nationalgrid

Stage 06: Final CUSC Modification Report

Connection and Use of System Code (CUSC)

CMP191: NETSO Consultation in relation to any potential changes to the CUSC which takes place in forums other than the CUSC Modifications Panel

What stage is this document at?

01	Initial Written Assessment
02	Workgroup Consultation
03	Workgroup Report
04	Code Administrator Consultation
05	Draft CUSC Modification Report
06	**Final CUSC Modification Report**

CMP191 seeks to modify the CUSC in order to place an obligation on National Grid, in its role as National Electricity Transmission System Operator (NETSO), to consult with GB stakeholders on issues raised in other forums which other GB stakeholders may not have access to.

This document is Volume 1 of the Final CUSC Modification Report.
Volume 2 of the Final CUSC Modification Report contains the Annexes.

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CUSC Modifications Panel view:
CMP191 Workgroup Alternative CUSC Modification better facilitates the Applicable CUSC Objectives and should be implemented

National Grid view:
Neither CMP191 nor the WACM should be implemented as neither better facilitate the Applicable CUSC objectives

High Impact:
National Grid Electricity Transmission plc (as NETSO)

Medium Impact:
GB Stakeholders (incl. Generators, Distribution Network Operators, GB Transmission System Operators, Interconnector owners and Users, Offshore Transmission Owners, Suppliers); GB market participants; BSC, CUSC and Grid Code Parties; Ofgem; DECC

Low Impact:
None identified

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About this document

This is the Final CUSC Modification Report for CMP191 which contains responses to the Code Administrator Consultation and the recommendation of the CUSC Modifications Panel. The Report has been prepared and issued by National Grid, as Code Administrator, under the rules and procedures specified in the CUSC. The purpose of this document is to assist the Authority in their decision whether to implement CMP191 or the Workgroup Alternative CUSC Modification.

Any references to annexes within the document are referring to those found in Volume 2 of the Final CUSC Modification Report.

Document Control

Version	Date	Author	Change Reference
0.1	07/09/11	National Grid (Code Administrator)	Draft for industry review
0.2	22/09/11	National Grid (Code Administrator)	Draft for Panel vote
0.3	04/10/11	National Grid (Code Administrator)	Draft for Panel review
1.0	12/10/11	National Grid (Code Administrator)	Final CUSC Modification Report to Authority

Any Questions?

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1 Summary

1.1 In February 2011, SSE Generation Ltd raised Modification Proposals to both the BSC and the CUSC, as well as a paper to the Grid Code Review Panel. The proposals seek to create an obligation on National Grid, in its role as National Electricity Transmission System Operator (NETSO), to consult with code Parties on potential changes to the GB industry codes which are discussed or originate from forums other than the relevant code Panel. This consultation with Parties is proposed to be conducted through the establishment of a cross-code (BSC, CUSC and Grid Code) Panel Standing Group.

1.2 The three proposals specifically focus on the development of the European Network Codes which are likely to impact on the GB industry codes, but do not originate within GB. The scope of the proposals also includes other forums where potential changes could arise and National Grid performs the role of NETSO.

1.3 This Final CUSC Modification Report specifically focuses on CMP191: "NETSO Consultation in relation to any potential changes to the CUSC which takes place in forums other than the CUSC Modifications Panel", raised on 14th February 2011.

1.4 Workgroups were established for each of the three proposals and were run jointly across the BSC, CUSC and Grid Code. The joint Workgroup held four meetings, during March, April and May 2011, before proceeding to Workgroup Consultation. The joint Workgroup Consultation received 10 responses, which are summarised in section 9 of this Report.

1.5 The joint Workgroup held a further meeting in July at which it reviewed the responses received to the Workgroup Consultation and agreed a Workgroup Alternative CUSC Modification (see section 4 for details).

1.6 During the Workgroup process, the Workgroup agreed that a Joint European Standing Group (JESG) should be established to facilitate engagement by National Grid, as NETSO, with GB stakeholders. National Grid duly submitted Terms of Reference to the BSC, CUSC and Grid Code Panels and these were approved (see Annex 5). Should CMP191 or P271 be implemented, the JESG Terms of Reference would be updated to reflect the version of the JESG Terms of Reference which accompanies these two Modification Proposals (see Annex 4).

Workgroup Conclusions

1.7 The majority of the Workgroup supported the implementation of CMP191 WACM as it better facilitates applicable CUSC objectives (a) and (b).

1.8 At its meeting in July 2011, the CUSC Modifications Panel accepted the Workgroup's report and agreed for CMP191 to proceed to Code Administrator consultation. 3 responses were received to the consultation which supported implementation of the CMP191 WACM. See section 9 for a summary of the responses.

National Grid's View

1.9 National Grid does not support the implementation of CMP191 or the WACM as it does not believe that it better facilitates Applicable CUSC Objectives (a) or (b).

CUSC Modifications Panel view

1.10 At the CUSC Modifications Panel meeting on 30th September 2011, a majority of 7 Panel Members voted that **CMP191** does **not** better facilitate

Where can I find more information?

The joint Workgroup papers and minutes are available on National Grid's website:

http://www.nationalgrid.com/uk/Electricity/Codes/systemcode/workingstandinggroups/wg/CMP191/index.htm

the Applicable CUSC Objectives than the CUSC baseline. A majority of 6 Panel Members voted that the **Workgroup Alternative CUSC Modification** (WACM) **does** better facilitate the Applicable CUSC Objectives than the CUSC baseline and so should be implemented. 6 Panel Members consider that the WACM best facilitates the Applicable CUSC Objectives and 2 Panel Members consider that the CUSC baseline best facilitates the Applicable CUSC Objectives.

2 Why Change?

2.1 In July 2009, the Third Energy Package was adopted by the European Union. The Third Package aims to introduce consistency in rules and regulations across Europe through the establishment and adoption of a number of European Network Codes (ENCs).

2.2 The preparation of the ENCs has three main phases:

- First, a set of high-level principles, known as the Framework Guidelines, are developed by ACER, the "Agency for the Cooperation of Energy Regulators";
- Second, the detailed ENCs are drafted, based on the high-level principles set out in the Framework Guidelines, by ENTSO-e, the "European Network of Transmission System Operators for electricity"; and
- Finally, the drafted ENCs go through Comitology, which is the Member States approval process used by the European Commission to make the European Network Codes legally binding on each Member State.

2.3 ENTSO-e consists of 41 Transmission System Operators (TSO) from 34 countries across Europe, including 4 from the UK. ENTSO-e was formally established on 3rd March 2011 to increase cooperation and coordination of TSOs across European borders to try and play an active role in the development of the ENCs.

2.4 The ENCs will cover a wide range of areas and may have a significant impact on the GB industry codes, including the BSC, CUSC and Grid Code. The ENCs will be legally binding and will therefore take precedence over the equivalent provisions in the GB industry codes. A list of the areas that must be covered by the ENCs is included in the European Commission (EC) Regulation 714/2009 on "access to the network for cross-border exchanges in electricity" which can be found using the link in the information box on the right.

2.5 National Grid, as National Electricity Transmission System Operator (NETSO)[1], is a member of ENTSO-e and is actively involved in the development process for the ENCs. The Proposer believes that, due to this involvement, it is appropriate that National Grid is required to consult with GB stakeholders at an early stage in the ENCs development process, when there is still the potential for such engagement to assist the development process. It should be clarified that GB stakeholders can still influence the codes through the formal consultation process at a European level; the proposal gives GB stakeholders additional insight into early development of the ENCs.

Where can I find more information on ENTSO-e?

Please see ENTSO-e's website: https://www.entsoe.eu/

Currently the four UK TSO members of ENTSO-e are:

- National Grid Electricity Transmission;
- Scottish Power Transmission;
- Scottish Hydro Electric Transmission;
- System Operation Northern Ireland Ltd

Where can I find EC Regulation 714/2009?

Please see the Eur-lex website: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:211:0015:0035:EN:PDF

The list of areas to be covered by ENCs can be found in Article 8: *Tasks of the ENTSO for Electricity.*

[1] The National Electricity Transmission System comprises onshore GB networks in England, Scotland, Wales and offshore networks.

3 Solution

3.1 CMP191 seeks to place an obligation on National Grid, in its role as NETSO, to consult with GB stakeholders in relation to any potential changes to the CUSC which arise from forums other than the CUSC Modifications Panel. In particular, CMP191 focuses on forums which discuss development of the ENCs or other European issues which may impact on the GB industry codes. This includes other forums where potential changes could arise and National Grid performs the role of NETSO.

3.2 The Proposer lists a series of tasks that National Grid should undertake and suggests this could be completed through the creation of a Joint European Standing Group which would report to the BSC, CUSC and Grid Code Panels. The tasks for National Grid include:

- Providing details of any draft proposals, in particular those concerning European Network Codes, ahead of their submission to the relevant body (e.g. ENTSO-e), including draft text and impact assessments as appropriate;
- Seeking and taking into consideration views of the Panel on such proposals ahead of their submission to the relevant body; and
- Providing prior notification of, and subsequent feedback from, meetings and workshops at which National Grid have attended as NETSO, particularly with regard to development of the European Network Codes.

Workgroup Alternative CUSC Modification (WACM)

3.3 At the meeting on 8th July 2011, following the conclusion of the Workgroup Consultation, the Workgroup proposed an alternative.

3.4 The WACM would mirror the original solution in every aspect apart from the range of forums that NGET, as NETSO, would be required to identify any possible changes to the BSC, CUSC and Grid Code.

3.5 The scope of the Alternative would be limited to anything under the Third Energy Package that could, in NGET's reasonable and prudent opinion as NETSO within ENTSO-e, result in a change to the CUSC.

3.6 This is discussed further in Section 4.

Where can I find the Modification Proposals?

Please see Annex 3 for copies of the CMP191, P271 and the Grid Code Signatories paper.

Relevant Code Panel forums would include Work, Standing or Issues groups etc., established by the Panel(s).

4 Summary of Workgroup Discussions

4.1 The Workgroup met on four occasions (11th and 31st March, 15th April and 20th May 2011) prior to issuing the Workgroup Consultation and once (8th July 2011) following the closure of the Workgroup Consultation. The elements of the Terms of Reference were discussed and the Workgroup debate on each item is recorded under the headings below.

4.2 At the first Workgroup meeting, the National Grid European Policy representative was invited to provide background information on the European consultation processes which had been proposed for development of the Framework Guidelines (by ACER) and the ENCs (by ENTSO-e). Supporting information provided to the Workgroup can be found on National Grid's website; the link is provided in the information box on page 3 of this Consultation document.

4.3 The National Grid European Policy representative also suggested ways for GB stakeholders to receive information on European consultations direct by email. The Workgroup agreed that the information provided was useful and for the benefit of all Workgroup consultees, the links are provided in Annex 8.

(a) Proposals for consultation at Commission / ACER / ENTSO-e level and identify gaps in engagement from a GB stakeholder perspective;

4.4 The Workgroup discussed the consultation process that had been used for the Pilot (ENC) Connection Code, agreeing that, compared to the GB industry code governance processes, it was not up to standard. Deficiencies identified included:

- Confusion over the development processes caused by running both the Framework Guidelines and ENC development processes in parallel, instead of consecutively;
- Lack of transparency over what had happened to GB stakeholders' comments, once they had been fed into the process;
- Lack of transparency over National Grid's role on the ENTSO-e drafting committee, including whether National Grid had sought to take account of the views of GB stakeholders to the best of its ability;
- Lack of feedback to GB stakeholders by National Grid during the Pilot Connection Code development process; and
- The process for responding to ACER and ENTSO-e consultations, which includes mandatory online submission and which limits consultation responses to a restricted number of characters.

4.5 The National Grid representatives noted that they understood the process used for developing the Pilot Connection Code was not the process that would be used for developing the ENCs from March 2011 onwards. They agreed that the processes used during the pilot project (for the Pilot (ENC) Connection Code) had not been wholly successful and that improvements had been identified by ENTSO-e as a result of the pilot project.

4.6 National Grid, as a member of ENTSO-e, had also identified ways to improve its engagement with GB stakeholders, including providing more regular updates to industry code Panel meetings and other relevant industry forums; holding industry seminars; and meaningfully engaging with the

Joint Workgroup

To ensure efficiencies in the code governance processes, the BSC, CUSC and Grid Code Panels agreed that the Workgroups established to consider SSE Generation's three proposals should be run together.

Each Workgroup has its own Terms of Reference and will be required to adhere to the respective code modification process, for example in terms of Workgroup voting.

Please see Annex 2 for the Workgroups' Terms of Reference.

industry on European issues. To this end, the National Grid representatives stated their support for the Workgroup proposed Joint European Standing Group but noted that they believe the proposed JESG Terms of Reference (Annex 4) are too onerous on stakeholders and National Grid, and therefore not practicable. The Proposer welcomed this support and noted that prior to the raising of the three proposals he had been led to believe that there would be minimal stakeholder engagement by National Grid on the development of the ENCs. National Grid subsequently drafted its own proposed Terms of Reference for a JESG to be established prior to these Modification Proposals reaching the end of the modifications process (see Annex 5). The National Grid Representatives considered that its Terms of Reference were less onerous but still achieved the essence of those proposed for these Modification Proposals, and a JESG based on these Terms of Reference could be established as early as July 2011, with Panel approval. Any changes to the Terms of Reference for the JESG would be subject to Panel governance.

4.7 The National Grid European Policy representative described the proposed ENTSO-e stakeholder engagement and consultation process, noting that this includes publication of meeting minutes and slides from public ENTSO-e meetings and regular stakeholder sessions. He also highlighted to the Workgroup that the European Commission were consulting on its proposed Workplan (consultation now closed) and the governance processes for European Network Code development and that this represented an opportunity for all GB stakeholders to raise concerns directly with the EC. However, the Proposer and other Workgroup members noted that were apparently in excess of 2,000 sets of consultation comments submitted to the Pilot (ENC) Connection Code (ENTSO-e) consultation and it was not clear how the GB stakeholder (or any other respondents) comments had been (a) considered and (b) addressed. Engaging with ENTSO-e via National Grid (as NETSO) would, members felt, complement and not conflict with the other wider consultations undertaken by ENTSO-e etc., on the ENCs.

4.8 The Workgroup concluded that deficiencies exist and that establishment of the proposed Joint European Standing Group could complement engagement by GB stakeholders with European developments.

(b) Whether each relevant code Panel should write to the relevant body (EC, ACER or ENTSO-E) outlining any shortfalls in stakeholder engagement, to the extent these could be improved within the restrictions of the third package;

4.9 Having identified the deficiencies in the proposed (and pilot) process, for the development of the ENCs, the Workgroup considered whether any or all of the affected code Panels (BSC, CUSC, Grid Code) should write to relevant European organisations to highlight the concerns of this Workgroup. The Workgroup did not reach a consensus on whether the Panels should write; however, Workgroup members did suggest a number of issues that a potential letter could include, as set out below:

- explain who the Workgroup/Code Panels are and their credentials (in a GB context);
- acknowledge that there will be formal, but limited, engagement through the European consultation processes.
- question at what stage GB stakeholders should have some engagement;

- describe how GB plans to coordinate engagement with stakeholders;
- describe the actions that GB is taking internally to engage with stakeholders (e.g. the creation of the Joint European Standing Group (JESG) and its expected outputs);
- provide a proforma which could help facilitate better stakeholder responses to the European Network Code and Framework Guidelines consultations by providing more information about the respondent (e.g. information about them such as km of cables, generation capacity, fuel mix)

4.10 As part of the Workgroup Consultation, it was asked whether a letter should be sent to Europe covering the above points. The majority of respondents believed that a letter should be sent. One respondent noted that any comments on the consultation process should be addressed to the respective organisation (e.g. ENTSO-e for ENCs) via trade associations. Another respondent questioned the usefulness of a letter outside of a formal consultation.

4.11 The Workgroup agreed that a letter would be drafted and sent to ENTSO-e, ACER and the EC, and copied to NGET, Ofgem and DECC for information. The Workgroup believe that this letter should go from the Panel Chairs of the BSC, CUSC and Grid Code. The proposed letter has been included in Annex 19.

(c) Suitability of the proposed obligations on National Grid (as set out in the code Modification Proposals) in relation to whether:

They better meet relevant licence requirements

4.12 The three modification proposals noted that National Grid has a licence obligation, relating to bring changes to the codes to the attention of code parties and such other persons as may properly be considered to have an appropriate interest in it (including consumer representatives).

4.13 The Workgroup did not reach a unanimous agreement that the three modification proposals better meets the relevant licence requirements. The Workgroup majority view is that there is a neutral impact on the relevant licence requirements.

4.14 Only the National Grid representative did not believe that the three proposed modifications better meet the relevant licence requirements, as there is no requirement for National Grid to consult, on proposed changes to the GB codes, under the licence until specific GB code modifications have been proposed in order to align them with EU Network Code requirements. As there have been no changes formally raised to the GB codes it is not possible to better meet this licence requirement.

Whether they are legally permissible

4.15 In terms of whether the proposed changes are legally permissible, the Proposer noted that code parties are able to raise changes to the codes to place obligations on National Grid as long as they better meet the relevant code objectives stated in the licence. The Workgroup agreed with this view.

Whether they are reasonably workable

4.16 National Grid considered that the suggestions within the three proposed modifications are achievable but potentially very resource intensive for National Grid and Joint European Standing Group members.

4.17 The Workgroup noted that as European Network Code changes are examined, work is likely to continue to be undertaken on each of the GB codes. It is likely that the individuals working on GB code changes will be required for the examination of European material.

4.18 The Proposer, mindful (a) that work on the GB industry code changes could (if they related to an ENC matter) be rendered 'redundant' and (b) of the situation (in the CUSC) with respect to charging changes not being raised during Ofgem's Project TransmiT suggested that there could, effectively, be a quasi moratorium on GB industry code changes being raised that are being addressed in the ENC arena. This might release industry resources to aid with any reviews of the ENCs. The Workgroup noted that the development of the ENCs would be resource intensive to all concerned – which was understandable given the impact that the ENCs could have on stakeholders. However, the majority of the Workgroup concluded that the obligations suggested in the three proposals were reasonably workable.

4.19 Furthermore, the Workgroup noted that the additional work undertaken by National Grid (and the other GB TSOs - if the obligation applied to them) in order to comply with any code directed obligations (such as those suggested in the three proposals) would, in principle, be a recoverable cost.

4.20 The Workgroup agreed that once the Joint European Standing Group is established the level of work required could be assessed and next steps determined.

(d) The role of other GB TSOs at ENTSO-E level; whether these differ from National Grid; whether other GB TSOs should have any obligations and if these could be met via the codes (BSC, CUSC and Grid Code);

4.21 The Workgroup noted that other GB TSOs, namely Scottish Power Transmission Limited and Scottish Hydro Electric Transmission Ltd, are members of ENTSO-e. It was also noted that, from 2012, Interconnectors will be designated as TSOs and there was uncertainty among the Workgroup as to the role of both Interconnectors and Offshore Transmission Owners (OFTOs) within ENTSO-e.

4.22 The Proposer gave his view as to why National Grid's role differs from that of the other GB TSOs, explaining that National Grid has a unique position among GB TSOs of being both a Transmission Owner and the National Electricity Transmission System Operator (NETSO). The Proposer considered that this dual role meant that National Grid would be more involved in the European Network Code development process than the other GB TSOs and also in a better position to feed wider GB stakeholder views into that ENC development process.

4.23 The Workgroup did not come to a view as to whether other GB TSOs should have any obligations placed upon them. Notwithstanding that, the Workgroup agreed that this did not mean that no obligation should be placed on National Grid (as NETSO) as a result. The majority of the Workgroup supported the suggestion that the obligations, as set out in the three proposals, should be placed on National Grid. In discussions it was noted that as the three original modification proposals only intended to place the

obligation on National Grid, any proposal to place obligations on other GB TSOs would be considered a Workgroup Alternative.

4.24 As part of the Workgroup Consultation, it was asked whether other GB TSOs should have obligations placed on them. The majority of respondents indicated that they did not believe the requirements should be placed on other GB TSOs. However, some respondents indicated that if GB TSOs have a role in drafting the ENCs they should have an obligation placed on them.

4.25 The Workgroup agreed that the obligation would only apply to National Grid (in their role as NETSO). If other GB TSOs begin to have a large role in the drafting of ENCs, then a proposal can be raised to place an obligation on them, although the Workgroup note that this would likely need to be done through a Transmission Licence or STC change.

(e) Whether GB stakeholder engagement via National Grid at a European level will have sufficient influence in the European decision-making process to satisfy individual stakeholders' requirements;

4.26 The Workgroup agreed that a Joint European Standing Group would not be a substitute for individual GB stakeholder requirements and that it should not be seen as a replacement for engagement, within Europe, by GB stakeholders in the ENC development process. Individual stakeholders would need to continue to engage on their own behalf through other channels, as the Joint European Standing Group would only be complementary to European interaction. However, the Workgroup agreed that GB stakeholders would, via the JESG (with its engagement with the NETSO), have an ability to influence the European decision making process that would be an enhancement on those GB stakeholders just engaging with Europe directly. In this respect the Workgroup could not see any harm or detriment that would arise from the approach suggested by the three proposals from the point of view of GB stakeholders.

(f) Consider the issues raised by Ofgem in its email of 4th March 2011

4.27 In response to the draft CUSC Workgroup Terms of Reference, Ofgem sent a number of questions for consideration by the Workgroup. These questions are provided in full in Annex 2, as an attachment to the CMP191 Workgroup Terms of Reference. At its second meeting, the Workgroup considered each question in turn. Prior to the discussion of the questions, the Ofgem representative noted that one way to achieve the intent of the three proposals without a code change would be through a cross-code Standing Group similar to the Environmental Standing Group established in 2008[2]. This approach is already provided for in the CUSC (establishing Standing Groups) and in the BSC (establishing Issues Groups). The Ofgem representative stated that Ofgem would support the use of a Standing Group as a way forward should a cross-code group be established.

[2] Link to Environmental Standing Group Terms of Reference:

http://www.nationalgrid.com/uk/Electricity/Codes/systemcode/workingstandinggroups/Environment/

Q1: What vires does the Panel have under the CUSC to oblige National Grid as the NETSO (not a defined term in the CUSC) to undertake the three elements of the proposed solution?

4.28 The Proposer commented that although "NETSO" is not a defined term within the CUSC, it is a term which is widely used in the industry. For example the SO Incentive consultation document published in December 2010 by National Grid refers, in the opening paragraph, to their role as "NETSO". The Proposer also considered that it is possible for the relevant GB code to place any obligation on National Grid, as long as introducing the obligation better facilitates the applicable GB code objectives. The Ofgem representative asked for this question to be posed in the joint Workgroup Consultation.

4.29 The majority of Workgroup Consultation respondents agreed with the Proposer that it is possible to put any obligation on National Grid as long as it better facilitates the applicable objectives of the relevant industry code. One respondent believed that the applicable CUSC and BSC objectives are not better met by the proposed modifications but the respondent supported the creation of a forum to support stakeholder engagement.

4.30 The Workgroup acknowledged the responses and the majority believed that it was possible to place any obligation on National Grid as long as it better facilitated the relevant code objectives.

Q2: Why does the Proposer think that the obligation in the Transmission Licence, on which CMP191 and P271 rely, would apply?

4.31 The Ofgem representative explained the background to this question. In both CMP191 and P271, the Proposer uses an existing Transmission Licence obligation on National Grid to justify the proposals against the applicable code objectives. The Ofgem representative considered that the justification could be flawed, given that the relevant licence obligations (Standard Licence Condition (SLC) C3 4(b)(i) regarding the BSC and Standard Licence Condition (SLC) C10 6(b)(i) regarding the CUSC) to bring matters to the attention of code parties and others who have an interest in them refers to code modification proposals only once they have been raised. CMP191 and P271, in contrast, refer to proposed drafting for the European Network Codes, which are not, and do not yet give rise to, code Modification Proposals and therefore would not be captured by the Transmission Licence obligations quoted by the Proposer.

4.32 The Proposer responded that the Modification Proposals had not relied solely on the justification described above and that the proposals also had benefits under the relevant licence objectives for facilitating competition. The Ofgem representative asked why, if that was the case, the only explicit justification provided by the Proposer in the proposals relates to the relevant licence obligations set out in SLC C3 4(b)(i) and SLC C10 6(b)(i). The Proposer disagreed, noting that the Proposal forms for CMP191 and P271 refer to the competition argument set out above. A majority of Workgroup members present concurred that the justification given against the applicable objective for facilitating competition was stronger than that provided for the applicable objective of general facilitation of licence objectives.

4.33 Other Workgroup members suggested that a Transmission Licence obligation could be introduced to create a requirement for engagement on European issues, such as development of the ENCs, as the European legislation has potentially wide ranging impacts on GB. The Ofgem representative noted that potentially a number of other issues could be made

the subject of a licence change on the same basis, but this may not be an efficient way to address these issues.

Q3: Why could the aims of CMP191, P271 not be achieved through means other than a code change? For example, the CUSC Modification Panel can already establish a Standing Group, as suggested by the Proposer.

4.34 The Ofgem representative referred to previous comments and noted that there is a precedent for a cross-code Standing Group having previously been used. The Environmental Standing Group was established by the CUSC Amendments Panel in 2008 and included representatives from other codes and other code Panels. As this can be done without any code changes, the Ofgem representative questioned whether a code change was really required to deliver the intent of the proposal.

4.35 The Proposer acknowledged that a Standing Group could be established without the requirement for a code change, but explained there were benefits to the code change approach. Specifically, a code change would have the twin benefits of creating an enduring requirement on National Grid to engage with the industry in a liaison function so that code parties would better prepared to participate in Europe Network Code inspired code changes; and additionally, through liaison, oblige National Grid to take into account the views of code parties in its ENTSO-e interactions.

4.36 The Proposer noted that there are many obligations placed on National Grid in both the Licence and the GB industry codes. If it is not considered appropriate to oblige National Grid in respect of the development of the ENCs then why do so on other matters which some observers might think are of far less relevance or importance compared with the ENCs.

4.37 It was mentioned within the Workgroup that with a GB industry code obligation on National Grid there could be an appropriate cost recovery route through the Price Controls for the work required to resource the Joint European Standing Group.

4.38 It was asked as part of the Workgroup Consultation whether the existing code processes (e.g. creation of a standing or issues group) could be used to undertake GB stakeholder engagement. The majority of respondents noted that engagement could be facilitated under the current process but a few highlighted that they believe there is a need for an explicit requirement for NGET to engage which would need to be formalised through a modification to the codes.

Q4: How would "greater certainty" be provided to code parties if National Grid is obliged to seek views, but not adhere to them?

4.39 The Ofgem representative asked how the Proposer could assert the view that “greater certainty” could be achieved if National Grid is required to consider GB stakeholders' views but not adhere to them.

4.40 In response, the Proposer explained that greater certainty would be achieved in a number of ways.

- Firstly, it would inform and educate National Grid on the GB stakeholders' views, comments, concerns and suggested improvements on what was being suggested in the ENCs as they are developed. Without this engagement, by National Grid, with GB stakeholders, in the absence of ‘osmosis’ or ‘telepathy’, how would National Grid be in a position to meaningfully discuss or develop the

ENCs in areas of those codes in which they have very limited, if any, knowledge. For example, under the GB legislative arrangements National Grid is not permitted to operate generation. Without talking to GB generators National Grid would be ignorant of the impact and implications etc., that any generation related ENC would have.

- Secondly, the obligation on National Grid to consult the industry would raise the awareness among GB stakeholders of the issues being discussed within Europe and the potential impacts on GB codes and parties arising from the ENCs. Part of the engagement process would be for National Grid to explain to stakeholders, through the Joint European Standing Group, why certain choices regarding ENC drafting had been made at a European level.

- Thirdly, the Joint European Standing Group would give GB stakeholders greater certainty as to the overall GB position on issues being discussed at a European level, to allow an understanding of the likely position on an ENC before it enters the ACER and Member States Comitology approval process. As both Ofgem and DECC would be invited to attend the Joint European Standing Group, they could also benefit from this understanding.

4.41 The Ofgem representative noted the Proposer's view that 'greater certainty' therefore related largely to greater transparency and openness of process.

Q5: What else could the code modification proposals apply to, other than development of the European Network Codes?

4.42 The Proposer explained that, when drafting the three code modification proposals, he did not want the proposals to limit the obligations to European (ENC) matters as other issues may arise in future which are considered relevant to the obligation and are required to be examined in a similar way to the European Network Codes.

4.43 The Workgroup suggested other areas that might fall under the obligations proposed by CMP191, P271 and Grid Code Signatories. One Workgroup member noted that some of the areas for development covered by the Third Energy Package are not being developed using the full consultation process and, instead, may go straight to Comitology. Where this occurs, it would be beneficial for the industry to be kept informed by National Grid.

4.44 Another Workgroup member noted that a possible area for investigation might be the Markets in Financial Instruments Directive (MiFID). However, the National Grid representative questioned whether this would fit within the scope of the code modification proposals, as it was not clear whether National Grid would be acting in its role as the NETSO in relation to any future MiFID work. The Workgroup noted that the proposed obligation (in the three proposals) would only affect National Grid in its role as the NETSO. If National Grid was not engaged with future MiFID work as NETSO then it would not be required (by the three proposals) to engage with GB stakeholders on MiFID.

4.45 As part of the Workgroup Consultation, the Workgroup questioned which other forums or areas could be included in the scope of these BSC, CUSC or Grid Code Modification Proposal. There were mixed views received from respondents on this question. The North Seas Countries' Offshore Grid Initiative was noted by two respondents, others noted that additional areas could be added as they are required and one respondent noted that the scope of the proposed modification is unhelpful in trying to define the obligations on NGET.

4.23 - What is "Comitology"?

Comitology is the name given to the approval process used by the European Commission to make the European Network Codes legally binding on each Member State.

4.46 The Workgroup took into account the comments received and it was agreed that other areas would be identified as required although they will only apply to NGET when they are there in their role as NETSO.

(g) Draft a set of terms of reference for an electricity industry European Standing Group which could be used to discharge the proposed obligations under CMP191

4.47 During its first meeting, the Workgroup discussed the Proposer's suggestion of establishing a Joint European Standing Group which could be used as the means for National Grid to fulfil the suggested obligations set out in the three proposals.

4.48 There was general support for such a group and the Workgroup started to discuss possible items for inclusion in the group's Terms of Reference. The Workgroup Chair noted that drafting Terms of Reference for a Joint European Standing Group was not in the joint Workgroup's own Terms of Reference, however given the strong support for this work by the joint Workgroup, it was agreed that this should be added to the joint Workgroup's Terms of Reference.

4.49 After the first Workgroup meeting, National Grid, as Code Administrator, sought approval from the BSC Panel, CUSC Modifications Panel and the Grid Code Review Panel to add 'drafting Terms of Reference for a European Standing Group' to the Workgroup's Terms of Reference. Please see Annex 2 for the revised Terms of Reference.

4.50 A draft set of Terms of Reference for a Joint European Standing Group was circulated after the first Workgroup meeting, which formed the basis of discussion at the second Workgroup meeting. At that meeting, practicalities of the proposed Standing Group were discussed, based on comments received from ELEXON. The main points debated and proposed for inclusion were:

- Role of Standing Group: the Workgroup agreed that the Joint European Standing Group should have devolved power from the respective Code Panels to provide views to National Grid in its role as NETSO and that the Standing Group should have the ability to split up its agenda into 'sub-groups' as required;

- Membership vs attendeeship: the Workgroup debated this issue and felt that membership was preferable as it would confer a sense of responsibility on members of the Standing Group and make meetings easier to run. All meetings would be open to observers or attendees who may contribute their views to National Grid in the same way as members. However, members would be expected to contribute views regularly and ensure that National Grid are not organising/attending meetings with an empty room. The membership would be open to all code parties;

- Subgroups: these would be set up as and when required by the Joint European Standing Group to focus on specific aspects of the European Network Codes. There could be a practical benefit in having a sub-group for each individual ENC as each may require individual technical skills not shared across the whole range of proposed ENCs. The membership for these groups would be open to all code parties;

- Chairmanship: the Workgroup agreed that the Chair should be independent of National Grid and approved by the BSC, CUSC and Grid Code Panels;

- Administration: the Workgroup agreed that National Grid, in its role as Code Administrator, should lead on administering the meetings, including providing agendas, headline reports, papers and a webpage for the meetings, with support from ELEXON;

4.51 The Workgroup also discussed what information National Grid should take to the Joint European Standing Group. The group determined that 'drafting proposals' did not necessarily mean just physical drafting and documentation but also included general thinking or concepts around the ENCs. This could include the thinking of National Grid and the thinking of ENTSO-e that National Grid is aware of. It does not have to be every email and iteration but rather a comprehensive summary of anything that is reasonable and relevant. A Workgroup member noted that National Grid's 'performance' in this area would be clearly shown by how many 'surprises' emerged when ENTSO-e published their various ENC proposals etc. The less that National Grid engaged with GB stakeholders via JESG the more this would be shown by how many times those GB stakeholders only become aware, for the first time, of the suggested inclusion or omission of an aspect of a particular European Network Code when ENTSO-e published them. National Grid noted that they will not be involved in all aspects of every area of the ENCs drafting and cannot be expected to prevent all 'surprises'.

4.52 One Workgroup member noted that the European Commission has published a Workplan for ENC development and shows that the first ENCs would be progressing during 2011 and therefore it would be useful to have the JESG in place as soon as possible. A copy of the ENC work plan can be found in Annex 7.

4.53 The Proposer gave a view that the three code Modification Proposals would not reach the end of the code modification processes until late 2011. The Workgroup agreed that National Grid should look to establish a JESG, under Panel governance, as early as possible and not wait until the conclusion of the three code modification processes. If the three modification proposals were to be approved then the draft JESG Terms of Reference (see Annex 4) would apply. However, in the interim, if the JESG were established by the code Panels then this group would operate to Terms of Reference agreed (from time to time) by the three respective code Panels.

4.54 It should be clarified that the interim JESG would operate to Terms of Reference, agreed by the Panels, which could be different to those in Annex 4 and National Grid presented to the Workgroup a draft Terms of Reference (see Annex 5 for approved version) for a JESG that could be set up now.

4.55 The Workgroup proposed a number of questions, as part of the Workgroup Consultation, on elements of the proposed JESG:

- ***What are your views on membership vs attendeeship of JESG?***

  The majority of respondents thought that membership indicated more responsibility for those involved in the JESG. It was noted by one respondent that the JESG would not have any formal powers, such as voting, so attendeeship would be sufficient.

  The Workgroup determined that they would want individuals to remain engaged with the JESG and felt that membership conveyed the

responsibility that would be placed on those involved with the JESG. Attendeeship was seen as too causal to support the efficient execution of the JESG Terms of Reference.

- ***What are your views on the Chairman being independent of National Grid? Do you have any nominations for a Chairman of the Joint European Standing Group?***

  The majority of respondents noted that they would prefer the Chair of the JESG to be independent of National Grid. It was also noted, by one respondent, that the Chair should not incur any additional costs. As for nominations, support for Barbara Vest (Association of Electricity Producers) was received from a number of respondents. Support for Barbara Vest was also received at the CUSC and Grid Code Panels when the proposed interim JESG Terms of Reference were submitted.

  The Workgroup was supportive of the nomination for Barbara Vest and not other nominations were put forward.

- ***Do you agree with the Workgroup that a Joint European Standing Group should be established, by the code Panels, before the code modification processes for BSC P271, CMP191 and Grid Code Signatories conclude?***

  There was unanimous support from respondents for the creation of a JESG ahead of the conclusion of the modification process.

  The Workgroup has supported National Grid in the submission of their Terms of Reference for the JESG. The BSC, CUSC and Grid Code Panels have agreed to the creation of the group and the approved Terms of Reference can be found in Annex 5.

- ***What are your views on the level of detail and information that the Joint European Standing Group should have to examine?***

  There was general agreement that the Terms of Reference should be flexible on the level of detail as the level of detail should be determined by the ENCs. One respondent noted that the Workgroup JESG Terms of Reference are too open ended to apply in practice for NGET and GB stakeholders.

  The Workgroup noted the comments received and believe that the level of detail will have to be determined pragmatically going forward.

(h) Consider which other "forums" could be included in the scope of the proposals, with reference to CMP191 title: "NETSO Consultation in relation to any potential changes to the CUSC which takes place in forums other than the CUSC Modifications Panel."

4.56 This issue was discussed under Ofgem's Question 5, in paragraphs 4.42 to 4.46 above.

Workgroup Alternative CUSC Modification (WACM)

4.57 As part of the Workgroup Consultation it was asked if any of the respondents would like to propose an Alternative to the original Proposals. No Alternative Requests were received but the Workgroup discussed the possibility of an Alternative to CMP191 and P271.

4.58 CMP191 original seeks to place an obligation on National Grid, in its role as NETSO, to consult with GB stakeholders in relation to any potential changes to the BSC, CUSC or Grid Code which arise from forums other than the relevant Code Panels. This scope captures any forum on any topic where National Grid is attending as NETSO and is not restricted to the work being undertaken as part of the of the EU Third Package.

4.59 National Grid believes the scope of the original proposals is too broad to be effective and leaves them vulnerable to not being able to meet the requirements under the CUSC and BSC should they be approved and implemented.

4.60 The Workgroup noted the concern and suggested an Alternative to CMP191 and P271 which would mirror the original in every respect except the scope to which the proposals apply. The scope of the Alternative would be restricted to anything under the Third Package that could, in NGET's reasonable and prudent opinion as NETSO within ENTSO-e, result in a change to the BSC, CUSC or Grid Code.

4.61 The proposed legal text to allow for the implementation of the Alternative can be found in Annex 1.

5 Impacts

Impact on the CUSC

5.1 The Proposer identified potential impacts on sections 8 and 11 of the CUSC.

5.2 The proposed legal text to give effect to CMP191 and the WACM be found in Annex 1 of this Report.

Impact on Greenhouse Gas Emissions

5.3 The Proposer did not identify any material impact of CMP191 on Greenhouse Gas emissions. No impacts were identified by the CUSC Modifications Panel to include within the Workgroup's Terms of Reference. No impacts were identified by the Workgroup.

Impact on Core Industry Documents

5.4 The Workgroup did not identify any direct impacts on other Core Industry Documents. However, it was noted that the European Network Codes themselves could impact on other industry documents such as the System Operator Transmission Owner Code (STC), Distribution Code and Security and Quality of Supply Standard (SQSS).

Impact on other Industry Documents

5.5 The joint Workgroup discussed the related BSC Modification Proposal and the paper presented to the Grid Code Review Panel. Other than these, neither the Proposer nor the Workgroup identified any impacts on other Industry Documents. However, the European Network Codes could have an impact on other Industry Documents.

6 Implementation

6.1 The Workgroup proposed that CMP191 should be implemented 10 Working Days after an Authority Decision, in line with the standard implementation approach set out in the CUSC. The Workgroup also advocated an aligned implementation approach if the equivalent BSC Modification Proposal were to be approved.

6.2 Respondents to the Workgroup and Code Administrator Consultations agreed with the implementation approach set out above, where it was mentioned in their responses.

7 The Case for Change

Assessment against Applicable CUSC Objectives

7.1 The Proposer considers that CMP191 would better facilitate both of the Applicable CUSC Objectives as set out below:

(a) the efficient discharge by the licensee of the obligations imposed upon it under the Act and by this licence;

This Modification Proposal will ensure that The Company better satisfies its obligation under condition C10 of their Electricity Transmission Licence.

(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.

This Modification Proposal will ensure that The Company maintain the existing high standards of openness and transparency in the GB code revision process and ensure that, as NETSO, National Grid adequately and effectively consider the views of the stakeholders who fund them. It will also ensure that CUSC Parties (and others) have greater certainty, with regard to the development of the European Network Codes, as it will involve a clear direction to National Grid to (i) provide details of any drafting proposals; (ii) seek and take into consideration views received; and (iii) provide prior notification of and subsequent feedback from meetings and workshops.

Without this Modification Proposal there would be a detrimental impact surrounding the potential uncertainty about what the changes to the European Network Codes means from the perspective of the CUSC and this would hinder competition and create a possible barrier to entry, with a particular impact on small parties.

In addition, this uncertainty about what the changes to the European Network Codes means, from the perspective of the CUSC, can be detrimental to competition, particularly where a greater perception of risk leads to increased costs.

Furthermore, this Modification Proposal better facilitates competition as it introduces an efficient and transparent process in the CUSC with respect to the European Network Codes.

8 Conclusions and Recommendations

Workgroup Conclusions

8.1 The majority of the Workgroup concluded that CMP191 WACM should be implemented.

8.2 During the final Workgroup vote, undertaken via correspondence, four Workgroup Members voted that CMP191 WACM best facilitates the Applicable CUSC Objectives, one voted that CMP191 Original best facilitates the Applicable Objectives and one voted that neither the Original nor the WACM better facilitate the Applicable CUSC Objectives.

8.3 For ease of reference, the Applicable CUSC Objectives are reproduced below:

(a) the efficient discharge by the licensee of the obligations imposed upon it under the Act and by this 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

VOTE 1(A): Does CMP191 Original better facilitate the Applicable CUSC Objectives than the CUSC baseline?

Member	(a)	(b)
Alex Thomason (NGET)	CMP191 does not better facilitate objective (a), specifically in relation to the justification by the proposer in relation to existing Transmission Licence obligations, which are not relevant to development of European Network Codes. In addition, the lack of clarity around the exact scope of the CMP191 original solution does not better facilitate NGET's efficient discharge of its licence obligations.	CMP191 does not better facilitate objective (b). We support improved information flows for European Network Code developments and increased GB stakeholder engagement, but CMP191 is not the most proportionate way to achieve this. The Joint European Standing Group to the BSC, CUSC and Grid Code Panels is an efficient way to share information with GB Stakeholders and for GB Stakeholders to provide their views and information to NGET, in its role as one of the GB TSOs. We are establishing the JESG under existing CUSC (and other codes') governance and do not consider that a code modification proposal is necessary.

Member	(a)	(b)
Garth Graham (SSE)	NG efficiently communicating European and other discussions and issues with the Panel/Parties, and considering concerns of the Panel/Parties will reduce the likelihood of NG developing a set of changes that Parties can either not meet or operate under. Mitigating the risk is the most efficient way to deliver the Transmission Licence	It ensures the Transmission Company maintains the existing high standards of openness and transparency and it provides greater certainty over the impact and development of the European Network Codes and other relevant CUSC matters for CUSC Parties, thereby removing a potential barrier to entry. It also provides greater understanding for CUSC Parties which facilitates effective competition in the generation and supply of electricity.
Hannah McKinney (EDF Energy)	Yes – CUSC CMP 191 modification proposal better facilitates the relevant objective (a) as currently defined by the proposer and as outlined in the workgroup consultation report.	Yes – CUSC CMP 191 modification proposal better facilitates the relevant objective (b) as currently defined by the proposer and as outlined in the workgroup consultation report.
Esther Sutton (E.ON UK)	Yes. The establishment of a cross-code JESG enabling parties' views to be fed back to National Grid would also promote efficiency as ensuring that these are considered during its engagement with ENC formation should minimise the risk of unworkable changes being developed. Thus supports CUSC Objective (a).	CMP191 would better facilitate objective (b) as it would ensure a formal, open and transparent route for consultation with industry that should raise awareness, allow parties to raise concerns at the earliest opportunity and prepare for any forthcoming changes. Ensuring that the GB NETSO has a full understanding of stakeholders' concerns should also ensure that they are best placed to influence the development of ENCs in a way that does not disadvantage GB.
Carys Rhianwen (Centrica)	The proposal better facilitates the code objectives	The proposal better facilitates the code objectives. This proposal is of utmost importance to the future development of GB electricity market. Early visibility and awareness of both likely changes and direction of changes will be beneficial to stakeholders when considering commercial investment decisions in systems and equipment. It will also be useful to take information shared at JESG into consideration within the GB codes regime itself to avoid GB code work becoming redundant in the near future. All of this should help reduce inefficiencies and costs to the GB electricity market.

Member	(a)	(b)
John Norbury (RWE)	The proposal better facilitates Code objective (a). By consulting with Users at an early stage in the Code development process, the proposed approach will provide a more efficient route for National Grid to fulfil its obligation to consult with Users.	Improved efficiency in National Grid's consultation process provided by this proposal will help ensure an outcome that will facilitate competition from a GB perspective.

VOTE 1(B): Does CMP191 WACM better facilitate the Applicable CUSC Objectives than the CUSC baseline?

Member	(a)	(b)
Alex Thomason (NGET)	The WACM does not better facilitate objective (a), specifically in relation to the justification by the proposer in relation to existing Transmission Licence obligations, which are not relevant to development of European Network Codes. While the scope of the WACM is more defined than the original proposal, we do not consider that the WACM is required to achieve the industry's aims and therefore the WACM does not better facilitate NGET's **efficient** discharge of its licence obligations.	The WACM does not better facilitate objective (b). We support improved information flows for European Network Code developments and increased GB stakeholder engagement, but neither CMP191 nor its WACM are the most proportionate way to achieve this. The Joint European Standing Group to the BSC, CUSC and Grid Code Panels is an efficient way to share information with GB Stakeholders and for GB Stakeholders to provide their views and information to NGET, in its role as one of the GB TSOs. We are establishing the JESG under existing CUSC (and other codes') governance and do not consider that a code modification proposal is necessary.
Garth Graham (SSE)	Obliging the NETSO to efficiently communicate European discussions and issues that it is aware of with the Panel/Parties, and considering concerns of the Panel/Parties will reduce the likelihood of the NETSO developing a set of changes that Parties can either not meet or operate under. Mitigating the risk is the most efficient way to deliver the Transmission Licence.	It ensures the Transmission Company maintains the existing high standards of openness and transparency and it provides greater certainty over the impact and development of the European Network Codes for CUSC Parties, thereby removing a potential barrier to entry. It also provides greater understanding for CUSC Parties which facilitates effective competition in the generation and supply of electricity.

Member	(a)	(b)
Hannah McKinney (EDF Energy)	Yes – against the CUSC baseline as per my response to the original CMP 191 proposal (above)	Yes – against the CUSC baseline as per my response to the original CMP 191 proposal (above)
Esther Sutton (E.ON UK)	Yes. The establishment of a cross-code JESG enabling parties' views to be fed back to National Grid would also promote efficiency as ensuring that these are considered during its engagement with ENC formation should minimise the risk of unworkable changes being developed. Thus supports CUSC Objective (a).	CMP191 would better facilitate objective (b) as it would ensure a formal, open and transparent route for consultation with industry that should raise awareness, allow parties to raise concerns at the earliest opportunity and prepare for any forthcoming changes. Ensuring that the GB NETSO has a full understanding of stakeholders' concerns should also ensure that they are best placed to influence the development of ENCs in a way that does not disadvantage GB.
Carys Rhianwen (Centrica)	The proposal better facilitates the code objectives. As it is more specific than the original, NGET concerns about lack of clarity in relation to the original proposal, should we believe be removed.	The proposal better facilitates the code objectives. This proposal is of utmost importance to the future development of GB electricity market. Early visibility and awareness of both likely changes and direction of changes will be beneficial to stakeholders when considering commercial investment decisions in systems and equipment. It will also be useful to take information shared at JESG into consideration within the GB codes regime itself to avoid GB code work becoming redundant in the near future. All of this should help reduce inefficiencies and costs to the GB electricity market.
John Norbury (RWE)	The proposal better facilitates Code objective (a). By consulting with Users at an early stage in the Code development process, the proposed approach will provide a more efficient route for National Grid to fulfil its obligation to consult with Users.	Improved efficiency in National Grid's consultation process provided by this proposal will help ensure an outcome that will facilitate competition from a GB perspective.

VOTE 2: Does the WACM better facilitate the Applicable CUSC Objectives than the ORIGINAL?

Member	(a)	(b)
Alex Thomason (NGET)	The scope of the WACM is more defined than the original proposal and therefore is a better solution than the original, however we do not consider that either solution is required, in line with our comments above.	We do not consider that either option facilitates objective (b) and are neutral as to whether the WACM is better than the original in this respect.
Garth Graham (SSE)	As the WACM is limited to just ENTSO-e matters and this is the area linked to the legal obligations; that the Transmission Company has (by way of the Third Package) to facilitate the development of the European Network Codes; on balance the WACM is better than the original at meeting the legal obligations on the Transmission Company.	As the WACM is limited to just ENTSO-e matters and this is the area linked to the legal obligations the Transmission Company has (by way of the Third Package) to facilitate the development of the European Network Codes then knowing that provides greater certainty over the impact and development of the European network codes, thereby removing a potential barrier to entry. It also provides greater understanding for CUSC Parties which facilitates effective competition in the generation and supply of electricity.
Hannah McKinney (EDF Energy)	Yes – although the WACM does not present any change to the overall intent of original proposal it does better define the scope to which the proposals apply for NGET. This could improve the efficiency by which NGET discharge their licensee obligations.	Neutral - as it does not present any fundamental change to the original CMP 191 proposal and its intent.
Esther Sutton (E.ON UK)	No, the original is preferable and would not limit the mod to European matters.	No, the original is preferable and would not limit the mod to European matters.
Carys Rhianwen (Centrica)	The WACM is the best of the two proposals as it is more specific.	The WACM is the best of the two proposals as it is more specific and thus gives a clearer focus within which to carry out the obligation.
John Norbury (RWE)	The proposal better facilitates Code objective (a). By consulting with Users at an early stage in the Code development process, the proposed approach will provide a more efficient route for National Grid to fulfil its obligation to consult with Users.	Improved efficiency in National Grid's consultation process provided by this proposal will help ensure an outcome that will facilitate competition from a GB perspective.

VOTE 3: Which option BEST facilitates achievement of the Applicable CUSC Objectives? (choice of: CUSC baseline; Original CMP191; WACM)

Member	BEST option	Reason (reference to Applicable CUSC Objectives)
Alex Thomason (NGET)	CUSC Baseline	In line with our arguments set out above, we do not think that either the CMP191 original or the WACM better facilitate the applicable CUSC objectives than the existing CUSC baseline and therefore neither option should be implemented.
Garth Graham (SSE)	WACM	In line with the arguments set out above, both the CMP191 original and the WACM better facilitate the applicable CUSC objectives than the existing CUSC baseline; however, on balance the WACM is the 'BEST' option.
Hannah McKinney (EDF Energy)	WACM	I support the intent of the original modification proposal and subsequent obligation on NGET as the NETSO which has remained unchanged under the WACM. I support that it is efficient to provide clarity around the scope of topics and forums to which the proposals would apply to NGET. On this basis I believe that the WACM overall would best facilitate the achievement of the Applicable CUSC objectives.
Esther Sutton (E.ON UK)	Original CMP191	In line with the arguments set out above, both the CMP191 original and the WACM better facilitate the applicable CUSC objectives than the existing CUSC baseline; however, the original is preferable as it would not limit the mod to European matters.
Carys Rhianwen (Centrica)	WACM	In line with the arguments set out above, both the CMP191 original and the WACM better facilitate the applicable CUSC objectives than the existing CUSC baseline; however, the WACM is the best of the two proposals as it is more specific.
John Norbury (RWE)	WACM	More specific to European matters.

National Grid's Opinion

8.4 National Grid does not support the implementation of CMP191 or the WACM as neither is required to better facilitate the Applicable CUSC Objectives.

8.5 National Grid is supportive of both improved information flows for European Network Code developments and increased GB stakeholder engagement. However, National Grid does not believe that either CMP191 or the WACM are required to achieve this and therefore neither would facilitate the efficient achievement of National Grid's licence objectives.

8.6 With regard to objective (b), National Grid considers that the Joint European Standing Group (JESG) established under the CUSC, BSC and Grid Code Panels is an efficient way to share information with GB Stakeholders and for GB Stakeholders to provide their views and information to National Grid, thereby increasing clarity and facilitating competition. Given that the JESG

is established under joint Panel governance, who also set the terms of reference, it is not possible for National Grid to disband this group. This should give comfort to those GB stakeholders who have raised concerns that National Grid could simply choose not to turn up to future JESG meetings. National Grid therefore considers that neither CMP191 or the WACM better facilitate Applicable CUSC Objective (b) than the CUSC baseline.

CUSC Modifications Panel view

8.7 At the CUSC Modifications Panel meeting on 30th September 2011, 8 Panel Members voted on CMP191 and the Workgroup Alternative CUSC Modification (WACM). A majority of 7 Panel Members voted that CMP191 does **not** better facilitate the Applicable CUSC Objectives than the CUSC baseline. A majority of 6 Panel Members voted that the WACM **does** better facilitate the Applicable CUSC Objectives than the CUSC baseline. 6 Panel Members consider that the WACM best facilitates the Applicable CUSC Objectives and 2 Panel Members consider that the CUSC baseline best facilitates the Applicable CUSC Objectives. The Panel Members' reasons for voting are recorded in the tables below.

Does CMP191 Original better facilitate the Applicable CUSC Objectives than the CUSC baseline?

Panel Member	Better facilitates Applicable Objective (a)?	Better facilitates Applicable Objective (b)?
Bob Brown	Does not better meet ACO (a) as does not add anything to the baseline and therefore is not efficient.	Not better than baseline as JESG has since been set up and this fulfils the expectations. 3 Panels are responsible for the JESG and parties need to engage with stakeholders to encourage these groups without needing a Modification Proposal.
Simon Lord	No as CMP191 is too widely drafted.	No, due to the set up of JESG
Paul Mott	It marginally does not better meet the objective as it is too broadly set.	Same as above
Paul Jones	Same argument as Paul Mott	Same as Paul Mott
Paul Jones for Barbara Vest	Same as Paul Mott	Same as Paul Mott
Garth Graham	Yes, as the baseline is what is in the CUSC so this is an improvement.	Yes, and this is the stronger argument as it encourages more engagement.
David Smith	No, the proposal is too wide	Neutral, as the JESG has

	and therefore inefficient for NG.	now been set up, so a code change is not required.
Fiona Navesey	Marginal no for same reasons set out above.	No, as the JESG has changed the baseline although still a concern that the JESG could be disbanded.

Does the CMP191 WACM better facilitate the Applicable CUSC Objectives than the CUSC baseline?

Panel Member	Better facilitates Applicable Objective (a)?	Better facilitates Applicable Objective (b)?
Bob Brown	No, for same reasons as original, although the WACM is less ambiguous than the original.	No, for same reasons as original.
Simon Lord	Yes it does better meet ACO (a) as it is a lot tighter than the original and specific to the CUSC.	Yes, provides more clarity.
Paul Mott	Yes, it is more efficient.	Yes, it facilitates competition as National Grid would take account of GB views in developing the European Network Codes.
Paul Jones	Yes, helps efficiency of CUSC process. Also provides forewarning of CUSC changes due to European codes.	Yes, provides certainty and clarity.
Paul Jones for Barbara Vest	As above	As above
Garth Graham	Yes. Concur with PJ and SL	Yes, the WACM particularly facilitates objective (b) as it is narrowly focussed on ENTSO-e meetings that National Grid attends and any changes from ENTSO-E are bought to the attention of CUSC Parties.
David Smith	No, cannot see the benefit to bring this obligation into the code. There are examples of	No, as the JESG has been established and the Terms of Reference agreed by the

Panel Member	Better facilitates Applicable Objective (a)?	Better facilitates Applicable Objective (b)?
	European work, such as Transparency, which is outside the role of ENTSO-e and therefore falls outside the WACM definition.	Panel.
Fiona Navesey	Yes, WACM is more defined than the original, is well drafted and proportionate and gives enough interpretation for National Grid.	Yes as it provides further clarity.

Which option BEST facilitates the Applicable CUSC Objectives? (CMP191, WACM or CUSC baseline)

Panel Member	BEST?
Bob Brown	Baseline
Simon Lord	WACM
Paul Mott	WACM
Paul Jones	WACM
Paul Jones for Barbara Vest	WACM
Garth Graham	WACM
David Smith	Baseline
Fiona Navesey	WACM

9 Responses

Workgroup Consultation

9.1 This section provides a summary of the ten responses received for the Joint Workgroup Consultation which closed on 28th June 2011.

9.2 The full responses can be found in Volume 2 of the Final CUSC Modification Report (Annexes 9 to 18).

No.	Respondent	Support	Original
			Better facilitates applicable BSC & CUSC Objectives?
1	Centrica Energy	Yes	BSC - A, C & D CUSC - A & B
2	Drax Power Limited	Yes	BSC - C & D CUSC - B
3	E.ON UK	Yes	BSC - C & D CUSC - A & B
4	EDF Energy	Yes	BSC - A & C CUSC - A & B
5	NGET	No	BSC - No CUSC - No
6	RenewableUK	Yes	BSC - A, C & D CUSC - A & B
7	RWE	Yes	BSC - No Impact CUSC - A & B
8	ScottishPower	Yes	BSC - A, C & D CUSC - A & B
9	SmartestEnergy	Yes	BSC - A & C CUSC - B
10	SSE	Yes	BSC - A, C &D CUSC - B

Code Administrator Consultation

9.3 This section provides a summary of the four responses received for the CMP191 Code Administrator Consultation which closed on 23rd August 2011.

9.4 The full responses can be found in Volume 2 of the Final CUSC Modification Report (Annexes 20 to 23).

Reference	Company	Supportive of CMP191 original/WACM?	Comments
CMP191-CR-01	Drax Power Limited	Yes/Yes	• Believes that CMP191 original and WACM both better facilitate the achievement of CUSC objective (b) • Supports the WACM over CMP191 Original • Supports the proposed implementation approach
CMP191-CR-02	E.ON UK	Yes/Yes	• Believes that CMP191 original and WACM both better facilitate the achievement of CUSC objective (a) and (b) • No strong preference between the options • Supports the proposed implementation approach
CMP191-CR-03	EDF Energy	Yes/Yes	• Believes that CMP191 original and WACM both better facilitate the achievement of CUSC objective (a) • Supports the WACM over CMP191 Original • Supports the proposed implementation approach
CMP191-CR-04	ScottishPower	Yes/Yes	• Believes that CMP191 original and WACM both better facilitate the achievement of CUSC objective (a) and (b) • Supports the WACM over CMP191 Original • Supports the proposed implementation approach

National Grid's response to points raised in Code Administrator consultation

9.5 E.ON UK noted in their response (see Annex 21) that "while a JESG has already been established, amending the Code to require the communication being facilitated in this Group through implementation of CMP191 would rightly emphasize the importance of prompt communication from the TSO to parties regarding potential changes to GB Codes that may be forthcoming from Europe. **It would also give parties confidence that there is not a risk of this group being disbanded on a whim** but that they will definitely be both kept informed, and have an opportunity to make their views known going forward, so the GB TSO will undoubtedly be aware of these in European negotiations, whether or not they choose to take account of such user views."

9.6 National Grid, in its role as Code Administrator, notes that regardless of whether CMP191 is implemented, the JESG cannot be disbanded by anyone on a whim. The JESG has been jointly established by the BSC, CUSC and Grid Code Panels and as such is subject to the Terms of Reference agreed by those Panels. The Terms of Reference cannot be changed without the express permission of the joint Panels. Under the CUSC, the JESG would only be disbanded if the Panel agreed that it had completed its Terms of Reference and was therefore no longer required.