



## **CONSULTATION DOCUMENT VOLUME 1**

### **CUSC Amendment Proposal CAP186**

#### **Code Governance Review: Send Back Process**

*The purpose of this document is to consult on Amendment Proposal CAP186 with CUSC Parties and other interested Industry members*

Amendment Ref	CAP186
Issue	1.0
Date of Issue	14 <sup>th</sup> July 2010
Prepared by	National Grid

**Please note responses to this consultation are due by 5pm on 5<sup>th</sup> August 2010 to [cusc.team@uk.ngrid.com](mailto:cusc.team@uk.ngrid.com)**

<b>I DOCUMENT CONTROL</b>
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**a National Grid Document Control**

Version	Date	Author	Change Reference
1.0	14/07/10	National Grid	Version for Publication

**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 CAP186 'Code Governance Review Send Back Process' is part of a series of proposals raised by Electricity Transmission plc (National Grid) to implement the Final Proposals of the wider Code Governance Review, initiated by Ofgem in November 2007. The review sought to address the concerns that the existing code arrangements may be too complex and inaccessible to smaller market participants. Following an Industry Workshop, this Amendment Proposal was presented to a Special CUSC Amendments Panel meeting on 9<sup>th</sup> July 2010. National Grid recommended that this Amendment Proposal proceeds directly to wider consultation.
- 1.2 CAP186 seeks to incorporate the Send Back Process into the CUSC as part of the mandatory requirements under the new Electricity Transmission Licence Modifications which were implemented on 5<sup>th</sup> July 2010.

### **Amendment Panels View**

- 1.4 At the Special Amendments Panel meeting on 9<sup>th</sup> July 2010, the Panel agreed that CAP186 should proceed directly to wider industry consultation for a period of three weeks.

### **National Grid's View**

- 1.5 As Proposer, National Grid supports the implementation of CAP186 on the basis that it better facilitates the Applicable CUSC Objectives by adhering to the mandatory requirements under the revised Electricity Transmission Licence.

## 2.0 PURPOSE AND INTRODUCTION

- 2.1 This is a consultation document issued by National Grid under the rules and procedures specified in the Connection and Use of System Code (CUSC) as designated by the Secretary of State.
- 2.2 Further to the submission of Amendment Proposal CAP186, this document seeks views from industry members relating to the Amendment Proposal.
- 2.3 CAP186 was proposed by National Grid and submitted to the CUSC Amendments Panel for consideration at their meeting on 9<sup>th</sup> July 2010. Following an Industry Workshop and discussions as part of all of the Proposals at the Governance Standing Group (GSG), the Amendments Panel determined that CAP186 was appropriate to proceed to wider industry consultation by National Grid.
- 2.4 Representations received in response to this consultation document will be included in National Grid's Amendment Report that will be furnished to the Authority for their decision.
- 2.6 This consultation document has been prepared in accordance with the terms of the CUSC. An electronic copy can be found on the National Grid website, at [www.nationalgrid.com/uk/Electricity/Codes/](http://www.nationalgrid.com/uk/Electricity/Codes/). This document invites views upon CAP186 and the **closing date for responses in 5pm on 5<sup>th</sup> August 2010**.
- 2.7 The Consultation timetable is attached as Annex 2 to this document.

### 3.0 PROPOSED AMENDMENT

- 3.1 CAP186 seeks to incorporate the new Send Back Process into the CUSC. This is part of a suite of work strands conducted during the Code Governance Review.
- 3.2 This Proposal was presented to the Industry at an Industry Workshop on 23<sup>rd</sup> June 2010 and followed up at GSG meetings on 28<sup>th</sup> June 2010 and 1<sup>st</sup> July 2010. The Amendment Proposal was then presented to the Amendments Panel on 9<sup>th</sup> July 2010.
- 3.3 CAP186 enables the Authority to 'Send Back' an Amendment Report to the Amendments Panel in circumstances where the Authority considers that it is unable to form a decision based on the content of the report. The Authority can specify the action that it believes is required in order to make the report complete. CAP186 proposes changes to the CUSC in order to incorporate the following parts of the process:
- i. Following submission of a final Amendment Report to the Authority, the Authority may 'send back' the Report if it is unable to form an opinion for the reasons detailed above and may issue a direction to the panel specifying the steps, revision, analysis or information it requires in order to form an opinion.
  - ii. The Panel considers the Authority's direction at its next meeting and makes a decision on the course of action required and the timetable to which it must work to, as agreed by Ofgem.
  - iii. The course of action will depend on Ofgem's direction. If the direction is detailed and gives specific steps and timescales, the Panel will follow this and take actions as appropriate. If the direction is not detailed, the Panel will make their own recommendations in terms of the next steps and timescales.
  - iv. Once the necessary changes have been made to the Report, the Panel will retake the Panel Recommendation Vote and the Report will be re-submitted to the Authority.
- 3.4 It is judged that this process will provide an effective safeguard against the Authority being placed in a position where it is unable to approve a proposal due to deficiencies in the report, such as an insufficient assessment or inaccurate legal text.

### 6.0 ASSESSMENT AGAINST APPLICABLE CUSC OBJECTIVES

#### Proposed Amendment

- 6.1 The Proposer considers that CAP186 would better facilitate the CUSC Objective(s);
- (a) **the efficient discharge by the Licensee of the obligations imposed upon it by the act and the Transmission Licence;** specifically with regard to the obligation under standard condition C10 of the licence, by permitting the Authority to send back an Amendment Report and issue a direction to the Panel if they cannot properly form an opinion.

This is a mandatory requirement under the new Electricity Transmission Licence Modifications which were implemented on 5<sup>th</sup> July 2010.

## **7.0 PROPOSED IMPLEMENTATION**

- 7.1 National Grid proposes CAP186 should be implemented 10 business days after an Authority decision. In accordance with 8.19.10(b) views are invited on this proposed implementation date.

## **8.0 IMPACT ON THE CUSC**

- 8.1 CAP186 requires amendments to Section 8 of the CUSC in relation to adding in the 'Send Back' process.
- 8.2 The text required to give effect to the Amendment Proposal is contained in the Amendment Proposal in Annex 1 of this document.

## **9.0 IMPACT ON INDUSTRY DOCUMENTS**

### **Impact on Core Industry Documents**

- 9.1 CAP186 has no impact upon Core Industry Documents.

### **Impact on other Industry Documents**

- 9.2 CAP186 has no impact upon other Industry Documents; however, National Grid intends to raise similar proposals to both the Balancing and Settlement Code (BSC) and the Uniform Network Code (UNC) in line with the timetable which has been published to the industry in June 2010.

## **10.0 NATIONAL GRID VIEW**

- 10.1 As Proposer, National Grid supports the implementation of CAP186 on the basis that it better facilitates the Applicable CUSC Objectives by adhering to the mandatory requirements in its Electricity Transmission Licence.

## **11.0 VIEWS INVITED**

- 11.1 National Grid is seeking the views of interested parties in relation to the issues raised by Amendment Proposal CAP186 and issues arising from the proposed timescale for implementation of CAP186.
- 11.2 Please send your responses to this consultation to National Grid by no later than 5pm on **5<sup>th</sup> August 2010**.
- 11.3 Please address all comments to the following e-mail address:  
[Cusc.Team@uk.ngrid.com](mailto:Cusc.Team@uk.ngrid.com)

## ANNEX 1 – AMENDMENT PROPOSAL FORM

<b>CUSC Amendment Proposal Form</b>	<b>CAP: 186</b>
Title of Amendment Proposal: <b>Code Governance Review: Send Back Process</b>	
Description of the Proposed Amendment ( <i>mandatory by proposer</i> ):  This Amendment Proposal is part of a series of proposals raised by National Grid to implement the Final Proposals of the wider Code Governance Review which was initiated by Ofgem in November 2007. The review sought to address concerns that the existing code arrangements may be too complex and inaccessible to smaller market participants. Given the Authority's evolving role with the introduction of additional statutory duties and the right of appeal to the Competition Commission, such a review was considered to be conducted at an appropriate time.  Ofgem published its Final Proposals for the Code Governance Review in March 2010, followed by its statutory consultation on licence modifications on 3 <sup>rd</sup> June 2010. National Grid Electricity Transmission plc has not objected to the licence modifications. As part of the suite of work strands conducted during the Code Governance Review, one of the proposals identified was the introduction of a 'Send Back' process.  This would enable the Authority to send back an Amendment Report to the Amendments Panel in circumstances where the Authority considers that it is unable to form a decision based on the content of the report. It is judged that the 'send back' provisions will provide an effective safeguard against the Authority being placed in a position where it is unable to approve a proposal owing to deficiencies in the report such as an insufficient assessment, incorrect legal texts or other technical issues. The Authority can then specify the action that it believes is required in order to make the report complete. The "Send Back" process provides flexibility to allow for any situation and for the Panel to re-make a recommendation based upon work carried out.  National Grid proposes an Amendment to the CUSC in order to incorporate the following new process:  <ol style="list-style-type: none"><li>1. Following submission of a final Amendment Report to the Authority, the Authority may 'send back' the Report if it is unable to form an opinion for the reasons detailed above and may issue a direction to the panel specifying the steps, revision, analysis or information it requires in order to form an opinion.</li><li>2. The Panel considers the Authority's direction at its next meeting and makes a decision on the course of action required and the timetable to which it must work to, as agreed by Ofgem.</li><li>3. The course of action will depend on Ofgem's direction. If the direction is detailed and gives specific steps and timescales, the Panel will follow this and take actions as appropriate. If the direction is not detailed, the Panel will make their own recommendations in terms of the next steps and timescales.</li><li>4. Once the necessary changes have been made to the Report, the Panel will retake the Panel Recommendation Vote and the Report will be re-submitted to the Authority.</li></ol>	

Description of Issue or Defect that Proposed Amendment seeks to Address (**mandatory by proposer**):

This proposal results from the Code Governance Review and associated licence modifications which will have a direct impact on the CUSC. National Grid Electricity Transmission plc has not objected to the licence modifications and is therefore mandated by the new licence obligations to make the changes and additions to the CUSC where applicable.

**Impact on the CUSC** (*this should be given where possible*):

Changes are required to Section 8 of the CUSC in relation to adding in the 'send back' process.

**Impact on Core Industry Documentation** (*this should be given where possible*):

None anticipated

**Impact on Computer Systems and Processes used by CUSC Parties** (*this should be given where possible*):

None anticipated.

**Details of any Related Modifications to Other Industry Codes** (*where known*):

National Grid intends to raise similar proposals to both the BSC and the UNC, in line with the timetable which has been published to the industry in June 2010. These modification proposals will not interact with the changes proposed to the CUSC.

Justification for Proposed Amendment with Reference to Applicable CUSC Objectives\*\* (**mandatory by proposer**):

National Grid considers that implementation of this Amendment Proposal would better facilitate the following Applicable CUSC Objective:

**(a): "the efficient discharge by the licensee of the obligations imposed upon it under the Act and by this licence"**, specifically with regard to the obligation under standard condition C10 of the licence, by permitting the Authority to send back an Amendment Report and issue a direction to the Panel if they cannot properly form an opinion.

This is a mandatory requirement under the new Licence Modifications which National Grid Electricity Transmission plc has not objected to.

**Details of Proposer:**  
Organisation's Name:

National Grid Electricity Transmission plc



Capacity in which the Amendment is being proposed:  (i.e. CUSC Party, BSC Party or "National Consumer Council")	CUSC Party
<b>Details of Proposer's Representative:</b> Name: Organisation: Telephone Number: Email Address:	Emma Clark National Grid Electricity Transmission plc 01926 655223 <a href="mailto:emma.clark@uk.ngrid.com">emma.clark@uk.ngrid.com</a>
<b>Details of Representative's Alternate:</b> Name: Organisation: Telephone Number: Email Address:	Alex Thomason National Grid Electricity Transmission plc 01926 656379 Alex.thomason@uk.ngrid.com
<b>Attachments:</b>  Appendix 1 –Legal text to support this Proposal	

**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:

Steven Lam  
Commercial  
National Grid  
National Grid House  
Warwick Technology Park  
Gallows Hill  
Warwick  
CV34 6DA

Or via e-mail to: [steven.lam@uk.ngrid.com](mailto:steven.lam@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 Electricity Transmission plc Licence under Standard Condition C10, paragraph 1. Reference should be made to this section when considering a proposed amendment.

## Appendix 1: Legal Text

The following amendments shall be made at Section 8 of CUSC.

Add the following as Paragraph 8.20.9 and 8.20.10

8.20.9 If the **Authority** determines that the **Amendment Report** is such that the **Authority** cannot properly form an opinion on the **Proposed Amendment**, it may issue a direction to the **Amendments Panel**:

- (a) **specifying the additional steps (including legal drafting or amending existing legal drafting associated with the Proposed Amendment), revision (including revision to the timetable), analysis or information that it requires in order to form such an opinion; and**
- (b) **requiring the Amendment Report to be revised and to be re-submitted.**

8.20.10 If an **Amendment Report** is to be revised and re-submitted in accordance with a direction issued pursuant to Paragraph 8.20.9, it shall be re-submitted as soon after the **Authority's** direction as is appropriate, taking into account the complexity, importance and urgency of the **Proposed Amendment**. The **Amendments Panel** shall decide on the level of analysis and consultation required in order to comply with the **Authority's** direction and shall agree an appropriate timetable for meeting its obligations. Once the **Amendment Report** is revised, the **Amendments Panel** shall carry out its **Amendments Panel Recommendation Vote** again in respect of the revised **Amendment Report** and re-submit it to the **Authority**. The **Authority** will then approve or not approve the **Proposed Amendment** or issue another direction pursuant to Paragraph 8.20.9.

## **Annex 2 – PROPOSED TIMETABLE FOR INDUSTRY CONSULTATION**

9 <sup>th</sup> July 2010	Special Amendments Panel meeting – agree whether to proceed to consultation
14 <sup>th</sup> July 2010	Publish industry consultation papers (for 3 weeks)
5 <sup>th</sup> August 2010	Consultation closes
11 <sup>th</sup> August 2010	Draft Amendment Reports published for industry comment
18 <sup>th</sup> August 2010	Deadline for industry comment
19 <sup>th</sup> August 2010	Draft Amendment Report published prior to Panel Recommendation Vote (with Panel papers)
27 <sup>th</sup> August 2010	Amendments Panel meeting – Panel Recommendation Vote
31 <sup>st</sup> August 2010	Send final Amendments Report to Authority
5 <sup>th</sup> October 2010	Indicative Authority decision date (25 Working Day KPI)
19 <sup>th</sup> October 2010	Indicative implementation date (10 Working Days after Authority decision)