

### Minutes and Actions Arising from Meeting No.90 Held on 5<sup>th</sup> December 2008

#### Present:

Chris Bennett	CB	Panel Chairman
Richard Dunn	RD	Secretary
David Smith	DS	Panel Member (National Grid)
Hêdd Roberts	HR	Panel Member (National Grid)
Paul Jones	PJ	Panel Member (Users Member)
Paul Mott	PM	Panel Member (Users Member) (via teleconference)
Garth Graham	GG	Panel Member (Users Member)
Bob Brown	BB	Panel Member (Users Member)
Barbara Vest	BV	Panel Member (Users Member) (via teleconference)
Simon Lord	SL	Panel Member (Users Member)
Dave Wilkerson	DW	Alternate Panel Member (Users Member) (via teleconference)
Hugh Conway	HC	National Consumer Council Representative
Mark Feather	MF	Ofgem Representative (via teleconference)
Dipen Gadhia	DG	Ofgem Representative (via teleconference)

#### In Attendance

Emma Carr	EC	National Grid
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#### 1 Introductions/Apologies for Absence

1692. Apologies for absence were received from Alison Kay and Tony Diccico. Dave Wilkerson was attending as the formal alternate for Tony Diccico.

#### 2 Minutes of the Meeting held on 27<sup>th</sup> June 2008

1693. The draft minutes of the CUSC Amendments Panel meeting held on 21<sup>st</sup> November 2008 were AGREED subject to minor amendments.

#### 3 Review of Actions

1694. **Minute 1667 – CAP161 Working Group Process Concerns.** HR confirmed that all the comments have been reflected in the Consultation Reports.
1695. **Minute 1677 – CAP I65 Finite Long Term Entry Rights.** HR confirmed that work was ongoing to refine the scenarios and they would all be placed on the website in due course.
1696. **Minute 1679 – Non Physical Players.** GG and BB noted that the potential participation of non-physical players in the eventual TAR arrangements was raised during the Working Group discussions. GG indicated that Ofgem had provided some advice on this issue via e-mail. PJ believed it would not be possible for non-physical players to participate given the structure of arrangements developed to implement

the CAP161-166 Amendment Proposals. GG believed it was important to establish if participation by non-physical players was permissible under the law. MF commented that Ofgem would not be considering the participation of non-physical players under the TAR arrangements unless the Industry could provide good arguments for such participation but appreciated that the issue should be kept on the CUSC agenda going forward. MF and DG agreed to provide a summary of Ofgem deliberations on the legality of participation of non-physical players already provided to GG to the Panel in due course, although this would not necessarily include a definitive legal view (post meeting note: the e-mail setting out the deliberations within Ofgem to date was circulated to Panel Members on 8<sup>th</sup> December).

#### 4 Standing/Working Group Reports

1697. **CAP166 – Transmission Access – Long Term Entry Capacity Auctions** : HR provided a brief overview presentation of the amendment and alternatives to the Panel.
1698. HR explained that the Working Group believed that it had thoroughly assessed the original CAP166 proposal, WGAA1 and WGAA2. However, a Working Group Alternative Amendment (WGAP1) that had been put forward by a Working Group Member at the Working Group meeting held on 11<sup>th</sup> September had not been developed beyond the initial proposals for a volume and duration model. The Working Group had voted formally not to adopt WGAP1 as a formal Alternative Amendment on 27<sup>th</sup> November, however following suggestion by the Authority representative that Ofgem had given consideration to the possibility of an extension and may be minded to grant one, it was subsequently considered by a majority that, since TAR was essentially about ensuring that all the models should be put to the Authority for consideration as the basis for the enduring TAR arrangements, then WGAP1 should also be assessed by the Working Group. The Group estimated that this would require an 8 week extension for the Working Group to develop WGAP1 i.e. for report back to the January 2009 Panel. CB invited Panel Members' views on the Working Group recommendations in respect of WGAP1.
1699. BB noted that some potential Consultation Alternative Amendments (CAAs) had also been put forward during the Group's discussions and asked if the Group would also try to assess those Amendments as well. HR commented that the descending volume duration auction was significantly different to the other WGAAAs and therefore would need the most attention, but that there should be time to cover the other candidate alternatives since they were much closer to the WGAAAs already considered.
1700. BV expressed concern that any delay to CAP166 could mean that CAPs 161-165 were also unduly delayed. CB noted that Ofgem had already indicated that it would need to carry out Regulatory Impact Assessments (RIAs) on CAPs161-166 and that work on drafting those RIAs could begin even if CAP166 was somewhat behind CAPs 161-165. Overall, the key was to maintain the impetus for the implementation of the new TAR arrangements from April 2010 and in National Grid's view an 8 week extension for the consideration of WGAP1 by the CAP166 WG would not jeopardise that timetable.
1701. Several Panel Members expressed concern that the CUSC was somewhat unclear as to whose responsibility it was to progress proposals such as WGAP1. EC suggested that this could be addressed via the Governance Standing Group, Terms of Reference for which would be discussed later. Normally it was incumbent on the

Proposer to champion an Amendment Proposal.

1702. The Panel agreed unanimously that an 8 week extension should be given to the CAP 166 Working Group to consider WGAP1 but requested that the existing work of the Group should not be revisited in the context of consideration of WGAP1. It was noted that the governance arrangements for alternatives and dealing with the late submission of an alternative proposal to a Working Group could benefit from some clarification. Ofgem indicated that they were keen to get all viable proposals assessed properly by the Working Group and therefore did not veto this decision by the Panel. It was therefore agreed that the Working Group should proceed to assess WGAP1 and report back to the Panel meeting scheduled for 30<sup>th</sup> January 2009.

**Action: National Grid (HR)**

1703. **CAP167 – Definition of a threshold associated with a request for Statement of Works.** HR provided a brief overview presentation of the amendment and alternatives to the Panel.

1704. The original proposal had been further developed by the Working Group to develop a methodology (in consultation with the industry) to establish relevant thresholds by GSP which would define when it was necessary for a DNO to request a Statement of Works on behalf of small embedded power station (SEPS). WGAA1 required that the assessment should be based on:

- i) the impact of SEPS on the GBSQSS but limited to those criteria relevant to establishing essential sole use works required on the GB transmission system due to the connection of a SEPS and which would be of material benefit to any existing user;
- ii) the administrative and cost burden.

1705. WGAA2 was similar to WGAA1 but included an assessment of the cost of carbon as part of the GBSQSS assessment of economic and efficient operational/transmission investment costs.

1706. The Working Group voted by a majority that WGAA1 better achieved the Applicable CUSC Objectives than the original proposal. The Working Group recommended that CAP167 should now proceed to industry consultation including the original proposal, WGAA1 and WGAA2, the latter on the basis that, although no Member of the Working Group considered that it better met the Applicable CUSC Objectives, it should be included since two respondents to the Working Group consultation supported WGAA2.

1707. Some Panel Members questioned why WGAA2 should be consulted upon when it received no support from a single Working Group Member. It was therefore agreed that the Working Group Chairman should be asked to confirm whether it was the view of a majority of the Group that WGAA2 should also be included in the consultation as an Alternate given its lack of support from any Working Group Member.

1708. The Panel agreed that the Working Group had met its Terms of Reference and that CAP167 should now proceed to consultation, subject to clarification regarding WGAA2 status as an Alternative.

**Action: National Grid (HR)**

1709. **Environmental Standing Group – Final Report.** EC provided a brief overview

presentation of the Standing Group Report to the Panel.

1710. The Group had started from the standpoint of the Ofgem letters dated 15<sup>th</sup> April and 30<sup>th</sup> June on this issue and overall agreed that the assessment of carbon costs envisaged by Ofgem as part of the Code change process was achievable. Building on Ofgem's guidance the Group had developed straightforward steps that should be taken in assessing the carbon impact of any modification, identified certain common principles for those undertaking the analysis and also some common issues to consider. Out of these considerations the Group had developed summary guidelines for the assessment of carbon costs associated with Code amendments. The Group recommended that
- the guidelines should be used by subsequent CUSC Working Groups to assist with their assessment of carbon cost impacts;
  - the report should be shared with other Code Panels for the same purpose;
  - the Group should continue to meet as appropriate to share best practice and review the development of the guidelines.
1711. HR noted that the Guidelines were essentially common sense and that the real benefit of the work of the Group was from going through the worked examples. He suggested that further information could be added to the worked examples. GG also suggested that the references in the report to the requirement on the TOs to prepare Statements under Schedule 9 of the Electricity Act 1989 could indicate that this did not apply to the SO. National Grid agreed to consider these suggestions. Ofgem congratulated the Group on the work that they had undertaken and the Guidelines that had resulted from this work. Ofgem encouraged all Panels to consider the carbon cost impact of Code modifications and to embrace the Guidelines produced by the Standing Group.
1712. The Panel agreed that the Standing Group had met its Terms of Reference. The Panel Chair would then circulate the final Report of the Group to the Chairs of other relevant industry Panels and recommend that the Panels consider the Report.
- Action: National Grid (EC)**
1713. **Reconvene the Governance Standing Group (GSG).** EC referred to the revised Terms of Reference for the GSG circulated to Panel Members for consideration and explained that there were benefits in a reconvened GSG to assist the Panel on governance issues. The first meeting of the reconvened GSG was scheduled for 8<sup>th</sup> January 2009, nominations will be requested from CUSC parties. Panel agreed that EC should chair the Group.
1714. GG noted that the timescales for the ICGR consultation on the environmental objectives and charging methodologies were very tight next year for the GSG to turn round. GG raised concerns regarding the environmental objective consultation in relation to the reference to Schedule 9 of the Electricity Act. In summary, GG believed that Schedule 9 was not appropriate to the CUSC as it referred to TO activities only and the CUSC refers only to the GBSO activities. EC agreed to investigate further with the National Grid legal team. The Panel debated the appropriateness of responding to the charging methodology consultation. The Panel agreed that the GSG should not input to the consultation on charging methodologies but should try to respond to the consultation on environmental objectives. BV suggested that one useful area that the GSG could consider was the longevity of Working Group analysis. This would be important for example where an Authority decision could be a long time after the original Amendment Report was provided to Ofgem.

1715. The Panel agreed that the GSG should re-convene and agreed the revised Terms of Reference should be updated.

**Action:EC**

### 5 Authority Decisions

1716. **CAP131 – User Commitment.** The Authority Decision to reject CAP131 and Alternates on 13<sup>th</sup> October was noted. Panel Members did not wish to make any further comment on the Authority Decision.

### 6 A.O.B

1717. **CUSC Panel Meeting Dates in 2009.** The dates for next year proposed by National Grid were agreed. It was noted that the possible CUSC Panel meeting previously suggested for 9<sup>th</sup> January would not now take place.

1718. **Ofgem consultation on Decision by dates.** EC provided an overview presentation of the recent Ofgem consultation on Decision by dates.

**Action:EC**

1719. Ofgem had decided to consult on this issue following the High Court's decision on the recent various Losses Modification Proposals in the BSC that the Authority was effectively timed out and could not make a decision on those Modification Proposals. In their consultation Ofgem argued against time limits on its decision making process as, for example, this was wasteful of resources and resulted in potential loss of benefits to consumers. Ofgem argued that there were natural incentives on them to come to timely decision on modifications. Ofgem were proposing to modify licence conditions within the BSC, CUSC and the UNC to remove the potential for timing out of Authority decisions. GG highlighted Ofgem's counsel's views at the High Court, that the Authority believed they had a right to be able to approve implementation of a modification up to 4 years after submission where there was no specific time-dependent implementation date associated with a modification proposal. BV commented that the consultation and Ofgem's preferences highlighted the importance of the work that the GSG would undertake on the longevity of Working Group analysis. BV also commented that, on the whole, CUSC procedures for Implementation Dates worked well mainly because the CUSC did not tend to set dependent time limits for Authority Decisions as was common in the BSC. She suggested that the GSG should however also review the issues surrounding implementation dates arising from the Ofgem review.

1720. The Panel agreed that a response on behalf of the Panel should be sent to Ofgem's recent consultation on the issues raised by the timing out of Authority Decisions incorporating the points made by Panel Members. The deadline for responses to the consultation was 12<sup>th</sup> January 2009.

**Action: National Grid (EC)**

### 12 Record of Decisions – Headline Reporting

1721. The Panel Secretary would circulate an outline Headline Report after the meeting and place it on the National Grid website in due course.

**Action – RD to circulate and publish.**

**13 Date of Next Meeting**

1722. The next meeting is scheduled for Friday 19<sup>th</sup> December 2008, at National Grid House, Warwick Technology Park, Gallows Hill, Warwick, CV34 6DA.