



## **AMENDMENT REPORT VOLUME 1**

### **CUSC Amendment Proposal CAP177**

### **Removal of CUSC Amendments Panel's ability to raise Amendment Proposals**

*The purpose of this document is to  
assist the Authority in their decision of whether to implement  
Amendment Proposal CAP177*

Amendment Ref	CAP177
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Prepared by	National Grid

I DOCUMENT CONTROL

a National Grid Document Control

Version	Date	Author	Change Reference
V0.1	03/11/09	National Grid	Draft for comment
V0.2	19/11/09	National Grid	Draft for Panel recommendation vote
V0.3	10/12/09	National Grid	Draft for Panel comment following recommendation vote
V1.0	18/12/09	National Grid	Formal version for submission to the Authority

b Distribution

Name	Organisation
The Gas and Electricity Markets Authority	Ofgem
CUSC Parties	Various
Panel Members	Various
National Grid Industry Information Website	

<b>1.0</b>	<b>SUMMARY AND RECOMMENDATIONS .....</b>	<b>3</b>
<b>2.0</b>	<b>PURPOSE AND INTRODUCTION .....</b>	<b>3</b>
<b>3.0</b>	<b>PROPOSED AMENDMENT .....</b>	<b>4</b>
<b>4.0</b>	<b>ASSESSMENT AGAINST APPLICABLE CUSC OBJECTIVES .....</b>	<b>5</b>
<b>5.0</b>	<b>PROPOSED IMPLEMENTATION .....</b>	<b>5</b>
<b>6.0</b>	<b>IMPACT ON THE CUSC.....</b>	<b>5</b>
<b>7.0</b>	<b>IMPACT ON INDUSTRY DOCUMENTS .....</b>	<b>5</b>
<b>8.0</b>	<b>NATIONAL GRID VIEW .....</b>	<b>5</b>
<b>9.0</b>	<b>INDUSTRY VIEWS AND REPRESENTATIONS.....</b>	<b>6</b>
<b>10.0</b>	<b>COMMENTS ON THE DRAFT AMENDMENT REPORT .....</b>	<b>7</b>
<b>11.0</b>	<b>AMENDMENTS PANEL RECOMMENDATION .....</b>	<b>7</b>
<b>12.0</b>	<b>NATIONAL GRID RECOMMENDATION.....</b>	<b>8</b>
	<b>ANNEX 1 – PROPOSED LEGAL TEXT TO MODIFY THE CUSC.....</b>	<b>9</b>
	<b>ANNEX 2 – AMENDMENT PROPOSAL FORM.....</b>	<b>10</b>

## **1.0 SUMMARY AND RECOMMENDATIONS**

### **Executive Summary**

- 1.1 CAP177 *Removal of the CUSC Amendments Panel's ability to raise Amendment Proposals* was submitted to the Amendments Panel for consideration on 25<sup>th</sup> September 2009. The Proposer requested that the Amendment Proposal proceed directly to wider consultation by The Company.
- 1.2 The CUSC currently allows for the CUSC Amendments Panel to raise an Amendment Proposal to the CUSC following a post-implementation review after amendment has been made to the CUSC other than pursuant to the standard Amendment Procedure when either:
  - 1.2.1 Amendment to the CUSC has been made based on an Urgent Amendment Proposal, or
  - 1.2.2 Amendment to the CUSC has been made in accordance with the Transmission Licence.
- 1.3 CAP177 seeks to amend the CUSC to remove the ability for the CUSC Amendments Panel to raise Amendment Proposals in these circumstances as currently provided for in the CUSC.
- 1.4 CAP177 was discussed at the CUSC Governance Standing Group (the GSG) as part of a wider review of the urgency provisions within in the CUSC. The GSG questioned the appropriateness of the Amendments Panel being able to both raise and recommend on a proposal. It was therefore agreed that CAP177 would be raised by National Grid to propose amendment to this provision.

### **Amendments Panel's View**

- 1.5 At the Amendments Panel meeting on 27<sup>th</sup> November 2009, Panel Members voted unanimously that CAP176 better facilitates Applicable CUSC Objective a) as it would improve the efficiency of the procedures in place for modification of the CUSC.

### **National Grid's View**

- 1.6 As proposer, National Grid supports implementation of CAP177 on the basis that it better achieves the Applicable CUSC Objectives by ensuring that the CUSC Amendments Panel are not able to both raise and recommend on an Amendment Proposal.

## **2.0 PURPOSE AND INTRODUCTION**

- 2.1 This Amendment Report has been prepared and issued by National Grid under the rules and procedures specified in the Connection and Use of System Code (CUSC) as designated by the Secretary of State.
- 2.2 Further to the submission of Amendment Proposal CAP177 (see Annex 2) and the subsequent wider industry consultation that was undertaken by National Grid, this document is addressed and furnished to the Gas and

Electricity Markets Authority (“the Authority”) in order to assist them in their decision whether to implement Amendment Proposal CAP177.

- 2.3 CAP177 was proposed by National Grid and submitted to the CUSC Amendments Panel for consideration at their meeting on the 25<sup>th</sup> September 2009. The Amendments Panel determined that CAP177 was appropriate to proceed to wider industry consultation by National Grid.
- 2.4 This document outlines the nature of the CUSC changes that are proposed. It incorporates National Grid’s recommendations to the Authority concerning the Amendment. A summary of the representations received in response to the Company consultation is included and copies of each of the responses to the consultation are included in Volume 2 of this Amendment Report.
- 2.5 This Amendment Report has been prepared in accordance with the terms of the CUSC. An electronic copy can be found on the National Grid website, at [www.nationalgrid.com/uk/Electricity/Codes/](http://www.nationalgrid.com/uk/Electricity/Codes/).

### **3.0 PROPOSED AMENDMENT**

- 3.1 CAP177 seeks to amend section 8.15.1 of the CUSC in order to remove the ability for the CUSC Amendments Panel to raise Amendment Proposals, as currently provided for in certain circumstances laid out in the CUSC.
- 3.2 The CUSC currently allows for the CUSC Amendments Panel to raise an Amendment Proposal to the CUSC following a post-implementation review after amendment has been made to the CUSC other than pursuant to the standard Amendment Procedure when either:
  - 3.2.1 Amendment to the CUSC has been made based on an Urgent Amendment Proposal, or
  - 3.2.2 Amendment to the CUSC has been made in accordance with the Transmission Licence.
- 3.3 The CUSC Governance Standing Group (the GSG) has recently reviewed some of the provisions of the governance process within the CUSC (in particular focusing on urgency), and as part of this review questioned the appropriateness of the CUSC Amendments Panel being able to raise an Amendment Proposal and then recommend on that same proposal as part of the standard Amendment Procedure. The GSG concluded that this did not feel appropriate as it may result in the potential outcome of the Amendments Panel’s recommendation vote being perceived as being a foregone conclusion given that the Amendment Proposal will have been raised by the Amendments Panel. The group concluded that if, following such a post-implementation review, an Amendment Proposal was deemed to be required, the onus should be on a party to the CUSC (or BSC Party or National Consumer Council) to raise such amendment.

## **4.0 ASSESSMENT AGAINST APPLICABLE CUSC OBJECTIVES**

### **Proposed Amendment**

4.1 The Proposer considers that CAP177 would better facilitate Applicable CUSC Objective:

- (a) the efficient discharge by the Licensee of the obligations imposed upon it by the act and the Transmission Licence;

By ensuring that the CUSC Amendments Panel are not able to both raise and recommend on an Amendment Proposal, thereby ensuring that there is no risk that the potential outcome of the Amendments Panel's recommendation vote is perceived as being a foregone conclusion given that the Amendment Proposal will have been raised by the Amendments Panel.

## **5.0 PROPOSED IMPLEMENTATION**

5.1 National Grid proposes that CAP177 should be implemented three Business Days after an Authority decision. No responses were received on the proposed implementation date following the Company consultation.

## **6.0 IMPACT ON THE CUSC**

6.1 CAP177 requires amendments to 8.15.1 of the CUSC.

6.2 The text required to give effect to the Amendment Proposal is contained as Annex 1 of this document.

## **7.0 IMPACT ON INDUSTRY DOCUMENTS**

### **Impact on Core Industry Documents**

7.1 CAP177 has no impact upon Core Industry Documents.

### **Impact on other Industry Documents**

7.2 CAP177 has no impact upon other Industry Documents.

## **8.0 NATIONAL GRID VIEW**

8.1 As proposer, National Grid supports implementation of CAP177 on the basis that it better achieves Applicable CUSC Objective (a) by ensuring that the CUSC Amendments Panel are not able to both raise and recommend on an Amendment Proposal, thereby ensuring that there is no risk that the potential outcome of the Amendments Panel's recommendation vote is perceived as being a foregone conclusion given that the Amendment Proposal will have been raised by the Amendments Panel.

## 9.0 INDUSTRY VIEWS AND REPRESENTATIONS

9.1 CAP177 was issued to wider consultation by National Grid on 7<sup>th</sup> October 2009 and received 4 representations. The following table provides an overview of the representations received; full copies are contained in Amendment Report Volume 2.

Reference	Company	Supportive	Comments
CAP177-CR-01	EDF ENERGY	Yes	<ul style="list-style-type: none"> <li>Note the reason for raising CAP177 is that the Governance Standing Group recently reviewed the parts of the CUSC that allow the CUSC Panel to raise an Amendment Proposal, and then vote on the same proposal.</li> <li>The Governance Standing Group concluded that this did not feel appropriate as it may result in the vote being perceived as being a foregone conclusion given that the Amendment Proposal will have been raised by the Amendments Panel – in other words there is a constitutional anomaly that the CUSC Panel should be “judge and jury”.</li> <li>EDF agrees that this is wrong.</li> <li>EDF agrees with the Governance Standing Group conclusions (embodied in the substance of CAP177) that if, following a post-implementation review, an Amendment Proposal was required the onus should be on a party to raise the Amendment Proposal.</li> </ul>
CAP177-CR-02	RWE group of companies including RWE Npower, RWE Supply and Trading GmbH and RWE npower renewables, a fully owned subsidiary of RWE Innogy	Yes	<ul style="list-style-type: none"> <li>Support the views expressed in the consultation document.</li> <li>Believe that the Amendment Proposal reflects discussions at the CUSC Governance Standing Group on the urgency provisions in the CUSC.</li> <li>It is appropriate that the processes associated with Urgent Amendment Proposal are clarified.</li> <li>Agree with National Grid that CAP177 better facilitates the Applicable CUSC Objectives.</li> </ul>
CAP177-CR-03	ScottishPowers’s Energy Wholesale Business which includes ScottishPower Generation Ltd, Scottish Power Energy Management Ltd and ScottishPower Renewable Energy Ltd	Yes	<ul style="list-style-type: none"> <li>Supports the proposed changes around the CUSC Urgent Amendment process.</li> <li>Agree that these changes would add clarification, while simplifying the Urgent Proposal process.</li> </ul>

Reference	Company	Supportive	Comments
CAP177-CR-04	Keadby Generation Ltd.; SSE Energy Supply Ltd.; SSE Generation Ltd.; Medway Power Ltd.; Slough Energy Supplies Ltd.; Airtricity Ltd. and Airtricity Generation (UK) Ltd.	Yes	<ul style="list-style-type: none"> <li>• Welcome the proposed changes.</li> <li>• A pragmatic development in light of recent experience with CUSC Amendment Proposals.</li> <li>• Agree with the National Grid view (as set out in paragraph 1.6 of this Amendment Report) that CAP177 would better facilitate the Applicable CUSC Objectives – in particular Objective (a).</li> <li>• If the proposal outlined in the recent consultation from Ofgem relating to the raising of Amendment Proposals arising from a 'Major Policy Review' were to proceed then there could be a case for reviewing this matter again.</li> </ul>

## 10.0 COMMENTS ON THE DRAFT AMENDMENT REPORT

- 10.1 National Grid received one response following the publication of the first draft of the Amendment Report on 3<sup>rd</sup> November 2009. This response came from EDF Energy and indicated that the CAP177 draft Amendment Report and the summary therein of EDF Energy's submission to the Company consultation appear to be reasonable, comprehensive, and without error. A copy of this representation is contained in Amendment Report Volume 2.

## 11.0 AMENDMENTS PANEL RECOMMENDATION

- 11.1 The Amendments Panel noted that there may be an interaction between this CAP177 and Ofgem's ongoing Industry Code Governance Review, particularly the Role of Code Administrators workstream where it is being proposed that the Amendments Panel's be given a role in raising Amendment Proposals in prescribed circumstances. Ofgem's initial proposals consultation on the Role of Code Administrators and Small Participant/Consumer Initiatives contains the full detail of this.<sup>1</sup>
- 11.2 At the meeting of the CUSC Amendments Panel on 27<sup>th</sup> November 2009, the Panel Members voted unanimously that CAP177 better facilitates achievement of Applicable CUSC Objective (a). None of the Panel Members voted that it better facilitates achievement of Applicable CUSC Objective (b).
- 11.3 The table below shows a breakdown of Panel Members' voting against the CUSC Applicable Objectives and the rationale for such votes. For ease of reference, the Objectives are reproduced here:

*(a) the efficient discharge by the licensee of the obligations imposed upon it under the Act and by this licence; and*

*(b) facilitating effective competition in the generation and supply of electricity, and (so far as consistent therewith) facilitating such competition in the sale, distribution and purchase of electricity.*

<sup>1</sup> Chapter 2: <http://www.ofgem.gov.uk/Licensing/IndCodes/CGR/Pages/GCR.asp>

<b>Panel Member (Representation in brackets)</b>	<b>Better meets Applicable CUSC Objective (a)</b>
Barbara Vest (User)	Yes. CAP177 would better facilitate Applicable CUSC Objective (a) by improving the efficiency of the procedures in place for modification of the CUSC.
Bob Brown (User)	Yes. CAP177 would better facilitate Applicable CUSC Objective (a) by improving the efficiency of the procedures in place for modification of the CUSC.
Bob Brown acting as alternate for Abigail Hall (Consumer)	Yes. CAP177 would better facilitate Applicable CUSC Objective (a) by improving the efficiency of the procedures in place for modification of the CUSC.
Fiona Navesey (User)	Yes. CAP177 would better facilitate Applicable CUSC Objective (a) by improving the efficiency of the procedures in place for modification of the CUSC.
Garth Graham (User)	Yes. Mindful, in particular, of the comments in paragraphs 1.6, 3.3 and 8.1 of the report together with consultation responses and the discussions at GSG, CAP177 would better facilitate Applicable CUSC Objective (a) by improving the efficiency of the procedures in place for modification of the CUSC.
Paul Jones (User)	Yes. CAP177 would better facilitate Applicable CUSC Objective (a) by improving the efficiency of the procedures in place for modification of the CUSC.
Paul Mott (User)	Yes. CAP177 would better facilitate Applicable CUSC Objective (a) by improving the efficiency of the procedures in place for modification of the CUSC.
Simon Lord (User)	Yes. CAP177 would better facilitate Applicable CUSC Objective (a) by improving the efficiency of the procedures in place for modification of the CUSC.
David Smith (National Grid)	Yes. CAP177 would better facilitate Applicable CUSC Objective (a) by improving the efficiency of the procedures in place for modification of the CUSC.

## 12.0 NATIONAL GRID RECOMMENDATION

- 12.1 As proposer, National Grid supports implementation of CAP177 on the basis that it better achieves Applicable CUSC Objective (a) by ensuring that the CUSC Amendments Panel are not able to both raise and recommend on an Amendment Proposal, thereby ensuring that there is no risk that the potential outcome of the Amendments Panel's recommendation vote is perceived as being a foregone conclusion given that the Amendment Proposal will have been raised by the Amendments Panel.



## ANNEX 1 – PROPOSED LEGAL TEXT TO MODIFY THE CUSC

The proposed legal text to modify the CUSC is detailed below by deleting the coloured, struck through text.

- 8.15.1 A proposal to modify the **CUSC** may be made by a **CUSC Party**, by the **National Consumer Council** or by a **BSC Party** ~~or, under Paragraphs 8.21.8 and 8.23.5, by the Amendments Panel~~ or by a **Relevant Transmission Licensee** in relation to Exhibit O Part IB and Exhibit O Part IIB only.

## ANNEX 2 – AMENDMENT PROPOSAL FORM

<b>CUSC Amendment Proposal Form</b>	<b>CAP:177</b>
<b>Title of Amendment Proposal:</b> Removal of CUSC Amendments Panel's ability to raise Amendment Proposals.	
<b>Description of the Proposed Amendment (mandatory by proposer):</b>  This proposal seeks to amend section 8.15.1 of the CUSC in order to remove the ability for the CUSC Amendments Panel to raise Amendment Proposals, as currently provided for in certain circumstances laid out in the CUSC.	
<b>Description of Issue or Defect that Proposed Amendment seeks to Address (mandatory by proposer):</b>  The CUSC currently allows for the CUSC Amendments Panel to raise an Amendment Proposal to the CUSC following a post-implementation review after amendment has been made to the CUSC other than pursuant to the standard Amendment Procedure when either: <ul style="list-style-type: none"> <li>• Amendment to the CUSC has been made based on an Urgent Amendment Proposal, or</li> <li>• Amendment to the CUSC has been made in accordance with the Transmission Licence.</li> </ul> <p>The CUSC Governance Standing Group (GSG) has recently reviewed some of the provisions of the governance process within the CUSC (in particular focusing on urgency), and as part of this review questioned the appropriateness of the CUSC Amendments Panel being able to raise an Amendment Proposal and then recommend on that same proposal as part of the standard Amendment Procedures. The GSG concluded that this did not feel appropriate, and if following such a post-implementation review an Amendment Proposal was deemed to be required, the onus would be on a party to the CUSC (or BSC Party or National Consumer Council) to raise such amendment.</p>	
<b>Impact on the CUSC (this should be given where possible):</b> Sections 8.15.1 of the CUSC will require amendment.	
<b>Impact on Core Industry Documentation (this should be given where possible):</b> None	
<b>Impact on Computer Systems and Processes used by CUSC Parties (this should be given where possible):</b> None	
<b>Details of any Related Modifications to Other Industry Codes (where known):</b> None	
<b>Justification for Proposed Amendment with Reference to Applicable CUSC Objectives** (mandatory by proposer):</b>  National Grid believes that this proposal will better facilitate CUSC Applicable Objective (a): <b>(a) The efficient discharge by the licensee of the obligations imposed upon it under the Act and by the Transmission Licence</b> by ensuring that the CUSC Amendments Panel are not able to both raise and recommend on an Amendment Proposal.	

<b>Details of Proposer:</b> Organisation's Name:	National Grid
Capacity in which the Amendment is being proposed: (i.e. CUSC Party, BSC Party or "National Consumer Council")	CUSC Party
<b>Details of Proposer's Representative:</b> Name: Organisation: Telephone Number: Email Address:	Carole Hook National Grid 01926 654211 carole.hook@uk.ngrid.com
<b>Details of Representative's Alternate:</b> Name: Organisation: Telephone Number: Email Address:	Alex Thomason National Grid 01926 656379 Alex.thomason@uk.ngrid.com
<b>Attachments (Yes/No): Yes</b> <b>If Yes, Title and No. of pages of each Attachment:</b>  Please see annex 1 to this Amendment Proposal for the proposed drafting to support the amendment (1 page).	