

WORKING GROUP REPORT

CUSC Amendment Proposal CAP007

Role of Standing Groups

**Prepared by the Governance Amendments Working Group
for submission to the Amendments Panel**

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I. CONTENTS TABLE

DOCUMENT CONTROL	2
DISTRIBUTION	2
I. CONTENTS TABLE	3
1.0 SUMMARY AND RECOMMENDATIONS	4
2.0 INTRODUCTION	4
3.0 PURPOSE AND SCOPE OF WORKING GROUP	4
4.0 ASSESSMENT AGAINST APPLICABLE CUSC OBJECTIVES	5
5.0 ALTERNATIVE AMENDMENT	6
5.1 Description of Alternative Amendment	6
5.2 Assessment Against Applicable CUSC Objectives	6
6.0 PROPOSED IMPLEMENTATION AND TIMESCALES	6
7.0 IMPACT ON CUSC	6
8.0 IMPACT ON INDUSTRY DOCUMENTS	7
8.1 Impact on Core Industry Documents	7
8.2 Impact on other Industry Documents	7
ANNEX 1: CUSC AMENDMENT PROPOSAL CAP007	8
ANNEX 2: WORKING GROUP TERMS OF REFERENCE AND MEMBERSHIP	13
ANNEX 3: INTERNAL WORKING GROUP PROCEDURES	16
ANNEX 4: PROPOSED TEXT TO MODIFY THE CUSC	18

1.0 SUMMARY AND RECOMMENDATIONS

The Working Group has evaluated the Amendment Proposal against the applicable CUSC objectives but was unable to reach a unanimous recommendation on CAP007 – Role of Standing Groups as presented. Therefore this report sets out the diverse views of Working Group Members only and the relevant issues that should be consulted on in the Industry.

In general there was support for the clarification of the role of the Standing Group but there was mixed view as to whether the Amendment Proposal as presented better facilitated the applicable CUSC objectives. In considering the detail of the legal text provided by the Proposer, the Working Group developed an Alternative Amendment that the group supported unanimously against the applicable CUSC objectives.

The CUSC Amendments Panel is invited to note:

- The diverse views within the Governance Amendments Working Group concerning the original proposal, but that the Working Group did unanimously support an Alternative Amendment on the grounds of better facilitating the applicable CUSC objectives.

And Endorse:

- That the Amendment Proposal and Alternative Amendment be consulted on by National Grid in the wider Industry forum.

2.0 INTRODUCTION

At the 9th November 2001 CUSC Panel meeting British Energy proposed a change to Section 8 of the CUSC to change the role of Standing Groups within the CUSC framework thereby increasing their remit and function. In particular:

- Enabling the Amendments Panel to action either or both a Working Group and a Standing Group in relation to a particular Amendment Proposal.
- Enabling Standing Groups, as expert groups, to comment on all Amendment Proposals so that their views as a body can be provided as a matter of course in relation to a Standing Groups area of expertise.

This Amendment Proposal was supported by other parties, which are acknowledged by British Energy in the CUSC Amendment Proposal form.

The CUSC Panel determined that the proposal should be considered and evaluated further by a Working Group and the Governance Amendments Working Group (GAWG) was established on the 9th November 2001. For information, at the same time it was also actioned to consider other amendment proposals namely CAP004 – ‘Cost Benefit Analysis CAP005 – ‘CUSC Panels Role and Reporting’, CAP006 – ‘Non Discrimination’, CAP008 – ‘Codification Errors’ each under separate terms of reference and these are considered in other Working Group reports.

This report considers CAP007 – Role of Standing Groups (Annex 1 – Amendment Proposal form) only and summarises the views and issues raised during the course of the Working Group discussions. The Report has been prepared in accordance with the terms of the CUSC. An electronic copy of this document can be found on the National Grid website, at www.nationalgrid.com/uk/indinfo/cusc.

3.0 PURPOSE AND SCOPE OF WORKING GROUP

In accordance with the Terms of Reference for the Working Group (Annex 2), the Working Group considered the British Energy Amendment Proposal CAP007. The

Working Group also developed and considered an Alternative Amendment – strictly modified wording of the British Energy proposal – which is described in the report.

4.0 ASSESSMENT AGAINST APPLICABLE CUSC OBJECTIVES

The Applicable CUSC Objectives are defined within Condition C7F of the Transmission Licence as:

- (a) in relation to a proposed modification of the modification procedures, the requirements of paragraph 6 (to the extent that they do not conflict with the objectives set out in paragraph 1); and
- (b) in relation to any other proposed modification, the objectives set out in paragraph 1.

The objectives detailed in paragraph 1 are the efficient discharge by the licensee of the obligations under the Act and licence and to facilitate competition in the generation and supply of electricity and where consistent facilitating competition in the sale, distribution and purchase of electricity.

In relation to this amendment proposal, which details changes to Section 8 of the CUSC, the Working Group agreed that the objectives of (a) above (i.e. Paragraph 6 of the Transmission Licence), is the relevant objective against which this Amendment Proposal should be judged when deciding whether they are better facilitated. In summary paragraph 6 requires the licensee to establish and operate procedures to modify the CUSC itself in order to better facilitate the applicable CUSC objectives and therefore the amendment proposal must better facilitate this process so that the broader objectives of facilitating competition can be achieved.

There were strong, diverse views represented within the group as to whether the proposal as presented did better facilitate the applicable CUSC objectives. These views are represented in the following paragraphs.

The main changes of the Amendment Proposal involved enabling a Standing Group to (i) provide a view to the Panel as necessary, (ii) provide a view in the consultation process as a body, (iii) provide a view to a Working Group, which has been separately established to evaluate an Amendment Proposal.

The principle of increasing the role and remit of the Standing Group, in terms of the consideration of an Amendment Proposal, was supported by the Working Group. However, the Working Group as a whole did not support making the Standing Group role independent and felt that it should remain under the clear direction of the CUSC Panel. At the moment the Standing Group has a specific remit and fixed timetable to review tasks allocated to it by the Panel, which are areas of the CUSC that need "reviewing" but for which an Amendment Proposal has not been raised. Furthermore an existing Standing Group may be actioned to evaluate an Amendment Proposal acting as a Working Group. It is not a Group that can meet independently on an on-going basis. One Working Group member felt that there was merit in establishing groups of experts who met regularly and to whom Proposals can be referred rather than constituting Working Groups on each occasion.

Concern was raised by Working Group members that the proposal enabled two groups to provide views on an Amendment Proposal without a clear lead responsibility. Failure to provide this could cause potential conflict and confusion along with potential duplication of work. The Amendment Proposal also proposed that a Standing Group should be given a remit to comment on an Amendment Proposal that it has not been actioned to consider. The Working Group considered that the Standing Group's views should carry no greater weight than any other views submitted as part of any consultation.

However, the proposer explained that the intent of this Amendment Proposal was entirely associated with increasing the flexibility of the process (by giving the option

to the CUSC Amendments Panel to appoint both a Working Group and a Standing Group to consider an Amendment Proposal). By making the governance less restrictive the potential value of a Standing Group could be increased and as an integral part of the amendment process would increase its efficiency.

One Working Group member felt that the restriction in 8.17.1 should be changed so that a Standing Group could be established to consider an Amendment Proposal. Currently a Standing Group could only be actioned to consider an Amendment Proposal if it were already existing which they saw as providing unnecessary restrictions.

The majority of the Working Group agreed that the Panel should be allowed to consult other groups it has established as and when required but did not think that it was appropriate that generic powers should be given to a Standing Group to comment on Amendment Proposals. The Working group agreed that an Alternative Amendment should be developed.

5.0 ALTERNATIVE AMENDMENT

5.1 Description of Alternative Amendment

The group agreed that for the purposes of transparency any changes to the proposed draft text should be presented in the Working Group report as an Alternative Amendment.

In considering the Amendment Proposal the Working Group felt that there should be an ability for the Panel to consult other groups it has established as and when required to ensure an effective process but felt that the control over this consultation should remain with the Panel rather than allowing Standing Groups to consider and comment on Amendment Proposals independently. The Working Group developed an Alternative Amendment on this basis.

The Working Group agreed that by allowing the Panel to use and consult with other groups it has established, this allowed more flexibility into the process without providing scope for duplication or confusion of responsibilities in evaluating Amendment Proposals

The draft legal text for the Alternative Amendment is detailed in Annex 4.

5.2 Assessment Against Applicable CUSC Objectives

The Working Group unanimously supported the redrafted legal text contained within the Alternative Amendment and agreed that it would better facilitate the applicable CUSC objectives compared to the Amendment Proposal. It recognises the importance of allowing flexibility in the process for evaluating proposals and the benefits in the ability of consulting expert groups.

6.0 PROPOSED IMPLEMENTATION AND TIMESCALES

The Group considered the implementation and timescale issues. The timing of the implementation of this Amendment Proposal or Alternative Amendment should not have any impact and therefore this would be at the direction of the Authority, however would be expected to be as soon as practicable after their decision.

7.0 IMPACT ON CUSC

The proposed change will not have an impact on other parts of the CUSC. The changes required to implement the proposal are detailed in Annex 4 both as detailed

in the original proposal and also as developed by the Working Group as an Alternative Amendment.

8.0 IMPACT ON INDUSTRY DOCUMENTS

8.1 Impact on Core Industry Documents

This amendment proposal will have no impact on other core industry documents.

8.2 Impact on other Industry Documents

This amendment proposal will have no impact on other industry documents.

Annex 1: CUSC Amendment Proposal CAP007

Amendment Proposal

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 CUSC Panel can determine more clearly whether the proposal should be considered by a Working Group or go straight to wider National Grid Consultation.

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 Proposer will be informed by the Panel Secretary.

The completed form should be returned to:

Mark Cox
Panel Secretary
Commercial Development
National Grid Company plc
National Grid House
Kirby Corner Road
Coventry, CV4 8JY

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 which is a CUSC Party shall be deemed to have granted this Licence.)

Proposers Name:

(Name of party making the proposal. An Amendment Proposal may be made by a CUSC Party, a BSC Party or by "energywatch")

British Energy Generation Ltd

Proposers Representative:

(The name of the person representing the Proposer (and his alternate) for the purposes of the Amendment Process)

Steve Phillips (alternate John Capener)

Organisations Name and Address:

(Organisation on whose behalf the Amendment is proposed)

*British Energy Generation Limited, Barnett Way, Barnwood,
Gloucester, GL4 3RS*

In addition to BEGL, the following CUSC Parties listed alphabetically below are joint sponsors for this Amendment Proposal:

1. AES Drax Power Limited Selby, North Yorkshire, YO8 8PQ
2. Barking Power Ltd Barking Power Station, Chequers Lane, Dagenham, RM6 6PF
3. Deeside Power Development Company Ltd, Senator House, 85 Queen Victoria Street, London EC4V 4DP
4. Enron Direct Limited Enron House, 40 Grosvenor Place, London SW1X 7EN
5. First Hydro Company Bala House, Lakeside Business Village, St. David's Park, Deeside, Flintshire, CH5 3XJ
6. Humber Power Limited South Humber Bank Power Station, South Marsh Road, Stallingborough, North East Lincolnshire, DN41 8BZ
7. Teesside Power Limited Dunedin House, Columbia Drive, Thornaby, Stockton On Tees, Cleveland, TS17 6 BJ

Capacity in which the Organisation Proposes to make an Amendment:
(i.e. CUSC Party, BSC Party or "energywatch")

CUSC Party

Description of the issue or defect which the proposed Amendment seeks to address:

(This should be in reasonable, but not excessive detail)

The currently prescribed role of a Standing Group is too restrictive and a Standing Group is beholden to the Amendment Panel for its terms of reference which may or may not permit the Standing Group to respond to a consultation as a body (8.19.1). A Standing Group should not have such a restriction placed upon it and should be afforded the right to provide an informed response to any consultation which is within the scope of its terms of reference. In many cases there is a need for both an industry Standing Group to provide expert input into the evaluation and formulation of the detailed mechanisms for an Amendment Proposal and for input from a Working Group which is able to provide a wider perspective of the impact on connection and use of system developments. .

Description of the proposed Amendment and of its nature and purpose:

(This should be in reasonable but not excessive detail)

1. *To make it clear that the Amendments Panel can action either/both a Working Group and a Standing Group in relation to a particular Amendment Proposal.*
2. *To enable Standing Groups as expert groups to comment on all Amendment Proposals so that their views as a body can be provided as a matter of course in relation to a Standing Group's area of expertise. and thus be included in the Amendment Report*

An indication of those parts of the CUSC which would require amendment in order to give effect to (or would otherwise be affected by) the proposed amendment and an indication of the nature of those amendments or effects.

(This should be given where possible)

Please refer to the attachment for suggested, indicative changes/additions to be incorporated to appropriate clauses of section 8 of the CUSC to give effect to the proposed amendment.

Please note that it is the principle of the Amendment Proposal that is to be reviewed and approved by an appropriate review/consultation process to be decided by the CUSC Amendment Panel.

This indicative text is a suggested solution which may or may not be considered exhaustive in its detail and scope.

Reasons why the Proposer believes that the proposed Amendment would better facilitate achievement of the Applicable CUSC Objectives as compared with the current version of the CUSC with background information in support thereof.

The Proposer considers that the proposed amendment would better facilitate achievement of the Applicable CUSC Objectives since it would better facilitate a more comprehensive evaluation of Amendment Proposals.

An indication of the impact of the proposed Amendment on Core Industry Documents.

(This should be given where possible)

None

An indication of the impact of the proposed Amendment on relevant computer systems and processes used by CUSC Parties.

(This should be given where possible)

None

A statement to the effect that the Proposer acknowledges that on acceptance of the proposal for consideration by the Amendments Panel a Proposer shall grant a Licence in accordance with Clause 8.15.7 of the CUSC.

(A signature to this effect must be given by a Proposer, which is not a CUSC Party)

Proposer is a CUSC Party

Attachment to Amendment Proposal

See Annex 4

Annex 2: Working Group Terms of Reference and Membership

CAP007: Role of Standing Group Governance Working Group - Terms of Reference Paper

Introduction

1. The current CUSC Amendment Process places certain obligations and responsibilities on any Standing Groups that are established by the Amendments Panel. CUSC Amendment Proposal CAP007 seeks to extend these obligations and responsibilities by broadening the 'scope' of any Standing Groups by amending Clauses 8.16.5, 8.17.1 and 8.19.1 (CAP007 refers). At the 9th November 2001 Amendments Panel meeting, the Amendments Panel determined that a Working Group (the Governance Working Group) should be established to consider Amendment Proposal CAP007. At the Panel Meeting, the Governance Working Group was also actioned to consider Amendment Proposals CAP004, CAP005, CAP006 and CAP008.
2. This paper outlines the process and terms of reference that the Governance Working Group should work to with respect to Amendment Proposal CAP007.

Proposed Membership of the Governance Working Group

3. At the 9th November 2001 Amendments Panel meeting, the Amendments Panel agreed the following membership for the Governance Working Group:

Chair: Nigel Cornwall (Cornwall Consulting)

Other Members: Dick Cecil (London Electricity)
Jane Butterfield (PowerGen)
Malcolm Taylor (AEP)
Mike Metcalfe (National Grid)
Steve Phillips (British Energy)
Richard Ford (St. Clements)
Simon Goldring (British Gas Trading)

Process

4. The Governance Working Group has been established and actioned to consider, inter alia, revisions to the role of Standing Groups in the Amendment Process as currently defined in Section 8 of the CUSC. CUSC Amendment Proposal CAP007 refers.
5. Condition C7F (Paragraph 6) of National Grid's Transmission Licence requires the licensee to establish and operate procedures for the modification of the CUSC (including procedures for modification of the modification procedures themselves), so as to better facilitate achievement of the applicable CUSC objectives. In view of this, the Governance Working Group should consider how the proposed Amendment better accomplishes this requirement when compared to the current procedures.
6. The findings of the Working Group should be published on the CUSC Website.

Scope of Work

7. The Governance Working Group should consider the Amendment Proposal tabled by British Energy and consider any Alternative Amendment Proposals raised by the Governance Working Group or any other interested parties.
8. The Governance Working Group should consider, inter alia, how the Proposed Amendment would impact on:
 - (a) the CUSC itself (BE have provided some accompanying, indicative, draft legal text in CAP007); and
 - (b) on other codes/core industry documentation.

Relationship with Amendments Panel

9. The Working Group shall seek the views of the Amendments Panel before taking on any significant amount of work. The Working Group Chairman should contact the CUSC Panel Secretary.
10. Where the Working Group requires instruction, clarification or guidance from the Amendments Panel, particularly in relation to their Scope of Work, the Working Group Chairman should contact the CUSC Panel Secretary.

Meetings

11. The Working group shall develop and adopt its own internal working procedures and provide a copy to the Panel Secretary for each of its Amendment Proposals.

Reporting

12. The Governance Working Group Chairman should, in line with the CUSC, be responsible for producing a Working Group Report with recommendations. The report should be submitted to the Panel Secretary by 9th February 2002 for circulation to Panel Members and the Conclusions of such report should be presented to the Amendments Panel meeting scheduled for 22nd February 2002. The report should be written with reference to Section 8.17 of The CUSC.

Annex 3: Internal Working Group Procedures

Governance Amendment Working Group (CAP004-008)

Internal Working Procedures (for each CUSC Amendment Proposal)

1. Notes of each meeting will be produced by the Technical Secretary (provided by National Grid) and circulated to the Chairman and Working Group members for review.
 - (a) Meeting notes will be published on the National Grid CUSC Website following the review by Working Group members.
2. The Chairman of the Working Group will provide an update of progress and issues to the Amendments Panel each month as appropriate.
3. Working Group meetings will be arranged for a date acceptable to members of the group and will be held as often as required as agreed by the Working Group, in order to respond to the requirements of the Terms of Reference set by the Amendments Panel.
4. If within half an hour after the time for which the Working Group meeting has been convened the Chairman of the group is not in attendance, the meeting will take place with those present. A Chairman shall be appointed from those members of the Working Group present.
5. A meeting of the Working Group shall not be invalidated by any member(s) of the group not being present at the meeting.

Annex 4: Proposed Text to Modify the CUSC

Amendment Proposal:

1. Panel Proceedings

8.16.5 In relation to each **Amendment Proposal**, the **Amendments Panel** shall determine at any meeting of the **Amendments Panel** whether to:

- (b) establish a **Working Group** (including if appropriate identifying and actioning a **Standing Group**) of the **Amendments Panel**, to consider the **Proposed Amendment**; or

2. Working Groups

8.17.1 If the **Amendments Panel** has decided not to proceed directly to wider consultation by **NGC**, a **Working Group** will be established, and/or an existing **Standing Group** identified and actioned, by the **Amendments Panel** to assist the **Amendments Panel** in evaluating whether an **Amendment Proposal** better facilitates achieving the **Applicable CUSC Objectives** and whether an **Alternative Amendment** would, as compared with the **Amendment Proposal**, better facilitate achieving the **Applicable CUSC Objectives** in relation to the issue or defect identified in the **Amendment Proposal**. Where a **Standing Group** is identified and actioned in relation to an **Amendment Proposal**, a reference to **Working Group** in this Section 8 shall, in relation to that **Amendment Proposal**, be deemed to be a reference to that **Standing Group** acting in that capacity. ~~Unless specifically appointed pursuant to this Paragraph or permitted pursuant to Paragraph 8.19, a **Standing Group** shall not comment upon any **Amendment Proposal**.~~

3. Consultation

8.19.1 After consideration of any **Working Group** report on the **Amendment Proposal** by the **Amendments Panel** and a determination by the **Amendments Panel** to proceed to wider consultation by **NGC**, **NGC** shall consult on the **Amendment Proposal** with:

- (i) **CUSC** Parties; and
- (ii) such other persons who may properly be considered to have an appropriate interest in it.

~~Where following the establishment of a **Working Group**, or the decision of the **Amendments Panel** to proceed directly to consultation by **NGC**, in relation to an **Amendment Proposal**, the terms of reference of a **Standing Group** have been amended by the **Amendments Panel** to include the ability to comment on that **Amendment Proposal**, that a **Standing Group** as a body shall be deemed to fall within sub-paragraph (ii) above and therefore shall be able to respond to **NGC's** consultation. It shall not, however, in so doing undertake the functions of a **Working Group**. In the absence of such a change in terms of reference, the **Standing Group** as a body shall have no ability to respond to any consultation.~~

Alternative Amendment:

1. Panel Proceedings

8.16.5 *{Leave as existing CUSC text}*

2. Working Groups

8.17.1 If the **Amendments Panel** has decided not to proceed directly to wider consultation by **NGC**, a **Working Group** will be established, or an ~~existing~~ **Standing Group** identified and actioned, by the **Amendments Panel** to assist the **Amendments Panel** in evaluating whether an **Amendment Proposal** better facilitates achieving the **Applicable CUSC Objectives** and whether an **Alternative Amendment** would, as compared with the **Amendment Proposal**, better facilitate achieving the **Applicable CUSC Objectives** in relation to the issue or defect identified in the **Amendment Proposal**.

Where a **Standing Group** is identified and actioned in relation to an **Amendment Proposal**, a reference to **Working Group** in this Section 8 shall, in relation to that **Amendment Proposal**, be deemed to be a reference to that **Standing Group** acting in that capacity.

~~If not actioned as a Working Group but specifically requested by the Amendments Panel, a Standing Group shall comment upon any Amendment Proposal. Unless specifically appointed pursuant to this Paragraph or permitted pursuant to Paragraph 8.19, a Standing Group shall not comment upon any Amendment Proposal.~~

3. Consultation

8.19.1 After consideration of any **Working Group** report on the **Amendment Proposal** by the **Amendments Panel** and/or a determination by the **Amendments Panel** to proceed to wider consultation by **NGC**, **NGC** shall consult on the **Amendment Proposal** with:

- (i) **CUSC Parties**; ~~and~~
- (ii) ~~a Standing Group~~ if requested by the **Amendments Panel** ~~or pursuant to 8.17.1~~; and
- (iii) such other persons who may properly be considered to have an appropriate interest in it.

~~Where following the establishment of a Working Group, or the decision of the Amendments Panel to proceed directly to consultation by NGC, in relation to an Amendment Proposal, the terms of reference of a Standing Group have been amended by the Amendments Panel to include the ability to comment on the Amendment Proposal, that A Standing Group requested as a body shall be deemed to fall within sub-paragraph (ii) above and therefore shall be able to respond to NGC's consultation. It shall not, however, in so doing undertake the functions of a Working Group. In the absence of such a change in terms of reference, the Standing Group as a body shall have no ability to respond to any consultation.~~