

Minutes and Actions Arising from Meeting No.53 Held on 27th January 2006 At National Grid Office, Lakeside House, Northampton

Present:

| | | |
|----------------|----|----------------------------------|
| Richard Court | RC | Panel Chairman |
| Beverley Viney | BV | Panel Secretary |
| Ben Graff | BG | Panel Member (National Grid 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) |
| Tony Dicicco | TD | Panel Member (Users Member) |
| Garth Graham | GG | Panel Member (Users Member) |
| Paul Jones | PJ | Panel Member (Users Member) |
| Simon Goldring | SG | Panel Member (Users Member) |
| Kathryn Coffin | KC | BSC Panel Representative |
| Hugh Conway | HC | energywatch representative |
| Dick Cecil | DC | Alternate Panel Member |

In Attendance:

| | | |
|----------------|----|---------------|
| Lilian MacLeod | LM | National Grid |
| Ken Harrison | KH | Observer |

1 Introductions/Apologies for Absence

617. Beverley Viney was introduced to the Panel as the new Amendments Panel Secretary in place of Lindsey Paradine.
618. Apologies for absence were received from Simon Cocks and Guy Phillips.

2 Minutes of the Meeting held on 16th December 2005

619. The minutes of the 52nd Amendments Panel meeting held on 16th December 2005 circulated on 23 January 2006 were AGREED subject to following agreed minor amendments.
- 602, third bullet the word after CAP099 should read **that** and not theat.
 - 605, sixth line extra **that** after recognised to be deleted.
 - 613, eighth line after gas section **UNC044** to be inserted.

3 Review of Actions

620. Minute 593 (CAP107). BG confirmed that the CAP107 working group is making good progress. At the first meeting potential options were identified, at the second

meeting, scheduled for the 1st February the group will discuss which options should best be taken forward. BG acknowledged a point that was made by the Amendments Panel about ideally ensuring that the CAP107 Working Group did not take forward a “matrix” of Alternative options. BG said that the Group was keen to avoid this if at all possible. He said he would continue to encourage all Members to focus only on developing a very limited number of genuine alternative options that were seen as being the best options, in so far as this was possible within the existing CUSC rules.

621. Minute 601 (Guidance document) The Panel reviewed the amendment and guidance document, SG suggested the document should include additional information on the tabling of working group Alternative Amendments. BG said this would be looked into, but he could see no reason why the type of guidance given with Working Group terms of reference, could not be replicated within this document.

Action: BG

622. All other outstanding actions from the previous meeting had been completed or were the subject of agenda items.

4 New Amendment Proposals

CAP113-118 – Housekeeping Modifications

623. LM gave the Panel a presentation on National Grid’s proposed amendments. She explained that the intent was to correct inconsistencies in the CUSC text, and that the changes were all Housekeeping in nature, in accordance with the CAP085 Housekeeping procedures.
624. RJ asked whether “GB Transmission System,” within CAP115, was in fact the correct reference. LM highlighted that this was the correct reference, and that it occurred in other places within the CUSC, but had been missed here. MT asked if there are any other documents with “the The Company” i.e. Grid Code, or BSC. BG confirmed that in no other Code had Ofgem elected to adopt a proposal that defined National Grid in this way, and hence there were no similar issues in the other Codes.
625. The Panel AGREED that CAP113-118 should be treated as a housekeeping modification published for ten business days for comment, in line with the CAP085 Housekeeping provisions.

CAP119 – Clarification of, and Correction to, the table of Users’ Credit Allowances

626. BG gave the Panel a presentation on National Grid’s proposed amendment. The proposal introduced a minor clarification and correction to the table for allocating Credit introduced by CAP089/090/091. He explained that whilst not strictly within the CAP085 definition of housekeeping the change was non-material. (Albeit by clarifying the use of the Credit Ratings in more detail/ making a minor correction to the Fitch rating the Amendment proposal was clearly going to be useful.)
627. MT asked for clarification as to whether the titles within the CAP089/090/091 table were correct for Moody and Fitch. BG said that any changes to the credit agency names were beyond the scope of the proposed amendment though presumably could be picked up in the consultation if incorrect. In response to a question from another Panel Member, BG said that any material changes to the way in which

Credit was allocated (e.g. different proportions of Credit allocated to different ratings within the table) were also beyond the scope of the Amendment.

628. The Panel AGREED that CAP119 should proceed directly to wider industry consultation for 10 business days.

5 Standing/Working Group Reports

629. Nothing to report.

6 Consultation Papers (as at 20/01/06)

630. Nothing to report.

7 CUSC Amendment Panel Vote

631. LM gave the Panel a presentation on the proposed CUSC Amendment Panel vote Process. LM explained that the intention of the presentation was to assist the Panel in agreeing on a process for the Panel Recommendation vote.

632. The Panel discussed the role of alternates during the Panel Recommendation vote process. DC pointed out the chairman has always allowed alternates to speak but agreed that alternates should not have a vote unless representing a panel member. GG pointed out that if it was decided only Panel Members could speak this would also prevent observers and possibly the presenter also from the discussion. RC suggested that during free-flowing discussion all should be allowed to speak at the Chairman's discretion, but only Panel Members would be allowed to vote and have their reasons recorded.

633. MT suggested that it would be up to the Chairman to keep the discussion focused on issues set out in the consultation report and not to raise new issues and to ensure that non panel members contribute positively to the discussion. RC stated that these provisions would be monitored and if it became an issue then restrictions regarding the discussion process if deemed necessary by the Panel would be implemented.

634. SG suggested that the recommendation should be based on the information provided within the report. BG strongly agreed with this point, and said that whilst National Grid would provide a short, high level presentation, on Amendments prior to the vote, the only document of relevance was the Report, and it was key that Panel Members were focussed on that.

635. The Panel AGREED that only voting Panel Members can vote and have their reasons recorded. An alternate can only vote when taking a Panel Members place. There would be a discussion before the voting started at which all Panel members and attendees would be allowed to contribute on issues that would help the assessment of whether the Amendments better met the relevant objective. Industry observers would also be permitted to speak at the Chairman's discretion. However, it was agreed that National Grid would look further at the indemnity provisions for CUSC Panel Members, Alternate Members and Observers in relation to the Amendment Panel Recommendation, and would circulate advice on this prior to the

next Panel Meeting.

Action: BG

636. The Panel agreed that each proposal (and Alternative proposal) would require a Panel vote. The vote would in effect be in two parts. Firstly to agree whether proposals were “better,” than the Applicable Objectives, and secondly as to which proposal the Panel believed was “best.” Reasons would be recorded for each vote. The final Amendment report would then have words included to state which was the preferred option from the Panel.
637. The panel also considered the case where two separate amendments covered very similar ground. Because they would be considered separately, the Panel could vote to recommend each amendment as preferable to the current status quo. Again, the Panel would seek to express an opinion to Ofgem as to which is preferred.
638. DE stated that the Amendment Proposal shouldn't be appealable if Ofgem justification for their decision was consistent with Panel recommendation. DE stated the Authority would appreciate a preferred recommendation when there is a choice of options, though a vote would have to be given on all options. It was recognised by all that there was not as much clarity as would have been hoped from the DTI/ Competition Commission as to precisely in what circumstances an Authority CUSC Amendment decision would be appealable or not appealable.

Action: Richard Court to invite DTI/ Competition Commission to the next Panel Meeting to seek further clarity on this point.

Action: Ofgem to continue to seek clarity from the DTI on this point.

639. MT suggested that only under certain limited circumstances should a Panel Member abstain from the vote. If the Panel Member is sure that the CAP meets the Applicable Objectives, they should vote for it. If the Panel Member is not reasonably sure, then they should vote against, as the current code is then good enough to continue as is. Only if the Panel Member lacks the competence to assess the CAP, or if the assessment process is incomplete should a Member abstain. SG stated that if abstaining should apply to any associated amendments to that Amendment Proposal i.e. if 3 options of amendment for vote the member could not vote on option A abstain on option B and vote on option C. The panel agreed that if abstaining it would apply to all options. RC stated that the option to abstain should be a rarely used option and a reason for use would be expected.
640. Following the discussions, it was agreed that National Grid would circulate a revised procedure incorporating the points made at the Amendments Panel, prior to the next Panel Meeting.

Action: BG

8 Pending Authority Decisions

641. DE informed the Panel there had been a delay in decisions due to staff turn around and that decisions could be expected in the next month on the outstanding Amendment Proposals.

9 Authority Decisions

642. The Panel noted the decisions made by the Authority during the period since the December Meeting.

10 Report on Other Industry Documents

BSC

642. MT noted the following points from the BSC, there had been a formal panel in January and a number of telephone panels in relation to BSC Parties that had been struggling. The BSC panel strove to give the companies in distress every chance to rectify their situations, however, unfortunately despite the Panel's best efforts this was not possible.

STC

643. BG noted that the STC Committee were still working hard on ensuring that CAP097 could be appropriately backed off into the STC, if the Authority choose to approve it. Other than that, the STC Committee was primarily focussed on the developing the STCP's, which were not of direct relevance to the CUSC Panel.

Grid Code

644. BG said there was no further update as the next Grid Code Panel is in February.

11 Any Other Business

645. The Panel agreed to debate and vote on CAP097 at the February Panel rather than by conference call.

12 Record of Decisions – Headline Reporting

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

Action: BV

13 Date of Next Meeting

647. The next meeting will be held on Friday 24th February 2006 at National Grid, Warwick Technology Park, Gallows Hill, Warwick, CV34 6DA.