



National Grid

CONSULTATION DOCUMENT

CUSC Amendment Proposal CAP044

Extension of Election Arrangements to Panel Alternates

*The purpose of this document is to
consult on Amendment Proposal CAP044
with CUSC Parties and other interested
Industry members*

Amendment Ref	CAP044
Issue	1.0
Date of Issue	24 February 2003
Prepared by	National Grid

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

Version	Date	Author	Change Reference
0.1	12/2/03	National Grid	Initial Draft for internal comment
1.0	24/2/03	National Grid	Formal version for release

b Document Location

National Grid website:

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 CAP044 was proposed by National Grid and submitted to the Amendments Panel for consideration at their meeting on 22nd November 2002. The Amendments Panel determined that CAP044 should be considered by the Governance Standing Group acting as a Working Group. The Working Group provided an initial report to the Panel on 13 December 2002. The Panel agreed that the Working Group should continue to consider an Alternative Amendment and provide a final report to the Panel on 21 February.
- 1.2 CAP044 proposes to extend the current election arrangements for Resigning Panel Members set out in Annex 8A of the CUSC to Resigning Alternate Members which would also be come a new defined term in the CUSC. The Working Group developed an Alternative Amendment which attracted majority support from Working Group Members. The Alternative Amendment proposes nomination of Alternate Members by CUSC Parties in the event of Resigning Panel Alternates and selection by the Panel.
- 1.3 This document initiates the wider industry consultation process and invites views on CUSC Amendment Proposal CAP044 and the Alternative Amendment agreed by majority of the CAP044 Working Group. The consultation closing date is **12th March 2003**.

2.0 INTRODUCTION

- 2.1 This consultation document is 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 This document outlines the nature of the CUSC changes that are proposed and seeks views from industry members relating to Amendment Proposal CAP044. 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.
- 2.3 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>, along with the Amendment Proposal itself.
- 2.4 Paragraph 8.6.2 (a) of the CUSC provides for the appointment of up to five alternate members for Users' Panel Members by election in accordance with Annex 8A of the CUSC. The Panel Alternates then form a group from which Panel Members may select a person to act as their alternate (8.6.2 (b)). Panel Members cannot chose an alternate who has already been chosen by another Panel Member to act as their alternate. In those situations the Panel Member may choose as his alternate any Alternate Member or other Panel Member who is not already acting as alternate for more than one Panel Member (8.6.2 (c)). Once appointed Alternate Members have the same rights and powers as Panel Members who they deputise for.
- 2.5 The five Alternate Members elected by this process in 2001 were:
 - Ian Moran (Scottish and Southern)
 - Brian Sequeira (British Gas Trading)

- Simon Lord (Edison Mission Energy)
- John Stewart (Campbell Carr Consultancy)
- Richard Ford (St Clements Services)

Since the elections in 2001 two Alternate Members have resigned (Ian Moran and Richard Ford) leaving just three alternates to cover the eight Panel Members and during the summer 2002 alternates had to double up to cover absenting Panel Members. The elections for Panel Alternates are an integral part of the elections for Panel Members i.e.: CUSC makes no explicit provision for elections of Panel Alternates separate from the election arrangements for Panel Members. Election arrangements are biennial after the inception of CUSC in September 2001 and hence there will be no further opportunity to elect further Panel Alternates until Autumn 2003.

- 2.6 Annex 8.A of the CUSC sets out the detailed arrangements for election of Users' Panel Members. Paragraph 8A.4 deals with the arrangements for replacement of "Resigning" Panel Members. This involves identifying those Users who voted for the "Resigning" Panel Member or who did not vote for (and are not affiliates of any User which voted for) any elected Panel Member still serving. Assuming this identification is possible (and CUSC makes no provision where it is not) then these Users are entitled to participate in a further election, provided the replacement will be for not less than 6 months and which will be administered by NGC. For a replacement period of less than 6 months, the User who nominated the Resigning Panel Member shall be entitled to appoint a replacement for the remainder of the term of office for the Resigning Panel Member. Unfortunately Paragraph 8A.4 only refers to Resigning Panel Members not Resigning Alternate Members. It is therefore National Grid's interpretation that Paragraph 8A.4 cannot be applied to the problem posed by Resigning Panel Alternates. This interpretation is confirmed by the fact that "Resigning Panel Member" is a defined term within the CUSC whereas "Resigning Alternate Member" is not. It would therefore require a formal Amendment Proposal to change Annex 8A of CUSC to allow elections or selection of Panel Alternates separate from elections for Panel Members.

3.0 THE AMENDMENT PROPOSAL

- 3.1 CAP044 seeks to amend Annex 8A.4 to make it clear that the election arrangements currently in place to cater for "Resigning Panel Members" also applies to "Resigning Alternate Members". "Resigning Alternate Members" would also become a new defined term in the CUSC. The CUSC Amendments Panel agreed in principle at its meeting on 25 October that the fact that the CUSC does not deal with the problem of "Resigning Alternate Members" is a defect in the current Code which requires a solution.
- 3.2 The Proposer, NGC, argued that the amendment to Annex 8A.4 to extend election arrangements currently applying in the event of Resigning Panel Members also to Resigning Alternate Members would improve efficiency in the amendment procedures. It would ensure that National Grid could more efficiently discharge its obligations in the amendment process by reducing the likelihood of inquorate CUSC Amendments Panel Meetings as well as improving the choice of Alternate Members available to Panel Members in the event that they were unable to attend Panel meetings.

- 3.3 The amended CUSC text to give effect to CAP044 is contained in Annex 1, Part A.

4.0 WORKING GROUP DISCUSSIONS

- 4.1 In accordance with the Terms of Reference for the Working Group the Working Group considered the National Grid Proposal CAP044. The Working Group also developed and considered an Alternative Amendment which is described in this report.

- 4.2 The Applicable CUSC Objectives are defined within Condition C7F of the Transmission Licence as:

- (a) in relation to a proposed modification of the modification procedures, the requirements of paragraph 6 (to the extent that they do not conflict with the objectives set out in paragraph 1); and
- (b) in relation to any other proposed modification, the objectives set out in paragraph 1.

- 4.3 The objectives detailed in paragraph 1 are the efficient discharge by the licensee of the obligations under the Act and licence and to facilitate competition in the generation and supply of electricity and where consistent facilitating competition in the sale, distribution and purchase of electricity.

- 4.4 In relation to this amendment proposal, the Working Group agreed that the objectives of (a) above (i.e. Paragraph 6 of the Transmission Licence), is the relevant objective against which this Amendment Proposal should be judged when deciding whether they are better facilitated. In summary paragraph 6 requires the licensee to establish and operate procedures to modify the CUSC itself in order to better facilitate the Applicable CUSC Objectives and therefore the amendment proposal must better facilitate this process so that the broader objectives of facilitating competition can be achieved.

- 4.5 The Working Group considered that it was important to note that the Proposer, NGC, had identified a defect discussed at earlier Panel meetings and had proposed one solution for correcting the deficiency. From the outset of the group's discussions, it had been apparent that there was a variety of possible mechanisms for addressing the defect, and the Proposer was supportive of the desire to explore the options against stated criteria that fit with the Applicable CUSC Objectives.

- 4.6 Five possible solutions were identified and explored by the Working Group:

- A - The original Amendment Proposal, based on a partial election by CUSC parties who voted for alternates who have vacated the alternate role ("partial solution")
- B - Election based on a poll of all eligible CUSC parties ("full election")
- C - Co-option of alternates by the Panel
- D - Co-option of alternates by the Panel following calls for nominations for candidates from CUSC Parties
- E - More frequent elections, say annual, which might have the effect of reducing the erosion of the pool of alternates.

Each of the possible approaches received support from at least one Working Group member as the basis for its further evaluation.

Evaluation criteria

4.7 In addition to the Applicable Objective described in Paragraph 6 of Condition C7F of the Transmission Licence, which relates to the efficiency of the CUSC amendment procedures, the GSG considered that some more specific evaluation criteria should be adopted to guide its deliberations. Whilst these cannot of course hold precedence over the objective in Paragraph 6 of Condition C7F, they nonetheless enable a more detailed assessment of the options. They are:

- enables practicality/workability (i.e.: the solution will work whatever happens to the market structure);
- facilitates linkage with voting parties (though not accountability as the role of an Alternate is explicitly non representational); and
- minimises unnecessary complexity.

Against these criteria each GSG member except the chairman was asked to state a preference or preferences for one or more of the five options.

4.8 The options received support as follows:

Option	Member 1	Member 2	Member 3	Member 4	Member 5	Member 6
A					✘	
B	✘					
C		✘		✘	✘	
D	✘	✘	✘		✘	✘
E						✘

Overall, most members of the group felt that co-option was the best route but with more support for the option based on the variant whereby CUSC parties are asked for initial nominations (Option D). Based on its deliberations, the Working Group agreed to develop an Alternative Amendment based on nomination/co-option (i.e. Option D) in its report.

4.9 The Group anticipated that the number and strength of consultation responses would be a useful indicator to the Authority about the balance of interest amongst the CUC Parties regarding this issue.

Working Group Conclusions

4.10 The majority of Working Group Members supported the evaluation approach described in this Report. However one Working Group Member indicated in response to the initial draft of the Working Group Report that he might want to change the ranking of the options set out in the table in paragraph 4.7 above in the light of the intention of the election arrangements and the ability for them to work in all situations, without giving unintended powers to unrepresentative or inappropriate groups. After further discussion with the Working Group Member the Working Group agreed that an Alternative Amendment based on Option D was still the choice of the Group on a majority basis

5.0 ALTERNATIVE AMENDMENT

- 5.1 As described above the Working Group agreed by majority that the an Alternative Amendment reflecting Option D should be put forward with the original Amendment Proposal The text to give effect to the Alternative Amendment based on Option D is set out in Annex 1, Part B.

6.0 IMPLEMENTATION AND TIMESCALES

- 6.1 There is no material impact associated with the timing of the implementation of CAP044 or the Alternative Amendment. It is therefore proposed that implementation takes place with effect from 10 days after the Authority's decision.

7.0 INITIAL VIEW OF AMENDMENTS PANEL

- 7.1 The view of the Amendments Panel is that National Grid should proceed to wider consultation on CAP044 and the Alternative Amendment in order to seek industry views on whether such an amendment of the CUSC would better facilitate achievement of the Applicable CUSC Objectives.

- 7.2 Further information on the Governance Standing Group, including membership, terms of reference and notes of meetings, is available on the National Grid CUSC website via the link below:

http://www.nationalgridinfo.co.uk/cusc/mn_working_group.html

8.0 INITIAL VIEW OF NATIONAL GRID

- 8.1 National Grid originally proposed CAP044 and considers that the Amendment Proposal is still a valid approach to addressing the defect identified. However, National Grid would agree with the majority of the Working Group that the Alternative Amendment would better facilitate achievement of the Applicable CUSC Objectives compared to CAP044. National Grid wishes to see the views of CUSC Parties before deciding whether to recommend CAP044 or the Alternative Amendment recommended by the Working Group or indeed any further Alternative Amendments that may be suggested during the consultation phase which may better facilitate achievement of the Applicable CUSC Objectives.

9.0 VIEWS INVITED

- 9.1 National Grid is seeking the views of interested parties in relation to the issues raised by Amendment Proposal CAP044 and the Alternative Amendment and any issues associated with the proposed timing for implementation.

- 9.2 Please send your responses to this consultation to National Grid by no later than close of business on **Wednesday 12th March 2003**.

9.3 Please address all comments to the following e-mail address:

richard.dunn@uk.ngrid.com

Or alternatively, comments may be addressed to:

Richard Dunn
Commercial
National Grid Company plc
National Grid House
Kirby Corner Road
Coventry
CV4 8JY

Annex 1 - Proposed Text to Modify CUSC

Part A - Text to give effect to the Proposed Amendment

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ANNEX 8A ELECTION OF USER'S PANEL MEMBERS

8A.4. VACANCIES

8A.4.1 General

8A.4.1.1 If a **Panel Member** (the "**Resigning**" **Panel Member**) or an **Alternate Member** (the "**Resigning**" **Alternate Member**) ceases to hold office pursuant to Paragraph 8.5:

- (a) not less than 6 months before the expiry of the term of his office, Paragraph 8A.4.2 shall apply.
- (b) less than 6 months before the expiry of the term of his office, Paragraph 8A.4.3 shall apply.

8A.4.1.2 The provisions of Paragraph 8A.2.1.2 shall apply, mutatis mutandis, to any replacement **Panel Member** or **Alternate Member** under this Paragraph 8A.4.

8A.4.2 Replacement for not less than 6 months

8A.4.2.1 Where this Paragraph 8A.4.2 applies, a replacement **Panel Member** or **Alternate Member** shall be elected (for the remainder of the term of office of the **Resigning Panel Member** or **Resigning Alternate Member**) in accordance with Paragraph 8A.2 and 8A.3 but subject to the further provisions of this Paragraph 8A.4.2.

8A.4.2.2 Only those Users who voted for the **Resigning Panel Member** or **Resigning Alternate Member**, or who did not vote for (and are not Affiliates of any User which voted for) any elected **Panel Member** or **Alternate Member** still serving, shall participate in the election by nominating candidates or submitting voting papers.

8A.4.2.3 **NGC** shall circulate to all **Users** a list of the **Users** who are to participate in the election.

8A.4.2.4 For the purposes of this Paragraph 8A.4.2 a **User** is considered (in any election of Users' **Panel Members** and **Alternate Members**) to have voted for an elected candidate where that **User** indicated a **Preference Vote** in favour of that candidate which was counted (under the first or second or third voting round or further round under Paragraph 8A.3.6, as the case may be) in electing that candidate.

8A.4.2.5 The timetable for the election shall be expedited and **NGC** shall prepare a timetable accordingly.

8A.4.3 **Replacement for less than 6 months**

8A.4.3.1 Where this Paragraph 8A.4.3 applies, the User which nominated the **Resigning Panel Member or Resigning Alternate Member** shall be entitled (by notice to **NGC**) to appoint a replacement **Panel Member or Alternate Member** for the remainder of the term of office of the **Resigning Panel Member or Resigning Alternate Member**.

8A.4.3.3 If such **User** does not appoint a replacement, the position shall remain vacant until the next full election.

11.3 **DEFINITIONS**

"Resigning Alternate Member" as defined in Paragraph 8A.4.1

Clean Version**ANNEX 8A ELECTION OF USER'S PANEL MEMBERS****8A.4. VACANCIES****8A.4.1 General**

8A.4.1.1 If a **Panel Member** (the "**Resigning**" **Panel Member**) or an **Alternate Member** (the "**Resigning**" **Alternate Member**) ceases to hold office pursuant to Paragraph 8.5:

- (c) not less than 6 months before the expiry of the term of his office, Paragraph 8A.4.2 shall apply.
- (d) less than 6 months before the expiry of the term of his office, Paragraph 8A.4.3 shall apply.

8A.4.1.2 The provisions of Paragraph 8A.2.1.2 shall apply, mutatis mutandis, to any replacement **Panel Member** or **Alternate Member** under this Paragraph 8A.4.

8A.4.2 Replacement for not less than 6 months

8A.4.2.1 Where this Paragraph 8A.4.2 applies, a replacement **Panel Member** or **Alternate Member** shall be elected (for the remainder of the term of office of the **Resigning Panel Member** or **Resigning Alternate Member**) in accordance with Paragraph 8A.2 and 8A.3 but subject to the further provisions of this Paragraph 8A.4.2.

8A.4.2.2 Only those Users who voted for the **Resigning Panel Member** or **Resigning Alternate Member**, or who did not vote for (and are not Affiliates of any User which voted for) any elected **Panel Member** or **Alternate Member** still serving, shall participate in the election by nominating candidates or submitting voting papers.

8A.4.2.3 **NGC** shall circulate to all **Users** a list of the **Users** who are to participate in the election.

8A.4.2.4 For the purposes of this Paragraph 8A.4.2 a **User** is considered (in any election of Users' **Panel Members** and **Alternate Members**) to have voted for an elected candidate where that **User** indicated a **Preference Vote** in favour of that candidate which was counted (under the first or second or third voting round or further round under Paragraph 8A.3.6, as the case may be) in electing that candidate.

8A.4.2.5 The timetable for the election shall be expedited and **NGC** shall prepare a timetable accordingly.

8A.4.3 Replacement for less than 6 months

8A.4.3.1 Where this Paragraph 8A.4.3 applies, the User which nominated the **Resigning Panel Member** or **Resigning Alternate Member** shall be entitled (by notice to **NGC**) to appoint a replacement **Panel Member** or **Alternate Member** for the remainder of the term of office of the **Resigning Panel Member** or **Resigning Alternate Member**.

8A.4.3.3 If such **User** does not appoint a replacement, the position shall remain vacant until the next full election.

11.3 DEFINITIONS

"Resigning Alternate Member" as defined in Paragraph 8A.4.1

Part B - Text to give effect to the Alternative Amendment

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8A.4.1.3 If an **Alternate Member** (the "**Resigning**" **Alternate Member**) ceases to hold office pursuant to Paragraph 8.5 at any time, **NGC** shall as soon as practicable circulate to all **Users** (by publication on the **NGC Website** and, where relevant details are supplied, by electronic mail), and a copy to the **Authority**, an invitation to nominate candidates who must be willing to be an **Alternate Member**. **NGC** shall notify the **Amendments Panel** at the next appropriate regular meeting of the nominations it receives and the **Amendments Panel** shall decide, in accordance with the provisions of Paragraph 8.10, on the candidate(s) who should replace the **Resigning Alternate Member(s)**. The **Panel Secretary** shall give prompt notice to all **Panel Members**, all **CUSC Parties** and the **Authority** of the appointment of any **Alternate Member** under the arrangements described in this Paragraph.

8A.4.1.4 For the avoidance of doubt, the provisions of Paragraph 8.6 of the **CUSC** shall apply to any **Alternate Member** appointed under the arrangements described in Paragraph 8A.4.1.3 as if he were appointed under the election arrangements described in this Annex 8A.

11.3 DEFINITIONS

"**Resigning Alternate Member**" as defined in Paragraph 8A.4.1.3

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8A.4.1.3 If an **Alternate Member** (the "**Resigning**" **Alternate Member**) ceases to hold office pursuant to Paragraph 8.5 at any time, **NGC** shall as soon as practicable circulate to all **Users** (by publication on the **NGC Website** and, where relevant details are supplied, by electronic mail), and a copy to the **Authority**, an invitation to nominate candidates who must be willing to be an **Alternate Member**. **NGC** shall notify the **Amendments Panel** at the next appropriate regular meeting of the nominations it receives and the **Amendments Panel** shall decide, in accordance with the provisions of Paragraph 8.10, on the candidate(s) who should replace the **Resigning Alternate Member(s)**. The **Panel Secretary** shall give prompt notice to all **Panel Members**, all **CUSC Parties** and the **Authority** of the appointment of any **Alternate Member** under the arrangements described in this Paragraph.

8A.4.1.4 For the avoidance of doubt, the provisions of Paragraph 8.6 of the CUSC shall apply to any **Alternate Member** appointed under the arrangements described in Paragraph 8A.4.1.3 as if he were appointed under the election arrangements described in this Annex 8A.

11.3 DEFINITIONS

"**Resigning Alternate Member**" as defined in Paragraph 8A.4.1.3