

Draft Final Modification Report

CMP365: Improvements to CUSC Governance Arrangements

Overview: This modification is based upon the principles of Grid Code GC0131 'Quick Wins'. The aim is to incorporate a smoother and more efficient process for code modifications that will allow for the best use of industry time.

Modification process & timetable

1	Proposal Form 11 March 2021
2	Workgroup Consultation n/a
3	Workgroup Report n/a
4	Code Administrator Consultation 12 April 2021 to 5pm on 4 May 2021
5	Draft Final Modification Report 20 May 2021
6	Final Modification Report 10 June 2021
7	Implementation 10 working days after Authority decision

Have 5 minutes? Read our [Executive summary](#)

Have 20 minutes? Read the full Draft Final Modification Report

Have 30 minutes? Read the full Draft Final Modification Report and Annexes.

Status summary: Draft Final Modification Report. This Report will be submitted to the CUSC Panel for them to carry out their Recommendation Vote on whether this change should happen.

This modification is expected to have a: Medium impact

All parties subject to the Connection and Use of System Code (CUSC)

Governance route Standard Governance modification to proceed to Code Administrator Consultation as the solution is fully developed and therefore does not need to be considered by a Workgroup.

Who can I talk to about the change?

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What is the issue?

A modification to the Grid Code ([GC0131](#)) has recently been implemented. This modification has improved upon the Open Governance process set out in ([GC0086](#)).

GC0131 was raised and implemented to set out additional, and minor issues which the proposer believes should also be included within the CUSC governance process to support making best use of industry time and alignment of governance rules where appropriate.

The areas the Proposer suggests are considered for updating and implementation through this modification are as follows:

- Initial assessment of proposals
- Quoracy
- Assessment of alternatives
- Titles and summaries of proposals
- Role of the Code Administrator Consultation
- Production of draft legal text

Further detail of these suggestions is highlighted within the “What is the Proposer’s solution?” section of this document.

Why change?

Making these changes will support creating a more efficient process for CUSC modifications and aligns to the recent changes implemented into the Grid Code through GC0131. This includes supporting better use of industry resources and the potential for workgroups and Panel members to respond quickly to drivers for change.

The Department for Business, Energy and Industrial Strategy and Ofgem have set out to review the codes. Within the [Ofgem Energy Codes Review](#) there are a set of objectives of which similarities can be found in this modification. This review is in place to address feedback from many industry parties regarding the existing governance of the codes. (NGESO have published a document outlining thoughts on this [here](#))

It is becoming clear that industry is seeking a regulatory framework which has the capability to deliver transformational change. This modification proposal aims to deliver some quick wins to the governance process before any formal changes are made within the energy code review. Of note, the principles of this change proposal are also based upon the potential improvements that have been consulted upon within the consultation process.

What is the Proposer’s solution?

- **Initial assessment of proposals**

As it stands, a proposal can be raised with no clear path to a solution, or what the impact may be upon relevant parties. The current requirements set out in CUSC 8.19.2 suggest that a working group can be set up to consider a modification proposal. The suggestion is to add to this and give an option to seek further development of any proposals in order to give clarity and create an initial assessment before final submission to the Panel for review. Having this option

would advance on the considerations of [CMP313 'Critical Friend'](#) raised by the Code Administrator in April 2019. It is recommended that this would have no bearing on any particular governance route, if a working group was required or sending the proposal to Code Administrator Consultation.

Upon receipt of this report, this gives the Panel more options to enable a more informed decision in how to progress the modification in question. This could also give the Proposer the opportunity to either clarify any further input to the proposal or withdraw. This report does not overwrite any of the open governance principles in place which means that the Proposer may choose to reject any advice offered in this process and continue without making any of the suggested recommendations. Key to note here is that the purpose is to support initial ideas being formed in such a way to allow for a greater chance of success and therefore, make better use of industry time.

- **Quoracy**

The current quoracy arrangements are set through the Governance Rules in CUSC Section 8 (8.20.3) This requires at least five persons to commit to attending a workgroup and any subsequent meetings of the working group (this includes the mandatory representation from the NGESO as a working group member). Given the pool of industry parties to be drawn upon quite often comprises of the same participants, there could be occasion where this is a barrier to progression of a modification. Should a modification be perceived as lower priority, or only relevant to a specific group of users, this may also create issues around quoracy. To combat this, having a little flexibility within the way that workgroups are set, whilst maintaining the balance to ensure that appropriate and apportioned representation of industry is present at meetings should drive meeting progression.

Workgroup member quoracy

Although establishing a quorate workgroup is not currently a problem for CUSC, we are seeking to replicate in CUSC the obligations introduced by GC0131 in the event a non-quorate workgroup is established. A non-quorate workgroup must comprise a minimum of three parties including the NGESO workgroup member, provided that they are not from affiliated companies or concerns.

This non-quorate workgroup (limited member workgroup) should follow the below checks and balances additionally to all standard workgroup obligations.

- Prior to the workgroup consultation, circulate a draft of this to the Panel for comment and approval.
- As part of the workgroup consultation, the Code Administrator should again formally seek workgroup nominations and then seek further advice from the Panel on how to proceed if quoracy is again not reached.
- If quoracy is still not reached, and the Panel advises the non-quorate workgroup to continue, a draft of the final workgroup report must be circulated to all stakeholders on the CUSC mailing list for comment following the workgroup vote on whether their terms of reference have been fulfilled, and before submission of the final workgroup report to the Panel.

There could be a risk that a proposal being developed by a limited membership workgroup results in late comments raised by parties who were not involved in the discussions; if this is the case, Code Administrator can, through communications during the modification highlight that further workgroup members are welcome to join.

This part of the GC0131 Grid Code modification proposal was further developed by the Grid Code workgroup to add that Ofgem had the opportunity to veto a particular workgroup proceeding as a limited membership workgroup. This would require further discussion by the Panel or the Code Administrator to endeavour to achieve quoracy.

- **Assessment of alternatives**

CUSC Section 8.20.15 (as per the current baseline text but updated in the drafted legal text proposal as 8.20.18) gives allowance for the workgroup to assess any potential alternatives to a proposal being developed during the workgroup phase, setting this against the CUSC objectives. Should an alternative proposal be deemed a better solution than the original proposal to the baseline text, either by a majority vote, or by the chair of the workgroup, then the alternative proposal gets developed. This modification proposal however, seeks to assess if alternatives may offer a better solution than the originally proposed modification (as it is within the Balancing Settlement Code (BSC)), and if this is the case, then the alternative proposal will be developed. By doing this, the aim is to make better use of time and resources of the workgroup members but also to align with the [Electricity Transmission Standard Licence Conditions](#) . It is worth noting that there was an alternative raised within GC0131 to suggest that this part of the modification was removed, however Ofgem voted in favour of the original proposal to keep the alignment to our Licence Conditions.

- **Titles and summaries of proposals**

When a proposal is submitted, it is allocated a number by the Panel Secretary and the details are entered onto the CUSC Modification register. This proposal seeks to amend CUSC 8.16.7 to allow the Panel Secretary the permission to amend the title or the summary of the proposal if this will better reflect the content or intent of the modification, and where this will support gaining new workgroup members.

Role of the Code Administrator Consultation

A Code Administrator Consultation is already a mandatory step within the modification process, regardless of whether any workgroup meetings have taken place, or a workgroup consultation has been conducted. This proposal aims to consider if there is a clear way that can allow changes to solutions of modifications post-CAC where there has not been a workgroup. It may not always be possible for all relevant stakeholders to engage early in the process of all modifications and governance of this is not easily codified. A suggestion would be to include a clause into 8.23.4 (iv) to allow the Code Administrator and the proposer to collectively consider changes that may materialise in this situation, developing an appropriate solution before a subsequent Code Administrator Consultation may be conducted, if required along with consulting with Panel through their recommendation vote. A suggestion is also in place to give Panel members the opportunity to specify that a workgroup is formed when there had not been one in place previously to enable solutions to be fully considered before any further Code Administrator consultations take place. There is the possibility this may be

required in situations where the proposal initially seemed to be straightforward and developed, however turns out not to be.

- **Production of draft legal text**

There is no current requirement within the CUSC regarding who is responsible for drafting legal text either for a modification proposal or an alternate proposal.

Within the governance process, it is clear that that proposer owns the solution to the modification they are proposing and may wish to start drafting legal text to support this, even if the solution requires further development through a workgroup. Given legal text can be complex, this proposal seeks to suggest that the Code Administrator, who acts on behalf of NGENSO (owner of the legal text within the codes as licensee) should have the ultimate responsibility for any changes to the legal text.

Legal text cannot sensibly be written without a detailed solution, either from the proposer, or through workgroup discussion. Ideally, legal text will be drafted at the point that the workgroup agrees on a solution which requires no further development. This would be before any workgroup consultation takes place.

By adding an additional clause in 8.16.11 (d) the responsibility is outlined to suggest that legal text is based upon a full solution, which could be based upon a business rule which is required to enable the solution. However, drafting legal text as early as it is possible has been shown to assist in providing provide clarity to code users about proposed code changes.

Legal Text

The legal text can be found in Annex 2. Changes are shown in **red text**.

Legal text has been drafted for this proposed modification using;

- CUSC Section 8 V1.31- 25 June 2020 (there have been other minor typographical and spelling errors marked in this document for update upon implementation)
- CUSC Section 11 v1.82-14 December 2020.

What is the impact of this change?

Proposer's assessment against CUSC Non-Charging Objectives	
Relevant Objective	Identified impact
(a) The efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission Licence;	Positive Improved efficiency in the modification process and alignment to licence conditions
(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;	Neutral This is an improvement to the process to support industry change, not directly impacting competition.
(c) Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency *; and	Neutral This modification has no link to European Regulation 2009/714/EC.
(d) Promoting efficiency in the implementation and administration of the CUSC arrangements.	Positive Facilitation of quicker and more appropriate changes to the codes
*Objective (c) refers specifically to European Regulation 2009/714/EC. Reference to the Agency is to the Agency for the Cooperation of Energy Regulators (ACER).	

Proposer's assessment of the impact of the modification on the stakeholder / consumer benefit categories	
Stakeholder / consumer benefit categories	Identified impact
Improved safety and reliability of the system	Neutral This change is just related to the governance rules
Lower bills than would otherwise be the case	Neutral This change is just related to the governance rules
Benefits for society as a whole	Neutral This change is just related to the governance rules
Reduced environmental damage	Neutral This change is just related to the governance rules
Improved quality of service	Neutral This change is just related to the governance rules

Code Administrator Consultation summary

The Code Administrator Consultation was issued on the 12 April 2021 and closed on 4 May 2021 and received two responses. A summary of the responses can be found in the table below, and the full responses can be found in Annex 3.

Code Administrator Consultation summary	
Question	
Do you believe that the CMP365 Original Proposal better facilitates the Applicable CUSC Objectives?	<p>One respondent agreed that CMP365 better facilitated applicable objective d.</p> <p>The other respondent agreed that CMP365 better facilitated applicable objectives a and d apart from the changes proposed on Quoracy and Assessment of Alternatives.</p>
Do you support the proposed implementation approach?	<p>One respondent supported the implementation approach.</p> <p>The other respondent noted that this was shown as “N/A” in the Code Administrator Consultation¹.</p>
Do you have any other comments?	<p>One respondent noted that this change is identical in principle to those developed with the help of an industry workgroup and approved by Ofgem for application to the Grid Code under modification GC0131.</p> <p>The other respondent made specific comments on Quoracy and Assessment of Alternatives.</p> <ul style="list-style-type: none"> • On Quoracy, the respondent noted that this is not an issue for CUSC and a lack of quoracy indicates a more underlying issue with the Workgroup. The Proposer has since discussed with the respondent and re-iterated that the limited membership Workgroup is a “last resort” option; • On the Assessment of Alternatives, the respondent was concerned that this could potentially limit change options. The Proposer has since discussed with the respondent and noted that this change seeks alignment across Codes and the

¹ This has been updated in the Draft Final Modification Report

	Licence and believes this change will allow more rounded discussions.
Legal text issues raised in the consultation	
None	
EBGL issues raised in the consultation	
None	

When will this change take place?

Implementation date

10 working days after Authority approval

Date decision required by

As soon as reasonably practicable

Implementation approach

10 working days after Authority approval

Proposer's justification for governance route

Governance route: Standard Governance modification to proceed to Code Administrator Consultation

This modification proposal has been initiated by implementation of the Quick Wins GC0131 Grid Code Modification. That modification was assessed by a workgroup and was sent to the Authority for final decision on the outcome. Given that the legal text proposed within this proposal is based upon this and is in some cases copied from the Grid Code, the proposer suggests that it would not be in the best interest of industry or the Authority to have to spend time in workgroups to review legal text which has already been approved by the Authority. However, we feel it is prudent for the Authority to make the decision on this modification.

Interactions

- | | | | |
|--|---|---|--------------------------------|
| <input type="checkbox"/> Grid Code | <input type="checkbox"/> BSC | <input type="checkbox"/> STC | <input type="checkbox"/> SQSS |
| <input type="checkbox"/> European
Network Codes | <input type="checkbox"/> EBGL Article 18
T&Cs ² | <input type="checkbox"/> Other
modifications | <input type="checkbox"/> Other |

None identified.

² If your modification amends any of the clauses mapped out in Exhibit Y to the CUSC, it will change the Terms & Conditions relating to Balancing Service Providers. The modification will need to follow the process set out in Article 18 of the European Electricity Balancing Guideline (EBGL – EU Regulation 2017/2195) – the main aspect of this is that the modification will need to be consulted on for 1 month in the Code Administrator Consultation phase. N.B. This will also satisfy the requirements of the NCER process.

Acronyms, key terms and reference material

Acronym / key term	Meaning
BSC	Balancing and Settlement Code
CMP	CUSC Modification Proposal
CUSC	Connection and Use of System Code
EBGL	Electricity Balancing Guideline
NGESO	National Grid Electricity System Operator
STC	System Operator Transmission Owner Code
SQSS	Security and Quality of Supply Standards
T&Cs	Terms and Conditions

Reference material

- None

Annexes

Annex	Information
Annex 1	Proposal Form
Annex 2	Legal Text
Annex 3	Code Administrator Consultation Responses