



**DCUSA CHANGE REPORT**

**DCP 214 Voting**

## **1 PURPOSE**

- 1.1 This document is issued in accordance with Clause 11.20 of the DCUSA, and details DCP 214 – ‘*Voting*’ (Attachment 1).
- 1.2 The voting process for the proposed variation and the timetable of the progression of the Change Proposal (CP) through the DCUSA Change Control Process is set out in this document.
- 1.3 Parties are invited to consider the proposed amendment (Attachment 2) and submit their votes using the Voting form (Attachment 3) to [dcusa@electralink.co.uk](mailto:dcusa@electralink.co.uk) by **14 April 2015**.

## **2 EXECUTIVE SUMMARY**

- 2.1 DCP 214 was raised by UK Power Networks on the 09 July 2014 to ensure that the recommendation made to Ofgem of a Part 1 change or the outcome of a Part 2 change truly reflects the interests (voting or otherwise) of the Parties.
- 2.2 Over a period of eight months the DCP 214 Working Group met seven times and issued one consultation. The consultation requested industry parties to comment upon four options which could act as a solution to this change. Following consideration of the responses to the consultation the Working Group agreed to progress a two-tier voting system where Party voting remains as current practice but with an additional overall outcome which sets out the recommendation from the majority of all Party Categories that have voted.

## **3 BACKGROUND AND SUMMARY OF DCP 214**

- 3.1 At present the DCUSA voting is based on Party categories and a Part 1 vote has to receive more than 50% acceptance from those who voted, from all Party categories, in order to be recommended for acceptance.
- 3.2 Recent voting has resulted in recommendations being made to Ofgem that a DCUSA Change Proposal (DCP) should be rejected, based on the votes of one or two Parties who voted in a Party Category and so determined the outcome for that Category. However it

can be argued that such an outcome does not truly reflect Parties' views if many in that Party Category did not feel impacted sufficiently enough to even exercise their vote.

- 3.3 The proposer of DCP 214 suggested that a non-vote should be considered in the outcome and the percentages for acceptance or rejection should endeavour to reflect the interest of all Parties in a Category rather than just those that vote.
- 3.4 The proposer of DCP 214 felt this was particularly relevant as an Ofgem decision can only be appealed if it differs from the recommendation of the Parties.
- 3.5 The DCP 214 legal text aims to modify Clauses 12 and 13 of DCUSA with regards to the recommendation made to Ofgem of a Part 1 change or the outcome of a Part 2 change to ensure that it truly reflects the interests (voting or otherwise) of the Parties.

#### **4 WORKING GROUP**

- 4.1 The DCUSA Panel established a Working Group to assess DCP 214. The Working Group met on seven occasions and was comprised of DNO, Supplier, IDNO and Ofgem representatives. Meetings were held in open session and the minutes and papers of each meeting are available on the DCUSA website – [www.dcusa.co.uk](http://www.dcusa.co.uk).
- 4.2 The Proposer explained that their original proposed solution was tabled in order to stimulate debate. The Working Group discussed the original proposed solution regarding Parties not voting and how this could be facilitated but they have also explored, in addition, other ways the intent of the CP could be achieved.
- 4.3 It was noted that the voting arrangements that are currently in place for DCUSA were put forward in Ofgem's acceptance letter of establishing DCUSA dated 23 November 2005 with minor refinements through subsequent CPs.
- 4.4 At its first meeting the Working Group discussed representation from a non-Working Group member that the scope of the change should include voting by non-DCUSA Parties. The Working Group agreed that this was beyond the scope of this change and should be raised as a separate proposal.
- 4.5 The Working Group developed different options for consideration in order to progress

DCP 214; these include:

- **Option 1** – Move away from Party Category voting to a Representative Panel
- **Option 2** – Move away from Party Category voting to a Change Board
- **Option 3** – Two-tier voting system where Party voting remains the same, but there will be an additional overall DCUSA Party Category outcome listed
- **Option 4** – To introduce a “no interest or neutral” outcome into the voting mechanism

### **Option 1**

- 4.6 Option 1 would see the DCUSA voting system move away from weighted Party Category voting to a Representative Panel approach. This option is based on analysis of other energy industry codes and is currently utilised in the Balancing and Settlement Code (BSC) and the Connection and Use of System Code (CUSC).

### **Option 2**

- 4.7 Option 2 would see the DCUSA voting system move away from weighted Party Category voting to a Change Board approach. This option is based on analysis of other energy industry codes and is currently utilised in the Supply Point Administration Agreement (SPAA) and the Master Registration Agreement (MRA).

### **Option 3**

- 4.8 Option 3 would involve a two-tier voting system where the weighted Party Category voting remains the same, but there will be an additional overall DCUSA Party Category outcome listed within the recommendation. This would provide Ofgem not only with individual & Category Party voting but, in addition, an overall DCUSA recommendation based on the votes of the majority of categories. An illustration of how the voting may work currently and how this option may work is detailed below:

DCP XXX	WEIGHTED VOTING (%)							
	Category A		Category B		Category C		Category D	
	Accept	Reject	Accept	Reject	Accept	Reject	Accept	Reject
<b>CHANGE SOLUTION</b>	100	0	0	100	100	0	n/a	n/a
<b>IMPLEMENTATION DATE</b>	100	0	0	100	100	0	n/a	n/a

Current voting outcome:

- 4.9 As Category B has voted to reject the CP this results in a recommendation of “reject” to Ofgem.
- 4.10 As two Party Categories have voted to accept the change, one Party Category has not voted at all and only one Party Category has voted to reject the overall DCUSA recommendation would be to accept the change.

#### Option 4

- 4.11 Option 4 would introduce a “no interest or neutral” outcome into the voting mechanism which would affect the outcome of a Party Category if only a small amount of Parties voted within it. This was the concept included within the original proposal, although variations on this theme could be further developed. The idea proposed was that a non-vote would be classed as neutral but would be counted in the voting. So any Party Category will have 100% of Parties counted whether they vote or not. To be recommended for acceptance or rejection the hurdles would still have to be met but from the total population rather than from only those that respond.
- 4.12 For example, consider a Part 1 Matter change which requires more than 50% of “accept” votes for the outcome to be acceptance of the change. In this table below the Party Category contains 5 equally weighted voting Parties.
- 4.13 The voting and the current and proposed outcomes are summarised below;

Number accept	Number reject	Number don't vote	Current outcome	Proposed outcome	Same or different
0	0	5	null	neutral	same
0	1	4	reject	neutral	different
0	2	3	reject	neutral	different
0	3	2	reject	reject	same
0	4	1	reject	reject	same
0	5	0	reject	reject	same
1	0	4	accept	neutral	different
1	1	3	reject	neutral	different
1	2	2	reject	neutral	different
1	3	1	reject	reject	same
1	4	0	reject	reject	same
2	0	3	accept	neutral	different
2	1	2	accept	neutral	different
2	2	1	reject	neutral	different
2	3	0	reject	reject	same
3	0	2	accept	accept	same
3	1	1	accept	accept	same
3	2	0	accept	accept	same
4	0	1	accept	accept	same
4	1	0	accept	accept	same

4.14 Therefore, under the proposed method, an “accept” or “reject” outcome under the current method is not achieved when only one or two Parties expressly vote in that way and fewer Parties than this expressly vote the other way.

4.15 The proposed outcome of “neutral” is effectively the same as “reject” in that it is failure to reach the required proportion for acceptance.

4.16 The Working Group developed a consultation document (Attachment 4) to gather information and feedback from market participants on the four options above and also their opinions on the current voting period; how the engagement of small Suppliers could be improved; and whether a text box currently on the DCUSA voting form asking for Parties to comment discourages Parties from voting on CPs.

## 5 DCP 214 CONSULTATION

5.1 The DCP 214 consultation was issued on 31 October to DCUSA Parties, the Distribution Charging Methodologies Forum (DCMF) Distribution List, Citizens Advice Bureau,

Connection Charges Methodology Distribution List, National Terms of Connection Distribution List, Elexon (BSC), Gemserv (MRA), and Ofgem. Eight responses were received.

- 5.2 A summary of the responses received, and the Working Group's conclusions are set out below. The full set of responses and the Working Group's comments are provided in Attachment 5.

**Question 1 - Do you agree with the intent of the CP?**

- 5.3 The Working Group noted that seven respondents agreed with the intent and one disagreed. Of the seven respondents that agreed, three expressed the view that there was no need to change the DCUSA change process; one respondent agreed with the aims but not the detail of the CP; and another did not agree with the way in which the CP was being developed.

**Question 2 – Do you agree with the principles of DCP 214?**

- 5.4 The Working Group noted that four respondents agreed with the principles of the DCP. Of the respondents that did not agree with the principles, two expressed the view that a lack of engagement was more of an issue. Suggestions to increase participation include a requirement for the DCUSA Secretariat to contact small Parties to encourage engagement in the consultation and voting process, and a requirement for Parties to acknowledge that they have received consultation documents and voting forms, but choose not to engage.

**Question 3 – The Working Group considers that DCUSA General Objectives 2<sup>1</sup> and 3<sup>2</sup> are better facilitated by DCP 214, do you agree with this opinion? Please provide supporting comments on this and any other DCUSA Objective you feel may be impacted by DCP 214.**

- 5.5 The Working Group noted that two respondents expressed the viewpoint that DCUSA Objectives 2 and 3 are better facilitated; one respondent felt that they could not determine this until the DCP 214 solution was proposed; and one respondent felt that Objectives 2 and 4 are better facilitated.

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<sup>1</sup> The facilitation of effective competition in the generation and supply of electricity and (so far as is consistent therewith) the promotion of such competition in the sale, distribution and purchase of electricity

<sup>2</sup> The efficient discharge by the DNO Parties and IDNO Parties of obligations imposed upon them in their Distribution Licences

Of the four respondents that disagreed with this opinion, one respondent mentioned that of all the four solutions proposed for DCP 214 none benefitted Objectives 2 and 3.

**Question 4 – Do you agree with the proposed implementation date of DCP 214?**

5.6 The Working Group noted that four respondents agreed with the proposed implementation date for DCP 214 of the next DCUSA release following Authority Consent. One respondent mentioned that the lead times involved need to be considered for the proposed implementation date.

**Question 5 – Provide your opinion on Option 1 – To move away from Party voting to a Representative Panel.**

5.7 The Working Group noted that all of the respondents were not in favour of option 1 and therefore it was not an option for further consideration. Some of the reasons cited were that Option 1 would dilute the ability of a Party group to veto a change; it may be difficult for members of the Panel to represent Parties with opposing views; and this option was not sufficiently transparent.

**Question 6 – Provide your opinion on Option 2 – To move away from Party voting to a Change Board.**

5.8 The Working Group noted that seven of the respondents were not in favour of option 2, citing the additional complications and added bureaucracy as a barrier to implementation. One respondent was in favour of option 2 on the grounds that it may result in more small Party engagement, but a strong Chair would be needed.

**Question 7 – Provide your opinion on Option 3 – To have a two-tiered approach to the voting process which would maintain Party voting, but also produce an overall group recommendation.**

5.9 The Working Group noted that while the majority of respondents did not fully support this Option, mainly on the grounds that it could give small Parties disproportionate leverage in the voting process, the Working Group did feel that this option warranted further investigation.

**Question 8 – Provide your opinion on Option 4 – To introduce a “no interest or neutral” Category into the voting mechanism.**

5.10 The Working Group noted that while the majority of respondents did not fully support this Option, mainly on the grounds that it would be difficult to reach thresholds for voting and mandate into DCUSA, the Working Group did feel that this option warranted further



investigation. It was also noted by respondents that the lack of responsiveness of DCUSA Parties may be down to apathy, lack of interest, time restraints and/or the issues raised are a low priority for themselves.

**Question 9 – The DCUSA Voting arrangements currently have two different types of changes – Part 1 and Part 2 matters. Part 1 Matters will ultimately go to the Authority for final determination and Part 2 Matters are self-governance and will follow the Party vote. Part 1 matters must achieve more than 50% acceptance in each of the Party categories in which votes were received in order to give a recommendation to “Accept” to the Authority. Part 2 Matters must achieve more than 65% acceptance in each of the Party categories in which votes were received in order for the modification to be approved and implemented. Are these approval levels appropriate? Does the higher threshold in Part 2 matters give additional assurance of the process, or should both Part 1 and Part 2 have the same approval threshold?**

5.11 The Working Group noted that all the respondents agreed that the current acceptance thresholds for Part 1 and 2 matters are appropriate, and the higher threshold in Part 2 matters gives additional assurance of the process.

**Question 10 – It was noted by the Working Group members that generally smaller Parties do not participate as much within the DCUSA Change Process and voting as larger Parties; in the interests of good governance, the aim should be for all Parties to participate fully. The Working Group would like to understand if there are any reasons – such as finances, time constraints, resources – that make it more difficult for small Parties to participate and what will make it easier for them to engage? Please provide supporting evidence.**

5.12 The Working Group noted that seven respondents did not give a response because they were not small Parties. The other respondent mentioned that finances, time constraints and resources are issues that make it difficult for small Parties to engage. It was suggested that the DCUSA Secretariat should send out reminders to small Parties close to the deadline for voting. Subsequently the DCUSA Panel agreed for a reminder to vote to be issued to Parties prior to the closing date.

**Question 11 – Could the text box located on the DCUSA voting form (Attachment 3) that asks Parties to comment about their vote discourage Parties from voting if they don't have a rationale behind their vote?**

5.13 The Working Group noted that respondents did not strongly believe that the text box asking Parties to comment about their vote discourages voting, but agreed that it should be made clear to Parties that it is not mandatory to comment in this box.

5.14 The consensus of the Working Group is that they would like to retain the text box on the CP Voting Form, but it should be optional and this should be highlighted to respondents,

so that respondents are not discouraged from voting. This should be sent to the DCUSA Panel for consideration.

- 5.15 The Ofgem representative mentioned that the comments in the box are extremely useful in the decision-making process. Subsequently, the DCUSA Panel updated the CP voting forms text box stating that it was optional.

**Question 12 - Is a 2 week voting period sufficient, or is more time needed to ensure all Parties are able to vote? If not, what would be your preferred timescales?**

- 5.16 The Working Group noted that three respondents felt that the two week voting period was sufficient; two expressed the view that it was not long enough; and three respondents that the voting period should be variable, with a pragmatic approach taken depending upon the complexity of the change and analysis and whether the change was contentious. One respondent mentioned that two weeks may be a good timescale for Working Group members but a longer voting period maybe needed for non-Working Group members. The DCUSA Panel have since agreed to extend the default voting period to three weeks for all changes.

- 5.17 The Working Group agreed that a three week voting period should be used instead of a two week window to ensure that the opinion of more Parties could be captured, and this should be sent to the DCUSA Panel for consideration. For example, an expert in the field may be on holiday in the voting period making the time window challenging.

- 5.18 It was also noted that if the change is urgent, the voting period used could be shorter.

**Question 13 - Please provide your opinions on what works well with the DCUSA voting process, and also what you feel could be improved upon?**

- 5.19 The Working Group noted that the majority of respondents are satisfied with the current voting process with few suggestions for improvements. These suggestions include sending voting reminders and extending the voting period if responses have been poor; the inclusion of clear summaries in Change Proposals (CPs); a simplification of the voting process and a nominated Working Group member to engage with small Parties.

**Question 14 - Are there any alternative solutions or matters that should be considered by the Working Group for DCP 214?**

5.20 The Working Group noted that no alternative solutions or matters were raised that should be considered by the Working Group.

**6 DCP 214 – WORKING GROUP CONCLUSIONS**

6.1 The Working Group reviewed each of the responses received to the consultation and concluded that the majority of respondents agreed with the intent of the CP.

6.2 The Working Group noted that half of the respondents were supportive of the principle of the CP and the proposed implementation date.

6.3 The Working Group noted that the respondents differed on their views as to whether DCUSA General Objective 2 and 3 were better facilitated by this change.

6.4 The Working Group noted that some respondents were more supportive of the Options 3 and 4 as proposed solutions than Options 1 and 2.

6.5 The Working Group reviewed the suggestions for improvements to the DCUSA and noted that:

- the majority of respondents suggested that the DCUSA Secretariat should send out reminders to small Parties close to the deadline for voting to encourage small Supplier engagement;
- Parties would like to retain the text box on the DCUSA Voting Form, with the proviso that it be labelled as optional; and
- That the voting period be extended from two to three weeks, but concessions should be made for urgent changes.

6.6 These changes were raised at the December DCUSA Panel meeting and agreed upon and implemented post meeting.

## 7 FURTHER CONSIDERATION OF THE OPTIONS

- 7.1 Following the consideration of responses to the consultation, the DCP 214 Working Group agreed to progress two potential solutions (Options 3 and 4) to this change in order to provide Ofgem with another option that could also be utilised to ensure the recommendation made to Ofgem of a Part 1 change or the outcome of a Part 2 change truly reflects the interests (voting or otherwise) of the Parties.
- 7.2 In considering the legal text of the two solutions, DCUSA lawyers pointed out that although Option 4 is not incompatible with the Distribution License it may be inconsistent with the spirit of it. The Distribution License requires Parties to be able to vote to accept or reject a CP and this forms a recommendation to Ofgem. While the third outcome proposed by Option 4 is not incompatible with the License it could be argued that anything other than a clear 'accept' or 'reject' recommendation may be inconsistent with its spirit. The Energy Act 2004 appeals mechanism allows appeals where Ofgem's decision differs from the recommendation made to it. It could be argued that this mechanism would have been established on the basis that appeals would only ever be sought in the context of clear 'accept' or 'reject' recommendations.
- 7.3 In light of this feedback, the Working Group agreed that Option 3 should be taken forward.

## 8 ASSESSMENT AGAINST THE DCUSA OBJECTIVES

- 8.1 The Working Group considers that the following DCUSA Objectives are better facilitated by DCP 214.

**General Objective Two - The facilitation of effective competition in the generation and supply of electricity and (so far as is consistent therewith) the promotion of such competition in the sale, distribution and purchase of electricity**

- 8.2 General Objective Two is better facilitated by DCP 214 because it promotes competition by ensuring that the vote truly represents the interest of Parties rather than the interests of a few Parties.

### **General Objective Four - The promotion of efficiency in the implementation and administration of this Agreement**

8.3 General Objective Four is better facilitated by DCP 214 because it promotes efficiency in that the outcome of voting is more representative.

## **9 ENGAGEMENT WITH THE AUTHORITY**

9.1 Ofgem has been fully engaged throughout the development of DCP 214 as a member of the Working Group.

## **10 DCP 214 - LEGAL DRAFTING**

10.1 The draft legal text has been reviewed by the DCUSA Legal Advisor and is provided as Attachment 2.

10.2 The legal text amends Clauses 12 and 13 to reflect that the view that the outcome of voting is to reflect the majority view of all Party Categories after the calculation has been performed on the voting within each Category.

## **11 ENVIRONMENTAL IMPACT**

11.1 In accordance with DCUSA Clause 11.14.6, the Working Group assessed whether there would be a material impact on greenhouse gas emissions if DCP 214 were implemented. The Working Group did not identify any material impact on greenhouse gas emissions from the implementation of this Change Proposal.

## **12 IMPLEMENTATION**

12.1 The implementation date proposed for DCP 214 is the first release after Authority consent.

## **13 PANEL RECOMMENDATION**

13.1 The Panel approved this Change Report at its meeting on **18 March 2015**.

13.2 The timetable for the progression of the CP is set out below:

<b>Activity</b>	<b>Target Date</b>
Change Report Agreed	18 March 2015
Change Report Issued For Voting	20 March 2015
Party Voting Ends	14 April 2015
Change Declaration Issued	16 April 2015
Authority Determination	22 May 2015
Implementation	Next Release Following Approval <sup>3</sup>

## 14 NEXT STEPS

14.1 Parties are invited to consider the proposed amendment (Attachment 2) and submit their votes using the Voting form (Attachment 3) to [dcusa@electralink.co.uk](mailto:dcusa@electralink.co.uk) by **14 April 2015**.

14.2 If you have any questions about this paper or the DCUSA Change Process please contact the DCUSA by email to [dcusa@electralink.co.uk](mailto:dcusa@electralink.co.uk) or telephone 020 7432 2840.

## ATTACHMENTS

- Attachment 1 – DCP 214
- Attachment 2 – DCP 214 Legal Text
- Attachment 3 – Voting Form
- Attachment 4 – DCP 214 Consultation
- Attachment 5 – DCP 214 Consultation Responses

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<sup>3</sup> The next DCUSA release is scheduled for the 25 June 2015.