



## **DCUSA Change Report**

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DCP 110 – Electricity and Gas (Internal Markets) Regulations 2011

## 1 PURPOSE

- 1.1 This document is issued in accordance with Clause 11.20 of the DCUSA, and details DCP 110 – Electricity and Gas (Internal Markets) Regulations 2011. 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 DCUSA amendments (Appendix A) and submit their votes using the form attached as Appendix B to [dcusa@electralink.co.uk](mailto:dcusa@electralink.co.uk) by **16 December 2011**.

## 2 SUMMARY

- 2.1 DCP 110 has been raised by UK Power Networks. The intent of the CP is to update the DCUSA to reflect the Electricity and Gas (Internal Markets) Regulations 2011, SI 2704.
- 2.2 The regulations came into force on 10 November 2011, and the licence changes are set out in Schedule 8:  
  
[http://www.legislation.gov.uk/ukxi/2011/2704/pdfs/ukxi\\_20112704\\_en.pdf](http://www.legislation.gov.uk/ukxi/2011/2704/pdfs/ukxi_20112704_en.pdf)
- 2.3 The SI will introduce changes into the distribution licenses which need to be reflected in DCUSA, as set out in section 4 below.

## 3 DEVELOPMENT OF DCP 110

- 3.1 DCP 110 has been categorised as an urgent CP in accordance with Clause 10.7.3 of the DCUSA as it relates to a current issue that, if not addressed, may cause one of the parties to be in breach of a Relevant Instrument.
- 3.2 The CP seeks to amend multiple clauses in DCUSA Section 1 'Governance and Change Control'. It has therefore been classified as a Part 1 matter in accordance with Clause 9.5.1, which identifies that any changes to Sections 1B and 1C will require Authority consent.
- 3.3 DCP 110 has progressed directly to the Report Phase in accordance with Clause 11.61 as it solely concerns a variation to the Agreement that is obligatory by virtue of legislation. It has therefore been developed by the Panel and DCUSA Legal Counsel without wider consultation with Parties.

## 4 PROPOSED LEGAL DRAFTING

- 4.1 The proposed legal drafting of DCP 110 as been drafted by the Proposer and set out in the CP has been reviewed by Wragge and Co. and is attached as Appendix A.
- 4.2 The legal drafting will amend the DCUSA to reflect the changes that the SI will introduce into the distribution licenses. The main amendment will be the introduction of a new Objective<sup>1</sup>, as well as other changes to the DCUSA Change Proposal process.
- 4.3 There will be text added that affects the following aspects of the change process:
- Who is entitled to raise a modification
  - Required information on the CP document
  - Amendments to the timetable and implementation date of CPs
  - Process of withdrawing a CP
- 4.4 The consequential amendments in relation to who is entitled to raise a CP will now include the Authority or a DNO/IDNO Party acting at the direction of the Authority.
- 4.5 The Change Proposal document will now have to provide confirmation as to whether the CP has been raised in compliance with a direction from the Authority.
- 4.6 Where the Authority reasonably considers that the Change Proposal is necessary to comply with or implement the new Objective, the Authority may by direction specify and/or amend the timetable to the CP, as well as the implementation date.
- 4.7 The legal drafting will also now include a provision concerning the withdrawal of support by the Proposer of a CP. When the Change Proposal is raised on behalf of the Authority, the Proposer may not withdraw such support unless it also provides evidence that the Authority has given its consent to such withdrawal.

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<sup>1</sup> compliance with the Regulation on Cross-Border Exchange in Electricity and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators.

## 5 EVALUATION AGAINST THE DCUSA OBJECTIVES

- 5.1 DCP 110 will better facilitate DCUSA General Objective 32. The SI introduces changes into the distribution licenses which need to be reflected in DCUSA. It is an issue that, if not addressed, may cause one of the parties to be in breach of a Relevant Instrument.
- 5.2 No other DCUSA Objectives are directly impacted by the DCP 110.

## 6 IMPLEMENTATION

- 6.1 DCP 110 is classified as a Part 1 matter in accordance to Clause 9.5.1 of the Agreement, and therefore will go to the Authority for determination after the voting process has completed.
- 6.2 The CP will be implemented in an extraordinary release as soon as reasonably practical following Authority consent.

## 7 ENGAGEMENT WITH THE AUTHORITY

- 7.1 Ofgem has been aware of the development of DCP 110 through its representation on the DCUSA Panel.

## 8 PANEL RECOMMENDATION

- 8.1 The Panel approved this Change Report ex-committee on 9 December 2011. The Panel considered that the Change Report sets out the level of analysis required to enable Parties to understand the impact of the proposed amendment and to vote on DCP 110. The Panel directed that all Parties be invited to vote on the CP for a period of 5 Working Days.
- 8.2 The timetable for the progression of the Change Proposals is set out below:

<b>Activity</b>	<b>Date</b>
Change Report issued for voting	9 December 2011
Voting closes	16 December 2011
Change Declaration	20 December 2011
Authority Determination	7 February 2012
CP Implemented	As soon as reasonably practical following Authority consent

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<sup>2</sup> The efficient discharge by the DNO Parties and IDNO Parties of obligations imposed upon them in their Distribution Licences

**9 APPENDICES:**

Appendix A - DCP 110 - Legal Drafting

Appendix B - DCP 110 - Voting Form