

Meeting Session	DCUSA Panel (Open Session)
Paper Reference	Panel_2023_0920_07_Derogation Application Cover Paper
Action	For Decision

Derogation Application

1. Synopsis

- 1.1 In accordance with Clause 56 of the DCUSA, Parties are entitled to seek derogations from obligations set out in mandatory schedules within the Agreement.
- 1.2 The Panel may resolve to grant a derogation and specify any conditions including the term, scope and application of the derogation. The Panel may also amend or retract any such derogation, or any such conditions relating thereto, from time to time as it sees fit.
- 1.3 The Secretariat has received a derogation application as set out in Section 2 below. The Panel is invited to consider and determine whether or not the derogation should be granted and any associated conditions.

2. Application Received

- 2.1 We have received one derogation application as set out in the table below. The full details of the application is contained within the attachment to this paper.

Party	Derogation From	Details	Proposed Timescales
All DNOs and IDNOs (subject to confirmation)	Paragraph 6.11 of Schedule 32 - Residual Charging Bands	This application relates to an issue that has come about due to the implementation of DCP 389 'TCR – Clarification on Exceptional Circumstances and Allocation Review for 'New' Sites' on 01 April 2023. DCP 389 introduced a process for an annual allocation review of any new Final Demand Sites as well as those Final Demand Sites which were initially allocated to a Residual Charging Band based on no recorded data (i.e., by using a best guess approach). The process obliges DNOs/IDNOs to potentially backdate rebates/charges past a point which is realistically possible/practical but has only now been picked upon the DNOs/IDNOs needing to complete the process for the first time.	The Derogation is only necessary for this initial Annual Allocation Review period and for prudence the derogation should be long enough to cover the entire period of the initial Annual Allocation Review to the point at which a Change Proposal is either implemented or rejected.

3. Representations and Objections

- 3.1 The Secretariat has processed the application in accordance with Clause 56.5, which sets out that following receipt of a Derogation Application, we shall give notice to all the Parties and to the Authority, at least 10 Working Days before the Panel meeting in question. Within this notice we:
- set out the identity of the Parties by whom application has been made and the terms of the derogation sought;
 - specified the date on which the Panel is due to consider the matter; and
 - invited representations or objections with respect to the derogation before that time.
- 3.2 As a result of this exercise and with respect to the Derogation Application submitted, where the Secretariat receives any representations and/or objections from Parties, these are to provided alongside the Derogation Application for consideration by the Panel. The Panel should note that if any are received, then they will be provided separately to this initial cover paper due to the expiry date for representations to be made being after the point in time this paper was due to be issued to the Panel.

4. Decision Making Process

- 4.1 Clause 56.1 of the DCUSA states that the Panel may resolve “to grant a derogation to any Party or Parties in relation to any obligation or obligations contained in this Agreement” and that the Panel shall “specify the term, scope and application of such derogation”.

5. Recommendations

- 5.1 The DCUSA Panel is invited to:
- **NOTE** the contents of this paper;
 - **NOTE** the representation received; and
 - **DETERMINE** whether to grant a Derogation to the Parties listed within the Derogation Application attached to this paper; and
 - **AGREE** any associated terms if the Panel resolves to grant the Derogation.

6. Attachments

- Attachment 1: DNO/IDNO Derogation Application and Representations

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