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## Distribution Connection and Use of System Agreement (DCUSA) DCP435: Party Novation Process (DCP435)

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**Decision:** The Authority<sup>1</sup> directs this modification be made<sup>2</sup>

**Target audience:** DCUSA Panel, Parties to the DCUSA and other interested parties

**Date of publication:** 30 July 2024

**Implementation date:** Next DCUSA release date after Authority decision date

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### Background

The DCUSA does not allow a code party to transfer its code membership to another party. So, if a DCUSA party is taken over by another entity, there is no effective and efficient mechanism in the DCUSA to transfer that DCUSA party's rights and liabilities to the new entity. The existing party would have to withdraw from the DCUSA and the new entity would have to join the DCUSA. However, any outstanding liabilities and costs owed to the DCUSA by the outgoing DCUSA party would still be due.

DCP431 was the predecessor to DCP435 and was progressed under self-governance as a Part 2 Matter. However, the DCUSA Parties rejected DCP431<sup>3</sup> on the basis that the change was material because it related to code governance, therefore, the Authority should make the decision.

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<sup>1</sup> References to the "Authority", "Ofgem", "we" and "our" are used interchangeably in this document. The Authority refers to GEMA, the Gas and Electricity Markets Authority. The Office of Gas and Electricity Markets (Ofgem) supports GEMA in its day-to-day work. This decision is made by or on behalf of GEMA.

<sup>2</sup> This document is notice of the reasons for this decision as required by section 38A of the Gas Act 1986.

<sup>3</sup> [DCP431: Party Novation Process](#)

## **The Modification Proposal**

UK Power Networks (the Proposer) raised DCP435 (the Proposal) on 9 February 2024. It seeks to put in place a mechanism in DCUSA to allow a DCUSA party that is undergoing a licence transfer to another entity to do so efficiently and effectively without having to undergo the formal DCUSA withdrawal and accession processes. It is envisaged by the Proposer that DCP435 would benefit other scenarios beyond the original transfer of licence scenario. The proposed novation process would additionally protect DCUSA Parties from being exposed to any debt/liabilities of the outgoing DCUSA party.

The Proposer considers that DCP435 positively impacts DCUSA General Objective Four.<sup>4</sup> It is the Proposer's view that the change proposal enhances the administration and maintenance of DCUSA Parties by allowing for the smooth transfer of one party's rights/obligations in the DCUSA to another party where there is a need to do so. It therefore better facilitates DCUSA General Objective Four.

The Proposal proposes to update Section 3, Clause 60 in the DCUSA to include additional sub-clauses to enable an existing DCUSA Party, of any Party Category, to transfer its rights/obligations to another party. The template for the novation agreement is to be included as a new Schedule 9A.

The full legal text is included with the DCP435 Change Report as Attachment 1.

## **DCUSA Parties' recommendation**

On 20 March 2024, the DCUSA Panel (the Panel) considered the draft Change Report for DCP435 and agreed to issue it for party voting. The DCUSA Parties voted to accept or reject the change proposal using the Applicable DCUSA Objectives as set out in standard licence condition 22.2 of the Distribution Licence.

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<sup>4</sup> DCUSA General Objective Four: The promotion of efficiency in the implementation and administration of the DCUSA set out in Standard Licence Condition 22.2 of the Electricity Distribution Licence.

The Applicable DCUSA objectives are:

- (1) the development, maintenance and operation by the licensee of an efficient, co-ordinated, and economical Distribution System;
- (2) the facilitation of effective competition in the generation and supply of electricity and (so far as is consistent with that) the promotion of such competition in the sale, distribution, and purchase of electricity;
- (3) the efficient discharge by the licensee of the obligations imposed upon it by this licence;
- (4) the promotion of efficiency in the implementation and administration of the DCUSA arrangements;
- (i) compliance with the Regulation and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators; and
- (ii) in relation to the Common Distribution Charging Methodology, the EHV Distribution Charging Methodology or the Common Connection Charging Methodology, the Applicable Charging Methodology Objectives listed in Part B of Standard Licence Condition 22A.

In each Party Category where votes were cast there was unanimous support for the Proposal and for its proposed implementation date. In respect of each Party Category that was eligible to vote, the sum of the Weighted Votes of the Groups in that Party Category which voted to accept the change solution was more than 50%. In accordance with the weighted vote procedure, the recommendation to the Authority is that DCP435 is accepted. The outcome of the vote by the DCUSA Parties is set out in the table below:

<b>DCP435</b>	Distribution Network Operator	Independent Distribution Network Operator	SUPPLIER
CHANGE SOLUTION	Accept (100%)	Accept (100%)	Accept (100%)
IMPLEMENTATION DATE	Accept (100%)	Accept (100%)	Accept (100%)

No votes were received from the DCUSA Party Category of Safe Isolation Provider, Central Volume Allocation Registrant, Gas Supplier, Offshore Transmission System Operator and Crowded Room Co-ordinator.

**The Office of Gas and Electricity Markets**

## **Our decision**

We have considered the issues raised by the Proposal and the Change Report and Change Declaration dated 16 April 2024. We have also considered and taken into account the vote of the DCUSA Parties on the Proposal summarised in the Change Declaration.

We conclude that:

- implementation of the modification proposal will better facilitate the achievement of the Applicable DCUSA objectives and specifically DCUSA Objective Four;<sup>5</sup> and
- directing that the modification is approved is consistent with our principal objective and statutory duties.<sup>6</sup>

## **Reasons for our decision**

We consider this modification proposal will better facilitate Applicable DCUSA Objective Four: the promotion of efficiency in the implementation and administration of the DCUSA arrangements with a neutral impact on the other applicable DCUSA Objectives.

### **Applicable DCUSA Objective Four – the promotion of efficiency in the implementation and administration of the DCUSA arrangements**

#### *The DCUSA Party voting view*

All the voting DCUSA parties supported this Proposal and the Proposer's view, citing DCUSA Objective Four as being positively impacted. In summary, the DCUSA Parties believe that DCP435 promotes efficiency in the implementation and administration of the DCUSA.

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<sup>5</sup> The Applicable DCUSA Objectives are set out in Standard Licence Condition 22.2 of the Electricity Distribution Licence.

<sup>6</sup> The Authority's statutory duties are wider than matters that the Parties must take into consideration and are detailed mainly in the Electricity Act 1989 as amended.

### *Our view*

We agree with the voting DCUSA Parties and the Proposer. We consider that DCP435 better facilitates this Objective because it introduces a mechanism via the novation agreement to allow the smooth and faster transfer of DCUSA rights and obligations from one party to another. These changes unburden the exiting party from undertaking the DCUSA party withdrawal process and alleviates the new joining party from having to go through the DCUSA accession process saving time, money and effort for all concerned.

We also consider that the Proposal allows for greater certainty and financial security to DCUSA Parties as it seeks to remove the risk of any DCUSA debt and/or liabilities of the outgoing party falling on the DCUSA Parties.

### **Decision notice**

In accordance with standard licence condition 22.14 of the Electricity Distribution Licence, the Authority hereby directs that modification proposal DCP435: *Party Novation Process* be made.

**Gavin Baillie**

**Head of Industry Codes**

Signed on behalf of the Authority and authorised for that purpose.