

**Minutes and Actions Arising from Meeting No.40
Held on 12th January 2005
At NGT House, Warwick Technology Park, Warwick, CV34 6DA**

Present:

Richard Court	RC	Panel Chairman
Richard Dunn	RD	Panel Secretary
Ben Graff	BG	National Grid Company Representative
David Edward	DE	Authority Representative (via teleconference)
Rupert Judson	RJ	Panel Member
Malcolm Taylor	MT	Panel Member (via teleconference)
Bob Brown	BB	Panel Member
Simon Goldring	SG	Panel Member (via teleconference)
Steve Drummond	SD	Panel Member
David Lane	DL	Panel Member (via teleconference)
Paul Jones	PJ	Panel Member

1 Introductions/Apologies for Absence

166. Apologies for absence were received from Chris Murray, John Greasley, Hugh Conway and Dick Cecil.

2 CAP077 Working Group Report

167. Steve Drummond gave the Panel a presentation on the CAP077 Working Group report.
168. SD indicated that the crux of the defect in the CUSC was that, whilst the CUSC currently has provisions (Paragraph 8.2.3.3) to change the Implementation Date if necessary in the event of a legal challenge in the case of an Approved Amendment, it does not have provisions to change Implementation Dates if necessary in the event of a legal challenge in the case of rejected Amendment Proposals. It also does not have provisions to change Implementation Dates for those Amendment Proposals which were initially approved by the Authority, but have become the subject of an Appeal, which means that the original implementation date is no longer viable, were the Authority approval decision to be ultimately upheld.
169. The Working Group developed a solution to remedy this defect which restricted the scope of the Amendment Proposal to situations involving legal challenge whilst maintaining existing governance arrangements. The process for this solution was then developed. The first process approach, favoured by all the Members of the Group except for NGC, was that once NGC had issued a notice to CUSC Parties indicating that a legal challenge to an Authority Decision had been granted leave to proceed, NGC would determine if the Implementation Date was still viable. If it was not, NGC would consult CUSC Parties on a revised date, receive responses to the consultation and then determine a revised proposed Implementation Date which would be provided to the Authority and notified to CUSC Parties. A second process approach was identical in all respects to the first approach except that the consultation loop with CUSC Parties was not included in the process. This second approach was supported by NGC and no other Member of the Working Group and

became the Working Group Alternative Amendment (WGAA). All Members of the Working Group however were unanimous in their view that the Amendment Proposal and the WGAA both better facilitated the achievement of the Applicable CUSC Objectives.

170. SD commended the Working Group report to the Panel and indicated that CAP077 had raised a number of complex issues that had required considerable discussion to resolve. He thanked the Members of the Working Group for their contributions to the discussion and for their patience and determination in identifying the solution to remedy the defect.
171. During discussion of the Working Group report, MT asked if it was intended, as the process diagram for the first approach suggested, that NGC should consult CUSC Parties in the event that it decided that the Implementation Date was still viable following a valid legal challenge to an Authority Decision. SD indicated that the Working Group had discussed this issue and agreed that there should be a notification in these circumstances rather than a consultation. BB noted that the text of the report and the legal text for the Amendment Proposal and the WGAA indicated that there would be notification rather than consultation in the event that NGC considered the Implementation Date was viable so that it was only the process diagram that was out of step. The Panel agreed that the first Process diagram in the Working Group should be amended to ensure consistency with the text of the report and the legal drafting. BG indicated that NGC would keep the Panel and CUSC Parties informed (e.g. via the meeting agenda) of Authority Decisions subject to legal challenge. This would also include instances where NGC considered the existing Implementation Date was viable. SD informed the Panel that there was also one minor correction necessary in the legal drafting for the WGAA in the Working Group report – in the second line of the new Paragraph 8.2.3.4 the word “for” should be inserted after “the Authority”.
172. Subject to the incorporation of these minor amendments to the Working Group report as described above, the Panel agreed that:
- a) the CAP077 Terms of Reference have been met;
 - b) CAP077 should proceed to industry Consultation;
 - c) the Consultation Report should be issued as soon as possible and by 14th January 2004; and that
 - d) the agreed CAP077 Assessment Timeline continues to be adhered to.

Action: SD/BG

3 Record of Decisions – Headline Reporting

173. The Panel Secretary would circulate an outline Headline Report after the meeting and place it on the National Grid website in due course

4 Date of Next Meeting

174. The next meeting was scheduled for Friday 28th January 2005 at the Brandon Hall Hotel, Brandon, near Coventry commencing at 10.30am. However, BG indicated that NGC would not raise any new Amendments Proposals and were not aware of any that may be raised by CUSC Parties. The only substantive business was likely therefore to be the six monthly report from the BSSG and approval of revised Terms of Reference for the BSSG (deferred from the December meeting). He asked if Panel Members were aware of any Amendment Proposals that might be put forward for the

meeting and, if not, whether they were content for the meeting to be cancelled and the report from the BSSG and Terms of Reference dealt with in correspondence. Panel Members were not aware of any Amendment Proposals that CUSC Parties intended to put forward for the meeting on 28th January and agreed that the meeting should be cancelled should no Amendment Proposals be put forward by 3pm on Thursday 20th January and the six monthly report from the BSSG and revised Terms of Reference dealt with in correspondence.

Action: RD/JG