

Meeting Session	DCUSA Panel (Open Session)
Paper Reference	Panel_2026_0819_11_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 detail of the application is contained within Attachment 1 to this paper.

Party	Derogation From	Details	Proposed Timescales
All DNOs and all IDNOs	Paragraph 6.11 of Schedule 32	Paragraph 6.11 of Schedule 32 instructs DNOs/IDNOs to backdate the charging band by amending the LLFC Id or DUoS Tariff ID to the latter of 01 August of the prior year or the date on which the old charging band was applied. <u>Establishing the maximum backdating window:</u> Paragraph 6.5 states “<i>reallocated from its current charging band (the “Old Charging Band”) to a new charging band (the “New Charging Band”).</i> The use of the term ‘current’ means that due to the ET3 allocation exercise and accompanying change of banding thresholds, the change can only be effective from 1 April 2026 when the new ET3 allocation and banding thresholds took effect. This is regardless of whether the ET3 allocation resulted in the site being allocated to a ‘different’ charging band than it was on in the ET2 period immediately prior to 01 April 2026. Therefore in the 2026 AAR there will be no backdating beyond 01 April 2026. <u>Sites that migrated to MHHS after 01 April 2026:</u> Once an MPAN is migrated under MHHS, the backdating would need to be effective from the migration date, as system restrictions will prevent a change prior. Therefore a DNO would be unable to backdate a MHHS site to 01 April 2026 if they have migrated after that date. We therefore require a derogation to disapply the instruction to backdate to the date on which the old charging band was applied for sites that have migrated to MHHS after the date the old charging band was applied. Such sites will be backdated as far as is possible under system restrictions, to the date of the MHHS migration (and for absolute clarity - no earlier than 01 April 2026).	This Derogation is only necessary for the 2026 Annual Allocation Review period and for prudence the derogation should be long enough to cover the entire period of the 2026 Annual Allocation Review.

		To ensure there is an enduring solution in place to resolve this issue, a DCUSA change proposal will be raised in the next couple of months to revise Schedule 32 relating to this issue, although DCP466 which is currently with the Authority for decision would mean that there would be no requirement for the Annual Allocation Review to take place for HH sites in future, but the requirement would remain for NHH sites. The Derogation should apply to all Distributors (i.e., all DNOs/IDNOs) and with the assistance of the DCUSA Code Administrator, confirmation of the inclusion of a number of the IDNOs in this application have been received.	
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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 received any representations and/or objections from Parties, these have been provided within the Derogation Application (Attachment 1) for consideration by 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 and IDNO AAR Derogation Application

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