nationalgrid

Stage 05: Draft CUSC Modification Report Volume 3

Connection and Use of System Code
(CUSC)

CMP192 – Enduring User Commitment

What stage is this document at?

01	Initial Written Assessment
02	Workgroup Consultation
03	Workgroup Report
04	Code Administrator Consultation
05	**Draft CUSC Modification Report**
06	Final CUSC Modification Report

This document contains the Code Administrator Consultation Reponses for CMP192

Version	Published on	Author	Change Reference
1.0	26 October 2011	National Grid	Publication to Industry

CUSC Code Administrator Consultation Response Proforma

CMP192 – Enduring User Commitment

Industry parties are invited to respond to this consultation expressing their views and supplying the rationale for those views, particularly in respect of any specific questions detailed below.

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Respondent:	Merel van der Neut Kolfschoten
Company Name:	Centrica
1. Do you believe that the Error! Reference source not found. **Original Proposal better facilitates the Applicable CUSC Objectives as set out in paragraph** Error! Reference source not found.**, and why?**	No. Post-commissioning generators are not able to provide 4 years' notice. The 4-year notice period for post-commissioning generators is in our view disproportionate, discriminatory and could have a negative impact on competition and security of supply. This disadvantage is not outweighed by the advantage of codification of the user commitment arrangements for pre-commissioning users.
2. Do you believe that any of the Error! Reference source not found. **Workgroup Alternative CUSC Modification Proposals better facilitates the Applicable CUSC Objectives as set out in paragraph** Error! Reference source not found.**, and why?**	Yes, potentially alternatives 7, 8, 11 and 12 because they maintain the existing notice period of 2 years for post-commissioning generators. On balance the benefits of reduced liability and/or security for pre-commissioning generators outweigh our concerns with the proposed CAPEX methodology, in particular for post-commissioning generators. In addition, they include the option of grandfathering existing arrangements for pre-commissioning generators which is essential to ensure investor confidence. From a pre-commissioning generator perspective the 2-year wider liability period (alternatives 11 and 12) is better than a 4-year wider liability period (alternatives 7 and 8). The 4-year notice period makes potentially more sense when taking into account National Grid's investment profile. However, if the same treatment of different users can be justified, then we would choose alternative 11 or 12, see also below.

3.	**Which, if any, proposal do you consider <u>best</u> facilitates the Applicable CUSC objectives as set out in paragraph** Error! Reference source not found.**, and why?**	This is a choice between alternative 11 (no sharing of local works) and alternative 12 (50% sharing of local works). We would like to reserve our judgement on these alternatives until we have reviewed Ofgem's proposed Impact Assessment. We support in principle the idea of 50% sharing of local works in certain circumstances. However, we believe that to a certain extent this is a policy decision for Ofgem/DECC. In addition, we would like to see further analysis of this option as part of Ofgem's proposed Impact Assessment before we take a final view. To ensure regulatory certainty and increase investor confidence we would very much like an enduring user commitment regime to be introduced. We would therefore not want the 50% sharing element to be a future refinement of the new user commitment methodology. If 50% sharing of local works is justified, we believe it should be part of CMP192.
4.	**Do you have further justification for any of the characteristics of the Workgroup Alternative CUSC Modification proposals detailed in paragraphs** Error! Reference source not found. **to** Error! Reference source not found.**?**	No.
5.	**Do you support the proposed implementation approach?**	Yes, in principle (we assume that existing arrangements for pre-commissioning generators may be grandfathered if one of the relevant alternatives is taken forward, even though Chapter 8 currently does not refer to this).

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Respondent:	Stuart Cotten (01757 612 751)
Company Name:	Drax Power Limited
1. Do you believe that the CMP192 Original Proposal better facilitates the Applicable CUSC Objectives as set out in paragraph 11.1, and why?	Drax agrees with the principles of lowering perceived barriers to entry, incentivising timely provision of information to the TOs and improving governance surrounding the connection securitisation methodology. However, it is unfortunate that CMP192 Original does not better facilitate Applicable CUSC Objective (b), the facilitation of effective competition in the generation and supply of electricity. Whilst measures to lessen the burden on pre-commissioning generators are a positive step forward, the associated benefits of CMP192 Original are outweighed by placing all existing and future post-commissioning generators in a position where their exposure to market uncertainty is greatly increased. The aim of user commitment should be to avoid inefficient investment in transmission assets. This aim can only be achieved if market participants are able to react to visible market signals and proposed changes to regulatory arrangements. Without a liquid wholesale electricity market forward curve, generators are simply unable to provide transmission investors with TEC reduction / closure signals four years forward. Generation businesses (particularly independent generators) will make decisions on the viability of plant based upon the spreads they can achieve in the forward market. To provide the notice period proposed under CMP192 Original, the wholesale electricity market would require at least four years of liquidity across the forward curve. In addition, recent policy decisions have led to increasing

	concerns over the ability to view and react to market signals beyond 18-24 months forward. The announcement by the Government to introduce a Carbon Price Support mechanism (or carbon price floor) means that a significant proportion of generators will be subject to a rate of tax that is unknown until two years prior to its application (on a rolling basis). On this basis, Drax continues to believe that CMP192 Original is unworkable and agrees with the majority of the work group that the proposal would be detrimental to security of supply. In addition, WACMs 1, 2, 3 and 4 would also be unworkable for the same reasons.
2. Do you believe that any of the CMP192 Workgroup Alternative CUSC Modification Proposals better facilitates the Applicable CUSC Objectives as set out in paragraph 11.1, and why?	Both WACM 8 and WACM 12 would better facilitate Applicable CUSC Objective (b). Drax welcomes comments contained in National Grid's Initial View regarding the importance of considering the ability of post-commissioning generators to forecast market conditions beyond two years forward. WACM 8 and WACM 12 would implement notice periods that allow post-commissioning generation to react to key financial and policy signals. It is these signals that will ultimately drive investment and closure decisions over the coming decade (i.e. the ability to contract in the market and the ability to meet environmental legislation). In addition, each of these proposals would lower the overall financial burden placed on pre-commissioning generators when compared to the other alternatives, by implementing the maximum number of "additional features" identified by the Workgroup. This will promote greater competition in the wholesale electricity market and lower barriers to new entry.
3. Which, if any, proposal do you consider best facilitates the Applicable CUSC objectives as set out in paragraph 11.1, and why?	WACM 12 would provide the most appropriate outcome. This alternative aligns pre-commissioning user commitment for wider works with that faced by post-commissioning users. This alternative not only lowers barriers to new entry (i.e. by lowering the level of securitisation at T-4 and T-3, plus by linking securitisation with key milestones), but it also provides a solution that addresses concerns over the potential for discrimination between pre- and post-commissioning users. Drax believes that local asset securitisation should remain at the level of four years user commitment; such assets are user specific and must be completed prior to connection. WACM 12 also preserves the ability for post-commissioning generation to react to key financial and policy signals.

4. Do you have further justification for any of the characteristics of the Workgroup Alternative CUSC Modification proposals detailed in paragraphs 10.76 to 10.81?	The characteristics described in paragraphs 10.78 to 10.81 seek to lower barriers to new entry (in terms of the level of liabilities where securitisation is required) or provide optionality to those projects that are currently subject to a connection agreement (in terms of protecting existing contractual arrangements and providing investors with an option to move to (potentially) less onerous arrangements). These characteristics aim to promote competition by minimising the burden of liabilities placed on investors. Drax supports WACM 12, which includes each of these characteristics. Drax's view on notice periods (paragraph 10.77) is covered in answer to Question 1.
5. Do you support the proposed implementation approach?	The proposed implementation timeframe and transition methodology appears reasonable.

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Respondent:	Louise Schmitz Louise.schmitz@edfenergy.com
Company Name:	EDF Energy
1. Do you believe that the Error! Reference source not found. **Original Proposal better facilitates the Applicable CUSC Objectives as set out in paragraph** Error! Reference source not found.**, and why?**	No. We consider that the Original Proposal does not better facilitate Applicable CUSC Objective (a) and (b). Our reasons for this relate to the requirement on post-commissioning generators to provide the licensee with four year's notice for any TEC reduction. We acknowledge the intent of the proposer to improve efficient transmission investment using data supplied by generation, however in practice a four year notice will not be achievable and consequently we do not agree that National Grid will be provided with the information to achieve its purpose. Furthermore, the four year notice period places an inefficient level of risk onto post-commissioning generators. We consider that this has the potential to impact on the behaviour of generators as they seek to exit the system by introducing an incentive to retain TEC as they approach end of life or potentially force a station into early closure. This inefficiency is unduly detrimental to competition.
2. Do you believe that any of the Error! Reference source not found. **Workgroup Alternative CUSC Modification Proposals better facilitates the Applicable CUSC Objectives as set out in paragraph** Error!	Yes. We consider that Workgroup Alternatives 5-12 have the potential to better facilitate the Applicable CUSC Objectives for the following reasons. With the removal of a requirement for a four year notice period we consider that the remaining features of CMP192 Alternatives all represent an improvement against the CUSC baseline. The incorporation of pre-commissioning liability and security arrangements into a methodology within the CUSC provides for greater transparency and improved governance. These features

	Reference source not found.**, and why?**	we consider have the potential to remove barriers for developers and are generally good regulatory practice.
3.	**Which, if any, proposal do you consider <u>best</u> facilitates the Applicable CUSC objectives as set out in paragraph** Error! Reference source not found.**, and why?**	We believe that Workgroup Alternative 11 best facilitates the Applicable CUSC Objectives. This is as a result of our view regarding the notice period for post-commissioning generators; that Grandfathering has the potential to further improve efficiency and that we do not fully support 50% sharing for local reinforcements. Given the Connect & Manage transmission access regime it seems fairly likely that wider transmission reinforcements will continue to be completed after the connection of new generation projects. This view leads us to conclude that the two year wider liability profile for both pre-commissioning and post-commissioning generators might be more appropriate. We therefore believe Workgroup Alternatives 9-12 might better facilitate Applicable CUSC Objectives than the other proposals. However, we have not been able to quantity this potential. We consider that allowing developers the option to retain their current agreements through grandfathering might be more efficient. Without this option the alternatives have the potential to introduce an unnecessary contractual burden and resource intensive exercise for those generators close to their commissioning date. However, we do not believe that this risk would be detrimental to the overall benefits of Workgroup Alternatives 5-12. The option to share attributable liability with demand users might reduce or remove a barrier to entry for some classes of generator. However, we are concerned about the level of risk that this might place on consumers.
4.	**Do you have further justification for any of the characteristics of the Workgroup Alternative CUSC Modification proposals detailed in paragraphs** Error! Reference source not found. **to** Error! Reference source not found.**?**	No.
5.	**Do you support the proposed implementation approach?**	Yes, given that implementation refers to the administrative exercise of changing the CUSC text we support implementation 10 days following an Authority decision.

	We believe that a short guidance note on the transitional arrangements might be beneficial. Guidance from National Grid including worked examples will allow both pre-commissioning and post-commissioning generators to adequately consider their commercial positions prior to any deadline for providing notice to National Grid.

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Respondent:	Paul Carter Tel 01977 782525 Email paul.carter@eggboroughpower.co.uk
Company Name:	Eggborough Power Ltd
Do you believe that the **Error! Reference source not found.** Original Proposal better facilitates the Applicable CUSC Objectives as set out in paragraph **Error! Reference source not found.**, and why?	Eggborough Power Limited (EPL) does not believe that the original proposal better fulfils the relevant objectives. EPL believes that the alternatives better fulfil the relevant objectives compared to the original. For pre commissioning generators, we agree that facilitating easier connection with lower liabilities is a positive move in light of the amount and type of generation the system requires connects in the coming years. Competition can be enhanced if barriers to market entry are reduced, which we believe this modification will achieve. EPL feels that allowing plant to connect in a least cost manner will enhance competition by allowing new parties to enter the market, as well as incumbent players to invest in new technologies. However, some plant may pay more than they would under the current regime, and the capping proposed in the alternatives, both seem less likely to have unintended consequences in terms of creating barriers to entry compared to the original. Therefore on balance EPL feels that the original does not lead to efficient discharge of the licensee's obligations or the help facilitate competition. For post-commissioning generators, EPL is worried that the closure tax nature of the proposal will lead to older plants giving notice sooner rather than later. This creates a risk of plant

	shortages, especially in light of the delays to nuclear build and the lack of funding for other new plants in the current financial climate. Four years notice, in light of the very limited liquidity in the forward power market, is simply too long for generators to plan against. Encouraging earlier closure would be against the facilitation of competition.
1. Do you believe that any of the Error! Reference source not found. **Workgroup Alternative CUSC Modification Proposals better facilitates the Applicable CUSC Objectives as set out in paragraph** Error! Reference source not found.**, and why?**	EPL believes that all of the alternatives that look to put only two years of liabilities onto post commissioning generators better facilitate the relevant objectives as they strike a far better balance between risk that the generators can manage and information for the TO in looking to develop the system. With more information the TO should be better able to develop the network and fulfil its licence obligations. The TO will also facilitate competition by not forcing post commissioning plant to close early. The alternatives are all improved by the capping of liabilities for the pre-commissioning generators, but we do have concerns over the proposals to share 50% of local works as we feel this puts too much risk on to the final customers.
2. Which, if any, proposal do you consider <u>best</u> facilitates the Applicable CUSC objectives as set out in paragraph Error! Reference source not found.**, and why?**	EPL believes alternative option 7 is the best of all the alternatives. This is because it gives the best balance between the risks imposed by parties and their allocation to those parties. We feel that the 2 years for post-commissioning generators gives a time period in which the generator can reasonable make a decision to close based on the market prices that he can see. Anything longer term is too far out in time, given the lack of a liquid power market, for a generator to respond to. EPL also believes that the principle of grandfathering rights is important to add to regulatory stability. Parties need greater confidence that when they make decisions in the UK market that the rug will not be pulled from underneath them based on a regulatory whim. The idea of grandfathering is also widely supported in other energy related policies such as under the renewables obligation.
3. Do you have further justification for any of the characteristics of the Workgroup Alternative CUSC Modification proposals detailed in paragraphs Error! Reference source not found. **to** Error! Reference source not found.**?**	EPL believes that until liquidity in the power market improves there is simply no way for generators to be able to tell if their plant will be profitable more than 2 years out (as far forward as power trades). While the larger integrated players may be able to plan to sell their power internally to their supply businesses, for independent players such as ourselves we believe that the market conditions do not allow us to make commercial decisions further forward than 2 years. Were EPL to want to sell power further forward we would want a robust index to price the sales around. This would allow a

	fluctuation in forward prices to reflect any changes in policy, such as the carbon floor, EU ETS, etc… At the present time there is simply no robust index to price around so no ability to sell forward. This issue is one Ofgem is explicitly trying to address in its work on liquidity. At some point in the future it may be reasonable to lengthen the time required to give notice, but at the present time the modification as it stands simply represents a closure tax. This seems likely to result in plant shutting earlier than it may otherwise have done at a time when the UK is facing a generation gap. This would not be consistent with Ofgem's wider duties to protect the environment. Furthermore, as recognised by the working group, there is a good case for recognising that the most likely sites for new build are those sites currently used by older plant. It can therefore be argued that even where plant shuts with only 2 years notice, it may well be that the site, and thus the assets, will be reused within a relatively short timeframe by new plant built on the same site. In the case of the old coal plant, following RWE's conversion of Tilbury, some plant may only be off for a short period while converted to other fuels. Others may be rebuilt as gas or new biomass plants. Under all of these scenarios the chance of stranding assets is very limited. Taking these two factors into account, along with the lack of any evidence of stranded assets, EPL believes that 2 years liabilities for post-commissioning generators represents a more economic solution to the desire to increase notice. EPL is aware that Ofgem have previously expressed concerns about the differential treatment on pre and post commissioning generators. We agree that non-discrimination is an important principle, but there are significant differences in the two types of generator. In the case of a pre commissioning plant there is the possibility that a plant will commission late, so having agreed investment is required will not turn up to use it for some time. A good example is the original connection dates for new nuclear plants of 2016, EDF then said completion in 2018 and is now reviewing their timetable again. On the TEC register Hinkley is still connecting in 2017. While the Working Group shows the slippage in new plant to date, EPL feels that the required levels of investment for extremely larger new nuclear and offshore wind farms is far greater than previously seen. The TOs investments are expected to be significantly greater and thus the risks imposed by these pre-commissioning generators is far greater. The shifting of dates in this manner must create additional uncertainty for TO's investment programmes, compared to an existing plant giving notice to close which he would then follow

	through. Changing a connection date may incur a “mod app” fee, but it is unlikely to reflect the potential costs to the TO’s of shifting investment on the scale required by a nuclear plant. Where a plant that says it is going to close cannot “mod app” his TEC back, but has to formally request a connection. Given the current outlook for the market as a whole, EPL would argue that the Government and Ofgem have an incentive to keep older generators running, or at least available to run, for longer in case the new nuclear plants and volumes of wind envisaged by EMR do not appear. Both have legal duties to secure supplies and meet reasonable customer demands, which may only be possible by running older plant longer. If plants are required to give 4 years notice they may shut earlier rather than later and thus jeopardise the security of supply in the medium term. The new pre commissioning plant has every incentive to commission early, but we do not believe that anyone wants to incentivise early closure at the current time. It seems to us the market outlook justifies treating pre and post commissioning generators differently, in the best interests of the consumers.
4. Do you support the proposed implementation approach?	Yes.

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Respondent:	*Neil Kermode*
Company Name:	*European Marine Energy Centre (EMEC)*
1. Do you believe that the Error! Reference source not found. **Original Proposal better facilitates the Applicable CUSC Objectives as set out in paragraph** Error! Reference source not found.**, and why?**	*Yes.* *EMEC is keen to see the effective development of a marine renewables sector. It is EMEC's opinion that the present rules require radical overhaul in order to enable these new and strategically important resources to be brought on line. The present rules were drafted during times when there was no alternative to fossil fuel generation, so it is not surprising that they were not drafted to encourage renewables. EMEC Believes that an unfortunately effect of the present rules is that they are now prejudicing the opportunity of the UK to develop a sustainable energy portfolio.* *Being focussed on delivery of this new energy source EMEC does not have an opinion on the effect of such changes on consumers, but is clearly mindful of unwarranted cost.* *EMEC notes that whilst the intent to avoid stranded assets is a concern, it believes this is being over stated as an issue. The fact that there have not been stranded investments to date shows that this industry is not one that enters lightly into commitments. In the case of marine energy the developers in the water have proven that the resources around our shores are real. There is little or no risk of these not being accessed now that their potential has been realised and proven.* *EMEC therefore welcomes the CMP192 Original Proposal. It seems to address several elements of the User Commitment requirement, including sharing the risk with end consumers (for wider works), the likelihood of power stations cancelling or*

	closing, transmission capacity sharing, and transmission asset reuse. Reducing liability to these issues substantially reduces the barrier faced by new entrants which is welcome to the marine sector. Separating the underwriting commitment from liability, is useful since the current underwriting requirement represents a huge barrier to this nascent industry. *EMEC would also like to see a redefinition on the split between wider and local works which still represents a major hurdle. The creation of dispersed generation in these peripheral areas warrants a re-examination of the MITS based criteria as EMEC still sees this as a barrier to entry; a barrier that is particularly prejudicial to these new, but comparatively small developments.*
2. Do you believe that any of the Error! Reference source not found. **Workgroup Alternative CUSC Modification Proposals better facilitates the Applicable CUSC Objectives as set out in paragraph** Error! Reference source not found.**, and why?**	*EMEC believe they stand a better chance of achieving the CUSC objectives which seemed to be the opinion too of the majority of the working group.*
3. Which, if any, proposal do you consider <u>best</u> facilitates the Applicable CUSC objectives as set out in paragraph Error! Reference source not found.**, and why?**	*WACM 8 (the sharing of liability for local works between generators and end consumers) looks likely to get to the objectives. Liability for local works, which are so extensive in Orkney's case, remains a formidable barrier for those companies hoping to deploy arrays of wave and tidal devices over the next few years. We must get over this initial hurdle if we as a country are going to hold our world lead in marine energy, which could become a major UK industry.* *Connecting Orkney and the mainland with a new cable will also create greater security of supply for consumers in Orkney. We are intensive users of energy, in part because of climatic conditions requiring high levels of space heating, and a new cable will give greater assurance to consumers in beginning the switch from fossil fuels to electricity, thereby reducing carbon emissions and helping to meet UK carbon targets.*
4. Do you have further justification for any of the characteristics of the Workgroup Alternative CUSC Modification proposals detailed in	

	paragraphs Error! Reference source not found. **to** Error! Reference source not found.**?**	
5.	**Do you support the proposed implementation approach?**	*Yes.*

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Respondent:	*Paul Jones 024 76 183 383*
Company Name:	*E.ON UK plc*
1. Do you believe that the Error! Reference source not found. **Original Proposal better facilitates the Applicable CUSC Objectives as set out in paragraph** Error! Reference source not found.**, and why?**	*No. The original proposal has benefits for pre commissioning generators which if were delivered in isolation would provide a solution that was better than the baseline. However, the introduction of a 4 year user commitment for post commissioning generation negates this. This is because generators cannot meaningfully respond to such timescales and this therefore represents an unnecessary additional risk of operating in the market which is detrimental to promoting effective competition. Additionally, as the positions of pre and post commissioning generators are not equivalent, as articulated in paragraphs 5.10 to 5.25 of the Code Administrator Consultation, then to treat them the same would in our opinion be undue and constitute discrimination.*
2. Do you believe that any of the Error! Reference source not found. **Workgroup Alternative CUSC Modification Proposals better facilitates the Applicable CUSC Objectives as set out in paragraph** Error! Reference source not found.**, and why?**	*WCAMs 5, 7, 8, 9, 11 and 12 are better than the baseline in our opinion. Each of the above WCAMs better meets the objectives to a greater or lesser extent dependent on the different combination of elements from which they are constructed. Our main concern is the 4 year notice period for post commissioning generators. Therefore, any WCAM with this element in it scores badly for us against the baseline. We also are not supportive of the element which provides for 50% sharing of local works when there is or will be an element of demand connected to the same node. We believe that this is contrary to the existing definition of local works, does not take account of how much demand is present and potentially would be discriminatory. However, this element is not of sufficient concern to offset the benefit of an option to grandfather the current arrangements for those parties*

	with an existing connection offer. Therefore, the above WCAMs represent solutions which do not have post commissioning 4 year user commitment, along with either no local sharing of works or a combination of local sharing of works and grandfathering. *It should be noted that we feel that WCAMs 5, 7 and 8 are slightly better solutions that their counterparts WCAMs 9, 11 and 12, as although both sets of WCAMs remove the 4 year user commitment for post commissioning generators, WCAMs 9, 11 and 12 retain similar treatment between pre and post commissioning which we believe is discriminatory.*
3. Which, if any, proposal do you consider <u>best</u> facilitates the Applicable CUSC objectives as set out in paragraph Error! Reference source not found.**, and why?**	*Option 7 is best as it contains:* • *appropriate treatment between pre and post commissioning generators;* • *grandfathering; and* • *no provision to share the costs of local works where there is an element of demand.*
4. Do you have further justification for any of the characteristics of the Workgroup Alternative CUSC Modification proposals detailed in paragraphs Error! Reference source not found. **to** Error! Reference source not found.**?**	*No.*
5. Do you support the proposed implementation approach?	*Yes.*

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Respondent:	*Dennis Gowland (01856 741267; dennis@researchrelay.com)*
Company Name:	*Fairwind Orkney Ltd (FOL)*
1. Do you believe that the Error! Reference source not found. **Original Proposal better facilitates the Applicable CUSC Objectives as set out in paragraph** Error! Reference source not found.**, and why?**	*Yes.* *For objective (a) The placing of the arrangements in CUSC provides more certainty.* *For objective (b) helps to reduce barriers to entry of new generation and aids competition.*
2. Do you believe that any of the Error! Reference source not found. **Workgroup Alternative CUSC Modification Proposals better facilitates the Applicable CUSC Objectives as set out in paragraph** Error! Reference source not found.**, and why?**	*Yes – all the Alternatives better facilitate the CUSC objectives than the baseline or the Original.* *The Original is better than the baseline in that it seeks to identify the value at risk of Transmission assets – with relief for reuse and (for wider) compliance factors. It tries to reduce barriers due the securities set at the level of liabilities, by introducing a likelihood factor based on milestones in the Pre-commissioning project where the security factor is set at 42% and 10% of liabilities (based on 25/50/75/100% step-up of liability or 'S' curve for FSL) pre and post generator project consent. The Shortcomings in the Original, in our opinion, is the loading of 100% liability (as opposed to sharing with demand) for all Local (now termed attributable) works onto Pre-commissioning generators. The Original also is too limited in its treatment of the FSL option – with a potential mismatch in the upfront payments of 1/2/3kW and the first year liabilities after 'trigger'. The 4 year requirement for Post-commissioning generators does not align*

	with the real ability of generators to asses the market conditions for closure or reduction in TEC. There are no grandfathering rights for projects which are near to completion – and where a requirement to bring contracts back to the table (where Financial Close has already taken place) may unduly and negatively impact. *All the Alternatives –in that they seek to fix the shortcomings of the Original - are, in our view, better facilitate the CUSC objectives.*
3. Which, if any, proposal do you consider <u>best</u> facilitates the Applicable CUSC objectives as set out in paragraph Error! Reference source not found.**, and why?**	*FOL has consistently championed the cause that the liability (100%), for Attributable (Local) works, placed on Pre-commissioning generators in the Original has not been justified. It does not help that the definition of Local differs according to code or use. It is further compounded by the general assumption that Local is 'sole user' whereas Wider is supposed to be self – evidently justifiable as sharing liability 50/50 with demand (consumers). Large areas of high energy resource lying peripheral and outside of the current definition of MITS (Main Inter-connected Transmission System) are captured as 'Local' (Attributable) in the Original – and if left unmitigated would lead to liabilities considerable in excess of those pertaining in the current, interim, arrangements. It is only the fact that the Original seeks to reduce the levels of securities demanded which marginally moves it ahead of the baseline. It should also be a material consideration that a 50/50 sharing with demand is present in IGUCM for Attributable (Local) which has been allowed by Ofgem since 2007.* *FOL produced a work group alternative D.WACM3 (pages 146-148 in the WG Report) which proposed a 50/50 sharing factor for all Attributable (Local).During further discussions in the Work Group, it was agreed to back the conditional alternative where generation which is shared or shareable with demand circuits would share liability 50/50 with demand.* *As a consequence FOL supports all the alternatives which have as an attribute Attributable works shared or shareable with demand reflected in a sharing factor of 50/50.* *FOL supports, particularly,* ***WACM 8 as Best***
4. Do you have further justification for any of the characteristics of the Workgroup Alternative CUSC Modification proposals detailed in paragraphs Error! Reference source not found. **to** Error! Reference	*Justification* Amongst the objectives of Project 'TransmiT' is the need to reduce the barrier to entry for generators to the UK transmission system whilst avoiding excessive risk to the consumer. If barriers are not being reduced (and even raised) and particularly for those in areas identified as being of importance for achieving UK and EU targets for renewables, then there is a mismatch. This alternative goes some way to re-balance things and to

source not found.**?**	reinstate the 50% sharing factor which is currently offered to Local connection in the interim IGUCM. Some 'Local' works begin to look like 'Wider' when they connect more than one generator and where they share with demand. Some Local works, once completed, may then become 'Wider' for later connections since they may constitute a node with more than 4 transmission circuits or a GSP with at least 2 transmission circuits. It is difficult to understand in these cases how a new entrant triggering a reinforcement of the UK grid leading to an extension of the MITS should be treated differently to a party connecting to an existing MITS node. In Section 3.5 of the Report, the Proposer sets out 8 considerations behind the Original – item 6 is 'Level of Capacity Sharing between Power Stations'. The author of this alternative believes that this consideration has only been partially addressed in the proposal (section 3.13) by using a simple ratio of a capacity as a means to mitigate liability on any one generator. Sharing of 'Local' assets (on common with 'Wider') reduces the risk of asset stranding, should one of the parties fail to complete its project, and should be considered in the background when proposing to share risk with the consumer. The report –in sections 4.38 – 4.47 describes 'Share of Risk between Generation and Demand'. It sets out an example for wider sharing of 50/50 with demand, which would add 10p per annum to electricity bills of domestic consumers if 5% of transmission assets were under-utilised or 20p if 10% (compared to 0% at present). If 'Local' transmission assets were added to the global Capex total at the same level of sharing (50%) with demand then the impact on consumers would be an additional 3.2p or 6.4p per annum at 5% and 10%, asset stranding, respectively. If the £160m savings (below) are factored in this reduces to 2.2p and 4.4p respectively. New entrants, including a mix of generating technologies offer a diversity of supply. Those connecting renewables offer a – cheaper and more stable long -term fuel cost element to consumer electricity bills. For example (section 4.42) a contribution of 2 GW of high merit generation including renewables connected could impact on energy prices – with an estimated saving of £80m per annum to consumers in electricity bills and a further £80m per annum saving on Carbon price (section 4.45). The proportion of a typical electricity bill for consumers driven by fuel cost against that driven by transmission cost is significantly higher and ore volatile. For instance in the area served by Scottish Hydro Electric Transmission Ltd –SHETL (in their RIIO white paper June 2011) the company –estimated that transmission costs were £0.38p per household in 2010 rising to £1.20 in 2020, after significant reinforcement to connect new generation. Counting in all UK bills Transmission amount –

scaled up - would equate to around £13 per annum at 2020. The fuel drivers are much bigger -just one increase (June 2011) in bills due to increased gas price estimated at £42 per household. If barriers to entry are lowered it would allow more competition with a wider diversity of users more likely. – This is contrasted with the consequence of high barriers where fewer, and large players, could cope with these, thus reducing competition with a potential impact on energy prices for consumers.

The extension of the Transmission System (Local works) to accommodate Islands and Offshore generation would tap into wider weather systems than those typically active the UK mainland, thus reducing the overall intermittent effect of wind on the system. There would be a further benefit to diversity and, ultimately, security of supply by bringing on stream new technologies such as wave and tidal generation.

On Islands where there is demand and no cable link – such as Shetland – new, Local connections would remove the need to use the existing diesel, thereby giving a more secure supply to demand and reducing CO2 emissions. Some allowance would need to be made for stand-by, for the diesel power station.

Sustainability, Scottish, UK and EU targets - though not necessarily part of the CUSC - must be taken note of by OFGEM.

It is accepted that this Alternative, in not seeking to differentiate Local works will include a proportion of Sole user assets within the sharing regime. The following table is taken from National Grid's contribution within the report, showing the part of capex attributable to 'Local' works – which equates to about 1/3 of total capex spend on the system – before revision due to asset re-use.

(From CMP 192 report)

£M	2011	
	Final Sums	285
Interim Arrangements	IGUCM	225
	Total	**510**
	Local	420
CMP192	Wider	43
	Total	**463**

Whilst some new generation will have a higher proportion of Wider compared to Local works –and thus associated forecast capex liability – others will have a very high Local to Wider proportion, for one Scottish Island group this would be in excess of 23:1 (compared with 15:1 under the interim IGUCM). This should be compared to the typical proportion in England and Wales of less then 5:1, and in many cases would be even lower at about 2:1.

	(i) Example (ii) This is based on a £200M (Capex) 'Local' connection TEC 300MW to Wider at Zone 1 with an estimate Wider liability (under the CMP192 original strawman calculation from Zonal/Boundary) of around £6.9M. After adjustments made for asset re-use the Local liability would be £160M.
5. Do you support the proposed implementation approach?	*Yes – provided that projects which have already passed the point of Financial Close are allowed to choose whether to continue with the present arrangements until commissioning.*

cusc.team@uk.ngrid.com

24 October 2011

Dear Emma

CMP 192 CODE ADMINISTRATOR CONSULTATION- Response by Highlands and Islands Enterprise

Highlands and Islands Enterprise (HIE) is the Scottish Government's agency responsible for economic and community development across the northern half of Scotland and the Islands.

HIE along with its local partners: the democratically elected local authorities covering the north of Scotland and the Islands: Shetland Islands Council, Orkney Islands Council, Comhairle nan Eilean Siar, Highland Council, Argyll & Bute Council and Moray Council have, for a number of years, been active in the regulatory arena because of the significant bearing regulation has on the economics and deliverability of projects in the Highlands and Islands of Scotland.

Home to some of Europe's richest renewable resources, the Highlands and Islands are well placed to contribute UK carbon reduction targets and the regulatory objective of security of supply by facilitating the deployment of a geographically dispersed, range of technologies; if key regulatory barriers can be effectively addressed to facilitate deployment of renewable technologies.

HIE has been closely following CMP 192 as well as the Project TransmiT SCR on transmission charging. Collectively these developments will impact developers cost base, their assessment of risk, financier's valuation of projects, generator diversity / competition (where security provision is cheaper / more attainable for credit-rated entities), project size and the development profile of a project. In essence, they will determine the future location, mix and ownership structure of low carbon generation. For National Grid it will impact on the quality of information provision from generators.

HIE commends the CMP 192 Working Group for it's airing and discussion of views and progress in developing a user commitment methodology and a number of variants. We acknowledge that no generic methodology will be perfect for all circumstances, and that the Working Group has finalised its Alternatives based on consideration of:

- What can be codified and implemented by April 2012 (noting that further developments can come forward through the CUSC process);
- Consolidation and compromise on some complex variants;
- Consideration of what Ofgem is more or less likely to approve.

Following our response to the initial consultation we would like to re-iterate our **support for the Alternatives which incorporate a 50% sharing factor for local works**. We have no strong views on the post-commissioning notice period variants, but are sympathetic to the problems that some generators will have in forecasting closure dates. In this respect, we would draw attention to the fact that the highest ranking single 'best' Alternative had local sharing with four years commitment (local + wider) for pre-commissioning and two years (wider only) for post-commissioning.

The remainder of this response is focused on providing supporting evidence and analysis for the 50% local sharing factor.

The specific definition developed by the Working Group is that this is limited to local works that "would connect a GSP into the main system." Whilst supporting these variants as better than the Original or variants that do not have this sharing factor, HIE does not think that its justification should be limited to the presence of demand.

In its CMP 192 voting form, National Grid states that "Whilst being sympathetic to 50% sharing of local for certain users, we feel that this should be treated on a individual case basis rather than through a blanket change, and may be a future refinement of the methodology once it has been more robustly justified through economic analysis."

HIE has a number of observations on this as follows:

- A 50% sharing factor for all onshore and Island local works under the IGUM methodology has already been justified to Ofgem through National Grid's own economic analysis. The narrowing to just those local works benefiting demand is a step away from this existing precedent, at least for non-refundable user commitment.

- This also means that generators currently on IGUM, where the local element is significant, will have higher liabilities under CMP 192. Furthermore the CMP 192 options with 100% sharing factor where the generator chooses non-refundable liabilities would seem to be counter to the IGUM justification.

- The 50% sharing factor for wider is rather arbitrary in CMP 192, and has no economic analysis underpinning it. The rationale appears to be that demand benefits in some way, with the 50/50 share being a qualitative rather than quantitative choice. Any move away from this for local assets therefore becomes discriminatory, putting users with significant local assets at a disadvantage for no objective justification.

We also understand that National Grid is concerned about the possibility that generators will favour distribution connections simply because of the lower underwriting, even where there is no demand in the area. HIE cannot fully understand this because if there is no demand, there will be no GSP and hence generators would not qualify for the lower liabilities. All-generation areas will have Grid Entry Points (GEPs) rather than GSPs.

We also note that a 50% sharing factor for local assets promotes a more competitive environment for generation. This is simply because it reduces the amount of security required, which, for north of Scotland projects more or less rule out all but the biggest players. HIE has previously provided evidence on the impact this has on competition to Ofgem, an excerpt from which is appended to this response.

Noting that National Grid's main aim in CMP 192 is to elicit good quality information, rather than indemnification, a 50% sharing factor would certainly be more in line with this aim. A 100% factor is simply indemnification. It deters projects from signing up for TEC, degrading or eliminating the quality of information for National Grid.

HIE feels that it is important to bear in mind that irrespective of the user commitment methodology, Transmission Owners (TOs) will only invest if they have Ofgem's approval. That approval is not automatic by virtue of the user commitment regime. Ofgem undertakes its own, separate assessment of the balance of risk, in order to protect consumers. TOs can and do find ways to secure additional indemnifications from generators if they feel the user commitment regime does not provide enough comfort. Therefore, the user commitment regime should not be about indemnification, because if it were, then the generator's should be in charge of when and where investments take place. As they are not, 100% indemnification of local assets is unjustified. Any move to assess benefits to demand on a case by case basis rather than write it into the CUSC will only serve to delay optimal system planning as users will be discouraged from coming forward.

In summary, we feel that the 50% sharing factor, as voted for by the significant majority of the Working Group should be approved as part of the new methodology. However, we would welcome further debate on widening the definition of local to that which is already established and in use under IGUM, as part of the CUSC process. Alternatively, Ofgem could send back the Modification for further work to expand the sharing factor to all local works, but we feel the delay this would impose would be more detrimental and so do not on balance favour this option.

I hope you find these comments useful. Please don't hesitate to contact me should you require any further information.

I look forward to viewing outcomes in due course.

Yours Sincerely,

Calum Davidson
Director - Energy and Low Carbon
Highlands and Islands Enterprise

In partnership with:
Shetland Islands Council
Orkney Islands Council
Comhairle nan Eilean Siar
Highland Council
Argyll & Bute Council
Moray Council

Appendix 1: Excerpt from further information supplied to Ofgem in confidence in February 2011.

In our response to Ofgem's initial consultation in November 2010, we stated that projects are required to provide security for underwriting a grid connection four years from date of connection. This means that projects sited in the Highlands and Islands are regularly expected to provide significant security as it ramps up, prior to achieving financial close. This leads to a reduction in the number of operators with sufficient access to finance to deliver these projects and a resulting lack of competition in generation and supply in areas with high connection costs. Underwriting liabilities are creating an unnecessary commercial barrier to market entry by project developers in the Highlands and Islands.

In a confidential letter to Ofgem in February 2011, we provided further information on specific examples of:

- where underwriting commitments have created an unnecessary commercial barrier to market entry by project developers in the Highlands who would otherwise be able to proceed with projects but are having to consider diluting ownership or outright sale of their projects
- projects in the Islands which were unable to proceed on the basis of extremely high underwriting liabilities.

"In May 2010 there were 11 operational onshore wind projects over 20MW in the Highlands and Islands owned by 7 companies. This represents a 63% occurrence of repeat ownership. At the same time there were 28 operational projects under 20MW with 26 different owners; only a 7% incidence of multiple project ownership[1].

Highlands and Islands Enterprise (HIE) does not have ready access to figures for other parts of the UK so cannot draw comparisons. However, we suggest that the stark contrast in ownership of power plants over 20MW compared with sub 20MW ownership trends are at least in part to do with extremely high underwriting liabilities being faced by project developers in the Highlands and Islands. The move to socialise the cost of wider works in 2010 was very welcome. However, the definition of local works in the Highlands and Islands essentially means the cost of getting to Beauly, often from peripheral regions of high resource. Projects are regularly faced with quotes for local works ranging from a few million to tens and hundreds of millions of pounds."

[1] Figures taken from Scottish Renewables Forum's 'Energy Database for Scotland' May 2010.

CUSC Code Administrator Consultation Response Proforma

CMP192 – Enduring User Commitment

Industry parties are invited to respond to this consultation expressing their views and supplying the rationale for those views, particularly in respect of any specific questions detailed below.

Please send your responses by **24th October 2011** to cusc.team@uk.ngrid.com Please note that any responses received after the deadline or sent to a different email address may not receive due consideration by the CUSC Modifications Panel when it makes its recommendation to the Authority

Any queries on the content of the consultation should be addressed to Emma Clark at Emma.clark@uk.ngrid.com

These responses will be included in the Final CUSC Modification Report which is submitted to the CUSC Modifications Panel.

Respondent:	*Simon Lord*
Company Name:	*International Power*
1. Do you believe that the Error! Reference source not found. Original Proposal better facilitates the Applicable CUSC Objectives as set out in paragraph Error! Reference source not found.**, and why?**	*No. For post commissioning generation the requirement is to provide a notice period of four years. This extends well beyond the time scales where market information is available. This will lead to suboptimal decisions being made resulting in increased cost to consumers.*
2. Do you believe that any of the Error! Reference source not found. Workgroup Alternative CUSC Modification Proposals better facilitates the Applicable CUSC Objectives as set out in paragraph Error! Reference source not found.**, and why?**	*Yes we believe that alternative WACM 5-8 are better than the current baseline. All these alternatives contain a 2 year notice period (the current position) for closure of existing plant and are all better than the current base line as they include provisions for pre-commissioning plant that reduces the security requirements for wider works to 10% post consents.*
3. Which, if any, proposal do you consider <u>best</u> facilitates the Applicable CUSC objectives as set	*We believe that WACM 8 is the best in that it allows a 50% sharing of local working in circumstances where local will potentially become wider works and also allows grandfathering for pre-commissioning plant. This will allow plant close to*

	out in paragraph Error! Reference source not found.**, and why?**	*commissioning to stay on existing arrangements. It is expected that pre-commissioning plant that is further from commissioning will naturally switch to the new arrangements driven by the lower security requirement.*
4.	**Do you have further justification for any of the characteristics of the Workgroup Alternative CUSC Modification proposals detailed in paragraphs** Error! Reference source not found. **to** Error! Reference source not found.**?**	*No*
5.	**Do you support the proposed implementation approach?**	*Yes this will allow the current arrangement to exist until November 2012.*

CUSC Code Administrator Consultation Response Proforma

CMP192 – Enduring User Commitment

Industry parties are invited to respond to this consultation expressing their views and supplying the rationale for those views, particularly in respect of any specific questions detailed below.

Please send your responses by **24th October 2011** to cusc.team@uk.ngrid.com Please note that any responses received after the deadline or sent to a different email address may not receive due consideration by the CUSC Modifications Panel when it makes its recommendation to the Authority

Any queries on the content of the consultation should be addressed to Emma Clark at Emma.clark@uk.ngrid.com

These responses will be included in the Final CUSC Modification Report which is submitted to the CUSC Modifications Panel.

Respondent:	*Albert Tait, Chief Executive*
Company Name:	*Orkney Islands Council*
1. Do you believe that the Error! Reference source not found. **Original Proposal better facilitates the Applicable CUSC Objectives as set out in paragraph** Error! Reference source not found.**, and why?**	*Yes. It is a key objective of Orkney Islands Council to see the development of a major renewable industry in Orkney, both to benefit the local economy and also to contribute to the achievement of Government targets for renewable energy and carbon reduction. Orkney has some of the best renewable resources in the UK, of wind, wave, and tide, which can be developed in the national and local interest. New wave and tidal projects in the Pentland Firth and Orkney Waters are due to generate 1 GW, or even as much as 1.6 GW of power, by 2020, a vital alternative and complement to the offshore wind which will be the predominant source of the UK's renewable energy in the future. Diversity in the UK's renewables portfolio is as important as size.* *It has been clear for some time that the current User Commitment requirements are a major impediment to achieving these aims, and constitute a barrier to entry for new potential generation projects in and around Orkney. The barrier affects the UK as a whole, but has a particular impact in Orkney because of the unusually extensive level of grid reinforcement that would be required to transmit electricity from Orkney to the nearest MITS point in the network, at Blackhillock in Moray.* *The Council recognises the need for some degree of protection for end consumers against the risk of a stranded asset,, but it is aware of the fact, referred to in the Consultation Report, that there has never been a stranded asset in the electricity network. It is also aware of the fact that GB transmission costs make up approximately 3% of the average customer's bill, a relatively*

	small proportion at a time when fossil fuel price increases are significantly increasing the average bill. *The Council therefore welcomes the CMP192 Original Proposal, which addresses a range of different elements of the User Commitment requirement, including in particular the sharing of risk with end consumers (for wider works), the likelihood of Power Stations cancelling or closing, the level of transmission capacity sharing, and the level of transmission asset reuse. The reduction in liability resulting from solutions to these issues will substantially reduce the barrier faced by new entrants. The separation of the underwriting commitment from liability, and the reduction of the former in relation to the latter, is particularly helpful, since the current underwriting requirement represents a huge barrier for all but the largest, and financially strongest, companies – and this is a particular problem for Orkney which has a number of medium and small projects as well as some larger ones.* *Whilst welcoming the Original Proposal the Council remains concerned that as a consequence of the unchanged definition of wider/local works boundary, and the distance from Orkney to the nearest MITS point, the liability and underwriting requirement for new generation projects in and around Orkney still constitutes a barrier to entry for some projects.*
2. Do you believe that any of the Error! Reference source not found. **Workgroup Alternative CUSC Modification Proposals better facilitates the Applicable CUSC Objectives as set out in paragraph** Error! Reference source not found.**, and why?**	*The Council believes that, in so far as the effect of all the WACMs is to reduce the barrier to entry for new generation projects, they all better facilitate the achievement of CUSC objectives, in particular the objective to facilitate effective competition in the generation and supply of electricity.* *The Council notes that a majority of the Working Group supported this conclusion.*
3. Which, if any, proposal do you consider <u>best</u> facilitates the Applicable CUSC objectives as set out in paragraph Error! Reference source not found.**, and why?**	*The Council believes that WACM 8, the sharing of liability for local works between generators and end consumers (Demand) is the one that best facilitates achievement of the objectives. It addresses the Council's principal remaining concern, as highlighted in 1) above. The extent of local works relative to wider works is an issue affecting the Scottish Islands generally, as well as adjacent areas of the Scottish mainland, and these are areas which have the best renewable resource in the UK. Exploitation of these resources will be necessary to achieve UK Government targets, and indispensable to the achievement of effective competition in the generation and supply of electricity, to avoid over-reliance on one main and intermittent source of*

	renewable energy, offshore wind. Reducing barriers to entry in these areas is in the interests of end consumers generally. *In addition to the contribution to effective competition there is justification for the sharing of risk between generators and end consumers in the fact that end consumers in the islands, and in adjacent mainland areas, will benefit from the strengthening of grid in the islands and north and west of Scotland through greater security of supply. This will become more important in future years as consumers switch from fossil fuels to electricity as their main source of energy.* *The Council is fully aware of the importance and relevance of making this substitution, which it is incorporating in its own programmes by using ground source heat pumps as the main heating source for new public buildings, in place of oil-fired boilers; and which it is also pursuing in the field of transport through use of demonstration electric vehicles, as part of its 'Orkney's Electric Future' programme. Overall this programme, covering the public and private housing and transport sectors, envisages an increase of some 9MW power, equivalent to some 25-30% of maximum demand in Orkney (see table in annexe).* *This programme represents a medium term aspiration, and it indicates how in the long term future Orkney (which is a high user of energy, especially fossil fuels, on a per capita basis) will increase its use of electricity, as part of a general move to decarbonise energy supply. Indeed Orkney could lead the way in this respect, acting as a model for the rest of the country. The islands form a discrete area with a keen interest in the production and use of renewable energy, and consequent public acceptance of switching to use of renewable energy; and Orkney has developed many of the skills needed for this process through a range of small businesses.* *Grid reinforcement between Orkney and the national network will give greater assurance, and greater choice, to end consumers, and can be expected therefore to accelerate the switch to electricity usage. Thus the Council believes that there is a need and a justification for sharing liability for local works, to reduce barriers to grid reinforcement.* *The Council therefore strongly supports the adoption of WACM 8.*
4. Do you have further justification for any of the characteristics of the Workgroup Alternative CUSC Modification proposals detailed in paragraphs Error!	

	Reference source not found. **to** Error! Reference source not found.**?**	
5.	**Do you support the proposed implementation approach?**	*Yes, it appears to be a reasonable approach*

Orkney's Electric Future - Power Requirement by Project

	Power Requirement (installed capacity)	**Capex Requirement**	**Main Potential Funding Source**
North End Stromness DH Scheme, heat pump	1.5 MW	£2.7m for non-domestic scheme	OIC, with grant
Carbon Management Programme	Ground source heat pumps in 2 isles schools = ?	£0.6 m	OIC
Schools Investment Programme	0.75 MW	GSHPs included in overall budget	OIC
OHAL air source heat pumps, supplement to electric storage heaters	Neutral	250 older dwellings @£1.3k = £0.325m	OHAL
OHAL PV panels, 405 houses	Limited reduction	405 dwellings @ £8.8k = £3.56m	Retrofit of Renewable Electricity Generation Initiative
OIC housing ground source heat pumps (150 @5 kW	2 MW (assume replaces oil-fired heating)	128 Dwellings @£16k = £1.93m	OIC, with grant
OIC housing new passive housing	Small increase	150 houses @ £7k additional cost = £0.98m	OIC for construction cost, Grant for additional costs
Private sector micro turbines (100@6 kW)	Neutral (assume replace oil-fired heating)	Restore £4k grant = £0.4m	
Private sector ground source heat pumps (100 @5 kW)	1.5 MW (assume replace oil-fired heating)	Restore £4k grant = £0.4m	
Demonstration EVs	Negligible	£0.075m	Scottish Govt grant
Community Trust EVs	Negligible		
Electric Vehicle Roll out to two-car households	2.5 MW	£12.5 assuming £5k grant per EV	Commercial, 50% Government
Cold ironing 'Hamnavoe'	0.25 MW		Northlink
TOTAL	**9 MW**		

24 October 2011

CUSC Team
National Grid Plc
National Grid House
Warwick Technology Park
Gallows Hill
Warwick
CV34 6DA

Dear Sirs,

CMP192 Arrangements for Enduring Generation User Commitment

This letter sets out our more detailed responses to your first four questions in the attached CUSC Code Administrator Consultation Response Pro Forma:

1. Do you believe that the CMP192 Original Proposal better facilitates the Applicable CUSC Objectives as set out in paragraph 11.1, and why?

This raises a secondary question of "better than what?". Currently there are no provisions in the CUSC dealing with a generator's financial liabilities in relation to the provision of new or additional transmission capacity. Within the Transmission Licence there exists an obligation on Transmission Owners to develop a network in an "economic and efficient" manner and as part of that and with the agreement of Ofgem, approaches have been developed initially using a Final Sums approach and more recently an Interim Generic User Commitment Methodology referred to as "IGUM". This itself has been modified over time by inclusion/exclusion of Wider Works, which term is used differently in this context to the manner in which it has been considered in CMP192 and its Working Group Alternatives.

A previous attempt was made to codify an approach to such financial liabilities when National Grid submitted CUSC Amendment Proposal 131 ("CAP131"). That was rejected by the Authority after lengthy consideration on the basis that OFGEM deemed it to be discriminatory, principally on the basis that it failed to require the same level of financial liability from existing users of the network as from new users of the network in cases where upgrades are needed. We have previously drawn OFGEM's attention to our view that both Final Sums and IGUM were similarly discriminatory and as such, both breached the anti-discrimination provisions in the Transmission Licences. It is important therefore that any amendment here is very carefully considered in relation to this subject.

Whilst we believe the proposal in both its original form and in the various Workgroup Alternatives goes a long way towards addressing discrimination, we can clearly identify an area where discrimination remains. This is in respect to elements which fall within the proposed definition of Attributable Works. As the definition is worded, this concept includes not only works required to run cabling directly to a generator but also deeper upgrades required to allow the generator to move power

to a MITS Node. Elements of these lines are likely to be existing and in use by other generators meaning that upgrades to such lines are required as a result of two separate factors:

i) new generators seeking to use the grid; and
ii) existing generators already on that portion of the grid.

CMP192 correctly deals with MITS upgrades by proposing an approach where existing generators in an area share liability for upgrades with new generation, thus avoiding discrimination, but that concept has not been carried through when dealing with Attributable Works.

Returning to the question, it is our view that the question can only be interpreted to be asking if the CUSC, with the addition of the CMP192 Original Proposal, better facilitates the applicable CUSC objectives than the CUSC as it stands today. In the case of the first objective, being the "efficient discharge by the licensee of the obligations imposed upon it under the Act and by this licence" we are therefore of the view that the Original Proposal does *not* better achieve this. Our rationale for responding in this way is that the CUSC as it stands today, being silent about the allocation of financial obligations for new transmission capacity, does not create a situation where a TO is in breach of its licence by acting in a discriminatory manner. However the application of CMP192 *would* breach the non-discrimination requirements under the licence for the reasons we have set out above.

This problem could be addressed by either redefining Attributable Works to exclude assets shared with other generators or by making specific provision to allocate elements of such cost in a different manner to that currently proposed.

Looking at the second CUSC Objective, this deals with facilitating effective competition in the generation and supply of electricity. In our view this also runs into the same problem. When comparing new generation to existing generation lying between such new generation and a MITS Node, CMP192 impedes effective competition by unreasonably preferring the existing generation. This is because it does not require such existing generation to bear any responsibility for upgrade of the line it uses to connect to the MITS Node.

2. Do you believe that any of the CMP192 Workgroup Alternative CUSC Modification Proposals better facilitates the Applicable CUSC Objectives as set out in paragraph 11.1, and why?

When considered independently, all the CMP192 Workgroup Alternative CUSC Modification Proposals fail to better facilitate the Applicable CUSC Objectives for the same reason as we have set out in detail above.

3. Which, if any, proposal do you consider <u>best</u> facilitates the Applicable CUSC objectives as set out in paragraph 11.1, and why?

Out of the range of Workgroup Alternatives and the Original Proposal, we consider that Workgroup Alternative 8 best facilitates the Applicable CUSC Objectives although this remains subject to our comments above that none of these satisfactorily deal with discrimination.

In coming to this conclusion we have carefully considered each of the factors which differentiate this Alternative from others and from the Original. As explained in the Consultation there are three key areas:

Liability period pre/post commissioning

We agree with the rationale for using a four year period for pre-commissioning based on the typical construction period for new transmission. The difference lies in the applicable period for post commissioning. Here we feel that it is important to use a period in which decisions can reasonably be expected to be made by post commissioning generation about coming off the system. This needs to balance their commercial factors with grid factors. Having a four year period lacks that balance in our estimation but two years appears to us to be a more reasonable compromise. Accordingly, when considering most particularly how effective competition is facilitated, we regard the sub-set of Alternatives envisaging a two year post-commissioning period as preferable to those with longer periods. Similarly we regard Alternatives having a four year pre-commissioning liability period as more reflective of the construction period than other proposals. That narrows down our choice of optimal alternatives to Workgroup Amendments 5, 6, 7 and 8.

Grandfathering Option

For generation plant under development, investment decisions have been made to date on the basis of the regulatory environment as it exists today. To not allow pre-commissioning plant to continue on its existing basis would be damaging for investment confidence leading to negative consequences for new generation and thus adversely impacting effective competition. We therefore favour those Alternatives providing for grandfathering which reduces us to Alternatives 7 and 8.

50% Sharing for all Local Reinforcements where Demand is existing or planned at the Site

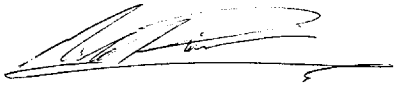
There is, in our view, a considerable difference between a new transmission line built to an offshore wind farm and a new transmission line built to an island. The former is clearly exclusively to bring generation to market whereas the latter is there for two reasons – to bring generation to market and to improve grid infrastructure on an island, allowing for new demand to come to that area as well as existing demand to be securely served.

This supports the idea that in some manner demand should share the liabilities associated with new transmission lines in those circumstances but on what basis – 50/50 as suggested, 73/27 or on some other basis? When new transmission is put in, an assessment could be made of the level of generation against the level of demand but that would be a snapshot in time. There is no way to judge how levels of demand and generation may change over the lifetime of the transmission line however so that would be unreasonable. We consider that it would be most equitable to simply divide the liability equally, so supporting the 50/50 approach suggested. We are also cogniscent of the fact that both Ofgem and National Grid have supported a wider application of this 50/50 approach through the Interim Generic User Commitment Methodology and find that additionally persuasive. This leads us to select Workgroup Alternative 8 as the Best in facilitating the Applicable CUSC Objectives.

Finally we wish to highlight a concern about an issue not directly addressed by this Modification Proposal but in our view central to it. When bringing forward CMP192 National Grid has stated that its intention is to use the User Commitment to elicit good quality information rather than provide an indemnification for upgrade costs. There have been a number of instances where, as part of Ofgem's process of approval of upgrades, generators have been asked to provide additional indemnification or financial support. We feel that this should not be the case and that the requirements for security as set out in the CUSC should always be sufficient – it should not be open to Ofgem or TO's to ask generators for additional financial support or other undertakings. We would like to see this made clear which it is not presently.

We conclude by thanking all members of the Workgroup for their excellent contributions to this difficult topic which has been under debate by industry for many years. We appreciate the opportunity to contribute to the debate.

Yours faithfully,



Michael Davies
Managing Director

CUSC Code Administrator Consultation Response Proforma

CMP192 – Enduring User Commitment

Industry parties are invited to respond to this consultation expressing their views and supplying the rationale for those views, particularly in respect of any specific questions detailed below.

Please send your responses by **24th October 2011** to cusc.team@uk.ngrid.com Please note that any responses received after the deadline or sent to a different email address may not receive due consideration by the CUSC Modifications Panel when it makes its recommendation to the Authority

Any queries on the content of the consultation should be addressed to Emma Clark at Emma.clark@uk.ngrid.com

These responses will be included in the Final CUSC Modification Report which is submitted to the CUSC Modifications Panel.

Respondent:	*Michael Davies* *mike.davies@futurelectric.co.uk*
Company Name:	*The Orkney Wind Company Limited*
1. Do you believe that the CMP192 Original Proposal better facilitates the Applicable CUSC Objectives as set out in paragraph 11.1, and why?	*No it does not better facilitate the CUSC Objectives. See our attached letter for a detailed response to this question with an explanation for our view.*
2. Do you believe that any of the CMP192 Workgroup Alternative CUSC Modification Proposals better facilitates the Applicable CUSC Objectives as set out in paragraph 11.1, and why?	*No they do not better facilitate the CUSC Objectives. See attached letter for a detailed response to this question where we set out our reasons.*
3. Which, if any, proposal do you consider <u>best</u> facilitates the Applicable CUSC objectives as set out in paragraph11.1, and why?	*Workgroup Alternative 8..See attached letter for a detailed explanation for our choice.*

4.	**Do you have further justification for any of the characteristics of the Workgroup Alternative CUSC Modification proposals detailed in paragraphs 10.76 to 10.81?**	*No we do not. We consider the balance of the arguments to have been well made by the Working Group.*
5.	**Do you support the proposed implementation approach?**	*Whilst we are in agreement with the spirit of the proposed implementation approach outlined in the Consultation, we note that dates have been selected based on an assumption that the Authority will shortly approve the proposals. Given our concerns about elements of the proposals as set out in this response then we make the observation that should any Authority approval be materially delayed, such delay should be reflected in adjustments to the implementation dates proposed in the Consultation.*

RenewableUK
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Date: 24th October 2011

by e-mail to: cusc.team@uk.ngrid.com

by e-mail from zoltan.zavody@renewableuk.com

Dear Sir/Madam,

RenewableUK consultation response:
CMP 192 – Arrangements for Enduring User Generation Commitment

Renewable UK is the trade and professional body for the UK wind and marine renewables industries. Formed in 1978, and with over 660 corporate members, RenewableUK is the leading renewable energy trade association in the UK, representing the large majority of the UK's wind, wave, and tidal energy companies.

RenewableUK would like to submit some brief, top-line views on the issue of CMP 192 and, as such, we set these out in a letter rather than the more detailed pro-forma provided.

RenewableUK welcomes the development of a more equitable and more workable arrangement for pre- and post-user commitment. It is right that, for wider works, there should be parity in user commitment between new and existing generation, to avoid discrimination and to reflect costs.

It is important to note that, while some local works will only apply to a single new generation plant, other local works will have wider benefits (for instance, shared with other generation). Parity in user commitment between new and existing generation is still warranted in these instances.

RenewableUK believes that costs should reflect the actual level of risk and not more, so as not to discourage investment, but protecting the end consumer from the risk. The fact that there have been no stranded electricity transmission assets to date suggests risk is low, and there could be greater flexibility on up-front commitment.

In the spirit of cost-reflectivity, use of Final Sums Liability should be an option, whereby developers only forfeit the amount actually spent on relevant grid extension (rather than the

full anticipated cost). Equally, reduction of liability as projects develop is fair and more reflective of the reducing risk of stranded assets.

Turning to distributed generation, RenewableUK notes that there is sometimes a pass-through demand from the DNO, to securitise wider transmission works. The sums involved can be significant yet not broken down or justified. Given that smaller, independent generators are unlikely to have a major impact on the transmission system, the appropriateness of a transmission related commitment needs reassessment.

I trust this response is helpful for your deliberations.

Yours sincerely,

Zoltan Zavody
Grid Policy Team

CUSC Code Administrator Consultation Response Proforma

CMP192 – Enduring User Commitment

Industry parties are invited to respond to this consultation expressing their views and supplying the rationale for those views, particularly in respect of any specific questions detailed below.

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Any queries on the content of the consultation should be addressed to Emma Clark at Emma.clark@uk.ngrid.com

These responses will be included in the Final CUSC Modification Report which is submitted to the CUSC Modifications Panel.

Respondent:	*Please insert your name and contact details (phone number or email address) Bill Reed*
Company Name:	*Please insert Company Name: RWE*
1. Do you believe that the Error! Reference source not found. **Original Proposal better facilitates the Applicable CUSC Objectives as set out in paragraph** Error! Reference source not found.**, and why?**	*We do not support implementation of the original proposal. We are concerned about lack of cost reflectivity for projects development (particularly pre the trigger date) and we do not believe that the 4-year user commitment is appropriate given the risks facing generators in the energy market.* *For large-scale low carbon projects in the early stage of development it is very difficult to commit to a firm level of capacity prior to completing detailed feasibility studies, obtaining consents, finalising grid connection point location, carrying out out environmental surveys etc. The methodology needs to recognise the uncertainty involved in consenting large scale low carbon projects by containing flexibility to adjust TEC in the development stage.*
2. Do you believe that any of the Error! Reference source not found. **Workgroup Alternative CUSC Modification Proposals better facilitates the Applicable CUSC Objectives as set out in paragraph** Error! Reference source not found.**, and why?**	*We support the implementation of the modification proposals with a 2-year user commitment for existing generators as we believe that this better reflects the risks associated with operating power stations in the GB electricity market.*

3. Which, if any, proposal do you consider <u>best</u> facilitates the Applicable CUSC objectives as set out in paragraph Error! Reference source not found.**, and why?**	*Our preference is for implementation of alternative 12 since this better meets the CUSC objectives when compared with the current baseline and when compared with the other alternatives. This alternative allows users to manage upfront risks more effectively by reducing the risks associated with high generic liabilities (above those incurred by National Grid) prior to making a final financial investment decision by removing the risks associated with TEC reduction. Furthermore, Alternative 12 removes inefficiencies incurred as a result of providing notice to close before it becomes economically efficient to close a power station.*
4. Do you have further justification for any of the characteristics of the Workgroup Alternative CUSC Modification proposals detailed in paragraphs Error! Reference source not found. **to** Error! Reference source not found.**?**	*We believe that the characteristics of an enduring solution should include a 2-year user commitment for wider works to ensure non discriminatory treatment of this aspect of the works for pre and post commissioning generators and to recognise the specific risk profile of existing generators operating the electricity market. We also support the implementation of a version with fully cost reflective arrangements for final sums. The proposal to cap final sums also appears sensible. The grandfathering of existing arrangements would appear to be a pragmatic solution that ensures the minimum disturbance for projects in development while the reflection of local sharing is a sensible approach where such sharing can be demonstrated.*
5. Do you support the proposed implementation approach?	*Yes*

CUSC Team
National Grid

Via email to cusc.team@uk.ngrid.com

21 October 2011

Dear CUSC Team

CMP192 Arrangements for Enduring Generation User Commitment

I am writing in relation to the Code Administrator Consultation for CMP192 Arrangements for Enduring Generation User Commitment. Scottish Renewables shall limit our response to the points contained below.

Scottish Renewables, on behalf of the majority of our members, supports CMP192 alternatives incorporating a 50% sharing factor for local works. By its very nature, any infrastructure that supports generation also supports demand. The precedent of a 50% sharing factor already exists under the IGUM methodology, and so would have been appropriately justified to Ofgem prior to its approval.

We are concerned that if such a sharing factor were not applied, it would have an adverse and quite unnecessary impact upon competitiveness within the generation market. The absence of a local sharing factor has the potential to preclude smaller independent developers from market participation, and such a situation is clearly more acute in North Scotland and the Islands. The original aim of CMP192 was to secure good quality information, rather than pure indemnification, and has so far enabled positive steps to be taken towards a more effective enduring user commitment regime. It is not unusual for a Transmission Owner to require further indemnification upon determining the level of indemnification insufficient as calculated under either Final Sums Liability or IGUM. We urge National Grid to consider a 50% local sharing factor to be included within the methodology, whilst realising in certain circumstances further indemnification could be required.

We hope you find these comments useful, and please feel free to contact me if you have any questions or require further clarification on the points made above.

Yours sincerely

Catherine Birkbeck
Policy Manager, Grid & Markets

Scottish Renewables
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CUSC Code Administrator Consultation Response Proforma

CMP192 – Enduring User Commitment

Industry parties are invited to respond to this consultation expressing their views and supplying the rationale for those views, particularly in respect of any specific questions detailed below.

Please send your responses by **24th October 2011** to cusc.team@uk.ngrid.com Please note that any responses received after the deadline or sent to a different email address may not receive due consideration by the CUSC Modifications Panel when it makes its recommendation to the Authority

Any queries on the content of the consultation should be addressed to Emma Clark at Emma.clark@uk.ngrid.com

These responses will be included in the Final CUSC Modification Report which is submitted to the CUSC Modifications Panel.

Respondent:	*Garth Graham (01738 456000)*
Company Name:	*SSE*
1. Do you believe that the CMP192 Original Proposal better facilitates the Applicable CUSC Objectives as set out in paragraph 11.1, and why?	We do not believe that CMP192 Original does better facilitate the Applicable CUSC Objectives. In coming to this view whilst we believe there may be some benefit with respect to Applicable Objective (a) this benefit is substantially outweighed by the significant dis-benefit with respect to Applicable Objective (b) that arises with the Original Proposal. More specifically (with respect to Applicable Objective (b)) the introduction of a four year notice period for post commissioning generators would have a substantially detrimental impact on competition in the generation and supply of electricity, and would not facilitate such competition for the reasons set out in the Code Administrator report. For example, the lack of meaningful (or actual) market prices for major elements of the generation (and supply) market; such as carbon, coal, gas and electricity; beyond two years severely hinders post commissioning generators if they were to be required to provide greater than two years User Commitment notice.
2. Do you believe that any of the CMP192 Workgroup Alternative CUSC Modification Proposals better facilitates the Applicable CUSC Objectives as set	Yes. We believe that Workgroup Alternative CUSC Modification Proposals five through to twelve (inclusive) better facilitate the Applicable CUSC Objectives when compared (i) with the Original and (ii) the Baseline. In respect of Applicable Objective (a) this betterment would, in our view, be minor and would arise primarily from incorporating

	out in paragraph 11.1, and why?	the FSL / IGUM arrangements for pre commissioning generators within the governance of the CUSC. However, with respect to Applicable Objective (b) this betterment would, in our view, be significant. In particular the reduction in the User Commitment notice period from four years (in the Original and WGAMs 1-4) to two years (in WACMs 5-12) would better facilitate competition in the generation and supply of electricity. Furthermore, the addition of FSL (no 1,2,3 £/kW) option and 1,2,3 £/kW capped @ YR-4 in generic option (i.e. 25%) in some of the 5-12 WACMs would be beneficial to competition in the generation and supply of electricity, and would better facilitate such competition for the reasons set out in the Code Administrator report as would (i) the 50% sharing for all local reinforcements where demand is existing or planned at the site and (ii) the grandfathering option for pre-commissioning generation in some of the 5-12 WACMs.
3.	**Which, if any, proposal do you consider <u>best</u> facilitates the Applicable CUSC objectives as set out in paragraph 11.1, and why?**	We believe that Workgroup Alternative CUSC Modification Proposals five through to twelve (inclusive) better facilitate the Applicable CUSC Objectives when compared (i) with the Original and (ii) the Baseline for the reasons set out in our response to Q2 above.
4.	**Do you have further justification for any of the characteristics of the Workgroup Alternative CUSC Modification proposals detailed in paragraphs 10.76 to 10.81?**	We note the comments provided in the Code Administrator report on the characteristics of the WACM proposals (as detailed in paragraphs 10.76 to 10.81) namely:- i) Notice Period and Profile; ii) Specific Advanced Works Amount; iii) Capping the Advanced Works Amount; iv) Grandfathering of Current Interim Arrangements; and v)Sharing of Attributable Liability with Demand Users We concur with the justification provided in the Code Administrator report.
5.	**Do you support the proposed implementation approach?**	We note the proposed Implementation and Transition approach set out in Section 8 of the Code Administrator report and we support this approach. However, we are mindful that there will be a substantial piece of work for both National Grid and all CUSC Parties in practically implementing CMP192 (be that the Original or any of the 12 WACMs) and we would urge National Grid to provide

	stakeholders with the CMP192 Transition Process Plan, together with the associated information etc., with the utmost speed if CMP192 (be that the Original or any of the 12 WACMs) is approved by the Authority for implementation.

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YOUR REF./DATE: OUR REF.: PLACE/DATE:
Oslo, 24.10.2011

CMP 192 – CUSC Code Administrator Consultation Response

Please find attached Statkraft's response to the CUSC Code Administrator Consultation on CMP 192. Below is a summary of our views. The response to the five questions in the Response Proforma is attached as a separate document.

Do get in touch if you have any queries.

Yours sincerely,

(*signature*)

Bjørn Drangsholt
Managing Director

CONTACT PERSON/DEPT.: Knut Dyrstad
PHONE: +47 24 06 70 36
E-MAIL: knut.dyrstad@statkraft.com

CMP192 Arrangements for enduring generator user commitment: Code Administrator's consultation

Statkraft is a major new entrant generator in the GB electricity market. Most notably we are currently commissioning the Sheringham Shoal Round 2 offshore wind scheme, and we have a significant interest in the Dogger Bank Round 3 offshore wind project. We welcome the opportunity to provide views on this important consultation.

Rationale for supporting Alternative 12

Statkraft supports the work to formalise user commitment arrangements within the CUSC, and all the options set out in the consultation improve on the current baseline in that there would at least be codified rules. All parties should carry to some degree the risks associated with transmission investment and the associated rules should be transparent and subject to proper industry governance. We believe the various proposals subject to consultation now also offer enhancements over the current interim policies (with one important qualification).

We are disappointed, however, by the partial nature of the consultation in the light of the significant changes proposed. There has clearly been significant changes in the Working Group's thinking since its previous consultation over the summer, and the real scope that still exists for further improvement of the proposals. This limited scope means that important elements of the various portfolio solutions on offer cannot be specifically commented on.

For instance, we agree that user commitment is appropriate for both new (pre-commissioning) users joining the system and for existing (post-commissioning) users leaving the system as both impact on the need for transmission assets. However, it has not been demonstrated in the consultation report that the level, or means, of generator commitment needs to be either at the levels proposed, or that it should be symmetrical between pre- and post- commissioning generators. Indeed the design of the regime must be equitable for all parties, which in turn means sharing risks appropriately amongst developers, transmission owners and consumers. We believe further rebalancing of risk allocation is still needed under all the proposals.

It is appropriate to recognise—as the various proposals do to a degree—that risk reduces as schemes progress, and the level of security sought should drop in many cases. However we are concerned that the significant liabilities facing developers are excessive, are allocated disproportionately to generators and will not be discounted under any of the proposals as they stand. This could have a significant impact on the availability for new investment to meet daunting low-carbon targets.

In particular we continue to question:

- why the proposals seek to fully derisk National Grid, especially given the high level of protection it enjoys under the regulatory regime, and the fact it has never, as far as we are aware, experienced asset stranding; and
- why consumer risk is limited at 50% of certain works, despite they fact they already pay for 75% of the total system on the basis they are primary beneficiaries of the shared system.

In this context we continue to consider that the basis of liability should be for local works only (the qualification we note above), as precedented by the current interim Final Sums Liability (FSL) methodology. Wider works are attributable to reinforcements that are for the most part for the future benefit of all grid users and are required to enable TOs to meet licence obligations.

As a developer who already holds connection agreements, it is vital that the implemented solution should include the choice of retaining existing terms. A failing of the consultation report is that it does not appropriately recognise the significant impacts changes to the user commitment arrangements and posted securities will have on counter-parties. These issues would be felt disproportionately by many offshore schemes because of the number of investors involved, and it can be an issue of considerable concern if existing parent company authorisations have to be revisited.

As at present, developers should also be able to choose between a specific and generic approach in order to allow users to determine how best to manage their liability. Further, where assets are shared or are shareable, then this should be recognised.

We think these important design criteria should be made explicit in the report.

On balance we believe Workgroup Alternative 12 best facilitates the CUSC objectives and meet these key design criteria, but Alternatives 9, 10 and 11 also do this better than the Original Proposal. The other Alternatives are marginally better than the Original Proposal, but inferior to Alternatives 9 – 12.

Other general comments

We would make the following further general points relevant to the CUSC Panel's consideration of CMP192 and the problems facing offshore developers.

CMP192 relates to user commitment for onshore assets. However in the longer-term the approach applied onshore may be extended to offshore, particularly where there is the prospect of offshore wider works. As one of the developers of the Dogger Bank project, we are already seeing the possibility of offshore non-radial links between generation sites being included in offers, as an alternative to onshore wider works. An example here is HVDC links between Round 3 zones costing potentially billions of pounds. By not including offshore developments, the Original Proposal (and the Alternatives) do not reflect likely developments in the transmission owners licensed businesses. This situation must diminish National Grid ability to discharge its obligations more efficiently.

While the proposed approach may be the most efficient for the present, there is no mechanism in place or in the proposals to recognise offshore wider works in terms of liability and ultimately cost recovery. We would have wished the working group to address this matter specifically given the regime is intended to be enduring.

Another area where we continue to have concerns relates to the accuracy of estimates provided by National Grid to connecting parties, which then form the basis of any liability. User commitment should be based on accurate and realistic cost forecasts where FSLs are being calculated, backed up by an orderly change process. Transparency and timely reporting are recognised in the consultation report as being key issues; TOs would have to commit to provide accurate and timely updates to users. In this context we believe users should be updated with future liability and security at six months intervals in advance as a minimum. This transparency should also extend to situations where, as a result of changes to transmission investment plans, the costs—and hence liabilities—change. The opportunity for negotiation should then be available.

In this context we note that as part of the RIIO developments there are discussions underway on new reporting requirements on the TOs with regard to timeliness of connections and supporting information provision. We would like to see similar requirements hard-wired into the CUSC.

We note the new arrangements are set to be implemented against a background of significant change, including the SCR on transmission charging and the establishment of the offshore regime. It is essential that, once the new baseline is set in place, there is a controlled and phased process for accommodating future change.

Finally, given the importance of user commitment to realisation of policy and regulatory goals, and the wider issues raised with regard to addressing barriers to investment, we would expect Ofgem to conduct a full regulatory impact assessment before decisions are taken.

We set out in the attachment our response to the five consultation questions.

Please let us know if you have any questions on this response or whether you would like further comment.

CMP192 – Enduring User Commitment

Industry parties are invited to respond to this consultation expressing their views and supplying the rationale for those views, particularly in respect of any specific questions detailed below.

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Any queries on the content of the consultation should be addressed to Emma Clark at Emma.clark@uk.ngrid.com

These responses will be included in the Final CUSC Modification Report which is submitted to the CUSC Modifications Panel.

Respondent:	*Knut Dyrstad,* *knut.dyrstad@statkraft.com.* *Mobile: 00 47 48026416*
Company Name:	*Statkraft UK Ltd.*
1. Do you believe that the Error! Reference source not found. **Original Proposal better facilitates the Applicable CUSC Objectives as set out in paragraph** Error! Reference source not found.**, and why?**	We believe that the approach proposed under CMP192 Original **offers benefits over the status quo**, but this is largely because there are currently no user commitment rules in the CUSC. It would better facilitate applicable objective (a) in so far as it will codify the user commitment regime and introduce formal governance to the rules. As such National Grid should be better able to meet its obligations under the transmission licence and increase its accountability to grid users. As the current pre-commissioning arrangements are due to expire in March 2012, we agree enduring commitment arrangements need to put in place and come into effect from April 2012 if at all possible. We felt a major failing in the previous version of the Original Proposal was the absence of any final sums liability (FSL) mechanism The Original CMP192 Proposal has been significantly improved since the working group consultation, with the inclusion of the option of FSL arrangements. The level of protection for liabilities sought from grid users needs to be reflective of the risks to which all parties are exposed, and not just National Grid. There is a balance to be struck between deterring speculative connection applications and exposing generators to proportionate levels of liability and the associated securities. However we do not believe the revised proposal appropriately strikes this balance yet. Overall, it would give rise to disbenefits under objective b) because of competitive distortions if the interim methodologies are taken into account. There are some specific elements in the Original Proposal we remain concerned about, and because of this we **strongly**

	prefer some of the Workgroup Alternatives. In particular we believe important elements of the proposed Original relative to the Alternatives are inappropriate and could create barriers to entry for new generation. In particular excessive user commitment at the early stage of a project, which would arise under the Original Proposal, would act as a significant barrier to generation investment. This situation can be expected to become much more important as we move towards an offshore integrated network with assets built as wider works that will be cause a step-change in costs. In respect of pre-commissioning generators we have a number of concerns that the proposal will not facilitate the applicable objectives to the same degree as some of the Alternative Proposals: ▪ the requirement for symmetry between pre-and post commissioning arrangements implicit in the Original Proposal is invalid, and we believe this limitation greatly reduces any benefits under applicable objective a); ▪ we continue to believe that the inclusion of a **wider works liability** for pre-commissioning generators is not appropriate. We have yet to see any convincing justification for this. If the main driver for including wider works in pre-commissioning liability is to have symmetry with post commissioning, then we believe this to be erroneous. As such we do not consider the inclusion of **wider** works under any of the proposals facilitates either applicable CUSC objective. The current arrangements for interim FSL were put in place after due consideration following the transmission access review and followed consultation by National Grid in April 2010 when it was agreed that National Grid would implement a further interim solution where liabilities and therefore security for wider transmission investment works would not be sought. We do not believe a sufficient case has been put forward by National Grid to warrant changing this approach. We believe the approach towards wider works does not enable proportionate allocation of risk among the various stakeholders and therefore cannot support efficient discharge of its obligations by the licensee (objective a)). By loading costs onto generators, it will inevitably also frustrate competition (objective b)). We support the revised definition of **attributable works**. However we do have concerns regarding the absence of a clear definition in determining 'reasonable' as in 'nearest reasonable MITS substation'. Similarly we have concerns regarding offshore works which, if they were onshore, would clearly be wider. Without clarity, these aspects of the proposed solution could give rise to competitive distortions.

	We welcome the proposal under the Original Proposal to reduce **pre-commissioning security** to more realistic levels, better reflecting the actual risks faced by National Grid. However the beneficial impact of these changes on competition will be significantly limited under the current proposals as developers still need to record full liability on their balance sheets for identified works. In continuing to have high levels of liability for a project a developer's ability to then seek, and secure, funding for other projects will invariably be reduced as scarce resources will be locked into the initial project or projects. As such the proposed approach under the Original Proposal significantly diminishes opportunities and the competitive benefits that could otherwise be realised. For **post-commissioning generators**, the Original Proposal seeks to apply excessive and we believe unworkable notice requirements on generators who wish to close or reduce TEC. Except in situations where external factors drive closure (such as nuclear licences or the LCPD requirements), generators cannot reasonably forecast when a plant will close due to factors such as fuel prices, the market and operating conditions. Increasing risk inappropriately in this way will create detriments under objective a). These requirements could either force existing generators to make inefficient decisions regarding closure (or TEC reduction) or, in the event of insufficient notice not being given, amount to a penalty closure tax which we believe is discriminatory. Accordingly we do not believe the four year timescale proposed will facilitate either applicable objective.
2. Do you believe that any of the Error! Reference source not found. **Workgroup Alternative CUSC Modification Proposals better facilitates the Applicable CUSC Objectives as set out in paragraph** Error! Reference source not found.**, and why?**	All of the Alternative Proposals will better facilitate applicable objective (a) in so far as it will codify the user commitment regime. As such National Grid should be better able to meet its obligations under the transmission licence and increase its accountability to grid users. We remain concerned that the burden of risk associated with transmission investment to enable the connection of new generation still rests too heavily with the generator and does not appropriately reflect the considerable wider benefits from investment accruing to the system and to consumers more generally. These benefits are measurable not only in terms of a more integrated transmission system but also through enhanced security of supply and carbon abatement. This comment is particular relevant to the proposed treatment of wider works under all options. Under the existing TO regime, there is already a high level of protection for the licensees in terms of revenue certainty but disproportionate risk for developers. Because of this, several of the Alternative Proposals offered diminished benefits under objective b). Alternatives 9 to 12 are the least distorting in the respect, followed by Alternatives 5 to 8,

	followed by Alternatives 1 to 4.. With regard to the “additional factors” different Alternatives will bring increased benefits to varying degrees. **Pre-trigger date liability:** We consider a significant improvement, which is included in all the Alternative Proposals, is the removal of the generic £1,2,3/kW amount used pre-trigger date for users who choose the specific attributable liability approach and replaced with a specific assessment of costs. This change will support more appropriate risk allocation (therefore delivering benefits under objective a)) and support competition by removing a potential cost barrier (therefore better meeting objective b)). All the Alternatives include this “factor”, and they therefore improve on the Original Proposal in this regard. Allowing **grandfathering** of existing users on the interim arrangements for user commitment will facilitate competition by not causing unnecessary disruption to existing agreements. There would as a consequence be real benefits under objective b). The addition of this feature under Alternatives 3, 4, 7, 11 and 12 therefore increases the available benefits. Although the revised discounted security arrangements under CMP192 would not be available to generators choosing to adopt grandfathering arrangements (for those Alternatives where this is included), the workgroup recognised that this could benefit generators close to commissioning. This optionality would protect some developers from the need to change arrangements that have already been subject to legal due diligence and seek new board approvals, which could undermine confidence in sectoral governance. It would also help mitigate the detrimental competitive impacts from imposed changes to existing contracts (again better meeting objective b)). It is very important to provide stability for the tranche of existing development if the licensee is not to be placed in breach of objective a), and the importance and significance of this should not be understated. There are several projects now in train involving multi-party structures and where investment will run into billions. In these cases each step of the process, including covering liabilities (which in the initial stage is one of the major tasks) requires extensive discussion and negotiation. To potentially have to undo and renegotiate existing financial arrangements will be a major exercise that could impact on a scheme going forward or not. Coupled with this, while the proposals do not allow any non-transmission activity or expenditure (such as dealing with the Crown Estate) to impact on securitisation, it must be recognised that many large projects, such as offshore, will already have committed substantial monies

	and resources which could then be jeopardised if it becomes necessary to re-secure. We believe the main issue against grandfathering relates to post-commissioning users in that the objective of enhanced information proposed by the proposals would be diminished if existing users are not also bound by these proposals. As noted we do not agree that pre-commissioning and post-commissioning must be treated in the same way. As the imposition of new terms could jeopardise new projects we believe that it is efficient and non-discriminatory and meet the CUSC objectives to enable grandfathering of existing terms for pre-commissioning alone. In support of this we note that differential treatment for post-commissioning is already being considered in terms of certain nuclear and LCPD stations. Finally, if this approach is considered too open ended we believe an alternative transitional approach could be to allow projects to continue under existing terms where they have progressed beyond a defined point to avoid unnecessary disruption to developers who have already obtained all necessary internal approvals.. In respect of **notice periods** required for pre- and post-commissioning generators, we consider that two years notice for post-commissioning generators is sufficient for signalling efficient grid investment and is a workable solution. This aspect of the relevant Alternatives Proposals is therefore better aligned with objective a) than the Original. For pre-commissioning generators two years for wider works, with four years notice period for attributable works (as set out in Workgroup Alternatives 9 to 12), would also be more appropriate and avoid the front-loading of additional liabilities on generators thereby potentially distorting competition (objective b)). For reasons already set out **sharing** of local reinforcement costs where demand is existing or planned on grounds increases delivery under both applicable objectives.
3. Which, if any, proposal do you consider <u>best</u> facilitates the Applicable CUSC objectives as set out in paragraph Error! Reference source not found.**, and why?**	Our view is that **WACM 12** best facilitates the applicable CUSC objectives. Subject to transition arrangements and taking into account the points raised above, we believe WACM proposals 9, 10 and 11 also better facilitate the CUSC objectives, and do so to a greater degree than the CMP192 Original. All these proposals better address some of our key concerns raised in response to the workgroup consultation and incorporate elements proposed in our Alternative Proposal submitted in response to the working group consultation. In particular these proposals support two years' notice for post-

	commissioning generators, and for pre-commissioning generators two years for wider works, with four years notice period for attributable works. As we have previously argued, the level of protections being sought against stranded asset risk is excessive and should not apply to wider works. It is also relevant that transmission owners are already afforded high levels of protection against stranded costs under their price control. The proposal for two years wider liability rather than four is thus more equitable than the Original or other Alternative Proposals, reflecting a more appropriate balance of risk allocation. We think balanced risk allocation supports objective a) and avoids any competitive distortions (objective b)). A two year notice period for post-commissioning is also within practical and realistic timeframes and should be sufficient for transmission investment needs (and is therefore more consistent with objective a)). It is relevant in this context that we are not aware of any actual asset stranding by the transmission owners because of developer default or any wayleaves having to be given up. Proposals 11 and 12 differ as to whether or not there is 50% sharing for all local reinforcements where demand is present or planned at the site. We consider there is a case for sharing liability for attributable works in such circumstances as demand is clearly a beneficiary. Such an approach therefore offers benefits under objective a). We do however have concerns as to the lack of a clear definition as to which works would see such sharing.
4. Do you have further justification for any of the characteristics of the Workgroup Alternative CUSC Modification proposals detailed in paragraphs Error! Reference source not found. **to** Error! Reference source not found.**?**	As a developer who already holds connection agreements, we believe it is vital that the implemented solution should include the choice of retaining existing terms. Further, as at present, developers should be able to choose between a specific and generic approach in order to allow users to determine how best to manage their liability. Further where assets are shared, or are shareable, then this should be recognised. It is not obvious how such considerations square with the applicable objectives, but we would wish these criteria to be considered by the working group. Finally, given the importance of user commitment to realisation of wider policy and regulatory goals, we would expect Ofgem to conduct a full regulatory impact assessment before decisions are taken.
5. Do you support the proposed implementation approach?	It is important that CMP192 is implemented in a manner that allows generators to effectively manage their commercial positions. Bearing this condition in mind, we do not disagree with

	the implementation timetable. In this regard the reintroduction of FSL options and the inclusion of grandfathering provisions in the options set out in the code administrator's consultation are both very important enhancements over the working group consultation. While we strongly support the concept of grandfathering for pre-commissioning where a party elects to remain on existing terms, should such an approach not be approved then the transition process should reflect how far a project is down the path towards commissioning. For pre-commissioning, if a project is post trigger point (t-4), then we believe the option should exist to remain on the same terms as the current agreements as security will have been put in place on that basis. If a developer feels that the commitment arrangements under CMP192 are more attractive, then they should be able to elect to change to the new approach within a reasonable time of having new liability figures made available. For post-commissioning projects, we note that special arrangements will apply to those generators who will be required to close, perhaps because of operating licences of LCPD requirements. In these instances the "end point" is clear, so these generators should reasonably be exempt from any CMP192 commitment.

CUSC Code Administrator Consultation Response Proforma

CMP192 – Enduring User Commitment

Industry parties are invited to respond to this consultation expressing their views and supplying the rationale for those views, particularly in respect of any specific questions detailed below.

Please send your responses by **24th October 2011** to cusc.team@uk.ngrid.com Please note that any responses received after the deadline or sent to a different email address may not receive due consideration by the CUSC Modifications Panel when it makes its recommendation to the Authority

Any queries on the content of the consultation should be addressed to Emma Clark at Emma.clark@uk.ngrid.com

These responses will be included in the Final CUSC Modification Report which is submitted to the CUSC Modifications Panel.

Respondent:	Alex Lambie Welsh Power Group Limited Tel: +44 (0)2920 547200 *Alex.lambie@welshpower.com*
Company Name:	Wyre Power Ltd, CUSC party owned by Welsh Power
Do you believe that the **Error! Reference source not found.** Original Proposal better facilitates the Applicable CUSC Objectives as set out in paragraph **Error! Reference source not found.**, and why?	Welsh Power (WP) do not believe that the original better facilitates the applicable objectives. WP is concerned that the proposals could increase the liabilities for its Wyre Power project. With liabilities no longer related to the actual costs of a connection, plants such as ours would securitise more value than is being spent on the plant. We can see no case for asking companies to "over securitise" their connections. Such a regime would create a barrier to entry at a time when the Government wants new entrants to build more plant.
1. **Do you believe that any of the** Error! Reference source not found. **Workgroup Alternative CUSC Modification Proposals better facilitates the Applicable CUSC Objectives as set out in paragraph** Error! Reference source not found.**, and why?**	WP believe that the alternatives do better fulfil the applicable objectives. They provide a better balance between risk and security. They aim to give the TO better planning data and treat post and pre-commissioning generators in a more equitable manner. WP thinks that in an ideal world the post commissioning generators should give 4 years notice of closure. However, given the market uncertainty, lack of competition, limited forward trading, etc. we are sympathetic to the argument that they will only be able to plan some two years ahead. For pre-commissioning generators any solution should include a choice to stay on the regime developers are currently using if they wish to. The "grandfathering" will add stability to the market

	and is consistent with the decision to move to IGUM while keeping FSL. WP also favours having the option to stay on FSL. At the very early stages of a project this has been an advantage as only work being undertaken is securitised. We have also appreciated the refundable nature of FSL, which has helped us in encouraging financiers, who are uncomfortable with non-refundable security before a firm commitment to a project can be made, for example due to lack of S36 consent. FSL also can be cheaper for some projects where their location means that very little work is required. This may make it cheaper and easier for some plant to connect in, which would help enhance competition.
2. Which, if any, proposal do you consider <u>best</u> facilitates the Applicable CUSC objectives as set out in paragraph Error! Reference source not found.**, and why?**	WP supports alternative 12. This alternative strikes the right balance between the risks of developers stranding assets and the UK's desperate need to build new generation. It will lower the barriers to market entry and thus increase competition in the market in the longer term. It will also help with the costs of achieving the Government's green targets by making it easier to connect the more remote generation. WP also believes that the regime will allow Grid to get on with the wider works that we all know are needed. There is a strong case, especially under a connect and manage regime, for Grid doing far more work on the basis of forecast need, rather than some of the specific plant triggers used in the past. By undertaking wider works in a timely manner, the competition between the plants on the system will be significantly enhanced as constraints are removed. Creating additional capacity in the wider system will also allow new plants to connect faster, as wider works will become less necessary, and connect in regions where they best meet system needs, such as flexible generation near intermittent generators. These changes in the operation of the system are required if the move to a low carbon generating sector are to be achieved. Having "spare" capacity will also reduce the cost of constraints in operating the regime and thus keep prices to customers lower. For the TO, Grid will have better information on when and where investment is needed for its system planning. This will help them efficiently discharge their licence obligations.
3. Do you have further justification for any of the characteristics of the Workgroup Alternative CUSC Modification proposals detailed in paragraphs Error!	As noted above, WP believes that there are significant advantages in grandfathering rights. Investors are facing increasing uncertainty with policy changes being driven by both DECC and Ofgem. Developments in biomass plants are on hold until the RO banding is announced, peaking plant does not know how the market may operate in light of a new capacity mechanism and changes to cash-out, TransmiT and FITs will all

	Reference source not found. **to** Error! Reference source not found.**?**	impact existing plants. When developers start their projects they secure financing based in part on the development costs including the connection costs. To alter the regime part way through a project will undermine investors' confidence going forward. There is a real need to build investor confidence if the market is going to attract the investment it needs in the coming decade and grandfathering will help achieve that. WP notes that Ofgem has expressed concerns about treating pre and post commission generators in different ways. We do not believe that it is unduly discriminatory to treat different parties in a different way when the risks that they pose, in terms of asset stranding, is different. Older plants when shutting are likely to generally be leaving older assets, they are also on sites most likely to be used again for new build plant. While we understand the theory that wider works are being undertaken for all parties, in reality they will still be needed as the system has to move more power from the extremities of the network. The investment undertaken on the system as a whole, given the location of the older plant, is highly unlikely to be stranded in the longer term, though it may be under utilised for a few years.
4.	**Do you support the proposed implementation approach?**	Yes, but we are concerned that altering contracts and associated financing may take slightly longer.

CUSC Code Administrator Consultation Response Proforma

CMP192 – Enduring User Commitment

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These responses will be included in the Final CUSC Modification Report which is submitted to the CUSC Modifications Panel.

Respondent:	*Morgan Donnelly – 07900 277 643 – morgan.donnelly@windprospect.com*
Company Name:	*Wind Prospect*
1. Do you believe that the CMP192 Original Proposal better facilitates the Applicable CUSC Objectives as set out in paragraph 11.1, and why?	*No, the concept of making a blanket wide change that would include projects currently sitting with 1/2/3£/kW liability waiting for their own and the connection work consents would force projects like these to cut & run, as a small project would not be able to stump up 25% of Attributable & Wider works before having its own consents in place. We would therefore see this as reducing competition.*
2. Do you believe that any of the CMP192 Workgroup Alternative CUSC Modification Proposals better facilitates the Applicable CUSC Objectives as set out in paragraph 11.1, and why?	*Yes, any WACM that includes Grandfathering allows projects currently with connection offers, to stay in the game, thereby not reducing the competitiveness of the market.*
3. Which, if any, proposal do you consider best facilitates the Applicable CUSC objectives as set out in paragraph 11.1, and why?	*WACM 4 & WACM 8 look the best for us. Typically wind farms have a 25 year planning condition life span, at which point they are to be removed, or seek new planning consent. Therefore giving 4+ years of notice to terminate is easy to do.* *Any proposal that reduces the post trigger pre-commissioning liabilities will help smaller companies that lack sufficient credit rating (as the cost of finding the securitised amount to deposit*

	into an ESCROW account, is prohibitive), and is therefore a good thing which will improve competition. *Capping of the advance works amount is unlikely to benefit any of the projects we are developing as the £3/kW value is unlikely to be any higher than 25% of the Attributable & Wider works, although we can appreciate that this change may help larger projects with long connection works programmes.*
4. Do you have further justification for any of the characteristics of the Workgroup Alternative CUSC Modification proposals detailed in paragraphs 10.76 to 10.81?	*No.*
5. Do you support the proposed implementation approach?	*Yes, however not entirely convinced about the idea of changing the definition of Trigger Date, from currently being when all of the connection works have consents to just being a blanket 4 years before the contracted connection date. What happens if during year 2 before contracted connection date the connection works consents are still outstanding, will the programme be adjusted accordingly and the level of security reduced to match a new connection date which is further away?*