



**National Grid**

## **CONSULTATION DOCUMENT**

### **CUSC Amendment Proposal CAP086**

#### **Proposal for Earlier Consideration of Implementation**

##### **Dates**

*The purpose of this document is to consult on Amendment Proposal CAP086 with CUSC Parties and other interested Industry members*

Amendment Ref	CAP086
Issue	1.0
Date of Issue	27 April 2005
Prepared by	National Grid

**I DOCUMENT CONTROL**

**a National Grid Document Control**

Version	Date	Author	Change Reference
0.1	25/4/05	National Grid	Initial Draft for internal comment
1.0	27/4/05	National Grid	Formal version for release

**b Document Location**

National Grid website:

[http://www.nationalgridinfo.co.uk/cusc/mn\\_consultation\\_index.html](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 SUMMARY

- 1.1 CAP086 seeks to introduce a requirement for National Grid to consult CUSC Users regarding Implementation Dates for CUSC Amendment Proposals earlier during the consultation phase of the Amendment process. CAP086 would require a change to Section 8 of the CUSC.
- 1.2 CAP086 was proposed by E.ON UK plc and submitted to the CUSC Amendments Panel for consideration at their meeting on 22<sup>nd</sup> April 2004. The Amendments Panel decided that CAP086 should go straight to industry consultation.
- 1.3 This document initiates this wider consultation exercise and invites views on CUSC Amendment Proposal CAP086. The consultation closing date is 27<sup>th</sup> May 2005.

## 2.0 INTRODUCTION

- 4.42.1 This is a consultation document 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 CAP086 this document seeks views from industry members relating to CAP086.
- 2.3 This consultation document outlines 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> for CAP086 and the Amendment Proposal form.

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## 3.0 THE AMENDMENT PROPOSAL

- 3.1 CAP086 (see Annex 2) seeks to introduce a requirement on NGC to consult CUSC Users regarding Implementation Dates for CUSC Amendment Proposals earlier during the consultation arrangements.
- 3.2 NGC are already required to include details of implementation timescales within each CUSC Amendment report. However, CAP086 would specify an obligation within section 8 of the CUSC for NGC to consult CUSC Users regarding such dates. It is proposed that consultation on the Implementation Date will form part of the Amendment Consultation.
- 3.3 Currently, where the CUSC Amendments Panel directs (subject to 8.17.7 of the CUSC) a Working Group may consider a potential implementation date. It is proposed that where this date differs from that recommended by NGC, the consultation document should consult upon both options. The Final Amendment Report would contain reference to the suggestions from respondents along with the recommendations of both the Working Group and NGC. This will enable the Authority to fully consider which Implementation Date is the most appropriate.
- 3.4 CUSC currently requires NGC to circulate a draft Amendment Report to CUSC Parties and Panel Members for comment with a minimum consultation period of 5 business days. The Proposer argues that, although this allows an opportunity for

CUSC Parties to comment upon the proposed Implementation Date, it does not allow NGC sufficient time to take account of concerns regarding the date. The Proposer also believes that this period does not necessarily allow sufficient time for Users to identify potential problems with the date, provide a rationale behind their concerns and present information which may enable the Authority to make a fully informed decision.

- 3.5 The Proposer believes that the Implementation Date is a fundamental aspect of any Amendment Proposal which can have significant commercial impacts upon CUSC Parties. As such, the Implementation Date should be subject to the same level of rigour and scrutiny as the proposal itself. The Proposer believes that CAP086 is consistent with both the requirements of the current licence conditions and the recent Ofgem decision for CAP077.

#### 4.0 ASSESSMENT AGAINST APPLICABLE CUSC OBJECTIVES

- 4.1 The terms of the Transmission Licence require National Grid to establish and operate procedures for the modification of the CUSC, including the modification procedures themselves, so as to better facilitate achievement of the Applicable CUSC Objectives. These can be summarized as follows:

- (a) the efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission 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.

- 4.2 The Proposer believes that CAP086 will better facilitate the achievement of objective (a) by enabling at least three improvements:

i) Standard Licence Condition C10.6(b)(v) states that the licensee must prepare a CUSC report which includes *“setting out a timetable for implementation of the modification and any alternative, including the date with effect from which such modification (if made) is to take effect; and....to be such as will enable the modification to take effect as soon as practicable after the Authority has directed such modification to be made, account being taken of complexity, importance and urgency of the modification”*(C10.6 (c)). The Proposer believes that this process will better enable NGC to assess the complexity, importance and urgency associated with the Implementation Date through better consultation with CUSC Users;

ii) Standard Licence Condition C10.12 states that the licensee must *“take all reasonable steps to secure and implement (consistently with the procedures applicable under or in relation to such documents), and shall not take any steps to prevent or unduly delay, changes to the core industry documents to which it is a party (or in relation to which it holds rights in respect of amendment), such changes being changes which are appropriate in order to give full and timely effect to and/or in consequence of any modification which has been made to the CUSC.”* The Proposer believes NGC could be even more confident that they have not ‘unduly delayed’ an amendment if they explicitly consulted with Users at the Consultation phase on the implementation date. Furthermore, given the recent Authority decision for CAP077, the Proposer says that it seems appropriate for NGC to consult on CUSC implementation dates in order to facilitate consistency between

the Amendments process and that designed for Appealed Amendments. Therefore consultation should better facilitate the achievement of this obligation;

iii) Standard Licence Condition C3.4(b)(v) refers to the BSC Report. The Proposer says it must be noted that the wording of the licence condition referring to the implementation timetable is exactly the same as that for the CUSC obligation. This suggests that there is no reason why the licence condition should not be interpreted in the same way as the BSC, where implementation dates form an important part of the consultation process. The Proposer believes that CAP086 would better facilitate the applicable objectives by ensuring a consistent application of the obligations placed on NGC by the Act and the Transmission Licence.

- 4.3 Given that implementation timescales can have a significant impact upon the materiality of a particular amendment, either to individual Users or across the industry, the Proposer believes it is essential that the Authority have access to industry information relating to the suggested implementation date. The Proposer also believes that consultation will alleviate concerns arising from a potential scenario where a conflict of interest exists between Users and NGC. The Proposer believes that ensuring that the suggested implementation timescale has been derived by means of an equitable process will enhance confidence in the arrangements and will thereby better facilitate objective (b).

## **5.0 IMPLEMENTATION AND TIMESCALES**

- 5.1 Should the Authority approve CAP086, National Grid would recommend that implementation should be within 10 days of an Authority decision. However, as with all other aspects of the Consultation Document, we would welcome interested parties views on this suggested date.

## **6.0 INITIAL VIEW OF AMENDMENTS PANEL**

- 6.1 At the Panel meeting held on 22<sup>nd</sup> April, the Panel agreed that CAP086 should proceed to industry consultation. Some Panel Members felt that a specific requirement on National Grid to consult CUSC Users earlier on the Implementation Date for a CUSC Amendment Proposal could be beneficial since the views of CUSC Users would be clearer at an earlier stage and more transparent and could therefore be more accurately reflected in the Amendment Report to the Authority. Some Panel Members felt such a requirement would also make the situation clearer for the Authority should the industry favour a different Implementation Date to National Grid. It was, however noted, that since the CUSC Panel had been established the Amendments Panel was not aware of any instances where the industry had disagreed with National Grid on a proposed Implementation Date for a CUSC Amendment Proposal. The Amendments Panel also accepted that National Grid had taken all reasonable steps to secure and implement all CUSC Amendment Proposals to date consistent with its licence requirements and taking into account as far as possible the views of the industry.

## **7.0 INITIAL VIEW OF NATIONAL GRID**

- 7.1 National Grid has Licence and Code based obligations to put forward viable Implementation Dates for Amendment Proposals and currently believes that there is little to be gained through the introduction of a specific hard-wired requirement on NGC in relation to including dates at the Consultation stage. Moreover, NGC believe that certain practical differences could flow from such an approach.

- 7.2 The proposer has suggested that “...*the final Amendment Report would contain reference to the suggestions from respondents along with the recommendations of both the Working Group and NGC. This will enable the Authority to fully consider which implementation date is the most appropriate.*” We would welcome views from the industry on the practicalities of such an approach. For example, given that implementation dates are seen by the Authority as an integral part of the Amendment, would not any further view as to a potential implementation date beyond the Working Group/NGC recommendation, not need to be a formal Alternative Amendment? Similarly, were numerous Alternative Amendments to emerge, identical in all respects bar the implementation date, could this not potentially impact on regulatory certainty (In that participants would now know that a wider range of possible implementation dates were being considered by the Authority, but of course would not know which date the Authority would be minded to accept until an Authority decision had been made)? NGC does not yet have a definitive view on these questions, but would very much welcome industry views.
- 7.3 We would also point out that no instances have been highlighted of circumstances in which any CUSC or other interested party has believed that the implementation date proposed by NGC has not been either the most efficient, or in any other way inconsistent with our overarching obligations. We would note that in virtually all cases to date, NGC has either recommended an implementation date within 10 working days or so of an Authority decision, or on the 1<sup>st</sup> April to coincide with the start of the new Charging year.
- 7.4 Moreover, NGC would highlight that as a new Working practice, we are now always going to suggest indicative implementation dates in the Consultation Document (as in 5.0 above) which we believe mitigates any need for a formal CUSC Amendment. However, we appreciate that this issue has been of real interest to the industry, and look forward to hearing the views of interested parties.

## 8.0 VIEWS INVITED

- 8.1 National Grid is seeking the views of interested parties in relation to the issues raised by Amendment Proposal CAP086 and issues arising from the proposed timescale for implementation of CAP086.
- 8.2 Please send your responses to this consultation to National Grid by no later than close of business on **27<sup>th</sup> May 2005**.
- 8.3 Please address all comments to the following e-mail address:

[richard.dunn@ngtuk.com](mailto:richard.dunn@ngtuk.com)

Or alternatively, comments may be addressed to:

Richard Dunn  
Commercial Frameworks  
National Grid Company plc  
National Grid Transco House  
Warwick Technology Park  
Gallows Hill  
Warwick  
CV34 6DA

## Annex 1 – Proposed Text to modify CUSC

### Part A - Text to give effect to the Proposed Amendment

CUSC Paragraph 8.19.3 shall be amended as follows

8.19.3 The Consultation Paper will contain

- (a) the proposed drafting for the **Amendment Proposal** and any **Working Group Alternative Amendment** (unless the **Authority** decides none is needed in the **Amendment Report** under Paragraph 8.19.4) and will indicate the issues which arose in the **Working Group** discussions where there has been a **Working Group** and will incorporate **NGC's** and the **Amendments Panel's** initial views on the way forward; and
- (b) the date proposed by **NGC** for the implementation of the **Amendment Proposal** and any **Working Group Alternative Amendment** and, where the **Working Group** terms of reference require and the dates proposed by the **Working Group** are different from those proposed by **NGC**, those proposed by the **Working Group**. Views will be invited on these dates.

**Annex 2 – Amendment Proposal Form**

<b>CUSC Amendment Proposal Form</b>	<b>CAP:086</b>
<i>Title of Amendment Proposal:</i>	
Proposal for earlier consideration of implementation dates.	
<i>Description of the Proposed Amendment (mandatory by proposer):</i>	
<p>NGC are already required to include details of implementation timescales within each CUSC Amendment report. This proposal would specify an obligation within section 8 of the CUSC for NGC to consult CUSC Users regarding such dates. It is proposed that consultation on the implementation date will form part of the Amendment Consultation. As such we anticipate that only minor changes will be required in order to facilitate this Amendment.</p> <p>Currently, where the CUSC Amendments Panel directs (subject to 8.17.7 of the CUSC) a Working Group may consider a potential implementation date. It is proposed that where this date differs from that recommended by NGC, the consultation document should consult upon both options. The Final Amendment Report would contain reference to the suggestions from respondents along with the recommendations of both the Working Group and NGC. This will enable the Authority to fully consider which implementation date is the most appropriate.</p>	
<i>Description of Issue or Defect that Proposed Amendment seeks to Address (mandatory by proposer):</i>	
<p>Currently Section 8.20.3 of the CUSC requires NGC to circulate a draft copy of the Amendment Report to CUSC Parties and Panel Members with a minimum consultation period of 5 Business Days. Whilst we recognise that this allows an opportunity for CUSC Parties to comment upon the proposed implementation date, it does not allow NGC sufficient time to take account of concerns regarding that date. We also believe that it doesn't necessarily allow sufficient time for Users to identify potential problems with the date, provide a rationale behind their concerns and present information which may enable the Authority to make a fully informed decision.</p> <p>We believe that the implementation date is a fundamental aspect of any Code Amendment which can have significant commercial impacts upon CUSC Parties. As such, the implementation date should be subject to the same level of rigour and scrutiny as the proposal itself. We believe this proposal to be consistent with both the requirements of the current licence conditions and the recent Ofgem decision for CAP077.</p>	
<i>Impact on the CUSC (this should be given where possible):</i>	
This amendment is likely to require revision to Section 8 of the CUSC.	
<i>Impact on Core Industry Documentation (this should be given where possible):</i>	
None foreseen.	
<i>Impact on Computer Systems and Processes used by CUSC Parties (this should be given where possible):</i>	
None foreseen.	
<i>Details of any Related Modifications to Other Industry Codes (where known):</i>	
None foreseen.	

**Justification for Proposed Amendment with Reference to Applicable CUSC Objectives\*\* (mandatory by proposer):**

- **The efficient discharge by National Grid of the obligations imposed on it by the Act and the Transmission Licence;**

We believe that this CUSC Amendment will better facilitate the achievement of this objective by enabling at least three improvements.

i) Standard Licence Condition C10.6(b)(v) states that the licensee must prepare a CUSC report which includes "setting out a timetable for implementation of the modification and any alternative, including the date with effect from which such modification (if made) is to take effect; and.....to be such as will enable the modification to take effect as soon as practicable after the Authority has directed such modification to be made, account being taken of complexity, importance and urgency of the modification"(C10.6 (c)). We believe that this process will better enable NGC to assess the complexity, importance and urgency associated with the implementation date through better consultation with CUSC Users.

ii) Standard Licence Condition C10.12 states that the licensee must "take all reasonable steps to secure and implement (consistently with the procedures applicable under or in relation to such documents), and shall not take any steps to prevent or unduly delay, changes to the core industry documents to which it is a party (or in relation to which it holds rights in respect of amendment), such changes being changes which are appropriate in order to give full and timely effect to and/or in consequence of any modification which has been made to the CUSC." We are unsure how NGC can be satisfied that they have not 'unduly delayed' an amendment without considering the impact upon CUSC Users. Furthermore, given the recent Authority decision for CAP077 it seems appropriate for NGC to consult on CUSC implementation dates in order to facilitate consistency between the Amendments process and that designed for Appealed Amendments. Therefore consultation should better facilitate the achievement of this obligation.

iii) Standard Licence Condition C3.4(b)(v) refers to the BSC Report. It must be noted that the wording of the licence condition referring to the implementation timetable is exactly the same as that for the CUSC obligation. This suggests that there is no reason why the licence condition should not be interpreted in the same way as the BSC, where implementation dates form an important part of the consultation process. We believe that this proposal would better facilitate the applicable objectives by ensuring a consistent application of the obligations placed on NGC by the Act and the Transmission Licence.

- **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.**

Given that implementation timescales can have a significant impact upon the materiality of a particular amendment, either to individual Users or across the industry, it is essential that the Authority have access to industry information relating to the suggested implementation date. We also believe that consultation will alleviate concerns arising from a potential scenario where a conflict of interest exists between Users and NGC. Ensuring that the suggested implementation timescale has been derived by means of an equitable process will enhance confidence in the arrangements and will thereby better facilitate competition.

<b>Details of Proposer:</b> Organisation's Name:	E.ON UK plc
Capacity in which the Amendment is being proposed: (i.e. CUSC Party, BSC Party or "energywatch")	CUSC Party
<b>Details of Proposer's Representative:</b> Name:  Organisation:  Telephone Number:  Email Address:	Neil Smith  E.ON UK plc  02476 424369  neil.c.smith@eon-uk.com
<b>Details of Representative's Alternate:</b> Name:  Organisation:  Telephone Number:  Email Address:	Paul Jones  E.ON UK plc  02476 424829  paul.jones@eon-uk.com
<b>Attachments (Yes/No):</b> NO <b>If Yes, Title and No. of pages of each Attachment:</b> N/A	

**Notes:**

1. 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 Amendments Panel can determine more clearly whether the proposal should be considered by a Working Group or go straight to wider National Grid Consultation.
2. 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 Panel Secretary will inform the Proposer.

The completed form should be returned to:

Richard Dunn  
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](mailto: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 that is a CUSC Party shall be deemed to have granted this Licence).

3. Applicable CUSC Objectives\*\* - These are defined within the National Grid Company Transmission Licence under Section C7F, paragraph 15. Reference should be made to this section when considering a proposed amendment.