

**Actions Arising from Meeting No. 101
Held on 28th August 2009**

Present

Alison Kay	AK	Panel Chair
Kabir Ali	KA	Secretary
David Smith	DS	Panel Member (National Grid Electricity Transmission)
Hedd Roberts	HR	Panel Member (National Grid Electricity Transmission)
Alex Thomason	AT	National Grid Electricity Transmission
Mark Feather	MF	Ofgem Representative
Paul Mott	PM	Panel Member (Users' Member)
Dave Wilkerson	DW	Panel Member (Users' Member)
Garth Graham	GG	Panel Member (Users' Member)
Barbara Vest (via teleconference)	BVe	Panel Member (Users' Member)
Bob Brown	BB	Panel Member (Users' Member)
Paul Jones	PJ	Panel Member (Users' Member)
Victoria Moxham	VM	Consumer Focus
Iain Pielage (part meeting)	IP	National Grid Electricity Transmission

Apologies

Jonathan Dixon	JD	Ofgem Representative
Tony Diccico	TD	Panel Member (Users' Member)
Simon Lord	SL	Panel Member (Users' Member)
David Jones	DJ	Elxon
Bali Virk	BV	National Grid Electricity Transmission

All presentations given at this CUSC Panel meeting can be found in the CUSC Panel area on the National Grid website: <http://www.nationalgrid.com/uk/Electricity/Codes/systemcode/Panel/>

1 Introductions/Apologies for Absence

2095. Apologies were received from Jonathan Dixon, Simon Lord, Tony Diccico, David Jones and Bali Virk.

2 Minutes of the Meeting held on 31st July 2009

2096. The draft minutes of the CUSC Amendments Panel meeting held on 31st July 2009, incorporating comments from BB, DG and GG were AGREED and will be published on the National Grid website.

Action: KA

3 Review of Actions

2097. **Minute 1874: BV/AT to investigate teleconference facilities for the future.**
AK noted that microphone extensions had been provided for this meeting and were being tested by BVe who was joining the meeting via teleconference. BVe confirmed that the extensions improved the sound quality of the teleconference.
Action completed.

2098. **Minute 2030: AT to check the provisions within the CUSC to clarify whether NGET can nominate a Working Group member.**

AT confirmed that the issue is whether NGET is a CUSC Party and could therefore nominate a Working Group member. AT noted that the definition of a CUSC Party is contained within the Transmission Licence as someone who is a party to the CUSC Framework Agreement. The original copy of the Framework Agreement has been recalled to verify the capacity in which National Grid has signed it and to confirm that NGET is a CUSC Party.

Action: National Grid

2099. BB acknowledged this, but stated that the real issue was whether a Working Group member should have to be nominated by a CUSC Party at all. PJ noted that the CUSC contains provisions within Section 8 (paragraph 8.17.5) to allow the Amendments Panel to add additional members to a Working Group. The Panel agreed to action the Governance Standing Group (GSG) to look at the CUSC Provisions regarding Working Group members and the nomination process.

Action: GSG to review provisions regarding Working Group membership

2100. **Minute 2063: CH to split the Urgency Amendment Proposals to change the current provisions within the CUSC into two proposals; one for pre and one for post-implementation.**

Action ongoing: report back to September Panel

2101. **Minute 2064: CUSC Panel members to email any changes on the proposed urgency provisions to CH by 26 August 2009.** AT noted that National Grid had not received any comments by the deadline.

Action complete

2102. **Minute 2067: CUSC Panel members to email any changes on the Best Practice Guidance Note to CH by 26 August 2009.** AT noted that National Grid had not received any comments by the deadline.

Action complete

2103. **Minute 2075: BV to prepare a CUSC Amendment Proposal regarding the signing off of CUSC Panel meeting minutes.** National Grid to write a CUSC Amendment Proposal to reflect this change and present it at the September CUSC Panel meeting.

Action ongoing: report back to September Panel

2104. **Minute 2076: Current provisions within the CUSC regarding Alternates at CUSC Panel Meetings.** CH informed the CUSC Panel that she would look into this and clarify the position at the CUSC Panel meeting in September 2009.

Action ongoing: report back to September Panel

2105. **Minute 2083: NGET to keep the CUSC Panel informed on issue of renewable embedded generation.**

DS clarified the detail behind the action from the previous meeting. Due to ROC¹ payments, moving wind generation from its maximum output at any time has a high cost relative to conventional generation. To date wind generation has not been used to manage constraints as conventional generation has provided a more

¹ Renewable Obligation Certificate - (ROC)

<http://www.ofgem.gov.uk/Sustainability/Environment/RenewablObl/Pages/RenewablObl.aspx>

economic alternative. However, NGET is increasingly likely to be required to constrain wind generation, particularly during periods of low demand with limited conventional plant running. Of particular concern is the number of wind generation Balancing Mechanism units that are not actively participating in the Balancing Mechanism and as such are posting 'sleeper' bids. The risk being that in the future NGET may need to take one of these bids in order to balance the system. DS noted that NGET has raised this issue at the Electricity Operational Forum and asked wind generation to review their bid prices. DS confirmed that NGET does not expect to take any further action at this stage, but if they continue to see high levels of wind generation with associated high (BM) bid prices, they may review the position with a view to taking further action. BVe questioned whether the issue was wind generation submitting bids of £-99,999 (the lowest bid price that can be submitted in the Balancing Mechanism). DS confirmed this to be the case. HR noted that another factor was connecting embedded generation to a system that cannot accommodate it. BB asked NGET what action it would take if a generator declined to change its bidding strategy. BVe offered to circulate any information NGET wished to share with members of organisations such as the AEP, BWEA, REA and SRF. DS agreed to produce a note for circulation.

Action: DS to produce note for circulation

2106. **Minute 2085: Access Related CUSC Amendment Proposals.** GG acknowledged Ofgem's letter of 30th July 2009 (published on CUSC website), responding to his email of 23rd July, which had been discussed at the July CUSC Amendments Panel meeting. GG noted, however, that in his email he had asked if Ofgem could provide an update on the status of 15 outstanding CUSC Amendment and Charging proposals, but that Ofgem had only provided updates on 8 of those items in its letter. GG asked for clarification from Ofgem as to the status of the 15 proposals identified, noting that they appeared to be in limbo; specifically questioning whether the charging methodology proposals ECM-17 for Transmission Charging and ECM-18 for Locational BSUoS were held under review. HR noted that those proposals are currently with NGET for consideration, and not with Ofgem. PJ commented that in DECC's Transmission Access consultation, issued on 25th August, DECC had not included CAPs 161, 162, 163 or 165. HR provided an update on the charging proposals, noting that NGET expect to publish a report on ECM-17 within the next few weeks; with regard to ECM-18, Ofgem has asked NGET to withdraw the conclusions report in order to conduct further analysis. HR noted that the analysis was progressing well and that NGET aim to resubmit the conclusions report in the next few weeks. GG asked Ofgem whether, when it receives the reports, it will postpone making a decision due to the DECC TAR consultation process. Ofgem agreed to provide an answer on these matters to the Panel.

Action: Ofgem to provide further information

2107. All other outstanding actions were complete or to be covered under an agenda item in the meeting.

4 Ofgem Presentation: Code Governance Review Initial Proposals

2108. Mark Feather gave a presentation on Ofgem's Code Governance Review Initial Proposals consultations on Major Policy Reviews and Self-Governance and role of code administrator and small participant/consumer initiatives.
2109. **General issues.** GG noted that during a previous CUSC Panel meeting in July

2008 he had raised the issue of the legality of what was being proposed by Ofgem at that time. In light of this GG enquired about the legality of the Ofgem proposals to increase its powers through the process outlined in the latest Major Policy Review consultation. MF responded that Ofgem's Legal team had studied GG's concerns but could not find grounds for legal challenge. PJ noted that Ofgem's proposals represent a change from the existing arrangements whereby the Government instigates policy and Ofgem implements it, to a situation where both the Government and Ofgem could be instigating policy. PJ asked whether DECC was comfortable with this. MF responded that initial discussions with DECC officials had indicated that they were generally supportive of the proposals. GG suggested that public statements of support could be sought from both Government and Parliament for Ofgem having additional powers of instigating policy. GG asked whether previous issues of public policy, such as NETA, BETTA and Offshore Transmission, would have been dealt with through the Major Policy Review process. MF stated that it was difficult to know whether previous issues would have followed the proposed process.

2110. **Major Policy Reviews (MPR) & Self-Governance.** GG asked whether the first phase of the MPR process where Ofgem consults would be a set 6 or 12 week period. MF responded that Ofgem did not envisage a fixed term for consultation and that it would be set on a case by case basis. GG commented that this may be contrary to the recommendation from the House of Lords Select Committee on Economic Regulators and the advice of the Better Regulatory Taskforce which refer to a 12 week consultation period. GG suggested that a flow diagram showing the various stages of an MPR would be useful, noting that for example it was not clear whether Ofgem would undertake an Impact Assessment before or after the relevant Panel voted on a proposal. MF replied that Ofgem's Impact Assessment would probably run throughout the MPR process and into the amendment proposals process.

Action: Ofgem to provide MPR flow diagram

2111. PJ asked whether Ofgem's reference to licensees raising MPR-related amendment proposals meant any licence holder. MF clarified that it was thought that a Transporter / National Grid would be targeted to produce such amendment proposals, but that this would be made specific in the licence drafting to be produced in early September. It was noted that National Grid may not always have the necessary expertise to draft modification proposals, particularly for the BSC. GG noted that Ofgem proposed to retain the back-stop power to raise amendment proposals and asked why Ofgem did not just raise its own MPR-related amendment proposals, noting that this would avoid any potential problems if a amendment were to be referred to the Competition Commission by the party who had raised the proposal being referred. BVe questioned how, if Ofgem were to raise its own amendment proposals, it would be able to "champion" those amendment proposals through the process while at the same time keeping an open mind in order to make a decision at the end of the process.
2112. In discussing the proposals for redirecting amendment proposals between different Paths, GG sought clarity from Ofgem that an amendment proposal would not be able to be redirected more than once, in other words it would not be 'flipped' to and fro between Paths 2 and 3. GG also asked if Ofgem could clarify that a redirection could not be made during the process of voting by the relevant Panel. With regard to the filtering criteria for amendment proposals into Path 2, MF confirmed that Ofgem did not intend to provide a definition of "non-trivial" and that it would be down to each Panel to decide whether a proposal was "non-trivial". The Panel

members agreed that a definition would be likely to develop over time as amendment proposals were reviewed and filtered.

2113. With regard to the self-governance proposals, BB noted that there was a link to the proposal within the role of code administrator consultation for Panels to provide more detailed reasoning behind their decisions. As, under the self-governance proposal, the Panel would be the sole decision-making body (unless an appeal were raised), transparency of the Panel's decision making would become even more important. MF reiterated Ofgem's view from the consultation document that the detail of the self-governance proposals would be up to industry parties to develop and Ofgem welcomes responses in this area. It was noted that discussions at the BSC Panel regarding the creation of an interim forum for appeals had considered this to be over-engineering the solution. GG suggested an alternative approach whereby Ofgem would hold an open forum meeting; to which all Code Parties and other interested stakeholders could attend; at which any (self-governance) appeal would be heard before a decision, on the merits of the appeal, is made by Ofgem.
2114. **Role of Code Administrators and small participant/consumer initiatives.** MF stated that this workstream of the Code Governance Review was originally about the quality of analysis in consultation reports, but that over time the workstream had widened. In discussing the role of the "critical friend", GG noted that where a Code Administrator assists a small participant or consumer representative, for example in drafting an amendment proposal, it must be understood by all that through doing so the Code Administrator is not endorsing the change proposed. PJ stated that the proposed activities to assist small participants and consumer representatives would be very useful and questioned why such assistance could not be made accessible to all parties, including the "Big 6". PJ commented that although he works for a "Big 6" company, were he not a member of the Amendments Panel, his organisation would be in a similar position to other smaller organisations with regard to access to information and assistance. It was noted that limiting the assistance to just small participant and consumer initiatives could create issues over undue discrimination between parties.
2115. The proposal to have an Independent Chair for the CUSC and UNC Panels created much debate. MF confirmed that the role of Independent Chair would be appointed for a 3 to 5 year period and that it would be likely to be for 2-3 days a week. GG and PJ suggested, given the proposal that Ofgem be able to raise amendment proposals either directly or via licence requirements, that were Ofgem to appoint the Independent Chair, it could create the perception within the industry that the Chair would be aligned with Ofgem's views and therefore not be wholly independent. MF responded that Ofgem's involvement would be limited to setting out the job specification and making the initial appointment. GG suggested that a way to avoid any misconceptions around the Independent Chair would be for DECC to appoint the Panel chairs instead of Ofgem. PJ questioned whether an Independent Chair would be expensive, compared to currently. BVe asked whether the CUSC Panel would have any say in the CUSC Panel Chair's salary, as is currently the case with the BSC Panel Chairman. MF responded that this may be possible.
2116. MF commented that there had been some support within the industry for a service contract structure to code administration and that while Ofgem were not pursuing this option at present, it could be reconsidered in future.
2117. GG raised a concern that, were Ofgem to provide an opinion within the conclusions

report for the first phase of the MPR process that its conclusions would better meet a code's relevant objectives, then this might fetter the relevant Panel's discretion when it came to consider any amendment proposals arising from the MPR. MF did not consider that this would be an issue. However, PJ noted that there had been instances recently relating to credit arrangements, where amendment proposals were judged on whether they better met Ofgem's Best Practice Guidelines on credit, rather than the relevant Code objectives and therefore GG's concern was a valid one.

2118. PJ commented that, if Ofgem was to make a modification only to the licences of the network operators to introduce the MPR proposals, that it would be altering the fundamental rights of all market participants, but that only the network operators to whom the licences belong would be able to refer the proposals to the Competition Commission. PJ questioned whether this was appropriate.
2119. MF concluded his presentation by advising the Panel that the associated licence drafting for the two consultations would be published in early September and that the closing date for comments on the licence drafting would be extended beyond the closing date for the consultations (18th September 2009).
2120. AK thanked MF for his presentation and his contribution to the Panel, given that MF will be leaving Ofgem on 22nd September 2009.

5 New Amendment Proposals

2121. There were no new Amendment Proposals.

6 Working Group/Standing Group Reports

2122. There were no Working Group or Standing Group reports.

7 CUSC Amendments Panel Vote

2123. There was no CUSC Amendments Panel vote.

8 Authority Decisions

2124. There were no Authority decisions.

9 Update on Industry Codes

2125. No updates were provided.

10 AOB

2126. **TAR Impacts on IS Systems.** Following a request from GG, Iain Pielage from National Grid gave an update on the process National Grid had undertaken to identify IS Impacts resulting from TAR Amendment Proposals. IP noted that

National Grid's internal study commenced in November 2008 had identified 5 workstreams: Charging and Billing System; Analytical Tools; Communication Systems; Auction System and Marginal Cost Analysis. Work was closed down following Ofgem's decision on 25th June 2009 to refer the TAR arrangements to DECC for their determination.

2127. GG questioned whether work that National Grid had previously identified which may assist external parties in assessing impacts on their IS systems had been completed. HR confirmed that only work to identify impacts on National Grid's internal systems had been completed prior to the studies being halted and that as a result there was no relevant information to publish to the industry. GG asked National Grid to notify the industry as soon as it recommences its studies.

Action: National Grid to advise when IS impact studies recommence

2128. **Governance Standing Group Terms of Reference.** AT noted that following a request made to the industry for additional members of the GSG, a nomination had been received from Drax Power Ltd for Stuart Cotten to join the group. The Terms of Reference of the GSG had been updated to reflect the additional member. The CUSC Amendments Panel APPROVED the revised Terms of Reference.

2129. **Offshore Codes.** AT provided an update on the issue raised at the last CUSC Panel meeting where NGET had identified errors in the post-Offshore Go-Active version of the CUSC. NGET has written to Ofgem setting out its proposed approach to rectifying the errors. MF asked whether NGET expected a response to its letter. DS responded that while NGET had not explicitly requested a response, it would be useful to get Ofgem's views prior to proceeding with any changes to the CUSC. MF agreed to review the letter.

Action: Ofgem to review NGET Offshore letter

2130. **RWE Windfarm Loss.** GG highlighted a Bloomberg press report from mid August which stated that RWE had suffered a loss of a number of turbines at one of its windfarms due to a high voltage transformer failure. GG asked NGET whether it was aware of any issues on its network that might impact other Users. NGET confirmed that it was not, but that it would investigate on the basis of the information provided by GG. NGET also noted that the Grid Code Review Panel would be a more appropriate forum for this issue.

Action: GG to forward article to NGET to investigate

2131. **Pandemic Flu Update.** GG gave an update on the swine flu pandemic, noting that the UK had recently seen a downturn in the number of cases.

2132. **SO Incentives.** DS reminded the Panel that NGET's SO Incentives consultation on reactive power, transmission losses and black start closes on 2nd September 2009.

11 Record of Decisions – Headline Reporting

2133. The Panel Secretary has circulated an outline Headline Report following the meeting and placed it on the National Grid website.

12 Date of Next Meeting

2134. The next meeting is scheduled for 25th September 2009, at National Grid House, Warwick Technology Park, Gallows Hill, Warwick, CV34 6DA.