

Consultation – Annex E: Proposed legal drafting of code modification prioritisation procedure – Distribution Connection and Use of System Agreement (DCUSA)

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We have set out below the specific sections of the Distribution Connection and Use of System Agreement DCUSA)^{1, 2} that we propose to amend using our transitional powers subject to schedule 12 to the Energy Act 2023, which we are seeking feedback on as part of this consultation. Proposed deletions are shown in strike-through, and proposed new text is double underlined. Text in red shows changes that have been made to the code text since the August 2025 decision publication, which include changes to ensure that the legal text is up to date, that the correct sections of codes have been updated, and that changes are consistent as far as possible.³ For brevity, we have not reproduced entire sections of the code in this annex. Instead, we have included only the parts of the code that are proposed to change, along with other parts we consider most relevant to understanding those changes. Whilst we have attempted to ensure that our proposed legal text drafting remains accurate as compared to the most up-to-date versions of the code text, we would welcome your highlighting of any parts of the code text proposed here that are out-of-date.

The Distribution Connection and Use of System Agreement⁴ ([The Distribution Connection and Use of System Agreement](#))

SECTION 1 GOVERNANCE AND CHANGE CONTROL

SECTION 1A - PRELIMINARY

1. DEFINITIONS AND INTERPRETATION

Definitions

¹ The DCUSA has been designated as a ‘qualifying document’ by the Secretary of State as part of the [Designation Notice \(amended and consolidated\) under paragraphs 1\(1\)\(b\) and 1\(5\) of Schedule 12 to the Energy Act 2023 designating certain documents and central systems for the purposes of Schedule 12 to the Energy Act 2023](#)

² The prioritisation policy that we propose to introduce through this consultation relates to code processes before code manager appointment. We intend to keep the provisions under review, and if amendments are required in the future to account for the introduction of a code manager, a consultation will be carried out.

³ [Decision on the preliminary Strategic Direction Statement and governance arrangements for industry codes | Ofgem](#)

⁴ [The Distribution Connection and Use of System Agreement](#)

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1.1 In this Agreement, except where the context otherwise requires, the expressions in the left hand column below shall have the meanings given to them in the right hand column below:

Prioritisation Criteria has the meaning given to that term by the Authority Guidance on Code Modification Prioritisation.

Prioritisation Category has the meaning given to that term by the Authority Guidance on Code Modification Prioritisation.

Authority Guidance on Code Modification Prioritisation means the guidance published by the Authority from time to time on code modification prioritisation.

SECTION 1C – CHANGE CONTROL

10. CHANGE PROPOSALS

Form and Content of the Proposal

10.3 A Change Proposal must be submitted in writing by the person making the Proposal (the Proposer) to the Secretariat.

10.4 A Change Proposal must contain the following information:

10.4.10 in the case of variations proposed by DNO/IDNO Parties, confirmation as to whether it is raising the proposal in compliance with a direction of the Authority as envisaged by Clause 10.2.5; and

10.4.11 an assessment by the Proposer of the Change Proposal against the Prioritisation Criteria.

Initial Assessment

10.11 Except where the Secretariat refuses to accept the submission of a Change Proposal, it shall:

10.11.1 refer that proposal to the Panel;

10.11.2 (without altering the Change Proposal in any way and without undertaking any detailed evaluation of the Change Proposal) prepare an initial written assessment of the likely effect of the proposal for the assistance of the Panel; and

10.11.3 suggest a timetable to apply if the Panel chooses to place the proposal into the Assessment Process.

10.12 The Panel shall consider the Change Proposal and the accompanying documents referred to in Clause 10.11.2:

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10.12.1 in respect of Change Proposals specified as urgent in accordance with Clause 10.4.8, within five Working Days of the proposal's submission;

10.12.2 in respect of all other Change Proposals, within 25 Working Days of the proposal's submission,

and, where necessary, the Panel Secretary shall convene a Panel meeting for such purpose. The Panel shall consider whether to accept or refuse the Change Proposal, and whether or not the Change Proposal should, in light of the criteria set out in Clause 10.7, properly be treated as urgent. Where it is determined to not be an Urgent Change Proposal, and considering the views presented by the Proposer in paragraph 10.4.11, the Panel shall determine the Prioritisation Category of the Change Proposal by assessing it against the Prioritisation Criteria, as compared with other Change Proposals. Only Change Proposals that the Panel considers should be treated as urgent shall be treated as Urgent Change Proposals.

11. ASSESSMENT PROCESS

11.1 Where the Panel receives and accepts the referral of a Change Proposal in accordance with Clause 10, it shall ensure that the proposal is subjected to a process of assessment in accordance with this Clause 11 (the Assessment Process).

Determination of Procedure

11.6 The Panel shall not determine that a Change Proposal is to be subject to the Definition Procedure if in its opinion the proposal is:

11.6.1 insubstantial in nature, concerned solely with the technical legal drafting of this Agreement, or concerned solely with a variation to this Agreement that is obligatory under or by virtue of any legislation; and

11.6.2 unlikely to be the subject of significant controversy between the Parties.

11.7 The Panel shall otherwise, having regard in respect of a Change Proposal to:

11.7.1 the Prioritisation Criteria, and whether the Change Proposal is an Urgent, Change Proposal or not ~~complexity, significance and urgency of that proposal;~~ and

11.7.2 the degree of clarity as to the issues to which the proposal gives rise and the likely effects of the proposed variation of the Agreement,

consider whether in its opinion it would be appropriate for the proposal to be subject to the Definition Procedure and determine the matter accordingly.

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Part 1/Part 2 Matters

11.8 At the same meeting at which the Panel determines whether a Change Proposal is to be subject to the Definition Procedure, it shall also determine whether in its opinion the proposal relates to a Part 1 Matter or a Part 2 Matter (taking into account the Proposer's opinion provided pursuant to Clause 10.4.7).

11.9 A Change Proposal shall be treated as relating to a Part 1 Matter or a Part 2 Matter in accordance with the determination of the Panel for all the purposes of this Section 1C, unless and until the Authority determines to the contrary under Clause 11.21 or Clause 13.22.

11.9A The Definition Procedure shall not apply to Authority-Led Change Proposals. In respect of all Authority Change Proposals, the Authority may by direction specify and/or amend:

11.9A.1 the timetable to apply to each stage of the Assessment Process for the Change Proposal; and/or

11.9A.2 the date from which the variation envisaged by the Change Proposal is to take effect.

Timetable

11.10 Unless a timetable has already been established by the Authority in accordance with Clause 11.9A, at the same meeting at which the Panel determines whether a Change Proposal is to be subject to the Definition Procedure, it shall also, having regard to the Prioritisation Criteria, and whether the Change Proposal is an Urgent Change Proposal or, if it has been determined to not be an Urgent Change Proposal, the Prioritisation Category accorded to the Change Proposal complexity, significance and urgency of that proposal, determine a timetable for the completion of each stage of the Assessment Process. For the avoidance of doubt, the Panel shall not make any determinations regarding the proposed implementation date at this stage.

Definition Procedure

11.14 The Panel may establish, in respect of a Change Proposal, a Working Group for the purpose of undertaking the activities (the Definition Procedure) of:

11.14.1 consulting with the Parties, and (where appropriate) with any interested third parties, on the proposal, which third parties shall include, in respect of proposals to vary one or more of the Charging Methodologies, any person whose interests the Working Group identifies as being materially affected by a Charging Methodology (which consultation shall, where appropriate, be by way of consultation with bodies who represent the interests of such third parties);

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11.14.2 considering and clarifying the likely effects of the proposed variation to the Agreement, and indicating which Party Categories it considers will be affected by the proposed variation;

11.14.3 evaluating, developing and refining the proposed variation to the Agreement (and, in undertaking such evaluation in respect of a Change Proposal to vary one or more of the Charging Methodologies (but not the CCCM), the Working Group shall have regard to the ability of the Authority to veto any Change Proposal that appears to the Authority to have as its purpose or effect the full or substantial substitution of one Charging Methodology for another);

11.14.3A determining a plan to meet the timetable established for the Change Proposal under Clause 11.9A or Clauses 11.10 to 11.12 (as applicable), and notifying the Panel in the event that the Working Group requires more time to complete the activities set out in this Clause 11.14 (in which case the Working Group shall recommend an alternative timetable, and provide supporting information to justify the extension);

11.14.4 evaluating the likely impact of the proposed date for implementation of the variation, and where it considers appropriate amending this date, subject to the following:

(A) an implementation date specified by the Authority in accordance with Clause 11.9A.2 may not be amended;

(B) (subject to (A) above) the implementation date should be the date that enables the proposed variation to take effect as soon as practicable after the decision to implement has been reached, taking into account the Prioritisation Criteria, and whether the variation has been determined to be an urgent modification, or, where the variation has been determined to not be an urgent modification, the Prioritisation Category ~~complexity, importance and urgency~~ of the variation; and,

(C) in undertaking such evaluation in respect of a Change Proposal to vary one or more of the Charging Methodologies, the Working Group shall have regard to the obligations of DNO Parties under this Agreement, and under their Distribution Licences, regarding the frequency of changes to Use of System Charges, and regarding the notice to be given in advance of such changes

11.14.5 considering whether, if the proposed variation were made, the Agreement would better facilitate the achievement of the DCUSA Objectives than if that variation were not made: and

11.14.6 considering whether it is likely that there would be a material impact on greenhouse gas emissions as a result of the proposed variation being made, and (if so) assessing such impact (which assessment shall be conducted in accordance with any guidance on the treatment of carbon costs and evaluation of greenhouse gas emissions issued by the Authority from time to time).

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Report Phase

11.19 The Secretariat shall, in respect of any Change Proposal submitted to it by the Panel, prepare a written report (the Change Report) on the proposal (the Report Phase). Where the Definition Procedure has been followed, the Secretariat shall prepare the Change Report in accordance with the instructions of the relevant Working Group.

11.20 The Change Report shall:

11.20.1 be addressed and delivered to the Panel;

11.20.2 specify which Party Categories should (in the opinion of the Secretariat or, where the proposal was subject to the Definition Procedure, the Working Group) be eligible to vote on the Change Proposal;

11.20.3 set out the proposed variation to the Agreement;

11.20.4 specify the likely effects of the proposed variation were they to be implemented;

11.20.5 state the proposed date for implementation;

11.20.5A in any case in which the proposal was not subject to the Definition Procedure prior to the Report Phase, include the Proposer's statements of:

(A) the detailed reasons why the Proposer believes that this Agreement would, if the proposed variation was made, better facilitate the achievement of the DCUSA Objectives than if the variation was not made; and

(B) whether the Proposer believes that there would be a material impact on greenhouse gas emissions as a result of the proposed variation being made; and

(C) the assessment of the proposal by the Proposer against the Prioritisation Criteria; and

11.20.6 in any case in which the proposal was subject to the Definition Procedure prior to the Report Phase, provide a detailed summary of:

(A) the views of the Working Group as to whether, if the proposed variation were made, the Agreement would better facilitate the achievement of the DCUSA Objectives than if that variation were not made;

(B) any responses received to the consultation process conducted by the Working Group under the Definition Procedure and not marked as

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confidential, together with a statement of the location on the Website at which such responses can be found;

(C) why the Working Group considers that the proposed variation better facilitates the achievement of the DCUSA Objectives than any alternative variation put forward in accordance with Clause 11.18 or by a respondent to the consultation; and

(D) whether the Working Group considers it is likely that there would be a material impact on greenhouse gas emissions as a result of the proposed variation (or any of the alternative variations referred to in Clause 11.20.6(C)) being made, and (if so) the Working Group's assessment of such impact (in accordance with any guidance on the treatment of carbon costs and evaluation of greenhouse gas emissions issued by the Authority from time to time); and

11.20.7 set out, where it has been determined, a description of the determination of the Change Proposal's Prioritisation Category.

The Change Register

11.25 The Secretariat shall establish and maintain a register (the Change Register) for the purpose of assisting the Panel in the operation of the Assessment Process and ensuring that the Parties and any interested third parties may be informed as to the progress of Change Proposals.

11.26 The Change Register shall contain, in respect of each Change Proposal that is in the Assessment Process:

11.26.1 details of the proposal (including the name of the Proposer, the date of the proposal and a short summary of its intended purpose and effect);

11.26.2 whether the proposal relates to a Part 1 Matter or a Part 2 Matter;

11.26.3 whether the proposal is an Urgent Change Proposal or the Prioritisation Category of the Change Proposal, where this has been determined, and details of the assessment undertaken in paragraph 10.12.2, where this is made;

(a) where the Prioritisation Category of a Change Proposal is changed, this change should be reflected within the Change Register alongside the reasons for its change.

11.26.4 the timetable for the completion of each stage of the Assessment Process;

11.26.5 the current level of progress of the proposal within the Assessment Process; and

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11.26.6 such other matters relating to the proposal as the Panel may from time to time direct the Secretariat to include in the Change Register.

11.27 The Secretariat shall ensure that the Change Register is updated at regular intervals so that the information it contains in relation to each Change Proposal that is in the Assessment Process is, so far as is reasonably practicable, accurate and up-to-date.

Review of Prioritisation Category of Change Proposals

11.33 The Panel shall review the Prioritisation Category of Change Proposals on a bi-annual basis and adjust the relevant modification timetable for each Change Proposal accordingly.