



WORKING GROUP REPORT

CUSC Amendment Proposal CAP140 Change to BSC Party Obligation

**Prepared by the CAP140 Working Group
for submission to the Amendments Panel**

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a National Grid Document Control

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b Distribution

Name	Organisation
The Gas and Electricity Markets Authority	Ofgem
CUSC Parties	Various
Panel Members	Various
National Grid Industry Information Website	

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1.0 SUMMARY AND RECOMMENDATIONS

Executive Summary

- 1.1 CAP140 – Change to BSC Party Obligation was proposed by Eclipse Energy and was submitted to the CUSC Amendments Panel on the 24th November 2006. CAP140 aims to remove an anomaly with CUSC 6.29 where CUSC parties are also required to become BSC parties subject to a number of exemptions. However, the existing exemption provisions treat Exempt transmission connected Users differently to Exempt distribution connected Users. Therefore it is proposed to amend the CUSC to remove this defect to ensure transmission connected and distributed connected Users have the same rights.
- 1.2 The Working Group believes that there is a defect however, did not believe the proposed legal text with the Original Amendment was the best solution as it would remove CUSC 6.29.3 which was introduced during the BETTA process and would require disproportional effort to fully understand the consequential impacts upon Embedded Exemptable Large Power Station's compared with the defect. Therefore the Working Group Alternative Amendment was developed.

Working Group Recommendation

- 1.3 The Working Group believes its Terms of Reference have been completed, CAP140 has been fully considered and recommends to the CUSC Amendments Panel the Working Group Alternative Amendment and a Consultation report should proceed to wider Industry Consultation as soon as possible.

2.0 PURPOSE AND INTRODUCTION

- 2.1 This Report summarises the deliberations of the Working Group and describes the Original CAP140 Amendment Proposal as well as the Working Group Alternative Amendment.
- 2.2 CAP140 was proposed by Eclipse Energy and submitted to the CUSC Amendments Panel for their consideration on 24th November 2006. The Amendments Panel determined that the proposal should be considered by a Working Group and that the Group should report back to the panel meeting within 3 months.
- 2.3 The Working Group met on 14th December 2006, and the members agreed the Terms of Reference for CAP141. A copy of the Terms of Reference is provided in Annex 3. The Working Group considered the issues raised by the Amendment Proposal and considered whether the Proposal and the Working Group Alternative Amendment better facilitated the Applicable CUSC Objectives.
- 2.4 This Working Group Report has been prepared in accordance with the Terms of the CUSC. An electronic copy can be found on the National Grid Website, www.nationalgrid.com/uk/Electricity/Codes/, along with the Amendment Proposal Form.

3.0 PROPOSED AMENDMENT

- 3.1 CAP140 – Change to BSC Party Obligations aims to address an anomaly in Section 6.29, which requires CUSC Parties to accede and become members of the BSC subject to a number of exemptions. The exemptions allow another User to accede and become responsible for a User's export under the BSC and apply to the following classes:
- Non-Embedded Customer being supplied by a Trading Party (6.29.1)
 - Exempt Power Station directly connected to the GB Transmission System (6.29.2)
 - Embedded Exemptable Large Power Station (6.29.3)
- 3.2 If a User is an Exempt Power Station but is not directly connected to the GB Transmission System then they are required to accede to the BSC and under the CUSC arrangements cannot allow another party to become responsible under the BSC for its export, resulting in differing treatment of transmission and distribution connected Users.
- 3.3 Therefore it is proposed to amend CUSC 6.29 to allow all Exemptable Power Stations the right to allow another party to be responsible under the BSC for its export thus ensuring both transmission and distribution connected Users are treated in the same manner.

4.0 SUMMARY OF WORKING GROUP DISCUSSIONS

- 4.1 The first Working Group was held on the 14th December 2006 where the proposer of CAP140 provided further details and background to the Amendment. The group at first found it difficult to understand why a User would wish to hold TEC but not trade in the BSC. The proposer indicated that they believed there was commercial value in having TEC but the commercial reason for this was confidential and could not be discussed further.
- 4.2 The group at first were unconvinced that a defect described existed, believing all other Embedded Exemptable Generators did not see a commercial value in TEC and recognised that it was best for such User to avoid contractual relationship with National Grid via the CUSC. Especially in light of all the industry work relating to CAP097 – Revisions to the Contractual Requirements for Small and Medium Embedded Power Stations under 6.5 and Licensed Exempt Embedded Medium Power Stations (LEEMPS).
- 4.3 The group discussed the relationship between CUSC 6.29 and the BSC. Elexon informed the group that generators who were licence-exempt, and who had authorised another existing BSC Party to be responsible for their Export in accordance with Section K1.2 of the BSC, were not required by the BSC itself to become a BSC Party. If such a generator did become a party to the BSC to avoid being in breach of CUSC 6.29, but failed to take any of the steps which constitute 'trading' under Section A2.6 of the BSC within 6 months of its accession, it would automatically be withdrawn from the BSC unless the BSC Panel agreed to extend its membership. It was suggested that it would therefore be difficult to enforce CUSC 6.29 for such generators, and the benefit of doing so was questioned. It was noted that generators whose plant is Exemptable, but who were not themselves licence-exempt, would be required by the terms of their generation licence to join the BSC regardless of the CUSC provisions.

- 4.4 One member questioned were the implementation of CAP140 would lead to the “sterilisation” of TEC on the system. National Grid later confirmed that there is no impact upon TEC other than the User will secure its own access rights rather than via the DNO because the capacity would be taken into account regardless of which contractual route the User decided upon. For example, in simplified terms, an Embedded Power Station has a number of choices when connecting:
1. Applies to National Grid for TEC and receives a BEGA (Bilateral Embedded Generation Agreement). Therefore National Grid has a direct relationship and receives data directly from the Embedded Power Station.
 2. Applies to the relevant Distribution network. In this case National Grid has no direct relationship with the Embedded Power Station but will receive data either from the Request for a Statement of Works Process (CAP097) or via the DNO for planning purposed in accordance with the Grid Code
- 4.5 Therefore regardless of the connection options available to the Embedded Power Station their capacity will be included in the transmission system background by National Grid.
- 4.6 The Working Group questioned whether this issue could be addressed in the bilateral agreement between the proposer and National Grid. National Grid confirmed that this was not possible since any bilateral needs to track the main provisions of the CUSC and a derogation similar to those in the Grid Code are not possible in the CUSC.
- 4.7 After agreeing there was a defect the group requested data to assess the materiality of CAP140. The second meeting was held on 15th January 2007 and National Grid identified the number of current CUSC parties which the current exemptions applied (46 as at 29th December 2006) and that the proposed amendment would have no affect on the current number of parties. In addition National Grid confirmed that they were not in a position to forecast the number of Users that may wish to apply for an agreement if CAP140 was approved because of the nature of the contractual arrangements National Grid has no visibility of those Users, i.e. Embedded Exempt and Exemptable Generators. The Working Group discussed possible consequence of addressing the defect and agreed that any impact would be inconsequential. The group did not believe CUSC 6.29 would provide an incentive for more Embedded Exempt and Exemptable User's to become CUSC parties and acquire TEC.
- 4.8 Since the proposal of CAP140 and the undertaking of data analysis as agreed by the Working Group, National Grid has identified other Embedded Users that are currently in breach of CUSC 6.29 and is taking all necessary actions to address this situation. It was noted that these Users are not in breach of any BSC provision, since the requirement for them to be BSC Parties stems purely from CUSC 6.29.
- 4.9 The Working Group Alternative Amendment was discussed at the second meeting due to National Grid's concern regarding the Original Amendment drafting. National Grid believed that CUSC 6.29.3 was introduced at BETTA and undertaking a full assessment into the impact of the proposed Original Amendment drafting would be disproportionate to the defect and the alternative would achieve the same outcome for the proposer whist ensuring

all other exemptions remained unaffected. The group discussed deleting CUSC 6.29.3 as well as deleting the reference to “directly connected to the transmission system” also the relevance of 6.29.3. The group agreed that removing the reference to “directly connected to the transmission system” would address the defect and have no consequential impact upon any existing Users.

- 4.10 The proposer and the Working Group agreed with National Grid and alternative legal text was developed which addressed the defect but without affecting CUSC 6.29.3. All members believe the Working Group Alternative Amendment would better facilitate the Applicable CUSC Objectives.

5.0 WORKING GROUP ALTERNATIVE AMENDMENT

- 5.1 The Working Group Alternative Amendment seeks to address the same defect but with simplified legal text which ensures CUSC 6.29.3 introduced at BETTA go-live for Embedded Exemptable Large Power Station remains unchanged.

6.0 ASSESSMENT AGAINST APPLICABLE CUSC OBJECTIVES

Proposed Amendment

- 6.1 The Working Group believes that CAP140 Original Amendment would not better facilitate the CUSC Objectives due to the impact upon existing exemptions within CUSC 6.29 and the likelihood of confusion in terms of the obligations placed on such Users (in particular 6.29.3 - Embedded Exemptable Large Power Station). Therefore CAP140 would not facilitate competition or improve efficiency.

Working Group Alternative Amendment

- 6.3 The Working Group believes that CAP140 Working Group Alternative Amendment would better facilitate CUSC Objective;

(b) facilitating effective competition in generation and supply of electricity and facilitating such competition in the sale, distribution and purchase of electricity.

- 6.4 CAP140 Working Group Alternative Amendment would remove the different treatment of Embedded Power Stations based upon their connection (either transmission or distribution) which may be discriminatory thus ensuring a level playing field for such Users regardless of connection.

7.0 PROPOSED IMPLEMENTATION

- 7.1 The Working Group proposes that both the CAP140 Original Amendment and the Working Group Alternative Amendment should be implemented 10 business days after an Authority decision.

8.0 IMPACT ON THE CUSC

- 8.1 CAP140 requires amendments to Section 6 – General Provisions 6.29 and the text required to give effect to the Original Amendment is contained as Part A of Annex 1 of this document.

8.2 The text to give effect to the Working Group Alternative Amendment is attached as Part B of Annex 1 of this document.

9.0 IMPACT ON INDUSTRY DOCUMENTS AND COMPUTER SYSTEMS AND PROCESSES

9.1 CAP140 Original and Working Group Alternative Amendment have no impact upon Core Industry Documents or computer systems and processes used by CUSC Parties. No consequential changes are required to the BSC, since the BSC itself does not require licence-exempt generators to become BSC Parties where they have authorised another BSC Party as responsible for their Export.

ANNEX 1 – PROPOSED LEGAL TEXT TO MODIFY THE CUSC

Part A - Text to give effect to the Original Proposed Amendment

CUSC Section 6 – General Provisions

Insert the coloured underlined text and delete the struck through coloured text

6.29 BSC

Each and every **User** connected to or using the **GB Transmission System** shall be a **BSC Party** except for:

6.29.1 **Non-Embedded Customers** being supplied by a **Trading Party**;

6.29.2 A **User** acting in the category of an Exemptable Exempt Power Station ~~directly connected to the GB Transmission System~~ where another party is responsible under the **BSC** for the export from such Exemptable Exempt Power Station;

~~6.29.3 A **User** acting in the category of an **Embedded Exemptable Large Power Station** where another party is responsible under the **BSC** for the export from such **Embedded Exemptable Large Power Station**.~~

Part B - Text to give effect to the Working Group Alternative Amendment

CUSC Section 6 – General Provisions

Delete the struck through coloured text

6.29 BSC

Each and every **User** connected to or using the **GB Transmission System** shall be a **BSC Party** except for:

6.29.1 **Non-Embedded Customers** being supplied by a **Trading Party**;

6.29.2 A **User** acting in the category of **Exempt Power Station** ~~directly connected to the GB Transmission System~~ where another party is responsible under the **BSC** for the export from such **Exempt Power Station**;

6.29.3 A **User** acting in the category of an **Embedded Exemptable Large Power Station** where another party is responsible under the **BSC** for the export from such **Embedded Exemptable Large Power Station**.

ANNEX 2 – AMENDMENT PROPOSAL FORM

CUSC Amendment Proposal Form	CAP:140
Title of Amendment Proposal: Change to BSC Party Obligation	
Description of the Proposed Amendment <i>(mandatory by proposer):</i> It is proposed that the CUSC be modified to remove an anomaly in Section 6.29. This currently allows a generator to avoid mandatory accession to the BSC provided another party is responsible under the BSC for its export and either: a) the generator is Exempt and directly connected (Section 6.29.2) or b) the generator is Exemptable, Embedded and Large (Section 6.29.3). This drafting thus requires an Exempt or Exemptable User, acting as an Embedded Small Power Station or Embedded Medium Power Station, to accede to the BSC even if another party was to be responsible under the BSC for its export.	
Description of Issue or Defect that Proposed Amendment seeks to Address <i>(mandatory by proposer):</i> The existing provisions for allowing generators to avoid becoming a BSC Party were introduced for BETTA and as such only focused on requirements in Scotland. However, the text can now be seen to be discriminatory in that the BSC obligation is applied differently according to whether an Exempt Small or Medium Power Station is directly connected or Embedded. Further, an Embedded Exemptable generator of more than 10MW connecting in the North of Scotland, or of more than 30MW connecting in the South of Scotland, would not need to accede to the BSC, whereas a generator of the same size connecting in England and Wales would have to.	
Impact on the CUSC (this should be given where possible): Amend Section 6.29 as attached	
Impact on Core Industry Documentation <i>(this should be given where possible):</i> None	
Impact on Computer Systems and Processes used by CUSC Parties <i>(this should be given where possible):</i> None	
Details of any Related Modifications to Other Industry Codes <i>(where known):</i> None	
Justification for Proposed Amendment with Reference to Applicable CUSC Objectives** <i>(mandatory by proposer):</i> This modification will remove unnecessary and discriminatory treatment of certain Medium and Small Power Stations and thus enable National Grid to more easily and efficiently discharge its obligations under the Act and the Transmission Licence and fulfil its obligations to facilitate competition in the generation and supply of electricity.	

Details of Proposer: Organisation's Name:	Eclipse Energy Company Ltd
Capacity in which the Amendment is being proposed: (i.e. CUSC Party, BSC Party or "energywatch")	CUSC Party
Details of Proposer's Representative: Name: Organisation: Telephone Number: Email Address:	Anthony Cotton ETCS Ltd 01473 780 933 tony@energytechnical.com
Details of Representative's Alternate: Name: Organisation: Telephone Number: Email Address:	Ian Hatton Eclipse Energy Company Ltd 01476 561 391 ianhatton@eclipse-energy.com
Attachments: Yes If Yes, Title and No. of pages of each Attachment: Proposed Legal Text, one page	

Notes:

1. Those wishing to propose an Amendment to the CUSC should do so by filling in this "Amendment Proposal Form" that is based on the provisions contained in Section 8.15 of the CUSC. The form seeks to ascertain details about the Amendment Proposal so that the Amendments Panel can determine more clearly whether the proposal should be considered by a Working Group or go straight to wider National Grid Consultation.
2. The Panel Secretary will check that the form has been completed, in accordance with the requirements of the CUSC, prior to submitting it to the Panel. If the Panel Secretary accepts the Amendment Proposal form as complete, then he will write back to the Proposer informing him of the reference number for the Amendment Proposal and the date on which the Proposal will be considered by the Panel. If, in the opinion of the Panel Secretary, the form fails to provide the information required in the CUSC, then he may reject the Proposal. The Panel Secretary will inform the Proposer of the rejection and report the matter to the Panel at their next meeting. The Panel can reverse the Panel Secretary's decision and if this happens the Panel Secretary will inform the Proposer.

The completed form should be returned to:

Beverley Viney
Panel Secretary
Commercial Frameworks
National Grid
National Grid House
Warwick Technology Park
Gallows Hill
Warwick
CV34 6DA

Or via e-mail to: Beverley.Viney@uk.ngrid.com

(Participants submitting this form by email will need to send a statement to the effect that the proposer acknowledges that on acceptance of the proposal for consideration by the Amendments Panel, a proposer which is not a CUSC Party shall grant a licence in accordance with Paragraph 8.15.7 of the CUSC. A Proposer that is a CUSC Party shall be deemed to have granted this Licence).

3. Applicable CUSC Objectives** - These are defined within the National Grid Company Transmission Licence under Section C7F, paragraph 15. Reference should be made to this section when considering a proposed amendment.

CUSC Amendment Proposal: Change to BSC Party Obligation

Attachment: Proposed Legal Text

6.29 BSC

Each and every **User** connected to or using the **GB Transmission System** shall be a **BSC Party** except for:

6.29.1 **Non-Embedded Customers** being supplied by a **Trading Party**;

6.29.2 A **User** acting in the category of an **Exemptable Exempt Power Station** ~~directly connected to the **GB Transmission System**~~ where another party is responsible under the **BSC** for the export from such **Exemptable Exempt Power Station**;

~~6.29.3 A **User** acting in the category of an **Embedded Exemptable Large Power Station** where another party is responsible under the **BSC** for the export from such **Embedded Exemptable Large Power Station**.~~

ANNEX 3 – WORKING GROUP TERMS OF REFERENCE AND MEMBERSHIP

Working Group Terms of Reference and Membership

TERMS OF REFERENCE FOR CAP140 WORKING GROUP

RESPONSIBILITIES

1. The Working Group is responsible for assisting the CUSC Amendments Panel in the evaluation of CUSC Amendment Proposal CAP140 tabled by Eclipse Energy at the Amendments Panel meeting on 24th November 2006.
2. The proposal must be evaluated to consider whether it better facilitates achievement of the applicable CUSC objectives. These can be summarised as follows:
 - (a) the efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission Licence; and
 - (b) facilitating effective competition in the generation and supply of electricity, and (so far as consistent therewith) facilitating such competition in the sale, distribution and purchase of electricity.
3. It should be noted that additional provisions apply where it is proposed to modify the CUSC amendment provisions, and generally reference should be made to the Transmission Licence for the full definition of the term.

SCOPE OF WORK

4. The Working Group must consider the issues raised by the Amendment Proposal and consider if the proposal identified better facilitates achievement of the Applicable CUSC Objectives.
5. In addition to the overriding requirement of paragraph 4, the Working Group shall consider and report on the following specific issues:
 - the current and potential population of exempt or exemptable Users acting as an embedded small power station or embedded medium power station that have sought a BEGA in order to obtain TEC and thus are required to be BSC Parties under CUSC 6.29;
 - the potential impact of such Users obtaining TEC in the context of potential “sterilisation” of TEC;
 - whether the implementation of CAP140 itself might lead to an increase in the number of such Users;
 - The consequences of such Users not becoming BSC Parties should CAP140 be implemented
6. The Working Group is responsible for the formulation and evaluation of any Working Group Alternative Amendments (WGAAs) arising from Group discussions which would, as compared with the Amendment Proposal, better

facilitate achieving the applicable CUSC objectives in relation to the issue or defect identified.

7. The Working Group should become conversant with the definition of Working Group Alternative Amendments which appears in Section 11 (Interpretation and Definitions) of the CUSC. The definition entitles the Group and/or an individual Member of the Working Group to put forward a Working Group Alternative Amendment if the Member(s) genuinely believes the Alternative would better facilitate the achievement of the Applicable CUSC Objectives. The extent of the support for the Amendment Proposal or any Working Group Alternative Amendment arising from the Working Group's discussions should be clearly described in the final Working Group Report to the CUSC Amendments Panel.
8. The Working Group is to submit their final report to the CUSC Panel Secretary on 15th February 2007 for circulation to Panel Members. The conclusions will be presented to the CUSC Panel meeting on 23rd February 2007.

MEMBERSHIP

9. It is recommended that the Working Group has the following members:

Chair	Rob Smith
National Grid	Emma Carr
Industry Representatives	Garth Graham (Scottish & Southern) Ben Sheehy (E.ON) David Scott (EDF Energy) Tony Cotton (Energy Technical) John Norbury (RWE Npower)
Authority Representative	Steve Mackay
Observer	Kathryn Coffin (Elexon)
Technical Secretary	Richard Dunn

[NB: Working Group must comprise at least 5 Members (who may be Panel Members) and will be selected by the Panel with regard to WG List held by the Secretary]

10. The membership can be amended from time to time by the CUSC Amendments Panel or the Working Group Chairperson.

RELATIONSHIP WITH AMENDMENTS PANEL

11. The Working Group shall seek the views of the Amendments Panel before taking on any significant amount of work. In this event the Working Group Chairman should contact the CUSC Panel Secretary.
12. Where the Working Group requires instruction, clarification or guidance from the Amendments Panel, particularly in relation to their Scope of Work, the Working Group Chairman should contact the CUSC Panel Secretary.

MEETINGS

13. The Working Group shall, unless determined otherwise by the Amendments Panel, develop and adopt its own internal working procedures and provide a copy to the Panel Secretary for each of its Amendment Proposals.

REPORTING

14. The Working Group Chairman shall prepare a final report to the February 2007 Amendments Panel responding to the matter set out in the Terms of Reference.
15. A draft Working Group Report must be circulated to Working Group members with not less than five business days given for comments.
16. Any unresolved comments within the Working Group must be reflected in the final Working Group Report.
17. The Chairman (or another member nominated by him) will present the Working Group report to the Amendments Panel as required.

ANNEX 4 – INTERNAL WORKING GROUP PROCEDURE

CAP140 Working Group Change to BSC Party Obligation

INTERNAL WORKING PROCEDURES

1. Notes and actions from each meeting will be produced by the Technical Secretary (provided by National Grid) and circulated to the Chairman and Working Group members for review.
2. The Meeting notes and actions will be published on the National Grid CUSC Website after they have been agreed at the next meeting or sooner on agreement by Working Group members.
2. The Chairman of the Working Group will provide an update of progress and issues to the Amendments Panel each month as appropriate.
4. Working Group meetings will be arranged for a date acceptable to the majority of members and will be held as often as required as agreed by the Working Group in order to respond to the requirements of the Terms of Reference set by the Amendments Panel.
5. If within half an hour after the time for which the Working Group meeting has been convened the Chairman of the group is not in attendance, the meeting will take place with those present.
6. A meeting of the Working Group shall not be invalidated by any member(s) of the group not being present at the meeting.