

DCUSA CHANGE REPORT	
CHANGE PROPOSAL	DCP 085 – Process for Determining Urgent Status
DATE OF ISSUE	21 April 2011
ISSUED TO	All DCUSA Contract Managers
PARTIES ENTITLED TO VOTE	All Parties
RETURN DEADLINE (Voting End Date)	11 May 2011 – DCUSA@electralink.co.uk

1 PURPOSE

- 1.1 This document is issued in accordance with Clause 11.20 of the DCUSA. The Change Report details DCP 085 'Process for determining Urgent Status'. The voting process for the proposed variation and the timetable of the progression of the CP through the DCUSA Change Control Process is set out in this document.
- 1.2 Parties are invited to consider the proposed amendment attached as Appendix A and submit votes using the form attached as Appendix B to dcusa@electralink.co.uk by 11 May 2011.

2 SUMMARY

- 2.1 DCP 085 seeks to allow the DCUSA Panel to decide whether or not a CP should be granted urgent status.

3 DCP 085 – PROCESS FOR DETERMINING URGENT STATUS

- 3.1 DCUSA Change Proposals are categorised either as 'standard' and 'urgent'. Where a CP has been categorised as urgent the timescales for assessing, consulting and voting on the proposal can be reduced and typically party and secretariat resource is focussed on developing the CP as quickly as possible.
- 3.2 Ofgem has recently asked the Panel to ensure it applies the urgency criteria in such a manner that only CPs, which cannot reasonably be treated as non urgent are treated as urgent. This is to ensure urgency criteria are not being

misused, and in particular to allow sufficient time for CPs to be fully impact assessed before being issued for voting and / or determination.

- 3.3 However, as currently drafted, the DCUSA sets out that the proposer of a CP shall determine whether or not a CP should be treated as urgent based on defined criteria set out in the Agreement. There is no ability for the DCUSA Panel to amend the status where the proposer has classified it as urgent and the Panel therefore has no vires to apply the urgency criteria as directed by Ofgem.

4 DCP 085 – WORKING GROUP ASSESSMENT

- 4.1 The DCUSA Panel established a Working Group to review DCP 085. Membership of the Working Group consisted of DNO, Supplier and Ofgem¹ representatives.
- 4.2 The Working Group met on one occasion to assess the CP against the relevant DCUSA objectives and develop the proposed legal text.
- 4.3 DCP 085 will allow the Panel to assess against the criteria set out in the DCUSA to whether a CP should be progressed with urgent status and set the assessment timetable accordingly.
- 4.4 The Working Group considered that the Panel is best placed to objectively assess whether a CP should be treated as urgent against a set of agreed criteria. The Working Group further considered that, given the Panel has the duty to “manage and co-ordinate the modification process”², it would be appropriate for the Panel to test a proposer’s assertion that a CP should be treated as urgent.
- 4.5 The Working Group considered it to be more appropriate for the Panel, rather than Ofgem, to determine the status of the CP to expedite the process. The DCUSA includes provisions for the proposer to appeal to the Authority where it does not agree with the timetable set by the Panel. These provisions could therefore be applied in the event that the proposer does not agree with the Panel’s categorisation (and resulting timetable) for the CP.

¹ Ofgem was a member of the Working Group and received all associated papers but was unable to send representation to the Working Group meeting

² DCUSA Clause 5.3.4

- 4.6 The Working Group identified that the CP could impact all categories of Parties and should be issued to all Parties for voting.
- 4.7 The Working Group agreed not to issue a consultation prior to issuing the CP for voting because of the binary nature of the proposal.

5 OFGEM OPEN LETTER - CONSULTATION ON CODE MODIFICATION URGENCY CRITERIA

- 5.1 Ofgem issued an open letter on code modification urgency criteria³ on 11 March 2011. The purpose of the letter is to seek industry views on the proposed criteria that Ofgem is likely to apply when deciding if a modification proposal is to be treated as urgent. In the letter, Ofgem recognises that, although it does not have the authority to determine the status of CPs under the DCUSA, it would encourage those that do “to apply the same criteria”.
- 5.2 It is anticipated that a further amendment may be required to the DCUSA to amend the urgency criteria as a result of this consultation but such matters are deemed outside the scope of DCP 085 and the outcome is unlikely to be delivered before the proposed implementation of DCP 085.

6 PROPOSED AMENDMENT AND LEGAL DRAFTING

- 6.1 The proposed legal drafting for DCP 085 has been drafted by Wragge and Co and is set out in Appendix A.

7 EVALUATION AGAINST THE DCUSA OBJECTIVES

- 7.1 The Working Group considers that DCP 085 impact the following DCUSA Objective 3.1.4: The promotion of efficiency in the implementation and administration of this Agreement.
- 7.2 The CP will allow the Panel to assess, based on defined criteria, whether or not a CP should be progressed with urgent status. This will prevent the urgency status being misused and help ensure all CPs go through a suitable assessment, consultation and voting stage as well as targeting party resource to the most critical issues.

8 IMPLEMENTATION

³ [http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?file=Open letter consultation on Urgency.pdf&refer=Licensing/IndCodes/Governance](http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?file=Open%20letter%20consultation%20on%20Urgency.pdf&refer=Licensing/IndCodes/Governance)

- 8.1 The proposed implementation date is 5 WD following Authority consent – approximately 24 June 2011.

9 ENGAGEMENT WITH THE AUTHORITY

- 9.1 Ofgem has been fully engaged throughout the development of DCP 085 and as a member of the Working Group and the DCUSA Panel.

10 PANEL RECOMMENDATION

- 10.1 The Panel approved this Change Report at its meeting on 20 April 2011. The Panel considered that the Working Group had carried out the level of analysis required to enable the Parties to understand the impact of the proposed amendment and to vote on the CPs. The Panel agreed that the Change Report should be issued to all DCUSA Parties for a voting period of 10 Working Days.

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

Activity	Date
Change Report issued for voting	21 April 2011
Voting closes	11 May 2011
Change Declaration	12 May 2011
Authority Decision	17 June 2011
CP Implemented	5 WD following Authority Consent

11 APPENDICES:

A. DCP 085 - Legal Drafting

B. DCP 085 - Voting Form