

Minutes and Actions Arising from Meeting No.49 Held on 23rd September 2005 At Brandon Hall Hotel, Brandon, near Coventry

Present:

Richard Court	RC	Acting Panel Chairman
David Payne	DP	Panel Secretary (Acting)
Ben Graff	BG	Panel Member (National Grid Rep)
John Greasley	JG	Panel Member (National Grid Rep)
Hugh Conway	HC	Panel Member (EnergyWatch Rep)
David Edward	DE	Authority Representative
Rupert Judson	RJ	Panel Member (Users Member)
Malcolm Taylor	MT	Panel Member (Users Member)
Bob Brown	BB	Panel Member (Users Member)
David Lane	DL	Panel Member (Users Member)
Steve Drummond	SD	Panel Member (Users Member)
Steve Phillips	SP	Panel Member (Users Member)
Paul Jones	PJ	Panel Member (Users Member)
Dick Cecil (Part Time)	DC	Panel Member (Users Member)
Simon Goldring (Part Time)	SG	Panel Member (Users Member)

In Attendance:

Tony Diccio	TD	NPower
Garth Graham (Part Time)	GG	SSE
Kathryn Coffin	KC	Elexon

Introductions/Apologies for Absence

448. Apologies for absence were received from Simon Cocks and Lindsey Paradine.
449. RC introduced GG and TD who would be attending as new Panel members from the next meeting.

1 Minutes of the Meeting held on 25th August 2005

450. The change-marked minutes of the 48th Amendments Panel meeting held on 25th August 2005 circulated on 15th September were agreed subject to the following amendments:
- The next meeting would be on **Friday** 23rd September.
 - In Minutes 416 and 418 ad the word 'and' after '...Terms of Reference....'
 - Amend Minute 428 after the second bullet point to read 'With respect to the first element Working Group members had agreed that there **should be** no problem if the Chair had the authority to appoint members to the Working Group **and then subsequently** they were approved as members by the Panel....'

2 Review of Actions

451. All the outstanding actions from the previous meeting had been completed or were the subject of agenda items except for the following:
452. Minute 388 (CAP096 Revisions Resulting from Interconnector Separation – associated Ofgem/Dti Consultation). DE had agreed to update the Panel on progress with the Ofgem document. DE noted that there had been no word from the Dti on progress but expected to be able to provide a more definitive response before or at the next Panel meeting.
- Action ongoing: DE**
453. Minute 389 (Acronym List). National Grid had provided a list of acronyms for inclusion on the Industry Information website. It was noted that terms could be added or amended as required. It was also noted that this was not a legal document and a caveat indicating this would be included with the acronym list
454. Minute 395 (CAP105 – Company Name Change amendment issue). CAP105 contained a proposal to include a clause that would enable changes to existing CAPs containing references to NGC that would be implemented after CAP105 to have NGC replaced with NGET. The intention of this clause was to avoid the need for numerous housekeeping changes for non-material changes. DE and BG had discussed the issues arising following the August Panel meeting. DE expressed concern with the introduction of a clause which purported to make changes to future modification proposals although it was recognised that this could be a pragmatic approach to benign change proposals. The difficulty for Ofgem arose when affected change proposals were less benign. BG felt that given that all with other Industry codes the name change had been approved, there were two ways for CAP105 to proceed:
- Ofgem indicates that they are satisfied procedurally
 - An Alternative is raised during the CAP105 consultation to remove the affected clause. National Grid would not want to pursue this approach.
455. RC indicated that there may be a need to accept that future housekeeping changes would be required. SP suggested that the Panel Secretary could refuse to accept any future CAPs that contained incorrect references to NGC. BG pointed out that this would not be possible as NGET was not yet a defined term in the CUSC so NGC currently still had to be used.
456. Minute 413 (Bullet point list for Governance Standing Group to consider in relation to limitation of number of Working Group Alternative Amendments). MT explained that this action had been overtaken by events and the GSG were already in possession of an appropriate list.
457. Minute 439 (Provide a paper on detailed CAP086 Processes). BG explained that the approval of CAP086 had resulted in the need for a clear process to agree on a single implementation date where disparity existed. The paper provided to the Panel aimed to codify and clarify the process. The process was intended to result in agreement on one implementation date to be put to the Authority. The date to be provided would be date that most Panel members supported following e-mail and (if necessary) tele-conference discussion. This was intended to be an interim procedure as there was currently no concept of reports going back to the Panel prior to being sent to the Authority. However CAP100/101 would address this issue. BG also noted that only one implementation date can be included in the Report. However there had been few instances of disagreement on dates in the past.

3 New Amendment Proposals

458. There were no new amendment proposals for discussion at this meeting.

4 Withdrawn Amendment Proposals

CAP96 - Revisions Resulting from Interconnector Separation

CAP98 - Reassessment of Suppliers Value at Risk

CAP102 - Revision of CUSC Amendment Provisions to Allow a Proposer to State whether they believe their Amendment has a Security of Supply Dimension which Means in the View of the Proposer it should be Excluded from the Appeals Mechanism by the Authority

459. BG noted that CAP096, CAP098 and CAP102 had already gone through the initial five-day period prior to withdrawal. As there had been no new sponsors the Panel AGREED that these should now enter the final five-day period after which if there still were no new sponsors the Amendments would be withdrawn.

5 Standing/Working Group Reports

- **CAP092 Working Group Report (Consistent Generation Use of System Charge liability provisions for Transmission Access Products)**

460. MT gave the Panel a presentation on the CAP092 Working Group Report. MT noted the considerable effort put in by Working Group members and paid special tribute to Lindsey Paradine and Lilian Macleod as joint Technical Secretary to both the CAP092 and CAP094 Working Groups.

461. MT noted that Working Group members had been aware of a potential link with CAP094 but after consideration had concluded that there was no linkage and so the two amendments were considered separately.

462. The Working Group assessment had focussed on two elements of the proposal:

- Reconciliation of TNUoS and STTEC charges consistent with the proposed cap;
- Impact of the cap on the relative importance/attractiveness of TEC and STTEC

463. The Working Group had concluded that as the original proposal did not contain the necessary legal text to cover the reconciliation process a Working Group Alternative Amendment would be required. The majority of the Working Group did not support the original proposal.

464. With respect to reconciliation, the Working Group had concluded that either an End of Year or a Rolling Monthly reconciliation could be carried out. The Working Group felt that an End of Year process should be the recommended way forward.

465. With respect to the Applicable CUSC Objectives the Working Group had held varying views on whether the amendment met these Objectives with respect to Facilitation of Competition and Efficient Grid Operation. There had also been no consensus on implementation dates.

466. The Working Group recommended that both the original and alternative amendments now go out to consultation and that it should be made clear in the Consultation that the original proposal was not practical whereas the alternative was. No consequential impact on other Industry Codes had been identified although it was suggested that there may be a need for a Charging Methodologies modification.
467. DE stated that given the diverse views expressed by the Working Group, Panel member's views were particularly needed on this proposal. RC pointed out that the Panel could make comments based on consultation responses received. MT noted that Consultees could also propose an alternative. DC stated that obtaining Panel views would mean that the Consultation would have to go back to the Panel and asked if this could be included within the Consultation period. RC did not want to unduly extend the process. BG suggested that when the draft Report was circulated Panel members could send views to National Grid to be included in the Final Report to the Authority. It was agreed Panel members would be asked to do this.

Action: National Grid/Panel members

468. In response to a request from DC for further help with the interpretation of the products offered in terms of what they could be used for, MT stated that there had been substantial discussion and analysis in the development stages of STTEC. This had been captured in the CAP070 Consultation and subsequent Report. MT also suggested that the consultation should be aligned with the upcoming Charging Scenarios paper.
469. With respect to implementation dates MT explained that the arguments for and against were included in the Report although Working Group members were unable to recommend an implementation date. It was agreed that these arguments would be reflected in the Amendment Report. BG highlighted that the Panel, under the CAP086 provisions, now need ultimately to agree an Implementation date, after the Consultation process.
470. RC summarised that the consultation needed to make clear whether it was appropriate to have a cap on two products. Reference should be made to CAP070 and the need for a Charging Modification. In addition the implementation date issue would be highlighted and section 4.2.4 of the Report would be updated to clarify the technology issue.
471. The Panel AGREED that CAP092 should proceed to Consultation for a period of one month and were requested, by Ofgem, to attach their views on the various CAP092 proposals in their capacity as Panel Members, when the draft Consultation was circulated immediately prior to it going to the Authority

- **CAP094 Working Group Report (Limited Duration Transmission Entry Capacity)**

472. MT gave the Panel a presentation on the CAP094 Working Group Report.
473. MT explained that CAP094 had been raised as a result of a perceived dissatisfaction with existing Short Term TEC products where transmission capacity is available up to the end of the extant financial year but National Grid is not in a position to grant enduring TEC rights. This could be due to the time required for analysis of a proposal or because future rights are not available on a full planning assessment

basis. Also there could be a situation where the generator may only need access for the remainder of the extant financial year and would not require enduring TEC rights. CAP094 proposes the introduction of a Limited Duration TEC product which would be limited to within financial year and with no consideration for the following year.

474. The Working Group had considered:
- Identification of the defect;
 - Consideration of the LDTEC product and its interactions
 - Consideration of possible associated product options
 - Consideration of Working Group Alternative Amendment options
 - Implementation dates
475. The Working Group did not support the original proposal as it was not considered practical. In addition some Working Group members did not believe that CAP094 identified a defect. Six alternative amendments were identified 4 of which were single product options and two were combinations of the single products.
476. Working Group members had been unable to agree on implementation timescales, some believing that implementation should be as soon as possible with others believing that implementation should be from the start of the next financial year.
477. No impact on Core Industry Documents or the BSC had been identified although the Working Group recommended that the impact on Charging Methodologies should be considered.
478. BG questioned the primacy of products vs first come first served within year approach. MT explained that any TEC applications close to the end of the financial year would have primacy over any LDTEC applications. This means that LDTEC could only start some time after the start of the new financial year. If an LDTEC application would be interactive with a TEC application the LDTEC applicant would be warned and given the opportunity to withdraw. TD believed this undermined the primacy of TEC but PJ felt that this was only the same situation as would arise with interactive TEC applications.
479. SP asked what rights would new parties within year have to LDTEC. BG stated that any party with TEC and signed on to the CUSC would have access to the process. TEC could be set at zero although the party would need a CEC in order to secure a TEC. RC pointed out that any new generator applying for LDTEC could be refused if appropriate infrastructure was unavailable.
480. SD observed that all the products identified would address the perceived defect but there would be difficulty in identifying one solution to implement. SD anticipated that there would be many differing views arising from the consultation process. MT stated that the Working group had been encouraged to limit the number of alternatives from the many considered. In addition further alternatives could be raised during the consultation. RC stated that the Authority would consider all responses to the consultation and consultees should be encouraged to consider which product best met the Applicable Objectives.
481. The Panel AGREED that CAP094 should go out to consultation for one month and agreed with RC suggestion that the consultation should be broadly aligned with the timescales associated with the upcoming Charging Scenarios paper. It was recognised that until it was clear which product, if any, would be accepted by the

Authority a firm landing on the necessary Charging Methodology could not be reached.

- **CAP093 Working Group Report (Enabling the Flow of Electricity From Distribution Systems Into the Transmission System at Grid Supply Points)**

482. JG gave the Panel a presentation on the CAP093 Working Group Report
483. JG explained that the original proposal proposed amendments to the definitions of Grid Supply Point and Distribution System in the CUSC. The proposal was designed to allow Local Distribution System Operators to continue to meet their obligations to provide connection for both demand and generation. The proposal also asserted that it would also pave the way for the expected connection of significant amounts of embedded generation.
484. Working Group discussions had focussed on analysis indicating that there were GSP's that do export. This analysis was limited to England and Wales although it was expected that the same situation arose in Scotland. Discussions also focussed on the requirement to hold access rights and the interaction with TEC, potential for discrimination and the wider implications of CAP093. In particular the Working Group agreed that the wider issues of the proliferation of embedded generation was highlighted and that something needed to be done. An Ofgem document on Embedded Generation issues was expected to be published soon. DE indicated that this document could be expected in October 2005.
485. The majority of Working Group members agreed that the original proposal better met the Applicable CUSC Objectives. One Alternative was identified that further clarified the definition of Distribution System by clarifying the Distribution Systems can include discrete feeders from a GSP to an embedded generator only.
486. Changes were required to Section 11 of the CUSC. Working Group members agreed that implementation should be within 10 business days following a decision. It was noted that CAP093 would introduce a definition misalignment between CUSC and Transmission and Distribution Licences. There was also a possible interaction with the STC.
487. MT stated that Licenced Embedded Generators were already able to export to the system. If the CUSC was inconsistent with LEG's exporting then the CUSC was at fault and it was important to understand that the Working Group Alternative Amendment corrected this. This was a different issue to how embedded generation was dealt with. JG stated that the view of National Grid members of the Working Group was that where LEG's have a TEC, then it was legitimate for them to export and thus in that case there was no need for change. However there was a broader issue in relation to spill from GSPs which goes beyond those generators which have a TEC.
488. DC felt the use of the term 'export' was not clear in the Report and felt that unless the meaning was clarified there could be difficulties with legal text later. JG stated that the Working Group had worked on the principle that export alluded to the flow of electricity on to the transmission system. SAD suggested that the Report should use 'to' and 'from' for clarity. Other Panel members agreed that the use of the word 'export' was not confusing. JG agreed to ensure that there was no ambiguity in the subsequent consultation document.

489. BG agreed to consider if CAP093 had an impact on the STC.

Action: BG

490. DL raised some issues of accuracy with regard to paragraphs 3.15, 4.2 and 4.8 of the Working Group report. In addition, he would expect National Grid, as Licensee, to express its views in the industry consultation on the issues raised in paragraph 4.8 regarding:

- Whether to consider an exporting GSP a demand connection or a generation connection and the appropriate design standard to form part of the GB SQSS.
- The implementation of CAP093 would not result in any contravention of Electricity Transmission Licence Condition C7 which prohibits discrimination amongst users.
- The appropriate mechanism through which to manage system constraints where exporting GSPs without TEC have a contributory effect.

491. The Panel accepted the Report subject to JG including some points of clarification and agreeing them with DL (*Post meeting note: Version 1.1. of the Report has now been published*). The Panel AGREED that CAP093 should proceed to Consultation for a period of one month.

- **CAP097 Working Group update (Revision to the Contractual Requirements for Small, Medium Embedded Power Stations under 6.5)**

492. BG noted that the CAP097 Working Group had met once since the last Panel meeting and the next meeting was scheduled for October.

493. The Working Group had so far identified at least one Alternative Amendment.

494. The main issue was the knock on effect with the STC and the appropriate threshold levels for CAP097 were under consideration. BG expected to present the Working Group Report to the October Panel meeting.

495. The Panel NOTED the progress to date with CAP097 and NOTED that the Working Group Report would be presented at the October 2005 Panel meeting.

- **CAP099 Working Group Report (Incorporation of Additional Credit Management Tools)**

496. BG gave the Panel a presentation on the CAP099 Working Group Report

497. CAP099 had been proposed by BizzEnergy and proposed that additional credit management tools were incorporated into the CUSC in line with Ofgem's best practice guidelines.

498. The CUSC currently allowed for security of Use of System charges to be provided through the use of Cash in Escrow, a bank Letter of Credit or a Qualifying Guarantee. The CAP099 original proposal sought to allow the use of an insurers Performance Bond, Bilateral Insurance, Independent Security or Advance Payment/Prepayment. Such security would be accepted based on certain criteria:

- The supporting entity has a credit rating of A-
- The support is legally enforceable in the UK
- The country of residence of the supporter has a sovereign credit rating of at

- least A for non local currency obligations
 - There are no material conditions preventing exercise of the security.
- Where these criteria were not met National Grid would accept security but at a discounted rate. Any disputes arising would be considered by an Independent Expert.
499. The proposer believed that allowing products to be accepted below face value where criteria were not met would lead to greater creativity in credit management. The best practice guidelines also stated that products should be accepted at a discount. The counter view argued in the Working Group was that security would be accepted from riskier entities, there were no criteria for determining the value of products and the process would lack transparency.
500. The Working Group had identified one Alternative Amendment where Performance Bonds would only be acceptable if all criteria were met, prepayment would be acceptable and Bilateral Insurance would not be acceptable. This was preferred by a large majority of Working Group members.
501. Working Group members agreed that CAP099 should proceed to wider consultation for a period of one month and suggested an implementation date of 10 days following the Authority decision.
502. MT noted that the Ofgem guidelines did not include criteria. As credit was a universal business issue there would be ways of applying criteria which had been developed elsewhere. BG stated that it had not been obvious to the Working Group where this could be obtained.
503. Panel members discussed the need for an independent expert/group and recognised that the Legal text of CAP099 meant that were an independent credit body to be established the legal text currently referring to a 'independent expert' would need to be changed to accommodate this in the future
504. The Panel AGREED that CAP099 should proceed to Consultation for a period of one month.
- **CAP100/101 Working Group Report**
 - **(Revision of CUSC Amendment Process to Ensure that Amendment Reports Contain a Collective CUSC Panel Recommendation)**
 - **(Removal of the Amendments Panel Chairman's Casting Vote – in Context of Amendments Panel Recommendations)**
505. SD gave the Panel a presentation on the CAP100/101 Working Group Report, noting that the Panel agreed to amalgamate the two amendment proposals at the August Panel meeting.
506. The Amendments were raised as current procedures do not align with the new Appeals process potentially resulting in all Authority CAP decisions being subject to appeal as there is no requirement for Panel members to vote on CAPs. Additionally the proposer argued that the Panel Chair should not be required to vote to avoid conflict of interest.
507. The Amendments proposed that the Panel would consider each Amendment Report and associated responses before being sent to the Authority. A vote as to whether the proposal or the Alternative better facilitated the applicable objectives based on a

simple majority of Panel members and Alternates would then take place on whether to recommend Rejection or Approval. The original Amendment proposed that if appropriate a member/Alternate could have more than one vote or could abstain with the voting results included in the Amendment Report. This was not included in the Alternative Amendment.

508. Implementation of these amendments would lead to the Amendment Proposal process being extended by up to one month.

509. One Alternative Amendment was identified which was basically the same as the original but allowed each Panel Member only one vote. Working Group members recommended that the CAPs now proceed to wider consultation. It was recognised that legal text needed to be prepared before consultation.

510. GG commented that Reports would need to contain Pro/Anti arguments to enable Panel members to vote in an informed manner. BG noted that it was intended that voting comments would be included in Reports. National Grid retained the right to make a recommendation in a Report but the CUSC Panel recommendation would also usually be included.

511. The Panel AGREED that CAP100/101 should proceed to a short Consultation for a period of two weeks.

- **CAP103 Working Group Report (Flexibility of Working Group Internal Procedures)**

512. SD gave the Panel a presentation on the CAP103 Working Group Report. This Amendment proposal was concerned with two areas related to membership of Working Groups and timescales for the circulation of Reports.

513. Currently any person with a desire to be a member of a Working Group has to have the approval of the Panel first. The original CAP proposed that the Working Group could agree membership which could then be upheld or overturned by the Panel later. Working Group members had expressed concern the proposal could lead to a large influx of Working Group members in order to influence arguments. Therefore and Alternative Amendment was identified which proposed that the Working Group Chair would have the authority to appoint members once the initial membership had been agreed by the Panel. The Working Group chair decision would not be subject to any approval or rejection by the Panel.

514. With respect to timescales for circulation of Reports the Working Group agreed that Draft Reports should be allowed between 3 and 5 days for Working Group members to comment on.

515. Working Group members recommended that CAP 103 should proceed to wider consultation. The Panel AGREED that CAP103 should proceed to a short Consultation for a period of two weeks.

- **Governance Standing Group Update**

516. SD gave the Panel an update on the Governance Standing Group. The GSG had considered CAPs 100/101 and 103 which had now been completed and Reports presented to the Panel. CAP102 had been considered but this was now withdrawn. In addition a wider review of Section 8 had been carried out and 9 issues identified

and discussed:

- (a) Filter Mechanism
- (b) Working Group Alternative Amendment Limitation
- (c) Definition of a Working Group Alternative Amendment
- (d) Pending Amendments
- (e) Process Timetable
- (f) Alternates voting rights
- (g) Role of Working Group Chair
- (h) Independent CUSC Panel Chair
- (i) Withdrawal of CAPs

517. No CUSC changes had been identified as necessary with (b), (c), (d), (g) and (h).

518. With respect to Filter Mechanisms no specific CUSC improvements had been identified but the GSG considered further guidelines would be helpful to enable proposers to provide appropriate information on proposals in particular with respect to defining a defect. The Panel asked National Grid to undertake the preparation of such guidelines. BG agreed to come back with proposals to the November CUSC Panel with a possible update of progress at the October Panel.

Action: BG

519. With respect to Process Timetables no specific CUSC improvements had been identified but the GSG recommended that the Panel adopt a Working Practice of allowing no more than one month for Consultations.

520. With Respect to Alternates Votes the GSG had decided to await the outcome of CAP100/101 before considering further.

521. With Respect to the Withdrawal of CAPs the GSG believed that the process could be improved by removing the need for the second 5-day period and recommended that a CAP be raised to cover this.

522. SD stated that the GSG believed its Terms of Reference had now been met and suggested that the GSG could now stand down. The Panel AGREED that the GSG had met its Terms of Reference and AGREED that the GSG should stand down for the time being.

- **Balancing Services Standing Group Report**

523. JG stated that a verbal progress report would be provided at the October Panel meeting as the BSSG had not met since the last Panel.

6 Authority Decisions

524. DE reported that decisions on CAP88 and CAP 95 were expected shortly

7 Report on Other Industry Documents

BSC

525. MT reported that National Grid had raised a Marginal Cash-out Price modification

which had now gone out for a 2 month Assessment period, As such the Cash-out Review Working Group had been revived.

STC

526. BG reported that a change to incorporate the Company name change had been approved. BG also reported that the STC Committee was keen that the impact of CUSC Amendments on the STC was always considered and asked the Amendments Panel to keep this very much in their thinking.

Grid Code

527. BG reported that Bridget Morgan of Ofgem had commented that a Review of Small Generator Charging document was due to be released shortly.
528. MT pointed out that with respect to the issue of the definition of Transmission connections, one AEP member had a connection offer that was inconsistent. There were issues associated with the interpretation of Licences. This issue had been discussed at the CUSC but there was still no resolution.
529. BG reported that a Relevant Electrical Standards Document had been proposed which would replace the existing 18 NGTSs referenced in the Grid Code. This document contained all clauses relevant to the User in one place. A consultation would be carried out under the Governance of Electrical Standards provisions in the Grid Code and discussion at the November GCRP meeting would follow. If a consensus was reached in the Consultation and at the Panel the new document would be implemented. Otherwise a decision would be required from the Authority.
530. DE reported that discussion had been held with the Dti with respect to Interconnector Licences. An Ofgem./Dti consultation had been issued closing on 7 October 2005. No decision would be made until responses had been considered.

8 Any Other Business

531. KC reported that BSC Standing Issue 18 Group had met for the first time. Group views were split on whether there was a defect. Discussions were ongoing.

CUSC Panel Elections

532. BG reported that the election were now completed. As a result SP, DL and SD would be leaving the Panel after this meeting. TD and GG would be Panel members from the next Panel meeting and Simon Lord would be an Alternate. RC welcomed the new members to the Panel and thanked SD, DL and SP for their contribution.

9 Record of Decisions – Headline Reporting

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

10 Date of Next Meeting

534. The next meeting will be held on Friday 28th October 2005 at the Brandon Hall Hotel, Brandon, near Coventry commencing at **10.00am**.