

Proposed variation:	Distribution Connection and Use of System Agreement (DCUSA) DCP058: Late Payment Interest on Cost Contribution Invoices		
Decision:	The Authority ¹ directs that this variation be made		
Target audience:	Parties to the DCUSA and other interested parties		
Date of publication:	24 February 2010	Implementation Date:	25 February 2010

Background to the proposed variation

At the November 2009 DCUSA Board Meeting it was noted that some Parties are consistently paying their Cost Contribution² invoices late. This was deemed to be unfair on the Parties that do pay their invoices within the payment terms specified, as well resulting in unnecessary costs being incurred by the Secretariat, and more generally DCUSA Ltd in chasing late payments.

The proposed variation

DCP058 seeks to provide the Panel with the ability to impose interest charges and administration fees upon Parties who have defaulted on the payment terms for the Cost Contribution invoice.

The Proposer considers that this change would create an incentive for all Parties that fund DCUSA Limited to pay their contribution costs within the specified payment terms. They consider that this will improve the cash flow of DCUSA Limited, reduce the requirement to chase late payments and ensure that the DCUSA has a clear system in place for managing debtors and charging interest on late payments.

As this proposal seeks to modify DCUSA Section 8 – ‘Costs of the DCUSA’ it is considered to be a Part 1 matter in accordance with Clause 9.5.1 and therefore requires the Authority’s consent.

Recommendation

The DCUSA Parties voted unanimously in support of this proposal, therefore the DCUSA Panel recommended to the Authority that it be implemented. There was also unanimous support for the propose implementation date of 25 February 2010.

The Authority’s decision

The Authority has considered the issues raised by DCP058, the content of the Change Report and subsequent Change Declaration dated 20 January 2010, including comments made by respondents. The Authority has concluded that:

1. implementation of DCP058 will better facilitate the achievement of the Applicable DCUSA Objectives³; and

¹ The terms ‘the Authority’, ‘Ofgem’ and ‘we’ are used interchangeably in this document. Ofgem is the Office of the Gas and Electricity Markets Authority.

² As set out in DCUSA clause 8.9, these are the costs incurred by the Panel, Panel secretary, working groups Secretariat or DCUSA Ltd itself in performing their respective functions under the agreement, i.e. the costs of operating DCUSA.

³ As set out in the Distribution Licence Standard Condition 22, see:

http://epr.ofgem.gov.uk/document_fetch.php?documentid=14573

2. directing that the modification be made is consistent with the Authority's principal objective and statutory duties⁴.

Reasons for the Authority's decision

We note that this proposal attracted unanimous support from respondents, though only one provided accompanying comments. Given the lack of contrary comments, we therefore assume that those who supported the proposal agreed with the proposer, that its implementation would further facilitate objective d) of the DCUSA – *the promotion of efficiency in the implementation and administration of the DCUSA arrangements*.

We would agree that d) is the pertinent objective and consider that it is furthered to the extent that inclusion of a reasonable interest charge and administration fee may remove an existing perverse incentive to delay payment of DCUSA Cost Contributions and thereby reduce the administrative burden of chasing such payments. We do not consider any of the other objectives would be impacted by this proposal.

We note that the DCUSA already provides for interest charges, albeit in relation to payments between parties and, currently, not to DCUSA Ltd. The Default Interest Rate referred to in the proposed legal text is therefore an existing term, defined as being 8% above the base lending rate of Barclays Bank PLC. We agree that it is appropriate for this existing definition and rate to be adopted for interest on Cost Contributions.

We note that the one respondent who provided substantive comment supported the proposal on the assumption that the administration charge determined by the DCUSA Panel would be reasonable. We would agree that the administration charges must be reasonable and generally commensurate with the additional costs to DCUSA Ltd associated with late payments. The proposal requires the level of this administration charge to be notified to DCUSA Parties from time to time. We consider that this is appropriate and provides for a level of flexibility that may be lost if the charge were to be stipulated in the agreement itself.

Decision notice

In accordance with Standard Condition 22 of the Distribution Licence, the Authority hereby directs that the proposed variation set out in DCP058: '*Late Payment Interest on Cost Contribution Invoices*' is made.

Mark Cox

Associate Partner, Industry Codes and Licensing

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

⁴The Authority's statutory duties are wider than matters which the Panel must take into consideration and are detailed mainly in the Electricity Act 1989.