









DCUSA Change Proposal (DCP)		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>		<div>01 – Change Proposal</div> <div>02 – Consultation</div> <div>03 – Change Report</div> <div>04 – Change Declaration</div>
<p><b>Purpose of Change Proposal:</b> 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><b>Governance:</b></p> <p>The Proposer recommends that this Change Proposal should be:</p> <ul style="list-style-type: none"> <li>• Treated as a Part 1 Matter</li> <li>• Treated as a Standard Change</li> <li>• Progressed to the Change Report phase</li> </ul> <p>The Panel will consider the proposer's recommendation and determine the appropriate route.</p>	
	<p><b>Impacted Parties:</b></p> <p>All DCUSA Parties.</p>	
	<p><b>Impacted Clauses:</b></p> <p>Section 1A – Clause 2 &amp; Section 3 – Clause 60</p>	

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Indicative Timeline		 DCUSA@electralink.co.uk
<b>The Secretariat recommends the following timetable:</b>		 020 7432 3011
Initial Assessment Report	21 February 2024	Proposer:
Change Report Approved by Panel	20 March 2024	<b>Peter Waymont</b>
Change Report issued for Voting	21 March 2024	 email address: <b>peter.waymont@ukpowernetworks.co.uk</b>
Party Voting Closes	15 April 2024	 telephone: <b>+44 1293 657939</b>
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 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 Matter

- 2.1 This is a Part 1 Matter as it concerns the governance of the DCUSA.

### Requested Next Steps

- 2.2 This Change Proposal should:
  - Be treated as a Part 1 Matter;
  - Be treated as a Standard Change; and
  - Proceed to the Change Report phase.

### 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 DCP431 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 DCP431 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 and Legal Text

#### Legal Text

- 4.1 The legal text to achieve the proposed solution is attached: Green text is intended to show the differences from text proposed under DCP431, which is otherwise shown in red.

#### Text Commentary

- 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 DCP431, additional text has been added, or moved into that clause, to provide additional clarity.

## 5 Code Specific Matters

### Reference Documents

5.1 None.

## 6 Relevant Objectives

### Assessment Against DCUSA Objectives.

	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

6.1 This Change proposal enhances the administration and maintainance 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 and therefore it better facilitates DCUSA General Objective 4.

## 7 Impacts & Other Considerations

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

7.1 No.

### Impacts Other Codes

7.2 The Proposer does not consider that there are any impacts to any other 'Industry Codes' as a result of the implementation of this CP.

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

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

### Consumer Impacts

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

### Environmental Impacts

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

### Confidentiality

7.5 Non-confidential.

## 8 Implementation

### Proposed Implementation Date

8.1 Next release after approval.

## 9 Recommendations