

CUSC Amendment Proposal Form	CAP:077
Title of Amendment Proposal:	
Revision to CUSC Amendment implementation dates, where an Authority decision is referred to Appeal or Judicial Review.	
Description of the Proposed Amendment (mandatory by proposer):	
<p>This proposal aims to introduce the ability for CUSC Implementation dates to be revised, where an Authority CUSC Amendment decision is referred to Appeal or Judicial review.</p> <p>(NB The DTI are currently consulting as to whether Amendments that are subject to an Appeal might be capable of being implemented whilst the Appeal process is ongoing. Were the DTI ultimately to conclude that any Amendments could be implemented in these circumstances, they would fall outside the scope of this Amendment.)</p> <p>NGC believe that the precise mechanisms for giving effect to this proposal could be further explored by a Working Group. However, our initial proposal is for NGC to write to Ofgem and CUSC Panel signatories (electronically) at the time that the Authority CUSC Amendment decision has been formally referred. This communication will advise that the Appeal/ Judicial Review means that the original implementation date may no longer be valid and put forward a revised provisional implementation date. This will be based on an estimation of the likely timescales that the Appeal/ Judicial Review is expected to take, and the amount of time that will be needed following this for the Amendment to be implemented. If the Appeal or Judicial Review action takes longer than NGC had originally anticipated, NGC will be entitled to follow this procedure again during the course of a Judicial Review or Appeal as appropriate, to further revise the provisional implementation date.</p> <p>These provisions will apply equally irrespective of whether or not an original Authority decision is ultimately fully upheld or partially upheld but the Authority have given a direction to implement a revised Amendment in some form.</p> <p>No new provisions are proposed in relation to revising the implementation date of Amendments in the period after an Appeal or Judicial Review has run its course, where the original Authority decision has been formally upheld either in whole or in part. This is because in such circumstances the Amendment will revert to being an Approved Amendment and will, as now, be capable of being subject to a revised implementation date in accordance with 8.2.3.3.</p> <p>This proposal does not cover any other scenarios beyond those relating to Appeals and Judicial Review.</p>	
Description of Issue or Defect that Proposed Amendment seeks to Address (mandatory by proposer):	

A concern has been expressed that the existing Code and Licence based provisions in relation to implementation dates are not sufficient in circumstances that relate to Authority CUSC Amendment decisions that are referred to Appeal or Judicial Review. This proposal addresses this potential defect, by providing scope for NGC to provide further implementation dates to the Authority when Authority CUSC modification decisions have been referred to Appeal or Judicial Review, and hence are no longer approved amendments.

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

This Amendment is likely to require revision to Section 8 of the CUSC and /or Section 11.

Impact on Core Industry Documentation *(this should be given where possible):*

None

Impact on Computer Systems and Processes used by CUSC Parties *(this should be given where possible):*

None

Details of any Related Modifications to Other Industry Codes *(where known):*

NGC will be proposing a similar modification to the BSC.

Justification for Proposed Amendment with Reference to Applicable CUSC Objectives** *(mandatory by proposer):*

We believe that by ensuring that Approved Amendments that become subject to a Judicial Review or Appeal do not potentially “time out,” we are enabling NGC to more easily and efficiently discharge its obligations under the Electricity Act and the Transmission Licence.

It is also the case that ensuring that Amendments do not time out reduces the risk of potential improvements to the existing contractual framework being lost. In this way CAP077 will better facilitate competition in generation and supply of electricity.

Details of Proposer: Organisation's Name:	NGC
Capacity in which the Amendment is being proposed: (i.e. CUSC Party, BSC Party or "energywatch")	CUSC party
Details of Proposer's Representative: Name: Organisation: Telephone Number: Email Address:	Ben Graff NGC 01926 656312 ben.graff@uk.ngrid.com
Details of Representative's Alternate: Name: Organisation: Telephone Number: Email Address:	Mark Duffield NGC 01926 654971 Mark.Duffield@uk.ngrid.com
Attachments (Yes/No): If Yes, Title and No. of pages of each Attachment: No	

Notes:

1. Those wishing to propose an Amendment to the CUSC should do so by filling in this "Amendment Proposal Form" that is based on the provisions contained in Section 8.15 of the CUSC. The form seeks to ascertain details about the Amendment Proposal so that the Amendments Panel can determine more clearly whether the proposal should be considered by a Working Group or go straight to wider National Grid Consultation.
2. The Panel Secretary will check that the form has been completed, in accordance with the requirements of the CUSC, prior to submitting it to the Panel. If the Panel Secretary accepts the Amendment Proposal form as complete, then he will write back to the Proposer informing him of the reference number for the Amendment Proposal and the date on which the Proposal will be considered by the Panel. If, in the opinion of the Panel Secretary, the form fails to provide the information required in the CUSC, then he may reject the Proposal. The Panel Secretary will inform the Proposer of the rejection and report the matter to the Panel at their next meeting. The Panel can reverse the Panel Secretary's decision and if this happens the Panel Secretary will inform the Proposer.

The completed form should be returned to:

Richard Dunn
Panel Secretary
Commercial Frameworks
National Grid Company plc

NGT House
Warwick Technology Park
Gallows Hill
Warwick, CV34 6DA
Or via e-mail to: CUSC.Team@uk.ngrid.com

(Participants submitting this form by email will need to send a statement to the effect that the proposer acknowledges that on acceptance of the proposal for consideration by the Amendments Panel, a proposer which is not a CUSC Party shall grant a licence in accordance with Paragraph 8.15.7 of the CUSC. A Proposer that is a CUSC Party shall be deemed to have granted this Licence).

3. Applicable CUSC Objectives** - These are defined within the National Grid Company Transmission Licence under Section C10, paragraph 1. Reference should be made to this section when considering a proposed amendment.