

**To:** CUSC GSG  
**From:** Merel van der Neut Kolfshoten (member CUSC GSG)  
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**Subject:** Note for discussion on Recommendation Votes  
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## 1. ISSUE(S)

### Original issue

As part of the CAP160 Review, I raised the following issue with the CUSC GSG:

*“At the end of the Working Group process when Working Group members are asked to vote on which option “best” facilitates the Applicable CUSC Objectives, as part of the Recommendation Vote, some members abstain because they do not like any of the options and other members – who also do not like any of the options – choose the “least worst” option because they believe they have to make a choice. This seems to be inconsistent and the outcome of the vote may therefore not correctly reflect the views of the Working Group members.”*

The issue was discussed at the GSG meeting of 29 October 2009 (which I was not able to attend) and, according to the minutes, the view of the group was that this could also be an issue for the CUSC Panel Recommendation Vote. At the CUSC GSG meeting of 26 November 2009 I agreed to write a discussion note on the issue. For this purpose I have reviewed a number of Working Group and CUSC Panel Recommendation Votes and the relevant CUSC provisions.

### Additional issues

In the process I have identified two potential additional issues with the CUSC modification process. There seem to be different approaches with regards to (1) determining a Working Group/CUSC Panel majority vote and (2) determining Working Group Alternative Amendments (WGAAs). In this note I discuss CAP168 and CAP165 in detail to show examples of all three issues.

## 2. RECOMMENDATION VOTE – BACKGROUND INFORMATION

It is currently standard practice that Working Group members at the end of the Working Group process and the CUSC Panel have two voting rounds on the Original Proposal and possible WGAAs:

1. Do the Original Proposal or WGAAs (as defined in the CUSC) better facilitate the achievement of the applicable CUSC objectives?\*
2. Which proposal “best” facilitates the applicable CUSC objectives?

\* If there are alternative proposals, the Working Group also has to carry out a vote on whether the proposals better meet the Applicable CUSC Objectives compared to the Original Proposal, to determine whether the alternatives should be taken forward as WGAAs. This could be seen as Voting Round 1B. This was done in example (2) below.

If I am correct, there is no explicit CUSC requirement to conduct Voting Rounds 1 and 2, other than the requirement on the CUSC Panel to carry out Voting Round 1 (Amendments Panel Recommendation Vote). The voting procedures for the CUSC Panel are included in the CUSC. The requirement for a Working Group to carry out both voting rounds is included in the Standard Terms of Reference (although voting on WGAAs is based on the CUSC definition of a WGAA)<sup>1</sup>. There is little information in the CUSC, Standard Terms of Reference or National Grid’s recent note on CUSC Working Group Provisions on how these votes, including votes on WGAAs, should be conducted. For further details, see “CUSC Provisions”, Annex 1 below.

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<sup>1</sup> CHECK 8.20.2. (e)

### 3. EXAMPLE (1) – CAP168 UNDER-USE AND REALLOCATION OF TEC

In this example, I will give some observations first on Working Group Voting Rounds 1 and 2 and then on CUSC Panel Voting Rounds 1 and 2. These are based on the Final Amendment Report and the CUSC Panel Minutes.

#### Working Group Voting Round 1 (Better than the baseline)

	Better	Not Better	Abstained
Original Proposal	0	13	1
WGAA1*	1	11	2

\*The Working Group chairman used his powers under CUSC section 8.17.15 to take WGAA1 forward despite a lack of majority support from Working Group members.

#### Working Group Voting Round 2

Proposal	Best
Original Proposal	4
WGAA1	1
Abstained	9

#### Observations

##### **Voting Round 1**

##### Abstentions

It is not clear why Working Group members abstained in Voting Round 1.

##### WGAA

A WGAA is a proposal of which the majority of Working Group members or the chairman believes it better facilitates the Applicable CUSC Objectives than the Amendment Proposal or the current version of the CUSC (see definition of WGAA under “CUSC Provisions”, Annex 1 below).

The chairman’s decision to take the proposal forward as WGAA1 may not have been required if there had been a further Working Group vote – as arguably there should have been according to the definition of a WGAA – on whether the proposal better meets the CUSC Applicable Objectives compared to the Original Proposal (see also example (2) below where this vote did take place). If the outcome of this vote had again been no majority support, then the chairman could have decided nevertheless to take this proposal forward as WGAA1, but based on the definition of WGAA rather than on CUSC section 8.17.15, because that section only refers to WG Consultation Alternative Requests.

##### **Voting Round 2**

##### Abstentions

A total of 9 Working Group members abstained in Voting Round 2 and the reasons given are:

- Another opportunity to vote at CUSC Panel (1)
- WGAA1 should not have been raised as an urgent proposal (1)
- Difficult to assess at this stage (1)
- Neither the Original nor WGAA1 better facilitates the CUSC objective (6)

##### Working Group Recommendation

The 4 Working Group members who voted in favour of the Original Proposal also voted in Round 1 that the Original Proposal (and WGAA1) was not better than the baseline. They must therefore have voted on a “least worst” basis, whereas the 6 Working Group members who abstained because they did not support the original or WGAA1 will probably have voted on a “best option” basis even though they appear to have held the same view as these 4 Working Group members. It is not clear whether these 6 Working Group members would also have

abstained if they had voted on a “least worst” basis, but in any case there appears to be an inconsistency in voting by Working Group members who appear to hold the same view.

Working Group Recommendation/Majority vote

It is not clear how a Working Group majority is calculated. If it is by simple majority and abstentions are not counted, as it is for similar CUSC Panel votes (see also “CUSC Provisions”, Annex 1 below), the outcome of Voting Round 2 suggests that the majority of the Working Group believes that the Original Proposal “best” (or rather, as interpreted in this case, “least worst”) meets the CUSC Applicable Objectives. However, as mentioned above, this does not in fact seem to correctly reflect the views of Working Group members.

**CUSC Panel Voting Round 1 (Better than the baseline)**

	Better	Not Better	Abstained
<b>Original Proposal</b>	0	9	0
<b>WGAA1</b>	0	9	0

**CUSC Panel Voting Round 2**

Proposal	Best
<b>Original Proposal</b>	3
<b>WGAA1</b>	1
<b>Abstained</b>	5

**Observations**

**Voting Round 2**

Abstentions

A total of five Panel Members abstained and the reason given is that they did not support any of the proposals.

Panel Recommendation

Similar to the Round 2 Working Group Vote, there is inconsistency in voting approach between Panel Members who appear to hold the same view.

Panel Recommendation/Majority Vote

The Panel votes by simple majority and abstentions are not counted (see also “CUSC Provisions, Annex 1 below). The outcome of the vote suggests that the majority of the Panel Members believes that the Original Proposal “best” (or rather, as interpreted in this case, “least worst”) meets the CUSC Applicable Objectives. Similar to the Working Group vote, this outcome does not in fact seem to correctly reflect the views of the Panel Members.

**4. EXAMPLE (2) – CAP165 (FINITE LONG-TERM ENTRY RIGHTS)**

In this example, I will again give some observations first on Working Group Voting Rounds 1A, 1B and 2 and then on CUSC Panel Voting Rounds 1 and 2. These are based on the Final Amendment Report and the CUSC Panel Minutes.

### Working Group Voting Round 1A (Better than the baseline)

	Better	Not Better	Abstained
Original Proposal	3	9	0
WGAA1	2	10	0
WGAA2	4	8	0
WGAA3	6	6	0
WGCR1 (WGAA4)	6	6	0
WGCR2 (WGAA5)	5	7	0
WGCR3 (WGAA6)	6	6	0
WGCR4	2	10	0
WGCR5 (WGAA7)	6	6	0
WGCR6	2	7	3

### Working Group Voting Round 1B (Better than the Original Proposal)

	Better	Not Better	Abstained
Original Proposal	-	-	-
WGAA1	11	1	0
WGAA2	6	5	1
WGAA3	11	1	0
WGCR1 (WGAA4)	9	2	1
WGCR2 (WGAA5)	6	6	0
WGCR3 (WGAA6)	10	2	0
WGCR4	5	6	1
WGCR5 (WGAA7)	8	4	0
WGCR6	3	8	1

### Working Group Voting Round 2

	Best
Original Proposal	0
WGAA1	1
WGAA2	2
WGAA3	2
WGCR1 (WGAA4)	3
WGCR2 (WGAA5)	1
WGCR3 (WGAA6)	0
WGCR5 (WGAA7)	3
Abstained	0

### Observations

#### **Voting Round 1A and 1B**

##### Abstentions

It is not clear from the Final Amendment Report why Working Group members abstained in Voting Round 1A and 1B.

##### WGAA

Voting Round 1A (better than baseline) and 1B (better than Original) determine whether the alternative proposals (Working Proposals and Working Group Consultation Requests (WGCR)) should be taken forward as WGAAAs. However, it is not entirely clear from the CUSC provisions whether the WGCRs should be better than the baseline or the Original Proposal. CUSC Section 18.17.15 seems to suggest that only if the majority of the Working Group or the Working Group Chairman believes that the WGCR is better than the baseline can it become a WGGA. If this is the case, then none of the 6 WGCRs should in fact have been taken forward, unless by decision of the Working Group chairman.

WGAA/Majority Vote

WGAA2 and WPCR2 (WGAA5) have been taken forward by the Working Group chairman. However, if a Working Group majority vote is calculated by simple majority without counting of abstentions, there was no need for a decision by the chair on WGAA2 because there was majority of 6:5.

**Voting Round 2**

Working Group Recommendation

There are no abstentions, but based on Voting Round 1A (no Working Group majority for WPCR1 (WGAA4) and WPCR5 (WGAA7)) the outcome of this vote does not seem to fully reflect the view of the Working Group members. In addition, Working Group members could still be voting on a different basis: “best” or “least worst”.

**CUSC Panel Voting Round 1 (Better than the baseline)**

	<b>Better</b>	<b>Not better</b>	<b>Abstained</b>
<b>Original Proposal</b>	0	8	0
<b>WGAA1</b>	1	7	0
<b>WGAA2</b>	1	7	0
<b>WGAA3</b>	3	5	0
<b>WPCR1 (WGAA4)</b>	6	2	0
<b>WPCR2 (WGAA5)</b>	1	7	0
<b>WPCR3 (WGAA6)</b>	6	2	0
<b>WPCR5 (WGAA7)</b>	5	3	0

**CUSC Panel Voting Round 2**

	<b>Best</b>
<b>Original Proposal</b>	0
<b>WGAA1</b>	1
<b>WGAA2</b>	0
<b>WGAA3</b>	0
<b>WPCR1 (WGAA4)</b>	5
<b>WPCR2 (WGAA5)</b>	0
<b>WPCR3 (WGAA6)</b>	0
<b>WPCR5 (WGAA7)</b>	2
<b>Abstained</b>	0

**Observations**

**Voting Round 2**

Panel Recommendation

As there were no abstentions and there was a clear majority vote in Voting Round 1, Voting Round 2 seems to (more) accurately reflect the majority view of the Panel Members compared to the voting by the Working Group.

## 5. SUMMARY OF KEY ISSUES

- For both Working Group and Panel, in Voting Round 2 (which proposal “best” meets the CUSC Applicable Objectives) there appears to be an inconsistency in voting between members who do not support any of the proposals. Some members choose the “least worst” interpretation and make a choice, whereas other members abstain. Therefore the outcome of Voting Round 2 may not correctly reflect the view of the Working Group and CUSC Panel.
- A Working Group must decide whether an alternative proposal is a WGAA. An alternative proposal is a WGAA if a majority of the Working Group members or the chairman believes the proposal is better than the baseline (Voting Round 1A) or better than the Original Proposal (Voting Round 1B), although the situation for alternative proposals that are WGCRs may be different (the CUSC is unclear). It seems that Voting Round 1B does not always take place (see also CAP169) which could mean – if the chairman does not use his powers – that an alternative proposal will not be considered as a WGAA even though it should have been.
- Voting procedures for the Panel are included in the CUSC, but it is not really clear what the Working Group voting procedures are, for example, what the voting rights of the chairman are and how a majority vote is established. Even if voting procedures are documented in for example the CUSC, it appears they are not always correctly applied (see CAP167, conclusion of CUSC Panel Voting Round 2).
- The reasons for abstaining in Working Group votes are not always recorded.

## 6. RECOMMENDATIONS

- Determine the rationale for Voting Round 2 and amend the voting process accordingly to ensure that the vote correctly reflects the view of Working Group and CUSC Panel members.

Depending on what Voting Round 2 should achieve (and for whom), there are a number of possible options, including:

1. Voting on a “best”/“least worst” option basis (individual Working Group/Panel Member’s choice)
2. Voting on a “best” option basis for all proposals with a majority support in Voting Round 1(A)
3. Voting on a “best” option basis, but including the current baseline as an option

However, abstentions could still cause inconsistency in voting under the first and second methodology. I believe that abstentions should be discouraged, but not prohibited (not supporting any of the proposals is the main reason for abstaining, but not the only reason (see also CAP169)). My initial view is that the outcome a vote based on the third methodology would most accurately reflect the view of Working and Panel Members.

- Establish clear voting procedures for Working Groups and include these in the CUSC and/or the Standard Terms of Reference. The voting procedures should include more detail on voting rights of the chairman, calculation of majority vote, how a decision on WGAA/WGCRs should be reached, and perhaps guidance on abstentions (this could warrant an extension to the Working Group timetable, for example).
- If considered useful, a manual for Working Group chairmen with guidance on the Working Group voting procedures could be developed to improve clarity and ensure consistency between different Working Groups.

(see overleaf)

- Make the Working Group process more transparent by publishing the Standard Terms of Reference and National Grid's note on the CUSC Working Group provisions in the "Working and Standing Groups" CUSC area of the National Grid website.
- Record reasons for abstentions in the various reports and minutes, in particular abstentions by Working Group Members.

## ANNEX 1 – CUSC PROVISIONS

### Recommendation Vote

	<b>CUSC Panel Recommendation vote</b>	<b>CUSC</b>	<b>Working Group Recommendation vote</b>	<b>CUSC</b>
<b>VOTING ROUND1</b>	“...as to whether they believe each <b>Proposed Amendment</b> , or <b>Working Group Alternative Amendment</b> would better facilitate achievement of the applicable <b>CUSC objective(s)</b> ”	Section 11 (definition of Amendments Panel Recommendation Vote), 8.20.4	“A vote is to take place by all eligible Working Group members on the proposal and each Working Group Alternative, as appropriate, as to whether it better facilitates the CUSC Applicable Objectives ...”	n/a  [Included in Standard Working Group Terms of Reference]
<b>VOTING ROUND 2</b>	No CUSC requirement?	n/a?	“...and indicate which option is considered the BEST with regard to the CUSC Applicable Objectives”	n/a  [Included in Standard Working Group Terms of Reference]
<b>Vote decided by</b>	Simple majority	8.10.3	?	?
<b>Abstention</b>	Not counted as cast vote	8.10.3	?	?
<b>Chairman</b>	No vote/no casting vote	8.10.4	?	?  NB1 8.17.4: chairman shall act impartially and as independent chairman -> does that mean chairman can/cannot vote?  NB2 8.17.15 the chairman has a casting vote when it comes to deciding on WGCRs (WGAAs)

**Amendment Proposal/WGAA/WGCR**

<b>Amendment Proposal</b>	A proposal which is not rejected pursuant to paragraphs 8.15.3 or 8.15.4
<b>Working Group Alternative Amendment</b>	An alternative amendment to the <b>Amendment Proposal</b> developed by the <b>Working Group</b> under the <b>Working Group</b> terms of reference (either as a result of a <b>Working Group Consultation</b> or otherwise) and which is believed by a majority of the members of the <b>Working Group</b> or by the chairman of the <b>Working Group</b> to better facilitate the <b>Applicable CUSC Objectives</b> than the <b>Amendment Proposal</b> <u>or</u> the current version of the <b>CUSC</b> .
<b>WG Consultation Alternative Request</b>	Any request from a <b>CUSC Party</b> for a <b>Working Group Alternative Amendment</b> be developed by the <b>Working Group</b> expressed as such and which contains the information referred to at Paragraph 8.17.13. For the avoidance of doubt any <b>WG Consultation Alternative Request</b> does not constitute on Amendment Proposal.
<b>8.17.15</b>	If a majority of the members of the <b>Working Group</b> or the chairman of the <b>Working Group</b> believe the <b>WG Consultation Amendment Request</b> will better facilitate the <b>Applicable CUSC Objectives</b> than the <u>current version of the CUSC</u> , the <b>Working Group</b> shall develop it as a <b>Working Group Alternative Amendment</b> or, where the chairman of the <b>Working Group</b> agrees, amalgamate it with one or more other draft <b>Working Group Alternative Amendment(s)</b> or <b>WG Consultation Amendment Request(s)</b> .