



National Grid

CONSULTATION DOCUMENT

CAP005

CUSC Panel's Role

**The purpose of this document is to
consult on Amendment Proposal CAP005
with CUSC Parties and other interested
Industry members**

Amendment Ref	CAP005
Issue	1.0
Date of Issue	28 February 2002
Prepared by	National Grid

I DOCUMENT CONTROL**a National Grid Document Control**

Version	Date	Author	Change Reference
0.1	27/2/02	National Grid	Initial Draft for internal comment
1.0	28/2/02	National Grid	Formal version for release

b Document Location

National Grid website:

http://www.nationalgridinfo.co.uk/cusc/mn_consultation_index.html

c Distribution

Name	Organisation
CUSC Parties	Various
Panel Members	Various
Interested Parties	Various
Core Industry Document Owners	Various
National Grid Industry Information Website	-

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1.0 Executive Summary

- 1.1 British Energy with support from other Parties (as detailed in the Amendment Proposal form), submitted CUSC Amendment Proposal CAP005 to the Amendments Panel for consideration at their 9th November 2001 meeting. The Amendments Panel determined that CAP005 should be evaluated further by a Working Group and set Terms of Reference to review the Amendment Proposal and report back to the 22nd February 2002 meeting.
- 1.2 CAP005 proposes to enhance the role and effectiveness of the CUSC Panel in the Amendment Process to enable it to provide appropriate checks and balances in relation to the actions of National Grid and the Authority within the Amendment Process.
- 1.3 The Governance Amendments Working Group (GAWG) evaluated the Amendment Proposal against the applicable CUSC objectives but was unable to reach a unanimous recommendation. The Group considered each section of the draft legal text in turn, and developed a 'highest common factor' Alternative Amendment that the Group supported unanimously against the applicable CUSC objectives.
- 1.4 The Working Group delivered its Report to the Panel Secretary on 8th February 2002 in preparation for the February CUSC Panel meeting. The Amendments Panel acknowledged the work undertaken by the Working Group and agreed that they had satisfied the Terms of Reference and that National Grid should undertake wider Industry consultation.
- 1.5 This document initiates the wider industry consultation process and invites views on CUSC Amendment Proposal CAP005. The consultation closing date is **28th March 2002**.

2.0 Introduction

- 2.1 This consultation document is issued by National Grid under the procedures specified in the Connection and Use of System Code (CUSC). It addresses issues associated with the Proposed Amendment to enhance the role of the CUSC Panel as contained in Section 8 of the CUSC.
- 2.2 Further to the submission of Amendment Proposal CAP005 and the subsequent evaluation by the CUSC Governance Working Group, this document seeks views from industry members relating to the Amendment Proposal.
- 2.3 This document outlines the discussions held by the Working Group and the nature of the CUSC changes that are proposed. Representations received in response to this consultation document will be included in National Grid's Amendment Report that will be furnished to the Authority for their decision.
- 2.4 This consultation document has been prepared in accordance with the terms of the CUSC. An electronic copy can be found on the National Grid website, at <http://www.nationalgrid.com/uk/indinfo/cusc>, along with the Working Group Report for CAP005 and the Amendment Proposal form.

3.0 The Amendment Proposal

- 3.1 CAP005 proposes that the role and effectiveness of the CUSC Panel should be enhanced to enable it to provide the appropriate checks and balances in

relation to the actions of National Grid and the Authority within the Amendment Process.

- 3.2 The Amendment Proposal is intended to improve transparency of the reporting process and address the balance of the role and responsibility between National Grid and the CUSC Amendments Panel.

4.0 Working Group Discussions

- 4.1 There were diverse views within the Working Group as to whether the Amendment Proposal better facilitated the applicable CUSC objectives. As the Proposal was presented as a number of separate proposed changes to Section 8, there was no single clear principle for consideration. The Working Group therefore considered each of the proposed text changes separately and also, where possible, groups of changes. The draft text as contained in the Amendment Proposal is contained in Part A of Annex 1.

- 4.2 The Working Group, where possible, attempted to consider groups of changes proposed by CAP005, as detailed below;

Groups: 1, 2, 17

The proposed text would change 'National Grid' to the 'Panel Secretary' in order for the process to appear more independent. The Working Group felt that this change would not better achieve the CUSC objectives and may also be viewed as being counter to the requirements for National Grid to administer the Amendment Process contained within the Transmission Licence.

Groups: 7, 8, 12, 15

Changes proposing that 'National Grid' should be changed to the 'Amendments Panel', which would have the effect of enabling the Panel to have a greater role in the Amendment Process overall. Again the Working Group did not support the change, as it was not clear how it would better achieve the objectives. There was also a concern that the change could conflict with the obligations on National Grid in the Transmission Licence.

Groups: 3, 7

Two of the proposed text changes put an obligation on the Authority to give reasons for their decisions made in the Amendment Process. The Group noted that they would expect the Authority to provide such explanations to ensure they followed due process. However, the Group agreed that it was not possible or appropriate to put obligations on the Authority within the CUSC.

Groups: 4, 5

These changes affected the role and relationship of the Panel Secretary with the Amendments Panel, generally to include provision for the Panel Secretary to consult with the Panel before undertaking any action. The Group noted that Section 8 already contained checks and balances to ensure that the Panel Secretary role was carried out effectively and therefore the changes would be unnecessary and would not better facilitate the applicable CUSC objectives.

Groups 11, 15b

These changes were proposed to allow a Working or Standing Group to nominate a representative to present the report to the Amendments Panel, which currently is the obligation of the Working / Standing Group Chairman. The Working Group felt that as the Chair is independent and the other

members are representative, it would be inappropriate to make the proposed changes and did not support them as better facilitating the CUSC objectives.

Groups: 16, 18, 19

In reviewing the text for CAP005, the Working Group recognised that the existing definition of 'Alternative Amendment' in the CUSC was inadequate and also that the process for Urgent Amendments was unclear and required clarification. The Group noted that National Grid is currently reviewing both of these issues.

Summary of Working Group Discussion

- 4.3 The Working Group agreed that as there was more than one principle involved it was not possible to determine that the Proposed Amendment better facilitated the applicable CUSC objectives as a whole, and therefore the Proposal could not be supported.

5.0 Alternative Amendment

- 5.1 The Working Group agreed to formulate an Alternative Amendment by reviewing each the individual sections of draft text provided by the Proposer to determine if each change achieved the requirements. On this basis a 'highest common factor' Alternative Amendment was developed. The text agreed by the Working Group to form the Alternative Amendment is contained in Part B of Annex 1.
- 5.2 The alternative text changes were formed for those groups of changes that gained unanimous support from the Working Group and would better facilitate the applicable CUSC objectives. Where the text changes were not supported as better facilitating the applicable CUSC objectives, the Alternative Amendment proposed no change to the existing CUSC text.

Group: 1b

The Group felt that retaining information on the Amendment Register indefinitely would improve the clarity and efficiency of the Amendment Process. Therefore the alternative text proposes to remove the three-month limit so that the Amendment Register would contain all historic information.

Group: 2

The Working Group proposed that it would improve clarity and consistency to produce a Progress Report monthly, even if it merely stated that there had been no activity.

Group: 6

The Working Group agreed that the process for withdrawing Amendment Proposals required clarification, and that the amendment of 8.15.8(c) would be beneficial. However, it was agreed that the proposal should go further and in the Alternative Amendment it should be removed completely.

Group: 7

The Working Group noted that National Grid had agreed that the determination of the period for industry consultation would normally be in consultation with the Amendments Panel and therefore deletion of 8.16.4(b) and (c) was acceptable, with the consequential changes to 8.16.4(e).

Group: 9, 13

The Working Group agreed that provision for the removal of Working or Standing Group Chairmen would better facilitate the CUSC objectives by providing for a more efficient process. It was also agreed that the right to remove must lie with the body who appoints – namely National Grid.

Group: 10

The principle that all views of working group members, however diverse, should be represented in the working group report; was supported by the Group. Alternative text was developed to better achieve this.

Group: 16, 18, 19

Other issues not forming part of the Alternative Amendment, but which the Working Group agreed should be addressed elsewhere, were the clarification of the definition of 'Alternative Amendment' and the review of the process for Urgent Amendments.

6.0 Initial View of Amendments Panel

- 6.1 The view of the Amendments Panel on the way forward for CAP005 is that National Grid should initiate a period of wider consultation to seek industry views as to whether the Proposed Amendment or the Alternative Amendment better facilitate achievement of the applicable CUSC objectives.

7.0 Initial View of National Grid

- 7.1 National Grid believes that Amendment Proposal CAP005 does not better facilitate the applicable CUSC objectives. It is the initial view of National Grid that the Alternative Amendment better facilitates the applicable CUSC objectives as compared with the existing CUSC.

8.0 Views Invited

- 8.1 National Grid is seeking the views of interested parties relating to this Amendment Proposal CAP005.
- 8.2 Please send your responses to this consultation document to National Grid by no later than close of business on **28th March 2002**.
- 8.3 Please address all comments to the following e-mail address:

emma.groves@uk.ngrid.com

Or alternatively, comments may be addressed to:

Emma Groves
Commercial Development
National Grid Company plc
National Grid House
Kirby Corner Road
Coventry
CV4 8JY

Annex 1 - Proposed Text to Modify CUSC

Part A - Indicative Text by Proposer to give effect to the Proposed Amendment

1. Amendment Register

8.12.1 ~~NGC~~The **Panel Secretary** shall establish and maintain a register ("**Amendment Register**") which shall record the matters set out in Paragraph 8.12.3.

8.12.5 The **Amendment Register** shall include details of:

- (a) each **Amendment Proposal** which has been withdrawn pursuant to Paragraph 8.15.8 or rejected by the **Amendment Panel**; and
- (b) each **Approved Amendment** which has been implemented.

2. Progress Report

8.13.1 ~~NGC~~The **Panel Secretary** shall prepare and submit to the **Authority** each month (or such less often period if there is no material matter arising to report) a progress report ("**Progress Report**") setting out the matters referred to in Paragraph 8.13.2 in respect of the preceding month and send a copy of the **Progress Report** to each **Panel Member**.

3. Progress Report

8.13.3 If, following discussion with the **Amendments Panel**, the **Authority** issues a notice to the **Panel Secretary** requesting **NGC** and the **Amendments Panel** (in relation to developments and changes highlighted in the monthly **Progress Report**) and giving reasons for that request: ...

4. Amendments Proposals

8.15.3 if a proposal (other than a proposal by the **Amendments Panel** under Paragraphs 8.21.8 or 8.23.5) fails in any material respect to provide the information in Paragraph 8.15.2 (excluding Paragraphs (e), (g) and (h) thereof), the **Panel Secretary** may, in consultation with the **Amendments Panel** subject to Paragraph 8.13.3(a), reject such proposal provided that:

- (d) nothing in this Section 8 shall prevent a **Proposer** from submitting a revised proposal in compliance with the requirements of Paragraph 8.15.2 in respect of the same subject-matter.

5. Amendment Proposal

8.15.4 Without prejudice to the development of an **Alternative Amendment** pursuant to Paragraph 8.20.2, a proposal shall be rejected by the **Panel Secretary** in consultation with the **Amendments Panel** pursuant to Paragraph 8.15 if and to the extent that such proposal has, in the

opinion of the **Amendments Panel**, substantially the same effect as:
(...)

6. Amendments Proposals

8.15.8 A **Proposer** may withdraw his **Amendment Proposal** on notice to the **Panel Secretary** at any time, in which case the **Panel Secretary** shall forthwith:

(c) if no notice is received under (a) or (b), ~~or the **Amendments Panel** decides not to notify **CUSC Parties** under (b)~~, delete the **Amendment Proposal** from the **Amendment Register** and mark it as withdrawn; and

7. Panel Proceedings

8.16.4 (c) **NGC** shall ~~in consultation with the **Amendments Panel**~~ establish the part of the timetable for the consultation to be undertaken by **NGC** under this Section 8 and separately the preparation of an **Amendment Report** to the **Authority**;

(...)

(e) Without prejudice to Paragraph (d) above, the timetable under (b) above shall be set such that it is no longer than three months, that under (c) above such that it is no longer than two months for the consultation and another 14 days for the preparation of the **Amendment Report**, unless in any case the particular circumstances of the **Amendment Proposal** (taking due account of its complexity, importance and urgency) justify an extension of such timetable, ~~and provided subject to any objection from the **Authority** does not object giving reasons~~ taking into account all those issues.

8. Working Groups

8.17.4 ~~The **Amendments Panel**~~ **NGC** shall in consultation with **NGC** ~~the **Amendments Panel**~~ appoint the chairman of the **Working Group** who shall act impartially and as an independent chairman.

9. Working Groups

8.17.6 The **Amendments Panel** may (but shall not be obliged to) replace any member of a **Working Group** appointed pursuant to Paragraph 8.17.3 ~~or 8.17.4~~ at any time if such member is unwilling or unable for whatever reason to fulfill that function and/or is deliberately and persistently disrupting or frustrating the work of the **Working Group**

10. Working Groups

8.17.10 (b) If a **Working Group** is unable to reach agreement on any such matter, the report must reflect ~~all of the diverse~~ the views of the members of the **Working Group**.

11. Working Groups

8.17.11 The chairman or another member (nominated by the ~~chairman~~ **Working Group**) of the **Working Group** shall attend the next

Amendments 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 **Working Group** may also attend such **Amendments Panel** meeting.

12. Standing Groups

8.18.3 ~~NGC~~ **The Amendments Panel** shall in consultation with ~~the Amendments Panel~~ **NGC** appoint the chairman of each **Standing Group** who shall act impartially and as an independent chairman.

13. Standing Groups

8.18.5 The **Amendments Panel** may (but shall not be obliged to) replace any member of a **Standing Group** appointed pursuant to Paragraph 8.18.2 or 8.18.3 at any time if such member is unwilling or unable for whatever reason to fulfill that function and/or is deliberately and persistently disrupting or frustrating the work of the **Standing Group**.

14. Standing Groups

8.18.6

(b) If a **Standing Group** is unable to reach agreement on any such matter, the report must reflect **all of the diverse** views of the members of the **Standing Group**.

(d) The chairman or another member (nominated by the **Standing Group chairman**) of the **Standing Group** shall attend the next **Amendments 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 **Standing Group** may also attend such **Amendments Panel** meeting.

15. Amendment Report

8.20.1 Subject to **NGC's** consultation having been completed, **NGC the Amendments Panel** shall **in conjunction with NGC and taking due account of responses received** prepare and submit to the **Authority** a report (the "**Amendment Report**") in accordance with this Paragraph 8.20 for each **Amendments Proposal** which is not withdrawn.

16. Amendment Report

8.20.2 The matters to be included in an **Amendment Report** shall be the following (in respect of the **Amendment Proposal**):

- (a) the **Proposed Amendment**;
- (b) **separately and with equal emphasis**, the recommendation of **each of NGC and the Amendments Panel** as to whether or not the **Proposed Amendment** (or any **Alternative Amendment** as provided below) should be made;
- (e) a full description and analysis of any alternative proposed amendment developed **by any Working Group or otherwise**

proposed during the consultation (“**Alternative Amendment**”) which, as compared with the **Proposed Amendment**, may better facilitate achievement of the **Applicable CUSC Objective(s)** and the views and rationale in respect thereof;

- (h) to the extent such information is available ~~to NGC~~, an assessment of the impact of the **Proposed Amendment** and any **Alternative Amendment** on **CUSC Parties** in general (or classes of **CUSC Parties** in general), including the changes which are likely to be required to their internal systems and processes and an estimate of the development, capital and operating costs **to such CUSC Parties** associated with implementing the changes to the **CUSC** and to **Core Industry Documents** **together with a summary of representations in relation to such matters**;

17. Amendment Report

- 8.20.3 A draft of the **Amendment Report** will be circulated by **the NGC Panel Secretary** to **CUSC Parties** and **Panel Members** (and its provision in electronic form on the **NGC Website** and in electronic mails to **CUSC Parties** and **Panel Members**, who must supply relevant details, shall meet this requirement) and a period of no less than five (5) **Business Days** given for comments to be made thereon. Any unresolved comments made shall be reflected in the final **Amendment Report**.

18. Urgent Amendment Proposals

8.21.2 The matters referred to in Paragraph 8.21.1 are:

- (a) whether such proposal **is so urgent that it cannot wait for the full Amendment Procedures to be completed and so** should be treated as an **Urgent Amendment Proposal** in accordance with this Paragraph 8.21 and (b) if so, the procedure and timetable to be followed in respect of such **Urgent Amendment Proposal**.

19. Urgent Amendment Proposals

8.21.3 If:

- (a) the **Amendments Panel** agrees that such proposal **is so urgent that it cannot wait for the full Amendment Procedures to be completed and so** should be treated as an **Urgent Amendment Proposal**; or

(...)

- (c) where the **Panel Chairman** or the **Panel Secretary** was unable to contact any other **Panel Member**, the **Panel Chairman** considers that such proposal **is so urgent that it cannot wait for the full Amendment Procedures to be completed and so** should be treated as an **Urgent Amendment Proposal**, the **Panel Chairman** or, in his absence, the **Panel Secretary** shall forthwith consult the **Authority** as to whether such **Amendment Proposal** is an

Urgent Amendment Proposal and, if so, as to the procedure and timetable which should apply in respect thereof.

Part B – Text to give effect to the Alternative Amendment**1. Amendment Register**

8.12.1 ~~{Leave as existing CUSC text.}~~

8.12.3 (a) The current status and progress of each **Amendment Proposal**, if appropriate the anticipated date for reporting to the **Authority** in respect thereof, and whether it has been withdrawn, rejected or implemented. ~~For a period of three (3) months after such withdrawal, rejection or implementation or such longer period as the Authority may determine;~~

2. Progress Report

8.13.1 **NGC** shall prepare and submit to the **Authority** each month ~~(or such less period if there is no material matter arising to report)~~ a progress report (“Progress Report”) setting out the matters referred to in Paragraph 8.13.2 in respect of the preceding month and send a copy of the **Progress Report** to each **Panel Member**.

3. Progress Report

8.13.3 ~~{Leave as existing CUSC text.}~~

4. Amendments Proposals

8.15.3 ~~{Leave as existing CUSC text.}~~

5. Amendment Proposal

8.15.4 ~~{Leave as existing CUSC text.}~~

6. Amendments Proposals

8.15.8 A **Proposer** may withdraw his **Amendment Proposal** on notice to the **Panel Secretary** at any time, in which case the **Panel Secretary** shall forthwith:

~~(c) — if no notice is received under (a) or (b), or the **Amendments Panel** decides not to notify **CUSC Parties** under (b), delete the **Amendment Proposal** from the **Amendment Register** and mark it as withdrawn; and~~

~~(d)(c) remove the~~

7. Panel Proceedings

8.16.4

(a) **NGC** and the **Amendments Panel** shall together establish a timetable to apply for the **Amendment Process**.

~~(b) — The **Amendments Panel** shall establish the part of the timetable for the consideration by the **Amendments Panel** and by a **Working Group** (if any).~~

- ~~(c) — **NGC** shall establish the part of the timetable for the consultation to be undertaken by **NGC** under this Section 8 and separately the preparation of an **Amendment Report** to the **Authority**.~~
- (d) *{renumber sub-paragraph}* In setting such a timetable, the **Amendments Panel** and **NGC** shall exercise their respective discretions such that, in respect of each **Amendment Proposal**, an **Amendment Report** may be submitted to the **Authority** as soon after the **Amendment Proposal** is made as is consistent with the proper evaluation of such **Amendment Proposal**, taking due account of its complexity, importance and urgency.
- (e) *{renumber sub-paragraph}* Without prejudice to Paragraph (b) above, the timetable for consideration by the **Amendment Panel** and by a **Working Group** (if any) ~~under (b) above~~ shall be set such that it is no longer than three months, ~~and that the timetable for consultation to be undertaken by NGC under this section 8 under (c) above shall be set~~ such that it is no longer than two months ~~for the consultation~~ and another 14 days for the preparation of the **Amendment Report**, unless in any case the particular circumstances of the **Amendment Proposal** (taking due account of its complexity, importance and urgency) justify an extension of such timetable, and provided the **Authority** does not object, taking into account all those issues.

8. Working Groups

8.17.4 *{Leave as existing CUSC text.}*

9. Working Groups

8.17.6 **NGC** shall in consultation with the **Amendments Panel** replace the Chairman of the **Working Group** appointed pursuant to Paragraph 8.17.4 at any time if the Chairman is unwilling or unable for whatever reason to fulfil that function and/or is deliberately and persistently disrupting or frustrating the work of the **Working Group**.

~~8.17.6~~ 8.17.7 The **Amendments Panel**....
{Renumbering for rest of section, etc}

10. Working Groups

8.17.10 (b) If a **Working Group** is unable to reach agreement on any such matter, the report must reflect **all** the views of the members of the **Working Group**.

11. Working Groups

8.17.11 *{Leave as existing CUSC text.}*

12. Standing Groups

8.18.3 *{Leave as existing CUSC text.}*

13. Standing Groups

8.18.5 **NGC** shall in consultation with the **Amendments Panel** replace the Chairman of the **Standing Group** appointed pursuant to Paragraph 8.18.3 at any time if the Chairman is unwilling or unable for whatever reason to fulfil that function and/or is deliberately and persistently disrupting or frustrating the work of the **Standing Group**.

~~8.18.5~~ 8.18.6 The **Amendments Panel**....

{Renumbering for rest of section, etc}

14. Standing Groups

8.18.6

(b) If a **Standing Group** is unable to reach agreement on any such matter, the report must reflect **all** the views of the members of the **Standing Group**.

(d) *{Leave as existing CUSC text.}*

15. Amendment Report

8.20.1 *{Leave as existing CUSC text.}*

16. Amendment Report

8.20.2 The matters to be included in an **Amendment Report** shall be the following (in respect of the **Amendment Proposal**):

(a) the **Proposed Amendment**;

(b) *{Leave as existing CUSC text.}*

(e) *{Leave as existing CUSC text.}*

(h) to the extent such information is available to **NGC**, an assessment of the impact of the **Proposed Amendment** and any **Alternative Amendment** on **CUSC Parties** in general (or classes of **CUSC Parties** in general), including the changes which are likely to be required to their internal systems and processes and an estimate of the development, capital and operating costs **to such CUSC Parties** associated with implementing the changes to the **CUSC** and to **Core Industry Documents**;

17. Amendment Report

8.20.3 *{Leave as existing CUSC text.}*

18. Urgent Amendment Proposals

8.21.2 The matters referred to in Paragraph 8.21.1 are:

(a) *{Leave as existing CUSC text.}*

19. Urgent Amendment Proposals

8.21.3 If:

- (a) *{Leave as existing CUSC text.}*
- (...)
- (c) {Leave as existing CUSC text.}