



**National Grid**

## **AMENDMENT REPORT**

**CUSC Proposed Amendment CAP051**

**Initiation of the Amendment Procedures by the  
Amendments Panel**

*The purpose of this report is to assist the  
Authority in their decision of whether to  
implement Amendment Proposal CAP051*

Amendment Ref	CAP051
Issue	1.0
Date of Issue	18 September 2003
Prepared by	National Grid

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

Version	Date	Author	Change Reference
0.1	22/8/03	National Grid	Draft for internal comment
0.2	10/9/03	National Grid	Draft for Industry comment
1.0	18/09/03	National Grid	Formal version for submission to the Authority

**b Document Location**

Nation Grid Website:

<http://www.nationalgrid.com/uk/indinfo/cusc>

**c Distribution**

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

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## **1.0 SUMMARY AND RECOMMENDATION**

- 1.1 CAP051 was proposed by National Grid and submitted to the Amendments Panel for consideration at their meeting on 16<sup>th</sup> May 2003. The Amendments Panel determined that CAP051 should be considered by the Governance Standing Group acting as a Working Group and that the Group should report back to the Panel meeting scheduled for 25<sup>th</sup> July 2003. The Working Group considered the Amendment Proposals by way of correspondence as agreed at the Panel meeting on 16<sup>th</sup> May 2003 with the Chairman deciding if a meeting of the Group was necessary.
- 1.2 There were no comments on the indicative legal drafting for CAP051 during this consideration. However two Working Group Members indicated that they did not believe there was a need for either CAP051. Two Members of the Working Group had concerns about the efficiency of the modus operandi of the Group (essentially proceeding via e-mail correspondence with no meetings) to the extent that they could not support the Report. The Chairman recommended on behalf of the Working Group that CAP051 should go to wider Industry consultation following the Panel meeting on 25<sup>th</sup> July. The period of industry consultation closed on Friday 5<sup>th</sup> September.
- 1.3 National Grid received four responses to the CAP051 consultation document. Two respondents supported the Proposed Amendment although one preferred Alternative Amendment A. Two did not support CAP051 and one of these respondents proposed an Alternative Amendment B but only if the Authority believed that a change to CUSC to address the defect identified in CAP051 was necessary.

### **National Grid Recommendation**

- 1.4 National Grid recommends that Alternative Amendment A be approved for implementation..
- 1.5 It is recommended that the CUSC be modified in line with Alternative Amendment A 10 days after the Authority's decision.

## **2.0 PURPOSE AND SCOPE OF THE REPORT**

- 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. It addresses issues relating to whether or not the Authority should approve Amendment Proposal CAP051.
- 2.2 Further to the submission of Amendment Proposal CAP051 (see Annex 1) 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 CAP051.
- 2.3 This document outlines the nature of the CUSC changes that are proposed. It incorporates National Grid's recommendations to the Authority concerning the Amendment. Copies of all representations received in response to the consultation have been also been included and a 'summary' of the representations received is also provided. Copies of each of the responses to the consultation are included as Annex 3 to this document.

- 2.4 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 <http://www.nationalgrid.com/uk/indinfo/cusc>

### **3.0 THE PROPOSED AMENDMENT**

- 3.1 CAP051 seeks to clarify the process for the review of an amendment made to the CUSC under section 8.23.5 where such a review is deemed necessary by the Amendments Panel. The proposed amendment makes clear that the Amendments Panel should establish a Standing Group (or use an appropriate existing Standing Group) as a body to consider whether another solution might better facilitate the Applicable CUSC Objectives in respect of the subject matter of the original amendment.
- 3.2 Section 8.23.5 of CUSC states:  
"If an amendment is made to the CUSC in accordance with the Transmission Licence but other than pursuant to the other Amendment Procedures in this Section 8, the Amendments Panel may, following such amendment, initiate the Amendment Procedures in order to consider whether any Alternative Amendment could better facilitate achieving the Applicable CUSC Objectives in respect of the subject matter of the original amendment."
- 3.3 At present the CUSC is unclear as to how the Amendments Panel should initiate the Amendment Procedures. Paragraph 8.15.1 of the CUSC refers to the Amendments Panel submitting an Amendment Proposal under Paragraphs 8.21.8 and 8.23.5. However because an amendment to CUSC has been implemented it is likely that the issue/defect with which it was dealing will have been remedied. It is therefore unclear what information could be included in an Amendment Proposal submitted by the Panel under Paragraphs 8.23.5 to satisfy the mandatory requirement to describe the issue/defect that the Proposed Amendment seeks to address.
- 3.4 This proposal provides for a Standing Group to be actioned to review the issues surrounding an amendment implemented under 8.23.5 of the CUSC. If that Standing Group determines that a defect remains and that an alternative approach is considered to be likely to better facilitate the Applicable CUSC Objectives, then the way would be clear for a CUSC party (or the Panel acting under 8.23.5) to submit an Amendment Proposal detailing the nature of the remaining defect and the proposed solution.

#### **Working Group Discussions**

- 3.5 The Panel agreed that the Working Group could consider the Amendment Proposals in correspondence initially and the Chairman should decide whether there was a need for a meeting of the Group in the light of the comments received by Working Group Members. It was agreed that the Working Group would generally adopt the working practices of the Governance Standing Group adapted given that the Working Group was proceeding by correspondence. The Chairman decided that there was no need for a meeting of the Group following the initial comments provided by Members.
- 3.6 The key areas for review by the Group identified in its Terms of Reference were review of the legal drafting provided with the Amendment Proposal and the consideration of any Alternative Amendments which might better facilitate achievement of the Applicable CUSC Objectives in relation to the issue or defect identified by the original Amendment Proposals.
- 3.7 One Member of the Group noted that, since the wording in Paragraph 8.23.5 indicated that the Panel "may" initiate the Amendment Proposal Procedures he presumed that they would only do so if they thought that there was a

defect that needed addressing. As such the Member believed that the defect should be described in the Amendment Proposal and the normal rules followed and therefore CAP 051 was not required. One other Member of the Group agreed with this comment. One Member of the Group commented that legal text similar to that in BSC F2.9.7 would be more appropriate to make it easier for Parties dealing with both sets of governance. This text is as follows:

*F2.9.7 Where an Urgent Modification Proposal results in a modification being made in accordance with paragraph 1.1, the Panel may or (where it appears to the Panel that there is a reasonable level of support for a review amongst Parties) shall, following such modification, submit the modification to review by a Modification Group on terms specified by the Panel in order to consider and report as to whether any alternative modification could, as compared with such modification, better facilitate achievement of the Applicable BSC Objective(s) in respect of the subject matter of such modification.*

Views were invited on this suggestion as part of the consultation.

- 3.8 Two Members of the Working Group had concerns about the efficiency of the modus operandi of the Group (essentially proceeding via e-mail correspondence with no meetings). These two Members believed that there had been inadequate debate on the Amendment Proposal as a result of the working approach adopted such that the Group's Terms of Reference had not been met. As a result they could not support the Working Group Report.

#### **4.0 IMPLEMENTATION AND TIMESCALES**

- 4.1 There is no material impact associated with the timing of the implementation of CAP051. It is therefore proposed that implementation takes place with effect from 10 days after the Authority's decision.

#### **5.0 IMPACT ON THE CUSC**

- 5.1 The Proposed Amendment would require change to Paragraph 8.23 of the CUSC.
- 5.2 The text required to give effect to the Proposed Amendment is contained as Annex 2 of this document.

#### **6.0 ASSESSMENT AGAINST APPLICABLE CUSC OBJECTIVES**

- 5.1 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.
- 5.2 According to the Proposer, amendment of the process for reviewing amendments made in accordance with 8.23.5 (CAP051) would improve the efficiency in the amendment procedures themselves as the current CUSC is unclear on initiation and process of review. Amendment of the process would enable National Grid to more efficiently discharge its obligations.

## **7.0 IMPACT ON CUSC PARTIES**

- 7.1 No impact has been identified on CUSC Parties from the Proposed Amendment detailed in this document.

## **8.0 IMPACT ON CORE INDUSTRY DOCUMENTS**

- 8.1 The Proposed Amendment will have no impact on Core Industry documents or other Industry documentation.

## **9.0 ALTERNATIVE AMENDMENT**

### **Description of Alternative Amendment**

- 9.1 Alternative Amendment A was put forward by the respondent in CR-051-03 and such an approach was supported by the respondent in CR-051-02. Alternative Amendment A is based more closely on the existing wording in the equivalent BSC section (F2.9.7).
- 9.2 The respondent in CR-051-04 did not support a change to the CUSC as described in CAP050. Alternative Amendment B was put forward by the respondent in CR-050-04 but only on the basis that should an amendment be considered desirable by the Authority to clarify the CUSC then Alternative Amendment B was the best option. Alternative Amendment B gives the Amendments Panel the option to raise an Amendment Proposal to address a specific area as well as the option to use a Standing Group to review the issue.

### **Impact of Alternative Amendment on CUSC**

- 9.3 Like CAP051, Alternative Amendments A & B would entail an amendment to Paragraph 8.23.5 of the CUSC only.

### **Assessment Against Applicable CUSC Objectives**

- 9.2 The respondent in CR-050-03 argued that CAP051 could be seen as too restrictive on when the Amendments Panel can submit the amendment for review and consequently issues arose over what constitutes an amendment being made. The respondent in CR-051-03 also argued that CAP051 did not indicate clearly enough that after the Standing Group had considered whether there was a better alternative amendment available that it was then a matter for CUSC Users to raise such an alternative amendment. The respondent in CR-051-03 believed that Alternative Amendment A was clearer in these respects and therefore would improve efficiency in the amendment procedures and therefore enable National Grid to discharge its obligations more efficiently.
- 9.4 The respondent in CR-050-04 argued that the existing CUSC wording allows the Panel the opportunity, should an Amendment be made in accordance with the transmission licence and other than in section 8 of the CUSC to initiate further work should the Panel be of the view that there are still outstanding concerns with the CUSC. If the Panel is not able to define the issues that they would wish a Working Group to be set up to consider (using the normal procedures of a Party raising an amendment proposal) then it is not appropriate to create a Standing Group merely to consider the possibilities following an Urgent Amendment. However, the respondent in



CR-050-04 indicates that should it be decided that Paragraph 8.23.5 of the CUSC needs to be clarified then the option to raise an Amendment Proposal by the Panel to address a specific area as well as the option to use a Standing Group to review the issue should be clearly stated and this is achieved in Alternative Amendment B.

## 10.0 VIEWS AND REPRESENTATIONS

10.1 This Section contains a summary of the views and representations made by consultees during the consultation period in respect of the Proposed Amendment.

### Views of Panel Members

10.2 No formal responses to the CAP051 consultation report were received from Panel Members. However, the Amendments Panel agreed with the Governance Standing Group's assessment in 2002 that an Amendment Proposal should be brought forward to clarify the position on the initiation of the Amendment Procedures by the Amendments Panel. The Amendments Panel accepted that the Governance Standing Group (acting as a Working Group) had fulfilled its terms of reference in considering CAP051 at its meeting on 25<sup>th</sup> July and agreed that National Grid should proceed to industry consultation on CAP051.

### View of Core Industry Document Owners

10.3 No responses to the CAP051 consultation report were received from Core Industry Document Owners.

### Responses to Consultation

10.4 The following table provides an overview of the representations received. Copies of the representations are attached as Annex 3.

Reference	Company	Supportive	Comments
CAP051-CR-01	Powergen UK plc	No	
CAP051-CR-02	EDF Energy	Yes	Respondent supports CAP051
CAP051-CR-03	British Energy	Yes	Respondent supports Alternative Amendment A
CAP051-CR-04	British Gas	No	If change necessary respondent supports Alternative Amendment B

10.5 The respondent in CR-051-01 argues that it is unclear how the implementation of CAP051 could better meet the Applicable CUSC Objectives. Unlike urgent amendments (CAP050), where insufficient time may have been available to fully consider alternatives, the process for considering "standard" amendment alternatives already exists. The necessary methodology is in place for circumstances where a defect needs to be addressed.

10.6 The respondent in CR-051-02 argues that CAP051 provides greater clarity on the process for initiating a review of an implemented amendment proposal in the event that the Panel believes that an alternative amendment may better

facilitate the Applicable CUSC Objectives than the implemented Amendment. However, the respondent in CR-050-02 prefers the approach in Alternative Amendment A since using similar text to that in BSC F2.9.7 would achieve the aim of CAP051 but in so doing would align both the CUSC and BSC making it easier and therefore more efficient for all parties operating under both sets of governance.

- 10.7 The respondent in CR-051-03 proposed Alternative Amendment A and the respondent in CR-051-04 proposed Alternative Amendment B, the latter only provided that the Authority considers a change to CUSC necessary to remedy the defect addressed by CAP051. Their arguments for the respective alternative amendments are summarised in section 9 of this report.
- 10.8 The respondents in CR-051-03 and CR-051-04 also make a number of general points in relation to their concerns over the way the Working Group for CAP051 conducted its business and indeed what the respondent in CR-051-04 considered a failure by the Panel to oversee good working practice of the CUSC. Since these points are not made in relation to assisting the Authority to determine whether or not to approve CAP051 they are not summarised here, although the Authority may wish to comment on these general points in its decision on CAP051.

## **11.0 NATIONAL GRID RECOMMENDATION**

- 11.0 National Grid believes that there is a defect in the CUSC which is addressed by CAP051 and agrees with the respondents in CR-050-02 and CR-050-03 that the Alternative Amendment A is an improvement on the original Amendment Proposal and therefore will better facilitate achievement of the Applicable CUSC Objectives. National Grid therefore recommends approval of Alternative Amendment A

## **12.0 COMMENTS ON DRAFT AMENDMENT REPORT**

- 12.1 National Grid received no responses following the publication of the draft Amendment Report.

**Annex 1 - Amendment Proposal Form**

<b>CUSC Amendment Proposal Form</b>	<b>CAP051</b>
<b>Title of Amendment Proposal:</b> Initiation of the Amendment Procedures by the Amendments Panel	
<b>Description of the Proposed Amendment</b> (mandatory by proposer): This proposal seeks to clarify the process for the review of an amendment made to the CUSC under section 8.23.5 where such a review is deemed necessary by the Amendments Panel. The proposed amendment makes clear that the Amendments Panel should establish a Standing Group (or use an appropriate existing Standing Group) as a body to consider whether another solution might better facilitate the Applicable CUSC Objectives in respect of the subject matter of the original amendment.	
<b>Description of Issue or Defect that Proposed Amendment seeks to Address</b> (mandatory by proposer): <i>Section 8.23.5 of CUSC states:</i> “If an amendment is made to the <b>CUSC</b> in accordance with the <b>Transmission Licence</b> but other than pursuant to the other <b>Amendment Procedures</b> in this Section 8, the <b>Amendments Panel</b> may, following such amendment, initiate the <b>Amendment Procedures</b> in order to consider whether any <b>Alternative Amendment</b> could better facilitate achieving the <b>Applicable CUSC Objectives</b> in respect of the subject matter of the original amendment.” At present the CUSC is unclear as to how the Amendments Panel should initiate the Amendment Procedures. Paragraph 8.15.1 of the CUSC refers to the Amendments Panel submitting an Amendment Proposal under Paragraphs 8.21.8 and 8.23.5. However because an amendment to CUSC has been implemented it is likely that the issue/defect with which it was dealing will have been remedied. It is therefore unclear what information could be included in an Amendment Proposal submitted by the Panel under Paragraphs 8.23.5 to satisfy the mandatory requirement to describe the issue/defect that the Proposed Amendment seeks to address. This proposal provides for a Standing Group to be actioned to review the issues surrounding an amendment implemented under 8.23.5 of the CUSC. If that Standing Group determines that a defect remains and that an alternative approach is considered to be likely to better facilitate the Applicable CUSC Objectives, then the way would be clear for a CUSC party (or the Panel acting under 8.23.5) to submit an Amendment Proposal detailing the nature of the remaining defect and the proposed solution.	
<b>Impact on the CUSC</b> ( <i>this should be given where possible</i> ): Paragraph 8.23.5 of the CUSC would require amendment in order to give effect to the proposed change. The draft text to give effect to this proposal is contained in Attachment 1.	
<b>Impact on Core Industry Documentation</b> ( <i>this should be given where possible</i> ): None.	
<b>Impact on Computer Systems and Processes used by CUSC Parties</b> ( <i>this should be given where possible</i> ): None.	
<b>Details of any Related Modifications to Other Industry Codes</b> ( <i>where known</i> ): None.	

<b>Justification for Proposed Amendment with Reference to Applicable CUSC Objectives**</b> (mandatory by proposer):	
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.	
Amendment of the process for reviewing amendments made in accordance with 8.23.5 would improve the efficiency in the amendment procedures themselves as the current CUSC is unclear on initiation and process of review. Amendment of the process would enable National Grid to more efficiently discharge its obligations.	
<b>Details of Proposer:</b> Organisation's Name	The National Grid Company plc
<b>Capacity in which the Amendment is being proposed:</b> (i.e. CUSC Party, BSC Party or "energywatch")	CUSC Party
<b>Details of Proposer's Representative:</b> Name: Organisation: Telephone Number: Email Address:	<i>Andy Balkwill</i> The National Grid Company plc 024 76423198 <a href="mailto:andy.balkwill@uk.ngrid.com">andy.balkwill@uk.ngrid.com</a>
<b>Details of Representative's Alternate:</b> Name: Organisation: Telephone Number: Email Address:	Emma Groves The National Grid Company plc 024 76423053 <a href="mailto:emma.groves@uk.ngrid.com">emma.groves@uk.ngrid.com</a>
<b>Attachments (Yes/No):</b> Yes <b>If Yes, Title and No. of pages of each Attachment:</b> Attachment 1 – Draft Text to give effect to proposal. One page.	

**Notes:**

- 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.
- 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.

## Annex 2 – Proposed Text to modify CUSC

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

#### Change Marked Version

#### 8.23 IMPLEMENTATION

8.23.5 If an amendment is made to the **CUSC** in accordance with the **Transmission Licence** but other than pursuant to the other **Amendment Procedures** in this Section 8, the **Amendments Panel** may, following such amendment establish a **Standing Group** in accordance with Paragraph 8.18.1, or identify and action an existing **Standing Group** initiate the **Amendment Procedures** in order to consider whether any **Alternative Amendment** there may be another solution that could better facilitate achieving the **Applicable CUSC Objectives** in respect of the subject matter of the original amendment.

### Part B - Text to give effect to the Alternative Amendment A

#### Change Marked Version

8.23.5 If an amendment is made to the CUSC in accordance with the Transmission Licence but other than pursuant to the other Amendment Procedures in this Section 8, the **Amendments Panel** may, following such amendment, initiate the **Amendments Procedures** shall determine whether or not to submit the amendment for review by a **Standing Group** in accordance with Paragraph 8.18 on terms specified by the **Amendments Panel** in order to consider and report as to whether any **Alternative Amendment** could, as compared with the amendment being made, better facilitate achievement of the **Applicable CUSC Objective(s)** in respect of the subject matter of the original amendment,

### Part C – Text to give effect to the Alternative Amendment B

8.23.5 If an amendment is made to the CUSC in accordance with the Transmission Licence but other than pursuant to the other Amendment Procedures in this Section 8, the **Amendments Panel** may following such amendment, initiate the **Amendment Procedures** determine whether or not to raise an **Amendment Proposal** in accordance with 8.15, or to establish a **Standing Group** in accordance with Paragraph 8.18.1, or identify and action an existing **Standing Group** to consider whether any **Alternative Amendment** there may be another solution that could better facilitate achieving the **Applicable CUSC Objectives** in respect of the subject matter of the original Amendment.



### Annex 3 – Copies of Representations Received to Consultation

This Annex includes copies of any representations received following circulation of the Consultation Document (circulated on 7<sup>th</sup> August, requesting comments by close of business on Friday 5<sup>th</sup> September).

Representations were received from the following parties:

No.	Company	File Number
1	Powergen UK plc	CAP051-CR-01
2	EDF Energy	CAP051-CR-02
3	British Energy	CAP051-CR-03
4	British Gas	CAP051-CR-04

<b>Reference</b>	CAP051-CR-01
<b>Company</b>	Powergen UK plc

Neil Smith  
Trading Arrangements



Richard Dunn  
Warwick Technology Park  
Gallows Hill  
Warwick  
CV34 6DA

22/08/2003

Reference

Dear Richard

**Reference: Consultation Response for CAP051**

Powergen is not convinced that the amendment proposal above, will better facilitate the applicable objective, and can therefore not support CAP051.

This proposal seeks to enable National Grid to more efficiently discharge its obligations, by clarifying the process for the review of amendments made to the CUSC under section 8.23.5 (where such a review is deemed necessary by the Amendments Panel).

Having examined the arguments put forward by the proposer, it is still unclear as to how the implementation of CAP051 could better meet the applicable CUSC objective. Unlike urgent amendments, where insufficient time may have been available to fully consider alternatives, the process for considering 'standard' amendment alternatives already exists.

The suggestion that legal text similar to that in the BSC (F2.9.7), did seem to have some merit, by offering a less rigid and more logical/practical approach. However, the fact remains that the necessary methodology is already in place for circumstances where a defect needs to be addressed.

Yours Sincerely

Neil Smith  
Regulatory Analyst  
**Powergen.**

<b>Reference</b>	CAP051-CR-02
<b>Company</b>	EDF Energy

**Our Ref  
Your**

Richard Dunn  
Commercial Framework  
National Grid Transco House  
Warwick Technology Park  
Gallows Hill  
Warwick  
CV34 6DA

**Date** 4<sup>th</sup> September 2003

Dear Richard,

**EDF Energy Response to CUSC Amendment Proposal CAP051 –  
“Initiation of the Amendment Procedures by the Amendments Panel”**

Thank you for giving EDF Energy the opportunity to respond to this CUSC Amendment Proposal 051 “Initiation of the Amendment Procedures by the Amendments Panel”.

EDF Energy supports CUSC Amendment Proposal CAP051. We believe that the amendment provides greater clarity on the process for initiating a review of an implemented Amendment in the event that the Panel believes that an alternative amendment may better facilitate the Applicable CUSC Objectives than the implemented Amendment.

EDF Energy supports the proposal to use similar text to that which is found in the BSC. An amended version of the BSC F2.9.7 would achieve the aim of this proposal and in doing so it would align both the CUSC and BSC making it easier and therefore more efficient for all parties operating under both sets of governance.

We agree with the working group’s view that this amendment would improve the efficiency of the CUSC amendment process and would therefore facilitate the efficient discharge by National Grid of its transmission licence obligations. We hope our comments have been useful in helping Ofgem assess the merits of this proposal but please contact me if you would like to discuss further.

Regards

Russell Hill  
Regulation and Market Infrastructure  
EDF Energy

<b>Reference</b>	CAP051-CR-03
<b>Company</b>	British Energy



5<sup>th</sup> September 2003

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

Dear Richard,

**CUSC Consultation Document CAP051:  
Initiation of the Amendment Procedures by the Amendments Panel**

In consideration of the above CAP, we would advise that we whilst we support the principle of the proposed amendment, we have provided an Alternative Amendment for consideration. We believe this alternative better facilitates achievement of the applicable CUSC Objective C7F1(a)<sup>1</sup>, of both the existing CUSC and the CAP051 Amendment Proposal.

In addition, in relation to the current suite of Amendment Proposals, (CAPs 49/50/51) we would express some concern with the amendment process followed on this occasion.

Despite the well-meant intent of the Panel for the Working Group to function by email etc. in the interests of efficiency, it has become apparent that this method provided neither sufficient nor effective discussion of the issues and the Amendment Report reflects the overall lack of involvement of Working Group (WG) members. If the lack of engagement is considered a valid criticism, a learning point here may be that WG members undertaking their roles via non-physical meetings be asked whether and to what extent they will or are able to contribute, as a positive means of ensuring and determining active participation. For example, there is a concern for example that silence is taken as an assenting opinion.

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<sup>1</sup> LC C7F1(a) relates to the efficient discharge of the transmission licensee of the obligations imposed upon it under the Electricity Act 1989 and the transmission licence

Whilst this set of governance Amendment Proposals may be considered of minor importance, in order to maintain the credibility of the review, assessment of proposals and the development or otherwise of alternatives, the process is all important. We therefore suggest that the circumstances surrounding the functionality of the Working Group on this occasion be reviewed and findings presented to the Panel for consideration.

Turning back to the specific Amendment Proposal, appended below is an Alternative Amendment. Paragraphs 8.21.8 (Urgent Amendment Proposal) and 8.23.5 (Transmission Licence) identify specific triggers which require the Panel to initiate a potential review of amendments made. The current text is very similar in both sections and it is therefore reasonable to provide similar amendments in relation to CAPs 50 and 51. The preferred text of CAP 50 is based reasonably closely on the equivalent BSC section F2.9.7 for greater consistency between the Codes and this is the basis of the Alternative Amendment.

If you have any queries associated with this response, please do not hesitate to contact me to discuss further

Yours faithfully,



Steve Phillips

Senior Trading Consultant  
Market Development  
Power & Energy Trading

#### **Alternative Amendment for CAP051:**

##### 8.23.5

If an amendment is made to the **CUSC** in accordance with the **Transmission Licence** but other than pursuant to the other **Amendment Procedures** in this Section 8, the **Amendments Panel** shall determine whether or not to submit the amendment for review by a **Standing Group** in accordance with Paragraph 8.18 on terms specified by the **Amendments Panel** in order to consider and report as to whether any alternative amendment could, as compared with the amendment being made, better facilitate achievement of the **Applicable CUSC Objective(s)** in respect of the subject matter of the original amendment.

Brief Notes:

- The text provided is based more closely on the equivalent BSC section F2.9.7 and CAP 50 Alternative Amendment provided separately
- Other general comments provided as notes to the CAP50 Alternative are equally valid here

<b>Reference</b>	CAP051-CR-04
<b>Company</b>	British Gas



energy management group

National Grid  
National Grid Transco House  
Warwick Technology ark  
Gallows Hill  
Warwick  
CV34 6DA

**Charter Court**  
**50 Windsor Road**  
**Slough**  
**Berkshire**  
**SL1 2HA**

Tel. (01753) 758051  
Fax (01753) 758368

For the Attention of Richard Dunn -  
Commercial Frameworks

Our Ref.  
Your Ref.  
18 September 2003

Dear Richard,

**Re: CAP051 – Initiation of the Amendments Procedures by the Amendments Panel**

Thank you for the opportunity to comment on this Amendment Proposal (AP). British Gas (BGT) does not agree that there is a flaw with the current CUSC wording in this area, and therefore does not support the AP or the suggestion to align CUSC with the BSC drafting contained in F2.9.7.

BGT believes that the existing CUSC wording allows the CUSC Panel the opportunity, should an Amendment to the CUSC be made in accordance with the Transmission Licence and other than in Section 8 of the CUSC, to initiate further work should the Panel be of the view that there are still outstanding concerns with the CUSC. If the Panel is not able to define the issues that they would wish a Working Group to be set up to consider (using the normal procedures of a Party raising an AP), then BGT do not believe that it is appropriate to create a Standing Group merely to consider the possibilities following such an Amendment.

However, should it be decided that CUSC 8.23.5 needs to be clarified then BGT believes that the option to raise an Amendment Proposal by the Panel to address a specific area as well as the option to use a Standing Group to review the issue should be clearly stated. This is a formal Alternative Amendment Proposal. Suggested Legal Text is attached.

BGT would also like to note our concern and disappointment with the way that the Amendment Process has operated in considering this AP. Whilst we note and accept that the Panel empowered the Working Group to operate using e-mail we do not believe that effective discussion of the issues occurred using this methodology. In particular we believe, it is against the spirit of the Panel's instructions to take silence as assent when the only views that have been expressed were against the proposal. At the very least, dissent from the majority of those who responded

suggests there is a debate to be had. For the Working Group report to be published and consulted upon without this debate inhibits the development of the AP and undermines the proper governance of CUSC. One of the principle benefits of the CUSC governance process is that it allows full and frank discussion of the issues arising from an AP that concern parties and rigorous assessment of the impact of the proposal. By failing to have this debate, we believe the Working Group has failed to meet its terms of reference.

Furthermore, we believe the Panel has failed in it's duty to oversee good working practice of the CUSC by accepting a Working Group report that has not been adequately assessed and which the only two respondents refused to endorse. We are disappointed that the Panel has allowed this proposal to be consulted upon before all the issues have been resolved. This AP has been progressed in a manner which sets an unfortunate precedent for the development of future proposals. It may prove necessary to amend CUSC such that the flexibility and potential efficiency of meeting by email is prohibited or by explicitly stating that the working group report must reflect the views of those who make a positive response and not treating silence as assent. BGT do not wish to see such changes as we believe it would be detrimental to the overall efficiency of the Code. However such changes will become necessary if the treatment received by this AP were to become the norm.

In conclusion we would reiterate our view that no change to the Current CUSC is required.

Should you wish to discuss any of our comments further, please do not hesitate to contact me.

Yours sincerely,

Simon Goldring  
Transportation Manager

Proposed Text for Alternative Amendment Proposal

## 8.21 Implementation

8.23.5 If an amendment is made to the **CUSC** in accordance with the **Transmission Licence** but other than pursuant to the other **Amendment Procedures** in this Section 8, the **Amendments Panel** may, following such amendment determine whether or not to raise an **Amendment Proposal** in accordance with 8.15, or to establish a **Standing Group in accordance 8.18.1** or identify and action an existing **Standing Group** to consider whether there may be another solution that could better facilitate achieving the **Applicable CUSC Objectives** in respect of the subject matter of the original amendment.