCUSA Contract Managers, who will be invited to consider the proposed amendment (Attachment 1) and submit their votes using the Voting form (Attachment 2) to [dcusa@electralink.co.uk](mailto:dcusa@electralink.co.uk) by **12 August 2016**.
- 11.2 If you have any questions about this paper or the DCUSA Change Process please contact the DCUSA by email to [dcusa@electralink.co.uk](mailto:dcusa@electralink.co.uk) or telephone 020 7432 3014.

## ATTACHMENTS

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- Attachment 1 – DCP 256 Change Proposal form
- Attachment 2 – Voting Form
- Attachment 3 – DCP 256 Legal Text
- Attachment 4 – Consultation Document
- Attachment 5 – Consultation Responses