

Amendment proposal:	Connection and Use of System Code (CUSC): Correction of errors contained in the CUSC provisions for post-implementation reviews for Urgent Amendment Proposals (CAP176)		
Decision:	The Authority ¹ directs that this proposal be made ²		
Target audience:	National Grid Electricity Transmission PLC (NGET), Parties to the CUSC and other interested parties		
Date of publication:	27 January 2010	Implementation Date:	2 February 2010

Background to the amendment proposal

The CUSC provides for post-implementation reviews after implementation of an Urgent Amendment Proposal or a modification made in accordance with the Transmission Licence (i.e. following a Direction) rather than the normal amendment rules³.

Currently, the CUSC stipulates that such reviews are to be conducted by Working Groups and consideration is to be made of Working Group Alternative Amendments ('WGAA'). However, these provisions do not reflect actual practice, as Working Groups are specific to each amendment proposal and therefore cease to exist once the process for that amendment has concluded.

The amendment proposal

In line with the recommendation of the GSG National Grid Electricity Transmission (NGET) raised CAP176 to correct this disparity between the code and practice to help reduce any confusion regarding interpretation of the clauses and to introduce a provision so that such reviews only take place where deemed necessary by the CUSC Amendments Panel.

The proposal is:

- (i) that post-implementation reviews will be conducted by a general Standing Group with reference being made to a possible alternative amendment which may be developed; and
- (ii) to introduce that such a review 'may' be conducted (or 'shall' be conducted where there appears to be a reasonable level of support for such a review).

CUSC Panel⁴ recommendation

On 27 November 2009, the CUSC Panel voted unanimously in favour of CAP176. The panel considered that it would improve procedural efficiency, thereby better facilitating objective a) the efficient discharge by the licensee of the obligations imposed upon it under

¹ The terms 'the Authority', 'Ofgem' and 'we' are used interchangeably in this document. Ofgem is the Office of the Gas and Electricity Markets Authority.

² This document is notice of the reasons for this decision as required by section 49A of the Electricity Act 1989.

³ See CUSC sections 8.21 and 8.23 respectively

⁴ The CUSC Panel is established and constituted from time to time pursuant to and in accordance with the section 8 of the CUSC.

the Act and by this licence. In the context of CAP176 these obligations relate to the establishment and operation of procedures for the modification of the CUSC, as set out in Standard Condition C10.

The Authority's decision

The Authority has considered the issues raised by CAP176 and the final Amendment Report (AR) dated 18 December 2009. The Authority has considered and taken into account the responses to NGET's consultation on CAP176 which are attached to the AR⁵. The Authority has concluded that:

1. implementation of the amendment proposal will better facilitate the achievement of the applicable objectives of the CUSC⁶; and
2. directing that the amendment be made is consistent with the Authority's principal objective and statutory duties⁷.

Reasons for the Authority's decision

We note the unanimous support for this proposal and agree that amending the CUSC to reflect current practice will remove the potential for confusion and aid transparency of the process, particularly around CUSC parties' expectations of next steps following implementation of an urgent amendment.

We also note that clarifying within the provision that post-implementation reviews will only take place where deemed necessary by the CUSC Amendments Panel will be more proportionate than a mandatory requirement to undertake such a review.

Taken together, we consider that the implementation of CAP176 will assist NGET in fulfilling its licence obligations efficiently and in accordance with Applicable Objective (a).

We note that this proposal CAP176 overlaps to a great extent with CAP177, which the Authority has today rejected. CAP177 sought to remove the ability of the CUSC Panel to raise an amendment following the implementation of an urgent amendment. As noted in our decision on CAP177, we consider that there is a distinction to be drawn between the activities, membership and views of a working or standing group, particularly if widened in keeping with a more general non-amendment specific agenda, to that of the CUSC Panel. To the extent the GSG considered there is value in a standing group reviewing urgent proposals post-implementation, we consider it appropriate that the CUSC panel should have the ability to raise any subsequent amendments that standing group consider to be necessary.

We consider that approval of CAP176 is consistent with our principal objective and wider statutory duties as it contributes to a more efficient process.

⁵ CUSC amendment proposals, amendment reports and representations can be viewed on NGET's website at <http://www.nationalgrid.com/uk/Electricity/Codes/systemcode/amendments/>

⁶ As set out in Standard Condition C10(1) of NGET's Transmission Licence, see: http://epr.ofgem.gov.uk/document_fetch.php?documentid=5327

⁷The Authority's statutory duties are wider than matters which the Panel must take into consideration and are detailed mainly in the Electricity Act 1989.

Decision notice

In accordance with Standard Condition C10 of NGET's Transmission Licence, the Authority, hereby directs that amendment proposal CAP176: *"Correction of errors contained in the CUSC provisions for post-implementation reviews for Urgent Amendment Proposals"* be made.

Mark Cox,
Associate Partner, Industry Codes and Licensing

Signed on behalf of the Authority and authorised for that purpose.