

| | | | |
|------------------------|---|----------------------|--------------------|
| Modification proposal: | Distribution Connection and Use of System Agreement (DCUSA) DCP207 – Amending Licence & DCUSA Derogation Scope | | |
| Decision: | The Authority ¹ directs this modification ² be made ³ | | |
| Target audience: | DCUSA Panel, Parties to the DCUSA and other interested parties | | |
| Date of publication: | 10 September 2014 | Implementation Date: | Next DCUSA release |

Background to the modification proposal

The current wording of the DCUSA reflects that the Authority may grant derogations to electricity distribution licence holders in respect of Charging Methodologies. However, the Authority may grant derogations to any licensee in accordance with the conditions of their licence. Electricity distribution licence holders or electricity supply licence holders may be granted a derogation by the Authority in respect of their obligations which arise from DCUSA.⁴ And the current DCUSA wording does not recognise that such derogations may be granted by the Authority.

The modification proposal

The proposer, ESP Electricity Ltd, raised this modification to reflect that derogations may be granted by the Authority to DCUSA parties under their licence. The proposed change also reflects that derogations granted to electricity distribution licensees may be broader in scope than only in respect of the Charging Methodologies. The proposer considers that this change would improve efficiency in the implementation and administration of the DCUSA by recognising that licence derogations may be granted that affect the DCUSA and parties to it.

DCUSA Parties⁵ recommendation

The Change Declaration for DCP207 indicates that all parties were eligible to vote on DCP207. In each party category where votes were cast (no votes were cast in the DG⁶ party category),⁷ there was unanimous support for the proposal and for its proposed implementation date. In accordance with the weighted vote procedure, the recommendation to the Authority is that DCP207 is accepted. The outcome of the weighted vote is set out in the table below:

| DCP207 | WEIGHTED VOTING (%) | | | | | | | |
|---------------------|---------------------|--------|------------------------|--------|----------|--------|--------|--------|
| | DNO ⁸ | | IDNO/OTSO ⁹ | | SUPPLIER | | DG | |
| | Accept | Reject | Accept | Reject | Accept | Reject | Accept | Reject |
| CHANGE SOLUTION | 100 | 0 | 100 | 0 | 100 | 0 | n/a | n/a |
| IMPLEMENTATION DATE | 100 | 0 | 100 | 0 | 100 | 0 | n/a | n/a |

¹ 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.

² 'Change' and 'modification' are used interchangeably in this document.

³ This document is notice of the reasons for this decision as required by section 49A of the Electricity Act 1989.

⁴ Such derogations may be granted in accordance with standard licence condition (SLC) 20.7 of the electricity distribution licence, and SLC 11.3 of the electricity supply licence.

⁵ The DCUSA Parties are established and constituted pursuant to and in accordance with the section 1A of the DCUSA Agreement.

⁶ Distributed Generation

⁷ There are currently no gas supplier parties.

⁸ Distribution Network Operator

⁹ Independent Distribution Network Operator/Offshore Transmission System Operator

Our decision

We have considered the issues raised by the proposal and the Change Declaration dated 18 July 2014. We have considered and taken into account the vote of the DCUSA Parties on the proposal which is attached to the Change Declaration, alongside the Change Report. We have concluded that:

- implementation of the change proposal DCP207 will better facilitate the achievement of the General DCUSA objectives;¹⁰ and
- directing that the change is approved is consistent with the Authority's principal objective and statutory duties.¹¹

Reasons for our decision

We consider this proposal will better facilitate DCUSA General Objective 3.1.4 and has a neutral impact on the other applicable objectives.

DCUSA General Objective 3.1.4 – the promotion of efficiency in the implementation and administration of this Agreement and the arrangements under it

We agree that this change will improve efficiency in the implementation and administration of the DCUSA arrangements, by aligning the DCUSA with the relevant provisions of the licences. This will in turn better enable the code administrator and the DCUSA Panel to deal efficiently with potential situations in which DCUSA parties are granted a derogation by the Authority that is relevant to their DCUSA obligations.

Legal text

We note that the DCP207 working group had discussed an additional change to DCUSA clause 56.7 as part of this modification. Although not explained in the Change Report, we understand that this change was removed from the DCP207 legal text drafting following the conclusion of the working group discussions, but prior to approval of the Change Report by the DCUSA Panel. The additional change had sought to amend DCUSA clause 56.7 which currently states that for a derogation to be effective for the purposes of the DCUSA, a copy of it must be sent to the Panel.

The DCUSA document is part of and subsidiary to the licensing framework. We consider it is potentially misleading to suggest that a derogation issued by the Authority is 'not effective' for the purposes of the DCUSA unless sent to the DCUSA Panel. It is also ambiguous as it does not state who should notify the Panel, although we note that such derogations are published on our website and are therefore available to the Panel. It is disappointing that this issue was not explained in the Change Report and that the legal text was not submitted to the Panel in the form previously agreed by the working group. We expect a further housekeeping change could be raised in order to clarify this clause.

Decision notice

In accordance with standard licence condition 22.14 of the Electricity Distribution Licence, the Authority hereby directs that modification proposal DCP207: '*Amending Licence & DCUSA Derogation Scope*' be made.

¹⁰ The DCUSA General Objectives (Applicable DCUSA Objectives) are set out in Standard Licence Condition 22.2 of the Electricity Distribution Licence and are also set out in Clause 3.1 of the DCUSA.

¹¹ The Authority's statutory duties are wider than matters that the Panel must take into consideration and are detailed mainly in the Electricity Act 1989 as amended.

Lesley Nugent

Head of Industry Codes and Licensing

Signed on behalf of the Authority and authorised for that purpose