

DCP 213 Working Group Minutes

Meeting Name	DCP 213 Working Group
Meeting Number	10:00
Date	2 October 2014
Time	10:00
Venue	Teleconference

Attendee	Company
Alex Greetham [AG]	UKPN
Angus Rae [AR]	SSE
Tony Savka [TS]	ENWL
Donna Townsend [DT]	ES Pipelines
Sasha Pearce [SP]	npower
Maria Hesketh [MH]	Scottish Power
Leena Patel [LP]	ElectraLink
Rosalind Timperley [RT] (Secretariat)	ElectraLink

Apologies	Company
Raymond Elliot [RE]	Ofgem

1 ADMINISTRATION

- 1.1 The Working Group reviewed the “Competition Law Dos and Don’ts”. All Working Group members agreed to the terms set out in the document.
- 1.2 The group reviewed and agreed the DCP 213 Terms of Reference.

2 APPOINTMENT OF WORKING GROUP CHAIR

- 2.1 DT was appointed as Working Group chair.

3 BACKGROUND OF DCP 213

- 3.1 It was explained that on a fairly regular basis payments from DCUSA Parties to DCUSA Ltd are being paid late, with some particular Parties frequently late in paying. Late payments incur an administration fee and interest, however, this has been found not to be sufficient incentive to prevent late payments.
- 3.2 As a consequence, DCP 213 has been raised seeking to provide clarity and incorporate into Governance the fact that Late Payment of DCUSA’s ‘Recovery of Budgeted Costs’ invoices will be considered a breach of the DCUSA and as a result, the Parties concerned will have their voting rights suspended.

4 DISCUSSION ON DCP 213

- 4.1 The Working Group noted that the administration charge incurred by late paying Parties may be relatively minor, relative to the total amount of the bill, and thus may provide a limited incentive to pay on time.

- 4.2 ElectraLink took an action to determine whether the DCUSA Ltd late payment fee is capped in accordance with the Late Payment of Commercial Debts Regulations (2002).

Action 01/01: ElectraLink

- 4.3 It was noted that the rules for the capping of late payment fees within Scotland may differ. AR took an action to confirm the Scottish rules.

Action 01/02: ElectraLink

- 4.4 The group discussed whether the DCP 213 legal text should be applied to the existing breach and default clauses within the DCUSA (Clause 54.1) and agreed that there would be merit in this.

- 4.5 It was highlighted that Late Payment Notice is defined as being related to Sections 2A and 2B and thus relates to Use of System Charges, not DCUSA Ltd charges. This means that that the definition of Late Payment Notice may therefore require amendment under DCP 213.

- 4.6 The group observed that suspending the voting rights of DCUSA Parties will have a bigger impact on some Parties than others as many Parties, particularly smaller ones, choose not to vote on DCUSA Changes.

- 4.7 The group considered what would happen to Parties with more than one Licenced group. For example, if a Party with multiple Licences fails to pay its DCUSA bill for one Licence would the whole of the corporate group's voting rights be suspended or just the rights for the one Licence. The group noted that to suspend the rights of just the one Licence would require the voting calculations in the DCUSA to be amended. It was highlighted that if the voting rights of the whole corporate group were suspended then this may be unfair in instances where the individual Licences within the group operate on an independent basis.

- 4.8 A Working Group member highlighted that if the voting rights of one Party are suspended then it may result in a different voting result. This "distorted" result could be detrimental to other Parties who voted in the same way as the non-paying Party would have voted had they been able to.

- 4.9 It was suggested that naming and shaming, rather than removing voting rights, may be a preferable approach to addressing late payments. The group discussed how this process might work and suggested that where there is a late payment the following steps could be taken:

- ElectraLink contacts the DCUSA Party's Finance Department and DCUSA Contract Manager via email and notifies them of the late payment
- If the above step does not result in the payment being received, then the DCUSA Panel will be asked whether they wish to publish the name of the Party (in the event there is a legitimate dispute or reason for non-payment the Panel may choose not to initiate the name and shame process)
- Where the Panel agree to publish the name of the Party, the Party will be given reasonable notice and if payment is received during this notice period then the Party's name will not be published.

- 4.10 To help support the progression of this proposed solution, ElectraLink took an action to review previous non-payments and produce a timeline of when Parties are chased for payment and when that payment is received.

Action 01/03: ElectraLink

- 4.11 The Working Group noted that the solution the group has chosen to progress is not in line with the intent of DCP 213, which references amending the voting process. The group, therefore, agreed that the CP should be withdrawn and re-raised with a revised intent. DT took an action to withdraw the CP and discuss the intent of the revised CP with the DCUSA Standing Issues Group (SIG) prior to re-submitting it.

Action 01/04: DT

5 NEXT STEPS

- 5.1 It was agreed that DCP 213 should be withdrawn.

6 ANY OTHER BUSINESS

- 6.1 There were no items of any other business.

7 NEXT MEETING

- 7.1 No further meetings of the Working Group are scheduled.

APPENDIX A: SUMMARY OF ACTIONS**NEW AND OPEN ACTIONS**

Action Ref.	Action	Owner	Update
01/01	Determine whether the DCUSA Ltd late payment fee is capped in accordance with the Late Payment of Commercial Debts Regulations (2002).	ElectraLink	Post meeting update: late payment fees are capped in accordance with the Late Payment of Commercial Debts Regulations (2002).
01/02	Confirm the rules regarding the capping of late payment in Scotland	AR	Post meeting update: the current Scottish late payment legislation is called the Late Payment of Commercial Debts (Scotland) Regulations 2013.
01/03	Review previous non-payments and produce a timeline of when Parties are chased for payment and when that payment is received.	ElectraLink	
01/04	Withdraw DCP 213 and re-raise with a revised intent.	DT	

ACTIONS AGREED CLOSED AT THE MEETING

Action Ref.	Action	Owner	Update