

Meeting Minutes

CUSC Modifications Panel

Meeting Number 230

Date: 22/02/2019	Location: L15, Faraday House, Warwick
Start: 10:00 AM	End: 12:30

Participants

Attendee	Attend/Regrets	Attendee	Attend/Regrets
Trisha McAuley, Chair (TM)	Attend	Robert Longden, User Panel Member (RL)	Dial-In
Rachel Hinsley, NGESO Code Administrator Representative (RH)	Attend	Simon Lord, User Panel Member (SL)	Regrets
Shazia Akhtar, NGESO Code Administrator, Panel Secretary (SA)	Attend	Trevor Rhodes, User Panel Alternate (TR)	Attend
Paul Jones, User Panel Member (PJ)	Attend	Nadir Hafeez, Authority Representative (NH)	Dial-In
Laurence Barrett, User Panel Member (LB)	Attend	Damian Clough, ELEXON (DC)	Attend
James Anderson, User Panel Member (JA)	Attend	Andy Pace, Consumers' Panel Member (AP)	Dial-In
Paul Mott, User Panel Member (PM)	Dial-In	Simon Sheridan, NGESO Proposer CMP311 (SS)	Attend
Garth Graham, User Panel Member (GG)	Dial-In	Emma Hart (EH), NGESO Code Administrator (Observer CMP311)	Attend
Jon Wisdom, National Grid Panel Member (JW)	Regrets (Only dialled in for discussions on CMP312)	Sophie Van Caloen, NGESO European Strategy Analyst Proposer CMP309 and CMP310 (SVC)	Attend
Harriet Harmon, National Grid Panel Alternative (HH) and Proposer CMP312	Attend		

Discussions

1. Introductions and Apologies for Absence

- 8964 TM opened the CUSC Modification Panel meeting with introductions and noted that apologies had been received from Simon Lord and Jon Wisdom. Trevor Rhodes and Harriet Harmon would be acting as their alternatives, but Jon Wisdom would be dialling in for the discussions on CMP312.
- 8965 TM asked the Panel if they were happy to accept the Workgroup Report for CMP303 and the new urgent modification CMP312 as late papers to the February Panel.
- 8966 The Panel confirmed they were happy to accept the late papers.

2. Approval of January CUSC Panel Minutes

- 8967 TM highlighted that there were a significant number of changes proposed to the January minutes and asked the Panel if they had reviewed the comments received from TM, JW, LB, PJ and NH. GG explained that he had some further amendments, which were mainly of a typographical nature but there were a couple of more substantive changes that were needed to minutes 8930 and 8934.
- 8968 TM proposed that the Panel accept all the typographical amendments and quickly run through the points of further clarification and comments that had been fed back by the Panel.
- 8969 The Panel agreed the amendments that were required.
- 8970 GG went on to highlight additional changes that he felt were required and agreed to circulate these amendments to the Panel via email.
- 8971 The Panel approved the minutes, subject to the incorporation of these amendments.

3. Review of Actions

Minute 8632

JW to ensure ESO speak to Proposer of CMP286 to confirm timelines for second RFI.

- 8972 HH confirmed that the ESO had spoken to the Proposer of CMP286 who had confirmed that the second RFI should go out as soon as possible, therefore the ESO will be sending this out in March.
- 8973 The Panel agreed that this action should be closed.

Minute 8710

Code Administrator to add the frequency of Workgroup meetings to the Prioritisation stack.

- 8975 RH confirmed that this action was ongoing, Code Admin were currently looking at workload, better planning and shared resource across Grid Code and the CUSC to see what the team could realistically manage. They are hoping to have an update on this for the March Panel.
- 8976 The Panel agreed for this action to remain open and a progress update to be provided at the next Panel.

Minute 8734 (a)

Code Administrator to feedback on how they are planning to tackle the issues raised by the Panel on future prioritisation (including horizon scanning/quarterly updates on blockers to Workgroup progression (including cancellation of Workgroups because of issues around quoracy)

8977 RH explained that the blockers to modification progression were highlighted and discussed at the January Panel. They will be brought on a quarterly basis, for review and horizon scanning will be discussed under any other business today. RH proposed that this action should be closed.

8978 The Panel agreed that this action should be closed.

Minute 8734(b)

Code Administrator to ensure that Workgroup nomination forms include: -

- a) **Relevant expertise of the nominee so that this can be used by the CUSC Panel if they need to approve a new member to the Workgroup.**
- b) **Details of an alternate who can attend in their absence.**

8979 RH explained that the nomination form has been updated to include this information and has been circulated to the Panel for review. No feedback has been received, so RH proposes that this action be closed.

8980 The Panel agreed that this action should be closed.

Minute 8739

Code Administrator to liaise with GG to confirm the date of next Governance Standing Group (GSG) in January 2019.

8981 RH explained that Code Admin were happy to arrange the next meeting but wanted to check with the Panel whether they were confident it would go ahead and be quorate as there was already a lot of change going on within the industry.

8982 The Panel requested clarification on why this had been logged as an action.

8983 RH explained that it had arisen after Panel discussions on Workgroups struggling to achieve quoracy, and whether two representatives from the same organisation could be on the same Workgroup.

8984 GG suggested using a CUSC Workgroup day. GG also noted that several members of the GSG group had left the industry or moved on to new roles, so it may be useful to ring around to see if people wished to remain on the group or if anyone else wanted to join.

8985 LB stated that it would be worthwhile to try and organise a meeting, if Code Admin struggle to do this the Panel can then re-review this.

8986 RH explained that she would make sure it was discussed at their next CUSC Planning session.

8987 The Panel agreed for this action to remain open during the interim period.

Minute 8782

Code Admin to bring their TCMF dashboard to the next CUSC Panel and add it into the slide pack going forwards.

8988 RH explained that an update would be provided on this at the next Panel.

8989 The Panel agreed for this action to remain open.

Minute 8806

Code Administrator to Return CMP301 FMR to the Authority for a Decision

8990 RH explained that an update would be provided during the discussions on in-flight modifications.

8991 The Panel agreed for this action to remain open during the interim period.

Minute 8884

CMP303 Timelines to be Circulated to the Panel by the Code Administrator

8992 RH explained that these timelines will be discussed at today's Panel.

8993 The Panel agreed for this action to be closed.

Minute 8903

Code Admin to look into the feasibility of incremental reporting during modification process as part of Code Journey Work.

8994 RH explained that this will be incorporated into the ongoing Customer Journey work. RH requested that the action be closed.

8995 The Panel agreed that this action should be closed.

Minute 8927

Code Administrator to let industry know when the modification tracker is live

8996 RH explained that an email was sent to industry on the 1st February to let them know this is now available on the ESO website: <https://www.nationalgrideso.com/codes>

8997 The Panel agreed for this action to be closed.

Minute 8913

Code Admin to provide bi-monthly updates on the CACoP Forum to the Panel

8998 RH confirmed that this had already been added to the agenda and requested that this action be closed.

8999 The Panel agreed for this action to be closed.

Minute 8958

SVC to feed back into the Panel with information on Deal or No Deal Scenarios for connection agreements

9000 RH explained that GG had already received some feedback from BEIS and questioned whether any further clarification was required.

9001 GG explained that further clarification was still needed. GG felt that BEIS had been misadvised in their response and that there was still an issue with the appeals process for modifications to bilateral connection agreement and its compatibility with statutory Instruments. GG explained that he will be writing to BEIS in relation this and requested that the action remain open.

9002 The Panel agreed for this action to remain open during the interim period.

Minute 8929

TM to speak to Rob Marshall and Gareth Davies about clarifying the responsibilities surrounding the drafting of legal text.

9003 TM explained that she had a meeting planned with Rob and Gareth in the coming weeks and would report back to the March Panel.

9004 The Panel agreed for this action to remain open during the interim period.

4. **Authority Decisions**

9005 NH confirmed that he had no updates.

5. **New CUSC Modifications**

Request for Urgency: CMP312 'Correcting erroneous legal text in Section 14 following implementation of CMPs 264/5 (consequential)'. CMP312 aims to address the issue caused to Generator Users liable for demand TNUoS charges which has been created through a clear error in the approved legal text for CMPs 264/5.

9006 HH outlined the scope of the defect and presented slides to the Panel explaining why the modification should be treated as urgent. HH highlighted the ~£30m material impact of the modification. HH explained that there would be a significant impact on effected parties if this modification was not treated as urgent and if it was not sent to the Authority for a decision before the end of the current financial year (31st March 2019). HH therefore recommended that this modification proceed directly to a 5-working day Code Admin Consultation. The slides presented to the Panel and the proposed timeline for urgency can be found on the ESO website¹.

9007 TM thanked HH for her presentation and asked the Panel if they had any questions.

9008 GG requested clarification on the defect and explained that this referred to an unintended error in the legal text for WACM 4 of CMP264/265. GG questioned whether anyone from the ESO had contacted the Proposer of WACM 4 to discuss this with them.

9009 PM confirmed that he was the Proposer for CMP265 and JW had contacted him on Friday 22nd February. PM stated that he supported CMP312 and thought it was a good modification.

9010 GG explained that he wanted to check if the ESO had contacted the Proposer of WACM 4 for CMP264/265 to determine if this was an unintended consequence of the legal text.

9011 PM highlighted that the ESO had also spoken to JA, the Proposer of CMP264 and that the WACMs related to both modifications.

9012 GG stated he appreciated that PM and JA were the proposers of CMP264/265, but his question was whether the ESO had spoken to the Proposer of WACM 4. GG explained that he had been in touch with the Proposer of WACM 4 John Tindall (from SSE) that morning and it was not clear whether this was an unintended consequence or not of that proposal. One of the issues the Proposer of WACM 4 was trying to understand was that CMP312 talks about the average of net imports of relevant BMUs. However, it is

¹ <https://www.nationalgrideso.com/codes/connection-and-use-system-code-cusc/meetings/cusc-panel-meeting-25-february-2019>

not clear what it is meant by that and if it refers to the average of each BMU, or the average across a group of BMUs. In which case if some BMUs are importing and some are exporting is that being netted off? GG explained that given the issues around understanding what is in the proposal, the materiality of the modification and its retrospectivity it should not proceed without a Workgroup. GG explained that he did not want any further unintended consequences which will then need another urgent modification to be raised to fix them. GG stated that if this went straight to Code Admin Consultation they would not be able to amend the legal text and questioned whether they should be making retrospective changes. GG stated that he supported the desire to get this done as quickly as possible but he believed that there was enough time to hold a Workgroup and highlighted that the CUSC reconciliation process would not need to be done until the end of April 2019.

- 9013 PJ stated that the WACM's came from bringing together various combinations of individual components to create different overall solutions. WACM 4 was the same as WACM 3 but with a phasing period added to it. The main elements of WACM 4 i.e. the levels of embedded benefit and how it worked set out in WACM number 3. PJ explained that he was therefore reluctant to attribute special WACM ownership status to one individual.
- 9014 LB agreed with PJ and confirmed that all the WACMs were either building on each other or the original.
- 9015 PM explained that he thought this was an unintended consequence of the modifications and it was not discussed by the Workgroup.
- 9016 HH agreed with PM and explained that this was not discussed within the Workgroup, Final Modification Report, Authority's impact assessment/consultation or their decision letter. Therefore, they can only assume this is an unintended consequence of the modification. HH stated that she appreciated GG point in relation to WACM 4, but agreed with PJ and LB that the WACM's were incremental to each other and were not entirely new separate options. HH stated that she appreciated SSE must have had an outcome in mind when raising WACM 4, but if that outcome was that they would be changed as a CVA generator, licensable generator or for imports over triad then that outcome has not been clearly documented anywhere.
- 9017 LB highlighted that this was not raised in any of the consultation responses for the Authority to consider.
- 9018 HH stated that given the scale of the impact they want to ensure that this was not a deliberate decision, which is why they have raised CMP312. HH explained that believe this is the best way of tackling this issue and all they are trying to do is put the legal text back to what it was prior to CMP264/65. It is then down to the Authority to decide on the merits of charging gross demand or large generators.
- 9019 HH stated that the point about whether this refers to the average of each BMU or a group of BMUs is irrelevant, as all CMP312 is seeking to do is put things back to how they were.
- 9020 GG re-iterated that this was not clear in the legal text.
- 9021 TM asked the Panel if they had any other views.
- 9022 JA stated that he did not think any issues were identified with licence able generation by the Proposers of CMP264/265 as part of the defect. JA explained that it was not the intention of the original definition of the defects under CMP264/265 to address anything to do with BCAs or BEGAs.
- 9023 RL stated that they should just get on with it.
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- 9024 AP stated that CMP312 is looking to apply a retrospective change, but this was not possible for CMP306, so why is this any different. AP stated that they should be adopting a consistent approach across all modifications.
- 9025 PJ stated this about correcting an error within the legal text, that was not deliberate, to deliver the modification that was intended to be delivered.
- 9026 HH stated that they are not retrospectively adjusting tariffs, charging methodologies or the calculations underpinning them. The reason why they have requested retrospectivity in this one instance, is because without that the TNUoS liability for demand has already been occurred. This liability starts as soon as they hit the triad period, so even if the Authority approved the modification today with an implementation date of tomorrow the liability would have already been occurred and they would have to bill for this. The only way to get around that is to ask the Authority for an implementation date to the 1st April 2018, but it will not affect everyone else's charges. It will only clearly affect these generators who would not be charged the £30m.
- 9027 TM asked RH to bring the urgency criteria up and carry out the vote on urgency.
- 9028 GG requested that they look through the retrospective element in the urgency criteria.
- 9029 RH went through the urgency criteria and collated the Panel votes.

	(a) A significant commercial impact on parties, consumers or other stakeholder(s);	(b) A significant impact on the safety and security of the electricity and/or gas systems;	(c) A party to be in breach of any relevant legal requirements.	Any other comments	Overall Urgent (Y/N)
Paul Jones	Y	N	N		Y
Andy Pace	Y	N	N		Y
Laurence Barrett	Y	N	N		Y
				requests a workgroup; serious reservations about pushing through something that may cause further unintended consequences	
Garth Graham	Y	N	N		Y
Harriet Harmon	Y	N	N		Y
Trevor Rhodes	Y	N	N		Y
James Anderson	Y	N	N		Y
Robert Longdon	Y	N	N		Y
Paul Mott	Y	N	N		Y
Trisha McAuley (If Required)					

- 9030 RH confirmed that the Panel had unanimously agreed that the modification should be treated as urgent. RH stated that they will be sending a letter to the Authority requesting urgency later today and that they are hoping they will come back with a decision on this by Tuesday 26th February, so that they can issue the Code Admin Consultation on Wednesday 27th February.
- 9031 LB questioned whether the Authority had 5 working days to make this decision.
- 9032 RH stated that the Authority have already been informed that this is on its way to them and that a quick decision is needed.
- 9033 GG explained that there was no time limit for the Authority to make a decision and that they had taken over a month in the past on certain occasions.
- 9034 GG questioned whether the Authority would also be presented with a timeline that included a Workgroup.

- 9035 RH explained that they have already tried to map this out but it would mean that the decision date would be past the end of March.
- 9036 GG questioned why this was, when they can do an Urgent modification within a single working day.
- 9037 RH explained that this was because of the consultation period that would be required after the Workgroup.
- 9038 TM asked the Panel if they were happy to accept the proposed timeline for CMP312 to proceed directly to Code Admin Consultation.
- 9039 All of the Panel agreed to this, with the exception of GG, who recommended that it should proceed to a Workgroup.
- 9040 TM confirmed that the Panel have recommended by majority that this proceed to Code Admin Consultation.
- 9041 RL stated that if National Grid ESO have already made the Authority aware of this, has there been any indication from the Authority that there may be some unintended issues which could result in them having to consider this for a longer period than we currently expect.
- 9042 JW explained that they had only discussed the process for urgency with the Authority and how to get this to them as quickly as possible. JW stated that the question around the content is yet to be answered.
- 9043 PJ stated that in terms of retrospectivity he understands that the proposer is looking to get this modification approved with an implemented date of the 1st April 2018 so that they do not have to issue invoices based on a false premise that they would then have had to unwind afterwards. But if this gets implemented, they are not doing so retrospectivity, as this would impact people after it is implemented.
- 9044 HH explained that the point around retrospectivity is broadly administrative. Demand liability has already occurred so if the Authority issues an implementation date in the future that will only take away future liability, not the liability that has already been occurred. The only way they can do that is by requesting an implementation date of the 1st April 2018, so that none of the liability has ever been happened. HH explained that it is purely there to prevent NGENSO from having to issue a bill.
- 9045 TM confirmed that the timeline and letter on urgency will be sent to the Authority today and suggested that that the Panel now move onto CMP309 and CMP310.
- 9046 JW left the meeting.

CMP309 'CUSC changes in the event the UK leaves the EU without an agreement'. This modification aims to ensure that retained EU law will function effectively in the context of the CUSC. In the event the United Kingdom leaves the European Union without an agreement, it will ensure that the CUSC takes into account the provisions in the relevant Statutory Instruments that have been prepared under the European Union (Withdrawal) Act 2018 as well as relevant consequential licence modifications.

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CMP310 'CUSC section 14 changes in the event the UK leaves the EU without an agreement'. This modification aims to ensure that retained EU law will function effectively in the context of the CUSC. In the event the United Kingdom leaves the European Union without an agreement, it will ensure that the CUSC takes into account the provisions in the relevant Statutory Instruments that have been prepared under the European Union (Withdrawal) Act 2018 as well as relevant consequential licence modifications.

- 9047 SVC presented slides to the Panel outlining the scope of the defects, the reasons for the modifications, and explained why they should proceed down the self-governance route. These slides can be found on the ESO Website here: <https://www.nationalgrideso.com/codes/connection-and-use-system-code-cusc/meetings/cusc-panel-meeting-25-february-2019>.
- 9048 TM thanked SVC for her presentation and asked the Panel if they had any questions.
- 9049 LB stated that the Proposer is recommending that the Panel vote takes on the 26th March 2019, however we may not know whether there will be a 'No Deal' Brexit at that point. Should the Panel still be voting on this regardless, if that is the case? Also, if they do vote on the 26th March 2019 and Brexit is on 29th March 2019 will that not leave a few days' risk of non-compliance if these modifications are not going to be implemented until the 1st April 2019.
- 9050 SVC admitted that there was a risk of non-compliance but they had discussed this with the Authority and the Authority would be issuing some guidance around this.
- 9051 JA stated that in relation to the legal text CMP310 you would need to have CMP309 implemented at the same time for it to work. You would not be able to implement CMP310 on its own.
- 9052 SVC agreed with this.
- 9053 GG stated that he felt that these modifications should go through the urgency process straight to Code Admin Consultation and then sit with the Authority for a decision. That way if the exit date changes to, say, the 29th June 2019 rather than the 29th March 2019 as some people have suggested because of the European Parliamentary Elections the Authority can make all the licence/code changes together at the same time. If the Panel follows the timelines set out by the Proposer, there is a risk that they will through self-governance and remove EU Law from the CUSC even though it may still be applicable until 29th June 2019 or any other date later within the year. GG stated that he felt that they would be in a more robust legal position if they left this with the Authority to decide, rather than having to unpick a self-governance modification that they have implemented.
- 9054 SVC acknowledged GG point, but explained that these modifications would not be voted on if there was a delay to Brexit.
- 9055 GG stated that the whole purpose of self-governance modifications is that they are self-evident, non-material changes that go straight through and are implemented straight away. GG explained that it was not intended that there should be a delay in their implementation. GG stated that the Authority put this self-governance process in to speed changes through the process, not to hold things up. GG stated that if these modifications were to go through the self-governance route he is not sure whether the Panel can than actually chose to delay the vote.
- 9056 AP stated that would they not just vote against the modifications in that situation.
- 9057 SVC stated that they had discussed the options with the Authority and they had been provided with a steer to go down the self-governance route. SVC stated that the Authority have confirmed that these modifications meet the criteria for self-governance and that was their preferred approach.
- 9058 TM stated that she had been copied into that letter and it was very clear that was the Authority's expectations.
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- 9059 LB noted that the legal text introduced this concept of “retain EU law”, so if ‘No Deal’ Brexit was delayed it would just all stay retained anyway.
- 9060 PM agreed with LB and stated that there was no ambiguity, EU Law would be retained if independence was delayed.
- 9061 TM asked the Panel if they had any other comments.
- 9062 RL stated that governance around delays in implementation for self-governance modifications did need to be bottomed out, but acknowledged that this did not necessarily need to be answered today.
- 9063 TM stated that it would also be useful to see any guidance issued by the Authority on Brexit and the governance rules around delays to self-governance modifications ahead of the March Panel, that way they can then decide whether to go ahead with the vote or not.

New Action: Code Admin to confirm the governance rules around delaying self-governance modifications and circulate any Authority information on Brexit/transition periods.

- 9064 TM asked the Panel if they agreed with the Proposers proposed approach for these modifications to proceed down the route of self-governance.
- 9065 All the Panel, with the exception of GG, agreed to this.
- 9066 TM confirmed that the Panel had agreed by majority, for CMP309 and CMP310 to proceed down the route of self-governance.
- 9067 GG requested that Code Admin bring up the self-governance procedure so that everyone can review this.
- 9068 The Panel read through this.
- 9069 TM asked the Panel if they needed any more information, or if they were happy to conclude their discussions on CMP309 and CMP310.
- 9070 No objections were raised by the Panel.
- 9071 TM concluded that the Panel were happy to move onto CMP311.

CMP311 ‘Reassessment of CUSC credit requirements for Suppliers, specifically for “User Allowed Credit” as defined in Section 3, Part III section 3.27 of the CUSC’. This modification seeks to reassess User Allowed Credit” as defined in Section 3, Part III section 3.27 of the CUSC due to the large scale of liabilities this creates

- 9072 TM introduced Emma Hart as an observer from the NGESO Code Admin team. TM explained that EH was the Grid Code Panel secretary and would also be acting as the technical secretary for CMP311.
- 9073 SS presented slides to the Panel outlining the background and scope of the defect. SS explained the reasons for the modification and recommended that CMP311 proceed down the standard modification route to a Workgroup. These slides can be found on the ESO website².

² <https://www.nationalgrideso.com/codes/connection-and-use-system-code-cusc/meetings/cusc-panel-meeting-25-february-2019>

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- 9074 PM stated that there were two statements on slide 19 which appeared to be contradictory. One was saying that the ESO are exposed to the risk and the other is saying that all off the users will have to pay the shortfall.
- 9075 SS highlighted that from the 1st April 2019 the ESO asset base and its liabilities will change, resulting in an increased risk of exposure.
- 9076 LB questioned whether this meant year to year exposure.
- 9077 HH stated that if a party were to go out of business the ESO would have to go to the Authority and ask them if they can recover any outstanding TNUoS. There is no guarantee that the Authority will agree to this and whether they will be able to recover the shortfall. HH stated that the exposure was real and even if they were allowed to recover this amount with interest through the K factor, it would not happen for another 2-3 years.
- 9078 PJ stated that if you have followed the unsecured credit requirements in the CUSC, in theory it is unlikely that the Authority would deny National Grid's request.
- 9079 HH explained that this cost recovery is not defined in the licence or codes. However, in theory if the Authority asked them to do X, Y, Z and they did this, then they would hope that the Authority would not then turn around and say no you cannot recover this.
- 9080 PJ stated that if the ESO under recovered because of the level of unsecured credit which is codified, then it would be quite an unusual position for the Authority to take to not allow them to recover this. Unless it was because of something the ESO did, such as failing to pursue creditors.
- 9081 LB questioned whether the amount of total credit (£6m) was an absolute amount or whether it was linked to the size of the supplier and their demand.
- 9082 HH confirmed that this was an absolute amount and that there were 70 suppliers so this added up to quite a large amount.
- 9083 GG questioned whether they would be looking at generation BSUoS charges.
- 9084 HH confirmed that the ESO was not currently looking at this and that this modification purely focussed on the credit function between the ESO and Suppliers. HH explained that this could change if the Workgroup decide to raise any alternatives around this.
- 9085 GG highlighted that the legal text applied to all BSUoS and demand TNUoS, so it would remove it for everyone including Generators.
- 9086 HH explained that was not the intention of the modification and there may be an error in the drafting of the legal text. HH stated that they would take this away to be confirmed.
- Next Action: ESO to confirm if CMP311 only applies to the credit function between the ESO and its suppliers, or whether it applies to all BSUoS and demand TNUoS.**
- 9087 PM questioned whether there were separate unsecured allowances for generation TNUoS.
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9088 SS stated that they would take that away as an action.

New Action: ESO to confirm if there are separate unsecured allowances for generation TNUoS.

9089 LB stated that the impact on consumers is not neutral, if a Supplier goes into administration and their customers do not pay the TNUoS charge then it will get passed to the ESO or other consumers. It is creating a distortion between which group of consumers end up paying for the charge.

9090 JA stated that he believed it was an overall detriment to all consumers. This is because the consumer will pay the TNUoS charge to the Supplier, but if the Supplier goes into liquidation that money will not get passed onto the ESO. Therefore, the consumer will have to pay for it all again.

9091 LB suggested that this needs to be made clearer within the Workgroup report.

9092 GG stated that it may be useful to understand what analysis the ESO has done on Suppliers who have failed and their credit assessment scores. GG explained that this could then be used to see if there was a case for tightening up the approved long term credit arrangements and the credit assessment scores which go into the credit arrangement calculations for the User Allowed Credit, rather than removing them completely.

9093 SS stated that this was a good point and something that they could consider.

9094 GG suggested that you could just take the credit arrangement score and those Suppliers that have good rating or who are a good payer post less credit, whilst those Suppliers who have a poor rating or who are a poor payer provide more credit. GG highlighted that otherwise one of the unintended consequences of this modification would be that it would remove the incentive for a Supplier to remain a good payer because they would be treated the same as a bad payer. GG went onto explain that the current credit rating system also incentivises Suppliers to maintain/enhance their credit ratings to maximise their User Allowed Credit for BSUoS and TNUoS. If this is removed, then there will be no incentive for Suppliers to maintain a good credit rating.

9095 TM asked the Panel if they were happy for CMP311 to proceed to a Workgroup.

9096 The Panel agreed that CMP311 should be progressed through a Workgroup and set the following terms of reference:

- Consider if a variation to the Users Allowed Credit Components may be appropriate
- Consider the interaction with the Targeted Charging Review (TCR)
- Impact on Suppliers, as well as Consumers
- Analyse recent Supplier of Last Resort (SOLR) incidents – credit rating and payment history
- Ensuring the views of smaller suppliers are represented
- Review of original User Allowed Credit decisions

9097 GG questioned whether generator liability/credit arrangements was within the scope of the modification.

9098 HH confirmed that no generator liability or credit arrangements were within the scope of the defect and that it specifically only referred to Suppliers.

9099 GG questioned whether the Workgroup needed to examine if this covered credit arrangements the other way; i.e. when the ESO pays BSUoS to its Suppliers.

- 9100 The Panel agreed that this was out of scope for the modification.
- 9101 TM asked the Panel if there was anything that they wanted to specify in relation Workgroup membership.
- 9102 GG stated that they needed to make sure Suppliers had early sight of this modification and representation on the Workgroup. GG suggested that they use the ESO supplier distribution list when sending out the email for Workgroup nominations or any other CMP311 updates/consultations to Industry.

New Action: Code Admin to source ESO supplier distribution list and use for comms on CMP311

- 9103 PJ stated that that the original arrangements around unsecured credit was put in place because of an Authority review on credit cover, and it may be beneficial to examine why the Authority reached that decision.

6. **In-Flight Modifications**

- 9104 RH confirmed that CMP271/CMP274/CMP276/CMP302 and CMP307 were all still on hold pending the outcome of the TCR/SCR. RH explained that because of Ofgem's publication on their minded to position they have contacted the Proposers of these modifications to establish if they would like them to remain on hold, be withdrawn or proceed to a Workgroup. All of the Proposers have requested that their modifications remain on hold.
- 9105 LB stated that in light of recent publications it may be worthwhile contacting the Proposer of CMP302 to check whether their position has changed.

New Action: Check if the Proposer of CMP302 would like to withdraw their modification

CMP280 'Creation of a New Generator TNUoS Demand Tariff which Removes Liability for TNUoS Demand Residual Charges from Generation and Storage Users'. CMP280 aims to remove liability from Generator and Storage Parties for the Demand Residual element of the TNUoS tariff.

And

CMP281 'Removal of BSUoS Charges from Energy Taken From the National Grid System by Storage Facilities'. CMP281 aims to remove liability from storage facilities for Balancing Services Use of System (BSUoS) charges on imports.

- 9106 RH confirmed that an extension had been granted at the January CUSC Panel until May 2019 to allow the Workgroup to take into consideration the outputs of the BSUoS taskforce.

CMP285 'CUSC Governance Reform – Levelling the Playing Field'. CMP285 seeks to reform CUSC governance to enhance the independence and diversity of Panel members and ensure wider engagement from CUSC signatories.

- 9107 RH advised the Panel that CMP285 was raised by UK Power Reserve and submitted to the CUSC Modifications Panel for their consideration on 20 July 2017. RH provided the Panel with a background and summary of what CMP285 was aiming to achieve. RH advised the Panel that eleven potential Workgroup alternatives were raised but only six were votes through as official WACM's. RH explained that the Workgroup vote concluded that WACM's 1 and 6 were the best options. RH explained that eight responses were received to the first Code Admin Consultation and most respondents also felt that WACM's 1 and 6 better facilitated the applicable CUSC objectives. One respondent raised concerns about the legal text which led to a Panel direction for the Workgroup to reconvene and agree amendments to the legal text. A

second five-day Code Admin Consultation was then published and this closed on the 15th February 2019. Two further responses were received with one response expressing a preference for WACM 5. Full details of all the responses can be found on the ESO website³.

9108 RH requested that the Panel carry out its out its recommendation vote on CMP285, against the applicable CUSC Objectives. RH asked Panel members who had already submitted completed voting templates to confirm their vote was still the same. RH then asked the remaining Panel members to confirm their vote along with the rationale for their decision. Four Panel members felt that WACM 1 was the best option and better facilitated the CUSC Objectives over the baseline, Original Proposal and the remaining WACMs. Three Panel members voted for WACM 2 and the remaining two Panel members voted for WACM 6. RH confirmed that Code Admin will circulate the Final Modification Report to the Panel for five working days for them to confirm that their votes have been correctly recorded. Code Admin will then issue the Final Modification Report to the Authority for a decision. Details of the full Panel vote can be found in Annex 1.

CMP286 ‘Improving TNUoS Predictability through Increased Notice of the Target Revenue used in the TNUoS Tariff Setting Process’. The purpose of this modification proposal is to improve the predictability of TNUoS demand charges by bringing forward the date at which the target revenue used in TNUoS tariff setting is fixed to allow customer prices to more accurately reflect final TNUoS rates.

9109 RH confirmed that a second RFI would be going out in March and that an extension had been granted until May 2019.

CMP287 ‘Improving TNUoS Predictability through Increased Notice of Inputs Used in the TNUoS Tariff Setting Process’. The purpose of this modification proposal is to improve the predictability of TNUoS

9110 RH stated that Code Admin were in process of splitting out the Workgroup Report from CMP286 and they were aiming to try and get this out to Workgroup consultation in March.

CMP288 ‘Explicit Charging Arrangements for Customer Delays’. The purpose of this modification is to introduce explicit charging arrangements to recover additional costs incurred by Transmission Owners and TNUoS liable parties as a result of transmission works undertaken early due to a User initiated delay to the Completion Date of the works, or to facilitate a backfeed.

AND

CMP289 ‘Consequential change to support the introduction of explicit charging arrangements for customer delays and backfeeds via CMP288’. The purpose of this modification is to introduce changes to non-charging sections of the CUSC to support the introduction of explicit charging arrangements to recover additional costs incurred by Transmission Owners and TNUoS liable parties as a result of transmission works undertaken early due to a User initiated delay to the Completion Date of the works, or to facilitate a backfeed. The changes to the charging element of the CUSC are covered under CMP288.

9111 RH explained that the Workgroup Consultation closed on the 31st January 2019 and the last Workgroup meeting was held on Friday 22nd February 2019. RH stated that have already received one Workgroup Consultation request for an alternative and further works needs to be carried out by the Workgroup before this will be ready to be brought back to the Panel. RH requesting that the Panel to approve an extension to May 2019.

9112 The Panel approved this extension request.

³ <https://www.nationalgrideso.com/codes/connection-and-use-system-code-cusc/modifications/cusc-governance-reform-leveling-playing>

CMP 291 'The open, transparent, non-discriminatory and timely publication of the harmonised rules for grid connection (in accordance with the RfG, DCC and HVDC) and the harmonised rules on system operation set out within the Bilateral Agreements'. The purpose of this modification is to set out within the CUSC the obligations in the EU Connection Network Codes and System Operation Guideline as they relate to the harmonised rules for connection and system operation in GB.

9113 RH stated that they would also need an extension for CMP291 until June 2019. RH explained that this was because they had not been able to find a date where Code Admin, the Proposer and the Workgroup members were all available to host a meeting. RH questioned whether this modification needed to be moved down the prioritisation stack, to a lower ranking.

9114 The Panel agreed the extension and stated they would come back to the question on ranking during the discussions on prioritisation.

9115 GG stated that Code Admin should try and stick to the pre-set Workgroup meeting dates that they sent out at the beginning of the year.

CMP 292 'Introducing a Section 8 cut-off date for changes to the Charging Methodologies'. The purpose of this modification is to ensure that the charging methodologies (all Charging Methodologies as defined in the CUSC) are fixed in advance of the relevant Charging Year to allow The Company – as Electricity System Operator - to appropriately set and forecast charges. Introducing a cut-off date for changes to the methodologies will help to reduce the risk of charges out-turning differently to the forecasts produced by the Company and created by users.

9116 RH stated that the Workgroup consultation has now closed and they on track to get this back to the April Panel.

CMP295 - Contractual Arrangements for Virtual Lead Parties (Project TERRE). Under BSC P344 and GC0097, and future market arrangements, an aggregator will combine the export capabilities of SVA-registered embedded generation to participate in the BM. In order to facilitate Grid Code compliance, and to ensure appropriate rights/obligations for Virtual Lead Parties (as to be defined in BSC P344), accession to the CUSC is necessary and entry into specific CUSC contracts is required.

9117 RH explained that several WACMs have been raised which have caused a delay in the progression of this modification. RH confirmed that CMP295 will be following an expedited timeline to make sure it does come back to the Panel in March.

CMP298: Updating the Statement of Works process to facilitate aggregated assessment of relevant and collectively relevant embedded generation. This modification is needed due to increasing levels of embedded generation connections the process for assessing their overall impact on the transmission system needs to be revised allowing the System Operator to recognise the changes caused by multiple small scale connections and plan accordingly.

9118 RH confirmed that the next Workgroup meeting is planned for the 8th March 2019 and that the Workgroup Report is not due back to the Panel until May 2019.

CMP300: Cost Reflective Response Energy Payment (REP) for Generators with low or negative marginal costs. This proposal seeks to ensure that the Response Energy Payment paid to or by generators with respect to a BM Unit with low or negative marginal costs is reflective of the cost or avoided cost of energy production.

9119 RH confirmed that the last Workgroup meeting was held on the 15th February 2019 and that they are currently in the process of mapping out timelines for this modification. RH stated that they will probably be able to get this out to Workgroup Consultation fairly quickly after the next Workgroup meeting.

CMP301: Clarification on the treatment of project costs associated with HVDC and subsea circuits. CMP213 introduced specific expansion factors for HVDC and subsea circuits however the existing legal text is open to interpretation – this proposal would cement the interpretation made by The Company to ensure consistency with onshore circuits.

9120 RH explained that second Code Admin Consultation was issued last week. RH confirmed that this was open for 5 working days and they were planning to bring the Draft Final Modification report back to the Panel in March 2019.

CMP303: ‘Improving local circuit charge cost-reflectivity’. This modification seeks to make part of the TNUoS charge more cost-reflective through removal of additional costs from local circuit expansion factors that are incurred beyond the connected, or to-be-connected, generation developers’ need.

9121 RH explained that CMP303 was raised by EDF and brought to the CUSC Panel on 27th July 2018. The Panel agreed that the modification should proceed to a Workgroup. The Workgroup met on seven occasions between September 2018 and February 2019. Nine responses were received to the Workgroup Consultation and most respondents agreed that the Original Proposal better facilitated the applicable CUSC objectives. Ten alternatives were raised, but only nine were voted through as official WACMs. The Workgroup carried out its final Workgroup vote on the 13th February 2019 and concluded that the original, WACM’s 1,2,3,8 and 9 better facilitated the applicable objectives when compared to the baseline. The Workgroup have concluded that they have met the terms of reference set by the Panel and requested that the final Workgroup report be presented back to the Panel.

9122 RH asked the Panel to confirm whether they agreed that the terms of reference had been met and if CMP303 could now proceed to Code Admin Consultation.

9123 The Panel agreed that the terms of reference had been met and that CMP303 should now proceed to Code Admin Consultation.

9124 RH confirmed that they were aiming to get the CMP303 Draft Final Modification report back to the March Panel as a late paper for the Panel recommendation vote.

CMP304 looks to improve the Enhanced Reactive Power Service, making it “fit for purpose”. This modification will enable reforms to commercial reactive power services that will create more useful and economic solutions, and new opportunities for providers. This proposal aims to ensure that the reactive power services (i) delivers transparency and clear information to the market; (ii) facilitates greater competition in the provision of services; and (iii) meets the changing needs of balancing services providers and operational requirements of the system operator.

9125 RH stated that they have had a request from Hannah McKinney from EDF Energy to become an additional Workgroup member. RH explained that Hannah’s Workgroup nomination form has been circulated to the Panel for review. RH requested that the Panel confirm if they are happy to approve this request.

9126 The Panel approved this request.

9127 TM stated that she had noted Hannah had not completed any details for an alternative. TM recommended that Code Admin should be pushing these forms back to make sure these details are completed at the start of the process.

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- 9128 Code Admin agreed with TM and would make sure they did this in future.
- 9129 LB stated that Code Admin should add CMP305 back on to the plan on the page for visibility until it is sent back to the Authority.

New Action: Code Admin to add CMP305 back onto the Plan on the Page

CMP306: 'Align annual connection charge rate of return at CUSC 14.3.21 to price control cost of capital'. The purpose of this modification is to align the rate of return applied to the net asset value of connection points in the calculation of annual connection charges (as set out at paragraph 14.3.21 of the Connection Charging Methodology) to the pre-tax cost of capital in the price control of the Relevant Transmission Licensee (plus a margin of 1.5 percentage points in the case of MEA-linked assets). This will improve the cost reflectivity of the charges, since the return on capital will equal the Authority's most recent assessment of that cost for the Relevant Transmission Licensee.

- 9130 RH confirmed that the last Workgroup meeting was held on the 31st January 2019 and they are hoping to get this out to Workgroup consultation in March 2019.

CMP308: 'Removal of BSUoS charges from Generation'. This modification seeks to modify the CUSC to better align GB market arrangements with those prevalent within other EU member states. This will deliver more effective competition and trade across the EU and so deliver benefits to all end consumers.

- 9131 RH advised the Panel that the last Workgroup meeting was held on the 30th January 2019 and the next Workgroup meeting is planned for the 1st March 2019.

7. **Discussions on Prioritisation:**

- 9132 TM requested that the Panel remind themselves of the criteria and rationale for making the decisions on prioritisation. M then asked the Panel to review the existing stack to see if there was anything that needed to be changed and if CMP291 needed to be lowered.
- 9133 RH ran through the stack and highlighted the modifications that were near the end of the modification process.
- 9134 LB stated that they needed a really good reason to shift the order within the stack. LB explained that there will be a natural evolution of the stack and as certain modifications are completed and removed from the stack, others will naturally move up in order and there was nothing wrong with that.
- 9135 RH highlighted that they have struggled to arrange a Workgroup meeting for CMP291 which has meant there have been no developments on this modification for a few months, even though it is near the top of the stack.
- 9136 LB stated that if it is within the top three or four on the list then it should have been more highly prioritised than some of the other modifications.
- 9137 RH explained that the initial delay to CMP291 was caused by it being linked to GC0117. Now that they have been separated they are struggling to find a date that is suitable for the Proposer and Code Admin.
- 9138 The Panel decided to make no amendments to the current ordering of the stack.
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- 9139 TM asked the Panel to consider where CMP311 should sit within the stack.
- 9140 LB highlighted that this had quite a substantial material impact on suppliers, so it should sit quite high within the stack.
- 9141 JA stated that even though the implementation date for CMP311 is April 2020, they need to give suppliers adequate time to get appropriate arrangements in place.
- 9142 TM suggested that given CMP285/CMP295 and CMP303 will shortly be disappearing off the stack could they put it above CMP291 and below CMP303.
- 9143 The Panel agreed with this.
- 9144 TM questioned whether the modifications that have been classed as self-governance, urgent, or those that have gone straight to Code Admin Consultation would be added to the stack, for visibility.
- 9145 RH explained that all this information is currently available on the modification tracker and they did not want to duplicate work. RH welcomed any feedback from the Panel on this.
- 9146 TM stated that this additional information should still be added to the prioritisation stack.

New Action: Code admin to add modifications that are urgent/self-governance/going straight to CAC/send-backs onto the prioritisation stack.

- 9147 The prioritisation stack can be found at the end of the headline report on the ESO Website⁴.

8. **Chair Update**

- 9148 TM confirmed that she had no updates for the Panel.

9. **Standing Groups**

a) Governance Standing Group

- 9149 GG stated that he had nothing further add and as discussed earlier Code Admin would be organising the next meeting.
- 9150 HH suggested that they could discuss the issues GG has raised in relation to self-governance at the next GSG and then report back to the Panel.
- 9151 The Panel agreed to this.

New Action: Discuss issues raised on self-governance at the next GSG and report back to Panel.

b) Transmission Charging Methodologies Forum / CUSC Issues Standing Group

- 9152 HH stated that the ESO presented a proposal to facilitate a CUSC Sandbox and explained that Section 14 would be exempt from this. HH stated that the sandbox is designed to allow parties to carry out new innovate ways of working without being over limited by their code obligations.

⁴ <https://www.nationalgrideso.com/codes/connection-and-use-system-code-cusc/meetings/cusc-panel-meeting-25-february-2019>

- 9153 AP questioned whether Section 14 should be completely exempt, or whether each derogation should be assessed on a case by case basis.
- 9154 GG stated that he did not think this was legally possible under the EU Third Package around the setting of transmission charges for connection and use of the system.
- 9155 HH agreed with GG. HH also highlighted that under Section 14 a change in one party's liability could affect another party's liability and they were not able to re-calculate tariffs each time someone wanted a derogation from Section 14. HH explained that this would create too much market disturbance.
- 9156 AP stated that this appeared to be very limiting and parties could come up with some good ideas that do not have a material impact, but they would be unable to get a derogation under Section 14.
- 9157 HH stated that she could not think of user obligation under Section 14 that would not affect any other parties if it were derogated.
- 9158 PJ agreed with this and stated that if it did not have a material impact parties would not be pursuing it.
- 9159 GG agreed with PJ and doubted whether anyone would want to go through the derogation process for anything that was less than £10,000 (the CUSC material effect figure). GG also highlighted that under EU law the ESO would not be able to apply different network charging arrangement to different parties.
- 9160 TM questioned what the Authority's involvement would be in the derogation process.
- 9161 HH explained that there needs to be a process in the codes to allow parties to have derogations. There will also be a separate role for the Authority/Code Admin and the Panel to play.
- 9162 GG stated that they would also need to be mindful of connection matters and that anything to do with new generators connecting, that there are terms of general application set by the RfG which cannot be derogated. GG also highlighted that anything that was site specific would need to proceed through the EU derogation route and not the CUSC. GG explained that existing generators would also have to follow a European procedure if they substantially modified and there were certain aspects of the CUSC agreements which may not be derogated in that situation.
- 9163 LB stated that when this was first discussed at the CUSC Panel it was hard to see how the sandbox would be as useful within the CUSC as it is in other codes.
- 9164 HH stated that there was certainly an expectation from the Authority that they would be updating the codes to reflect the potential for a sandbox, even if there were limitations to it.
- 9165 GG stated that if the ESO are looking to raise this modification than they will need to consider which route it takes. GG stated that he felt a Workgroup would be needed to discuss what parts of the CUSC cannot be derogated, EU law and connections. GG stated that they would also need to make it very clear from the start which parts of the CUSC cannot be derogated, so that they do not get disappointed parties blaming the Panel for not taking forward their future derogation requests.
- 9166 RL agreed with GG and stated that they needed to make it very clear what sandbox opportunities were available in the CUSC.
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9167 HH stated that they also discussed the modification for ongoing EU compliance under EU 838/2010 Part B, cap and floor. HH confirmed that they will be taking this back to the March TCMF before raising the modification at the March 2019 Panel.

9168 HH stated that finally Code Admin presented their thinking on a breathing space modification that they are looking to raise which would give them an extra five-working day window for the submission of any new modifications. This would improve the quality of mods that are coming through and allow them to better perform their role as a critical friend.

10. **European Code Development**

9169 NH confirmed that he had no European Code Development updates.

9170 GG stated that JESG met on the 5th February 2019 where they received an update from National Grid on the European Network Codes and the Clean Energy Package. They were expecting an update on Brexit from BEIS but they declined their invitation at very short notice because they were going to be holding a joint workshop with Ofgem on Brexit the very next day. GG stated that they are still awaiting further clarification from BEIS/Ofgem on this workshop that was held on the 6th February and the 47 general questions that were raised by stakeholders.

11. **Update on Industry Codes/General Industry Updates Relevant to the CUSC**

9171 None other updates were provided by the Panel.

12. **CACoP Update**

9172 RH presented a slide on the January 2019 CACoP forum which can be found on the ESO website⁵.

9173 RH stated that Grid Code took up the Secretariat role for the CACoP forum on the 1st January 2019. RH advised the Panel that CACoP already produce some really good material such as the CACoP Horizon Scan and the Central Modification Register but need to get better at highlighting this to industry. RH stated that CACoP agreed their Forward Workplan for the year and this included:

- 1) Establishing a clear purpose for CACoP/set of objectives – Workshop to be held on the 8th March 2019
- 2) Considering how they could improve engagement/communication and branding
- 3) Analysing CACoP survey results

9174 GG questioned whether the workshop on the 8th March would be recorded.

9175 RH stated that it is going to be an interactive session so it may not be recorded but minutes from the event and a presentation will be made available on the website.

9176 RL questioned why they believed branding was so important.

9177 RH stated that the Central Modification Register is on the Marasco website but not everyone knows that it is there or that it is a CACoP output. RH explained that they were considering whether they needed to create their own website or if Code Administrators should be better at signposting parties to where they can find CACoP outputs. RH stated that they definitely need to make improvements in their engagement and communication with Industry and branding may help with this.

⁵ <https://www.nationalgrideso.com/codes/connection-and-use-system-code-cusc/meetings/cusc-panel-meeting-25-february-2019>

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- 9178 GG stated that before looking at branding Code Administrators should make sure that they put up exactly the same information on CACoP on their websites. GG stated that currently some Code Administrators put up everything, whilst others only put up the things they think are appropriate.
- 9179 RH thanked the Panel for their feedback and confirmed that the next CACoP update would be provided at the April Panel.

12. **A.O.B**

Horizon Scanning

- 9180 SA advised the Panel that as part of the Customer Journey work they have created an initial draft of the Horizon Scan which they are looking to publish on their website. SA stated that this will help them provide a more strategic view of the modifications that are going to be raised within the next 12 months or longer and will also help with Prioritisation and planning workload. SA asked the Panel for their thoughts on what they had produced and whether they had any comments or feedback. SA highlighted that they would also be publishing the CACoP horizon scan on their website to provide visibility of any future cross-code modifications.
- 9181 TM questioned how often this would be brought back to the CUSC Panel.
- 9182 SA explained that it may come back initially every month whilst they are trying to increase awareness of it and highlighted that they would also be taking this to their Customer Seminar events and other industry forums such as TCMG/GCDF. They can then review the frequency of this.
- 9183 GG questioned whether there was a Horizon Scan for the STC and whether they would be raising a modification to allow non STC parties to raise STC modifications
- 9184 SA confirmed that there was a Horizon Scan for the STC and she will double check if this is on there.

New Action: Code Admin to confirm if there is a STC modification on the Horizon that would allow non STC parties to raise a STC modification.

- 9185 LB stated that it looked very helpful.
- 9186 The Panel agreed that they liked the revised format which they had used for the Grid Code.
- 9187 SA thanked the Panel and stated that they were welcome to provide any further feedback at a later date.
- 9188 All the Horizon Scanning documents can be found on the ESO website⁶.

Ways of Working

- 9189 TM stated that she had a discussion with the Code Admin Team to create something like this for the new Grid Code Panel. TM stated that the CUSC Panel elections would also be taking place very soon so this will be very useful for the new Panel, but it was also aimed at increasing transparency for the industry.

⁶ <https://www.nationalgrideso.com/codes>

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- 9190 RH presented slides on the ways of working for the CUSC Modification Panel, which can be found on the ESO website⁷. RH stated that this would help external stakeholders understand what the Panel do, what their roles and responsibilities are, how the modification process works, Code Admins role and behaviours expected from Panel/Workgroup members.
- 9191 GG stated that it would be useful to understand how they intended to address any potential conflict of interest Panel members may have.
- 9192 RH explained that they had asked Mike Jenner to act as an alternative on the Panel last month but he had declined because he thought he was too invested in CMP285 to act as an alternative.
- 9193 TM stated that these situations can happen now and again and Panel members will just need to remain sensitive to this and act as any other decision making body would.
- 9194 LB stated that they had previously discussed whether Panel members who are raising a modification should get involved in discussions on prioritisation for that modification or the Panel vote, and whether they would be acting impartially.
- 9195 GG stated there could be a conflict between the organisation they represent and their duty as an individual Panel member.
- 9196 RH highlighted that they had received some feedback questioning whether Panel members acted impartially when they discussed the prioritisation stack or prioritised their own modifications above others. RH stated that they could probably benefit from some more transparency around this, so that it is clear to everyone that the Panel makes these decisions as a collective group.
- 9197 LB stated that even if a Panel member was raising a modification and they did not take part in that meeting, they would still be present at future meetings where prioritisation was being discussed, so there would be no real way of getting away from this.
- 9198 TM stated that they had to remember it was a collective decision and the ways of working provided a reminder to Panel members that these conflicts can occur.
- 9199 LB stated that it would also help avoid any misconceptions around this.
- 9200 GG stated that he felt there were a number of errors within the table of roles and responsibilities and requested an editable version of the file so that the Panel can feedback their comments on this.
- New Action: Code Admin to circulate editable version of ways of working to Panel for feedback.**
- 9201 GG highlighted some of the errors that he thought was present. GG stated that the Draft Final Modification Report is not reviewed by the Workgroup/Proposer and the Proposer/Workgroup do not make a recommendation on the Code Admin Consultation. The legal text should be developed by the Code Administrator as the Workgroup and Proposer are not under any obligation to do this. GG also highlighted that this stated pre-mods needed to be brought to TCMF but there was no obligation on Proposers to do this and questioned what would happen with the non-charging modifications.
- 9202 LB stated that on that last note, rather than it being optional it should be changed to best practice as they should be encouraging parties to do this.
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⁷ <https://www.nationalgrideso.com/codes/connection-and-use-system-code-cusc/meetings/cusc-panel-meeting-25-february-2019>

- 9203 HH highlighted that non-charging modifications could be brought to the CUSC Issues Standing Group (CISG), which is on the same day as TCMF.
- 9204 GG stated that bringing it to CISG did not mean they had engaged with every party who may have an interest in their modification.
- 9205 LB stated that it was about doing the best you can by taking it to CISG and they would never be able to engage with everyone.
- 9206 TM highlighted that she already had an action to discuss clarity around legal text responsibilities with the ESO.
- 9207 LB questioned whether any of this was going to be codified into the CUSC.
- 9208 RH confirmed it would not be put in the CUSC, but it did link back to the CACoP principles.
- 9209 PJ stated that this was a good idea and it was necessary to set out in clear terms what the Panel can and cannot do, to avoid any misconceptions that can occur as in CMP264/265.
- 9210 LB stated that it was good to have something that shows the whole process and what everyone's roles are.
- 9211 GG stated his apologies as he had to leave the meeting to catch his travel arrangements.

Customer Journey – Communications

- 9212 RH stated that she also wanted to discuss how they communicated the Customer Journey Work to industry. RH presented a slide which can be found on the ESO website⁸ and explained that there were several methods that they could use. RH highlighted that the feedback they have received from small parties is that they do not have the time and resource to read all the communications that are currently being sent out, even an additional newsletter, but they may listen to a podcast on the train.
- 9213 RH stated that an example of this is when they sent out three separate emails to industry to introduce the modification tracker. Parties who were on all three distribution lists would have received this email three different times.
- 9214 RH stated that they wanted to let Industry know about all the good work that they are doing and for the tools that they develop to be useful. RH stated that they have come up with a range of communications, but that does not necessarily mean they were the right ones. RH explained that they would like to ask the Panel and Industry the following questions to get their feedback and thoughts on this. RH explained that they did not necessarily need to provide this feedback today and were welcome to send this to her or the CUSC dot box at a later date.
- 9215 RH requested feedback on the following questions:
- 1) What do you want to see?
 - 2) What level of detail?
 - 3) How frequent?

⁸ <https://www.nationalgrideso.com/codes/connection-and-use-system-code-cusc/meetings/cusc-panel-meeting-25-february-2019>

9216 RL questioned whether over the last five years Code Admin had ever surveyed the Proposers of any of the modifications post Authority decision/implementation on how they found the modification experience, so that they could use this feedback to help improve the modification process. RL questioned whether this was in the Customer Journey Work that they were doing.

9217 RH stated that she would double check and add this in if needed.

New Action: Code Admin to check what if Customer Journey work includes surveying Proposers of modifications to see how they found the whole modification process and if they had any suggestions for improvements.

9218 TM asked the Panel if they had any other business.

9219 JA stated that he would be leaving Scottish Power at the end of April 2019 and March would be his last CUSC Panel. JA stated that he wanted to give the Panel advance notice so that they can make arrangements for alternatives.

9220 TM stated that he will be much missed.

9221 No other business was raised.

9222 TM thanked everyone for their input and brought the meeting to a close.

13. **Next meeting**

9223 The next Panel meeting will take place at Faraday House on 29 March 2019 at 10am.

Annex 1 – CMP285 Panel Recommendation Vote:

Vote 1: Does the original or the WACMs facilitate the objectives better than the Baseline?

Panel member – Paul Jones

	Better facilitates ACO (a)	Better facilitates ACO (b)?	Better facilitates ACO (c)?	Better facilitates ACO (d)?	Overall (Y/N)
Original	N	Neutral	Neutral	N	N
WACM 1	Neutral	Neutral	Neutral	Neutral	Neutral
WACM 2	N	Neutral	Neutral	N	N
WACM 3	N	Neutral	Neutral	N	N
WACM 4	N	Neutral	Neutral	N	N
WACM 5	N	Neutral	Neutral	N	N
WACM 6	Y	Neutral	Neutral	Y	Y

Voting statement

Grouping votes - Does not appear to be an issue to address. In 2015, the 6 parties identified as dominating the process, on page 6 of the workgroup report, collectively held 21% of the vote (ranging between 2% and 5% individually). Grouping will add complexity to the arrangements as groups have to be identified and verified amongst some 500+ individual Users. Worse than baseline on objectives a) and d).

Independent members - Members are supposed to be independent anyway. Replacing 2 elected members with those appointed by ESO is anti-democratic and effectively means that ESO appoints 4 members compared with 5 elected. How will "gaps" be identified and prioritised? Will need to question elected members on their knowledge first (cannot assume that their employer company will reflect this, as they act independently and may have other relevant experience and knowledge, such as from previous employers). Also, this will have to be a process which takes place after the election as "gaps" can't possibly be understood until the results are known. Additional cost and effort for little apparent benefit. Worse than baseline on objectives a) and d).

Consecutive terms - Risk of setting up a cliff edge after next two terms when a significant proportion of the serving Panel could be ineligible for election. Historically, the CUSC panel has struggled to attract candidates to what is largely an administrative role. Could result in Panel having insufficient elected representatives and could result in loss of experience. No process designed in the solution to plug the gap should this occur. Alternates can only be appointed to replace a member who cannot attend and there is only a replacement election if a candidate leaves. Could put pressure on the ability of the Panel to be quorate. Worse than baseline on objectives a) and d).

Alternates rota - Slightly better than the baseline, on objectives a) and d), as it formalises the current practice to appoint alternates based on a rota.

Transparency - An improvement on the baseline by publishing members' interests and the outcome of the election process. Better than the baseline on objectives a) and d).

Panel member – Andy Pace

	Better facilitates ACO (a)	Better facilitates ACO (b)?	Better facilitates ACO (c)?	Better facilitates ACO (d)?	Overall (Y/N)
Original	No	Neutral	Neutral	No	N
WACM 1	Yes	Neutral	Neutral	Yes	Y
WACM 2	Yes	Neutral	Neutral	Yes	Y
WACM 3	Yes	Neutral	Neutral	Yes	Y
WACM 4	No	Neutral	Neutral	No	N
WACM 5	No	Neutral	Neutral	No	N
WACM 6	Yes	Neutral	Neutral	Yes	Y

Voting statement

We are supportive of the principle to improve the governance process of the CUSC Panel. However, we are concerned that the original proposal and WACMs 3 and 4 introduce a risk by limiting or possibly removing the collective experience of Panel members that is built up over a number of years and currently provides a valuable resource to the Panel decision making process. We therefore do not support the original proposal or WACMs 3 or 4 as better meeting the Applicable Standard CUSC Objectives (a) and (d).

WACMs 1,2,3 and 6 all better facilitate the Applicable Standard CUSC Objectives (a) and (d) due the removal of barriers for Parties looking to participate in the CUSC Panel process and a likely improvement in the range of industry parties represented on the Panel. This will provide more diversity on the Panel and a more efficient Code Governance process.

Our preferred option is WACM2 which contains all the features of the original proposal except for the consecutive terms limitation which is our principle concern.

Panel member – Laurence Barrett

	Better facilitates ACO (a)	Better facilitates ACO (b)?	Better facilitates ACO (c)?	Better facilitates ACO (d)?	Overall (Y/N)
Original	Neutral	No	Neutral	No	No
WACM 1	Neutral	Neutral	Neutral	Yes	Yes
WACM 2	Neutral	Neutral	Neutral	Yes	Yes
WACM 3	Neutral	Neutral	Neutral	Yes	Yes
WACM 4	Neutral	No	Neutral	No	No

WACM 5	Neutral	No	Neutral	No	No
WACM 6	Neutral	Neutral	Neutral	Yes	Yes
Voting statement					
<p>I believe it will be beneficial to make improvements to the transparency and Alternate process for Panel members. However, I have concerns about options which seek to limit the number of terms that Panel members can serve. It is important that the Panel has the relevant expertise to fulfil its duties and limiting terms risks the loss of significant expertise. Therefore, i believe those proposals (Original, WACM 4 and WACM 5) which limit terms are negative against the applicable CUSC Objectives.</p> <p>Of those proposals that remain (WACM 1, 2, 3 and 6), I do not find the evidence presented about the current CUSC Panel process compelling. However, i do not think they would necessarily make the process worse, so believe all of these better facilitate the CUSC Objectives as they improve transparency and the Alternate Panel member process.</p> <p>It is difficult to specify exactly which proposal may best facilitate the CUSC Objectives. I have chosen WACM2, as the combination of voting groups and independent members appears to mitigate the most of the perceived issues raised, despite the limited evidence for this.</p>					

Panel member – Garth Graham

	Better facilitates ACO (a)	Better facilitates ACO (b)?	Better facilitates ACO (c)?	Better facilitates ACO (d)?	Overall (Y/N)
Original	N	N	N	N	N
WACM 1	Neutral	Y	Neutral	Y	Y
WACM 2	N	N	N	N	N
WACM 3	N	N	N	N	N
WACM 4	N	N	N	N	N
WACM 5	N	N	N	N	N
WACM 6	Neutral	Y	Neutral	Y	Y
Voting statement					
<p>Changes to the governance arrangements from those first introduced by the Secretary of State and then reviewed / amended by the Authority via three subsequent Code Governance Reviews should not be undertaken lightly. It should be remembered that the CUSC is (as the Authority set out in their submission to the CMA) a multilateral contract and, as Parliament recognised when establishing the CUSC, the quid pro quo of obligating parties via their licences to be bound by the CUSC is that those parties have a role to be able to raise Modifications and elect some members to the Panel (with others members of the Panel appointed by Consumers, the Authority and the Company).</p>					

Given this, some of the proposed changes would be detrimental to the Applicable CUSC Objectives. Looking at the component elements that make up the Original and associated WACMs I believe that the grouping plus capping of the number of votes by parent company entity could be better (in terms of Objective (b)) as it will improve the perception of fairness.

However, other elements such as appointing two salaried and independent Panel members would be detrimental in terms of costs. Furthermore I'm not certain that the additional involvement of further non contracted parties will improve the experience or knowledge required when the Panel is assessing an individual CUSC modification. As such I believe this element to be detrimental in terms of competition (b) and the efficiency of the CUSC (d).

Related to this is the suggested two term limit (four years in total) on Panel members. It seems to me that if stakeholders wish to elect a person to the Panel that they should be able to do so, including those with more than four years of Panel experience. Such limitations would, in my view, reduce the pool of available talent for Panel election and thus be detrimental to the administration of the CUSC (d). I note, in passing, that there appears to be no such four year total term limit imposed on those Panel members who hold unelected positions and I believe that members of the Authority are appointed for periods greater than four years also.

I think that it would be better in terms of competition (b) and efficiency (d) if more details around the Panel election were to be published. In terms of maintain a register of Panel members financial interests (over and above their employment) it seems to me that this would be less efficient in terms of (d) as it would be a burden for all concerned to administer. In addition it may put off persons considering becoming Panel members (as well as giving rise to concerns, under GDPR, around personal data). I'm also mindful that if introduced then it would need to be applied to all Panel members (elected and unelected) to ensure a consistency of approach but in a way (as the Authority does with its minutes) that does not disclose which Panel member (elected or unelected) is potentially conflicted.

Panel member – Harriet Harmon

	Better facilitates ACO (a)	Better facilitates ACO (b)?	Better facilitates ACO (c)?	Better facilitates ACO (d)?	Overall (Y/N)
Original	No	Neutral	Neutral	No	No
WACM 1	Yes	Neutral	Neutral	Yes	Yes
WACM 2	Yes	Neutral	Neutral	Yes	Yes
WACM 3	Yes	Neutral	Neutral	Yes	Yes
WACM 4	No	Neutral	Neutral	No	No
WACM 5	No	Neutral	Neutral	No	No
WACM 6	Yes	Neutral	Neutral	Yes	Yes
Voting statement					

We previously supported the original proposal, but we believe the risk of not having adequate numbers and/or experience on the Panel in future as the result of the proposed limit on panel member tenure has not been suitably resolved and so remains a material concern. On balance, however, we believe there are merits in all other components of the original proposal and as such we support those WACMs which do not have the tenure limit component included - we believe each will further Applicable CUSC Objectives (a) and (d) due to the removal of those actual and/or perceived barriers in the election process and so the expected increase in the engagement of both smaller parties and newer entrants and potentially in the resulting panel composition. We believe that alongside the introduction of independent panel members this will provide more diversity in the overall panel experience and should therefore lead to more efficient outcomes. Therefore, we believe that WACM1, WACM2, WACM3 and WACM6 all better facilitate the applicable CUSC objectives with WACM2 being our preferred WACM as it is the closest to the original proposal but without the component which remains a concern as above.

Panel member – Trevor Rhodes

	Better facilitates ACO (a)	Better facilitates ACO (b)?	Better facilitates ACO (c)?	Better facilitates ACO (d)?	Overall (Y/N)
Original	N	N	Neutral	N	N
WACM 1	Y	Neutral	Neutral	Y	Y
WACM 2	N	N	Neutral	N	N
WACM 3	Y	N	Neutral	Y	N
WACM 4	N	N	Neutral	N	N
WACM 5	N	Neutral	Neutral	N	
WACM 6	Y	Neutral	Neutral	Y	Y
Voting statement					
The original proposal seeks to address transparency in the process and successfully addresses this. On balance, I find that WACM 1 supports the proposal, but addresses the concern that the changes may limit the panels ability to discharge its obligations efficiently.					

Panel member – James Anderson

	Better facilitates ACO (a)	Better facilitates ACO (b)?	Better facilitates ACO (c)?	Better facilitates ACO (d)?	Overall (Y/N)
Original	Neutral	No	Neutral	No	No
WACM 1	Neutral	Yes	Neutral	Yes	Yes

WACM 2	Neutral	No	Neutral	No	No
WACM 3	Neutral	No	Neutral	No	No
WACM 4	Neutral	No	Neutral	No	No
WACM 5	Neutral	No	Neutral	No	No
WACM 6	Neutral	Yes	Neutral	Neutral	Yes
Voting statement					
<p>Although there is no evidence that the current election process is detrimental to competition, grouping the number of votes from each parent company may improve the perception of fairness and may marginally better facilitate competition (ACO b).</p> <p>The appointment of two independent (Salaried) Panel members increases the cost of administering the CUSC, will not necessarily improve the level of knowledge applicable to all the proposals during a Panel term and reduces the number of industry Panel Members. It potentially reduces competition (ACO b) and efficiency (ACO d).</p> <p>A limit of two terms on Industry Panel Members potentially reduces the pool of talent available to the Panel (recent Panel elections indicate this could exclude up to one third of interested candidates) and would potentially reduce the efficiency of administering the CUSC (ACO d).</p> <p>Publishing more detail on the outcome of Panel elections improves transparency and may better facilitate competition (ACO b). Maintenance of a register of Panel Members' financial interests in the industry would add an additional administrative burden on both the Code Administrator and Panel members and may deter some potential Panel members. Overall it is probably detrimental to efficiency (ACO d).</p> <p>The Original and Alternates are neutral against ACOs (a) and (c).</p> <p>On this basis only WACMs 1 and 6 overall better meet the Applicable CUSC Objectives than the current baseline.</p>					

Panel member – Robert Longden

	Better facilitates ACO (a)	Better facilitates ACO (b)?	Better facilitates ACO (c)?	Better facilitates ACO (d)?	Overall (Y/N)
Original	N	N	N	N	N
WACM 1	Neutral	Y	Neutral	Y	Y
WACM 2	N	N	N	N	N
WACM 3	N	N	N	N	N
WACM 4	N	N	N	N	N
WACM 5	N	N	N	N	N
WACM 6	Neutral	Y	Neutral	Y	Y
Voting statement					

The Proposer and the work group process has not provided sufficient evidence that the current CUSC governance regime is detrimental to competition, or that the proposed changes would increase efficiency in the administration of the arrangements. It is unclear how any "independents" would improve the CUSC processes and there is no detail of how they would be held accountable for their decisions which affected the liabilities of CUSC parties. Ofgem provide full oversight of all CUSC activities at present, together with an independent Chair. No evidence has been presented that these are either inadequate or unfit for purpose. Artificially restricting the number of terms which can be served by Panel members will serve to dilute the available pool of expertise and threaten the benefits of relevant experience. No evidence has been presented that companies under a parent either actively or passively align themselves to a particular position. Given the increasing diversity of companies operating in the sector, with different business models, subsidiaries are highly likely to develop individual positions which reflect their situation. This would suggest that WACM 6 would be the logical choice. However, given that there may be a perception of implicit alignment, which could be difficult to disprove, WACM 1 is the preferred solution.

Panel member – Paul Mott

	Better facilitates ACO (a)	Better facilitates ACO (b)?	Better facilitates ACO (c)?	Better facilitates ACO (d)?	Overall (Y/N)
Original	Neutral	No	Neutral	No	No
WACM 1	Neutral	Yes	Neutral	Yes	Yes
WACM 2	Neutral	No	Neutral	No	No
WACM 3	Neutral	No	Neutral	No	No
WACM 4	Neutral	No	Neutral	No	No
WACM 5	Neutral	No	Neutral	No	No
WACM 6	Neutral	Yes	Neutral	Yes	Yes

Voting statement

Publishing more detail on the outcome of Panel elections improves transparency, and could better facilitate competition. The proxy appointment process in all variants is a clear improvement. Ofgem is able today to appoint an additional panellist if it feels this is warranted; it also provides full oversight of all CUSC activities, and we benefit from an independent Chair. A ban on consecutive terms of service of panel members could force experienced panel members from their posts, which could reduce the efficiency of administration of the CUSC (ACO d), and given the very limited number of candidates involved in the election process over the years, leads to a risk of not having adequate Panellist numbers and/or experience. The available talent pool is if anything shrinking as companies

cut back their regulatory teams. Continuity, with transparent voting will allow selection of the most effective candidate. On the matter of a cap on group votes; this is finely balanced as some companies within a group may wish to vote differently to other parts of the same group in Panel elections; they may not vote alike, with increasing divergence between different business units in the sector; however, capping the number of votes from each parent company may improve the perception of fairness and may thus, notwithstanding the aforementioned drawback, very marginally better facilitate competition (ACO b). All Alternatives which contain the Independent Model or Consecutive Terms are equally as unattractive as the Original Proposal in terms of facilitating ACOs (b) and (d).

Vote 2: Which option is the best?

Panel Member	Best Option?
Paul Jones	WACM6
Andy Pace	WACM 2
Laurence Barrett	WACM 2
Garth Graham	WACM 1
Harriet Harmon	WACM 2
Trevor Rhodes	WACM 1
James Anderson	WACM 1
Robert Longden	WACM 1
Paul Mott	WACM 6

Breakdown of voting:

Option	Number of votes
Original	0
WACM1	4
WACM2	3
WACM3	0
WACM4	0
WACM5	0
WACM6	2

There was no majority vote by The CUSC Panel