

## Stage 03: Workgroup Report

### Connection and Use of System Code (CUSC)

# CMP225 Consequential changes following implementation of the Third Package and other miscellaneous changes.

What stage is this document at?

01	Initial Written Assessment
02	Workgroup Consultation
03	Workgroup Report
04	Code Administrator Consultation
05	Draft CUSC Modification Report
06	Final CUSC Modification Report

This proposal seeks to modify the CUSC to enable the Authority to raise, or direct the Licensee to raise, Modification Proposals that is considers necessary to comply with or implement the Electricity Regulation and / or any relevant legally binding decisions of the European Commission and / or Agency.

This document contains the discussion of the Workgroup which formed in January 2014.

**Published on:** 20 March 2014



***The Workgroup concludes:***

that CMP225 better meets the Applicable CUSC Objectives and so should be implemented.



***High Impact:***

Name of Parties impacted



***Medium Impact:***

Name of Parties impacted



***Low Impact:***

The Authority, Transmission Company.

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### Any Questions?

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## About this document

This document is the Workgroup Report which includes responses from the Workgroup Consultation and the final conclusions of the Workgroup, including the Workgroup vote.

## Document Control

<b>Version</b>	<b>Date</b>	<b>Author</b>	<b>Change Reference</b>
0.1	11 March 2014	Code Administrator	Draft to Workgroup
1.0	20 March 2014	Code Administrator	Version for Panel

## 1 Summary

- 1.1 This document summarises the deliberations of the Workgroup and describes the CMP225 Modification Proposal.
- 1.2 CMP225 was proposed by National Grid Electricity Transmission Plc and submitted to the CUSC Modifications Panel for their consideration on 29 November 2013. A copy of the Proposal can be found in Annex 1 of this document. The Panel determined that the proposal should be considered by a Workgroup and that they should report back to the CUSC Modifications Panel in March 2014 following a period for the Workgroup Consultation.
- 1.3 A like for like BSC Modification (P298 – Consequential amendments to the BSC Modification process following implementation of the Third Package and other miscellaneous changes) was raised in December 2013 by National Grid Electricity Transmission Plc and it was agreed by both the CUSC and BSC Panel that a joint CUSC / BSC Workgroup should be held in order to progress the proposals. CMP225 is being progressed in parallel with P298, which is due to report back to the BSC Panel in April 2014.
- 1.4 The Workgroup first met on 6 January 2014 and worked through the Terms of Reference. The Terms of Reference for CMP225 can be found in Annex 2 of this document. The Workgroup have considered the development of the Proposal and whether it better facilitates the Applicable CUSC Objectives.
- 1.5 The Workgroup Consultation was published on 6 February 2014 and closed on 27 February 2014. Two responses were received. These can be found in Annex 5.
- 1.6 A final Workgroup meeting was held on 4 March 2014 and the Workgroup members voted unanimously that CMP225 better facilitates the Applicable CUSC Objectives and so should be implemented. Further details of the vote can be found in Section 7.
- 1.7 This Workgroup Report has been prepared in accordance with the Terms of the CUSC and an electronic copy can be found on the National Grid website at <http://www2.nationalgrid.com/UK/Industry-information/Electricity-codes/CUSC/Modifications/CMP225/> along with the Proposal form. The Workgroup Report for P298 can be found at the following link, along with the Modification Proposal: <http://www.elexon.co.uk/mod-proposal/p298/>

## 2 Why Change?



- 2.1 The Third Package legislation was introduced in Great Britain through the Statutory Instrument for the Electricity and Gas (Internal Markets) Regulations 2011 which came into effect on 10 November 2011. The Statutory Instrument fully transposes the Third Package into UK law. As a result of these changes, a number of changes were made to the gas and electricity licences, including National Grid's Electricity Transmission (NGET) Licence.
- 2.2 There are two main changes that resulted from the Third Package. The first was the introduction of a new Relevant Objective which seeks to ensure that Industry Codes, and therefore any proposed modifications to industry codes, facilitate:  
*“compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or Agency”.*
- 2.3 The second change to the licence conditions was the ability for the Authority to raise modifications or to direct the relevant licensee to raise modifications which the 'Authority reasonably considers are necessary to comply with or implement the Regulation and any relevant legally binding decision of the European Commission and/or the Agency.’ Further to this, a number of rules are then applied. Firstly, that the modification shall be accepted into the process, secondly that the modification cannot be withdrawn without the Authority's consent and thirdly that an Authority timetable will apply where one is specified.

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### What is the Third Package?

The 'Third Package' consists of four EC Regulations and two EC Directives, which came into force on 3 September 2009. The aim of these is to bring in a competitive and integrated energy market to allow consumers to choose between different Suppliers; and provide for all Suppliers to access the market in each EC member state. It also brought into existence the [Agency for Cooperation of Energy Regulators \(ACER\)](#).

The UK Parliament gave effect to this in Great Britain in November 2011 through the [Electricity and Gas \(Internal Markets\) Regulations 2011](#).

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### 3 Solution

- 3.1 CMP225 is proposing amendments to CUSC Section 8 to enable the Authority to raise or direct the licensee to raise modifications to the CUSC which it reasonably considers are necessary to comply with or implement the Electricity Regulation and/or any relevant legally binding decisions of the European Commission and/or Agency.
- 3.2 Following the implementation of the changes to Electricity Transmission Licence Standard Conditions (SLC) C10 (Connection and Use of System Code) under the Third Package, the CUSC requires amendment in order to be consistent with the licence changes. Therefore, the CUSC will need to be amended to include the following elements:
  1. To allow the Authority to raise CUSC Modification Proposals to comply with European legislation.
  2. To apply the caveats in the licence to modifications which are raised by the *licensee* following an Authority direction to raise a European related CUSC Modification Proposal.
  3. To apply the caveats in the licence to modifications which are raised by the *Authority* in relation to relevant European legislation.
- 3.3 In regard to items 2 and 3 above, these caveats relate to such proposals (i) being accepted into the CUSC Modification process, (ii) where raised by the licensee, not to be withdrawn without the Authority's consent, and iii), to proceed in accordance with any timetable directed by the Authority.

## 4 Summary of Workgroup Discussions

### Presentation of Proposal

- 4.1 The Proposer of CMP225 and P298 presented on the key points of the Modifications at the first meeting and the group agreed with the high level principles of CMP225 as described in Section 3.
- 4.2 One Workgroup Member queried whether the “Agency” has or will have the power to make any legally binding decisions. The Authority’s attendee and another Workgroup Member agreed that it would, with the Workgroup Member believing that the Authority would determine if any decision was legally binding prior to any Modification being raised or directed. The Authority’s attendee agreed with this view. The Workgroup concluded that if the Agency didn’t have the power, then (i) the Licence or Act wouldn’t have included it and (ii) the Authority would not be able to raise (or direct) a modification as the ACER decision would not be legally binding.

### Solution

- 4.3 The Workgroup has discussed the items listed on the Terms of Reference and the solution requirements.
- 4.4 The Workgroup agreed with the approach for adopting the SCR text with respect to the areas of the Licence that are silent, namely:
  - The involvement of the Panel in such Modifications in agreeing and setting the Workgroup’s Terms of Reference and its ability to decide when the Modification is progressed to the next phase;
  - The adoption of withdrawn Modifications by Parties;
  - The amalgamations of these Modifications subject to the prior consent of the Authority; and
  - The Workgroup’s views, the Panel’s voting rights and recommendation of Panel Members not to be fettered in specified circumstances by the Authority.
- 4.5 Respondents to the Workgroup Consultation agreed with this view.
- 4.6 The Workgroup considered what other areas of the Transmission Licence are silent and need to be considered for inclusion in the CUSC. A Workgroup Member considered how in practice it would work where the Authority has raised, or directed the Licensee to raise a Modification and whether or not the Proposer attending the Workgroup meetings would need written consent to amend the solution. The Authority attendee noted that the Licence drafting was silent in this area and didn’t see any need to change the current rules around Proposer Ownership specifically for these types of Modifications.
- 4.7 With respects to amalgamations, the Authority’s attendee noted that he understood why the Workgroup may want to include provisions in the legal text, but noted that the Licence is silent on this aspect. ELEXON and a Workgroup Member both made the point that because the Licence is silent, should the question of amalgamation come up in the future then there would be nothing in the Licence or the applicable BSC/CUSC that would prevent or limit an amalgamation of such a Modification. As such, the Workgroup felt that it was necessary to add something in the BSC and CUSC.
- 4.8 The Workgroup considered what changes may be required to CUSC documents, systems and processes to support CMP225 and what the

related costs and lead times are. ELEXON and National Grid proposed to the Workgroup that the Implementation Date for CMP225 should be 10 Working Days (WDs) following the Authority's decision. A Workgroup Member asked National Grid and ELEXON how much each Modification would cost to implement in the respective codes. Both National Grid and ELEXON advised the Workgroup that as the two modifications would only require document changes, this would take approximately one WD each, so the costs would be minimal. The Workgroup agreed with the proposed implementation approach, with one Workgroup Member commenting that 10WDs allows for sufficient time for the industry to implement and accounts for situations where the recipient of the notice may be on leave.

## Other Comments

- 4.9 In the second meeting a Workgroup Member discussed what would happen in the event of a Modification Proposal being raised by the Licensee which contained an element related to compliance with European legislation, and then the Authority raised, or directed the Licensee to raise a modification specifically around the same European legislation aspect. The Workgroup Member felt that there could be a situation where the original modification was rushed through the process because of that specific aspect, and the other elements were therefore not fully considered. The Workgroup tried to come up with some solutions to this potential issue including raising a Workgroup Alternative CUSC Modification (WACM) which removed the element that had been addressed where the Authority raised (or directed to be raised) a proposal. The Workgroup also considered that under Proposer Ownership, the Proposer could remove this element as long as the solution still addressed the same defect. Therefore the original modification could be progressed as normal and the element relating to compliance with European legislation could be raised separately as an urgent modification, if appropriate. For the avoidance of doubt, CMP225 does not affect any Modification Proposal raised by a party other than the Licensee (National Grid) which contained an element of European Regulation, and the Authority then raised, or directed the Licensee to raise a modification specifically around the same European Regulation aspect. In that scenario the Modification raised by the party other than the Licensee would proceed in the normal way. Respondents to the Workgroup Consultation agreed with the options identified and trusted that a pragmatic approach would be taken in the unlikely event of this situation occurring.
- 4.10 A Workgroup member believed that the Workgroup should consider the practicalities for when the Authority raises a Modification and attends a Workgroup as Proposer and observer. The member didn't think it needed consideration as part of the legal text but thought it would be useful to provide guidance for future Workgroups where this may become relevant. The member noted that there could be a legal challenge if the Authority attendee on the Workgroup expresses an opinion and it is not clear as to whether it is doing so as the Proposer or as an observer. The member suggested that the Authority might want to send two people, one as the Proposer and one as an observer. ELEXON suggested that this could be addressed by adding requirements into the generic Workgroup terms of reference. This could expand on the legal text and include an express requirement that where the Authority sends one person, the Authority's attendee must state when they are making a statement as the Proposer or as an observer. The member agreed and suggested that the Final Modification Reports should also include specific reference to when the Authority has expressed a view as Proposer and as an observer. The Workgroup agreed with this approach for the CUSC.

## Legal Text

- 4.11 The Workgroup noted that using the SCR text was very useful as a starting point.
- 4.12 The Workgroup agreed to capture the provisions used in the Licence and use the SCR text as a basis for drafting the legal text for CMP225.
- 4.13 A Workgroup Member asked whether there was a need to amend the legal text around Pending Modifications and Rejected Modifications. However, during the page-turn of the draft legal text the Workgroup agreed that this would not be required as this was covered off by the provision that the Panel shall not refuse to accept such a Modification.
- 4.14 A Workgroup Member asked whether it would be better to separate the wording in the draft legal text regarding Authority raised, and Authority directed proposals to ensure clarity for where the Authority raises such Modifications and for where it directs the Transmission Company to raise such Modifications. The Workgroup Member believed that this would be clearer for industry and the Panel meetings as to who was raising the Modification. He suggested that when the Authority raises, or National Grid raises at the direction of the Authority, such Modifications, then the Code Administrator(s) could reference the relevant clause in their notifications. The Workgroup and Proposer agreed to this suggestion and the associated changes to the draft legal text.
- 4.15 A Workgroup Member also pointed out that the Licence includes specific clauses for where the Licensee must raise a Modification if directed; and the applicable Panel must follow the Authority's directed timetable where one is issued. The Workgroup Member also noted that the Authority is able to set a timetable for such Modifications that the Licensee has raised. As such, the Workgroup agreed that the legal text should reflect this. In the second meeting, the Authority's attendee highlighted that this section of the text did not cover off withdrawal and it was agreed to add this in.
- 4.16 The Workgroup discussed whether the legal text needs to contain a 'short-hand' definition (such as "European Required Modifications") within CUSC Section 11, but agreed that this was not required. Instead, the Workgroup felt that it would be appropriate for the Code Administrator(s) to adopt one for use in their Modification Reports. Otherwise, the Workgroup agreed that there should be definitions of the "Agency", the "Electricity Regulation" and the "European Commission" included in the legal text.
- 4.17 The Workgroup had a lengthy discussion about paragraph 8.17A.6 with regards to the non-fettering of views for such Modifications. It was agreed that this paragraph should not refer to the recommendation of the Modification Report, as it had been agreed historically that the recommendation comes from CUSC Panel Members only. The Authority representative queried the need for this paragraph as the Licence did not contain any such wording. However, the Workgroup felt that it needed to be incorporated into the code legal text as it gave clarity and comfort that in such situations, any notification from the Authority of a Modification of this nature being required, would still follow the same procedures as a standard proposal and that the Workgroup and Panel were able to treat the proposal as they treat any other proposal. In order to meet the concerns of the Workgroup, particularly in the context in which it is set out, it was agreed for CMP225 to include an allowance for Workgroups' views and the voting rights and recommendation of Panel Members not to be fettered in the specified

circumstances by the Authority. The Workgroup noted that the licence will always take precedent in the event of code and licence provisions clashing.

- 4.18 The Workgroup also discussed whether paragraph 8.17A.6 should refer to a 'declaration' or 'notification' from the Authority regarding directing such Modifications. The Ofgem representative felt that the paragraph should reflect the wording of the Licence which states 'reasonably considers' in all references to Modifications raised in respect of EU compliance and does not make reference to any declaration or notification.

#### **Workgroup Alternative CUSC Modifications**

- 4.19 The Workgroup did not propose any Workgroup Alternative CUSC Modifications to the original proposal.

### Impact on the CUSC

- 5.1 CMP225 requires amendments to the following parts of the CUSC:
- Section 8 – CUSC Modification
  - Section 11 – Interpretation and Definitions
- 5.2 The text required to give effect to the Original Proposal is contained in Annex 3 of this document.

### Impact on Greenhouse Gas Emissions

- 5.3 Neither the Proposer nor the Workgroup identified any material impact on Greenhouse Gas emissions.

### Impact on Core Industry Documents

- 5.4 Neither the Proposer nor the Workgroup identified any impacts on Core Industry Documents.

### Impact on other Industry Documents

- 5.5 Neither the Proposer nor the Workgroup identified any impacts on other Industry Documents.

## 6 Proposed Implementation

- 6.1 If approved, the Code Administrator proposes that CMP225 should be implemented 10 days after an Authority decision. The Workgroup agreed with this view.

## 7 The Case for Change

### Assessment against Applicable CUSC Objectives

- 7.1 For reference the CUSC Objectives are:

- (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.
- (c) compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency.

- 7.2 The Proposer considers that CMP225 would better facilitate the following Applicable CUSC Objectives (ACO):

ACO (a) - This is a consequential change to changes to the licence as a result of the Third Package. Changes to the CUSC will accurately reflect the provisions set out in Standard Licence Condition C10 covering the circumstances and process to be followed in relation to Authority raised/directed CUSC Modification Proposals.

ACO (c) - This proposal results from the Third Package Legislation and complies with changes resulting from The Electricity and Gas (Internal Markets) Regulations 2011.

### Workgroup Conclusion

- 7.3 The Workgroup believe that the Terms of Reference have been fully considered. No Workgroup Alternative CUSC Modifications were raised. At their meeting on 4 March 2014, the Workgroup voted unanimously that CMP225 better facilitates the Applicable CUSC Objectives. Details of the vote are contained in the tables below:

### Vote 1 - Whether CMP225 better facilitates the Applicable CUSC Objectives.

	(a)	(b)	(c)	Overall
Emma Radley	Yes, it accurately reflects the provisions set out in the Licence regarding	Neutral.	Yes, it complies with the changes resulting from the Third Package legislation.	Yes.

	Authority raised/directed modifications of this nature.			
Esther Sutton	Yes, as above.	Neutral.	Yes, as above.	Yes.
James Anderson.	Yes, it reflects the conditions under which such modifications can be raised.	Neutral.	Yes, it provides allows for the requirements of the relevant European regulations to be incorporated into the CUSC.	Yes.
Garth Graham	Yes, it reflects the conditions set out in the Licence regarding such modifications.	Neutral.	Yes, it complies with the outcome of the Third Package.	Yes.

**Vote 2 - Which option BEST facilitates achievement of the ACOs? (inc. CUSC baseline)**

<b>Name</b>	<b>Preference</b>
Emma Radley	CMP225
Esther Sutton	CMP225
James Anderson	CMP225
Garth Graham	CMP225

**Title of the CUSC Modification Proposal**

Consequential changes following Implementation of the Third Package and other miscellaneous changes

**Submission Date**

21 November 2013

**Description of the Issue or Defect that the CUSC Modification Proposal seeks to address**

The Third Package legislation was introduced in Great Britain through the Statutory Instrument for the Electricity and Gas (Internal Markets) Regulations 2011 which came into effect on 10 November 2011. The Statutory Instrument fully transposes the Third Package into UK law. As a result of these changes, a number of changes were made to the gas and electricity licences, including National Grid’s Electricity Transmission (NGET) Licence.

There are two main changes that resulted from the Third Package. The first was the introduction of a new Relevant Objective which seeks to ensure that Industry Codes, and therefore any proposed modifications to industry codes, facilitate:

*“compliance with the Electricity Regulations and any relevant legally binding decision of the European Commission and/or Agency”.*

The second change to the licence conditions was the ability for the Authority to raise modifications which the ‘Authority reasonably considers are necessary to comply with or implement the Regulations and/or any relevant legally binding decisions of the European Commission and/or the Agency.’ Further to this, a number of rules are then applied. Firstly, that the modifications must be accepted into the process, secondly that the modification cannot be withdrawn without the Authority’s consent, and thirdly that an Authority timetable will apply where one is specified.

No Modifications were raised to put this ability into the CUSC at that time as following the changes to Condition C10 of the Electricity Transmission Standard Conditions, it was identified that the current wording could be interpreted in such a way that the Authority could raise any kind of modification.

In November 2012, Ofgem issued a consultation on further proposed licence changes following the implementation of the Third Package and other miscellaneous changes. One part of this consultation was to clarify the circumstances under which the authority could raise Modifications. The Authority issued a second consultation on 29 July 2013 on modifications to the licences that it considered may be required. On 22 October 2013 the Authority notified the industry of its decision to modify electricity licence conditions following the implementation of the Third Package and other housekeeping changes, which will take effect from 17 December 2013.

As a result of these clarifications to the licence wording, this CUSC Proposal has been raised to amend the code to reflect the conditions under which the Authority can raise Modifications and the actions that affected parties (e.g. NGET) will need to take or consider.

**Description of the CUSC Modification Proposal**

This Modification is proposing amendments to CUSC Section 8 to enable the Authority to raise modifications to the CUSC that it considers necessary to comply with or implement the Electricity Regulation and/or any relevant legally binding decisions of the European Commission and/or Agency.

Currently the CUSC does not allow for the Authority to raise Modifications Proposals in order to comply with the relevant European legislation. Following the implementation of the changes to Electricity Transmission Licence Standard Conditions (SLC) C10 (Connection and Use of System Code) under the Third Package, the CUSC requires amendment in order to be consistent with the licence changes. Therefore, the CUSC will need to be

amended to include the following elements:

1. To allow the Authority to raise CUSC Modification Proposals to comply with European legislation
2. To apply the caveats in the licence to modifications which are raised by the *licensee* following an Authority direction to raise a European related CUSC Modification Proposal
3. To apply the caveats in the licence to modifications which are raised by the *Authority* in relation to European regulation.

In regard to items 2 and 3 above, these caveats relate to such proposals (i) being accepted into the CUSC Modification process, (ii) where raised by the licensee, not to be withdrawn without the Authority's consent, and iii), to proceed in accordance with any timetable directed by the Authority.

Consideration will need to be given as to the involvement of the CUSC Panel when initially considering such an Authority raised Modification, in that:

- To what extent they agree and set the Terms of Reference for any necessary Workgroup meetings; and
- Its ability to decide on when the Modification is progressed to the next phase of the Modification Process (e.g. accepting the Workgroup Report and progressing to Code Administrator Consultation).

Consideration will also need to be given as to whether or not such Modifications can be adopted by a CUSC Party if that Modification is withdrawn.

### Impact on the CUSC

Changes will be required to Section 8 of the CUSC – 'CUSC Modification'. In particular 8.16 'CUSC Modification Proposals'.

In addition, the CUSC Modification Proposal form for Charging Modifications will need to be updated to include the EU related relevant objective.

### Do you believe the CUSC Modification Proposal will have a material impact on Greenhouse Gas Emissions?

No.

### Impact on Core Industry Documentation. Please tick the relevant boxes and provide any supporting information

BSC

Grid Code

STC

Other

(please specify)

### Urgency Recommended:

No.

### Justification for Urgency Recommendation

### Self-Governance Recommended:

No – there is a material impact on governance.

### Justification for Self-Governance Recommendation

### Should this CUSC Modification Proposal be considered exempt from any ongoing Significant Code Reviews?

Yes.

### Impact on Computer Systems and Processes used by CUSC Parties:

None.

### Details of any Related Modification to Other Industry Codes

A like-for-like proposal will be raised for the BSC. The STC Modification Proposal form will also require updating to account for the EU related relevant objective.

### Justification for CUSC Modification Proposal with Reference to Applicable CUSC Objectives:

(a) the efficient discharge by The Company of the obligations imposed upon it by the Act and the Transmission Licence

This is a consequential change to changes to the licence as a result of the Third Package. Changes to the CUSC will accurately reflect the provisions set out in Standard Licence Condition C10 covering the circumstances and process to be followed in relation to Authority raised/directed CUSC Modification Proposals.

(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.

(c) compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency.

These are defined within the National Grid Electricity Transmission plc Licence under Standard Condition C10, paragraph 1.

This proposal results from the Third Package Legislation and complies with changes resulting from The Electricity and Gas (Internal Markets) Regulations 2011.

### Additional details

<b>Details of Proposer:</b> (Organisation Name)	Emma Radley National Grid Electricity Transmission
Capacity in which the CUSC Modification Proposal is being proposed: (i.e. CUSC Party, BSC Party or "National Consumer Council")	CUSC Party
<b>Details of Proposer's Representative:</b> Name: Organisation: Telephone Number: Email Address:	Emma Radley National Grid Electricity Transmission 01926 655223 <a href="mailto:Emma.Radley@nationalgrid.com">Emma.Radley@nationalgrid.com</a>
<b>Details of Representative's Alternate:</b> Name: Organisation: Telephone Number: Email Address:	Alex Thomason National Grid Electricity Transmission 01962 656379 <a href="mailto:Alex.thomason@nationalgrid.com">Alex.thomason@nationalgrid.com</a>
<b>Attachments (Yes/No): No.</b>	

### TERMS OF REFERENCE FOR CMP225 WORKGROUP

#### Responsibilities

1. The Workgroup is responsible for assisting the CUSC Modifications Panel in the evaluation of CUSC Modification Proposal CMP225 'Consequential changes following implementation of the Third Package and other miscellaneous changes' tabled by National Grid Electricity Transmission Plc at the Modifications Panel meeting on 29 November 2013.
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;
  - (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;
  - (c) Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency.
3. It should be noted that additional provisions apply where it is proposed to modify the CUSC Modification 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) The role of the CUSC Panel in its initial consideration of proposals raised.
  - b) Consider whether such proposals can be adopted by a CUSC Party if they are withdrawn.
  - c) Review any other areas where the Transmission Licence is silent, but may need to be considered for inclusion in CUSC.
  - d) Consider Implementation approach.

e) Review Indicative Legal Text.

6. The Workgroup is responsible for the formulation and evaluation of any Workgroup Alternative CUSC Modifications (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 WACM 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 Modifications Panel Secretary on 20 March 2014 for circulation to Panel Members. The final report conclusions will be presented to the CUSC Modifications Panel meeting on 28 March 2014.

## Membership

13. It is recommended that the Workgroup has the following members:

Role	Name	Representing
<i>Chairman</i>	David Barber	
<i>National Grid Representative*</i>	Emma Radley	National Grid
<i>Industry Representatives*</i>	Garth Graham	SSE
	James Anderson	Scottish Power
	Esther Sutton	E.ON
	Phil Russell	Redholm Informatics
	Lisa Waters	Waters Wye
<i>Authority Representatives</i>	Abid Sheikh	Ofgem
<i>Observers</i>	Stacey McLanaghan	National Grid

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 CMP225 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.

Please note that the new draft text is highlighted in blue font and deleted text in red strikethrough.

### CUSC – SECTION 8

### CUSC MODIFICATION

#### 8.16 CUSC MODIFICATION PROPOSALS

##### 8.16.1

- (a) A proposal to modify the **CUSC** (excluding the **Charging Methodologies**) may be made:
  - (i) by a **CUSC Party**, by the **National Consumer Council** or by a **BSC Party**; or
  - (ii) under Paragraph 8.28.5, by the **CUSC Modifications Panel**; or
  - (iii) by a **Relevant Transmission Licensee** in relation to Exhibit O Part IB Exhibit O Part IIB, Exhibit O Part IC and Exhibit O Part IIC only; or
  - (iv) by the **Authority**, or by **The Company** under the direction of the **Authority**, pursuant to Paragraph 8.17A.1
  
- (b) A proposal to modify the **Charging Methodologies** may be made:
  - (i) by a **CUSC Party**, by the **National Consumer Council** or by a **BSC Party**; or
  - (ii) under Paragraph 8.28.5, by the **CUSC Modifications Panel**; or
  - (iii) by a **Relevant Transmission Licensee** in relation to Exhibit O Part IB, Exhibit O Part IIB, Exhibit O Part IC and Exhibit O Part IIC only; or
  - (iv) by a **Materially Affected Party**, unless otherwise permitted by the **Authority**; or
  - (v) by the **Authority**, or by **The Company** under the direction of the **Authority**, pursuant to Paragraph 8.17A.1.

8.16.5 if a proposal fails in any material respect to provide the information in Paragraph 8.16.4 (excluding Paragraphs (e), (i) and (j) thereof), the **Panel Secretary** may, subject to Paragraphs 8.14.3(a) and 8.17A.8, reject such proposal provided that:

- (a) the **Panel Secretary** shall furnish the **Proposer** with the reasons for such rejection;

- (b) the **Panel Secretary** shall report such rejection to the **CUSC Modifications Panel** at the next **CUSC Modifications Panel** meeting, with details of the reasons;
- (c) if the **CUSC Modifications Panel** decides to reverse the **Panel Secretary's** decision to refuse the submission, the **Panel Secretary** shall notify the **Proposer** accordingly and the proposal shall be dealt with in accordance with this Section 8;
- (d) nothing in this Section 8 shall prevent a **Proposer** from submitting a revised proposal in compliance with the requirements of Paragraph 8.16.4 in respect of the same subject-matter.

8.16.6 Subject to Paragraph 8.17A.8, and ~~W~~without prejudice to the development of a **Workgroup Alternative CUSC Modification(s)** pursuant to Paragraphs 8.20.10 and 8.20.15, the **CUSC Modifications Panel** shall direct in the case of (a), and may direct in the case of (b), the **Panel Secretary** to reject a proposal pursuant to Paragraph 8.16, other than a proposal submitted by **The Company** pursuant to a direction issued by the **Authority** following a **Significant Code Review** in accordance with Paragraph 8.17.6, if and to the extent that such proposal has, in the opinion of the **CUSC Modifications Panel**, substantially the same effect as:

- (a) a **Pending CUSC Modification Proposal**; or
- (b) a **Rejected CUSC Modification Proposal**, where such proposal is made at any time within two (2) months after the decision of the **Authority** not to direct **The Company** to modify the **CUSC** pursuant to the **Transmission Licence** in the manner set out in such **CUSC Modification Proposal**,

and the **Panel Secretary** shall notify the **Proposer** accordingly.

8.16.10 Subject to Paragraph 8.17A.8 (which deals with rejection by the **Panel Secretary of CUSC Modification Proposals** which are necessary to comply with or implement the **Electricity Regulation** and/or any relevant legally binding decisions of the **European Commission** and/or the **Agency**), and Paragraph 8.17.7, which deals with the withdrawal of a **CUSC Modification Proposal** made pursuant to a direction following a **Significant Code Review**, a **Proposer** may withdraw his support for a **Standard CUSC Modification Proposal** by notice to the **Panel Secretary** at any time prior to the **CUSC Modifications Panel Recommendation Vote** undertaken in relation to that **Standard CUSC Modification Proposal** pursuant to Paragraph 8.23.4, and a **Proposer** may withdraw his support for a **CUSC Modification Proposal** that meets the **Self-Governance Criteria** by notice to the **Panel Secretary** at any time prior to the **CUSC Modifications Panel Self-Governance Vote** undertaken in relation to that **CUSC Modification Proposal** pursuant to Paragraph 8.25.9, and a **Proposer** may withdraw his support for a **CUSC Modification Fast Track Proposal** by notice to the **Panel Secretary** at any time prior to the **Panel's** vote on whether to approve the **CUSC Modification Fast Track Proposal** pursuant to Paragraph 8.29 in which case the **Panel Secretary** shall forthwith:

- (a) notify those parties specified in Paragraph 8.16.1 as relevant in relation to the **CUSC Modification Proposal** in question (a "**Relevant Party**") that he has been notified of the withdrawal of support by the **Proposer** by publication on the **Website** and (where relevant details are supplied) by electronic mail. A **Relevant Party** may within five (5) **Business Days** notify the **Panel Secretary** that it is prepared to support the **CUSC Modification Proposal** in place

of the original **Proposer**. If such notice is received, the name of such **Relevant Party** shall replace that of the original **Proposer** as the **Proposer**, and the **CUSC Modification Proposal** shall continue. If more than one notice is received, the first received shall be utilised;

- (b) if no notice of support is received under (a), the matter shall be discussed at the next **CUSC Modifications Panel** meeting. If the **CUSC Modifications Panel** so agrees, it may notify **Relevant Parties** that the **CUSC Modification Proposal** is to be withdrawn, and a further period of five (5) **Business Days** shall be given for support to be indicated by way of notice;
- (c) if no notice of support is received under (a) or (b), the **CUSC Modification Proposal** shall be marked as withdrawn on the **CUSC**.

## 8.17A AUTHORITY RAISED OR DIRECTED MODIFICATION

8.17A.1 The **Authority** may:

- (a) itself; or
- (b) direct **The Company** to

raise a **CUSC Modification Proposal** where the **Authority** reasonably considers that such **CUSC Modification Proposal** is necessary to comply with or implement the **Electricity Regulation** and/or any relevant legally binding decisions of the European Commission and/or the **Agency**.

8.17A.2 **The Company** shall comply with any directions from the **Authority** in relation to setting and/or amending a timetable for;

- (a) the raising of a **CUSC Modification Proposal** pursuant to Paragraph 8.17A.1(b); and/or
- (b) where the **Authority** has approved a **CUSC Modification Proposal** raised pursuant to Paragraph 8.17A.1, implementation of such **CUSC Modification Proposal**.

8.17A.3 In respect of a **CUSC Modification Proposal** raised pursuant to Paragraph 8.17A.1, the **CUSC Modification Panel** shall comply with any timetable(s) directed by the **Authority** in relation to setting and/or amending a timetable for the completion of all relevant steps of the **CUSC Modification Process** or such other processes set out in this Section 8.

8.17A.4 Notwithstanding any other Paragraphs in this Section 8, a **CUSC Modification Proposal** raised pursuant to Paragraph 8.17A.1:

- (a) shall not be withdrawn by the **Transmission Company** and/or the **CUSC Modification Panel** without the prior consent of the **Authority**.

(b) shall not be amalgamated with any other **CUSC Modification Proposal** without the prior consent of the **Authority**.

8.17A.5 If, pursuant to paragraph 8.17A.4(a), the **Authority** consents to the withdrawal of a **CUSC Modification Proposal**, the provisions of Paragraph 8.16.10 shall apply to such **CUSC Modification Proposal**.

8.17A.6 In respect of any **CUSC Modification Proposal** which has been raised pursuant to Paragraph 8.17A.9, the views of the relevant **Workgroup**, the voting rights of the **CUSC Modifications Panel** or the recommendation of the **CUSC Modifications Panel** shall not be fettered or restricted notwithstanding that such **CUSC Modification Proposal** has been raised under Paragraph 8.17A.9.

8.17A.7 A **CUSC Modification Proposal** shall still be assessed against the **Self Governance Criteria** and **Fast Track Criteria** notwithstanding that it has been raised pursuant to Paragraph 8.17A.1.

8.17A.8 A **CUSC Modification Proposal** raised pursuant to Paragraph 8.17A.1 shall not be rejected by the **Panel Secretary** pursuant to Paragraphs 8.16.5 or 8.16.6.

8.17A.9 In relation to any **CUSC Modification Proposal** raised by **The Company** other than pursuant to Paragraph 8.17A.1, where the **Authority** reasonably considers such **CUSC Modification Proposal** to be necessary to comply with or implement the **Electricity Regulation** and/or any relevant legally binding decision of the **European Commission** and/or the **Agency**, the provisions of Paragraphs 8.17A.2 to 8.17A.8 shall apply.

8.19.3 Subject to Paragraphs 8.14.3 and 8.17A.4(b), the **CUSC Modifications Panel** may decide to amalgamate a **CUSC Modification Proposal** with one or more other **CUSC Modification Proposals** where the subject-matter of such **CUSC Modification Proposals** is sufficiently proximate to justify amalgamation on the grounds of efficiency and/or where such **CUSC Modification Proposals** are logically dependent on each other.

## CUSC – SECTION 11

### INTERPRETATION AND DEFINITIONS

**“Agency”**

means the Agency for the Cooperation of the Energy Regulators established under 2009/713/EC of the European Parliament and of the Council of the 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators as amended from time to time;

**“Electricity Regulation”**

means Regulation 2009/714/EC of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation 2003/1228/EC as amended from time to time;

**“European Commission”**

means the institution of that name established under The Treaty on European Union as amended from time to time;

## Annex 4 - Workgroup Attendance Register

<b>Name</b>	<b>Organisation</b>	<b>Role</b>	<b>6/1/14 Attended?</b>	<b>20/1/14 Attended?</b>	<b>4/3/14 Attended?</b>
David Barber	ELEXON	Chairman	Yes	Yes	Yes
Simon Fox	ELEXON	Code Administrator	Yes	Yes	Yes
Emma Radley	National Grid	Proposer	Yes	Yes	Yes
Stacey McLanaghan	National Grid	Observer	Yes	Yes	No
Abid Sheikh	Ofgem	Authority Representative	Yes	Yes	Yes
James Anderson	Scottish Power	Workgroup Member	Yes	Yes	Yes
Garth Graham	SSE	Workgroup Member	Yes	Yes	Yes
Esther Sutton	E.ON	Workgroup Member	Yes	Yes	Yes
Phil Russell	Redholm Informatics	Workgroup Member	No	Yes	No
Lisa Waters	Waters Wye	Workgroup Member	No	No	No

## Annex 5 – Workgroup Consultation Responses

<b>Respondent:</b>	<i>James Anderson</i>
<b>Company Name:</b>	<i>ScottishPower Energy Management</i>
<b>Please express your views regarding the Workgroup Consultation, including rationale.</b> <b>(Please include any issues, suggestions or queries)</b>	ScottishPower believes that the workgroup has thoroughly explored the impact on CUSC modification processes of reflecting changes in the Electricity Regulation or legally binding decisions of the European Commission/ACER.
<b>Q.1 Do you believe that the proposed original or any of the alternatives better facilitate the Applicable CUSC Objectives? Please include your reasoning.</b>	<p>For reference, the Applicable CUSC objectives are:</p> <ul style="list-style-type: none"> <li>(a) the efficient discharge by the licensee of the obligations imposed upon it under the Act and by this licence;</li> <li>(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.</li> <li>(c) compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency</li> </ul> <p>We believe that the proposal better facilitates Applicable Objective C as it provides a mechanism for the requirements of relevant European regulations to be incorporated into the CUSC.</p>
<b>Q.2 Do you support the proposed implementation approach? If not, please state why and provide an alternative suggestion where possible.</b>	<i>Yes, we support the proposed implementation approach.</i>
<b>Q.3 Do you wish to raise a WG Consultation Alternative Request for the Workgroup to consider?</b>	<p><i>If yes, please complete a WG Consultation Alternative Request form, available on National Grid's website<sup>1</sup>, and return to the above email address with your completed Workgroup Consultation response proforma.</i></p> <p><i>No.</i></p>
<b>Do you have any other comments?</b>	<i>No.</i>

<sup>1</sup> <http://www2.nationalgrid.com/UK/Industry-information/Electricity-codes/CUSC/Modifications/Forms-and-guidance/>

## Specific questions for CMP225

Q	Question	Response
4	Do you agree with the approach to use the SCR text (CUSC Section 8.17) as a basis for the draft CMP225 legal text?	ScottishPower agrees that making the changes to the SCR text (CUSC 8.17) is the most efficient way to introduce the new provisions.
5	Do you have any comments on the suggestions highlighted in paragraph 4.8 or any alternative solutions?	We think that is unlikely that a situation such as that described in 4.8 could arise due to the long development time of European regulations. However, should this arise, we would expect the Company to adopt a pragmatic approach, as discussed in 4.8, to ensure that all elements of any proposal are given full consideration under the modification process.
6	Do you agree with the Workgroup that paragraph 8.17A.6 of the draft legal text delivers the intention of the CMP225 proposed solution. Please provide rationale.	Yes. The legal text appears to deliver the intention of the proposed solution.

<b>Respondent:</b>	Esther Sutton esther.sutton@eon-uk.com
<b>Company Name:</b>	E.ON
<b>Please express your views regarding the Workgroup Consultation, including rationale. (Please include any issues, suggestions or queries)</b>	E.ON support CMP225 and concur with the Workgroup's reasoning. We do agree with the point raised by a Workgroup member that when Ofgem employee(s) are present at a Workgroup for a relevant modification, it must be made clear and recorded in what capacity they are speaking, i.e Proposer or observer/Authority representative.
<b>Q.1 Do you believe that the proposed original or any of the alternatives better facilitate the Applicable CUSC Objectives? Please include your reasoning.</b>	<p>For reference, the Applicable CUSC objectives are:</p> <ul style="list-style-type: none"> <li>(d) the efficient discharge by the licensee of the obligations imposed upon it under the Act and by this licence;</li> <li>(e) 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.</li> <li>(f) compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency.</li> </ul> <p>We agree that CMP225 would support CUSC Applicable Objectives (a) and (c), as put forward by the Proposer and</p>

	agreed by the Workgroup. We note that no alternative solutions have been put forward.
<b>Q.2 Do you support the proposed implementation approach? If not, please state why and provide an alternative suggestion where possible.</b>	Yes, the usual 10 working day implementation approach is suitable for CMP225.
<b>Q.3 Do you wish to raise a WG Consultation Alternative Request for the Workgroup to consider?</b>	No.
<b>Do you have any other comments?</b>	No.

### Specific questions for CMP225

<b>Q</b>	<b>Question</b>	<b>Response</b>
4	Do you agree with the approach to use the SCR text (CUSC Section 8.17) as a basis for the draft CMP225 legal text?	Yes, it is desirable for a consistent approach to be taken with CMP225 as for the SCR text.
5	Do you have any comments on the suggestions highlighted in paragraph 4.8 or any alternative solutions?	The scenario of an existing modification containing an element related to European Regulation can be envisaged, potentially raising concerns about timescales and overlap with any related Authority-raised or directed proposal. Hopefully in practice this could be managed as identified, i.e. with the possibility for the EU-related issue to be progressed in a separate modification, urgently if necessary, with WACM(s) raised for the existing proposal, if these could still provide a viable solution to the original defect.
6	Do you agree with the Workgroup that paragraph 8.17A.6 of the draft legal text delivers the intention of the CMP225 proposed solution. Please provide rationale.	Yes, 8.17A.6 is satisfactory and consistent with the proposal's intent. As stated we believe that for absolute clarity it should indeed be emphasized that Workgroup debate, conclusions etc. should not be fettered by the fact of the proposal having been raised by the Authority. This is desirable to fulfil the proposal's intent to set out in the Code not only the conditions under which the Authority can raise or direct proposals, but also progression of such a proposal through the modification process and the actions that parties will need to consider.