

**Actions Arising from Meeting No.2  
Held on 2<sup>nd</sup> December 2004  
at Elexon HQ, 350 Euston Road, London, NW1 3AW**

**Present:**

**Members:**

Steve Drummond	SD	Chairman
Richard Dunn	RD	Secretary
Ben Graff	BG	National Grid Company
Neil Smith	NS	E.on UK
David Lane	DL	Clerenergy
Steve Moore	SM	EdF
Mark Manley	MM	Centrica
Malcolm Taylor	MT	AEP (part meeting only)

**In Attendance:**

Bill Reid	BR	RWE/Npower
Richard Hall	RH	Elexon
David Edward	DE	Authority Representative
Martin Mate	MMa	British Energy (part meeting only)

**1 Introductions/Apologies for Absence**

1. Apologies for absence were received from Steven Eyre and Bob Brown.

**2 Notes of the Working Group Meeting held on 17<sup>th</sup> November 2004**

2. These notes were agreed.

**3 Summary of CUSC Panel Discussions on 26<sup>th</sup> November 2004**

3. SD informed the Group of the outcome of the CUSC Panel's discussion. The Authority had indicated at the meeting that it intended to issue a notice to the Panel Secretary shortly under Paragraph 8.13.3 (d) of the CUSC which would require NGC to provide the Amendment Report for CAP077 to the Authority by 1<sup>st</sup> March 2005. The Notice was subsequently received on 30<sup>th</sup> November.
4. The Panel had delegated responsibility to Ben Graff and Steve Drummond to establish a timetable for provision of the Amendment Report for CAP077 to the Authority consistent with the expected notice from the Authority and this had been circulated to Working Group Members.

**4 Revised Working Group Terms of Reference**

5. The changes to the TORs approved by the CUSC Panel on 26<sup>th</sup> November were

noted. These comprised incorporation of a requirement to develop a timetable for reporting consistent with the notice from the Authority, changes to Working Group Membership and certain other minor revisions.

### **5 Further Clarification of Defect**

6. SD referred to the slides he had used at the CUSC Panel meeting and the specific slide headed "the Defect".

### **6 Possible Solution and Extent of Change**

7. BG explained that NGC had been considering a change to Paragraph 8.2.3.3 of the CUSC which:
  - Provided for an extension of the Implementation Date in the event of legal challenge to an Approved Amendment;;
  - Provided for changes to the Implementation Date for a Rejected Amendment in the event of legal challenge
  - Introduced a new Definition of Implementation Date to include changes to that date in the event of legal challenge
  - Ensured that the clock did not stop if an Approved or Rejected Amendment was subject to legal challenge
8. Comments on this approach included the problem of where the baseline text may change due to approval of a separate and unconnected Amendment while the Decision on an Amendment was subject to legal challenge.
9. NGC did not favour a consultation process with Users on the new Implementation Date to be identified in the event of legal challenge since there was already a requirement on NGC to suggest a reasonable Implementation Date in the Transmission Licence. Other Members of the Working Group did favour such an approach set out in the Strawman Proposal discussed at the Working Group meeting held on 17<sup>th</sup> November on the basis that this would reflect existing Governance arrangements for consultation in the CUSC.

### **7 Work Process**

10. The Proposed CAP077 Assessment Timeline which had been circulated to CUSC Panel Members and to Working Group Members was noted.

### **8 Guidelines for NGC to Consider Revision to Date**

11. It was agreed that these should take into account the perceived longevity of the Judicial Review or appeal process, the amount of time that might be required to come to a new decision following the legal outcome and the amount of time that would be required to implement the Amendment Proposal.

### **9 Any Alternatives**

12. It was agreed that NGC's preferred approach described in Minute 9 would constitute a Working Group Alternative Amendment.

### **10 Arguments for and Against Proposal**

13. The arguments for and against the proposal were reviewed and it was agreed that CAP077 did address a particular defect in the CUSC and that CAP077 would better facilitate the Applicable CUSC Objectives.

### **11 Legal Text for CAP077**

14. Legal text to implement CAP077 in the CUSC was provided by NGC and discussed by the Group. It was agreed that there were a number of flaws in the text and that the Group should consider revised text at its meeting scheduled for Thursday 16<sup>th</sup> December. One area in particular where the Group would require legal advice concerned the issue of whether an alternative Implementation Date would be available for the Authority to adopt if it so wished in the context of the Amendment Proposal subject to JR or appeal or would the Amendment Report need to be physically amended with the new date. It would be important to ensure that the legal drafting for CAP077 could achieve the purpose and thrust of the Proposal. BG agreed to obtain legal advice on this issue.

**Action: BG**

### **12 Meeting CUSC Objectives**

15. Discussion on this issue was deferred until the meeting on 16<sup>th</sup> December.

### **13 Consultation Questions**

16. Discussion on this issue was deferred until the meeting on 16<sup>th</sup> December.

### **14 Next Meeting**

17. Thursday 16<sup>th</sup> December at Brandon Hall Hotel, Brandon, near Coventry commencing at 10am. NB: This is a different venue and start time from that previously advised.