



## **DCUSA CHANGE REPORT**

### **DCP 211 and DCP 211 Alternative - Enhance transparency of DCUSA Change Management**

## 1 PURPOSE

- 1.1 This document is issued in accordance with Clause 11.20 of the DCUSA, and details DCP 211 'Enhance transparency of DCUSA change management' and DCP 211 Alternative Proposal.
- 1.2 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.
- 1.3 Parties are invited to consider the proposed legal drafting amendments for DCP 211 (Attachment 1) and DCP 211A (Attachment 2) and submit their votes using the form attached as Attachment 3 to [dcusa@electralink.co.uk](mailto:dcusa@electralink.co.uk) no later than **DATE**.

## 2 BACKGROUND

- 2.1 DCP 211 was raised with the intention of increasing the transparency of the DCUSA change process by providing for all minutes, reports, consultation responses, data and other information (except in the cases covered by clause 57.1 "Confidentiality and the Panel") to be publicly available on request and on the Public Pages of the DCUSA website.
- 2.2 The proposer of DCP 211 believes that the purpose of the DCUSA has changed. It is no longer merely a contract covering the administration of commercial relationships between licensed industry parties. Instead, it is also now the governing vehicle for the National Terms of Connection and for commercially important charging methodologies for connections and for use of system, all of which have significant effects on people who are not licence holders or DCUSA parties.
- 2.3 As a result of this expansion of the scope of the DCUSA, many non-DCUSA parties now require to be involved in, or informed about, DCUSA change processes. These include potential new entrants into the generation, supply or distribution businesses who need to understand the prospective costs and revenues governed by DCUSA, and the future risks associated with DCUSA changes; potential customers and generators seeking new connections where charges are governed by a DCUSA charging methodology; and customers who are on supply contracts where the distribution charges are passed

through (a common form of supply contract). The most practical way of providing the necessary information to these parties (whose plans to enter the market might reasonably be commercial secrets) is to make the information publicly available.

- 2.4 This change proposal is intended to facilitate effective competition in the generation and supply of electricity and promote effective competition in the sale, distribution and purchase of electricity. By making information about DCUSA-governed charges, revenue opportunities and associated risks more readily available, potential new entrants should be better able to identify opportunities to compete and customers and potential customers could take better advantage of competition by being better informed about the operation of the industry.

2.5 Under DCP 211 the changes to the rules on the publication of items on the DCUSA website would apply to information created or received ~~on or after~~ before 31 May 2014. DCP 211A has been raised as an Alternative to DCP 211. It contains all elements of DCP 211 except that:

- ~~the changes to the rules on the publication of items on the DCUSA website would apply from the implementation date of DCP 211A, rather than 31 May 2014; and~~
- Documents relating to change management that are published on the password protected section of the website would not be made available when requested

### 3 WORKING GROUP

- 3.1 The DCUSA Panel established a Working Group to assess DCP 211 and the group also assessed DCP 211A. The Working Group was comprised of representatives from Supplier, Distributor, Ofgem and other organisations.
- 3.2 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).

- 3.3 The Working Group discussed the CP and developed a consultation document (Attachment 4) to gather information and feedback from market participants.

#### **4 DCP 211 CONSULTATION**

- 4.1 The DCP 211 consultation was issued to DCUSA Parties on 12 September 2014. There were seven responses received to the consultation. The Working Group reviewed the responses to each question and developed the change proposal solution, taking into account the majority view of respondents and Working Group members.
- 4.2 A summary of the responses received, and the Working Group's conclusions are set out below. The full set of responses and the Working Group's comments are provided in Attachment 4.

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

- 4.3 The Working Group noted that all consultation respondents understood the intent of the CP, although two noted that they had reservations about the change that were described fully against later questions.

##### **Question 2 - Are you supportive of the principles of DCP 211?**

- 4.4 Five respondents to this question answered "yes". Another respondent explained that they were supportive of the principles of greater transparency in DCUSA to assist potential new entrants into the industry and new customers; however they have some concerns over the control of publication of confidential information.
- 4.5 One respondent said that they were supportive of the CP but suggested that due consideration should be given to the fact that DCUSA operates a system of voting on changes where all parties can participate, whereas some other similar bodies have panel votes only. In addition, the respondent highlighted that parties' requests to make their responses to consultations confidential should be respected.
- 4.6 The group noted the respondent's comments. It was observed that should the decision be made to apply the change retrospectively then Parties may not have realised at the point of submitting information that in the future that it would be made more transparent. This

could be detrimental for those who have made statements that they did not expect to be published to a wider audience. It could also restrict dialogue and limit discussions going forward if people think that their comments will be published for others to read.

- 4.7 In response, the proposer of DCP 211 highlighted that the competition law dos and don'ts that the Working Group have all agreed to state that Working Group members should not:

*"Share information which is of a type not easily available amongst parties and/or is likely to influence competitive behaviour. As a test, consider whether you would be prepared to publish the information in a newspaper."*

- 4.8 It was also highlighted that Clause 57 of the DCUSA states that in relation to information provided to any working group:

*"where the Party wishes such information to remain confidential, it shall clearly mark such information as such. The Panel, its Working Groups and the Secretariat shall ensure that all information so marked is kept secret and confidential, provided that such information shall still be made available to the Authority on the understanding that the Authority shall keep such information confidential"*

- 4.9 The majority of Working Group members noted their concerns that applying the CP retrospectively would expose confidential information that Working Group members never intended to be widely published.

**Question 3 - Do you have any comments on the proposed legal text?**

- 4.10 Four respondents had no comments on the legal text. Three respondents provided comments and based on these comments the group refined the DCP 211 legal text. The finalised version of the DCP 211 legal text is provided as Attachment 1.

**Question 4a. In respect of publication on the Public Pages of the DCUSA website, the proposal would not apply to contact details or to documents produced before 31 May 2014. Are you supportive of this approach?**

- 4.11 All respondents agreed that contact details should not be publically available. Three of the seven respondents to the question did not support applying the CP retrospectively back to documents produced since 31 May 2014.
- 4.12 The Group noted that it would be a large administrative task to revisit all documents to make sure that nobody has submitted a confidentiality statement in relation to each item prior to publishing them on the public facing DCUSA website. The proposer explained that there would not be a requirement to publish all documents but only those where there is a request for it to be published. It was noted that in this case there should also be a retrospective right for those who submitted the information to say that they wish for it to be treated as confidential.
- 4.13 The Working Group considered the rationale for the retrospective application of the CP. In response, the proposer explained that in order to challenge decisions that have been made it needs to be possible to access the information behind those decisions.

**Question 4b. Documents not designated as confidential by the Panel in accordance with clause 57.1 would be available to the public on request, even if produced before 31 May 2014. Are you supportive of this approach?**

- 4.14 Three respondents supported this approach and four did not support it. The Working

Group noted that those who did not support the approach had concerns that information would have been provided on the understanding that it would not be published widely; and around the volume of information that could potentially be asked for and the administrative burden of checking that this information is not confidential.

- 4.15 The proposer of DCP 211 highlighted that anyone can join the DCUSA website with a DCUSA Party sponsoring them and gain access to the documentation at present.
- 4.16 The group was observed that it would be difficult to check the confidentiality of historic documents by checking that those named and referenced in them are happy for them to be openly published, as these individuals may have moved to different roles and may no longer be contactable.

**Question 5 - Do you believe having this access in the public domain causes any commercial issues or may have unintended consequences?**

- 4.17 Four respondents to this question did not identify any adverse impacts or unintended consequences. One respondent stated that it would be difficult to tell but that they would expect the Panel to sanction those documents and details that would be made available.
- 4.18 Another respondent cautioned that ~~a~~Allowing voting records to be made public could have unintended consequences as it could reveal commercial strategies and issues to competitors, and send signals to potential customers that could easily be misinterpreted. In response to the comment, the Working Group observed that ~~competitors~~competitors will already have access to the voting records as they are DCUSA Parties and thus have website access.
- 4.19 One respondent highlighted that all information submitted in the past has been submitted in the knowledge it is only available for use in the development of DCUSA. This may have included information that is not intended for public access. It was the respondents view that there would be no commercial issues or unintended consequences if the change proposal is only applied going forward.

**The Working Group considers that DCUSA General Objective 2<sup>1</sup> is better facilitated by DCP 211; do you agree with this opinion?**

- 4.20 All respondents agreed that the DCUSA Objectives would be better facilitated by the CP, although two respondents specified that this was subject to comments made in response to other questions. The table lists the DCUSA Objectives that they specifically mentioned as being better facilitated.

<b>DCUSA General Objectives</b>	<b>No. Of Respondents that agree it is better facilitated</b>
<b>Objective 1</b>	0
<b>Objective 2</b>	6
<b>Objective 3</b>	0
<b>Objective 4</b>	1
<b>Objective 5</b>	0

- 4.21 The group observed that the majority of respondents agree that objective two is better facilitated and one feels that objective four is better facilitated. The group discussed the objectives and agreed that objective two was better facilitated by the proposed change.

**Question 7 - Do you agree with the implementation date of DCP 211?**

- 4.22 All respondents agreed with the proposed implementation date of [REDACTED] [RT1]

**Question 8 - Are there any alternative solutions or matters that should be considered by the Working Group?**

- 4.23 Only one respondent provided comments in response to this question. The respondent highlighted that DCUSA response forms currently include a provision for Parties to state whether they are Confidential, Non-confidential, Anonymous or Other. The respondent explained that the DCP 211 Legal Text needs to cater for these and other confidential submissions not being published.

## **5 WORKING GROUP ASSESSMENT OF DCP 211 FOLLOWING INDUSTRY CONSULTATION**

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



5.1 After reviewing the consultation responses, the Working Group discussed the Change Proposal. The Working Group was split as to whether the publication of DCUSA documents on the public facing DCUSA website should be applied from 31 May 2014 (as suggested by the proposer of DCP 211) or from the date that the CP is implemented from. The group decided that an Alternative (DCP 211A) should be raised so that Parties have the opportunity to vote on both of these options.

5.2 The DCP 211 legal text is provided as Attachment 1 and the Alternative legal text is provided as Attachment 2.

## **6 ENGAGEMENT WITH THE AUTHORITY**

6.1 Ofgem has been fully engaged throughout the development of DCP 211 as a member of the Working Group.

## **7 IMPACT ON GREENHOUSE GAS EMISSIONS**

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 211 or DCP 211A were implemented. The Working Group did not identify any material impact on greenhouse gas emissions from the implementation of the Change Proposals.

## **8 DCP 211 and DCP 211A LEGAL DRAFTING**

8.1 The legal text for DCP 211 is provided as Attachment 1 and the text for DCP 211A is provided as Attachment 2.

8.2 The only difference between the two sets of legal text is that under DCP 211A changes to the rules on the publication of items on the DCUSA website would apply from the implementation date of DCP 211A, rather than 31 May 2014.

## **9 IMPLEMENTATION**

**9.1** The proposed implementation date of DCP 211 and DCP 211A is the next release following Authority Consent.

## 10 PANEL RECOMMENDATION

10.1 The Panel approved this Change Report at its meeting on **DATE**. 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 211 and DCP 211A.

10.2 The timetable for the progression of the Change Proposals is set out below:

Activity	Date
Change Report issued for voting	DATE
Voting closes	DATE
Change Declaration	DATE
Authority Determination	DATE
Implementation Date	Next Release Following Authority Consent

## 11 NEXT STEPS

11.1 Parties are invited to consider the proposed amendments (Attachment 1 and Attachment 2), together with the Consultation documentation (Attachments 4) and submit their votes using the Voting form (Attachment 2) to [dcusa@electralink.co.uk](mailto:dcusa@electralink.co.uk) by **DATE**

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 2842.

## ATTACHMENTS

- Attachment 1 – DCP 211 Legal Text
- Attachment 2 – DCP 211A Legal Text
- Attachment 3 – Voting Form
- Attachment 4 – DCP 211 Consultation
- Attachment 5 – CP Form