



GSG 12/06/09

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# Today

- ◆ Review of actions
- ◆ Response to Timing Out Consultation
- ◆ Review of urgent process and supporting guidance
- ◆ Implementation Date proposal
- ◆ Overview of Issues Groups

# Review of actions

## 6 February 2009

- ◆ 11/17/22 – Relating to CAP160 review **(BV)**
- ◆ 13 – Ofgem Corporate Plan ( to be circulated) **(DG)**
- ◆ 18 – CUSC Amendment Proposal (on implementation dates) **(CH)**
- ◆ 26 – Issues Group overview (use in BSC/UNC) **(CH/PB/DB)**

## 8 May 2009

- ◆ 71 - Response to CAWG consultation **(CH)**
- ◆ 76/81 – Revised urgency provisions and proposals to be prepared **(CH)**
- ◆ 77 – Link to Ofgem guidance on urgency to be circulated **(DG)**
- ◆ 79 – Clarification of direction within urgency provisions **(CH)**
- ◆ 82 – BSC guidance on urgency to be circulated **(KC)**

# Timing Out - Background

- ◆ November 2008 Ofgem published an open letter setting out the options to address the issue of the “timing-out” of code modification proposals
- ◆ The consultation outlined 2 proposals for preventing modifications from “timing out”
  1. Authority to take a licence power to vary implementation timetables prior to reaching a decision on a proposal
  2. Authority to take licence power to request a revised implementation timetable from the relevant code panel (which would be obliged to comply with the request)
- ◆ Proposal that changes should be applicable to CUSC, BSC and UNC
- ◆ 18 responses were received
  - Only 5 indicated support for either option

# Key feedback to November consultation

## The main reasons given for not supporting either option:

- ◆ There exists flexibility to address problems early in the process (i.e. Ofgem's involvement in the implementation timetable)
- ◆ It is appropriate that there are incentives on the Authority to make timely decisions
- ◆ It would introduce increased regulatory risk and uncertainty
- ◆ Validity of industry analysis may be affected
- ◆ Previous Authority rejection of P93 (which sought to allow the BSC panel to suggest revised implementation dates for modifications with the Authority for decision)
- ◆ Lack of foreseen consultation on new dates

## Several respondents suggested that a preferable option would be:

- ◆ Authority to refer modification back to panel, to allow panel to determine if reassessment of analysis was required and provide a new implementation date

# Panel response to November consultation

## The CUSC Panel submitted a response to the November consultation indicating that:

- ◆ The timing-out risk has never materialised under CUSC governance
- ◆ Current practice for the CUSC usually recommends an Implementation Date of a specific period following Authority decision
- ◆ In a few cases the date may be linked to a time specific event or IS development – which include contingency dates to avoid timing out
- ◆ The only exception to this is the recent TAR modifications which have specific implementation dates (drivers for which are understood by Ofgem)
- ◆ The Panel questioned the validity and longevity of analysis contained within the reports, after a significant period of time has lapsed
- ◆ The Panel believes current arrangements within the CUSC are appropriate and the changes proposed should not be taken forward

# May Consultation – revised proposal

## The latest consultation introduces a revised proposal (with accompanying licence drafting):

- ◆ Authority to take licence power to require a revised implementation timetable from the relevant code owner/licensee
- ◆ The Authority also to have the ability to require that analysis that was submitted in a final modification report be updated
- ◆ Where the Authority needs to issue a direction, the Authority would:
  - Publish the direction, including the reasons for its decision
  - Set out the minimum length of time for extension
  - Expect the relevant panel to consult on the new timetable and any updated analysis
- ◆ Amendment to National Grid's electricity and gas transportation licences would be required to cover the BSC, CUSC and UNC (drafting included in consultation)
  - Changes to the relevant licences of the gas distribution networks would also be required

# Timing Out - Garth's Comments

1. **On the basis of updated analysis under Option C it does not appear possible for the Panel to update recommendation vote**
2. **It should only be possible for a direction to extend the timetable to be issued once**
3. **Typo in licence drafting – 6 (b) (iv) should refer to 6 (b) (vi)**
4. **Would expect Ofgem to consult in all circumstances where there is a proposal to revise implementation dates**

# Timing Out response – way forward

## Timetable as agreed at May Panel:

- ◆ 12 June 2009 - GSG to meet to discuss/draft the response
- ◆ 17 June 2009 - GSG draft response to be circulated to the CUSC Panel
- ◆ 22 June 2009 – Panel comments on draft response
- ◆ 24 June 2009 – GSG draft response to be circulated as a late paper to the CUSC Panel with a view to being agreed at the CUSC Panel on the 26 June 2009
- ◆ 29 June 2009 – “late response” submitted to Ofgem

## 15<sup>th</sup> June draft circulated to GSG for comment?

# Urgency – overview

- ◆ Proposed revisions to urgency provisions:
  - Provisions regarding meeting for urgency
  - Report to include panel and authority view on urgency
  - Revisions to post implementation review
- ◆ Alternative proposal regarding review
  - Following submission of report (as opposed to implementation)
- ◆ Guidance
  - Based on BSC guidance and posted on “urgency” section of CUSC website
- ◆ Best practice guidance note
  - Including details for before amendment raised, following amendment being raised, Panel consideration of urgency and development of urgent amendment

# Urgency – CUSC Provisions for discussion

## 1. Convening of meeting

- ◆ “Within time available” – do we want this to specify within 5 BDs, or as with BSC as determined by chair? (additional drafting will be required to reflect this)

## 2. Requirement to turn off other provisions

- ◆ Such as agenda requirements, time required to call a meeting

## 3. Direction (8.21.1.5)

- ◆ (c) relates only to urgency, timetable and procedure

## 4. Urgent Amendment Report

- ◆ Including any statement from the Authority, and the Panel view

## 5. Post implementation review

- ◆ Expansion of clause to include may (as well as shall)
- ◆ Panel can raise Amendment Proposal following review
- ◆ Reference should be 8.23 (not 8.21.1.5)
- ◆ Should this be amended to take place post-submission of report (rather than post-implementation)

# Urgency – Guidance for discussion

## 1. BSC guidance proposed

- ◆ Any additional points?
- ◆ Do we want to include words that “the Panel should take account of the following which is considered by the Authority...”

## 2. Is a link to the Ofgem guidance available?

# Urgency – Best practice for discussion

## 1. **Proposed timetable**

- ◆ Include reference to other codes?

## 2. **WG invitation**

- ◆ Invitation within 5 days, or representation within 5 days?

## 3. **Convening of meeting**

- ◆ Include as best practice or in the CUSC?

## 4. **Reference to complexity, importance and urgency**

- ◆ Happy to include?

## 5. **Authority direction in writing**

- ◆ Is this an expectation? (as CUSC cannot stipulate for Authority)

## 6. **WG priority on original**

- ◆ If deviates from “standard” process is CUSC change required?
- ◆ Or include in timetable or terms of reference?

## 7. **Should any of the best practice points be included in the CUSC?**

## 8. **Should a cover note specify this details “best practice endeavours” and not following does not constitute a breach of CUSC provisions?**

# Urgency – way forward

- Proposals to be finalised for report to Panel in June
- Report to be circulated to SG for no less than 5 BDs (8.18.6)
- Late Paper will be required for circulation to Panel (or an extension requested?)

# Implementation Date Proposal

## Recap

- ◆ January GSG discussed provisions within the CUSC regarding implementation dates
- ◆ The group agreed that where a WG has been used for the development of an amendment proposal it would be more appropriate for the WG to propose the implementation date (as opposed to the Company)
- ◆ CUSC Amendment Proposal worked up to reflect this, including drafting changes required to the CUSC
- ◆ To note - date or dates
- ◆ Way forward?
  - Log proposal as part of the report from the GSG to the Panel (in line with Terms of Reference)

# Issues Groups

**Peter Bolitho and David Jones**

## Next meeting?

- ◆ CAP160 review
- ◆ Best practice review – Bob Brown to present paper