

Stage 05 Draft CUSC Modification Report

Connection and Use of System Code (CUSC)

CMP198 Proposer Ownership of CUSC Modification Proposals

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 allow 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.

Published on: 1st November 2011
Deadline for Responses 8th November 2011



Workgroup Conclusion:

CMP198 should be implemented as it better facilitates the Applicable CUSC Objectives



National Grid Opinion

CMP198 should be implemented as it better facilitates the Applicable CUSC Objectives



Medium Impact:

Parties who raise CUSC Modification Proposals and/or are involved in the CUSC Modification Process

Contents



1	Summary	3
2	Description of Proposed Modification	4
3	Summary of Workgroup Discussions.....	6
4	Impact , Cost and Assessment.....	14
5	Proposed Implementation.....	16
6	Views	17
7	Responses	20
	Annex 1 – Workgroup Consultation Responses	22
	Annex 2 – Code Administrator Consultation Responses.....	31
	Annex 3- Proposed Legal Text	36
	Annex 4 – Workgroup Alternative CUSC Modification Legal Text.....	39
	Annex 5- Workgroup Terms of Reference	40
	Annex 6–CMP198 Proposal Form.....	45
	Annex 7– Updated CMP198 Flowchart.....	51
	Annex 8- Workgroup Attendance Register.....	53

Any Questions?

Contact:

Emma Clark



emma.clark@uk.ngrid.com



01926 655223

Proposer:

Emma Clark

National Grid Electricity
Transmission plc

About this document

This is a draft of the CUSC Modification Report which contains responses to the Code Administrator Consultation and has been prepared and issued by National Grid under the rules and procedures specified in the CUSC. The purpose of this document is to assist the Authority in their decision whether to implement CMP198.

Document Control

Version	Date	Author	Change Reference
0.1	1/11/11	National Grid	Version for Industry Comment

1 Summary

- 1.1 CMP198 was proposed by National Grid Electricity Transmission plc (NGET) and submitted to the CUSC Modifications Panel for their consideration on 19th May 2011. This followed a period of discussion and development of a strawman model by the CUSC Governance Standing Group. The Modifications Panel determined that the proposal should be considered by a Workgroup and that the Group should report back to the CUSC Modifications Panel meeting within four months following a period of Workgroup Consultation.
- 1.2 The Workgroup met on 23rd June 2011 and the members accepted the Terms of Reference for CMP198. A copy of the Terms of Reference is provided in Annex 5. The Workgroup considered the issues raised by the CUSC Modification Proposal and worked through the Terms of Reference.
- 1.3 This document outlines the discussions held by the Workgroup, the responses to the Workgroup Consultation and the Code Administrator Consultation and the nature of the CUSC changes that are proposed. Copies of all representations received in response to the Workgroup Consultation and the Code Administrator Consultation are included as Annex 1 and 2 to this document.
- 1.4 This CUSC Modifications Report has been prepared in accordance with the terms of the CUSC. An electronic copy can be found on the National Grid website at www.nationalgrid.com/uk/Electricity/Codes, along with the CUSC Modification Proposal form.

National Grid Opinion

- 1.5 As Proposer, National Grid supports the implementation of CMP198 on the basis that it better facilitates the Applicable CUSC Objectives by promoting consistency across the codes and by encouraging more participation from parties in the modification process.

Workgroup Conclusion

- 1.6 The Workgroup voted by majority to support the implementation of CMP198. One Workgroup member raised a Workgroup Alternative CUSC Modification (WACM) and whilst this was not supported by the majority of the Workgroup, it was progressed by the Chair on the basis that it better facilitates the Applicable CUSC Objectives. Full details of the Workgroup vote are contained within Section 6 of this document.

CUSC Modifications Panel's Recommendation

- 1.7 **To be completed post-Panel Recommendation Vote**

2 Description of Proposed Modification



What is the CACOP?

The Code Administration Code of Practice was established as part of the Code Governance Review to 'facilitate convergence and transparency in code modification processes'. One of its objectives is to help small market participants and consumers who may not be code users. The Code of Practice puts forward principles for Code Administrators to follow and sets out principles applicable to a code modification process. It contains 12 Principles and a section that relates to the common change process.

<http://www.ofgem.gov.uk/Licensing/IndCodes/CGR/Documents1/FinalCoP.pdf>

- 2.1 Under Ofgem's Code Governance Review (CGR), a Code Administrator Working Group (CAWG) was set up in order to discuss opportunities for the convergence of code modification processes and encourage best practice. Part of the outcome of the CAWG was a recommendation that the Proposer should retain ownership of the solution of any modification that they originate. As part of the CGR, on 3 June 2010 Ofgem published its conclusions on the Code Administration Code of Practice (CACOP) which contained a number of principles for Code Administrators to follow. Principle 6 of the CACOP applies to the concept of Proposer Ownership.
- 2.2 A series of proposals were raised to implement the final proposals of the CGR, one of which was CAP185 – Role of Code Administrator and Code Administration of Code of Practice. CAP185 introduced several changes to the CUSC to allow the establishment of the Code Administrator (CA) and the requirement to recognise the CACOP. CAP185 also amended the CUSC to clarify the point at which the Proposer can withdraw a CUSC Modification Proposal.
- 2.3 Currently under the CUSC, once the CUSC Modifications Panel has referred a CUSC Modification Proposal to a Workgroup for development, the Proposer effectively loses control of the proposal and the Workgroup take ownership. Therefore the Proposer has no greater influence on the development of the solution than any other Workgroup Member. This can have the effect of the proposal being taken in a direction never intended by the Proposer and/or being amended contrary to the wishes of the Proposer. This could result in the Proposer withdrawing their proposal or raising a Workgroup Alternative CUSC Modification. In order to resolve this defect and to comply with the CACOP, it is necessary to introduce the concept of Proposer Ownership and to address the outstanding CUSC related issues covered by Principle 6 of the CACOP.
- 2.4 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.
- 2.5 Where no Workgroup is established, the Proposer's opportunity to change their proposal lapses prior to the CA Consultation being issued.
- 2.6 Currently, changes to the legal text cannot be made after publication of the CA Consultation, even if the changes are simple typographical errors that were identified late in the process. This causes process inefficiency, in that a Self-governance change will be required after the proposal has been approved to address the identified errors. In order to address this inefficiency, the CA should ensure that legal text is produced prior to

consultation and that the Panel can agree to minor corrections to the legal text at the time of making its final recommendation. This is in accordance with Principle 9 of the CACOP. It also specifies that if the changes are not considered to be minor, they may instruct the CA to carry out a further consultation on the revised text.

2.7 The Proposer considers that this solution addresses the following in particular:

- Allows the Proposer to vary their proposal at anytime prior to the final Workgroup Vote
- Makes it clear that where the proposal proceeds directly to CA Consultation, the right for the Proposer to vary their proposal shall lapse
- Ensures that there is a requirement to detail any variation made by the Proposer within the final Modification Report

3 Summary of Workgroup Discussions

Presentation of proposal

- 3.1 The first Workgroup meeting was held on 23rd June 2011. As Proposer, the National Grid Representative's Alternate presented CMP198 and explained the key changes that CMP198 was seeking to introduce.
- 3.2 The Workgroup considered how the flowchart in the CUSC Modification Proposal Form for CMP198 (see Annex 6) would work and debated the possible scenarios that may occur at the stage of the Workgroup Report being tabled at the CUSC Panel. The CUSC Panel currently has the ability to return the Report to the Workgroup for further analysis (paragraph 8.20.22). The CMP198 Workgroup noted that under Proposer Ownership this would happen after the Proposer's opportunity for varying the Proposal had lapsed. The Workgroup considered three possible options for this situation:
- 1) Panel refers Report back to the Workgroup to discuss and make any necessary changes. Proposer and/or the Workgroup are not able to vary the original proposal or any alternatives and do not carry out a further Workgroup vote.
 - 2) Panel refers Report back to the Workgroup, but allowing the Proposer and/or Workgroup to vary the original Proposal and any alternatives.
 - 3) The Panel decide on the most suitable course of action at the time and specify the extent of changes required/allowed.
- 3.3 The Workgroup discussed ownership in terms of Workgroup Alternative CUSC Modifications (WACMs). Currently, a WACM may be owned either by the Workgroup as a whole or by an individual Workgroup Member. The CMP198 Workgroup agreed that the current process is satisfactory and would still work under Proposer Ownership, as where the Workgroup owned a WACM, it would require a majority of Workgroup members to vary that WACM. Where a minority of Workgroup Members did not agree with the variation, they would be able to raise their own WACM and where that WACM was not supported by the majority of the Workgroup, the Workgroup Chair has the ability to allow the WACM to progress.
- 3.4 The Workgroup considered whether the current rules on amalgamation of CUSC Modification Proposals are compatible with the principles of Proposer Ownership (see information box, right). The Workgroup agreed that it was out of scope for CMP198 and that the current process for amalgamation should, for now, remain the same, in that the Panel retain control in deciding whether or not a proposal may be amalgamated with another. In reaching this conclusion, the Workgroup noted that there had only ever been one case of amalgamation of CUSC Modification Proposals (CAPs 100/101) and



What is Amalgamation?

Where one or more CUSC Modification Proposals is deemed to be sufficiently similar to another proposal, the Panel may decide to amalgamate the proposals on the grounds of efficiency. The Proposers of the proposals then cooperate in order to provide one representative for the Workgroup, or where there is no agreement the Panel Chair may nominate one of the Proposers to take on the role as representative. Amalgamation is described in CUSC Section 8, paras 8.19.3, 8.19.4 and 8.14.

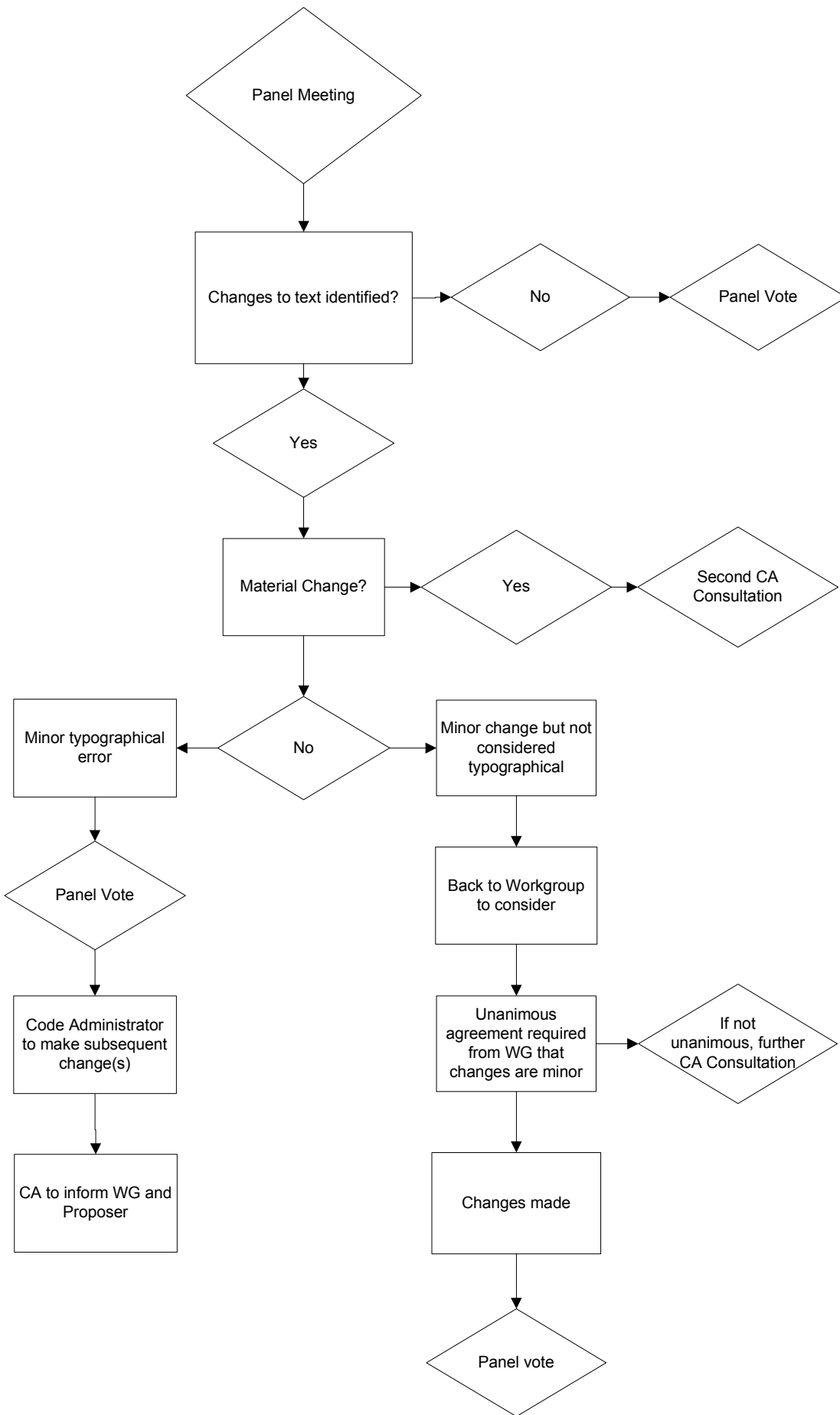
that under the existing arrangements; the Authority retains a right of veto over the Panel's amalgamation decisions.

Procedure for minor corrections to legal text agreed by Panel

- 3.5 The Workgroup moved on to looking at the final part of the flowchart provided in the CUSC Modification Proposal and discussed the series of events that may occur at the point of the Panel Recommendation Vote in terms of changes to the legal text.
- 3.6 The Workgroup considered the situation where a respondent to a Code Administrator Consultation highlighted a potential change to the legal text. The Workgroup questioned who would make the decision on the level of materiality, e.g. is the change "minor" or "material". The Workgroup agreed that the CUSC Modifications Panel would make the decision, as they currently do for matters such as whether a CUSC Modification Proposal meets the Self-governance criteria.
- 3.7 The Workgroup first of all noted that an extra option should be included in the flowchart to make it clear that where the Panel consider there are no changes required to the legal text, that the Final Modification Report can then progress along the normal route and be sent to the Authority for decision. The updated flowchart can be found in Annex 7 of this document.
- 3.8 The Workgroup considered the path to be taken where minor changes are believed to be required to the legal text. The group discussed that where minor typographical errors are found, it would be appropriate for the Panel to instruct the Code Administrator to make the changes and for the Code Administrator to inform the Workgroup and Proposer of any changes made as a matter of courtesy. In the interest of efficiency, these minor corrections would not prevent the Panel from carrying out its vote during their meeting, and it would simply be agreed that the decision of the Panel would be subject to the CA making the necessary changes.
- 3.9 Where the Panel agree that minor changes are possibly required but that these changes are not simply of a typographical nature, then the proposal would need to be referred back to the Workgroup for further consideration. The CMP198 Workgroup agreed that the Workgroup for that proposal would then need to be in unanimous agreement what the changes are and that they are of a minor nature. If the Workgroup was in unanimous agreement, the changes would be made and the final CUSC Modification Report would once again be presented to the Panel in order for them to carry out their vote. If the Workgroup did not all agree on this, then a further CA Consultation should be carried out on revised legal text.

- 3.10 The Workgroup agreed that where the Panel consider that a material change to the legal text may be required, then a further Code Administrator Consultation would take place in order to consult with CUSC Parties on the changes made since the first CA Consultation.
- 3.11 The flowchart below shows the possible scenarios and the course of action that would follow in respect to the above. In the second meeting the Workgroup discussed the flowchart and the scenarios further. The Workgroup agreed that it would be good practice for the Panel to follow the options in the flowchart but that it is not necessary to codify all the possible scenarios and that a 'common sense' approach would be expected in this regard. The Workgroup noted that this approach would be consistent with the Balancing and Settlement Code (BSC), both in terms of the provisions set out in the BSC itself and supporting working practices.

Flowchart: Process for minor corrections to legal text agreed by Panel



Potential Alternative: Comparison with BSC P247 Alternative Modification

3.12 One Workgroup member suggested the Workgroup could consider a potential alternative to CMP198, by comparing the original proposal with BSC Modification Proposal P247A: "Proposer 'ownership' of Modification Proposals" which was implemented in the BSC in May 2010. The Workgroup asked the Code Administrator to produce a comparison of the suggested changes under CMP198 with the like-for-like proposal under the BSC. A number of elements that were highlighted as part of P247, such as the proposer being able to withdraw their proposal and for another party to then adopt the proposal if they so wish, does not form part of CMP198 as this concept is already codified in the CUSC. The table below has been created in order to clearly distinguish between the changes that CMP198 seeks to bring in, and the changes that P247 Alternative introduced into the BSC.

Comparison of BSC Modification P247 Alternative and CUSC Modification Proposal CMP198

BSC P247 Alternative characteristics	CMP198
Where no Workgroup exists, Proposer's right to vary ceases on entering report/consultation phase	Same
Ability to vary ceases at point of Workgroup making final recommendation against objectives	Same. This would be prior to draft Workgroup report being circulated as no concept of Workgroup Vote in CUSC (although the Workgroup voting process is set out in the generic Workgroup Terms of Reference).
Any amendments to solution to be captured in final report to the Authority	Same
Proposer can withdraw Proposal up to point of Workgroup making final recommendation against objectives	Already in CUSC: withdrawal possible up to point of CUSC Panel Recommendation vote. This was clarified by CAP185.
During consideration by the Panel of the Workgroup Report, the Proposer does not have a specific right to address the Panel. (The P247 original proposal contained an explicit right)	Silent
Adoption window for another user to take over proposal	Already in CUSC.
If a Proposer is deemed to be 'frustrating the process' with respect to deliberately using Proposer Ownership to delay progression or prevent developments, the Panel may force withdrawal of the Modification Proposal.	CMP198 original was silent. However, Workgroup to amend CMP198 to include this provision.
Variation with respect to urgent	Same

BSC P247 Alternative characteristics	CMP198
procedure allowed prior to timetable approval from Authority	
Changes to legal text specified by the Panel at consideration of the draft final report and if changes required, Panel instruct Modification Secretary to make the necessary changes.	Panel can direct CA to correct typos. Working practice that minor changes may be referred back to Workgroup and failure to unanimously agree on changes result in further CA Consultation.

- 3.13 The Workgroup considered the table above at its meeting on 13th July 2011. The legal text in P247A included a clause allowing the BSC Modifications Panel to force withdrawal of a proposal where the Panel believe that the Proposer is deliberately disrupting or frustrating the work of the Modification Group. The CMP198 Workgroup questioned whether this was in keeping with the principles of Proposer Ownership in their first meeting. However, the group agreed at its second meeting that in the interest of consistency this clause should be included in the CUSC as well as the BSC and noted that despite this situation being unlikely, it provides a safety net should the situation arise. The Ofgem representative highlighted that the draft legal text should include a cross reference to the text in the CUSC which stipulates that an SCR directed proposal cannot be withdrawn without the Authority's consent. The legal text provided in Annex 3 has been updated to contain this provision.
- 3.14 The Workgroup discussed the P247 Original which sought to allow a Proposer to address the BSC Panel in relation to their proposal. The Workgroup noted that for P247, the right of address was proposed to allow the Proposer to explain to the Panel any amendments they had made to the original Modification solution and why they had deviated from the Workgroup view, where this occurred. One Workgroup member highlighted that the Code Administration Code of Practice (CACOP) lays out a common modification process in which it states the proposer is entitled to attend and speak at all Panel meetings, and therefore suggested that this element could form a potential alternative to CMP198. The Workgroup expressed a concern that Ofgem had rejected the P247 Original which contained this ability and approved the Alternative which removed it. However, it was noted that at the time of the P247 discussions the CACOP had not been formally approved, although a draft had been published.
- 3.15 The Workgroup acknowledged that the CUSC differs from the BSC in a number of respects which may have a bearing on the Proposer's right to address the Panel. The first is that the CUSC allows for numerous alternative proposals to be raised (by individuals or the Workgroup as a whole) as opposed to only one allowed in the BSC. Secondly, the CUSC Modifications Panel is considered to function in a slightly less formal manner than the BSC Panel, whereby historically it has been more open to attendees speaking from the floor. Finally, there is a minor difference in the modifications process for the two codes, in that when a Workgroup Report is presented to the CUSC Modifications Panel, the Panel either accepts the

report or returns it to the Workgroup for further analysis, but is not required to give its views against the Applicable CUSC Objectives at that point. Under the BSC, when the Panel receives the Workgroup Report, it provides an initial view on the merits of the proposal and any alternative against the Applicable BSC Objectives. The Workgroup noted that the Proposer may not gain anything, therefore, by having a right to address the CUSC Panel during its meeting to receive and approve the Workgroup Report.

Post Consultation Workgroup Discussions

- 3.16 The Workgroup held a final meeting on 12th August 2011 to discuss the Workgroup Consultation responses and the legal drafting. When discussing the responses, it was noted that the responses to the consultation were equally split between support for the options provided, with respect to the stage at which the Workgroup Report is tabled at the CUSC Panel. The group noted that option 2 was reasonable but the majority supported option 3 as it provides flexibility to allow the Panel to decide on the most suitable course of action. In addition it was noted that this option protects the proposers' rights and that the other options may cause delays to the process by re-opening the Workgroup process unnecessarily. Therefore it was agreed that option 3 would be selected as the course of action to follow in this situation and that this would form part of the legal drafting for the CUSC.
- 3.17 In the post-consultation meeting the group highlighted that they had not had sufficient time to examine the legal drafting in detail. However, the main changes were discussed and the group agreed that further detail needed to be included in 8.23.4 to reflect the information depicted in the second flowchart, in respect to the course of action taken at the Panel meeting where a minor error is identified but where it is not of a typographical nature.
- 3.18 The group agreed that, assuming the agreed changes to the legal drafting were made, they would still be able to take a vote on CMP198. Following the post-consultation Workgroup meeting, the legal drafting was updated to reflect the discussions held in the meeting and subsequently the updated text was sent out to the group for review. Further to some minor comments received, the final version of the legal drafting agreed by the group can be found in Annex 3.

Workgroup Alternative CUSC Modifications (WACM)

- 3.19 The group discussed the responses to the question posed in the consultation on whether it was believed that an Alternative that allowed the Proposer an explicit right to address the Panel was required. Three out of the four respondents felt that this was not required. The group discussed this further and it was noted that the BSC P247 Original (the like-for-like proposal) which had this clause in it was rejected and that the Alternative which removed this clause was approved by the Authority. The Workgroup member who suggested the alternative noted that at the BSC rejection letter did not refer to the final version of the Code Administration Code of Practice (CACOP) as it was prior to the final version being issued. Therefore they

believed that the two could not be directly compared. In addition they noted the point in the CACOP where it specifies that the Proposer can address the Panel at various times throughout the process. The Ofgem Representative agreed to highlight this inconsistency issue within Ofgem should CMP198 be implemented. The rest of the Workgroup agreed that whilst they did not support the Alternative, they were happy for it to be progressed in order for the Authority to make the determination. However the group noted that if the Alternative was implemented then the BSC would need to be looked at again in this regard as the two codes would be inconsistent. The legal drafting for the WACM can be found in Annex 4.

4 Impact , Cost and Assessment

Impact on the CUSC

- 4.1 CMP198 requires amendments to the following parts of the CUSC:
- Section 8
- 4.2 The text required to give effect to the original proposal is contained in Annex 3 of this document.

Interaction with CMP195 – Code Governance Review post implementation clarifications.

- 4.3 CMP195 proposes a number of changes to Sections 8 and 11 of the CUSC to better clarify the provisions for the procedures implemented as part of Ofgem's Code Governance Review in 2010. At the 30th September CUSC Modifications Panel meeting, the Panel voted that CMP195 Workgroup Alternative CUSC Modification (WACM) 1 should be implemented. If the Authority implements CMP195 or any of the WACMs, there will be some minor changes to paragraphs 8.23.1 and 8.23.4 shown in Annex 3 but this will not directly interact with the proposed legal text changes for CMP198.

Impact on Greenhouse Gas Emissions

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

Impact on Core Industry Documents

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

Impact on other Industry Documents

- 4.6 Neither the Proposer nor the Workgroup identified any impacts on Core Industry Documents. However, as discussed in paragraph 4.19, an inconsistency in the CACOP may arise should CMP198 be implemented as the CACOP allows the Proposer to explicitly address the Panel during the modifications process, whereas the CMP198 Original does not.

Costs

Code administration costs	
Resource costs	£5,445 - 3 Workgroup meetings £125 - Catering
Total Code Administrator costs	£5,570

Industry costs (Standard CMP)	
Resource costs	<p>£ - 3 Workgroup meetings £ – 2 Consultations</p> <ul style="list-style-type: none"> • 3 Workgroup meetings • 6 Workgroup members • 1.5 man days effort per meeting • 1.5 man days effort per consultation response • 3.5 consultation respondents
Total Industry Costs	£22,688

5 Proposed Implementation

- 5.1 The Workgroup proposes that CMP198 should be implemented ten (10) Working Days after an Authority decision and that CMP198 would only apply to CUSC Modification Proposals raised after the CMP198 Implementation date. CUSC Modification Proposals raised prior to the CMP198 implementation date would be progressed in line with the existing rules.
- 5.2 All four respondents to the Workgroup Consultation agreed with this approach and no additional comments were received in relation to implementation in response to the Code Administrator Consultation.

Workgroup Conclusion

6.1 During the Workgroup vote undertaken on 12th August 2011, four Workgroup members voted that CMP198 better facilitates the Applicable CUSC Objectives, as set out in the table below. One Workgroup member voted that the WACM best facilitates the Applicable CUSC Objectives over the baseline and the CMP198 Original.

6.2 For ease of reference, the Applicable 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

Vote 1: Each proposal against ACOs against CUSC baseline

a) Original CMP198

Member	(a)	(b)
Garth Graham	Yes as it brings consistency with the CACOP and across the codes	Yes – The original is stronger against this objective as it promotes greater engagement amongst users.
Esther Sutton	Yes – as per the comments already made	Yes – as per the comments already made
Steven Eyre	Yes – As per Emma and Stuart	Yes – As per Emma and Stuart
Stuart Cotten	Yes – in line with the CACOP and therefore helps NG stay in line with the licence.	Yes – protects the proposers view and encourages participation and therefore competition
Bob Longden	Absent	
Emma Clark	Yes - enhances consistency as required by the Code of Practice which stipulates that a common Modification process should be adopted across the electricity codes and will also adhere to the Licence requirement to establish and operate procedures for modification of the CUSC.	Yes - promotes greater cooperation in the process by giving the proposer the confidence that their proposal is not modified in a way they did not intend.

b) WACM

Member	(a)	(b)
--------	-----	-----

Garth Graham	Yes – as per page 13 of the WG Consultation the Proposer notes that the BSC does not have this process	No – bring uncertainty to parties therefore not overall better
Esther Sutton	Yes – better than the original	Yes – better under both and therefore overall
Steven Eyre	Yes	No - Introduces a discriminatory effect which is reflected in the Workgroup Report
Stuart Cotten	Yes – Principles of the CACOP but introduces a different way forward	No – Proposer cannot get their message across and therefore is detrimental to competition
Bob Longden	Absent	
Emma Clark	Yes – introduces consistency as outlined in the CACOP	No – as is discriminatory in favour of the proposer. Overall this is the stronger argument.

Vote 2: Whether the WACM better facilitates the ACOs than the ORIGINAL

Member	(a)	(b)
Garth Graham	No – brings uncertainty to parties, discriminatory effect	No – Equal opportunities
Esther Sutton	Yes – as it covers what is in the CACOP	Yes – the Proposer should be given the chance to discuss the Amendment at the final meeting
Steven Eyre	No – not better than the original	No – not better than the original
Stuart Cotten	Neutral - acknowledge that is delivers the CACOP	No , puts parties in a too strong position
Bob Longden	Absent	
Emma Clark	Neutral	No , it is unfair to give the Proposer an opportunity to address the Panel and not allow for a potential counter-argument.

Vote 3: Which option BEST facilitates achievement of the ACOs? (incl. CUSC baseline)

CUSC Baseline
CMP198 Original

WACM

Member	BEST option	Reason
Garth Graham	CMP198 – ORIGINAL	For reasons already set out
Esther Sutton	WACM	For reasons already set out
Steven Eyre	CMP198 – ORIGINAL	For reasons already set out - No support for the Alternative
Stuart Cotten	CMP198 – ORIGINAL	For reasons already set out
Bob Longden	Absent	
Emma Clark	CMP198 – ORIGINAL	Aligns with principle 6 and CACOP consistent with the Codes.

National Grid Opinion

7.3 As Proposer, National Grid supports the implementation of CMP198 on the basis that it better facilitates the Applicable CUSC Objectives by providing consistency across the codes as required by the Code of Practice and promotes better participation from parties by giving the proposer the confidence that their proposal is developed in the way they intended.

CUSC Modifications Panel Recommendation

7.4 To be completed after the Panel Recommendation Vote.

7 Responses

7.1 Four responses were received to the Workgroup Consultation. The following table provides an overview of the representations received.

Reference	Company	Supportive	Comments
CMP198-WGC1-01	E.ON UK	Yes	<ul style="list-style-type: none"> Supports CMP198 as it aligns with the CACOP, BSC and UNC. Option 2 is most pragmatic as it allows the WG and Proposer to make changes they deem appropriate. Supports alternative as accords with CACOP. The burden of proof lies with the proposer to demonstrate that their proposal is better than the baseline, therefore allowing them to speak at the Panel would not be discriminatory but instead a safeguard. Also risk of misrepresentation of proposer cannot address the Panel.
CMP198-WGC1-02	Drax Power Limited	Yes	<ul style="list-style-type: none"> Supports CMP198 as the solution delivers the intent of the proposal and is consistent with the approach implemented by the P247 Alternative. Also helps to satisfy CACOP guidelines. Course of action is dependent on reasons for returning the report back, therefore option 3 is most appropriate as it gives flexibility. Does not support alternative as it may give the proposer an unfair advantage and also if there are multiple alternatives and therefore multiple proposers it could make the Panel meeting lengthy. Final report should be unbiased.
CMP198-WGC1-03	EDF Energy	Yes	<ul style="list-style-type: none"> Supports proposal as consistent with CACOP and provisions in other codes. Support option 3 as provides flexibility on the most appropriate course of action. No alternative is required as the existing Panel practice allows for attendees to speak at meetings. Also potentially discriminatory as the Panel may receive an unbalanced view of the proposal and its impact.
CMP198-WGC1-04	SP	Yes	<ul style="list-style-type: none"> Supports proposal as it provides a common process across the codes. Option 2 is best as it allows the Proposer to retain ownership throughout the whole process. Option 3 is contrary to this principle as the Panel can limit or direct the scope of changes. No alternative is required as this would allow the Proposer to put forward their arguments without providing the WG with the opportunity to put forward their arguments.

7.2 3 responses were received to the Code Administrator Consultation. All were supportive of CMP198 and the table below provides an overview of the representations received. Copies of the responses are contained within Annex 2 of this report.

Reference	Company	Supportive	Comments
CMP198- CR-01	EDF Energy	Yes	<ul style="list-style-type: none"> • Supports CMP198 as better facilitates (a) in that it produces consistency across the codes in line with the CACOP and (b) in that it promotes greater engagement by introducing safeguards. • Do not support Alternative as it could provide the panel with an imbalanced view. • Agree with implementation approach.
CMP198- CR-02	Scottish Power	Yes	<ul style="list-style-type: none"> • CMP198 better facilitates the Objectives, particularly (b) as smaller parties may feel they are in a better position to propose a change to the CUSC. • The Alternative has similar effect on competition but is discriminatory by allowing the proposer to represent their views potentially over the those of the group. • Support implementation approach.
CMP198 – CR-03	E.ON UK	Yes	<ul style="list-style-type: none"> • CMP198 better facilitates both Objectives as fulfils Principle 6 of the CACOP and progresses cross-code consistency. • Support the Alternative as it accords with the explicit wording of the CACOP. • Support implementation approach.

CUSC Workgroup Consultation: response proforma

CMP198 – Proposer Ownership of CUSC Modification Proposals

Respondent:	Esther Sutton
Company Name:	E.ON UK
Please express your views regarding the Workgroup Consultation, including rationale. (Please include any issues, suggestions or queries)	We welcome CMP198 to extend proposer ownership to the CUSC. Proposer ownership was acknowledged by the Code Administrator Working Group and subsequent final version of the Code Administrator Code of Practice to be an example of best practice. Implementation of CMP198 is thus desirable to align with the CACoP, UNC and BSC in ensuring that an original CUSC Proposal is not developed in a way unintended by the Proposer, while allowing small adjustments and not fettering the ability of a

<p>Do you believe that the proposal better facilitates the Applicable CUSC Objectives? Please include your reasoning.</p>	<p><i>For reference, the Applicable CUSC Objectives are:</i></p> <p><i>(a) the efficient discharge by the licensee of the obligations imposed upon it under the Act and by this licence; and</i></p> <p><i>(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.</i></p> <p>CMP198 supports Applicable Objective (a) by enhancing the procedures for modifying the CUSC required under Licence Condition C10, by enabling minor improvements to be incorporated into a Proposed solution with the agreement of the proposer. This will also fulfil the Code Administrator Code of Practice (CACoP) Principle 6. Bringing the CUSC in line with the UNC and BSC will also further cross-code consistency, while confirming a process for minor corrections to the legal text in line with Principle 9 of the CACoP would also aid efficiency.</p> <p>It would also further Applicable Objective (b). Incorporating proposer ownership in the CUSC as well as the UNC and BSC modification procedures would make the Codes clearer and more user-friendly to all, especially smaller participants who might hold a different view to the majority of Workgroup members. As multiple Alternatives are allowed under the CUSC, this is not so significant as under the BSC, but CMP198 would still be a positive step meaning that all proposers would be assured that any solution they put forward could benefit from refinements suggested by the Workgroup if they wish, or be presented for a Panel decision in its original form if they prefer. This should encourage participation, particularly for those Parties who may hold a minority view and wish to ensure that their original solution is not changed in the Workgroup.</p>
<p>Do you support the proposed implementation approach? If not, please state why and provide an alternative suggestion where possible.</p>	<p>Yes, CMP198 should be implemented promptly 10 Working Days after an Authority decision.</p>
<p>Do you have any other comments?</p>	<p>No.</p>
<p>Do you wish to raise a Workgroup Consultation Alternative Request for the Workgroup to consider?</p>	<p>No.</p>

Specific questions for CMP198

Q	Question	Response
1	Which of the three options regarding the course of action to be taken if the Panel detect any issues when considering the Workgroup Report do you believe is the most appropriate?	<p>Option 2, to allow the Workgroup and Proposer to make changes they deem appropriate, seems the most sensible option.</p> <p>Although the scope of work carried out when a proposal is referred back to a Workgroup is determined by a timetable and terms of reference set by the Panel in doing so, it is possible that this work might uncover unforeseen issues or errors in earlier analysis that need addressing. Not allowing this, which Option 1 suggests, would seem futile. Option 3 to allow the Panel to decide whether or not any changes could be made to the solution also seems to invite the risk that the Panel might decide not, but as they cannot foresee exactly what the further work might uncover, could have the same outcome as Option 1 with the added uncertainty and time wasted on the Panel decision.</p>

Q	Question	Response
2	<p><i>Do you believe an alternative is required to CMP198 to allow the Proposer an explicit right to address the CUSC Modification Panel during their final meeting where the Panel Recommendation Vote takes place?</i></p>	<p>Yes. The Code Administrators Working Group report stated that 'The group considered that it would be appropriate for the proposer to be entitled to attend the relevant panel meeting in order to advocate their proposal before the panel decide whether or not to recommend implementation'. Although P247 Proposed to implement this under the BSC was rejected, the CAWG conclusions were included in the final version of the CACoP which was only published after the P247 decision. Thus this potential Alternative is the only option that fully accords with the CACoP. The Code Governance Review Final Proposals stipulated that the CACoP 'sets out a standard process that the Codes should follow' (3.61), and this Common Modification Process (CACoP p18-20) confirms that 'There will be a common Modification process adopted under each code'. The process specifies the entitlement for the proposer to speak at Panel meetings on 3 occasions: when the Modification is first presented, following the Workgroup's recommendation but prior to consultation, and at the meeting where the Panel make their recommendation to the Authority:</p> <p>Panel Consideration: 'The proposer will be entitled to attend the panel meeting and set out the case for change together with their views on the appropriate process and timetable.'</p> <p>Report to Panel: 'The proposer will be entitled to attend the panel meeting and put forward views on the appropriate way forward'</p> <p>Panel Recommendation: 'Modification Proposers will be entitled to attend and speak at panel meetings'.</p> <p>Proposing a modification is inherently more challenging than the position of those in favour of the status quo, whose preferred option is already implemented thus does not need advocating in the same way. Instead, the burden of proof lies with the proposer to demonstrate that their proposal would be an improvement on the baseline. Thus we do not think that a proposer having the right to speak at the Panel when a decision is to be made would be discriminatory. Rather, a safeguard to ensure that they are guaranteed the option to explain for instance why they had or had not incorporated any group suggestions into the original proposal; it would avoid any risk of misrepresentation if the motives behind the final Proposed solution put to the Panel are explained by the proposer themselves. The right to request to speak may exist at the moment, but while the CUSC Panel may have been more open to this in the past than the BSC Panel Chair, it is not guaranteed; to comply with the finalised CACoP this option should be codified.</p>

CUSC Workgroup Consultation: response proforma

CMP198 – Proposer Ownership of CUSC Modification Proposals

Respondent:	Stuart Cotten 01757 612 751
Company Name:	Drax Power Limited
Please express your views regarding the Workgroup Consultation, including rationale. (Please include any issues, suggestions or queries)	The current CMP198 solution delivers the intent of the proposal raised by NGET, whilst providing a solution that is consistent with the approach implemented by P247 Alternative under the BSC. The solution also helps to satisfy the proposer ownership element of the CACOP guidelines. Drax supports the solution set out in the CMP198 Workgroup Consultation document. However, Drax does not support the potential alternative solution (please see the answers to the specific questions for CMP198 set out below).
Do you believe that the proposal better facilitates the Applicable CUSC Objectives? Please include your reasoning.	Drax agrees that the proposal would better facilitate Applicable CUSC Objectives (a) and (b). Under objective (a), the modification would help to meet the proposer ownership element of the CACOP and provide a consistent approach to proposer ownership across the industry codes. Under objective (b), the modification would ensure that a proposer's view is protected and allowed to progress to a final report that will appear before the Authority for determination, thereby promoting a non-discriminatory and competitive electricity market.
Do you support the proposed implementation approach? If not, please state why and provide an alternative suggestion where possible.	Drax supports the proposed implementation approach.
Do you have any other comments?	Please see the answers to the specific questions for CMP198 set out below.
Do you wish to raise a Workgroup Consultation Alternative Request for the Workgroup to consider?	No.

Specific questions for CMP198

Q	Question	Response
1	<p>Which of the three options regarding the course of action to be taken if the Panel detect any issues when considering the Workgroup Report do you believe is the most appropriate?</p>	<p>The course of action required will depend upon the reason for returning the report back to the Workgroup.</p> <p>If the Workgroup was being asked to effectively provide clarification on the details contained within the report, then it would not seem appropriate to reopen the development process. However, if the Panel believes that a greater level of analysis is required, an example being where elements of the Terms of Reference have not been fulfilled, it may be more appropriate to allow the Proposer and/or Workgroup to make changes that take into account the new information.</p> <p>On that basis, Drax supports Option 3, which allows the Panel with the flexibility to take the most appropriate action for the given circumstances</p>
2	<p><i>Do you believe an alternative is required to CMP198 to allow the Proposer an explicit right to address the CUSC Modification Panel during their final meeting where the Panel Recommendation Vote takes place?</i></p>	<p>No. Drax does not believe that this potential alternative is appropriate. As the consultation document mentions, the Authority has previously voted in favour of BSC P247 Alternative, which did not include the ability of the proposer to address the Panel.</p> <p>There are two key issues in allowing such action. Firstly the proposer of the original proposal may be seen as having an unfair advantage if they are able to address the Panel, whilst the proposers of alternative solutions are unable to take the same course of action. Secondly, if there were multiple alternatives to a given proposal, allowing the proposer of each alternative to address the Panel could be a lengthy process, making Panel meeting less efficient and potentially turning the Panel meeting into a Workgroup discussion.</p> <p>The final report should be an unbiased account of the discussion that has taken place and the conclusions reached by the Workgroup. The report should deliver this information succinctly, in a way that allows the Panel to fully consider the views of all Workgroup members and enables the Panel to ensure that the Terms of Reference have been met.</p> <p>If a given the report does not provide the information required in an unbiased way, then the report should be sent back to the Workgroup and further clarification should be provided by the Workgroup as a whole.</p>

CUSC Workgroup Consultation: response proforma

CMP198 – Proposer Ownership of CUSC Modification Proposals

Respondent:	Steven Eyre steven.eyre@edfenergy.com
Company Name:	EDF Energy
Please express your views regarding the Workgroup Consultation, including rationale. (Please include any issues, suggestions or queries)	EDF Energy supports the proposal. We believe this modification will introduce provisions within the CUSC that are consistent with the Code Administration Code of Practice (CACOP) and provisions found in the other industry codes.
Do you believe that the proposal better facilitates the Applicable CUSC Objectives? Please include your reasoning.	Yes. The proposal better facilitates applicable objective (a) in that it will introduce consistency across the codes in line with the CACOP and facilitate better achievement of the Licensee requirement to establish and operate procedures for the modification of CUSC. The proposal will also better facilitate objective (b) in that it will promote greater engagement in the code governance process
Do you support the proposed implementation approach? If not, please state why and provide an alternative suggestion where possible.	Yes. We agree that the modification, if approved, should be implemented 10 days after a decision and that it should only apply to modifications raised after its implementation.
Do you have any other comments?	No.
Do you wish to raise a Workgroup Consultation Alternative Request for the Workgroup to consider?	No.

Specific questions for CMP198

Q	Question	Response
---	----------	----------

Q	Question	Response
1	Which of the three options regarding the course of action to be taken if the Panel detect any issues when considering the Workgroup Report do you believe is the most appropriate?	We consider it appropriate for the Panel to have the flexibility to decide what is the most appropriate course of action given the particular circumstances identified. Consequently, we support option 3.
2	<i>Do you believe an alternative is required to CMP198 to allow the Proposer an explicit right to address the CUSC Modification Panel during their final meeting where the Panel Recommendation Vote takes place?</i>	No. We believe that existing Panel practice allows for attendees to speak at meetings and we do not therefore consider there to be a need to provide an explicit right for the proposer. It is also potentially discriminatory as it provides the right to the proposer only which in turn may lead to the Panel obtaining an unbalanced view of the proposal and its impact.

CUSC Workgroup Consultation: response proforma

CMP198 – Proposer Ownership of CUSC Modification Proposals

Respondent:	<i>Gary Henderson</i> <i>01355814808</i> electricityspoc@scottishpower.com
Company Name:	<i>IBM (UK) Ltd for and on behalf of ScottishPower</i>
Please express your views regarding the Workgroup Consultation, including rationale. (Please include any issues, suggestions or queries)	<i>We are supportive of the modification as it provides for a common process across codes. Proposer ownership is an important principle which allows for the retention of the original intention behind the modification, while allowing the modification group to assess whether that change is appropriate or not.</i>
Do you believe that the proposal better facilitates the Applicable CUSC Objectives? Please include your reasoning.	<i>The Proposed modification better facilitates Objective b by allowing for an effective and flexible modifications process. Parties who feel that they can introduce changes which they can retain ownership of, without the risk of it being hijacked, are more likely to participate in the market as a whole.</i>

<p>Do you support the proposed implementation approach? If not, please state why and provide an alternative suggestion where possible.</p>	<p>Yes</p>
<p>Do you have any other comments?</p>	<p>No</p>
<p>Do you wish to raise a Workgroup Consultation Alternative Request for the Workgroup to consider?</p>	<p>No</p>

Specific questions for CMP198

Q	Question	Response
1	<p>Which of the three options regarding the course of action to be taken if the Panel detect any issues when considering the Workgroup Report do you believe is the most appropriate?</p>	<p>Option 2 seems to retain the most consistent with the original proposal, by allowing the Proposer to retain ownership throughout the process (within the limits specified by the modification process). Allowing the Panel to limit or direct the scope of changes allowed during the second workgroup process seems to run contrary to that principle.</p>
2	<p><i>Do you believe an alternative is required to CMP198 to allow the Proposer an explicit right to address the CUSC Modification Panel during their final meeting where the Panel Recommendation Vote takes place?</i></p>	<p>We do not believe that an Alternative is required. The owner should not have explicit rights to address the Panel – this would allow the Proposer to put forward their arguments without providing the modification group an opportunity to put forward their own arguments in person.</p>

CMP198 – Proposer Ownership of CUSC Modification Proposals

Industry parties are invited to respond to this consultation expressing their views and supplying the rationale for those views, particularly in respect of any specific questions detailed below.

Please send your responses by **27th October** to cusc.team@uk.ngrid.com Please note that any responses received after the deadline or sent to a different email address may not receive due consideration by the CUSC Modifications Panel when it makes its recommendation to the Authority.

These responses will be included in the Final CUSC Modification Report which is submitted to the CUSC Modifications Panel.

Respondent:	<i>Steven Eyre</i> <i>Steven.eyre@edfenergy.com</i>
Company Name:	<i>EDF Energy</i>
Do you believe that the proposed original better facilitate the Applicable CUSC Objectives? Please include your reasoning.	<p>Yes. The proposal better facilitates applicable objective (a) in that it will introduce consistency across the codes in line with the CACOP and facilitate better achievement of the Licensee's requirement to establish and operate procedures for the modification of CUSC.</p> <p>The proposal will also better facilitate objective (b) in that it should promote greater engagement in the code governance process by introducing safeguards for modification proposers such that their proposal will always be sent to the Authority in a form that meets their intentions.</p>
Do you believe that the CMP198 Workgroup Alternative CUSC Modification (WACM) better facilitates the Applicable CUSC Objectives?	<p>No. Whilst the WACM introduces the benefits of the original proposal it also includes an additional element that could have a discriminatory affect that outweighs the benefits of the proposal. We do not believe that the proposer should have an explicit right to address the Panel during its consideration of the proposal. This could provide the Panel with an imbalanced view of the proposal and its impact. The Working Group report provides an adequate opportunity for the proposer to set out the arguments for its proposal compared to the baseline and any other alternatives. Furthermore, the existing Panel practice allows for parties to attend and speak at Panel meetings.</p>

Do you support the proposed implementation approach? If not, please state why and provide an alternative suggestion where possible.	Yes. We agree that the modification, if approved, should be implemented 10 days after a decision and that it should only apply to modifications raised after its implementation.
Do you have any other comments?	No.

CMP198 – Proposer Ownership of CUSC Modification Proposals

Respondent:	<i>Gary Henderson 01355 352875 gary.henderson@uk.ibm.com</i>
Company Name:	<i>IBM UK on and behalf of ScottishPower</i>
Do you believe that the proposed original better facilitate the Applicable CUSC Objectives? Please include your reasoning.	<i>We do believe that the proposed original does better facilitate the applicable CUSC objectives, in the main B. By allowing the Proposer to retain ownership of the modification as it progresses through the process, smaller Parties may feel that they are in a position to make effective change to the CUSC to their benefit. There is a perception that smaller Parties fear that change could be “hijacked” by a more influential Party. This should allay their fears to some degree and encourage them to engage more fully with the industry, whilst allowing the rest of the group to provide an alternative view (and modification). This expected better engagement must be better for competition.</i>
Do you believe that the CMP198 Workgroup Alternative CUSC Modification (WACM) better facilitates the Applicable CUSC Objectives?	<i>Like the Proposed, the Alternative should have a similar effect on competition; however we believe that this is less than the Proposed, due to the inequity of allowing the proposer to represent their views potentially over those of the majority of the group.</i>

<p>Do you support the proposed implementation approach? If not, please state why and provide an alternative suggestion where possible.</p>	<p>Yes</p>
<p>Do you have any other comments?</p>	<p>No</p>

<p>Respondent:</p>	<p><i>Esther Sutton</i></p>
<p>Company Name:</p>	<p><i>E.ON UK</i></p>
<p>Do you believe that the proposed original better facilitate the Applicable CUSC Objectives? Please include your reasoning.</p>	<p><i>For reference, the Applicable 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.</i></p> <p>Yes. Our reasoning has not changed since the Workgroup consultation; CMP198 supports Applicable Objective (a) by enhancing the procedures for modifying the CUSC as required under Licence Condition C10, by enabling minor improvements to be incorporated into a Proposed solution with the agreement of the proposer. Enabling minor corrections to the legal text as part of this modification would also further efficiency. Implementing CMP198 will also fulfil Principle 6 of the Code Administrator Code of Practice (CACoP). Bringing the CUSC in line with the UNC and BSC will also progress cross-code consistency, supporting Objective (b). This will help make the Codes clearer while the ownership principle makes them more user-friendly to all, especially smaller participants who might hold a different view to the majority of Workgroup members. Under CMP198, all proposers could be assured that any solution they put forward could benefit from minor improvements suggested by the Workgroup if they agreed, or could be presented for a Panel decision in their original form if the proposer prefers. This</p>

<p>Do you believe that the CMP198 Workgroup Alternative CUSC Modification (WACM) better facilitates the Applicable CUSC Objectives?</p>	<p>Yes. Although this has not been implemented under the BSC, we note that at that time the CACoP had not been finalised and the Alternative is the option that best accords with the final, explicit wording of the CACoP.</p> <p>As we highlighted in our previous response, in working towards agreeing a CACoP, the Code Administrators Working Group „considered that it would be appropriate for the proposer to be entitled to attend the relevant panel meeting in order to advocate their proposal before the panel decide whether or not to recommend implementation".</p> <p>These CAWG conclusions were included in the final version of the CACoP published after the P247 decision. Thus the WACM is the only option that would fully accord with the CACoP. The Code Governance Review Final Proposals stipulated that the CACoP „sets out a standard process that the Codes should follow" (3.61), and this Common Modification Process laid out in the CACoP (p18-20) confirms that „There will be a common Modification process adopted under each code". It goes on to lay out what this process should involve, specifically stating that the proposer will be entitled to speak at Panel meetings on 3 occasions: when the Modification is first presented, following the Workgroup"s recommendation but prior to consultation, and at the meeting where the Panel make their recommendation to the Authority:</p> <p>“Panel Consideration: „The proposer will be entitled to attend the panel meeting and set out the case for change together with their views on the appropriate process and timetable.”</p> <p>Report to Panel:</p> <p>“The proposer will be entitled to attend the panel meeting and put forward views on the appropriate way forward”</p> <p>Panel Recommendation: „Modification Proposers will be entitled to attend and speak at panel meetings”.</p> <p>It is clear that proposing a modification lays the burden of proof on the proposer to show that their solution would be an improvement on the baseline, whereas those in favour of the status quo have no need to demonstrate the strengths of their preferred option. Consequently proposers having the right to speak at the Panel when a decision is to be made, as stipulated by the CACoP, would be a sensible safeguard to ensure that they are guaranteed the opportunity to explain their final solution following the Workgroup phase, including any changes or reasons for not changing their proposal further to Workgroup suggestions. It would avoid the risk of misrepresentation if the motives behind the final Proposed solution put to the Panel can be explained by the proposer themselves. The right to request to speak may exist currently, but to fully comply with the finalised CACoP the right to speak should be codified.</p>
--	--

Do you support the proposed implementation approach? If not, please state why and provide an alternative suggestion where possible.	Yes, prospective implementation 10 Working Days after an Authority decision is appropriate.
Do you have any other comments?	<i>No</i>

Annex 3- Proposed Legal Text

For ease of reference the text in blue is the proposed additional text for CMP198 and the text to be deleted as part of CMP198 is crossed out:

8.16.9 It shall be a condition to the right to make a proposal to modify the **CUSC** under this Paragraph 8.16 that the **Proposer**:

- (a) grants a non-exclusive royalty free licence to all **CUSC Parties** who request the same covering all present and future rights, **IPRs** and moral rights it may have in such proposal (as regards use or application in Great Britain); and
- (b) warrants that, to the best of its knowledge, information and belief, no other person has asserted to the **Proposer** that such person has any **IPRs** or normal rights or rights of confidence in such proposal,

and, in making a proposal, a **Proposer** which is a **CUSC Party** shall be deemed to have granted the licence and given the warranty in (a) and (b) above.

The provisions of this Paragraph 8.16.9 shall ~~also~~ apply to any **WG Consultation Alternative Request** and ~~also to a **Relevant Party** supporting a **CUSC Modification Proposal** in place of the original **Proposer** in accordance with Paragraph 8.16.10 (a), and for these purposes the term **Proposer** shall include any such **Relevant Party** or a person making such a **WG Consultation Alternative Request**.~~

8.19.2 In relation to each **CUSC Modification Proposal**, the **CUSC Modifications Panel** shall determine at any meeting of the **CUSC Modifications Panel** whether to:

- (a) amalgamate the **CUSC Modification Proposal** with any other **CUSC Modification Proposal**;
- (b) establish a **Workgroup** of the **CUSC Modifications Panel**, to consider the **CUSC Modification Proposal**;
- (c) review the evaluation made pursuant to Paragraph 8.18.4, taking into account any new information received; or
- (d) proceed directly to wider consultation—~~(in which case the **Proposer's** right to vary his **CUSC Modification Proposal** shall lapse).~~

8.19.4 ~~Without prejudice to each **Proposer's** right to withdraw his **CUSC Modification Proposal** prior to the amalgamation of his **CUSC Modification Proposal** ~~where **CUSC Modification Proposals** are amalgamated pursuant to Paragraph 8.19.3:~~~~

8.20.21At the meeting referred to in Paragraph 8.20.20 the **CUSC Modifications Panel** shall consider the **Workgroup's** report and shall determine whether to:-

- (a) refer the **CUSC Modifications Proposal** back to the

Workgroup for further analysis (in which case the **CUSC Modifications Panel** shall determine the timetable and terms of reference to apply in relation to such further analysis); or

- (b) proceed then to wider consultation~~;~~; or
- (c) decide on another suitable course of action.

8.20.23 The **Proposer** may, at any time prior to the final evaluation by the **Workgroup** (in accordance with its terms of reference and working practices) of that **CUSC Modification Proposal** against the **Applicable CUSC Objectives**, vary his **CUSC Modification Proposal** on notice (which may be given verbally) to the chairman of the **Workgroup** provided that such varied **CUSC Modification Proposal** shall address the same issue or defect originally identified by the **Proposer** in his **CUSC Modification Proposal**.

8.20.24 The **CUSC Modifications Panel** may (but shall not be obliged to) require a **CUSC Modification Proposal** to be withdrawn in accordance with paragraph 8.17.6 if, in the **Panel's** opinion, the **Proposer** of that **CUSC Modification Proposal** is deliberately and persistently disrupting or frustrating the work of the **Workgroup** and that **CUSC Modification Proposal** shall be deemed to have been so withdrawn. In the event that a **CUSC Modification Proposal** is so withdrawn, the provisions of paragraph 8.16.10 shall apply in respect of that **CUSC Modification Proposal**.

8.23 CUSC MODIFICATION REPORT

8.23.1 Subject to the **Code Administrator's** consultation having been completed, the **CUSC Modifications Panel** shall prepare and submit to the **Authority** a report (the "**CUSC Modification Report**") in accordance with this Paragraph 8.23 for each **CUSC Modification Proposal** which is not withdrawn.

8.23.2 The matters to be included in a **CUSC Modification Report** shall be the following (in respect of the **CUSC Modification Proposal**):

- (a) a description of the **CUSC Modification Proposal** and any **Workgroup Alternative CUSC Modification**, including the details of, and the rationale for, any variations made (or, as the case may be, omitted) by the **Proposer** together with the views of the **Workgroup**;
- (b) the recommendation of **The Company** as to whether or not the **CUSC Modification Proposal** (or any **Workgroup Alternative CUSC Modification** as provided below) should be made;
- (c) a summary (agreed by the **CUSC Modifications Panel**) of the views (including any recommendations) from **Panel Members** and/or the **Workgroup** as the case may be made during the consultation in respect of the **CUSC Modification Proposal** and of any **Workgroup Alternative CUSC Modification**;

- (d) an analysis of whether (and, if so, to what extent) the **CUSC Modification Proposal** would better facilitate achievement of the **Applicable CUSC Objective(s)** with a detailed explanation of the **CUSC Modifications Panel's** reasons for its assessment, including, where the impact is likely to be material, an assessment of the quantifiable impact of the **CUSC Modification Proposal** on greenhouse gas emissions, to be conducted in accordance with such current guidance on the treatment of carbon costs and evaluation of the greenhouse gas emissions as may be issued by the **Authority** from time to time, and providing a detailed explanation of the **CUSC Modifications Panel's** reasons for that assessment;

8.23.4 A draft of the **CUSC Modification Report** shall be tabled at the **Panel Meeting** prior to submission of that **CUSC Modification Report** to the **Authority** as set in accordance with the timetable established pursuant to Paragraph 8.19.2 at which ~~the **Panel Chairman** will undertake the **CUSC Modifications Panel Recommendation Vote**~~ the Panel may consider any minor changes to the legal drafting and:

(i) if the change required is a typographical error the **CUSC Modifications Panel** may instruct the **Code Administrator** to make the appropriate change and the **Panel Chairman** will undertake the **CUSC Modifications Panel Recommendation Vote**; or

(ii) if the change required is not considered to be a typographical error then the **CUSC Modifications Panel** may direct the **Workgroup** to review the change. If the **Workgroup** unanimously agree that the change is minor the **CUSC Modifications Panel** may instruct the **Code Administrator** to make the appropriate change and the **Panel Chairman** will undertake the **CUSC Modifications Panel Recommendation Vote** otherwise the **Code Administrator** shall issue the **CUSC Modification Proposal** for further **Code Administrator** consultation after which the **Panel Chairman** will undertake the **CUSC Modifications Panel Recommendation Vote**.

(iii) if a change is not required after consideration, the **Panel Chairman** will undertake the **CUSC Modifications Panel Recommendation Vote**

8.24 URGENT CUSC MODIFICATION PROPOSALS

8.24.7 For the purposes of this Paragraph 8.24.7, the procedure and timetable in respect of an **Urgent CUSC Modification Proposal** may (with the approval of the **Authority** pursuant to Paragraph 8.24.4 or Paragraph 8.24.5) deviate from all or part of the **CUSC Modification Procedures** or follow any other procedure or timetable approved by the **Authority**. Where the procedure and timetable approved by the **Authority** in respect of an **Urgent CUSC Modification Proposal** do not provide for the establishment (or designation) of a **Workgroup** the **Proposer's** right to vary the **CUSC Modification Proposal** pursuant to paragraphs 8.16.10 and 8.20.23 shall lapse from the time and date of such approval.

Annex 4 – Workgroup Alternative CUSC Modification Legal Text

The text below is the proposed legal text for the CMP198 WACM and is in addition to the proposed legal text for the CMP198 Original as depicted in Annex 3.

- 8.20.20 The chairman or another member (nominated by the chairman) of the **Workgroup** shall attend the next **CUSC Modifications Panel** meeting following delivery of the report and may be invited to present the findings and/or answer the questions of **Panel Members** in respect thereof. Other members of the **Workgroup** may also attend such **CUSC Modifications Panel** meeting [and the Proposer may address such CUSC Modifications Panel meeting.](#)

TERMS OF REFERENCE FOR CMP198 WORKGROUP

RESPONSIBILITIES

1. The Workgroup is responsible for assisting the CUSC Modifications Panel in the evaluation of CUSC Modification Proposal 198, "Proposer Ownership of CUSC Modification Proposals", tabled by National Grid Electricity Transmission plc at the CUSC Modifications Panel meeting on 27 May 2011.
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; 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.
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) Review the illustrative legal text
 - b) Procedure for minor corrections to legal text agreed by Panel
 - c) Consider any alternative modifications
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 15 working days 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 18 August 2011 for circulation to Panel Members. The final report conclusions will be presented to the CUSC Modifications Panel meeting on 26 August 2011.

MEMBERSHIP

13. It is recommended that the Workgroup membership be drawn from the CUSC Governance Standing Group:

Role	Name	Representing
Chairman	Alex Thomason	
National Grid Representative*	Emma Clark	National Grid
Industry Representatives*	Garth Graham	Scottish and Southern Energy

	Esther Sutton	E.ON UK
	Stuart Cotten	Drax Power
	Steven Eyre	EDF Energy
	Robert Longden	Mainstream Renewable Power
Authority Representative	Abid Sheikh	Ofgem
Technical Secretary	Bali Virk	Code Administrator

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 CMP198 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.

RELATIONSHIP WITH MODIFICATIONS PANEL

20. The Workgroup shall seek the views of the Modifications Panel before taking on any significant amount of work. In this event the Workgroup chairman should contact the Modifications Panel Secretary.
21. The Workgroup shall seek the Modifications Panel's advice if a significant issue is raised during the Consultation process which would require a second period of Consultation in accordance with 8.20.17 of the CUSC.
22. Where the Workgroup requires instruction, clarification or guidance from the Modifications Panel, particularly in relation to their Scope of Work, the Workgroup chairman should contact the Modifications Panel Secretary.

MEETINGS

23. The Workgroup shall, unless determined otherwise by the Modifications Panel, develop and adopt its own internal working procedures and provide a copy to the Panel Secretary for each of its Modification Proposals.

REPORTING

24. The Workgroup chairman shall prepare a final report to the 26 August 2011 Modifications Panel responding to the matters set out in the Terms of Reference, including all Workgroup Consultation Responses and Alternative Requests.
25. A draft Workgroup Report must be circulated to Workgroup members with not less than five Business Days given for comments, unless all Workgroup members agree to 3 Business Days.
26. Any unresolved comments within the Workgroup must be reflected in the final Workgroup Report.
27. The chairman (or another member nominated by him) will present the Workgroup report to the Modifications Panel as required.

Indicative Workgroup Timeline

The following timetable is suggested for progressing the CMP198 Workgroup:

27 May 2011	CUSC Modifications Panel Meeting <ul style="list-style-type: none">• Proposer to present• Panel to agree progression and Workgroup Terms of Reference (where relevant)
23 June 2011	First Workgroup meeting
5 July 2011	Issue draft Workgroup Consultation for Workgroup comment (5 working days)
12 July 2011	Deadline for comments on draft Workgroup Consultation
15 July 2011	Publish Workgroup Consultation (for three weeks)
5 August 2011	Deadline for responses to Workgroup consultation
12 August 2011	Post-consultation Workgroup meeting (to review consultation responses, confirm any alternatives and undertake Workgroup vote)
5 September 2011	Circulate draft Workgroup Report for comment (5 working days)
12 September 2011	Deadline for comment on Workgroup report
22 August 2011	Submit final Workgroup report to Panel Secretary
30 September 2011	Present Workgroup report to CUSC Modifications Panel

CUSC Modification Proposal Form	CMP198
Title of Modification Proposal: <i>(mandatory by Proposer)</i>	
Proposer Ownership of CUSC Modification Proposals	
Submission Date <i>(mandatory by Proposer)</i>	
19 May 2011	
Description of the Proposed Modification <i>(mandatory by Proposer)</i>	
<p>Under Ofgem’s Code Governance Review (CGR), a Code Administrator Working Group (CAWG) was set up in order to discuss opportunities for the convergence of code modification processes and encourage best practice. Part of the outcome of the CAWG was a recommendation that the Proposer should retain ownership of the solution of any modification that they originate. As part of the CGR, on 3 June 2010 Ofgem published its conclusions on the Code Administration Code of Practice (CACOP) which contained a number of principles for Code Administrators to follow. Principle 6 of the CACOP applies to the concept of Proposer Ownership¹.</p>	
<p>A series of proposals were raised to implement the final proposals of the CGR, one of which was CAP185 – Role of Code Administrator and Code Administration Code Of Practice. CAP185 introduced several changes to the CUSC, namely the establishment of the ‘Code Administrator’ (CA) and the requirement to recognise the CACOP. CAP185 also amended the CUSC to clarify the point at which the Proposer can withdraw a CUSC Modification Proposal.</p>	
<p>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.</p>	
<p>Where no Workgroup is established, the Proposer’s opportunity to change their proposal lapses prior to the CA Consultation being issued.</p>	
<p>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.</p>	

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.

Where the Urgent Process is followed, if no Workgroup is established then the Proposer's right to vary their proposal shall lapse when the timetable is approved by the Authority. Where a Workgroup is allowed for, the Proposer may vary their proposal up until the Workgroup Vote.

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.

Description of Issue or Defect that Proposed Modification seeks to Address: ***(mandatory by Proposer)***

Currently under the CUSC, once the CUSC Modifications Panel has referred a CUSC Modification Proposal to a Workgroup for development, the Proposer effectively loses control of the proposal and the Workgroup take ownership. Therefore the Proposer has no greater influence on the development of the solution than any other Workgroup Member. This can have the effect of the proposal being taken in a direction never intended by the Proposer and/or being amended contrary to the wishes of the Proposer. This could result in the Proposer withdrawing their proposal or raising a Workgroup Alternative CUSC Modification. In order to resolve this defect and to comply with the CACOP, it is necessary to introduce the concept of Proposer Ownership and to address the outstanding CUSC related issues covered by Principle 6 of the CACOP.

As stated above, currently, changes to the legal text cannot be made after the CA Consultation, even if the changes are simple typographical errors that were identified late in the process. This causes process inefficiency, in that a Self-governance change will be required after the proposal has been approved to address the identified errors. Principle 9 of the CACOP stipulates that the CA should ensure that legal text is produced prior to consultation and that the Panel can agree to minor corrections to the legal text at the time of making its final recommendation. It also specifies that if the changes are not considered to be minor, they may instruct the CA to carry out a further consultation on the revised text.

Impact on the CUSC *(this should be given where possible)*

Changes will be required to Section 8, in particular:

- Add in a clause stating that the Proposer may vary their proposal at anytime prior to the final Workgroup Vote;
- Make clear that where the proposal proceeds directly to CA Consultation, the right for the Proposer to vary their proposal shall lapse;
- Under final Modification Report, include requirement to detail any variations made by Proposer.

Do you believe the Proposed Modification will have a material impact on Greenhouse Gas

Emissions? Yes/No (assessed in accordance with Authority Guidance – see guidance notes for website link) No
Impact on Core Industry Documentation. Please tick the relevant boxes and provide any supporting information (this should be given where possible) BSC <input type="checkbox"/> Grid Code <input type="checkbox"/> STC <input type="checkbox"/> Other <input type="checkbox"/> (please specify)
Urgency Recommended: Yes / No (Optional by Proposer) No
Justification for Urgency Recommendation (mandatory by Proposer if recommending progression as an Urgent Modification Proposal) N/A
Self-Governance Recommended: Yes / No (optional by Proposer) No
Justification for Self-Governance Recommendation (Mandatory by Proposer if recommending progression as Self-governance Modification Proposal)
Should this Modification be considered exempt from any ongoing Significant Code Reviews? (Optional by Proposer in order to assist the Panel in deciding whether a Modification Proposal should undergo a SCR Suitability Assessment) There are no ongoing SCRs that would be applicable to this CUSC modification
Impact on Computer Systems and Processes used by CUSC Parties: (this should be given where possible) None
Details of any Related Modification to Other Industry Codes (<i>where known</i>): BSC P247 - Proposer 'ownership' of Modification Proposals Implemented on 28th May 2010
Justification for Proposed Modification with Reference to Applicable CUSC Objectives: (mandatory by Proposer) Please tick the relevant boxes and provide justification:

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

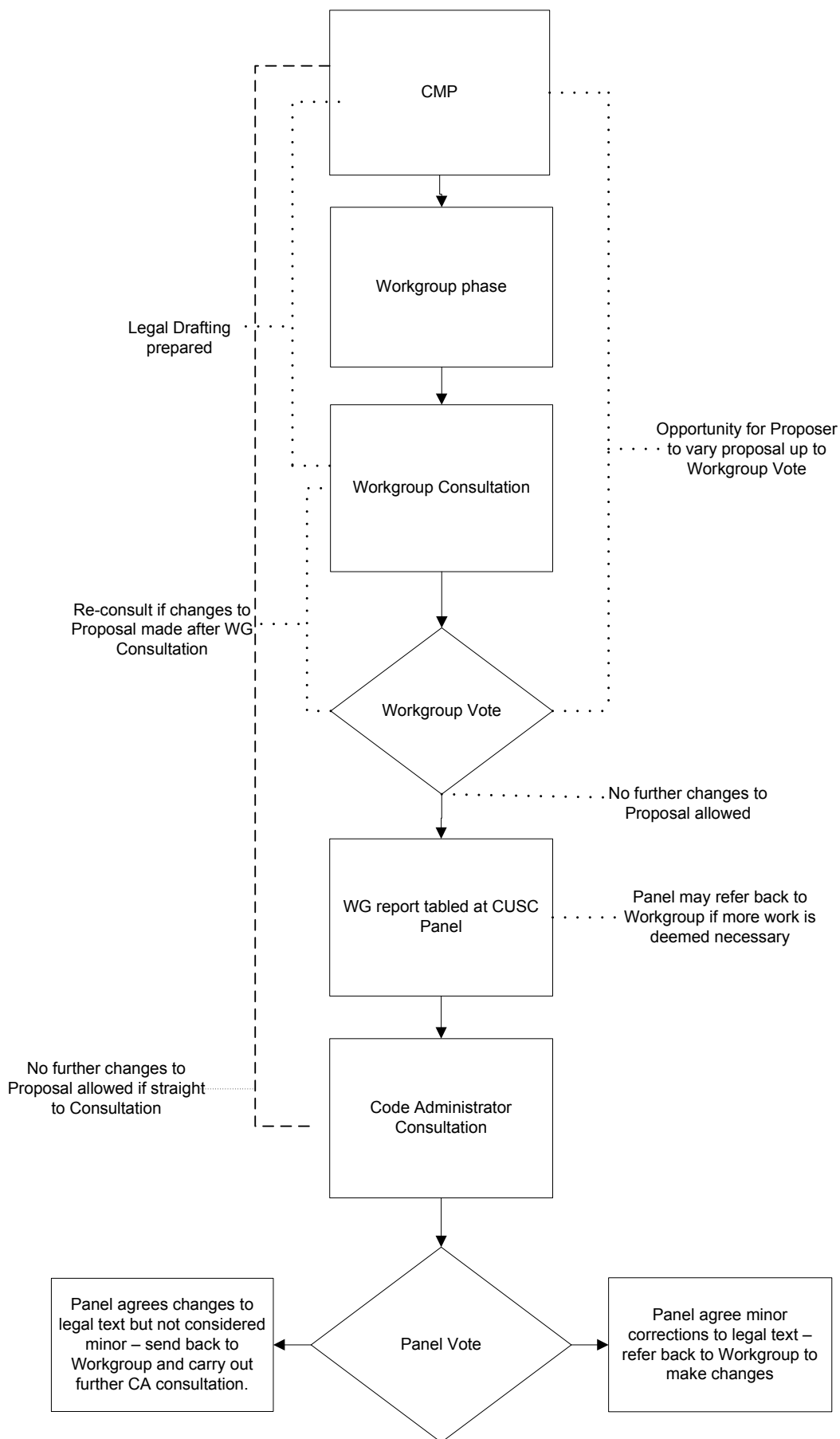
CMP198 would enhance consistency as required by the Code of Practice which stipulates that a common Modification process should be adopted across the electricity codes and will also adhere to the Licence requirement to establish and operate procedures for modification of the CUSC.

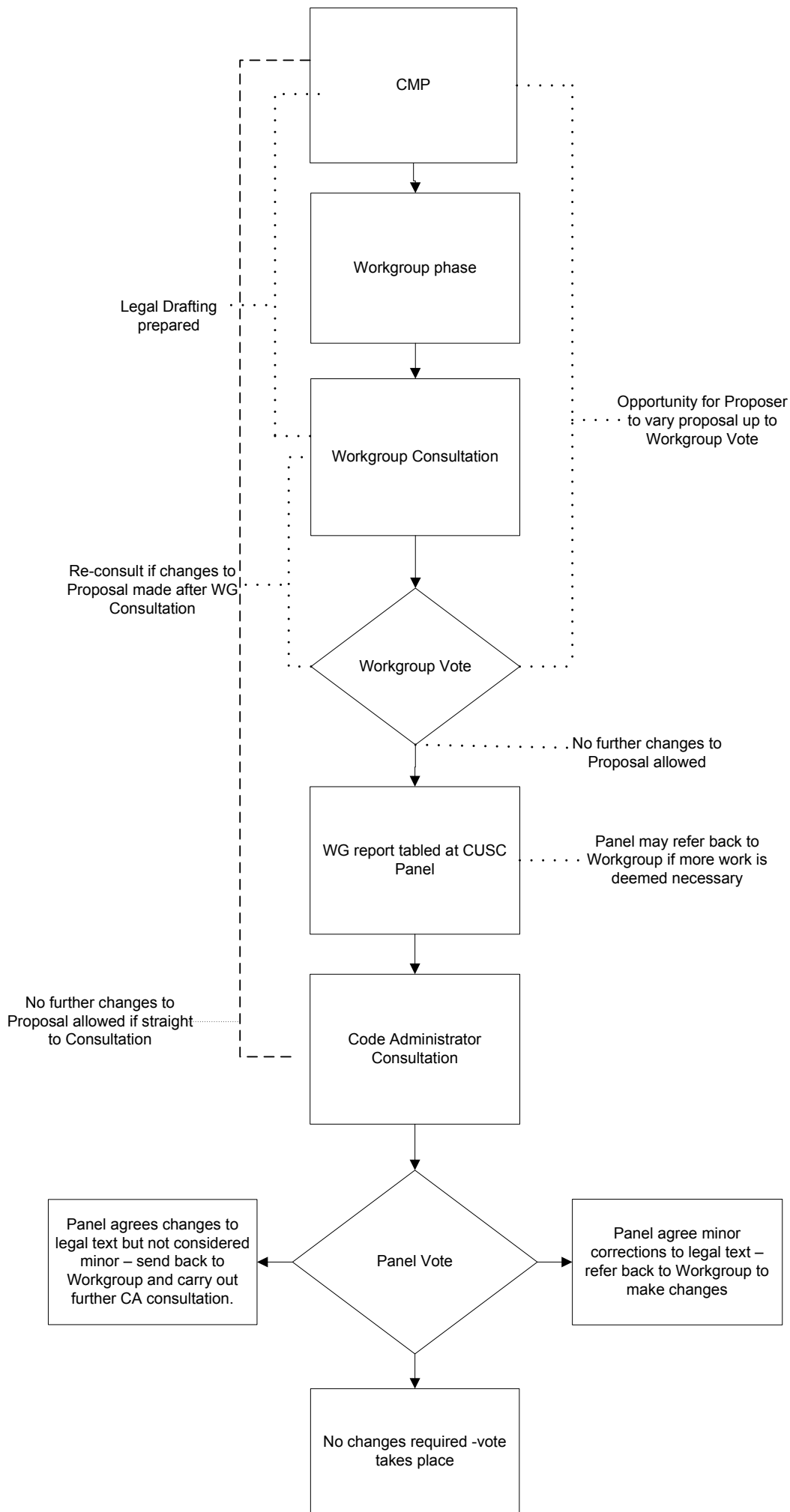
(b) facilitating effective competition in the generation and supply of electricity, and (so far as consistent therewith) facilitating such competition in the sale, distribution and purchase of electricity.

CMP198 would give the Proposer the confidence that their original proposal and solution is only Modified in a way that is consistent with the intentions of the proposer. This would therefore encourage more parties to raise Proposals and encourage participation in the process which would have the effect of promoting competition.

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

Details of Proposer: (Organisation Name)	Emma Clark
Capacity in which the Modification is being proposed: (i.e. CUSC Party, BSC Party or "National Consumer Council")	CUSC Party
Details of Proposer's Representative: Name: Organisation: Telephone Number: Email Address:	Emma Clark National Grid Electricity Transmission PLC 01926 655223 emma.clark@uk.ngrid.com
Details of Representative's Alternate: Name: Organisation: Telephone Number: Email Address:	Steve Lam National Grid Electricity Transmission PLC 01926 653534 steven.lam@uk.ngrid.com
Attachments: Yes Proposer Ownership CUSC Modification Flowchart . 1 Page	





Annex 8- Workgroup Attendance Register

Role	Name	23 June Meeting 1 Attendance	13 July Meeting 2 Attendance	12 August Meeting 3 Attendance
Chairman	Alex Thomason	Yes	Yes	Yes
National Grid Representative	Emma Clark	No*	Yes	Yes
Workgroup Members	Garth Graham	Yes	No	Yes
	Esther Sutton	Yes	Yes	Yes
	Stuart Cotten	Yes	Yes	Yes
	Steven Eyre	Yes	Yes	Yes
	Robert Longden	Yes	No	No
Authority Representative	Abid Sheikh	Yes	Yes	Yes
Technical Secretary	Bali Virk	Yes	No	Yes

*Steve Lam, Representative's Alternate attended in place of Emma Clark.