

## CUSC Amendments Panel

### Actions Arising from Meeting No. 112 Held on 9<sup>th</sup> July 2010

#### Present

Mark Ripley	MR	Panel Chair
Steve Lam	SLa	Panel Secretary
David Smith	DS	Panel Member (National Grid Electricity Transmission)
Patrick Hynes	PH	Panel Member (National Grid Electricity Transmission)
Simon Lord	SL	Panel Member (Users' Member)
Bob Brown	BB	Panel Member (Users' Member)
Paul Jones	PJ	Panel Member (Users' Member)
Paul Mott	PM	Panel Member (Users' Member)
Garth Graham	GG	Panel Member (Users' Member) – via teleconference
Barbara Vest	BVe	Panel Member (Users' Member) – via teleconference
Abigail Hall	AH	National Consumer Council - via teleconference
Jon Dixon	JD	Ofgem representative
Chris Stewart	CS	Observer (Centrica)

#### In Attendance

Abid Sheikh (via teleconference)	AS	Ofgem
Kamel Magour	KM	Ofgem
Alex Thomason	AT	National Grid
Emma Clark	EC	National Grid

#### Apologies

Fiona Navesey	FN	Panel Member (Users' Member)
Alison Kay	AK	Panel Chair

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

2436. Apologies were received from AK and FN. GG confirmed that FN had asked him to act on her behalf.

#### 2 Implementation of Code Governance Review – Final Proposals

2437. The Chair welcomed the attendees to the special Amendments Panel Meeting and informed the Panel that a presentation had been issued to the Panel Secretary after papers day and requested the Panel to agree if it could be added to the agenda under AOB. There were no objections from the Panel.

2438. DS provided an update to the Code Governance Review and stated that six Amendment Proposals have been developed by National Grid Electricity Transmission plc (National Grid) in line with the recent Transmission Licence

modifications and have been submitted to the special Panel Meeting for discussion. DS stated that a Working Group meeting has been planned for 14<sup>th</sup> July 2010 to discuss any proposals that have been agreed by the Panel to go to a Working Group. However, DS noted that there had only been three industry members who had so far responded to National Grid's request for Working Group members, which is insufficient for the required minimum CUSC quorum of five members. PM stated that he would be able to attend the first planned Working Group meeting but that he would be on leave for the second meeting scheduled for August.

2439. AT stated that if minimum quorum has not been achieved, the Panel could agree for each Working Group to proceed with fewer than five members. It was noted that if there was a delay whilst additional members for the Working Group was sought this could impact the timescales for implementation due to a delay in holding the Working Group as the Panel normally meets monthly. DS stated that the final date for implementation of the Amendment Proposals would be the 31 December 2010, in line with National Grid's licence obligation of 'best endeavours'. Therefore it would be best if there were no delays to the Working Group meeting. GG asked whether the obligation was 'best endeavours' or 'reasonable endeavours'. DS clarified that it was 'best endeavours'.
2440. DS added that National Grid intended to raise similar modifications (to implement the Transmission Licence obligations) for the BSC and the UNC in August. SL voiced concerns that there was a danger that they could be implemented in haste, therefore the Panel needed to ensure that the proposals would be right first time.

### 3 New Amendment Proposals

2441. **CAP183 – Code Governance Review: Significant Code Review (SCR).** A presentation was given by SLa who introduced the new CAP183 Amendment Proposal. The proposal aimed to update the CUSC in line with the Transmission Licence modifications by ensuring the CUSC was able to facilitate Significant Code Review changes which the Authority deemed to be necessary. PJ asked whether the SCR Phase would always last for 12 months. SLa responded that this was only an indicative timeframe which could change depending on the scope and complexity of a particular SCR. JD confirmed this by stating that it would be the expectation for the SCR Phase to last around 12 months. If it was allowed to run for over 24 months, for example, then it would defeat the objective of running an SCR. SL also asked how the Panel would know when an SCR has been initiated as it would be impractical to check the Ofgem website every day. JD responded by stating that an SCR launch statement would be published which would include the indicative timetable for the process. JD added that there would be no harm in adding a standing agenda item to the CUSC Amendments Panel to highlight any potential SCRs that may be initiated.
2442. With reference to Amendment Proposals being made during an SCR Phase, SL questioned whether it should be Ofgem who should flag to the Panel that they believe that a new Amendment Proposal is within the remit of an SCR. JD responded that either party can flag it and trusted that there would be common sense checks between both Ofgem and the Panel. PJ was concerned that writing statements to Ofgem was an extra stage in the Amendments process which could be considered unnecessary as it provides

## CUSC Amendments Panel

the illusion that the Panel has greater authority than it currently possesses. JD replied by stating that the correspondence would not have to be in the form of written statements to Ofgem, it could be captured within the Panel minutes, provided an Ofgem representative was aware of the decisions made during the meeting. MR concluded this point by stating that both parties should have dialogue in the exemption process, but the roles between them needed to be understood, which can be captured in a Working Group.

2443. GG commented on the indicative legal text for Section 8 of the CUSC and suggested that paragraphs 1.17.18-21 should provide clarity as to when an SCR Phase will be deemed to have ended by adopting similar wording used in the Transmission Licence modification. GG also raised the issue of withdrawing Amendment Proposals after directions have been issued by the Authority, and whether the proposals could be adopted by another party. PJ asked whether Amendment Proposals that were submitted by the licensee after the directions from the Authority would be considered as standard Amendments. JD responded by stating that they would be treated as normal as the Panel could vote to reject the Amendment Proposal if they felt that it did not better facilitate the Applicable CUSC Objectives. MR concluded that these were important points to consider and would be better placed within the proposed Working Group discussions. The Panel were in agreement that CAP183 should go to a Working Group to discuss the following issues:

- The initiation and ending of an SCR
- The role of the Panel in discussing exemptions during an SCR Phase
- Withdrawal and adoption of Amendment Proposals raised as a result of an SCR direction

2444. **CAP184 – Code Governance Review: Self-governance.** A presentation was given by SLa who introduced the new CAP184 Amendment Proposal. The proposal aimed to introduce a new, 'self governance', process within the CUSC which should expedite implementing Amendment Proposals which are deemed to meet the Self-governance criteria. This proposal was recommended by the Proposer to go to a Working Group to ensure the legal text reflected the Transmission Licence modifications.

2445. GG commented that the introduction of SCR and Self-governance meant, in the future, that the Panel would have to assess each new Amendment Proposal based on certain criteria to judge how it would progress. It appeared to GG that the Panel may need to follow a specific process or hierarchy to ensure the correct procedure is followed and to prevent multiple assessments being made at different times. GG noted that this was not clear in the indicative legal text in paragraph 1.18.4 as whether the Panel should reference the SCR, Self-governance or standard route for each Amendment Proposal. SLa agreed to ensure that this would be added to the Working Group Terms of Reference.

2446. PM asked whether the Authority could direct an Amendment Proposal to the Self-governance route and also whether they could deem it to not progress down a Self-governance route. AT responded by confirming that the Authority would have the power to make the decision as to whether or not an Amendment Proposal followed the Self-governance 'route' at any time prior to the Panel's final determination on that Amendment Proposal.

## CUSC Amendments Panel

2447. Discussion moved onto the appeals process whereby PM asked whether a party can appeal a decision after it has been through the send back route and had the Self-governance option removed. AT responded by stating that it depended on whether the topic being appealed had already been covered after the proposal had been sent back. PJ agreed and added that it would be wrong for the same party to appeal on the same grounds and, in effect, frustrate the process. GG added that it was not clear in the indicative legal text when a party could appeal to the Competition Commission and indicated that this should be discussed at a Working Group. PJ questioned the appeals criteria for assessment against the Applicable CUSC Objectives, with regards to a proposal facilitating the achievement of at least one of the objectives. PJ stated that the appeals should consider the CUSC Objectives overall rather than a minimum of just one. SLa responded by saying that the 'achievement of at least one of the Applicable CUSC Objectives' for an appeal was taken directly from the Transmission Licence modifications (paragraph 13B.a(ii)) and therefore was reflected in the indicative legal text.
2448. PM, noting comments made on previous occasions, asked whether the view of circa 50% of all Amendment Proposals going through the Self-governance route was still supported. JD replied by stating that the original figure came from a back casting exercise and the subject matter of Amendment Proposals in any given time period cannot be predicted. PM asked whether these back casting results could be published or made available.

**Action: JD to provide back casting results to Panel Members**

2449. AT noted that a similar exercise had been performed for the UNC and had been discussed during the earlier Code Governance Review consultations. BB requested that a similar back casting exercise be performed for the last 20 to 30 Amendment Proposals. AT agreed that this could be done, but would not form part of the Working Group discussions. GG also referred to CAPs151 – 155 which, when raised by National Grid, were believed to be housekeeping changes but, after going to Working Group (where further issues were identified) were processed as non housekeeping type changes. JD gave the view that 50% of Amendment Proposals going through the Self-governance route was unlikely; however, it would encourage more parties to raise proposals on 'easy' changes if they felt that the Self-governance route was an available option.

**Action: National Grid to undertake back-casting exercise for recent CUSC Amendment Proposals**

2450. The Panel agreed CAP183 should go to a Working Group. MR provided a summary of issues that should be discussed at the Working Group:
- Clarify the appeals process for Self-governance
    - Competition Commission route
    - How appeal is applied in relation to the Applicable CUSC Objectives
  - Confirm the Authority can direct an Amendment Proposal to go through the Self-governance route
  - Confirm a standard Panel process for judging Amendment Proposals for their suitability on SCR/Self-governance/Standard process
2451. **CAP185 – Code Governance Review: Role of Code Administrator and Code Administration Code of Practice.** A presentation was given by EC

## CUSC Amendments Panel

who introduced the new CAP185 Amendment Proposal. This proposal aimed to establish best practice for code administration and to create the role of a Code Administrator (CA) within the CUSC and reflect its role as 'Critical Friend'. The recommendation was for the Amendment Proposal to go to a Working Group.

2452. Discussions were held on the appointment of the Panel Chairman and PM asked whether there would be an election from a pool of candidates. AT responded by stating that a detailed process for appointing an independent Panel Chairman had not been set out in the Amendment Proposal as the Transmission Licence modifications were not explicit in determining how this process would be carried out. GG added that the Authority would have the right to appoint a candidate, which could be the same Chairman as previously. BV also added that the new Chair would have to be someone independent from National Grid who would require 'training' in order for them to carry out the role effectively. AT noted that a new Chairperson could attend as an observer prior to taking up the role officially. GG replied that this was possible but also highlighted that a deputy Chair would also have to be made available in the event that the appointed Chairman could not attend a future Panel meeting. PM asked whether National Grid would appoint a candidate without consulting the Panel and BB added whether it would be the Code Administrator who would make the appointment. AT responded by reiterating that the process had not been defined in the Transmission Licence and a standing group would be better placed to discuss this issue. DS agreed and suggested that the discussions for the appointment of the independent Chairman and deputy Chair could go to the Governance Standing Group (GSG) for consideration, which the Panel agreed with.

**Action: National Grid to add appointment process for independent Panel Chairman and deputy Chair role to GSG Terms of Reference**

2453. Discussions moved onto the change process for the Code Administration Code of Practice (CoP). AT stated that the CA would seek Panel approval before raising a change to the CoP, noting that changes to the CoP require approval from the Authority. However, AT stated that as this change process is set out in the CoP itself rather than the CUSC, she believed that the requirement to gain Panel approval should not be included within the CUSC. GG agreed that the CA should not raise a change to the CoP without explicit Panel approval, but considered that this restriction should be recorded in the CUSC itself, as the CA is acting in its role as administrator of the CUSC rather than administrator of the CoP. GG stated that he wanted to ensure that the correct checks and balances were in place. MR concluded that both AT and GG were in broad agreement on the principle with the actual change process but the issue should go to the Working Group to discuss further.
2454. PM asked the question of whether the Panel Chairman would have a casting vote and AT responded by saying that the Chair would retain a casting vote for matters other than a Panel recommendation vote, for example in the case of a deadlock on a decision whereby the votes are split equally.
2455. With regards to new Amendment Proposals PJ asked whether the CAP terminology should still be used due to the new term of "CUSC Modification Proposal". AT responded by saying that this had been raised in a previous workshop and would be discussed at the Working Group. MR concluded with

## CUSC Amendments Panel

the confirmation that the Panel agreed for the Amendment Proposal to go to a Working Group.

2456. **CAP186 - Code Governance Review: Send Back Process.** A presentation was given by EC who introduced the new CAP186 Amendment Proposal. This proposal aimed to introduce a process within the CUSC which would allow the Authority to send back an Amendment Report to the Amendments Panel in circumstances where the Authority considered that it was unable to form a decision based on the content of that report. EC recommended that the proposal should go direct to Company Consultation.
2457. AT asked whether anyone had any comments on the legal text, of which there were none. However, SL asked what would happen if the proposal went to consultation and something material came up. AT responded by stating that this would be included in the final Amendment Report to the Authority, however, the proposal could not be changed, therefore if there was a fundamental error, the Amendment Proposal may have to be withdrawn and then reconsidered.
2458. PJ highlighted that if the terminology of the Amendment Proposal was changed to CUSC Modification Proposal, then it would have to be the first thing that was implemented as all other proposals would be dependent on the terminology. AT agreed and stated that if the Send Back proposal went out to Company Consultation, there would be an indicative implementation date of 19 October 2010, as set out in the Initial Written Assessment timeline. GG added that if the proposal was not approved, then an urgent Amendment Proposal would have to be raised to change the terms as the draft legal text in Section 8 of the CUSC all reference 'CUSC Modification Proposal.' The Panel, mindful of the summer holidays, all agreed that the Amendment Proposal should go to Company Consultation for three weeks.
2459. **CAP187 – Code Governance Review: Environmental Assessment and the Relevant Objectives.** A presentation was given by EC who introduced the new CAP187 Amendment Proposal. This proposal aimed to introduce a requirement within the CUSC for the Amendments Panel to carry out an assessment of the impact of an Amendment Proposal on greenhouse gas emissions, where it is considered that there will be a material impact. EC recommended that the Amendment Proposal should go direct to Company consultation.
2460. JD stated that Ofgem had received updated guidance from DECC regarding the treatment of carbon, therefore Ofgem had subsequently updated theirs in line with the guidance from DECC. PM asked what gases were encompassed within the term 'greenhouse gases.' JD replied that this referred to tradable gases in terms of tonnes of carbon dioxide as specified under the Emissions Trading Scheme (ETS), however the impacts should also include any effects on methane and sulphur hexafluoride leakage from the transmission system, where relevant. JD added that there was a move away from calculating the shadow price of carbon towards the volume of actual carbon dioxide emitted. PM asked what price would be applied to carbon and JD replied that they could be different depending on which sector of industry was being analysed. AS added that these prices would be subject to change as there would be an annual update of carbon values.

## CUSC Amendments Panel

2461. GG had a minor comment on the legal text (page 20) and proposed that it should include the words (taken from the Transmission Licence modification) 'where the impact is material' in accordance with the following paragraph: [...as to whether the Proposed Amendment would have a quantifiable effect on greenhouse gas emissions...]. AT agreed that this had been an accidental omission and the Panel agreed that the Amendment Proposal should go to Company consultation for three weeks once the legal text had been corrected.
2462. **CAP188 – Code Governance Review: Governance of Charging Methodologies.** A presentation was given by AT who introduced the new CAP188 Amendment Proposal. The proposal aimed to place the Charging Methodologies into the CUSC which would allow changes to be raised to the methodologies (changes which would follow the appropriate CUSC Amendments process). In addition, CAP188 allows a "materially affected party" to raise a charging methodology change.
2463. PM asked whether any individual could be considered as a materially affected party and raise a change to the Charging Methodologies. AT responded by stating that the Authority would judge whether a party, or class or party, was materially affected or not and until that decision was made, the Amendment Proposal would not be progressed. JD added that the party may only be given a temporary designation of being materially affected for one particular proposal or the designation could be on an enduring basis. SL asked what the impact of a large number of parties raising Amendment Proposals which effectively sought lower charges would be. PH responded that if this were the case then those proposals could form a part of an SCR as it would involve a major change. MR added that this discussion was pre judging the outcome which was not the purpose of the meeting.
2464. Discussions moved onto the Applicable Objectives for the CUSC and the Charging Methodologies and how they would be applied to an Amendment Proposal which covered both areas. GG stated that the relevant licence objectives are different for changes to the Use of System Charging Methodology and for the Connection Charging Methodology and therefore it appeared that any changes to each would have to be considered separately, according to the relevant objectives, by the Panel. PJ considered that the CUSC has the overarching objective of the more efficient discharge of the requirements of the transmission licence. PJ believed that, as the charging objectives are set out in the transmission licence, an amendment that better met them could be considered as also better meeting this overall CUSC objective. Therefore, the Panel could consider the changes together as part of one proposal. GG highlighted three possible options for the progression of multiple amendments:
- Raise a single amendment proposal covering both the CUSC and Charging Methodologies changes (assessing against a single set of objectives)
  - Raise separate amendments for the CUSC and the Charging Methodologies changes (assessing each against their respective objectives)
  - Raise separate amendments with the option of the Panel amalgamating them

## CUSC Amendments Panel

2465. MR stated that the alignment of the separate objectives was a discussion which would need to be reconciled at a Working Group rather than in the Panel meeting.
2466. GG raised a query over one element of the Code Governance Review licence modifications, specifically Condition C10 paragraph 6b(iv) which refers to timescales for a Working Group, and whether it was reflected in the CUSC legal text: *"unless an extension of time has been approved by the panel and not objected to by the Authority after receiving notice, any workgroup stage shall last for a maximum period (to be as specified in the CUSC) from the date on which the original modification was proposed"*. AT responded that a timescale already exists in the CUSC but was not able to quote the reference at the meeting and took an action to provide this after the meeting. **Post meeting note:** AT circulated the relevant paragraph after the meeting, which can be found in section 8.16.4(b):
- (b) The **Amendments Panel** shall establish the part of the timetable for the consideration by the **Amendments Panel** and by a **Working Group** (if any) which shall be no longer than four months unless in any case the particular circumstances of the **Amendment Proposal** (taking due account of its complexity, importance and urgency) justify an extension of such timetable, and provided the **Authority** does not object, taking into account all those issues.*
2467. GG asked whether the change marked version of the Charging Methodologies as they would appear in the CUSC could be made available to (a) the Working Group and (b) CUSC Parties. AT replied that they would be provided to the Working Group meeting, as the definitions were still being aligned.
2468. MR concluded by asking whether the Amendment Proposal should go to a Working Group, which the Panel agreed with and that further issues such as possible 'windows' within which Charging Methodology changes would need to be raised would be discussed at the Working Group.

### 4 AOB

2469. AT discussed the timeline within the Working Group Terms of Reference and gave the view that it would be best to run CAP183, 184, 185, 188 in one combined Working Group as the timing for implementation is challenging and there would be a risk over the holiday season that there would not be enough members. The majority of the Panel agreed with this. AT stated that there were four confirmed Working Group members including the Company representative and whether the Panel would allow a reduction in the numbers for a quorum. PM confirmed that he would be able to attend the first Working Group meeting which would meet the minimum required for a quorum. The Panel were in general agreement that the quorum could be reduced to 4 if there were not enough Working Group members. **Post Panel meeting update:** FN confirmed that she would be able to attend as a Working Group member; therefore the quorum was not reduced.
2470. JD gave a presentation on the SCR process and communicated that Ofgem wanted to flesh out candidates for an SCR, therefore asked the Panel whether they had any views on potential SCR topics. GG noted that it would



be useful for the industry to know what Ofgem were considering. The Panel was silent on any potential SCR candidates.

### **5 Date of next meeting**

2471. The next meeting is scheduled for 30<sup>th</sup> July 2010 at National Grid House, Warwick Technology Park, Gallows Hill, Warwick, CV34 6DA.