

CMP203 TNUoS Charging Arrangements for Infrastructure Assets Subject to One-Off Charges

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| Proposer | National Grid | Submitted | 8 th December 2011 | Submitted Priority | Normal |
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CMP203 seeks to align GB market arrangements with those prevalent within other EU member states. This will deliver more effective competition and trade across the EU and so deliver benefits to all end consumers.

It is proposed that Balancing Services Use of System (BSUoS) charges, which are currently charged to all liable CUSC parties on a non locational MWh basis, are removed from GB generators. This will effectively align the GB 'generation stack' with those in other EU markets, thus facilitate equitable competition with generation in other EU markets which are not subject to such charges.

There should be no adverse effects for GB end consumers, subject to implementation taking account of existing contractual commitments. Aligning the GB market arrangements with other member states better facilitates an efficient functioning internal market in electricity. To that end, GB consumers will benefit from more competitive arrangements delivered through a wider fully functioning competitive market in generation.

Whilst the EU Third Package arrangements recognise that different types of market organisation will exist within the wider internal market in electricity, it also acknowledges the need to ensure a level playing field to deliver the full benefits of a competitive internal market in electricity. These objectives are broadly comparable with the objectives applicable to the Charging Methodologies within the CUSC.

CMP203 was presented to CUSC Modifications Panel on 16th December 2011 and the CUSC Modifications Panel agreed that CMP203 should follow the Standard CUSC Modifications process via a Workgroup and present the Workgroup report back to the Panel in April 2012.

CMP202 **Revised treatment of BSUoS charges for lead parties of Interconnector BM Units**

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|-----------------|---------------|------------------|-------------------------------|---------------------------|--------|
| Proposer | National Grid | Submitted | 8 th December 2011 | Submitted Priority | Normal |
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CMP202 aims to further the European Commission's objectives of facilitating cross-border access and developing a Europe-wide single internal market in electricity. Interconnectors are, in effect, treated within the EU Third Package as extensions to a Member State's transmission system which facilitate pan-European trade essential to supporting a single Europe-wide market in electricity. In the current GB arrangements, Interconnector flows are treated as if they were a Generator or Demand, which is inconsistent with arrangements across Europe.

The Transmission Licence allows NGET to recover revenue in respect of the Balancing Services Activity, including the operation of the transmission system, through Balancing Services Use of System (BSUoS) charges. Liable CUSC parties pay BSUoS charges, based on their energy taken from, or supplied to the transmission system on a non locational MWh basis. BSUoS charges are paid for by all CUSC parties, including Lead Parties for flows on Interconnectors BM Units. This has the effect of reducing the number of occasions where potentially beneficial trades could have taken place and therefore potentially conflicts with the EU objectives. In particular, it creates a barrier to exports from the GB transmission system across Interconnectors.

In addition, the application of BSUoS to cross-border flows creates a differential between those trades that facilitate competition within a national market and pan European trades that facilitate competition across a single European electricity market. A non physical trader operating within the GB market does not pay BSUoS. However, trades between GB and other Member States, which in the context of a single European market can also be considered as non-physical, are subject to BSUoS charges when they result in flows to / from GB. Efficient trading between GB and other Member States is therefore frustrated by the application of a BSUoS charge. CMP202 aims to address these issues by removing BSUoS charges for Interconnector BM Units, and, in doing so, further align GB arrangements with EU objectives and facilitates greater use of Interconnectors, and encourages further cross-border trading.

CMP202 was presented to CUSC Modifications Panel on 16th December 2011 and the CUSC Modifications Panel agreed that CMP203 should follow the Standard CUSC Modifications process via a Workgroup and present the Workgroup report back to the Panel in April 2012.

CMP201 **Removal of BSUoS Charges from Generators**

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|-----------------|---------------|------------------|-------------------------------|---------------------------|--------|
| Proposer | National Grid | Submitted | 8 th December 2011 | Submitted Priority | Normal |
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CMP201 seeks to align GB market arrangements with those prevalent within other EU member states. This will deliver more effective competition and trade across the EU and so deliver benefits to all end consumers.

CMP201 was presented to CUSC Modifications Panel on 16th December 2011 and the CUSC Modifications Panel agreed that CMP203 should follow the Standard CUSC Modifications process via a Workgroup and present the Workgroup report back to the Panel in April 2012.

It is proposed that Balancing Services Use of System (BSUoS) charges, which are currently charged to all liable CUSC parties on a non locational MWh basis, are removed from GB generators. This will effectively align the GB 'generation stack' with those in other EU markets, thus facilitate equitable competition with generation in other EU markets which are not subject to such charges.

There should be no adverse effects for GB end consumers, subject to implementation taking account of existing contractual commitments. Aligning the GB market arrangements with other member states better facilitates an efficient functioning internal market in electricity. To that end, GB consumers will benefit from more competitive arrangements delivered through a wider fully functioning competitive market in generation.

Whilst the EU Third Package arrangements recognise that different types of market organisation will exist within the wider internal market in electricity, it also acknowledges the need to ensure a level playing field to deliver the full benefits of a competitive internal market in electricity. These objectives are broadly comparable with the objectives applicable to the Charging Methodologies within the CUSC.

ANNEX 1

CUSC MODIFICATIONS REGISTER – as at 31st December 2011

CMP200 **Generator Led Due Diligence Review**

Proposer National Grid **Submitted** 17th November 2011 **Submitted Priority** Normal

CMP200 aims to implement changes identified from a due diligence review that was conducted by National Grid and Ofgem on the Generator build changes that were implemented into the CUSC in December 2010.

A new regulatory regime for offshore transmission networks has been developed, in partnership, by Ofgem and the Department of Energy and Climate Change (DECC). The new regime was activated on 24 June 2009 and in July 2009 Ofgem commenced the first set of transitional tenders to appoint new Offshore Transmission Owners (OFTOs).

Transitional tenders are for projects where the transmission assets have been or will be constructed by the offshore developer, then transferred to the OFTO. Ofgem commenced the second transitional tender round on 17 November 2010. Subsequent tenders will fall under the enduring regime.

In order to implement the enduring regime, a number of changes were made to the CUSC. These changes were put in place by the Secretary of State and came into effect on 31 December 2010.

It was recognised that the changes made to the CUSC, in relation to Generator Led, had been developed over a relatively short period of time. In response to this, it was agreed that a due diligence review of the CUSC would take place to ensure there were no unintended consequences that could arise out of the drafting that was implemented. Following discussions with Ofgem, it was agreed that any changes identified from the due diligence review would be progressed through the normal governance arrangements.

A due diligence review has now been conducted and a number of minor changes have been identified that would add clarity to the arrangements placed in the CUSC.

CMP200 was presented to CUSC Modifications Panel on 25th November 2011.

The CUSC Modifications Panel agreed that CMP200 should be progressed directly to Code Administrator Consultation and the CUSC Modification Report to be presented to the January 2012 Panel meeting.

The CUSC Panel have agreed for CMP200 to be put on hold for 1 month whilst changes to the like-for-like Grid Code proposal are made.

ANNEX 1

CUSC MODIFICATIONS REGISTER – as at 31st December 2011

CMP199 **Reactive Despatch Network Restrictions**

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|-----------------|---------------|------------------|------------------------------|---------------------------|--------|
| Proposer | National Grid | Submitted | 18 th August 2011 | Submitted Priority | Normal |
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CMP199 proposal is a consequential change from the Grid Code Modification E/11 (Reactive Despatch Network Restrictions) which introduces a new definition of a “Reactive Despatch to Zero MVA_r Network Restriction” to allow National Grid to despatch such restricted generators providing they can provide zero MVA_r.

This CUSC Modification Proposal aligns the CUSC with the Grid Code to allow payments to generators which have a reactive despatch restriction in place whereby they will be paid accordingly if have been despatched by National Grid.

CMP199 was presented to CUSC Modifications Panel on 26th August 2011.

The CUSC Modifications Panel agreed that CMP199 should be progressed directly to Code Administrator Consultation and the CUSC Modification Report to be presented to the October Panel.

At the 28th October 2011 CUSC Modifications Panel meeting, the Panel voted unanimously that CMP199 better facilitates the Applicable CUSC Objectives and should be implemented.

The final CUSC Modification Report was submitted to the Authority for decision on the 10th November 2011. **The Authority approved CMP199 on 15th December 2011 with an implementation date of 3rd January 2012.**

ANNEX 1

CUSC MODIFICATIONS REGISTER – as at 31st December 2011

CMP198 Proposer Ownership of CUSC Modification Proposals

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|-----------------|---------------|------------------|---------------------------|---------------------------|--------|
| Proposer | National Grid | Submitted | 19 th May 2011 | Submitted Priority | Normal |
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CMP198 allows the Proposer to change their proposal by giving notice to the Chair of the Workgroup up to the point of the Workgroup Vote, prior to the CA Consultation. If the Proposer has not given notice of their intent to vary the proposal, the Chair of the Workgroup at the point of the Workgroup vote will give the Proposer a final opportunity to vary the proposal. Where the Proposer makes changes to their proposal prior to the Workgroup Vote, it may be necessary for the Workgroup to request an extension to the timetable from the Panel for further analysis and/or to carry out a further Workgroup Consultation on the varied proposal. Where no Workgroup is established, the Proposer's opportunity to change their proposal lapses prior to the CA Consultation being issued.

In line with Principle 9 of the CACOP, the CA now endeavours to provide legal drafting early on in the process and prior to the Workgroup Consultation. This allows for changes to be made to the legal text following the Workgroup consultation, if deemed appropriate. It is therefore less likely that changes will be required further down the line. However, in accordance with the CACOP, CMP198 seeks to allow minor corrections that have been agreed by the Panel at the time of the final recommendation vote to be made. The Panel will notify the Proposer and the Workgroup of the minor changes and may refer the proposal back to the Workgroup and the Proposer to address the issues raised. If the Panel feel that the changes required cannot reasonably be considered to be minor, then they may instruct the CA to carry out a further consultation on the revised text. The timetable will be adjusted accordingly.

With regard to Workgroup Alternative CUSC Modifications (WACM), the ability to raise an alternative would remain and, as currently happens, will be for the Workgroup to develop and progress. Currently, the Workgroup is responsible for the formulation and evaluation of a WACM. The definition in Section 11 allows for the group and/or an individual member of the Workgroup to put forward a WACM and the extent of the support for any WACM should be clearly described in the final Workgroup report to the Panel.

The Workgroup Report and final Modification Report must contain the description of and reasons for any variations made during the course of the CUSC Modification Proposal.

CMP198 was presented to CUSC Modifications Panel on 27th May 2011.

The CUSC Modifications Panel agreed that CMP198 should follow the Standard CUSC Modifications process via a Workgroup .

The Workgroup Report was presented at the CUSC Panel meeting on 30th September 2011 and the Panel agreed for CMP198 to proceed to the Code Administrator consultation.

At the 25th November 2011 CUSC Modifications Panel meeting, the Panel voted unanimously that CMP198 original better facilitates the Applicable CUSC Objectives and should be implemented.

The final CUSC Modification Report was submitted to the Authority on the 8th December 2011.

ANNEX 1

CUSC MODIFICATIONS REGISTER – as at 31st December 2011

CMP197 **Amendment to Qualifying Guarantor**

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|-----------------|-----------------|------------------|-----------------------------|-------------------------------|--------|
| Proposer | Opus Energy Ltd | Submitted | 26 th April 2011 | Submitted Priority | Normal |
|-----------------|-----------------|------------------|-----------------------------|-------------------------------|--------|

CMP197 seeks to allow companies who do not meet the current Approved Credit Rating criteria (i.e. BB- or greater of Standard & Poor etc) to provide guarantees. Based on our reading of the CUSC document we should only need to change the wording of the definition of Qualifying Guarantee under Section 11 - Interpretation and Definitions in order to effect this change. This will allow all entities to provide guarantees based on the credit that would be afforded to them under the current criteria in Section 3.26 of the CUSC.

For example, an entity that qualifies for 17% allowed credit under the Independent Credit Assessment method could use 10% of that to cover its own requirement and up to 7% to provide a guarantee to another party.

Entities that are offered credit under an Approved Credit Rating are entitled to provide a Qualifying Guarantee, whereas entities that are offered credit under other methods (e.g. Independent Credit Assessments) are not. This is discriminatory towards smaller suppliers who are typically not large enough to establish an Approved Credit Rating and therefore often use other methods.

This modification will not have an adverse affect on National Grid's risk levels. The provision that the guarantor can only provide cover up to the level that it would be afforded in itself will still protect against non-creditworthy entities offering guarantees. Furthermore, it should be specified that if an entity offers multiple guarantees, then the sum of the value of these guarantees may not exceed the total amount of credit that the guaranteeing party is able to offer.

CMP197 will bring the CUSC in line with other NWO provisions, as legislated by the DCUSA. Please see attached for the relevant sections of the DCUSA.

CMP197 was presented to CUSC Modifications Panel on 6th May 2011.

The CUSC Modifications Panel agreed that CMP197 should follow the Standard CUSC Modifications process via a Workgroup and to present the Workgroup Report on the 26th August 2011 CUSC Modifications Panel meeting.

The Workgroup Report was presented at the CUSC Panel meeting on 26th August 2011 and the Panel agreed for CMP197 to proceed to the Code Administrator consultation.

At the 28th October 2011 CUSC Modifications Panel meeting, the Panel voted by a 7 to 1 majority that CMP197 better facilitates the Applicable CUSC Objectives and should be implemented.

The Final CUSC Modification Report was submitted to the Authority for decision on the 10th November 2011. **The Authority approved CMP197 on 15th December 2011 with an implementation date of 3rd January 2012.**

ANNEX 1

CUSC MODIFICATIONS REGISTER – as at 31st December 2011

CMP196 Revisions to “recommendations” in the final CUSC Modification Report

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|-----------------|---------------|------------------|-----------------------------|---------------------------|--------|
| Proposer | National Grid | Submitted | 24 th March 2011 | Submitted Priority | Normal |
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The Statutory Instrument (SI) 2005 No. 1646 "The Electricity and Gas Appeals (Designation and Exclusion) Order 2005" prevents an appeal being made where GEMA's (Gas and Electricity Markets Authority) decision on a code modification proposal consists in the "giving of consent to a majority recommendation". With regard to the CUSC, a majority recommendation is defined as "a recommendation that is supported by the majority of those views of Panel Members which, in the reasonable opinion of GEMA, are clearly expressed in the Amendment Report."

At the time the SI was written, the concept of a CUSC Modifications Panel Recommendation Vote did not exist and the report to the Authority contained the recommendation of National Grid, as the Transmission Company. Currently, in addition to the CUSC Modifications Panel Recommendation Vote, the final CUSC Modification Report also allows for a recommendation from "The Company", any Workgroup and Panel Members.

The CAP190 Workgroup, in conjunction with the BSC P264 Workgroup, recently sought the advice of a QC on matters relating to establishing a two-thirds majority vote threshold. The QC's advice highlighted an issue for the CUSC that the multiple recommendations in the CUSC Modification Report referred to above may cause ambiguity as to the majority recommendation and could ultimately prevent an appeal being raised. By removing references to The Company and Workgroup recommendations in the CUSC and the CUSC Modification Report and replacing them with alternate wording, the interpretation of the meaning of "majority recommendation" in the SI should be narrower and the route of appeal would be clearer.

It is proposed to amend the CUSC to replace all references to "recommendations" in the CUSC Modification Report other than that which refers to the recommendation of the CUSC Modifications Panel. The term 'recommendation', for example in relation to "The Company" and the "Workgroup" recommendations would be replaced by terms with a similar meaning, which should result in the removal of a potential barrier to appeal rights, as set out in the defect section below, and would also provide more consistency with the wording of the BSC and would therefore assist with consistency across the electricity codes.

CMP196 was presented to CUSC Modifications Panel on 25th March 2011.

The CUSC Modifications Panel agreed that CMP196 should follow the Standard CUSC Modifications process via a Workgroup and to present the Workgroup Report on the 27th May 2011 CUSC Modifications Panel meeting.

Ofgem proposed revisions to the legal text that has originally been consulted on. The Workgroup agreed that a further Workgroup Consultation (2) would need to be held to reflect the revised legal text.

The CUSC Modification Panel agreed a month's extension to the Workgroup timetable to allow the report to be presented at the June CUSC Panel meeting.

The Workgroup report was presented at the CUSC Panel meeting on 24th June 2011 and the Panel agreed for CMP196 to proceed to the Code Administrator consultation.

CMP196 was submitted to the Authority on 10th August for decision and approved on 15th September 2011 with an implementation date of 29th September 2011.

ANNEX 1

CUSC MODIFICATIONS REGISTER – as at 31st December 2011

CMP195 **Code Governance Review post implementation clarifications**

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|-----------------|---------------|------------------|-----------------------------|---------------------------|--------|
| Proposer | National Grid | Submitted | 17 th March 2011 | Submitted Priority | Normal |
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On 5th July 2010, Ofgem published the Code Governance Review final licence modifications which placed an obligation on National Grid to implement the code modification procedures as set out in their Final Proposals which were published on 31st March 2010. CAPs 186 and 187 were implemented on 2nd November 2010 and CAPs 183, 184, 185 and 188 were implemented on 30th December 2010.

On the 12th October 2010, Ofgem raised an extensive list of comments to the legal drafting for CAPs 183 – 188 which included comments on CAPs 186 and 187 which were already with the Authority for a decision. Whilst CAP183, 184, 185 and 188 were at the stage of Company Consultation (now referred to as the Code Administrator Consultation) these comments could not be immediately addressed as there is an established practice of not accepting changes to the legal text at the Company Consultation phase.

In order to address these concerns National Grid published an open letter to Ofgem on 9th November 2010 which stated that their comments would be reviewed by the CUSC Governance Standing Group (GSG) post implementation of the Amendment Proposals via a separate modification.

In addition to the comments submitted by Ofgem, the GSG also highlighted various housekeeping changes which have been included in this proposal as these changes are also non-material in nature.

Since the implementation of the Code Governance Review, the GSG and Ofgem have separately reviewed the proposed legal text for Sections 8 and 11, with Ofgem providing further clarification to their comments of 12th October.

CMP195 was presented to CUSC Modifications Panel on 25th March 2011.

The CUSC Modifications Panel agreed that CMP195 should follow the Standard CUSC Modifications process via a Workgroup and to present the Workgroup Report on the 29th July 2011 CUSC Modifications Panel meeting.

The Workgroup Consultation was published on 10th June 2011 with a closing date of 1st July 2011. There was a slight delay to the original planned publication date due to the Workgroup discussing further comments sent by Ofgem on 25th May 2011. An extra teleconference was held on 7th June 2011.

The Workgroup Report was presented to the CUSC Panel on 29th July 2011 and the CUSC Panel agreed that CMP195 should proceed to the Code Administrator Consultation.

At the 30th September 2011 CUSC Modifications Panel meeting, the Panel voted by majority that WACM 1 was the “best option”.

The Final CUSC Modification Report was submitted to the Authority for decision on the 14th October 2011 and WACM 2 was approved by the Authority on 18th November 2011 with an implementation date of 2nd December 2011.

CMP192 Arrangements for Enduring Generation for User Commitment

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|-----------------|---------------|------------------|------------------|---------------------------|--------|
| Proposer | National Grid | Submitted | 17 February 2011 | Submitted Priority | Normal |
|-----------------|---------------|------------------|------------------|---------------------------|--------|

This Modification Proposal seeks to add a new section to the CUSC defining the principles of User Commitment as they pertain to electricity Generators. This section will detail the methodology that will be used to determine individual Generators' liabilities and the level of securities required against these liabilities.

As adding or removing generation from the system has an equal and opposite effect on the need for network capacity, it is clear that both pre- and post-commissioning power stations affect decisions on new transmission investment. Whilst the cancellation of a pre-commissioning power station could affect local and wider investment decisions, the closure of a post-commissioning power station will only affect new wider investment decisions. Therefore it is proposed that the Generator User Commitment liabilities are calculated using two terms; 1), a Cancellation Amount for pre-commissioning power stations that takes account of transmission investment for local and wider works; and 2) a Closure Amount for post-commissioning power stations that takes account of the investment for wider works.

National Grid is proposing eight main aspects that the enduring solution must take into account in determining the nature and level of Cancellation and Closure liabilities and the reasonable level of securities required against these liabilities:

1. Protecting the end consumer from undue risk
2. Minimum notice period required to alter TO investment before significant costs are incurred
3. Profile of TO investment costs
4. Likelihood of power stations either cancelling or closing
5. Total Value at Risk (VAR)
6. Level of transmission capacity sharing between power stations
7. Proportion of TO investment not at risk due to Connect & Manage regime
8. Level of transmission asset reuse

CMP192 was presented to CUSC Modifications Panel on 25 February 2011.

The CUSC Modifications Panel agreed for CMP192 to progress through a Workgroup and to present the Workgroup Report at the July 2011 CUSC Modifications Panel meeting.

The Panel agreed to a one month extension for CMP192 to allow for 2 additional Workgroup meetings to take place. A further 1 month extension was then requested and agreed by the Panel with no objection from Ofgem to allow for further meetings and a longer consultation period.

A further two Workgroup meetings have taken place to finalise the Alternatives and vote.

The Panel Recommendation Vote took place at a "Special" CUSC Panel meeting on 11th November 2011. The Panel voted by majority that CMP192 WACMs 5, 6, 7, 8, 11 and 12 better facilitate the Applicable CUSC Objectives. There was no majority support for any of the WACMs as 'best' meeting the Applicable CUSC Objectives; however WACM 8 had the highest number of votes, receiving 3 out of 8 possible votes.

CMP192 Final CUSC Modification Report was sent to the Authority on 22nd November 2011 for decision.

ANNEX 1

CUSC MODIFICATIONS REGISTER – as at 31st December 2011

CAP191 **NETSO Consultation in relation to any potential changes to the CUSC which takes place in forums other than the CUSC Modifications Panel**

Proposer SSE **Submitted** 17 February 2011 **Submitted Priority** Normal

This Modification Proposal proposes that a revision to the CUSC is required to ensure that signatories to the CUSC are consulted with, via the CUSC Modifications Panel, and have their views considered in relation to any potential changes to the CUSC which may occur as a result of activity or discussion which takes place in forums other than the CUSC Modifications Panel and its associated (CUSC) groups. In particular, any input and potential or likely changes in relation to the development of the European Network Codes, in which National Grid (NGET) participate under their remit as the National Electricity Transmission System Operator (NETSO)

This Modification Proposal seeks to address this deficiency in the process and improve the openness and transparency of the GB input to the European Network Codes. It encourages effective engagement between the NETSO and GB stakeholders in relation to changes to the CUSC and ensures that those stakeholders who are liable to be materially affected by such changes have the opportunity to be heard via the CUSC Modification Panel (and any Standing Group, if established, and consultation(s), if undertaken, by the Panel and / or Standing Group).

This Modification Proposal also seeks to address the issue raised, at the 31st January workshop, by National Grid, in respect of the development of the European Network Codes, namely that (i) input is required from all stakeholders at an early stage; (ii) it is vital that any stakeholder concerns are understood at an early stage and (iii) stakeholders engagement will be crucial in helping produce coherent and viable European Network Codes.

CMP191 was presented to CUSC Modifications Panel on 25th February 2011.

The CUSC Modifications Panel agreed for CMP191 to progress through a Workgroup.

Four joint Workgroup meetings between the CUSC/BSC and Grid Code have taken place. The CUSC Modifications Panel agreed to a one month extension for CMP191 timetable to allow for an additional Workgroup meeting to take place.

The Workgroup Report was presented at the July CUSC Panel meeting and the CUSC Panel agreed for CMP191 to proceed to Code Administrator Consultation.

At the 30th September 2011 CUSC Modifications Panel meeting, the Panel voted by majority that CMP191 Original does not better facilitate the CUSC Objectives. The Panel voted by a 6 to 2 majority that Workgroup Alternative does better facilitate the Applicable CUSC objectives and so should implemented.

The final CUSC Modification Report was submitted to the Authority for decision on the 12th October 2011 and the Authority rejected CMP191 on the 15th November 2011.

ANNEX 1

CUSC MODIFICATIONS REGISTER – as at 31st December 2011

CAP190 **Two-Thirds Majority Voting requirement for CUSC Panel recommendations on Amendments arising from Licence obligations, Authority requests or obligations**

Proposer National Grid **Submitted** 03 September 2010 **Submitted Priority** Normal

It is proposed that where an Amendment Proposal being presented to the CUSC Panel for a recommendation vote has been raised to comply in full or in part with a Licence change, or following an Authority direction, request or obligation (e.g. potentially from a Significant Code Review (SCR) should this be facilitated under the CUSC), a recommendation to implement that Amendment Proposal by the CUSC Amendments Panel must be based on at least two-thirds of votes cast by those Panel members present being in favour of implementation. Thus if the Panel comprises 7 members plus 1 Consumer Focus representative and 2 National Grid representatives (with one vote) and that all 9 votes are cast, it would take at least 6 votes in favour for the Panel to recommend implementation of such a Proposal. As at present an abstention would not count as a vote cast.

Where the Panel does not have a two thirds majority, even if the votes cast do make any majority, the Panel recommendation will be maintain the status quo and not implement the Amendment. This would also be the case where the Panel reaches no decision, for example where the vote is split 4:4.

CAP190 was presented to CUSC Amendment Panel on 03 September 2010.

The CUSC Amendments Panel agreed that the proposal should go to Working Group and the final report is to be submitted the CUSC Amendments Panel on 25 February 2011 Panel meeting.

The Working Group held its first meeting on 23rd September, where CAP190 Proposal was clarified and potential alternatives were discussed.

BSC Modification group P264 and CAP190 Working Group members held a joint teleconference meeting in October and it was agreed that advice from a QC would be beneficial. The brief has been sent to the QC on 8th November for a period of two weeks.

Draft advice was received from the QC on 25th November 2010 and considered by the group. A meeting with the QC was proposed in order to clarify parts of the advice. A second joint Working Group teleconference was held on 10th December 2010 to discuss the draft advice and to agree a set of questions for the QC. A meeting with the QC was arranged for 17th December 2010. However this was cancelled due to unforeseen circumstances.

A meeting with a QC took place on 21st January 2011 to discuss the legal advice. A joint Workgroup meeting with CAP190/P264 members was held on 26th January 2011 during which the Proposer requested to put CAP190 on hold pending investigation into changing the Statutory Instrument.

The CUSC Modifications Panel agreed for CAP190 to be put on hold for one month pending advice received from DECC regarding further clarification for the Statutory Instrument.

A letter was sent to DECC on 21st February 2011 in order to investigate the possibility of changing the Statutory Instrument, following legal advice received from the QC.

DECC response dated 16th March to the CAP190 Chair confirmed that they are unable to make a formal consideration at this stage, due to busy Parliamentary timetable. DECC have therefore asked the Workgroup to consider another approach.

The CUSC Panel agreed for CAP190 to be placed on hold until CMP196 is being progressed. The CUSC Panel agreed a 4 month extension to CAP190.

ANNEX 1

CUSC MODIFICATIONS REGISTER – as at 31st December 2011

CAP190 **Two-Thirds Majority Voting requirement for CUSC Panel recommendations on Amendments arising from Licence obligations, Authority requests or obligations**

Proposer National Grid **Submitted** 03 September 2010 **Submitted Priority** Normal

CMP196 was progressed which addressed the issue raised in CAP190 relating to 'recommendations' in the CUSC Modification Report. At the July CUSC Panel, in light of the like-for-like BSC and UNC proposals being rejected by the Authority, the Panel agreed by majority that the CAP190 Workgroup should not be extended further. The Proposer chose not to withdraw CAP190 and subsequently the Workgroup Report will be presented to the CUSC Panel in August with the intention of it proceeding to Code Administrator Consultation.

The CUSC Panel accepted the Workgroup Report and agreed that CAP190 to progress to the Code Administrator Consultation for three weeks.

At the 28th October 2011 CUSC Modifications Panel meeting, the Panel voted by a 6 to 2 majority that CAP190 better facilitates the Applicable CUSC Objectives and so should be implemented.

The Final CUSC Modification Report was submitted to the Authority for decision on 10th November 2011. **The Authority rejected CAP190 on 13th December 2011.**

ANNEX 1

CUSC MODIFICATIONS REGISTER – as at 31st December 2011

CAP189 **Standard Gas Insulated Switchgear Ownership Boundaries**

Proposer

National Grid

Submitted 30 July 2010

**Submitted
Priority**

Normal

CAP189 is raised following a recommendation of the joint Grid Code/ CUSC Gas Insulated Switchgear Working Group, whose report was presented to the May 2010 CUSC Amendments Panel meeting. The Working Group sought to clarify a number of issues identified relating to Gas Insulated Switchgear (GIS) assets. CAP189 specifically seeks to modify the CUSC such that a User requesting a connection to the National Electricity Transmission System, via a GIS substation, will be able to elect one of the following standard ownership boundaries and construction options:

1. Generator Standard Boundary
2. DNO Standard Boundary – User builds all the GIS assets
3. DNO Standard Boundary – User builds their own assets only

The boundary description is intended to reflect the boundary that Generator and DNO Users would typically choose, but the recommendation will allow any User to choose either boundary.

CAP189 was presented to CUSC Amendment Panel on 30 July 2010.

The CUSC Amendments Panel agreed that the proposal should go to Working Group and the final report is to be submitted the CUSC Amendments Panel on 27 May 2011 Panel meeting.

The Working Group held its first meeting on 28th September, where CAP189 Proposal was clarified and the initial legal text was discussed.

The Workgroup consultation was issued on 18th March and closed on 8th April 2011.

The Workgroup report was presented at the CUSC Panel meeting on 27th May 2011 and the Panel agreed for CAP189 to proceed to the Code Administrator consultation.

The CUSC Panel vote took place on 29th July 2011 and the CUSC Panel voted unanimously that CAP189 did not better facilitate the Applicable CUSC Objectives and should not be implemented.

However, the CUSC Panel did recognise the intent of CAP189 did better facilitate the Applicable objectives but a defect in the legal text meant that it could not be rectified in the stage in the process. The Panel noted that the Authority could use the “send back” process to resolve the legal text if they felt it was appropriate.

On the 18th August Ofgem “sent back” the CUSC Final Modification Report in order to allow changes to be made to the legal text.

A second Code Administrator Consultation was issued on 14th October 2011.

At the 25th November 2011 CUSC Modifications Panel meeting, the Panel voted unanimously that CAP189 better facilitates the Applicable CUSC Objectives and should be implemented. **The final report was sent to the Authority on 7th December 2011 for decision.**