

Workgroup Terms of Reference and Membership

TERMS OF REFERENCE FOR CAP190 WORKGROUP

RESPONSIBILITIES

1. The Workgroup is responsible for assisting the CUSC Modifications Panel in the evaluation of CUSC Modification Proposal CAP190: Two-thirds majority voting requirements for CUSC panel recommendations on Modification Proposals arising from Licence obligations, Authority requests or obligations, tabled by Wyre Power at the Modifications Panel meeting on 3rd September 2010.
2. The proposal must be evaluated to consider whether it better facilitates achievement of the Applicable CUSC Objectives. These can be summarised as follows:
 - (a) the efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission 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.
3. It should be noted that additional provisions apply where it is proposed to modify the CUSC amendment provisions, and generally reference should be made to the Transmission Licence for the full definition of the term.

SCOPE OF WORK

4. The Workgroup must consider the issues raised by the Modification Proposal and consider if the proposal identified better facilitates achievement of the Applicable CUSC Objectives.
5. In addition to the overriding requirement of paragraph 4, the Workgroup shall consider and report on the following specific issues:
 - a) Consider any alternative amendments;
 - b) Review any illustrative legal text;
 - c) Consider any legal opinion procured (in conjunction with ELEXON for BSC Modification Proposal P264);
 - d) National Grid's response to the Proposer's view, expressed in the Modification Proposal form, that "The Company member, [who] may feel obliged to vote for the Proposal they have been required to raise".
6. The Workgroup is responsible for the formulation and evaluation of any Workgroup Alternative CUSC Modification (WACMs) arising from Group discussions which would, as compared with the Modification Proposal or the current version of the CUSC, better facilitate achieving the Applicable CUSC Objectives in relation to the issue or defect identified.
7. The Workgroup should become conversant with the definition of Workgroup Alternative CUSC Modification which appears in Section 11 (Interpretation and Definitions) of the CUSC. The definition entitles the Group and/or an individual member of the Workgroup to put forward a WGAA if the member(s) genuinely believes the WACM would better facilitate the achievement of the Applicable CUSC Objectives, as compared with the Modification Proposal or the current version of the CUSC. The extent of the support for

the Modification Proposal or any WACM arising from the Workgroup's discussions should be clearly described in the final Workgroup Report to the CUSC Modifications Panel.

8. Workgroup members should be mindful of efficiency and propose the fewest number of WACMs possible.
9. All proposed WACMs should include the Proposer(s)'s details within the final Workgroup report, for the avoidance of doubt this includes WACMs which are proposed by the entire Workgroup or subset of members.
10. There is an obligation on the Workgroup to undertake a period of Consultation in accordance with CUSC 8.20. The Workgroup Consultation period shall be for a period of 3 weeks as determined by the Modifications Panel.
11. Following the Consultation period the Workgroup is required to consider all responses including any WG Consultation Alternative Requests. In undertaking an assessment of any WG Consultation Alternative Request, the Workgroup should consider whether it better facilitates the Applicable CUSC Objectives than the current version of the CUSC.

As appropriate, the Workgroup will be required to undertake any further analysis and update the original Modification Proposal and/or WACMs. All responses including any WG Consultation Alternative Requests shall be included within the final report including a summary of the Workgroup's deliberations and conclusions. The report should make it clear where and why the Workgroup chairman has exercised his right under the CUSC to progress a WG Consultation Alternative Request or a WACM against the majority views of Workgroup members. It should also be explicitly stated where, under these circumstances, the Workgroup chairman is employed by the same organisation who submitted the WG Consultation Alternative Request.

12. The Workgroup is to submit its final report to the CUSC Panel Secretary on 28 April 2011 for circulation to Panel Members. The final report conclusions will be presented to the Modifications Panel meeting on 6 May 2011.

MEMBERSHIP

13. The following individuals have nominated themselves to become Workgroup members:

Role	Name	Representing
Chairman	Alex Thomason	National Grid
National Grid Representative*	Emma Clark	National Grid
Industry Representatives*	Garth Graham	SSE
	Lisa Waters	Waters Wye Associates – for Wyre Power
	Esther Sutton	E.ON UK plc
	Steven Eyre	EDF Energy
	Stuart Cotten	Drax
Authority Representative	N/A	
Technical Secretary	Bali Virk	National Grid
Observers	N/A	

NB: A Workgroup must comprise at least 5 members (who may be Panel Members). The roles identified with an asterisk in the table above contribute toward the required quorum, determined in accordance with paragraph 14 below.

14. The chairman of the Workgroup and the Modifications Panel Chairman must agree a number that will be quorum for each Workgroup meeting. The agreed figure for CMP190 is that at least 5 Workgroup members must participate in a meeting for quorum to be met.
15. A vote is to take place by all eligible Workgroup members on the Modification Proposal and each WACM. The vote shall be decided by simple majority of those present at the meeting at which the vote takes place (whether in person or by teleconference). The Workgroup chairman shall not have a vote, casting or otherwise. There may be up to three rounds of voting, as follows:
 - Vote 1: whether each proposal better facilitates the Applicable CUSC Objectives;
 - Vote 2: where one or more WACMs exist, whether each WACM better facilitates the Applicable CUSC Objectives than the original Modification Proposal;
 - Vote 3: which option is considered to BEST facilitate achievement of the Applicable CUSC Objectives. For the avoidance of doubt, this vote should include the existing CUSC baseline as an option.

The results from the vote and the reasons for such voting shall be recorded in the Workgroup report in as much detail as practicable.

16. It is expected that Workgroup members would only abstain from voting under limited circumstances, for example where a member feels that a proposal has been insufficiently developed. Where a member has such concerns, they should raise these with the Workgroup chairman at the earliest possible opportunity and certainly before the Workgroup vote takes place. Where abstention occurs, the reason should be recorded in the Workgroup report.
17. Workgroup members or their appointed alternate are required to attend a minimum of 50% of the Workgroup meetings to be eligible to participate in the Workgroup vote.
18. The Technical Secretary shall keep an Attendance Record for the Workgroup meetings and circulate the Attendance Record with the Action Notes after each meeting. This will be attached to the final Workgroup report.
19. The Workgroup membership can be amended from time to time by the CUSC Modifications Panel.

RELATIONSHIP WITH MODIFICATIONS PANEL

20. The Workgroup shall seek the views of the Modifications Panel before taking on any significant amount of work. In this event the Workgroup chairman should contact the CUSC Panel Secretary.
21. The Workgroup shall seek the Modifications Panel's advice if a significant issue is raised during the Consultation process which would require a second period of Consultation in accordance with 8.20.17 of the CUSC.
22. Where the Workgroup requires instruction, clarification or guidance from the Modifications Panel, particularly in relation to their Scope of Work, the Workgroup chairman should contact the Modifications Panel Secretary.

MEETINGS

23. The Workgroup shall, unless determined otherwise by the Modifications Panel, develop and adopt its own internal working procedures and provide a copy to the Panel Secretary for each of its Modification Proposals.

REPORTING

24. The Workgroup chairman shall prepare a final report to the April 2011 Modifications Panel responding to the matters set out in the Terms of Reference, including all Workgroup Consultation Responses and Alternative Requests.
25. A draft Workgroup Report must be circulated to Workgroup members with not less than five Business Days given for comments, unless all Workgroup members agree to three Business Days.
26. Any unresolved comments within the Workgroup must be reflected in the final Workgroup Report.
27. The chairman (or another member nominated by him) will present the Workgroup report to the Modifications Panel as required.

Appendix 1: Indicative Workgroup Timeline

The following timetable is suggested for progressing the CAP190 Workgroup. Please note that the timetable for the Modification Proposal process post-Workgroup is included for ease of reference (*in italics below*).

3 September 2010	Modifications Panel Meeting – agree Workgroup Terms of Reference
23 September 2010	First Workgroup meeting (using scheduled GSG meeting as host)
8 November 2010	Joint QC legal advice sought for CAP190 and P264
10 December 2010	Second Workgroup Meeting
21 January 2011	QC Meeting
W/C 31 January 2011	Third CAP190 Workgroup Meeting
10 February 2011	Circulate draft Workgroup Consultation for comment
23 February 2011	Publish Workgroup Consultation
16 March 2011	Deadline for responses to Workgroup Consultation
W/C 21 March 2011	Post-consultation Workgroup meeting (to review consultation responses, confirm any alternatives and undertake Workgroup vote)
7 April 2011	Draft Workgroup Report circulated for comment
14 April 2011	Deadline for comment on Workgroup report
26 April 2011	Publish final Workgroup report for Panel Papers
6 May 2011	Present Workgroup report to Modifications Panel
12 May 2011	<i>Issue industry consultation (3 weeks)</i>
3 June 2011	<i>Deadline for industry responses</i>
8 June 2011	<i>Draft Modification Report published</i>
15 June 2011	<i>Deadline for industry comment</i>
16 June 2011	<i>Publish draft Modification Report with panel papers</i>
24 June 2011	<i>Modifications Panel Meeting – Panel Recommendation Vote</i>
29 June 2011	<i>Circulate updated draft Modification Report with Panel Recommendation Vote for Panel comment</i>
6 July 2011	<i>Deadline for Panel Members' comments on draft Modification Report</i>
7 July 2011	<i>Send final Modification Report to Authority</i>
11 August 2011	<i>Indicative date for Authority decision (25 Working Day KPI)</i>
25 August 2011	<i>Indicative implementation date (10 Working Days after decision)</i>

NB. The timetable has been updated to take account of the postponement of the second Workgroup meeting to allow time for a joint legal brief to be circulated for CAP190 and BSC Modification Proposal P264 and for a meeting with the QC in London to take place following discussion of the legal advice. As a result, an extension was sought for the submission of the Workgroup Report to the Modifications Panel, from December 2010 to April 2011 (April meeting taking place in May due to Bank Holiday).

The draft legal advice received from the QC raised an issue with CAP190 and Article 6 of Statutory Instrument 2005/1646 and there is the possibility that CAP190 would have no effect if implemented. Therefore the timetable in red font is dependant on further clarification following a meeting with the QC and their final legal advice.