

## CUSC Amendments Panel

### Actions Arising from Meeting No. 109 Held on 30<sup>th</sup> April 2010

#### Present

Alison Kay	AK	Panel Chair
Neil Rowley	NR	Panel Secretary
David Smith	DS	Panel Member (National Grid Electricity Transmission)
Patrick Hynes	PH	Panel Member (National Grid Electricity Transmission)
Mark Cox	MC	Ofgem Representative
Garth Graham	GG	Panel Member (Users' Member)
Simon Lord	SL	Panel Member (Users' Member)
Bob Brown	BB	Panel Member (Users' Member)
Paul Jones	PJ	Panel Member (Users' Member)
Fiona Navesey	FN	Panel Member (Users' Member)
Paul Mott (via teleconference)	PM	Panel Member (Users' Member)
Richard Hall	RH	National Consumer Council
Barbara Vest	BVe	Panel Member (Users' Member)

#### In Attendance

Alex Thomason	AT	National Grid Electricity Transmission
Tom Ireland	TI	National Grid Electricity Transmission
Kathryn Coffin	KC	ELEXON
Siobhan Carty (via teleconference part meeting)	SC	Ofgem (European presentation)

All presentations given at this CUSC Amendments 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

2359. AK welcomed Patrick Hynes to the Panel as the new National Grid Panel Member, to replace Hêdd Roberts. AK also informed the Panel that this would be Neil Rowley's last meeting as Panel Secretary.

#### 2 Minutes of the Meeting held on 26<sup>th</sup> February 2010

2360. The draft minutes of the CUSC Amendments Panel meeting held on 26<sup>th</sup> February 2010, incorporating comments from GG and KC, were AGREED. The minutes will shortly be published on the National Grid website.

**Action: NR to publish on the National Grid website**

**3 Review of Actions**

2361. **Minute 2329: Publication of the CUSC Amendments Panel meeting minutes from 29<sup>th</sup> January on the National Grid website – Complete.**
2362. **Minute 2331: Major Policy Reviews and Self Governance – Ofgem to update the Amendments Panel with any changes to the MPR flow diagram – Complete.**
2363. **Minute 2332: JD to present the Code Governance Review Final Proposals at the January CUSC Amendment Panel meeting.** See agenda item 6.
2364. **Minute 2340: National Grid to publish CAP180 Company Consultation – Complete.**
2365. **Minute 2342: National Grid to publish additional CAP181 illustrative example – Complete.** National Grid has developed and agreed the example with the CAP181 Working Group and will be publishing on the National Grid website the week of the 4<sup>th</sup> May 2010.
2366. **Minute 2341: National Grid to draft CAP181 Working Group Terms of Reference and circulate to Panel Members to approval – Complete.**
2367. **Minute 2347: National Grid to investigate whether derogation requests can be published.** GG noted that at the recent User Seminars National Grid had indicated that there were two additional derogated boundaries being considered in Scotland and ten new derogations in England & Wales. GG pointed out that for Users it was important to have early notification when the TOs have applied, to Ofgem, for a derogation. PH provided a verbal update to the Panel. National Grid has no objections in principle with publishing the derogation requests, however PH questioned whether there could be confidentiality issues surrounding publishing local derogations requests. GG advised that it was the wider transmission boundary derogations, rather than local derogations per se that were of most interest to Users. GG pointed out that TO applications for derogations were made to Ofgem who would, in due course, be expected to consult on them and, therefore, given that any request would be published anyway, this is more a question of timing of publication. PH responded that while generally this is true, there could potentially be some circumstances in which this is not the case, for example if connection agreements were yet to be signed.
2368. PH outlined that derogation requests are made by the relevant Transmission Owner and not National Grid as System Operator. PH agreed that this information is important to the industry and therefore suggested that this issue should be examined by the System Operator Transmission Owner Code Committee (STCC).
- Action - National Grid to raise publication of derogation requests at the STCC**
2369. **Minute 2354: JD to provide an update on the status of CAPs 161 to 163 at the March CUSC Amendments Panel.** MC provided a verbal update to the Panel. MC started by stating Ofgem's belief that DECC's powers included the ability to remove the Transmission Access Reform (TAR) CUSC Amendment Proposals (CAPs), however DECC has confirmed that it does not

believe it has this power. GG and BVe responded that in the DECC initial statement, they specifically stated that the short term access proposals (CAPs 161 to 163) were not within their powers and therefore they (DECC) expected an Authority decision on those three CAPs. MC noted that Ofgem would make a decision on the short term proposals after the DECC consultation process has concluded and asked for the Panel's views on this issue.

2370. In response, BVe asked why Ofgem could not make a decision now on CAPs 161 to 163, given that DECC's proposals do not interact with these CAPs. PH noted that the proposals were developed as two separate packages; the short term and the long term; and questioned whether the industry would want the submitted short term proposals in CAPs 161 to 163 implemented in the connect and manage world, and further stated that while there may well be a place for a sharing product alongside TAR it may need to come in the form of a new Amendment Proposal. PH also commented that the charging proposals that accompanied the short term product proposal were never submitted, on Ofgem's request, due to the charging methodology veto period, and that this might mean a decision could not be given. GG commented that there could be merit in, for example, a User having the option to access, say, 10% of their TEC needs via 'Overrun', 'Sharing' or 'SO Release' (and the balance via C&M) rather than 100% of their TEC via the planned Connect & Manage arrangements; especially if their output was variable, such as a wind farm. PJ and SL commented that since the Panel made its recommendation vote on the TAR CUSC Amendment proposals, there is now a very different baseline. AK summarised the Panel's view that there could be grounds for the Authority to reject the suite of TAR Amendment Proposals and provide the industry with its high level thoughts on the merits, or otherwise, of 'Overrun', 'Sharing' or 'SO Release' TEC as this could guide the development of future Amendment Proposals in this area. MC noted that Ofgem would have to wait for DECC to make its final decision before the Authority could publish any decision, which it would aim to do as soon as possible after DECC.

#### **4 European Third Package presentation**

2371. SC presented to the Amendments Panel, via teleconference, on the European Third Package.
2372. GG questioned whether the 2011 date for compliance with the Third Package referred to the deadline for legal implementation or the deadline for implementing the new European codes date. SC confirmed that the 2011 date was to make the licence and statutory changes. SC also commented that time extensions could be applied for. RH asked about Ofgem's statutory duties regarding environmental issues. SC responded that Ofgem was taking guidance from DECC in this area as to what is acceptable and compliant with the Third Package requirements.
2373. GG asked how it was envisaged that the relevant European codes would be incorporated into the CUSC. For example, would there be separate areas for each relevant European code? SC responded that the European codes would be very high level but would have precedence over the national codes, such as the CUSC, BSC and Grid Code. GG highlighted the significant work required in ensuring the CUSC was compliant and further suggested that Ofgem could attend the Governance Standing Group (GSG) in autumn 2010 to discuss how this work could be taken forward. SC agreed with the

significance of the work and that it could be beneficial to discuss with the GSG, however, this would need to be when more information on the European codes is known.

2374. PJ inquired whether the implementation process would be through primary legislation, like TAR. SC stated that this is uncertain at the moment and would be down to DECC to decide. GG asked the Panel whether this topic needed to be a standing agenda item for the Amendments Panel. AK responded that the Panel should keep a watching brief. SC added that changes will not happen often and when they do they will be communicated.

### **5 Ofgem / DECC developments on TAR**

2375. PH provided a verbal update, stating that the second DECC consultation had now closed, but that responses would not be published until after the General Election. PH noted that DECC had established an "Advisory Group", which a number of the Panel Members were involved in. Panel Members involved confirmed that the minutes of the Advisory Group's meetings are published on the DECC website.

### **6 New Amendment Proposals**

2376. There were no new Amendment Proposals.

### **7 Code Governance Review Final Proposals Presentation**

2377. MC presented on the Final Proposals. GG questioned whether the Panel could still vote to reject an Amendment Proposal raised in relation to a Significant Code Review (SCR). MC confirmed that this was the case. BVe commented that any Amendment Proposal raised as directed under the SCR process, by a Licensee, could not be withdrawn, which is different to any Proposal raised under the standard amendment process. MC responded that this was due to the unique nature of the process and that it would serve no purpose to go through the SCR consultation process, direct a Proposal to be raised, only for it to be withdrawn. BVe suggested that it would be better to go through the SCR consultation process and then allow the industry to raise the best option. MC responded that the Code Governance Review proposals have been heavily consulted on, and that the industry was free to raise an alternative to any Proposed Amendment coming out of the SCR process.
2378. GG suggested that there would be benefit in having a common appeals process across the industry codes for any self-governance Amendment Proposals (or equivalent in the other codes). MC agreed with this. GG also sought clarification that the Authority would not seek to apply its "send back" powers retrospectively, such that reports for Amendment Proposals which had been received by the Authority prior to implementation of the Code Governance Review Final Proposals could not be sent back. MC confirmed that Ofgem were not looking to apply the send back powers retrospectively.
2379. With regard to the charging methodologies governance proposals, GG asked whether Ofgem could consult on its designation of "affected parties". GG noted that an individual or organisation could identify themselves to Ofgem as

being 'the' representative of "affected parties" within a certain sector of the industry, when in fact other parties in that sector considered their representative to be a different individual or organisation. RH asked whether there would be a notice period for the proposed "Charging Methodology window" to allow sufficient time to notify suppliers and consumers of charge changes. MC confirmed that a notice period was included within the proposals. PH highlighted his concerns that the unknown number of Charging Methodology change proposals that may initially be raised following implementation of Final Proposals could create significant resource management problems for National Grid's charging team.

2380. Discussion moved onto the implementation of the Final Proposals. BVe asked why Ofgem did not wait until after the General Election to proceed with implementation of Final Proposals. MC responded that the review had been running for over two years and Ofgem would like to see it concluded. GG asked whether the Panel needed to consider preparing for the subsequent code changes and noted that the Governance Standing Group had previously been tasked by the Panel to assist in considering the implications of the Code Governance Review Final Proposals, once they were published. GG also noted that, as chairman of the GSG, the GSG would welcome Ofgem's support with this work. AT responded that National Grid is already in talks with Elexon around the best way to proceed, and that a single joint session discussing with the industry might be the best way to proceed. KC added that from the BSC angle, it would be preferable to avoid multiple parties raising modifications in this area. KC noted that Elexon would be seeking sign off on its proposed implementation approach from the BSC Panel at the May Panel meeting.
2381. GG asked for clarification from Ofgem that the 1<sup>st</sup> November 2010 implementation date included in the indicative licence drafting referred to implementation of the code modifications, rather than the deadline for raising the modification proposals. MC confirmed that the implementation date was for the implementation of the code modifications. There was general discussion around the difficulty of achieving this implementation date given the work required in translating the final governance proposals into the various code modifications, consulting on the changes through CUSC Working Groups and the Panel together with allowing Ofgem time to decide on the changes. GG noted that these changes would see Charging Methodology change proposals coming forward and commented that he was concerned that material changes that subsequently go through the new regime could be challenged if the implementation process was not robust. AT stated that this is always a risk and that the intention was to fit the proposals into the existing process wherever possible. GG, working back through the amendments process from the 1<sup>st</sup> November implementation date, suggested that the Panel would have to vote on the Amendment Proposals at the August 2010 Panel meeting, which leaves less than 12 weeks to raise, develop and consult on the Amendment Proposals from the end of April. KC suggested that the gap between the licence drafting and the code changes might not be as great as thought. MC commented that parties could start drafting code modification proposals now. GG noted that if the statutory licence consultation was appealed, it could delay implementation and urged Ofgem to reconsider its proposed implementation date to allow the industry thinking time to develop the detailed code legal text and associated documentation required to put the Final Proposals into effect.

2382. AK closed the debate on implementation timescales, noting that MC has heard the Panel's concerns on the implementation timeframe. MC stated that Ofgem welcomes feedback and that the consultation on the Final Proposals licence drafting was still open.

**Action – National Grid to liaise with GG to produce an implementation timing plan for the CUSC**

2383. AT asked the Panel two questions relating to the Final Proposals. Firstly, with regard to Charging, she asked what level of knowledge Panel Members had about the current charging mechanisms and whether they would appreciate a session on the methodologies prior to the Charging Methodologies being included within the CUSC. PJ commented that he believed knowledge among Panel Members was mixed and offered to assist with knowledge sharing. Some Panel Members expressed an interest in a potential "training" session; Panel Members were asked to contact PH if they wanted to be included. PH can then report back to the Panel on the best way forward. AT's second question asked Panel Members whether they were familiar with the Final Proposals on the Code of Practice and the proposed KPIs. Panel Members responded that they were largely unfamiliar with the detail of the Code of Practice. BVe questioned how some KPIs could be measured for example, how would you measure the performance of a Code Administrator (CA) at being a critical friend? AT noted that Ofgem's proposal was that joint code administrator Customer Surveys could be one form of measure. KC mentioned that the KPIs will inform the industry of performance in a number of areas, not just the performance of CAs or the Authority, for example some will provide a view on the success of the processes. AT asked the Panel to let her know whether it wished to submit a response to the Code of Practice consultation, noting that the closing date is 12<sup>th</sup> May 2010.

**Action – PH to report back to the Amendments Panel on Panel Members' charging "training" requirements**

**Action – Panel Members to inform AT if they wish the Panel to submit a response to the Code of Practice consultation**

2384. Finally on the Code Governance Review, BB asked National Grid to ensure that it notified the Panel if it became aware of resourcing issues with regard to implementation.

## 8 Working Groups / Standing Group Reports

2385. **CAP179 – Prevention of "Timing Out" of Authority decisions on Amendment Proposals.** AT provided an update to the Panel on progress of the CAP179 Working Group, noting that the group held its first meeting on 26<sup>th</sup> March 2010. During this meeting, the Working Group developed a potential Working Group Alternative Amendment which sought to allow the Panel to submit a second Amendment Report, potentially containing a revised Panel recommendation to the Authority. This second report would only be triggered by the process of Ofgem asking for revised implementation dates and would follow the Panel's consultation with the industry on those dates and on whether any analysis undertaken to support the Panel's original recommendation continues to be valid.

2386. **CAP181 – Consequential changes related to Grid Code Amendment A/10 (Compliance).** DS informed the Amendments Panel that the Working Group had met twice and was now progressing to the Working Group Consultation. The group is consulting on a number of alternatives which considers both which parties the limitation of liabilities should apply to and the mechanism by which the liabilities are limited. DS noted that the Terms of Reference requirement to report back to the Panel in June should be met but the timetable was fairly tight. In order to ensure that impacted parties (specifically LEEMPS) are made aware of the consultation, BVe agreed to notify parties via the AEP distribution list.

**Action – BVe to send a note to AEP members informing them of CAP181 Working Group consultation**

2387. **Governance Standing Group (GSG).** GG summarised the outcome of the March GSG meeting. The GSG reviewed draft Initial Written Assessments (IWA), produced by National Grid for CAPs 179 and 181, and recommended to the Amendments Panel that IWAs be introduced into the amendments process, on an informal basis, to be applied to any new Amendment Proposals raised. The Panel agreed that IWAs should be produced. The GSG also reviewed and agreed generic Working Group Terms of Reference and recommended to the Amendments Panel that these be used for all future Working Groups. The Amendments Panel agreed to this recommendation. The GSG produced a revised set of its own Terms of Reference, updated to include the representation of each Standing Group member. The Amendments Panel approved the revised GSG Terms of Reference.

**Action – National Grid to publish revised GSG Terms of Reference and generic Working Group Terms of Reference on its website**

2388. **Gas Insulated Switchgear Working Group (GISWG).** DS informed the Amendments Panel that the Group is now close to reporting. The final draft report has been sent to Working Group members and a meeting has been set up on 11<sup>th</sup> May to finalise the report. DS expects the Working Group report to be presented to the Grid Code Review Panel on 20<sup>th</sup> May and CUSC Amendments Panel on 21<sup>st</sup> May. DS noted that the majority of changes will be to the CUSC and the Amendment Proposals are likely to be raised in June.
2389. **Balancing Services Standing Group (BSSG).** DS informed the Amendments Panel that the BSSG is still focused on the Interconnector Frequency Response work. DS noted that the group expects to report back to the CUSC Amendments Panel in May with Amendment Proposals being raised at the same time (in line with the Terms of Reference). DS noted that a consequential change is required to the BSC and this was now being progressed.
2390. **Commercial Balancing Services Group (CBSG).** DS informed the Amendments Panel that the CBSG met for the first time in April. The group is looking at balancing services that are not defined in the CUSC (commercial balancing services), as such the update to the CUSC Amendments Panel was informal. DS informed the Amendments Panel that the group are looking at constraint information reporting. GG asked whether the reporting for this group could be formalised under the CUSC and suggested the GSG could look at this. DS noted that putting the governance under the CUSC was not

## CUSC Amendments Panel

straightforward but agreed that the GSG could review this. BB asked whether there was visibility of the CBSG to the industry. DS confirmed that documentation relating to the CBSG is currently published on National Grid's website under the BSSG page, but that the CBSG will have its own page on the website in due course.

**Action – National Grid to update the GSG Terms of Reference to include a review of the CBSG governance**

2391. **Frequency Response Working Group.** DS informed the Amendments Panel that the group was still some way from completing its work. The group is presently looking at a number of models including market solutions and an economic test for mandatory obligations. The group is likely to report back around November 2010.

### 9 CUSC Amendments Panel Vote

2392. **CAP180: Amendments to the CUSC Governance Process.** AT presented a brief summary of CAP180, noting that it had been developed by the Governance Standing Group and had been sent directly to wider industry consultation at the February 2010 Amendments Panel meeting. Four responses were received, all of which supported implementation of CAP180.

2393. Panel Members then voted unanimously that CAP180 better facilitates achievement of Applicable CUSC Objective (a) and the majority of Panel Members voted that it better facilitates achievement of Applicable CUSC Objective (b). The table below shows a breakdown of Panel Members' voting against the Applicable CUSC Objectives and the rationale for such votes. For ease of reference, the Objectives are reproduced here:

(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.

<b>Panel Member (Representation in brackets)</b>	<b>Better meets Applicable CUSC Objective (a)?</b>	<b>Better meets Applicable CUSC Objective (b)?</b>
Garth Graham (User)	Yes. In coming to decision, Garth was mindful, in particular, of paragraphs 3.3 and 4.1 of the draft Amendment Report, plus consultation responses which supported implementation. Formalising the process for meeting involvement and removing anomalies regarding removal of observers better facilitate achieving Applicable CUSC Objective (a) than the baseline.	Yes. Enabling more parties to get involved in the CUSC amendment processes should better facilitate competition.
Barbara Vest (User)	Yes. Formalising the process for meeting involvement and removing anomalies regarding removal of	Yes. Enabling more parties to get involved in the CUSC amendment processes should



## CUSC Amendments Panel

<b>Panel Member (Representation in brackets)</b>	<b>Better meets Applicable CUSC Objective (a)?</b>	<b>Better meets Applicable CUSC Objective (b)?</b>
	Working Group better facilitate achieving Applicable CUSC Objective (a) than the baseline.	better facilitate competition.
Fiona Navesey (User)	Yes.	Yes. CAP180 improves the equality of parties and their access to CUSC amendment processes.
Simon Lord (User)	Yes.	Yes.
Bob Brown (User)	Yes. CAP180 provides for a more efficient Working Group process and therefore better facilitates this objective.	Yes.
Richard Hall (User)	Yes. CAP180 proposes accessible processes to take account of stakeholders' views, thereby better facilitating this objective.	Yes. CAP180 provides for a level playing field for all parties.
Paul Jones (User)	Yes.	Neutral. Agree that CAP180 provides for equal treatment of parties, but cannot see exactly how this better facilitates competition in the generation and supply of electricity.
Paul Mott (User)	Yes.	Yes, although agreed with reservations expressed by Paul Jones above.
David Smith (National Grid)	Yes. CAP180 better facilitates Applicable CUSC Objective (a) by providing greater control to the Chairman to manage and facilitate a Working Group meeting.	Yes. All parts of the proposal better facilitate non-discrimination between classes of users.

### 10 Authority Decisions

None.

### 11 CUSC Key Performance Indicators – March 2010

2394. AT presented the CUSC key performance indicators for March. BVe asked MC if there was an update on CAP170. MC responded that it is likely to go to the May Authority meeting.

### 12 Update on industry Codes/General Industry Updates relevant to the CUSC

#### Grid Code

2395. DS informed the Panel that the next Grid Code Review Panel meeting is scheduled for 30<sup>th</sup> May 2010.

#### Cross Codes Forum

2396. AT informed the Panel that the next forum is scheduled for the 14<sup>th</sup> May. The Panel asked how the first forum was received. KC responded that it had been well received and attracted a number of the small players. GG stated

that he attended the first forum and that he felt it would be useful to have at least one Panel Member at each event.

### **13 A.O.B**

2397. **Consent to Modify.** AT noted that National Grid had circulated an email to Panel Members explaining the proposed use of the licence "Consent to Modify" process, which had been discussed at a previous Panel meeting. The change in question is to rectify the paragraph numbering in Section 8 of the CUSC which had become muddled following implementation of the legal text for CAPs 175 and 176. The Consent to Modify process was being proposed in preference to the standard Housekeeping Amendment process, due to timing issues. CAP180 was shortly due to be sent to the Authority and seeks to change elements of Section 8 and it would provide clarity if the paragraph numbering were rectified prior to the Authority having to make a decision. AT confirmed that the formal request had been sent to Ofgem.

### **14 Date of Next Meeting**

2398. The next meeting is scheduled for 21<sup>st</sup> May 2010, at National Grid House, Warwick Technology Park, Gallows Hill, Warwick, CV34 6DA.