



National Grid

AMENDMENT REPORT

CUSC Proposed Amendment CAP023

Rejection of an Amendment Proposal

The purpose of this report is to assist the Authority in their decision of whether to implement Amendment Proposal CAP023

Amendment Ref	CAP023
Issue	1.0
Date of Issue	26 September 2002
Prepared by	National Grid

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

Version	Date	Author	Change Reference
0.1	16/9/02	National Grid	Draft for internal comment
0.2	17/9/02	National Grid	Draft for Industry comment
1.0	26/9/02	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 CAP023 proposes to amend the CUSC to allow the Amendments Panel to have discretion in determining whether or not a proposal should be rejected by the Amendments Panel in the circumstances provided by Paragraph 8.15.4 of the CUSC.
- 1.2 Amendment Proposal CAP023 was proposed by National Grid and submitted for consideration to the CUSC Amendments Panel Meeting on 26th July 2002. At the meeting, the Panel determined that National Grid should initiate a period of wider industry consultation on the issues raised by CAP023.
- 1.3 The Consultation Paper for CAP023 was published by National Grid on the CUSC website and copies sent to Core Industry Document Owners and CUSC Parties. Responses were invited to be made by 12th September 2002.
- 1.4 National Grid received a total of six responses to the consultation for CAP023. Three responses supported the Proposed Amendment, two responses proposed Alternative Amendments and one response made no comment. The Alternative Amendments have been presented as Alternative Amendments (A) and (B). A summary of responses is contained in Section 10 of this document. Copies of each response is contained at Annex 3.

National Grid Recommendation

- 1.5 National Grid recommends that Alternative Amendment (B) as detailed in this Amendment Report be approved for implementation.
- 1.6 It is recommended that the CUSC be modified in line with Alternative Amendment (B) 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 rejection of a proposal in the circumstances provided by Paragraph 8.15.4 of the CUSC.
- 2.2 Further to the submission of Amendment Proposal CAP023 (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 CAP023.
- 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 at 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

Background

- 3.1 At the CUSC Amendments Panel meeting in March 2002, the Panel established the Governance Standing Group (GSG) to consider a number of areas of the CUSC in which the current process was unclear. One of the areas for consideration by the GSG was whether the CUSC should allow the Amendments Panel to have the ability to determine whether to reject a proposal in the circumstances provided for by Paragraph 8.15.4. The GSG felt that it may be more efficient to make such an amendment to the CUSC to give the Amendments Panel such discretion.
- 3.2 National Grid prepared a paper for the GSG, which set out the principles discussed by the GSG. Following GSG approval of the intended way forward to amend Paragraph 8.15.4, CAP023 was proposed by National Grid to the July CUSC Amendments Panel meeting.
- 3.3 Further information on the GSG, including membership, terms of reference, notes of meetings and the GSG Report to the Amendments Panel, is available on the National Grid CUSC website via the link below:

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

The Proposed Amendment

- 3.4 CAP023 proposed to allow the Amendments Panel to have discretion in determining whether or not a proposal should be rejected as provided by Paragraph 8.15.4 of the CUSC.
- 3.5 Currently Paragraph 8.15.4 states that the Amendments Panel must direct the Panel Secretary to reject a proposal submitted to him if it has, in their opinion, substantially the same effect as a Pending Amendment Proposal or a Rejected Amendment Proposal, where the new proposal is made within 2 months after the decision to reject. For the avoidance of doubt the definition of a Pending Amendment Proposal and a Rejected Amendment Proposal are set out in Section 11 of the CUSC. The definitions can be summarised respectively as an Amendment Proposal which the Authority has not yet made a decision on, whether or not an Amendment Report has yet been submitted for that Amendment Proposal, and an Amendment Proposal in respect of which the Authority has decided not to direct NGC to modify the CUSC (Rejected Amendment Proposal).
- 3.6 The mandatory requirement on the Amendments Panel to reject a proposal in the circumstances described above is inefficient, particularly with regard to a Rejected Urgent Amendment Proposal which the Authority was obliged to Reject due a technical error or minor legal drafting error. In such cases if a party wished to propose amendment to the CUSC, such a proposal would be subject to a 2 month delay under Paragraph 8.15.4.

4.0 IMPLEMENTATION AND TIMESCALES

- 4.1 CAP023 does not have a material impact outside the scope of the CUSC. 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 amendment of Paragraph 8.15.4 of the CUSC. There is no impact on any other part of the CUSC.
- 5.2 The text required to give effect to the Proposed Amendment is contained at Part A of Annex 2 to this document.

6.0 ASSESSMENT AGAINST APPLICABLE CUSC OBJECTIVES

- 6.1 The mandatory requirement to reject a proposal in the circumstances provided for in Paragraph 8.15.4 of the CUSC causes a 2 month delay which may be undesirable especially in the case of a Rejected Urgent Amendment Proposal and lead to inefficiencies in the process.
- 6.2 Amendment of Paragraph 8.15.4 to allow the Amendments Panel to have discrimination in whether or not to direct the Panel Secretary to reject a proposal would increase efficiency in the Amendment Process and 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.

8.0 IMPACT ON CORE INDUSTRY DOCUMENTS

- 8.1 Neither the Proposed Amendment nor Alternative Amendments (A) and (B) will impact Core Industry Documents or other industry documentation or require any changes to computer systems established under Core Industry Documents.

9.0 ALTERNATIVE AMENDMENTS

Alternative Amendment (A) – Proposed by British Energy plc

- 9.1 Alternative Amendment (A) was proposed by British Energy as a response to the industry consultation for CAP023. Alternative Amendment (A) does not change the intent of the Proposed Amendment, but modifies the text to make explicit the requirement on the Amendments Panel to take an active role in determining whether a proposal should be rejected and whether to direct the Panel Secretary to reject such a proposal.

Impact of Alternative Amendment (A) on CUSC

- 9.2 Alternative Amendment (A) would require amendment of Paragraph 8.15.4 of the CUSC. There is no impact on any other part of the CUSC.
- 9.3 The text required to give effect to the Proposed Amendment is contained at Part B of Annex 2 to this document.

Assessment Against Applicable CUSC Objectives

- 9.4 The Proposer of Alternative Amendment (A) notes that the text to give effect to the Proposed Amendment is considered to be too passive. The Proposer contends that an explicit requirement on the Amendments Panel to make a determination on whether to reject a proposal and then to direct the Panel Secretary to carry out their determination, would better facilitate achievement of the Applicable CUSC Objectives as compared to the current CUSC and the Proposed Amendment.

Alternative Amendment (B) – (Proposed by British Gas Trading Ltd)

- 9.5 Alternative Amendment (B) was proposed by British Gas Trading as a response to the industry consultation for CAP023. The Proposer considers that the text to give effect to the Proposed Amendment is too broad. The Proposed Amendment would allow the Amendments Panel to determine whether a proposal should be rejected if it fulfils either of the criteria given in Paragraph 8.15.4 (a) and (b), that is if it has substantially the same effect as Pending Amendment Proposal or a Rejected Amendment Proposal. The intention of the Proposed Amendment was that the Panel is able to use their determination with regard to scenario (b) only (Rejected Amendment Proposals), but a proposal that has the same effect as a Pending Amendment Proposal should still face mandatory rejection.

Impact of Alternative Amendment (B) on CUSC

- 9.6 Alternative Amendment (B) would require amendment of Paragraph 8.15.4 of the CUSC. There is no impact on any other part of the CUSC.
- 9.7 The text required to give effect to the Proposed Amendment is contained at Part C of Annex 2 to this document.

Assessment Against Applicable CUSC Objectives

- 9.8 The text to give effect to Alternative Amendment (B) follows the intent of the Proposed Amendment without the broader effect of its text. The Proposed Amendment argued that it may be inefficient for a proposal to be rejected if it had substantially the same effect as a Rejected Amendment Proposal, particularly in the case of a proposal put forward to stand in place of an Urgent Amendment Proposal that had been rejected by the Authority due to a technical or drafting error. Alternative Amendment (B) notes that such determination by the Amendments Panel is not required for part (a) of Paragraph 8.15.4, i.e. in the case of Pending Amendment Proposals. Alternative Amendment (B) proposes to maintain the mandatory rejection by the Panel Secretary if it has, in the opinion of the Amendments Panel, substantially the same effect as a Pending Amendment Proposal.

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.

Summary of Panel Members Views

- 10.2 A number of comments from members of the CUSC Panel were received during the industry consultation for CAP023 supporting the Proposed Amendment as better facilitating achievement of the Applicable CUSC Objectives. No views were received against the Proposed Amendment.

View of Industry Document Owners

- 10.3 Response to the CAP023 Consultation was received from Elexon Limited as owner of the BSC confirming CAP023 does not impact on BSC documentation. Elexon noted that the current BSC contains a similar provision to the Proposed Amendment in respect of Panel rejection of a proposal.
- 10.4 Elexon also noted BSC Modification Proposal P94, which would allow Modification Reports to be recalled from the Authority to enable errors in the legal text to be amended. National Grid note that whilst an error in the legal drafting was just one example for rejection, there could be other reasons for the Authority to reject an Urgent Amendment Proposal. A similar proposal to P94 may be put forward in the normal way if a party considered that it would better facilitate achievement of the Applicable CUSC Objectives.

Responses to Consultation

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

Reference	Company	Supportive	Comments
CAP023-CR-01	Powergen plc	Yes	Will facilitate efficiency in the process
CAP023-CR-02	British Energy plc	No	Support principle of Proposed Amendment
CAP023-CR-03	British Gas Trading Limited	No	Support principle of Proposed Amendment
CAP023-CR-04	TXU Europe Energy Trading Ltd	Yes	
CAP023-CR-05	Scottish Power Generation Limited & ScottishPower Energy Retail Limited	Yes	Support Proposed Amendment
CAP023-CR-06	Elexon Limited	N/A	Statement from Elexon as owner of the BSC does not indicate support or opposition

- 10.6 National Grid received a total of 6 responses to the industry consultation on CUSC Amendment Proposal CAP023. All of the responses supported the principle behind the Proposed Amendment that the optional rejection, as determined by the Amendments Panel, rather than a mandatory requirement, would better facilitate achievement of the Applicable CUSC Objectives. Two responses proposed Alternative Amendments to modify the text for the Proposed Amendment.
- 10.7 One respondent felt that the text presented to give effect to the Proposed Amendment was too passive and proposed Alternative Amendment (A) to facilitate the Amendments Panel to make a proactive determination and direction to the Panel Secretary.

- 10.8 Alternative Amendment (B) was proposed by another respondent who noted that the drafting of the Proposed Amendment was too broad as it gave discretion to the Panel in the circumstances provided for in part (a) of Paragraph 8.15.4(a) as well as part (b). The text put forward for Alternative Amendment (B) would correct this to enable the Panel to use their discretion only in the case of a Rejected Amendment Proposal.
- 10.9 One respondent noted that the current BSC allows the BSC Panel to use their discretion in determining whether to accept submission of a Modification Proposal to the BSC.
- 10.10 National Grid notes that all respondents to the CAP023 consultation were in support of the principle behind the Proposed Amendment. Regarding the Alternative Amendments, National Grid notes and agrees with Alternative Amendment (B) that the drafting of the Proposed Amendment had broader effect than that intended.

11.0 NATIONAL GRID RECOMMENDATION

- 11.1 Following the industry consultation for CAP023 and responses received, National Grid recommends that Alternative Amendment (B) be approved for implementation. National Grid believes that Alternative Amendment (B) would better facilitate achievement of the Applicable CUSC Objectives than either the Proposed Amendment or Alternative Amendment (A). This is on the basis that the text to give effect to the Proposed Amendment and Alternative Amendment (A) are too broad and would allow the Amendments Panel to use their discretion in the case of a proposal which has substantially the same effect as a Pending Amendment Proposal. The purpose of CAP023 was to give the Amendments Panel discretion to direct the Panel Secretary to reject a proposal in the circumstances given by part 4 of Paragraph 8.15.4. The drafting of Alternative Amendment (B) is more appropriate to give effect to the principle of the Proposed Amendment and hence National Grid recommends approval of Alternative Amendment (B).

12.0 COMMENTS ON DRAFT AMENDMENT REPORT

- 12.1 One comment was received on the draft Amendment Report (reference CAP023-AR-01). The respondent felt that Alternative Amendment (B) would remove the Amendment Panel's discretion with regard to determining whether to accept an Amendment Proposal if it has, in their opinion, substantially the same effect as a Pending Amendment Proposal.
- 12.2 National Grid believes that the intent of the Proposed Amendment was not to give the Panel discretion in both scenarios (a) and (b) of Paragraph 8.15.4 (Pending Amendment Proposals and Rejected Amendment Proposals). The current wording of the CUSC is for the mandatory rejection of a proposal in both scenarios. The intent of the Proposed Amendment was only to open up part (b) (relating to a proposal which is substantially the same as a Rejected Amendment Proposal) to allow Panel discretion on whether to reject. National Grid acknowledges that the draft text for the Proposed Amendment did not fully reflect this intent. The draft text put forward in Alternative Amendment (B) follows the intent of the Proposed Amendment without widening the scope for the Panel to determine whether to reject a proposal which has substantially the same effect as a Pending Amendment Proposal.

ANNEX 1 – AMENDMENT PROPOSAL FORM

CUSC Amendment Proposal Form	CAP023
Title of Amendment Proposal: Paragraph 8.15.4 - Rejection of a proposal	
Description of the Proposed Amendment <i>(mandatory by proposer):</i> This amendment seeks to allow the Amendments Panel to have discretion in determining whether or not a proposal should be rejected in the circumstances provided by Paragraph 8.15.4. <u>Note:</u> The principles behind this amendment have been discussed and agreed by the Governance Standing Group.	
Description of Issue or Defect that Proposed Amendment seeks to Address <i>(mandatory by proposer):</i> The requirement in Paragraph 8.15.4 of the CUSC for the Amendments Panel to reject a proposal is mandatory. This is potentially inefficient, particularly in the case of an Urgent Amendment Proposal being rejected by the Authority due to an error in the legal drafting or a similar technicality, but which the Authority may agree with in principle, since another proposal which has substantially the same effect as the rejected Urgent Amendment Proposal would be subject to the 2 month delay under the existing Paragraph 8.15.4(b). This proposal increases efficiency by allowing the Amendments Panel to have discretion in determining whether a proposal should be rejected.	
Impact on the CUSC <i>(this should be given where possible):</i> Paragraph 8.15.4 of the CUSC would require amendment to give effect to the change proposed. The draft text to give effect to this proposal is contained in Attachment 1. During the drafting of legal text to give effect to this proposal consideration was given to simple amendment of the word "shall" in Paragraph 8.15.4 to "may". However this gave rise to ambiguity as it suggested that the Panel Secretary was not bound by the opinion of the Amendments Panel to reject a proposal and was contrary to the intent of this proposal. Paragraph 8.15.4 has therefore been amended to clarify that the Amendments Panel have discretion in determining whether to reject a proposal and the Panel Secretary will then implement their decision.	
Impact on Core Industry Documentation <i>(this should be given where possible):</i> None.	
Impact on Computer Systems and Processes used by CUSC Parties <i>(this should be given where possible):</i> None.	
Details of any Related Modifications to Other Industry Codes <i>(where known):</i> None.	

Justification for Proposed Amendment with Reference to Applicable CUSC Objectives***(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.

Paragraph 8.15.4 is not efficient in its mandatory requirement for the Panel to reject a proposal. It is inefficient for an Urgent Amendment Proposal which has been rejected by the Authority for technical reasons as described above and which may otherwise better facilitate the Applicable CUSC Objectives should to be subject to a 2 month delay before another proposal which has substantially the same effect as the Rejected Amendment Proposal may be raised. This proposal allows the Amendments Panel to have discretion in determining whether or not to direct the Panel Secretary to reject a proposal as provided for by Paragraph 8.15.4. This would improve efficiency in the process of amendments to the CUSC and hence enable National Grid to more efficiently discharge its obligations under the Transmission Licence.

Details of Proposer: Organisation's Name:	The National Grid Company plc
Capacity in which the Amendment is being proposed: (i.e. CUSC Party, BSC Party or "energywatch")	CUSC Party
Details of Proposer's Representative: Name: Organisation: Telephone Number: Email Address:	Andy Balkwill The National Grid Company plc 024 76423198 andy.balkwill@uk.ngrid.com
Details of Representative's Alternate: Name: Organisation: Telephone Number: Email Address:	Emma Groves The National Grid Company plc 024 76423053 emma.groves@uk.ngrid.com
Attachments - Yes: If Yes, Title and No. of pages of each Attachment: 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

(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.

Attachment 1 to Amendment Proposal Form

Draft Text to give effect to the Amendment Proposal

8.15.4 Without prejudice to the development of an **Alternative Amendment** pursuant to Paragraph 8.20.2 the Amendments Panel may direct the Panel Secretary to reject a proposal a proposal shall be rejected by the Panel Secretary pursuant to Paragraph 8.15 if and to the extent that such proposal has, in the opinion of the **Amendments Panel**, substantially the same effect as:

- (a) a **Pending Amendment Proposal**; or
- (b) a **Rejected Amendment Proposal** where such proposal is made at any time within two (2) months after the decision of the **Authority** not to direct **NGC** to modify the **CUSC** pursuant to the **Transmission Licence** in the manner set out in such **Amendment Proposal**,

and the Panel Secretary shall notify the **Proposer** accordingly.

ANNEX 2 – PROPOSED TEXT TO MODIFY CUSC

Part A - Text to give effect to the Proposed Amendment

Change Marked Version

8.15.4 Without prejudice to the development of an **Alternative Amendment** pursuant to Paragraph 8.20.2 the **Amendments Panel** may direct the **Panel Secretary** to reject a proposal ~~a proposal shall be rejected by the **Panel Secretary**~~ pursuant to Paragraph 8.15 if, and to the extent that such proposal has, in the opinion of the **Amendments Panel**, substantially the same effect as:

- (a) a **Pending Amendment Proposal**; or
- (b) a **Rejected Amendment Proposal** where such proposal is made at any time within two (2) months after the decision of the Authority not to direct **NGC** to modify the **CUSC** pursuant to the **Transmission Licence** in the manner set out in such **Amendment Proposal**,

and the **Panel Secretary** shall notify the **Proposer** accordingly.

Clean Version

8.15.4 Without prejudice to the development of an **Alternative Amendment** pursuant to Paragraph 8.20.2 the **Amendments Panel** may direct the **Panel Secretary** to reject a proposal pursuant to Paragraph 8.15 if, and to the extent that such proposal has, in the opinion of the **Amendments Panel**, substantially the same effect as:

- (a) a **Pending Amendment Proposal**; or
- (b) a **Rejected Amendment Proposal** where such proposal is made at any time within two (2) months after the decision of the Authority not to direct **NGC** to modify the **CUSC** pursuant to the **Transmission Licence** in the manner set out in such **Amendment Proposal**,

and the **Panel Secretary** shall notify the **Proposer** accordingly.

Part B - Text to give effect to Alternative Amendment (A)
(Proposed by British Energy plc)

Change Marked Version

8.15.4 Without prejudice to the development of an **Alternative Amendment** pursuant to Paragraph 8.20.2, ~~a proposal shall be rejected by the Panel Secretary~~ the Amendments Panel shall determine whether or not to direct the Panel Secretary to reject a proposal pursuant to Paragraph 8.15 if and to the extent that such proposal has, in the opinion of the **Amendments Panel**, substantially the same effect as:

- (a) a **Pending Amendment Proposal**; or
- (b) a **Rejected Amendment Proposal** where such proposal is made at any time within two (2) months after the decision of the Authority not to direct **NGC** to modify the **CUSC** pursuant to the **Transmission Licence** in the manner set out in such **Amendment Proposal**,

and the **Panel Secretary** shall notify the **Proposer** accordingly.

Clean Version

8.15.4 Without prejudice to the development of an **Alternative Amendment** pursuant to Paragraph 8.20.2, the **Amendments Panel** shall determine whether or not to direct the **Panel Secretary** to reject a proposal pursuant to Paragraph 8.15 if and to the extent that such proposal has, in the opinion of the **Amendments Panel**, substantially the same effect as:

- (a) a **Pending Amendment Proposal**; or
- (b) a **Rejected Amendment Proposal** where such proposal is made at any time within two (2) months after the decision of the Authority not to direct **NGC** to modify the **CUSC** pursuant to the **Transmission Licence** in the manner set out in such **Amendment Proposal**,

and the **Panel Secretary** shall notify the **Proposer** accordingly.

Part C – Text to give effect to Alternative Amendment (B)
(Proposed by British Gas Trading Ltd)**Change Marked Version**

8.15.4 Without prejudice to the development of an **Alternative Amendment** pursuant to Paragraph 8.20.2, the Amendments Panel shall direct in the case of (a), and may direct in the case of (b), the Panel Secretary to reject a proposal ~~shall be rejected by the Panel Secretary~~ pursuant to Paragraph 8.15 if and to the extent that such proposal has, in the opinion of the **Amendments Panel**, substantially the same effect as:

- (a) a **Pending Amendment Proposal**; or
- (b) a **Rejected Amendment Proposal** where such proposal is made at any time within two (2) months after the decision of the Authority not to direct **NGC** to modify the **CUSC** pursuant to the **Transmission Licence** in the manner set out in such **Amendment Proposal**,

and the **Panel Secretary** shall notify the **Proposer** accordingly.

Clean Version

8.15.4 Without prejudice to the development of an **Alternative Amendment** pursuant to Paragraph 8.20.2, the **Amendments Panel** shall direct in the case of (a), and may direct in the case of (b), the **Panel Secretary** to reject a proposal pursuant to Paragraph 8.15 if and to the extent that such proposal has, in the opinion of the **Amendments Panel**, substantially the same effect as:

- (a) a **Pending Amendment Proposal**; or
- (b) a **Rejected Amendment Proposal** where such proposal is made at any time within two (2) months after the decision of the Authority not to direct **NGC** to modify the **CUSC** pursuant to the **Transmission Licence** in the manner set out in such **Amendment Proposal**,

and the **Panel Secretary** shall notify the **Proposer** accordingly

ANNEX 3 – COPIES OF REPRESENTATIONS RECEIVED TO CONSULTATION

This Annex includes copies of any representations received following circulation of the Consultation Document (circulated on 14th August 2002 requesting comments by close of business on 12th September 2002).

Representations were received from the following parties:

No.	Company	File Number
1	Powergen plc	CAP023-CR-01
2	British Energy plc	CAP023-CR-02
3	British Gas Trading Limited	CAP023-CR-03
4	TXU Europe Energy Trading Ltd	CAP023-CR-04
5	Scottish Power Generation Limited & ScottishPower Energy Retail Limited	CAP023-CR-05
6	Elexon Limited	CAP023-CR-06

Reference	CAP023-CR-01
Company	Powergen plc

Christiane Sykes
Strategy and Regulation



Emma Groves
Commercial Development
The National Grid Company plc
National Grid House
Kirby Corner Road
Coventry
CV4 8JY

2 September 2002
Reference CAP023

Dear Emma

Reference CAP023 Paragraph 8.15.4 – Rejection of a proposal

In response to the above amendment, in the event of an urgent proposal being rejected subject to 8.15.4 (b) where 'such proposal is made at any time within the (2) months after the decision of the **Authority** not to direct **NGC** to modify the **CUSC**' it is clear that to make the move to reject the proposal optional, as oppose to mandatory, will facilitate the efficiency of the CUSC objectives in that it facilitates the procedural element of amendment proposals.

Yours sincerely,

A handwritten signature in black ink, appearing to read "C Sykes".

Christiane Sykes.

Reference	CAP023-CR-02
Company	British Energy plc



6th September 2002

Emma Groves
Commercial Development
The National Grid Company plc
Kirby Corner Road
COVENTRY
CV4 8JY

Dear Emma,

CUSC Consultation Document CAP023:
Paragraph 8.15.4 – Rejection of a Proposal

Thank you for the opportunity to review the above CUSC Amendment Proposal (CAP).

We would advise that whilst we support the principle of the proposed amendment, the proposed text to effect the amendment is considered too passive and therefore do not support the solution presented.

Attached as Annex 1 is a proposed Alternative Amendment, which replicates the intent of the CAP023 solution proposed by NGC, but which requires the Amendment Panel to take an active role to direct the Panel Secretary. The proposed wording mirrors the intent of the earlier CAP021 proposal and we believe that the Alternative Amendment better facilitates achievement of the Applicable CUSC Objectives of both the current CUSC and the original Amendment Proposal.

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

Annex 1: Alternative Amendment

Proposed Draft Text To Modify CUSC

8.15.4 Without prejudice to the development of an Alternative Amendment pursuant to Paragraph 8.20.2 the Amendments Panel shall determine whether or not to direct the Panel Secretary to reject a proposal pursuant to Paragraph 8.15 if, and to the extent that such proposal has, in the opinion of the Amendments Panel, substantially the same effect as:

- (a) a Pending Amendment Proposal; or
- (b) a Rejected Amendment Proposal where such proposal is made at any time within two (2) months after the decision of the Authority not to direct NGC to modify the CUSC pursuant to the Transmission Licence in the manner set out in such Amendment Proposal,

and the Panel Secretary shall notify the Proposer accordingly.

Reference	CAP023-CR-03
Company	British Gas Trading Limited



energy management group

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

Charter Court
50 Windsor Road
Slough
Berkshire
SL1 2HA

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Fax (01753) 758
Our Ref. G:transp/elec/cusc
Your Ref.
26 September 2002

For the Attention of Ms E Groves -
Commercial

Dear Emma,

Re: CUSC Amendment Proposal CAP023 – Paragraph 8.15.4 – Rejection of a Proposal

Thank you for the opportunity to comment on the above referenced consultation document. British Gas Trading Limited (BGT) supports the principle behind the proposal, that the CUSC Amendment rules should not prevent the expeditious amendment of the CUSC where issues have been identified with the current wording.

However, we believe that the proposed legal text has broader consequences than that identified in the proposal and therefore suggest some revised legal text as follows:

8.15.4 Without prejudice to the development of an Alternative Amendment pursuant to Paragraph 8.20.2 the Amendments Panel shall direct in the case of (a), and may direct in the case of (b), the Panel Secretary to reject a proposal pursuant to Paragraph 8.15 if, and to the extent that such proposal has, in the opinion of the Amendments Panel, substantially the same effect as:

- (a) a Pending Amendment Proposal; or*
- (b) a Rejected Amendment Proposal where such proposal is made at any time within two (2) months after the decision of the Authority not to direct NGC to modify the CUSC pursuant to the Transmission Licence in the manner set out in such Amendment Proposal,*

and the Panel Secretary shall notify the Proposer accordingly.

Please treat this response as an Alternative Amendment Proposal. Should you require clarification of any comment please do not hesitate to contact the undersigned.

Yours faithfully,

Simon Goldring
Transportation Manager

Reference	CAP023-CR-04
Company	TXU Europe Energy Trading Ltd

Emma Groves
National Grid Company plc
Kirby Corner Road
Coventry
CV4 8JY

TXU Europe Energy Trading Ltd
Wherstead Park
Wherstead
Ipswich
Suffolk
IP9 2AQ

12th September 2002

CAP023 Consultation Response

Dear Emma

We confirm that we support the Amendment proposal as drafted.

Yours sincerely

Philip Russell
Market Development Manager
For and on behalf of the 21 TXU CUSC Parties

Reference	CAP023-CR-05
Company	Scottish Power Generation Limited & ScottishPower Energy Retail Limited

CUSC Amendment Consultation

To: Emma Groves
Commercial
National Grid Company plc
National Grid House
Kirby Corner Road
Coventry CV4 8JY

11th September 2002

CAP023: Paragraph 8.15.4 – Rejection of a Proposal

Dear Emma,

Many thanks for the opportunity to consider the consultation document in respect of CUSC Amendment Proposal CAP023. This response is provided on behalf of Scottish Power Generation Limited and ScottishPower Energy Retail Limited.

CAP023 provides that the CUSC Panel is given discretion to determine whether to reject an Amendment Proposal in certain circumstances. The reasoning behind CAP023 is that the Authority may reject, say, an Urgent Amendment Proposal on a technicality, even though it otherwise meets the Applicable CUSC Objectives. Current rules prevent the raising of a new, substantially similar, Amendment Proposal for at least two months after rejection. If the Panel has discretion as to whether to reject a fresh Proposal, the two-month time bar is overcome and allows the fresh Proposal to be processed earlier.

While we support CAP023 in providing the Panel with discretion, we do not necessarily agree with the reasoning. Paragraphs 8.15.2 and 8.15.3 outline the information required in an Amendment Proposal. The latter Paragraph specifically indicates that a Proposal will not fail in a material respect if the proposer fails to either provide details of proposed changes to the CUSC, effectively the legal drafting, or provides defective drafting (cross-reference to 8.15.2(e)). Therefore, such a technical point does not constitute grounds for rejection of an Amendment.

It makes more sense, in our view, to argue that the Panel should have discretion to consider the fresh Proposal, even if it is substantially similar to the recently rejected Proposal, because it does meet the Applicable CUSC Objectives. If the Panel decided that the new Proposal should be considered, without having to wait at least two months, this would add efficiency to the Amendment process and meet the Applicable CUSC Objective allowing NGC to efficiently discharge its Licence obligations.

We note the proposed legal drafting for CAP023 and consider that it is appropriate.

If you wish to discuss the content of this response, please do not hesitate to contact me.

Yours sincerely,

Abid Sheikh
Commercial Analyst (0141 568 3113)

Reference	CAP023-CR-06
Company	Elexon Limited

Our ref. Comments on CAP023
Your ref. CAP023



12 September 2002

Emma Groves
Commercial
National Grid Company plc
National Grid House
Kirby Corner Road
Coventry CV4 8JY

(By email to: emma.groves@uk.ngrid.com)

Dear Emma,

Comments on Consultation Paper CAP023 'Paragraph 8.15.4 - Rejection of a Proposal'

ELEXON acting as the Balancing and Settlement Code Company has reviewed the Consultation Paper CAP023 which would allow the CUSC Amendments Panel to have discretion in determining whether or not a proposal should be rejected. ELEXON has no comments to make regarding the 'Proposed Amendment', as there is no impact on the BSC or ELEXON.

It should be noted that under the BSC, Modification Proposal P94 allows a Modification Report to be recalled from the Authority so that errors in the legal text can be amended. This Modification Proposal is with the Authority with a recommendation that P94 should be made. Also, it should be noted that provision in the BSC in this matter (F2.1.4) allows the BSC Panel discretion in whether to accept submission of a Modification Proposal.

Yours sincerely

Helen Bray

ELEXON Change Delivery

**ANNEX 4 – COPIES OF COMMENTS RECEIVED ON THE DRAFT
AMENDMENT REPORT**

This Annex includes copies of any representations received following circulation of the Draft Amendment Report (circulated on 17 September 2002, requesting comments by close of business on 24 September 2002).

Representations were received from the following parties:

No.	Company	File Number
1	Scottish Power Generation Limited & ScottishPower Energy Retail Limited	CAP023-AR-01
2	British Gas Trading Ltd	CAP023-AR-02

Reference	CAP023-AR-01
Company	Scottish Power Generation Limited & ScottishPower Energy Retail Limited

CUSC Draft Amendment Report

To: Emma Groves
Commercial
National Grid Company plc
National Grid House
Kirby Corner Road
Coventry CV4 8JY

24th September 2002

CAP023: Paragraph 8.15.4 – Rejection of a Proposal

Dear Emma,

Thanks for this further opportunity to consider CUSC Amendment Proposal CAP023. This response is provided on behalf of Scottish Power Generation Limited and ScottishPower Energy Retail Limited.

The choice presented between the proposed Amendment and the two Alternative Amendments is one of degree. Essentially, we are being asked whether there should be Panel discretion as to whether a fresh proposal is rejected on the grounds that it has substantially the same effect as a pending proposal. BGT's Alternative Amendment (B) removes that discretion whereas the others retain it.

On balance, it appears more efficient to retain that discretion. Otherwise, it may appear to remove the right of a CUSC Party to raise a proposal. A Party can always withdraw its proposal if it decides, on further consideration, that its proposal is substantially similar to a pending proposal. If the Party continues to argue that its proposal is in some way different from that proposal, it would need to make a convincing case supporting that assertion. It is right that the Panel, at that stage, should be involved in deciding whether the proposal stands on its own merits or should be rejected.

We would argue that Alternative Amendment B unnecessarily curtails the right of a Party to make a case for its proposal when other safeguards, such as withdrawal, are available should the proposal be considered substantially similar to another. Regarding the proposed Amendment and Alternative Amendment A, the effect of the change (providing Panel discretion whether or not to reject) is similar and more a question of semantics. We still support the proposed Amendment as best meeting the Applicable CUSC Objective allowing NGC to efficiently discharge its Licence obligations.

We would ask NGC to note our support for CAP023 in the summary table of views in the Report.

If you wish to discuss the content of this response, please do not hesitate to contact me.

Yours sincerely,

Abid Sheikh
Commercial Analyst (0141 568 3113)

Reference	CAP023-AR-02
Company	British Gas Trading Ltd

From: Goldring, Simon [Simon.Goldring@centrica.co.uk]
Sent: 24 September 2002 16:41
To: Groves, Emma
Cc: Lane, Danielle
Subject: re: CAP023 Amendment Report

Emma,

Thank you for the opportunity to comment on the draft of the Final Report to the Authority in respect of CAP023.

I agree that the report reflects our views. I would also reaffirm our support for Alternative Amendment B.

Regards

Simon