









DCUSA Change Report		At what stage is this document in the process?
<h1>DCP 435</h1> <h2>Party Novation Process</h2> <p><b>Date Raised:</b> 09 February 2024</p> <p><b>Proposer Name:</b> Peter Waymont</p> <p><b>Company Name:</b> Eastern Power Networks</p> <p><b>Party Category:</b> DNO</p>		01 – Change Proposal
		02 – Consultation
		03 – Change Report
		04 – Change Declaration
<p><b>Purpose of Change Proposal:</b></p> <p>DCP 435 seeks to add a process within DCUSA to enable a Party to transfer its rights and obligations to another Party via a novation agreement.</p>		
	<p>This document is issued in accordance with Clause 11.20 of the DCUSA, and details DCP 435 'Party Novation Process'. Parties are invited to consider the proposed amendment (Attachment 1) and submit their votes using the Voting form (Attachment 2) to <a href="mailto:dcusa@electralink.co.uk">dcusa@electralink.co.uk</a> by 5:30pm on 15 April 2024</p>	
	<p>The voting process for the proposed variation and the timetable of the progression of the DCUSA Change Proposal (DCP) through the DCUSA Change Control Process is set out in this document.</p>	
	<p>If you have any questions about this paper or the DCUSA Change Process, please contact the DCUSA by email to <a href="mailto:dcusa@electralink.co.uk">dcusa@electralink.co.uk</a> or telephone 020 7432 3011.</p>	
	<p><b>Parties Impacted:</b></p> <p>All DCUSA Parties</p>	
	<p><b>Impacted Clauses:</b></p> <p>Section 1A – Clause 2 &amp; Section 3 – Clause 60</p>	

Contents		<div> Any questions?</div> <div>Contact: Code Administrator</div> <div> email address DCUSA@electralink.co.uk</div> <div> telephone 020 7432 3011</div> <div>Proposer: Peter Waymont</div> <div> email address peter.waymont@ukpowernetworks.co.uk</div> <div> telephone +44 1293 657939</div>
1	Executive Summary	3
2	Governance	3
3	Why Change?	4
4	Solution	4
5	Relevant Objectives	5
6	Impacts & Other Considerations	5
7	Implementation	6
8	Legal Text	6
9	Recommendations	6
10	Attachments	6
Timetable		
The timetable for the progression of the CP is as follows:		
Change Proposal timetable		
Activity	Date	
Initial Assessment Report	21 February 2024	
Change Report Approved by Panel	20 March 2024	
Change Report issued for Voting	21 March 2024	
Party Voting Closes	15 April 2024	
Change Declaration Issued to Parties	17 April 2024	
Change Declaration Issued to Authority	17 April 2024	
Authority Decision	TBC	
Implementation	Next release after approval.	

## 1 Executive Summary

### What?

- 1.1 To amend the DCUSA to allow for the transfer the historic rights/obligations of an existing Party to a new Party via a novation agreement.
- 1.2 Parties are able to transfer their Licence with Ofgem approval and the BSC has a process for the transfer of historic rights/obligations too and any Party looking to make use of those processes would not be able to do so under the DCUSA currently.
- 1.3 However, while a novation from a company that is in a Party Category that requires a license can only be to another company that has the same type of license, it is intended that novations can also apply to Parties that do not need to be licensed.

### Why?

- 1.4 The DCUSA does not currently allow for novations. The DCUSA would need to be changed to allow for a novation (and to authorise DCUSA Ltd to agree to a novation on behalf of the other DCUSA Parties).
- 1.5 If the DCUSA is not amended to allow for a novation, then the only option would be for the old company to withdraw and for the new company to accede. The problem with this approach is that the historic liabilities will remain with the old company with the risk that, if that company is being wound-up there may be unpaid debts and other liabilities that cannot be enforced. Novation therefore gives certain protections to the other Parties.

### How?

- 1.6 Update Section 3 Clause 60 to include additional sub-clauses to cover off the scenario where an existing Party wishes to transfer the historic rights/obligations to another Party, whether an existing or new Party.

## 2 Governance

### Justification for Part 1 Or Part 2 Matter

- 2.1 This DCP is classified as a Part 1 matter, as it concerns the governance of the DCUSA, and therefore will go to the Authority for determination after the voting process has completed.

### Requested Next Steps

- 2.2 The Panel considered that the Proposer has carried out the level of analysis required to enable Parties to understand the impact of the proposed amendment and to vote on this DCP.
- 2.3 The DCUSA Panel recommends that this DCP be issued to Parties for voting.

### 3 Why Change?

- 3.1 There have been occasions where there has been a transfer of License from one entity to another, where a novation approach would be preferable to withdrawal/accession as it gives more protection to other DCUSA Parties. But it is not only licensed companies that may wish to novate and so this DCP is not limited to those.
- 3.2 DCP 431 was previously raised to enable novations in DCUSA. That DCP was raised as a Part 2 matter, which caused some Party concern, and was rejected by Parties. It is hoped that this DCP addresses the concerns raised in that vote.
- 3.3 One concern raised in the voting for DCP 431 was that enabling a novation had a significant impact on competition. As any party to which rights and obligations are novated could apply to accede to DCUSA separately, it is not clear how competition is impacted, unless novation is seen as beneficial to competition because such rights and obligations are transferred? This DCP does not argue that general objective 2 is impacted in any way.
- 3.4 The process for accession of a new Party to DCUSA involves certain steps that the Panel undertakes, in assessing the eligibility criteria given in Clause 4.2. These include ascertaining whether the proposed party has a License (or has applied for a License) if the Party Category requires one (and this is further captured in Clause 16). Other cross checks are performed, for example new SIP Parties are validated against REC qualification lists. The Panel would undertake similar diligence for novations and this is captured by the legal text at Clause 60.17.
- 3.5 Ofgem does not approve new accessions to DCUSA and so the proposed novation process also does not include recourse to Ofgem.

### 4 Solution

- 4.1 The DCUSA Panel recommended that the CP be progressed to the Change Report Phase.
- 4.2 It is proposed that Section 3 Clause 60 be updated to include additional sub-clauses to enable an existing Party, of any Party Category, to transfer its rights/obligations to another party. The template for the novation agreement is included as a new Schedule 9A.
- 4.3 It should be noted that the legal drafting takes account of where transferees are already Party to the DCUSA and where they are not already Party to the DCUSA, as it may be the case that some transferees are already parties. While Clause 60.18 already dealt with this under DCP 431, additional text has been added, or moved into that clause, to provide additional clarity.

## 5 Relevant Objectives

### Assessment Against the DCUSA Objectives

- 5.1 For a DCUSA Change Proposal to be approved it must be demonstrated that it better facilitates the DCUSA Objectives. There are five General Objectives and six Charging Objectives. The full list of objectives is documented in the CP form provided as Attachment 3.
- 5.2 The Proposer considers that the following DCUSA Objectives are better facilitated by this DCP.

	DCUSA General Objectives	Identified impact
<input type="checkbox"/>	1 The development, maintenance and operation by the DNO Parties and IDNO Parties of efficient, co-ordinated, and economical Distribution Networks	None
<input type="checkbox"/>	2 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	None
<input type="checkbox"/>	3 The efficient discharge by the DNO Parties and IDNO Parties of obligations imposed upon them in their Distribution Licences	None
<input checked="" type="checkbox"/>	4 The promotion of efficiency in the implementation and administration of the DCUSA	Positive
<input type="checkbox"/>	5 Compliance with the EU Internal Market Regulation and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators.	None

- 5.3 This Change proposal enhances the administration and maintenance of DCUSA Parties by allowing for the smooth transfer of one Party's rights/obligations to another Party where there is a need to do so. It therefore better facilitates DCUSA General Objective 4.

## 6 Impacts & Other Considerations

### Does this Change Proposal impact a Significant Code Review (SCR) or other significant industry change projects, if so, how?

- 6.1 This DCP does not impact a SCR or other significant industry change project.

### Impacts to Other Codes

- 6.2 The Proposer does not consider that there are any impacts to any other industry codes because of the implementation of this DCP.

Grid Code..... ☐ SEC..... ☐ CUSC... ☐ None... ☒

Distribution Code... ☐ REC..... ☐ BSC..... ☐

## Consumer Impacts

6.3 The Proposer does not believe that this change will impact consumers.

## Environmental Impacts

6.4 In accordance with DCUSA Clause 10.4.5A, the Proposer assessed whether there would be a material impact on greenhouse gas emissions if this DCP were implemented. The Proposer did not identify any material impact on greenhouse gas emissions from the implementation of this DCP.

## 7 Implementation

7.1 The proposed implementation date for this DCP is the next release after approval.

## 8 Legal Text

- 8.1 The legal text for this DCP has been reviewed by the DCUSA legal advisors and is provided as Attachment 1.
- 8.2 The Proposer has considered the legal text and is satisfied that it meets the intent of the solution.
- 8.3 The green text shows the differences from the legal text proposed under DCP 431. Other changes are shown in red.

## 9 Recommendations

### Panel's Recommendation

- 9.1 The Panel approved this Change Report on 20 March 2024. The Panel considered that the Proposer has carried out the level of analysis required to enable Parties to understand the impact of the proposed amendment and to vote on this DCP.
- 9.2 The Panel has recommended that this report is issued for Voting and DCUSA Parties should consider whether they wish to submit views regarding this DCP.

## 10 Attachments

- Attachment 1 – DCP 435 Legal Text
- Attachment 2 – Voting Form
- Attachment 3 – DCP 435 Change Proposal Form