

DCUSA CHANGE REPORT	
<b>CHANGE PROPOSAL</b>	DCP 075 – VOTING ARRANGEMENTS FOR A PARTY CATEGORY WITH FEW MEMBERS
<b>DATE OF ISSUE</b>	15 December 2010
<b>ISSUED TO</b>	DCUSA Contract Managers
<b>PARTIES ENTITLED TO VOTE</b>	All Parties
<b>RETURN DEADLINE (Voting End Date)</b>	07 January 2011 – <a href="mailto:DCUSA@electralink.co.uk">DCUSA@electralink.co.uk</a>

## **1 PURPOSE**

- 1.1 This document is issued in accordance with Clause 11.20 of the DCUSA. The Change Report details DCP 075 – Voting Arrangements for a Party Category with Few Members. 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 attached as Appendix A and submit votes using the form attached as Appendix B to [dcusa@electralink.co.uk](mailto:dcusa@electralink.co.uk) by 07 January 2011.

## **2 DCP 075 – VOTING ARRANGEMENTS FOR A PARTY CATEGORY WITH FEW MEMBERS**

- 2.1 DCP 075 has been raised by UK Power Networks and seeks to amend the DCUSA to avoid a Party Category comprising fewer than 3 members having a blocking vote (in the case of 1 member) or a hung vote (in the case of 2 members).
- 2.2 Under the current DCUSA Voting Arrangements, for a Part 1 matter the CP must receive 50% or more of the total weighted votes in all voting categories for to be recommended for approval. For a Part 2 matter, the CP must receive 65% or more of total weighted votes in all voting categories and 65% or more of the total the number of groups in all voting categories must accept the CP for it to be approved. In the case of Part 1 matters, the Change Declaration is issued to the Authority for determination. In the case of Part 2 matters, the outcome is determined solely by the Party vote and there are limited grounds for appeal.
- 2.3 DCUSA Parties are divided into categories for the purposes of voting on Change Proposals – Supplier, DNO, IDNO/OTSO and DG. In order for a CP to be recommended for approval it must be supported by a majority of voting parties in each category which is eligible to vote on a CP.
- 2.4 It has been identified that where there are fewer than 3 parties (or groups of parties) in a category they have a blocking vote on Change Proposals (as is currently the case with the DG category).
- 2.5 In the case of Part 2 matters (which do not require Authority determination and are not subject to appeal) CPs could be prevented from progressing where a 'small' category containing just one or two parties holds a blocking vote. Therefore a Part 2 change could be blocked by a single member Party Category although all other Party Categories support it. Similarly a Party Category with 2 members may not get a majority and hence a change would be rejected. These outcomes are considered undesirable in a self governance process and DCP 075 seeks to implement a pragmatic solution.

## **3 DCP 075 WORKING GROUP**

- 3.1 The DCP 075 Working Group was established by the DCUSA Panel and comprised 2 Suppliers, 2 DNOs and 1 IDNO.

## **4 CONSULTATION**

- 4.1 The DCP 075 Working Group issued a consultation to all Parties on the 12 November 2010 for a period of 10 Working days and met on the 30 November 2010 to review the comments.
- 4.2 All respondents understood the intent of the CP and were supportive of its principles.
- 4.3 The majority of respondents considered that DCUSA General Objective 4<sup>1</sup> would be better facilitated by the implementation of the CP. Central Networks considered that DCUSA General Objective 2<sup>2</sup> would be better facilitated by implementation of the CP but did not detail its rationale. SP Distribution and SP Manweb considered that all DCUSA General Objectives would be better facilitated by the implementation of DCP 075 on the basis that the inability to implement any CP, because it has been blocked in the circumstances set out in DCP 075, could have a detrimental effect on any DCUSA objective that CP would have been better facilitated.
- 4.4 Electricity North West Limited commented on the proposed legal drafting issued with the consultation. ENW Limited noted that the drafting did not reflect the intent of the proposal as stated in the CP form. The intent of the CP states the change relates to party categories containing fewer than 3 groups; however the proposed drafting stated that the change applies when there are 3 or fewer groups in a category. ENW Limited recommended that the legal drafting should reflect the original intent of the CP.
- 4.5 Electricity North West Limited proposed an alternative solution to extend the application of the CP to all Party Categories. In the event that fewer than 3 Groups vote in any category on a Part 2 matter which results in a CP being rejected only if that category, the CP would be referred to Ofgem for determination.
- 4.6 Npower proposed that the Working Group consider introducing a process of reviewing CPs recommended for rejection because they are blocked in a small party category to decide whether they should be issued to Ofgem for determination or whether the party vote should stand.
- 4.7 Npower further recommended that the Working Group ensure that implementation of the CP will not unfairly discriminate against any category of Parties and that the views of small party categories are treated fairly.
- 4.8 All parties were supportive of the proposed implementation date of 24 February 2010.

## **5 WORKING GROUP CONCLUSIONS**

- 5.1 The DCP 075 Working Group fully supports the intent and principles of DCP 075.
- 5.2 The Working Group specified that the change will apply when there are fewer than 3 groups in a party category.

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<sup>1</sup> The promotion of efficiency in the implementation and administration of this Agreement and the arrangements under it.

<sup>2</sup> The facilitation of effective competition in the generation and supply of electricity and (so far as is consistent with that) the promotion of such competition in the sale, distribution and purchase of electricity.

- 5.3 The Working Group concluded that the proposed alternative suggested by Electricity North West is broader than the scope and intent of DCP 075 and can not be considered as part of the CP.
- 5.4 The Working Group considered whether CPs recommended for rejection because they are blocked in a small party category should be reviewed by the DCUSA Panel to decide whether they should be issued to Ofgem for determination. The Working Group concluded that this would broaden the scope of the Panel's duties by making it an active decision maker in the change mechanism rather than the owner and administrator of the process. The Working Group concluded that all CPs to which DCP 075 applies should be issued to the Authority for determination.
- 5.5 The Working Group concluded that the CP does not discriminate against any party category as all votes will be recorded and issued to the Authority.

## **6 PROPOSED AMENDMENT AND LEGAL DRAFTING**

- 6.1 The proposed legal drafting for DCP 075 has been reviewed by Wragge and Co and is attached as Appendix A.

## **7 ASSESSMENT AGAINST THE DCUSA OBJECTIVES**

The Working Group considers that DCUSA General Objective 4<sup>3</sup> would be better facilitated by the implementation of DCP 075. The CP will provide a practical solution to the problem of blocking or hung votes for categories that consist of fewer than 3 groups by allowing the CP to progress should the Authority consider it appropriate. The CP will ensure that industry analysis and party votes are properly considered by the Authority where a CP that has been put forward and accepted by all other party categories but rejected by a category with few members. This improves the efficiency and the implementation of the agreement by making the progression of change proposals more efficient.

## **8 IMPLEMENTATION**

- 8.1 This CP is deemed to be a Part 1 matter in accordance with Clause 9.5.1 as it seeks to amend Clauses 13.6 and 13.7 of the Agreement.
- 8.2 The CP is recommended for implementation in the 24 February 2011 Release.

## **9 ENGAGEMENT WITH THE AUTHORITY**

- 9.1 Ofgem has been fully engaged throughout the development of DCP 075 through its participation in the DCUSA Panel.
- 9.2 The issue identified by DCP 075 was first discussed at the DCUSA Panel in March 2010 following the accession of a DG party. Ofgem noted the issue and subsequently recommended that the Panel may want to consider how best to undertake any review of the arrangements.

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<sup>3</sup> The promotion of efficiency in the implementation and administration of this Agreement and the arrangements under it.

- 9.3 The Panel developed the proposed solution at its September meeting and sent it to Ofgem for review before submitting DCP 075 to the October Panel meeting.

## **10 PANEL RECOMMENDATION**

- 10.1 The Panel approved the DCP 075 Change Report at its meeting on 15 December 2010.
- 10.2 In accordance with Clause 12.4 of the DCUSA the Panel has determined that DCP 075 should be issued to all Parties for voting for a period of 14 Working Days.
- 10.3 The timetable for the progression of the Change Proposal is set out below:

<b>Activity</b>	<b>Latest Date</b>
Change Report Agreed	15 December 2010
Party Voting	15 December – 07 January 2011
Authority Determination	10 January – 14 February 2011
Implementation	24 February 2011

### **Appendices:**

- A. DCP 075 – Legal Drafting
- B. DCP 075 – Voting Form