

Minutes and Actions Arising from Meeting No.43 Held on 18th March 2005 At Brandon Hall Hotel, Brandon, near Coventry

Present:

Richard Court	RC	Acting Panel Chairman
Richard Dunn	RD	Panel Secretary
Ben Graff	BG	National Grid Company Representative
Hugh Conway	HC	EnergyWatch Representative
David Edward	DE	Authority Representative
Rupert Judson	RJ	Panel Member
Malcolm Taylor	MT	Panel Member
Bob Brown	BB	Panel Member
Dick Cecil	DC	Alternate Member
Steve Drummond	SD	Panel Member
David Lane	DL	Panel Member

In Attendance:

Phil Collins	PC	NGC
Lilian MacLeod	LM	NGC

1 Introductions/Apologies for Absence

175. Apologies for absence were received from Chris Murray, John Greasely, Simon Goldring, Steve Phillips and Paul Jones. Dick Cecil was acting as the formal Alternate for Simon Goldring and Malcolm Taylor was acting as the formal Alternate for Paul Jones.

2 Final Versions of Minutes of the Meetings held on 17 December 2004 and 12 January 2005

176. The minutes of the 39th Amendments Panel meeting held on 17th December 2004 had been agreed in correspondence with Panel Members, given that the regular scheduled January meeting of the Panel had been cancelled, and published on the National Grid CUSC Website.
177. The minutes of the 40th Special Amendments Panel meeting held on 12th January 2005 had been agreed in correspondence with Panel Members given that the regular scheduled January and February meetings of the Panel had been cancelled, and published on the National Grid CUSC Website.
178. The Panel were happy to accept that the minutes agreed by correspondence were an accurate record, and had no further comments to add on them.

3 Review of Actions

179. All the outstanding actions from the previous meeting had been completed or were

the subject of agenda items except for the following:

Minute 99 (Minute 85 – Treatment of Charging Issues within CUSC Reports). BG noted that Ofgem had asked NGC to provide some draft guidelines after BETTA Go-live aimed at ensuring Charging and other non-CUSC issues were always treated in a way that was wholly appropriate within CUSC Consultation and Amendment Reports. BG indicated that no specific examples of NGC having inappropriately used charging material within CUSC documentation had ever come to light, but nevertheless, it was important that the Panel and Ofgem both understood and were comfortable with the treatment of such material going forwards. Hence he agreed to bring some draft guidelines back to the April Panel for further discussion.

Action: BG

4 New Amendment Proposals

- **CAP079 – CAP084 – Housekeeping Amendments**

180. BG presented CAPs079-84 and explained that these were routine Housekeeping Amendments. The Panel AGREED that CAPs079-084 should go straight to Industry consultation. BG indicated that NGC would allow four weeks for the consultation period.
181. MT welcomed NGC's raising of these housekeeping Amendments, but described them as being an example of NGC doing the best they could within the existing arrangements in this area. He noted that Ofgem had undertaken to review its activities and introduce "lighter touch" regulation where appropriate in its 2005/06 Business Plan. He suggested that simplified arrangements for dealing with Housekeeping Amendments was an area where lighter touch regulation would be appropriate. Treating such amendments in the same way as more substantive amendments was an entirely inefficient use of the Panel's time and indeed that of NGC and CUSC Parties. He requested that Ofgem review this area with a view to identifying more streamlined arrangements.
182. DE said that recent experience on other codes indicated that mods ostensibly proposed as Housekeeping Amendments could under further examination have a material effect if implemented and it was sometimes difficult to draw the line on whether a Housekeeping Amendment could be treated in a more streamlined manner such as the way suggested. In addition, developments such as the need for Regulatory Impact Assessments (RIAs) and the new Appeals mechanisms for Ofgem Code decisions placed greater requirements on Ofgem to follow due process rather than adopt lighter touch regulation in this area. The BSC Panel had discussed the possibility of a similar change recently but to date nothing had been formally raised at the BSC Panel. However, the Network Code had successfully implemented a streamlined approach by way of the consents to modify procedure for Housekeeping Amendments.
183. DC disagreed that developments such as RIAs and the new Appeals mechanism meant that Housekeeping Amendments could not be subject to lighter touch regulation. He believed these new developments required Ofgem to improve the quality of its decision making rather than complicate the decision making process further.

184. BG highlighted that this was an area that he had been considering for some time, and he entirely agreed with MT's views that the current system was somewhat less than optimum. However, BG also agreed with DE's points that any streamlined processes would need to ensure it contained the appropriate safeguards to protect the industry. BG said he would continue to consider these issues further and would bring some further thinking, or potentially even a CUSC Amendment proposal to the April Panel.

5 Standing/ Working Group Reports

- **Balancing Services Standing Group**

185. BB presented the BSSG report and gave the Panel a presentation on the work of the Group. The Group had spent much of the latter part of 2004 considering CAP076 as a Working Group. A Progress and Way Forward Report had been circulated to the Panel in January 2005 and a further six month extension to the Group's activities had been provided by the Panel. The Group had held two meetings so far in 2005.
186. On Frequency Response the Group would concentrate on the arrangements for implementation of CAP047 from 1st October 2005. This included a review of the process to determine if there were any obvious errors and associated areas where further consideration may be required (such as monitoring delivery). NGT had undertaken to keep the Group informed of IT developments prior to implementation. The Group was also considering models for longer term response developments. Including the separation of response from the energy market and integration of response into the Balancing Mechanism. Further work was ongoing to develop appropriate market models and a workplan. There was also a possible interaction with NGC's own Reserve Review. BB particularly drew attention to a slide on the Time Line for the first month post-CAP047. It was agreed that a number of points raised by Panel Members in connection with the TimeLine and CAP047 should be referred back to the BSSG for further consideration. These points (with answers in italics subsequently provided by John Greasley, Chairman of the BSSG) were:
- What should be the latest stage at which an agreed price for the service can be withdrawn, or put another way when should the agreed price be binding on the provider? (*Answer – at the end of the 15th business day of the month. This is the time by which a provider has to submit prices for the next following month*).
 - Should a manifest price error be referred back to the provider as a matter of course before the corrected price is published? (*Answer – the CUSC specifies a process where NGC publish all submitted prices on BD +16. The user then has a short opportunity to identify if any manifest errors in publication has occurred*).
 - Will the price information be ready for implementation of CAP047 on 1st October 2005 i.e. will prices be established in September/October so that the regime is operating in full on 1st October? (*Answer - NO. The CUSC changes on 1 October. This means that the month ahead submission process comes into effect then. So the first submissions of monthly prices is mid October to be effective for despatch from 1 November*).

- When they were properly developed, was it the intention of NGC and the BSSG to explain the IT arrangements for CAP047 at the Operations Forum? *(Answer – Yes, NGC can do this nearer the time).*

Action: BB & JG

187. On Maximum Generation, the contract and payment mechanisms were now contained within the CUSC. There had been no service utilisation over winter 2004/05 and no specific actions necessary to progress the service. On Reactive Power, the Group had maintained a watching brief and had reviewed existing market information. Again no specific actions had been identified to progress the current arrangements. MT asked if the BSSG could be formally informed of Customers' views relating to Reactive Power and the Panel agreed these should be provided.
188. The final area that the BSSG were looking at was Buy-Out of Mandatory Services and Distributed Generation. There would be a presentation to the CUSC Panel in due course on Buy-Out and work concerning Distributed Generation was at a very early stage. In the wider context of Distributed Generation, MT noted that there were a wide range of Groups currently looking at various Distributed Generation issues (such as DUoS and active service management by the DNOs), many of whom were sponsored by the DTI/Ofgem. DE confirmed that the aim was to publish a consolidated paper on these issues by the end of 2005. MT suggested it would be helpful for the BSSG to be aware of these various Groups and asked if Ofgem could provide a list of the various groups examining Distributed Generation issues under their auspices. DE agreed to provide a note on the Groups and what aspect of Distributed Generation they were considering.

Action: DE

189. Membership/representation of E & W companies on the BSSG was generally good but there was limited representation of Scottish based companies and a limited representation of the smaller players within the Industry. MT believed British Energy, which provided a Member of the BSSG, provided representation of Scottish Companies but other Panel Members believed this constituted very limited representation.
190. The Panel NOTED the report by the BSSG.

6 Consultation Reports

191. There were no new consultation reports.

7 Amendment Reports

- **CAP076 (System to Generator Intertipping Schemes)**

192. The Panel noted that the CAP076 Amendment Report had been provided to the Authority on 2nd March 2005. RC asked whether an RIA would be required for CAP076 and if not when an Authority Decision could be expected. DE indicated that an RIA for CAP076 was unlikely and suggested that without an RIA an Authority Decision might be published by the end of April.

- **CAP077 (Implementation Dates)**

193. The Panel noted that the CAP077 Amendment Report had been provided to the Authority on 10th February 2005. DE indicated that an Authority Decision could be expected within the next few weeks.

8 Authority Decisions

- **Changes to CUSC as a result of BETTA**

194. BG gave the Panel a presentation on the changes to CUSC that had been made in recent weeks and due to be made on BETTA Go-Live date following directions from Ofgem. The introduction of BETTA had heralded a time of considerable change within the industry. The legislative and contractual framework now included an entirely new Code – System Operator/Transmission Operator Code (STC). However, the CUSC itself had not changed hugely from the England and Wales CUSC. This was in part because of some of the Conclusions to earlier Ofgem/DTI Consultations in this area. For example, it had been agreed that the England and Wales CUSC would form the basis for the GB CUSC, and that English Law would apply. (Except in certain very limited circumstances relating to Scottish Property rights.) The Amendments Panel structure and function were also unchanged from the England and Wales CUSC.
195. BG highlighted that provisions relating to limitation of liability, EELPS, Cut-Over and NSLPA's were amongst the most significant changes to the CUSC for BETTA. On limitation of liability a new CUSC "cap" had been introduced at £5m for physical damage, the rationale being that historically Scottish bilateral agreements had contained a "cap," and this had been reflected within the SO-TO Code. BG's understanding was that it had not been considered appropriate for there to be unlimited liability in the CUSC but a set limit within the SO-TO Code. The change was effected in Paragraph 6.12.1 of the CUSC.
196. On EELPS, Scottish "large" embedded generators which had chosen not to sign a BEGA, would now be required to enter into a new form of agreement with NGC called a BELLA. This was because the impact of such generators on the 132kV system was such that agreement with NGC and compliance with the Grid Code would be necessary. The 6.5.1 revisions require DNOs not to energise Large Scottish Embedded Generators without transmission works being complete. A new best endeavours obligation on DNO's in relation to trying to ensure that EELPS signed on to the appropriate agreement with NGC was also put in place. On CUSC Cut-Over issues changes to section 12 of the CUSC were made concerning issuing charges, contingencies regarding entering into a MSA prior to Go Live, and minor clarification regarding disputes and confidentiality. BG also highlighted that changes introduced as part of Cut-Over also meant that a dormant CUSC party (eg a Scottish Transmission Owner and former Interconnector Error Administrator) could now leave the CUSC, unless their Licence required them to remain a party to the framework. Previously, a Licensed party would have had to remain a dormant CUSC party, irrespective of the precise requirements of that Licence. (One of the intended features of the new CUSC clearly being that Scottish Transmission Owners should not be a party to it.)
197. Other issues included changes to CUSC to accommodate Scottish Nuclear Site

Licence Provisions Agreements (NSLPAs), governance changes relating to the GB Elections. BG highlighted that the recent GB election had been seen as a special “extra,” election and the CUSC still made another Panel election mandatory later this year. BG also highlighted that going forwards there would be a need to co-ordinate CUSC changes with changes to the SO-TO Code, and to give updates to the CUSC Panel as to matters of interest that were raised at the SO-TO Code Committee. BG took an action to provide a written explanation as to why another CUSC election was required later this year, at the April Panel.

Action: BG

198. In response to a question from MT, BG confirmed that references to “NGC” referred to the licensed entity in its entirety and, for example, in the context of BETTA was not only a reference to NGC’s role as the GBSO.

9 Presentation on GB Offers and Connection Boundaries

199. PC gave the Panel a presentation on Transmission and Distribution - GB Offers and Connection Boundaries (attached). The presentation was in response to questions raised by MT in a note dated 15th March covering a paper by Chandra Tikha that had been considered by the DCRP and mentioned at GCRP previously and sought to give a perspective as to where and in what circumstances Generation might be Transmission or Distribution connected.
200. In the Panel discussions DL highlighted that all DNO’s had an obligation to interpret their sometimes differing Licence obligations in determining whether or not to make a DNO Offer. Hence, this was a complex area, and it could not be said that there was one set of clearly defined principles in this area. The Panel agreed that this was indeed the case, as it was very much for each DNO to interpret their Licence obligations, just as NGC had to follow its own Licence in making Transmission Offers for Connection and Use of System.
201. PC described the principles of ownership that had been established at Vesting for transmission, generation, distribution and non-embedded customer’s assets and described the transmission boundary changes that had been introduced from April 2004 following the Review of Connection Charging Methodologies. He also described a number of transmission connection configurations such as generation and demand and generation only spurs and distribution connection configurations involving embedded generation and demand. Rights of entry to the transmission system were currently defined by TEC. A supplier should in principle be required to pay for any spill at GSPs but the issue of exporting GSPs would need to be considered in the context of the whole issue of rights of exit in due course.
202. The connection example that was more difficult to define involved transmission connection to a distribution owned substation which was in turn connected to a generator, but with no demand connected to the distribution owned substation. On the one hand the DNO had a licence responsibility to respond to a request from the generator but it had no firm rights to export the generation onto the transmission system. The DNO could respond to the application by building its own assets to connect the generator or referring the application to the transmission company. DE noted that the Distribution Companies were seeking to develop a consolidated document and governance in this area and Ofgem would consult on the appropriateness of including some connection agreements in any new document. The Distribution Companies were actively considering these issues with Ofgem and

others although an agreed Code was unlikely to emerge before April 2006.

10 Report on Other Industry Documents

203. MT reported on developments at the BSC and Grid Code Review Panels since the previous regular CUSC Panel meeting. The BSC Panel had approved final Modification Reports for submission to Ofgem on Emergency Instructions and Implementation Dates. Brian Saunders would be leaving Elexon shortly and would be replaced by Stuart Senior. On the Grid Code, Grid Code Panel Members had been re-appointed in February.. NGC had indicated that it would cease to provide serviced copies of the Grid Code from the end of 2005.
204. At the TCMF the debate focused on the 6 conditions Ofgem had placed on their approval of the GB Charging Methodology. Some of these could input to the CUSC such as any long term solution to negative demand charges, longer term access products and pricing for incremental capacity. MT referred to a statement in Ofgem's draft Business Plan and asked if Ofgem intended that auction arrangements should be included as part of the longer term access product arrangements for electricity. RC indicated that auctions were not the only answer in this area but it was clear that longer term pricing options were required in this area. DE responded that auctions were among a range of options that could be considered by interested parties. MT indicated that there was unlikely to be any support forthcoming for auction arrangements from customers should they form part of the arrangements.
205. RC reported on the first meetings of the STC. Membership of the STC was NGC, SP, SSE and a representative from Ofgem. NGC were finalising the Code and the Schedules in preparation for Go-Live. There were also about forty Procedures under the Code which would be finalised and incorporated into the Code before Go-live.

11 Any Other Business

- **Appeals Procedures and Implications for CUSC**

206. SD circulated MAR-05-01 to Panel Members which comprised an update on progress to introduce an appeals mechanism under the Energy Act 2004. SD explained that the consultation processes undertaken by the DTI and the Competition Commission about the arrangements for appeals against Code decisions by Ofgem under the 2004 Act had been delayed and a regime would not therefore be introduced on 1st April (the original target date). There was likely to be at least a two month delay. A number of policy issues including whether to exempt decisions for security of supply reasons, which Codes would be subject to the appeal arrangements and the threshold number of responses to consultations which would rule out an appeal were still to be decided. In the circumstances SD recommended to the Panel that the Governance Standing Group (GSG) should not be reformed at this stage in the absence of any details of the appeals arrangements to consider.
207. DC indicated that he had discussed the issues raised by the appeals arrangements with the Competition Commission and had agreed to raise the issue of exclusions to the appeal arrangements with the CUSC Panel. This was an issue that the GSG would need to address in due course but he agreed that it was not appropriate for the GSG to re-convene at present. The GSG would also need to consider how the

views of Panel Members could be ascertained. Panel Members often responded to consultations on behalf of their parent Companies but would need to have an independent view as a Panel Member which could lead to conflicts of interest. BG indicated that Section 12 of the Amendment Report was intended for the recording of the views of Panel Members, but highlighted the differences in process between the CUSC and BSC which meant that CUSC Panel Member views could not be sought formally at Panel immediately prior to sending a Report to Ofgem. However, he also noted that NGC did explicitly ask for Panel Members views in their capacity as Panel Members when Reports were sent out in draft for five days, prior to them going to the Authority. BG agreed with DC/SD that the way in which this provision was utilised would need to be re-visited when more clarity had emerged as to the precise filter mechanisms which were to be used in the context of the new Appeals mechanism. . The Panel AGREED that the GSG should not be re-formed at this stage to consider the appeals arrangements.

12 Record of Decisions – Headline Reporting

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

13 Date of Next Meeting

209. The next meeting will be held on Friday 22nd April 2005 at the Brandon Hall Hotel, Brandon, near Coventry commencing at 10.30am.