

## **Paper to the CUSC Panel by Bob Brown, Panel Member** **Meeting 24 April 2009**

### **CUSC Amendments Panel and good business practice**

#### **1. Introduction**

This paper is written against experience of the Panel dealing with several recent urgent amendment proposals which, the writer believes, have tested the CUSC arrangements and found them to be wanting. Although it is the urgent proposals that have highlighted shortcomings, the writer believes that the lessons learnt should be applied to the general operation of the CUSC amendment process. The paper reflects the personal views of the writer, recognising the obligation placed on Panel members by paragraph 8.2.3.2 of the CUSC: “the Amendments Panel shall endeavour at all times to operate in an efficient, economical and expeditious manner, taking account of the complexity, importance and urgency of particular Amendment Proposals”.

The paper proposes that the Panel should adopt good business practice as the minimum standard to be applied to section 8 of the CUSC, in the absence of prescription in the CUSC, for the following:

- The Panel;
- National Grid as “The Company” and
- National Grid as “Panel Secretary”.

The paper suggests that the arrangements should not be over-prescriptive, but that it is for National Grid and the Panel to ensure that their practices, in supporting the CUSC amendments process, should adopt good business practice as the minimum standard. Where National Grid is unsure of what constitutes good business practice it should obtain guidance from the Panel. The exception to this approach is the process for dealing with urgent amendment proposals where it is suggested that, because of the shorter timescales involved and critical importance, National Grid should bring forward a detailed procedure for approval by the Panel.

The paper includes examples of what the writer believes to be good business practice, not for debate at this stage but for inclusion in subsequent deliberations between National Grid and the Panel, should National Grid requires clarification from the Panel regarding what constitutes good business practice.

The paper suggests that the Panel should become involved in negotiations with Ofgem if National Grid reports to the Panel that, after itself negotiating with Ofgem, price control considerations prevent it from providing an adequate level of support to the Panel and amendments process.

## **2. Background**

The amendments process is intended to deliver quality amendment reports to Ofgem, with adequate time allowed for the working group (if formed), the industry, the Panel, National Grid and Ofgem to develop a considered view. Other requirements include transparency and the elimination of unnecessary barriers to participate in the process.

The recent urgent amendment proposals have attracted concerns, both from the industry and the Panel, that the urgent timetable has adversely impacted the quality of the proceedings.

The Panel has been asked to take decisions on urgency at very short notice and the timetables agreed for working groups appear to have been driven by the need to meet deadlines, with the Panel giving insufficient consideration to the practicalities of delivering quality reports.

Additionally, transparency of proceedings has been put under pressure, with publication of minutes of meetings being delayed.

## **3. Good business practice**

Good business practice can be regarded as a consensus view, by relevant experts, of what is reasonable. Ultimately it might be something for a Judge to decide, after taking advice.

A personal view is shown below of some examples that could be applied in the CUSC. I am not suggesting that these should be debated now, but offer them for subsequent consideration by National Grid and the Panel, and do not suggest that they are exhaustive. There are disadvantages in over-prescription as all eventualities cannot be covered and it can lead to a loss of initiative.

### *Transparency*

Draft minutes of meetings of the Panel and standing groups should be promptly circulated to those entitled to receive them, with a procedure in place for obtaining prompt approval, to aid publication and transparency.

Panel papers to be published on the web in advance of the meeting, with presentations the day after.

Schedules of working group meetings to be included in the initial amendment proposal to the Panel, and sent out to the industry when inviting working group membership. National Grid to provide a report at each Panel meeting on developments that might impact the Panel – e.g. prospective amendments.

### *Support to the Panel*

Resource needs to be identified and provided, e.g. in terms of meeting facilities, skills requirements, staffing levels and format of reports.

If there are constraints because of price control considerations, which National Grid has been unable to resolve with Ofgem, the Panel should be advised.

### *Working groups*

The Panel should be satisfied that a proposed working group timetable is realistic and has a good chance of producing a report to meet the Panel's requirements. An initial written assessment might be appropriate to justify and support a proposed programme.

Ideally, the chair should be by a person other than the NG business manager responsible for the area covered by the proposal. This will free up the business manager to actively participate as a working group member, to the benefit of the working group, and leave the chair to concentrate on that role, reducing the potential for conflicts of interests.

Post implementation reviews, by the Panel, might be appropriate for some amendments.

### *The Secretariat*

It might be helpful for a compliance manager to examine the arrangements to provide comfort to the Panel that there are no potential conflicts of interest in the arrangements between "Panel Secretary" and "The Company".

### *Urgent amendment proposals*

The Panel needs time to consider papers, before meeting to consider a request for urgency. Because the treatment of urgent proposals is sensitive, with little time for error, all involved need to know, in advance, what is expected of them. It may be appropriate to have a Panel discussion on its requirements in this area, prior to a prescriptive proposal from National Grid, for approval by the Panel, regarding the procedure to be used for dealing with requests for urgent treatment.

## **4. Recommendations**

The Panel is asked to **agree** to adopt good business practice as the minimum standard to be applied to section 8 of the CUSC, in the absence of prescription, for the following:

- The Panel;
- National Grid as "The Company" and
- National Grid as "Panel Secretary".

With implementation from the date of agreement by the Panel.

rkb 13/04/09