

## **Working Group Terms of Reference and Membership**

### **TERMS OF REFERENCE FOR CAP190 WORKING GROUP**

#### **RESPONSIBILITIES**

1. The Working Group is responsible for assisting the CUSC Amendments Panel in the evaluation of CUSC Amendment Proposal CAP190: Two-thirds majority voting requirements for CUSC panel recommendations on Amendments arising from Licence obligations, Authority requests or obligations, tabled by Wyre Power at the Amendments Panel meeting on 3<sup>rd</sup> September 2010.
2. The proposal must be evaluated to consider whether it better facilitates achievement of the Applicable CUSC Objectives. These can be summarised as follows:
  - (a) the efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission Licence; and
  - (b) facilitating effective competition in the generation and supply of electricity, and (so far as consistent therewith) facilitating such competition in the sale, distribution and purchase of electricity.
3. It should be noted that additional provisions apply where it is proposed to modify the CUSC amendment provisions, and generally reference should be made to the Transmission Licence for the full definition of the term.

#### **SCOPE OF WORK**

4. The Working Group must consider the issues raised by the Amendment Proposal and consider if the proposal identified better facilitates achievement of the Applicable CUSC Objectives.
5. In addition to the overriding requirement of paragraph 4, the Working Group shall consider and report on the following specific issues:
  - a) Consider any alternative amendments;
  - b) Review any illustrative legal text;
  - c) Consider any legal opinion procured (in conjunction with ELEXON for BSC Modification Proposal P264);
  - d) National Grid's response to the Proposer's view, expressed in the Amendment Proposal form, that "The Company member, [who] may feel obliged to vote for the Proposal they have been required to raise".
6. The Working Group is responsible for the formulation and evaluation of any Working Group Alternative Amendments (WGAA's) arising from Group discussions which would, as compared with the Amendment Proposal or the current version of the CUSC, better facilitate achieving the Applicable CUSC Objectives in relation to the issue or defect identified.
7. The Working Group should become conversant with the definition of Working Group Alternative Amendment which appears in Section 11 (Interpretation and Definitions) of the CUSC. The definition entitles the Group and/or an individual member of the Working Group to put forward a WGAA if the member(s) genuinely believes the WGAA would better facilitate the achievement of the Applicable CUSC Objectives, as compared with the Amendment Proposal or the current version of the CUSC. The extent of the support

for the Amendment Proposal or any WGAA arising from the Working Group's discussions should be clearly described in the final Working Group Report to the CUSC Amendments Panel.

8. Working Group members should be mindful of efficiency and propose the fewest number of WGAA's possible.
9. All proposed WGAA's should include the Proposer(s)'s details within the final Working Group report, for the avoidance of doubt this includes WGAA's which are proposed by the entire Working Group or subset of members.
10. There is an obligation on the Working Group to undertake a period of Consultation in accordance with CUSC 8.17. The Working Group Consultation period shall be for a period of 3 weeks as determined by the Amendments Panel.
11. Following the Consultation period the Working Group is required to consider all responses including any WG Consultation Alternative Requests. In undertaking an assessment of any WG Consultation Alternative Request, the Working Group should consider whether it better facilitates the Applicable CUSC Objectives than the current version of the CUSC.

As appropriate, the Working Group will be required to undertake any further analysis and update the original Amendment Proposal and/or WGAA's. All responses including any WG Consultation Alternative Requests shall be included within the final report including a summary of the Working Group's deliberations and conclusions. The report should make it clear where and why the Working Group chairman has exercised his right under the CUSC to progress a WG Consultation Alternative Request or a WGAA against the majority views of Working Group members. It should also be explicitly stated where, under these circumstances, the Working Group chairman is employed by the same organisation who submitted the WG Consultation Alternative Request.

12. The Working Group is to submit its final report to the Amendments Panel Secretary on 20 January 2011 for circulation to Panel Members. The final report conclusions will be presented to the Amendments Panel meeting on 28 January 2011.

## MEMBERSHIP

13. The following individuals have nominated themselves to become Working Group members:

<b>Role</b>	<b>Name</b>	<b>Representing</b>
Chairman	Alex Thomason	National Grid
National Grid Representative*	Emma Clark	National Grid
Industry Representatives*	Garth Graham	SSE
	Lisa Waters	Waters Wye Associates – for Wyre Power
	Esther Sutton	E.ON UK plc
	Steven Eyre	EDF Energy
	Stuart Cotten	Drax
Authority Representative	N/A	
Technical Secretary	Bali Virk	National Grid
Observers	N/A	

NB: A Working Group must comprise at least 5 members (who may be Panel Members). The roles identified with an asterisk in the table above contribute toward the required quorum, determined in accordance with paragraph 14 below.

14. The chairman of the Working Group and the Amendments Panel Chairman must agree a number that will be quorum for each Working Group meeting. The agreed figure for CAP190 is that at least 5 Working Group members must participate in a meeting for quorum to be met.
15. A vote is to take place by all eligible Working Group members on the Amendment Proposal and each WGAA. The vote shall be decided by simple majority of those present at the meeting at which the vote takes place (whether in person or by teleconference). The Working Group chairman shall not have a vote, casting or otherwise]. There may be up to three rounds of voting, as follows:
  - Vote 1: whether each proposal better facilitates the Applicable CUSC Objectives;
  - Vote 2: where one or more WGAA exist, whether each WGAA better facilitates the Applicable CUSC Objectives than the original Amendment Proposal;
  - Vote 3: which option is considered to BEST facilitate achievement of the Applicable CUSC Objectives. For the avoidance of doubt, this vote should include the existing CUSC baseline as an option.

The results from the vote and the reasons for such voting shall be recorded in the Working Group report in as much detail as practicable.

16. It is expected that Working Group members would only abstain from voting under limited circumstances, for example where a member feels that a proposal has been insufficiently developed. Where a member has such concerns, they should raise these with the Working Group chairman at the earliest possible opportunity and certainly before the Working Group vote takes place. Where abstention occurs, the reason should be recorded in the Working Group report.
17. Working Group members or their appointed alternate are required to attend a minimum of 50% of the Working Group meetings to be eligible to participate in the Working Group vote.
18. The Technical Secretary shall keep an Attendance Record for the Working Group meetings and circulate the Attendance Record with the Action Notes after each meeting. This will be attached to the final Working Group report.
19. The Working Group membership can be amended from time to time by the CUSC Amendments Panel.

## **RELATIONSHIP WITH AMENDMENTS PANEL**

20. The Working Group shall seek the views of the Amendments Panel before taking on any significant amount of work. In this event the Working Group chairman should contact the Amendments Panel Secretary.
21. The Working Group shall seek the Amendments Panel's advice if a significant issue is raised during the Consultation process which would require a second period of Consultation in accordance with 8.17.17 of the CUSC.
22. Where the Working Group requires instruction, clarification or guidance from the Amendments Panel, particularly in relation to their Scope of Work, the Working Group chairman should contact the Amendments Panel Secretary.

## **MEETINGS**

23. The Working Group shall, unless determined otherwise by the Amendments Panel, develop and adopt its own internal working procedures and provide a copy to the Panel Secretary for each of its Amendment Proposals.

## **REPORTING**

24. The Working Group chairman shall prepare a final report to the January 2011 Amendments Panel responding to the matters set out in the Terms of Reference, including all Working Group Consultation Responses and Alternative Requests.
25. A draft Working Group Report must be circulated to Working Group members with not less than five Business Days given for comments, unless all Working Group members agree to three Business Days.
26. Any unresolved comments within the Working Group must be reflected in the final Working Group Report.
27. The chairman (or another member nominated by him) will present the Working Group report to the Amendments Panel as required.

### Appendix 1: Indicative Working Group Timeline

The following timetable is suggested for progressing the CAP190 Working Group. Please note that the timetable for the Amendments process post-Working Group is included for ease of reference (*in italics below*).

3 September 2010	Amendments Panel Meeting – agree Working Group Terms of Reference
23 September 2010	First Working Group meeting (using scheduled GSG meeting as host)
27 October 2010	Second Working Group Meeting (date dependent on legal advice)
1 November 2010	Circulate draft Working Group Consultation for comment
9 November 2010	Publish Working Group Consultation (for three weeks)
30 November 2010	Deadline for responses to Working Group Consultation
7 December 2010	Post-consultation Working Group meeting (to review consultation responses, confirm any alternatives and undertake Working Group vote)
14 December 2010	Draft Working Group Report circulated for comment
21 December 2010	Deadline for comment on Working Group report
20 January 2011	Publish final Working Group report for Panel Papers
28 January 2011	Present Working Group report to Amendments Panel
<i>1 February 2011</i>	<i>Issue industry consultation (3 weeks)</i>
<i>22 February 2011</i>	<i>Deadline for industry comment</i>
<i>25 February 2011</i>	<i>Draft Amendment Report published</i>
<i>4 March 2011</i>	<i>Deadline for industry comment</i>
<i>17 March 2011</i>	<i>Publish draft Amendment Report with panel papers</i>
<i>25 March 2011</i>	<i>Amendments Panel Meeting – Panel Recommendation Vote</i>
<i>29 March 2011</i>	<i>Circulate updated draft Amendment Report with Panel Recommendation Vote for Panel comment</i>
<i>5 April 2011</i>	<i>Deadline for Panel Members' comments on draft Amendment Report</i>
<i>6 April 2011</i>	<i>Send final Amendment Report to Authority</i>
<i>16 May 2011</i>	<i>Indicative date for Authority decision (25 Working Day KPI)</i>
30 May 2011	Indicative implementation date (10 Working Days after decision)

NB. The timetable has been updated to take account of the postponement of the second Working Group meeting to allow time for a joint legal brief to be circulated for CAP190 and BSC Modification Proposal P264. As a result, an extension was sought for the submission of the Working Group Report to the Amendments Panel, from December 2010 to January 2011.