

Stage 02: Workgroup Consultation

Connection and Use of System Code (CUSC)

CMP198 Proposer Ownership of CUSC Modification Proposals

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.

This document contains the discussion of the Workgroup which formed in June 2011. Any interested party is able to make a response in line with the guidance set out in Section 8 of this document.

Published on: 15th July 2011
Length of Consultation: 15 Working Days
Responses by: 5th August 2011

The Workgroup recommends:

To be completed following the Workgroup Consultation



Medium Impact:

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

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

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Any Questions?

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About this document

This is the Workgroup Consultation document. The Workgroup is seeking the views of CUSC and interested parties in relation to the issues raised by the Workgroup, as recorded in this document. Parties are requested to respond by 5th August 2011 to cusc.team@uk.ngrid.com using the Workgroup Consultation Response Proforma which can be found on the following link:

<http://www.nationalgrid.com/uk/Electricity/Codes/systemcode/amendments/current/amendmentproposals/>

Document Control

Version	Date	Author	Change Reference
1.0	15/07/11	National Grid	Consultation to Industry

1 Summary

- 1.1 CMP198 – Proposer Ownership of CUSC Modification Proposals seeks to amend the CUSC to allow the Proposer of a CUSC Modification Proposal to vary the solution of their proposal prior to the Workgroup vote, or where there is no Workgroup, prior to the Panel decision to progress the proposal straight to the Code Administrator Consultation.
- 1.2 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.
- 1.3 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 2. The Workgroup considered the issues raised by the CUSC Modification Proposal and worked through the Terms of Reference.

Workgroup Consultation

- 1.4 This Consultation summarises the deliberations of the Workgroup and describes the CMP198 CUSC Modification Proposal and a potential alternative.
- 1.5 This Workgroup Consultation has been prepared in accordance with the Terms of the CUSC. An electronic copy can be found on the National Grid Website, www.nationalgrid.com/uk/Electricity/Codes/, along with the CUSC Modification Proposal Form.
- 1.6 The Workgroup is seeking the views of CUSC Parties and other interested parties in relation to the issues raised in this document, by **5th August 2011**. Please see section 7 for how to respond.

2 Why Change?



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.

3 Solution

- 3.1 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.
- 3.2 Where no Workgroup is established, the Proposer's opportunity to change their proposal lapses prior to the CA Consultation being issued.
- 3.3 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.
- 3.4 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

4 Summary of Workgroup Discussions

Presentation of proposal

- 4.1 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.
- 4.2 The Workgroup considered how the flowchart in the CUSC Modification Proposal Form for CMP198 (see Annex 3) 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.

Consultation Question 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?

- 4.3 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.
- 4.4 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



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.

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

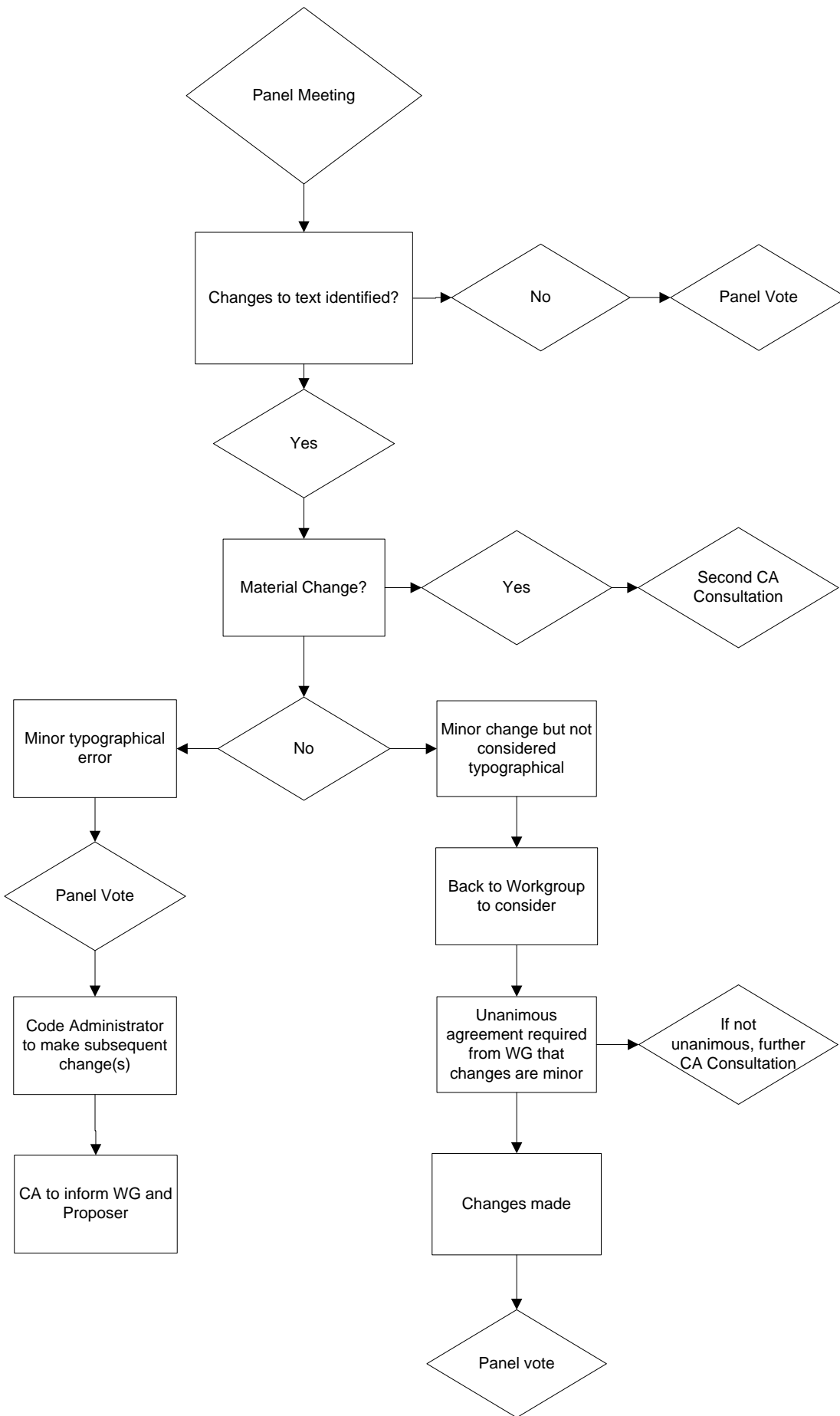
Procedure for minor corrections to legal text agreed by Panel

- 4.5 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.
- 4.6 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.
- 4.7 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 5 of this document.
- 4.8 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.
- 4.9 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.
- 4.10 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.

- 4.11 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

4.12 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.

- 4.13 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 1 has been updated to contain this provision.
- 4.14 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.
- 4.15 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.

Consultation Question 2: Do you believe an alternative is required to CMP198 to allow the Proposer an explicit right to address the CUSC Modifications Panel during their final meeting where the Panel Recommendation Vote takes place?

5 Impact and Assessment

Impact on the CUSC

- 5.1 CMP198 requires amendments to the following parts of the CUSC:
- Section 8
- 5.2 The text required to give effect to the original proposal is contained in Annex 1 of this document.

Impact on Greenhouse Gas Emissions

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

Impact on Core Industry Documents

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

Impact on other Industry Documents

- 5.5 None

Assessment against Applicable CUSC Objectives

- 5.6 The Proposer believes that CMP198 would better facilitate both Applicable CUSC Objectives, as set out under each objective below. **Views are invited against the Applicable CUSC Objectives.**

- (a) the efficient discharge by the licensee of the obligations imposed upon it under the Act and by this licence;

The Proposer believes CMP198 would enhance consistency across codes, as required by the Code of Practice which stipulates that a common Modification process should be adopted across the electricity codes. CMP198 will also better facilitate efficient achievement of 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.

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

6 Proposed Implementation

- 6.1 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. **For the purpose of the Workgroup Consultation, views are invited on this proposed implementation approach.**

7 Responses

- 7.1 The Workgroup is seeking the views of CUSC Parties and other interested parties in relation to the issues noted in this document and specifically in response to the question highlighted in the report and summarised below:

Q1: 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? (para 4.2)

Q2: Do you believe an alternative is required to CMP198 to allow the Proposer an explicit right to address the CUSC Modifications Panel during their final meeting where the Panel Recommendation Vote takes place? (para 4.15)

Q3: Do you believe that CMP198 better facilitates the Applicable CUSC Objectives? (para 5.6)

Q4: Do you support the proposed implementation approach? (para 6.1)

- 7.2 If you wish to make a representation on this Workgroup Consultation, please use the response proforma which can be found under CMP198 at the following link:

<http://www.nationalgrid.com/uk/Electricity/Codes/systemcode/amendments/currentamendmentproposals/>

- 7.3 In accordance with Section 8 of the CUSC, CUSC Parties, BSC Parties and the National Consumer Council may also raise a Workgroup Consultation Alternative Request. If you wish to raise such a request, please use the relevant form available at the weblink below:

http://www.nationalgrid.com/uk/Electricity/Codes/systemcode/amendments/forms_guidance/

- 7.4 Views are invited upon the proposals outlined in this report, which should be received by **5th August 2011**.

- 7.5 Your formal responses may be emailed to cusc.team@uk.ngrid.com.

- 7.6 If you wish to submit a confidential response please note the following:

Information provided in response to this consultation will be published on National Grid's website unless the response is clearly marked "Private & Confidential", we will contact you to establish the extent of the confidentiality. A response marked "Private and Confidential" will be disclosed to the Authority in full but, unless agreed otherwise, will not be shared with the CUSC Modifications Panel or the industry and may therefore not influence the debate to the same extent as a non confidential response.

Please note an automatic confidentiality disclaimer generated by your IT System will not in itself, mean that your response is treated as if it had been marked "Private and Confidential".

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 (b), 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:

8.20.23 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 at any time 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) the **CUSC Modification Proposal** and any **Workgroup Alternative CUSC Modification**;
- (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) a description of the **CUSC Modification Proposal** 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**, and 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 may consider any minor changes to the legal drafting and 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.**

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.**

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

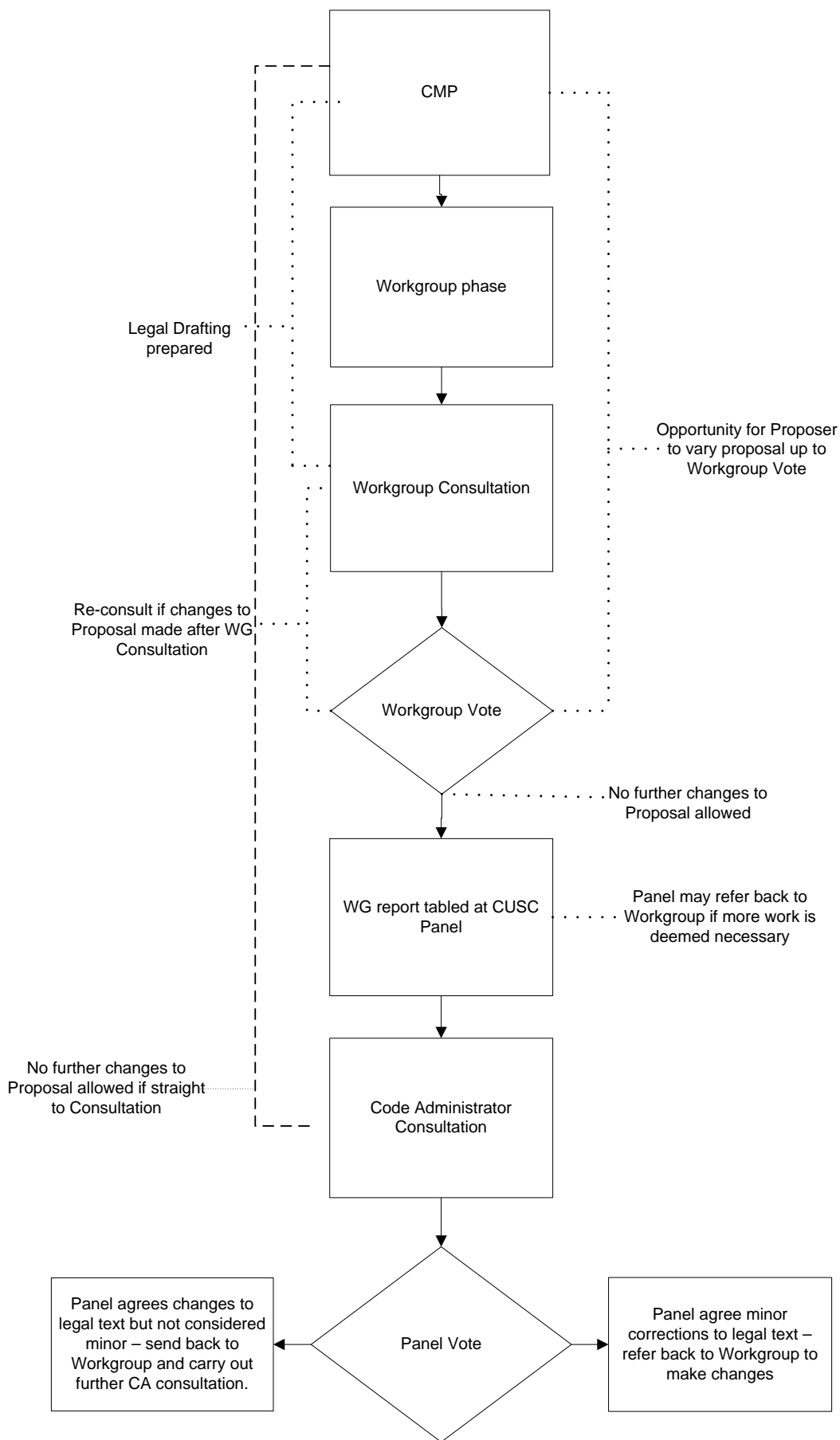
CMP198 would enhance consistency as required by the Code of Practice which stipulates that a common Modification process should be adopted across the electricity codes and will also adhere to the Licence requirement to establish and operate procedures for modification of the CUSC.

(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 4 - Workgroup Attendance Register

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

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

