

Meeting Session	DCUSA Panel (Open Session)
Paper Reference	Panel_2024_0918_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	DCP 389 'TCR – Clarification on Exceptional Circumstances and Allocation Review for 'New' Sites' , which was implemented on 01 April 2023, 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. This was picked up in 2023, when DNOs/IDNOs completed the process for the first time, and a derogation was granted at the time. A Change Proposal (DCP 433 'Limitation for backdating of rebates/charges under Schedule 32') was raised in 2024 and is with the Authority for a decision, with a provisional date for the decision of 8 November 2024, which is too late for the reallocations due in September 2024.	This Derogation is only necessary for the 2024 Annual Allocation Review period and for prudence the derogation should be long enough to cover the entire period of the 2024 Annual Allocation Review to the point at which the Change Proposal DCP 433 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 be 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 representations 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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