

## Minutes

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|------------------------|-------------------------------|
| <b>Meeting name</b>    | CUSC Modifications Panel      |
| <b>Meeting number</b>  | 170                           |
| <b>Date of meeting</b> | 30 <sup>th</sup> January 2015 |
| <b>Location</b>        | National Grid House, Warwick  |

## Attendees

| <b>Name</b>       | <b>Initials</b> | <b>Position</b>            |
|-------------------|-----------------|----------------------------|
| Mike Toms         | MT              | Panel Chair                |
| Jade Clarke       | JC              | Panel Secretary            |
| Alex Thomason     | AT              | Code Administrator         |
| Ian Pashley       | IP              | National Grid Panel Member |
| Patrick Hynes     | PH              | National Grid Panel Member |
| Paul Mott         | PM              | Users' Panel Member        |
| James Anderson    | JA              | Users' Panel Member        |
| Michael Dodd      | MD              | Users' Panel Member        |
| Paul Jones        | PJ              | Users' Panel Member        |
| Garth Graham      | GG              | Users' Panel Member        |
| Simon Lord        | SL              | Users' Panel Member        |
| Bob Brown         | BB              | Consumers' Panel Member    |
| Abid Sheikh       | AS              | Authority Representative   |
| Cem Suleyman      | CS              | Observer (Drax Power)      |
| Joseph Underwood  | JU              | Observer (Drax Power)      |
| Andrew Wainwright | AW              | Observer (National Grid)   |

## Apologies

| <b>Name</b> | <b>Initials</b> | <b>Position</b>     |
|-------------|-----------------|---------------------|
| Kyle Martin | KM              | Users' Panel Member |
| David Kemp  | DK              | ELEXON              |

All presentations given at this CUSC Modifications Panel meeting can be found in the CUSC Panel area on the National Grid website:

<http://www2.nationalgrid.com/UK/Industry-information/Electricity-codes/CUSC/Panel-information/>

### 1 Introductions/Apologies for Absence

4371. Introductions were made around the group. Apologies from Kyle Martin and David Kemp.

### 2 Approval of Minutes from the last meeting

4372. The minutes from the last meeting held on 19 December 2014 were approved subject to changes and are now available on the National Grid website.

### 3 Review of Actions

4373. There were no actions from the previous CUSC Panel meeting.

### 4 New CUSC Modification Proposals

4374. There were no new CUSC Modification Proposals at this meeting.

## 5 Workgroups / Standing Groups

4375. **CMP223 'Arrangements for Relevant Distributed Generators under the Enduring Generation User Commitment'**. CMP223 seeks to achieve fair and transparent treatment of relevant distributed generators in terms of transmission system securities and liabilities. CMP223 was sent back from the Authority in October 2014 to be revised and resubmitted. At the October 2014 Panel meeting, the Panel decided to send CMP223 back to the Workgroup.
4376. JC noted that at the last CUSC Panel meeting, it was advised that the CMP223 Workgroup would be reporting back to the January 2015 CUSC Panel. However there has been further consideration of the WACMs and the Workgroup are yet to agree the amended legal text and to either re-confirm their vote or vote again on the Original and WACMs. Therefore the Workgroup were unable to meet their target of the January 2015 CUSC Panel and will now be reporting back to the February 2015 CUSC Panel meeting.
4377. **CMP227 'Change the G:D split of TNUoS charges, for example to 15:85'**. CMP227 seeks to change the Generation/Demand split of TNUoS charges, reducing the proportion of TNUoS charges paid by generators.
4378. JC advised the CUSC Panel that the CMP227 Workgroup last met on 15 January 2015 to discuss the analysis conducted by National Grid for the Workgroup Report. During the meeting, further actions were identified, so the CMP227 Workgroup is yet to meet to vote on the Original and any proposed WACMs and therefore JC requested an extension on behalf of the CMP227 Workgroup. The CUSC Panel agreed to a one month extension for the CMP227 Workgroup, which is now due to report back to the CUSC Panel at the March 2015 Panel meeting.
4379. **CMP235/CMP236 'Introduction of a new Relevant Interruption type / Clarification of when Disconnection Compensation payments can be expected under Relevant Interruption'**. CMP235/CMP236 aims to amend the description of an Interruption to include a type of Emergency De-energisation and seeks to clarify that where station supplies are disconnected solely by National Grid plant or apparatus and the effect of this is to lose the generating units' output, that this is a Relevant Interruption and, that under the CUSC, Interruption payments can include these situations.
4380. JC noted that the CMP235/236 Workgroup Consultation closed on 23 January 2015 and received six responses. The Workgroup will meet on 5 February 2015 to review the responses and to vote on the Original and any agreed Workgroup Alternate CUSC Modifications (WACMs). The Workgroup are due to report back to the CUSC Panel at the February 2015 Panel meeting.
4381. **CMP237 'Response Energy Payment for low fuel cost Generation'**. CMP237 seeks to take into account the different costs of generators with low or zero energy costs by setting the Response Energy Payment at £0/MWh for certain types of generation.
4382. JC noted that the CMP237 Workgroup Consultation closed on 21 January 2015 and received five responses and a Workgroup Consultation Alternative Request (WGCAR). The Workgroup will meet on 2 February 2015 to review the responses, consider the Alternative Request and to vote on the Original and any agreed Workgroup Alternate CUSC Modifications (WACMs). The Workgroup are due to report back to the CUSC Panel at the February 2015 Panel meeting. However JC noted that there is the potential for the Workgroup to need a further meeting if the

discussions around the WGCAR created the need for further work. The Panel suggested that JC invite the proposer of the WGCAR to the workgroup meeting to discuss their proposal.

4383. **CMP239 'Grandfathering Arrangements for the Small Generator discount'**. CMP239 seeks to implement 'grandfathering' arrangements in the CUSC from the expiry of Licence Condition C13 on 31 March 2016. The proposed arrangements would apply to those generators that currently receive the small generator discount and also to those generators that will connect by 31 March 2016 that would be eligible to receive a small generator discount.
4384. JC advised the CUSC Panel that the CMP239 Workgroup is currently reviewing the draft Workgroup Consultation. The Workgroup plan to send out the Workgroup Consultation w/c 9 February 2015.
4385. **Governance Standing Group (GSG)**. GG advised that there has been no GSG meeting since the last CUSC Panel meeting.
4386. **Joint European Standing Group (JESG)**. GG advised that the JESG had met on 20 January 2015 and discussed the future of stakeholder engagement in European Network Codes. Other discussions included the ACER and ENTSO-E's Joint Consultation on Stakeholder Engagement which closed on 23 January 2015. GG also noted that ACER's call for comments on the Electricity Balancing Network Code closed on 9 January 2015 and will be published shortly. There were also updates given on the Emergency Restoration Network Code and developments with the CACM Network Code which has progressed through the Comitology process and is now in the final stage of the approval process, which is expected later this year.
4387. **European Code Coordination Application Forum (ECCAF)**. GG stated that there has been no ECCAF meeting since the last CUSC Panel meeting. However in light of discussions that surround the DECC/Ofgem paper regarding the future development and implementation of European Network Codes in GB, DECC/Ofgem have proposed the merger of the current three European meeting forums in GB (JESG, ECCAF and DECC/Ofgem's EU Stakeholder forum) into a single forum to look at European Code implementation. This forum will be a central point of contact for GB stakeholders.
4388. **Transmission Charging Methodologies Forum (TCMF)**. PH noted that there had been a TCMF held on 14 January 2015. PH noted that National Grid had published an open letter on the calculation of expansion factors for the future Western Isles link and that there may at some point in the future be a CUSC Modification on this. PH noted that there was an update of the draft 2015/16 TNUoS Tariffs which were published in December 2014 and advised that the final TNUoS tariffs<sup>1</sup> will be published on 30 January 2015. PH noted that there had been a discussion on P272 which is a long standing issue in the BSC, as a result of which there have been some assumptions made on volumes. If these volumes change throughout the year, these assumptions will be incorrect, which may result in urgent changes to the CUSC and BSC in the future. There were also discussions on current offshore charging issues such as tender fee reconciliation, Interlinks and User Commitment for Generator Focused Anticipatory Investment (GFAI).
4389. PH advised that the TCMF are also reviewing their Terms of Reference to expand their remit, however any proposed changes will be brought to the CUSC Panel to agree.

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<sup>1</sup> TNUoS tariffs effective from April 2015 <http://www2.nationalgrid.com/UK/Industry-information/System-charges/Electricity-transmission/Approval-conditions/Condition-5/>

4390. **Commercial Balancing Services Group (CBSG).** JC advised that there has been no CBSG meeting since the last CUSC Panel meeting.
4391. **Balancing Services Standing Group (BSSG).** JC advised that there has been no BSSG meeting since the last CUSC Panel meeting.

## 6 European Code Development

4392. AS noted that an EU Update had been circulated to Panel members prior to the meeting and that there was no further information to add to this.

## 7 CUSC Modifications Panel Vote

4393. **CMP238 'Application of Statement of Works Process when a modification application is made'**
4394. CMP238 seeks to change the CUSC so that when a Distribution Network Operator (DNO) receives a distribution connection application and the DNO knows this will impact the Transmission System, the DNO may directly submit a Modification Application, omitting the Statement of Works process. DC stated that at recent Ofgem-led forums, the Statement of Works process has been described as time consuming, expensive and non-transparent. This is because currently a DNO is required to use the Statement of Works process even if they know that a generator connecting to their network will have an impact on the Transmission system. As a result of this, Ofgem have written a letter of comfort which expires in May 2015 which allows National Grid to run a trial of the proposed process.
4395. JC presented the background to CMP238, noting that the Code Administrator Consultation closed on 11 December 2014 and received seven responses which were supportive of CMP238, however the majority stated the need for a further review of the Statement of Works process.
4396. The CUSC Panel unanimously agreed that CMP238 should be implemented as it better facilitates Applicable CUSC Objective (b), the majority of the CUSC Panel also thought CMP238 also better facilitates CUSC Objective (a). Kyle Martin was not present for the CMP238 vote and passed his vote on to Garth Graham. Details of the vote on CMP238 can be found below;

| Panel Member | (a)                                | (b)  | (c)     | Overall |
|--------------|------------------------------------|--|---------|---------|
| Garth Graham | Neutral                            | Yes – CMP238 better facilitates effective competition. I was mindful of the responses supporting the Modification, including those not involved in the Statement of Works process. | Neutral | Yes     |
| Bob Brown    | Neutral                            | Yes – CMP238 should reduce costs and timescales.   | Neutral | Yes     |
| Michael Dodd | Yes – CMP238 facilitates effective | Yes  | Neutral | Yes     |

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|                       | connection.   |   |                |            |
| <b>Paul Jones</b>     | <b>Yes</b>  | <b>Yes</b> – CMP238 reduces costs and timescales                  | <b>Neutral</b> | <b>Yes</b> |
| <b>Ian Pashley</b>    | <b>Yes</b> – Connection process will be more efficient. | <b>Yes</b> – CMP238 will help Users to get to the market quicker. | <b>Neutral</b> | <b>Yes</b> |
| <b>Paul Mott</b>      | <b>Neutral</b>  | <b>Yes</b>  | <b>Neutral</b> | <b>Yes</b> |
| <b>Simon Lord</b>     | <b>Yes</b>  | <b>Yes</b>  | <b>Neutral</b> | <b>Yes</b> |
| <b>James Anderson</b> | <b>Yes</b> – Facilitates connection process.            | <b>Yes</b> – reduces costs  | <b>Neutral</b> | <b>Yes</b> |
| <b>Kyle Martin</b>    | <b>Yes</b>  | <b>Yes</b>  | <b>Neutral</b> | <b>Yes</b> |

4397. BB questioned whether, in response to the majority of the responses to the Code Administrator Consultation, National Grid would be conducting a further review of the Statement of Works process.

4398. AW noted that National Grid's commercial strategy team are engaging with the Industry to understand their concerns about the Statement of Works process. MD stated that this is a cross codes issue and there is also work to be done with the DNOs to review the process.

**ACTION: National Grid to provide an update on progress with a potential Statement of Works review at May 2015 CUSC Panel.**

4399. **CMP240 'Amending the Cancellation Charge liability within a CMP213 Judicial Review period'**

4400. CMP240 seeks to amend the Cancellation Charge liability where notice is given within one Financial Year to disconnect/reduce Transmission Entry Capacity (TEC) effective at the start of the following Financial Year where that notice is given within a 'CMP213 Judicial Review Period'. This 'CMP213 Judicial Review Period' would be 20 business days following the conclusion of a judicial review, whereby there will be no cancellation charge liability applied if a party gives due notice to National Grid during this 20 business day period.

4401. AS advised the Panel that Ofgem had provided an update on Project TransmiT on their website<sup>2</sup> which informs the Industry of the Judicial Review of the Authority decision on CMP213. AS noted that further updates would be provided in a timely way where the information provided was factual and appropriate.

4402. The Panel noted from a few of the consultation responses that there had not been much communication with the Industry about the progress of the Judicial Review. MD noted that some parties are more involved with the Judicial Review process than others so clearly have access to more information. SL stated that in terms of the modification process, when the Authority approves a modification, there is an option for parties to appeal, which includes Judicial Review; therefore it is part of the process. SL sought the views from Ofgem whether they considered this as part of the modification process. MD noted that the Judicial Review process is an implicit part of the process following Ofgem's decision and thought that it may be made more explicit so that parties are aware of its possibility.

<sup>2</sup> Project TransmiT update <https://www.ofgem.gov.uk/electricity/transmission-networks/charging/project-transmit>

4403. PH noted that as the defendant, Ofgem may not be an appropriate party to update the Industry on the Judicial Review process in this instance and that updates should potentially come from an independent third party. The Panel suggested Ofgem should update the industry on the stages within the Judicial Review rather than their view, in order to keep the Industry up to date with information. SL noted that the Authority still has the option to send CMP240 back to the Panel to be considered by a Workgroup.
4404. The Panel also considered the responses to the Code Administrator Consultation that noted that 20 Working days review period is not long enough to make decisions on closures or TEC reductions. GG noted that parties should be aware of the Judicial Review period and therefore should be able to prepare to make this decision within the Judicial Review period. GG advised that, from a stakeholder perspective, the closer to 23/24 March 2015 the Authority makes a decision on CMP240, the more problematic for stakeholders making decisions. The sooner the outcome of CMP240 is known, the better for Industry decision making.
4405. JC presented the background to CMP240 noting that the Code Administrator Consultation closed on 9 January 2015 and received seven responses which had a mixed view towards CMP240. The Panel noted that there had been comments received from Drax Power in response to the Draft CUSC Modification Report which was circulated to the Panel before the Panel meeting.
4406. JC noted that there was a query within a response to the Code Administrator Consultation on the definition of the CMP213 Financial Year within the proposed legal text. PH advised that it is National Grid's view that CMP213 Financial Year starts at the original date that the Authority directed implementation of the CMP213 (1<sup>st</sup> April 2016). SL questioned what would happen if the decision on the Judicial Review gets close to the implementation date of CMP213 and if a decision is not made until after the CMP213 implementation date. AW stated that this will be considered closer to the time, however for now, National Grid has been directed by the Authority to implement on a certain date which they have an obligation to do, so for now will proceed with implementation on 1<sup>st</sup> April 2016.
4407. The CUSC Panel voted by majority that CMP240 better facilitates Applicable CUSC Objective (b). Kyle Martin was not present for the CMP240 vote and passed his vote on to Garth Graham. Details of the vote on CMP240 can be found below;

| Panel Member | (a)     | (b)     | (c)     | Overall   |
|--------------|---------|---------|---------|---|
| Bob Brown    | Neutral | Neutral | Neutral | <b>No</b> –<br>I'm comfortable that there is an issue. I do not think the Modification Report demonstrates that CMP240 is better than the baseline. There is not enough fundamental analysis and information within the report. I also think there are other ways to address the issue. I'm not convinced the risks and benefits are adequately demonstrated within the report. |

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| <b>Michael Dodd</b>  | <b>Neutral</b>  | <b>Yes</b> – I think the period of uncertainty is not easy for parties. There is more uncertainty for smaller parties as they have access to less information. Providing the window will better facilitates (b).                                       | <b>Neutral</b> | <b>Yes</b> – Would have preferred for CMP240 to go to a Workgroup to be developed.   |
| <b>Paul Jones</b>    | <b>Neutral</b>  | No   | <b>Neutral</b> | <b>No</b> – Changing the arrangements in this manner would increase perception of regulatory risk in the market and frustrate competition. CMP240 should have gone to a Workgroup to be developed and assessed. We haven't seen whether there is a net benefit of CMP240 or not. There are other options for dealing with the issue, but there seems to be an assumption that implementing CMP213 as soon as possible is the best option. It's not clear that there will be a dis-benefit from delaying implementation as the cost benefit for CMP213 was not positive. CMP240 is not needed to prevent JRs being used to delay implementation of modifications, as they are a high cost option with a high hurdle rate to get to court. The 20 day window is not long enough: some parties have better access to information than others. |
| <b>Patrick Hynes</b> | <b>Yes</b> – The Authority has directed implementation of CMP213. CMP240 better facilitates the implementation. Further to the JR, without CMP240 parties may seek to unwind previous | <b>Yes</b> – The raising of the CMP213 Judicial Review has raised uncertainty. The JR leaves Generators with greater uncertainty around the charges they face. CMP240 gives them an opportunity to manage CMP192 liabilities more efficiently. Overall | <b>Neutral</b> | <b>Yes</b>   |

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|                       | decisions which would be inefficient for the Customer and NGET.  | better in terms of efficiency and competition.  |                |   |
| <b>Paul Mott</b>      | <b>Neutral</b>   | <b>Yes</b> – A drawback is that CMP240 reduces certainty for Grid and for other CUSC parties of the status of generators after April 2016, but in its absence, the uncertainty created by CMP213 could precipitate inefficient early closure decisions – so in this very unusual circumstance, the waiver from CUSC section 15 does slightly better facilitate (b).   | <b>Neutral</b> | <b>Yes</b>  |
| <b>Simon Lord</b>     | <b>No</b> – I believe the Judicial Review is part of the Modification process and therefore the correct course of action is to delay implementation on CMP213.   | <b>No</b>   | <b>Neutral</b> | <b>No</b> – CMP240 should have gone to a Workgroup for further development. |
| <b>James Anderson</b> | <b>Yes</b> – The Authority has directed implementation on CMP213. BY ensuring Parties can await the outcome of the Judicial Review process before making an economic decision on TEC reduction. CMP240 better facilitates implementation in line with the Authority's direction. | <b>Yes</b> – The raising of the CMP213 Judicial Review has raised uncertainty. Some Generators will be unaware of charges they face when deciding whether to give notification of TEC reduction. CMP240 gives them a chance to defer their decision until JR proceedings are concluded thus better facilitating competition. The impact of not applying CMP192 in the period until the end of the JR process is unlikely to be significant. Overall better in terms of efficiency and competition | <b>Neutral</b> | <b>Yes</b>  |
| <b>Kyle Martin</b>    | <b>Yes</b> – Considering the additional  | <b>Yes</b> – reduces risk and therefore improves  | <b>Neutral</b> | <b>Yes</b>  |



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|                     | uncertainty this JR has on future TEC charges CMP240 provides some policy certainty to generators which could otherwise create perverse actions to avoid cancellation charges. Although there could be some impact on other CUSC party's on balance CMP240 better facilitates. | competition   |                |            |
| <b>Garth Graham</b> | <b>Yes</b> – Agree with the views already expressed by both James and Patrick as well as those provided by Kyle.   | <b>Yes</b> – Agree with the views already expressed by James, Michael and Patrick as well as those provided by Kyle. CMP240 provides certainty for Users and ensures no windfall gains and losses. This Modification ensures equal treatment for all generators irrespective of the outcome of the Judicial Review case currently before the courts which helps facilitate competition. | <b>Neutral</b> | <b>Yes</b> |

## 8 Authority Decisions as at 22 January 2015

4408. There have been no Authority decisions since the last CUSC Panel meeting.

## 9 Recent changes in the £/€ exchange rate on CMP224

4409. PH noted that within the CMP224 Workgroup, it was recognised that the exchange rate will fluctuate and a methodology was developed by the Workgroup to seek to deal with it by creating a 7% bandwidth. This methodology was carefully considered by the Workgroup. However if this does not work a further change may need to be developed. GG noted that there is a limit of €2.5 and questioned if, as a result of recent exchange rate changes, National Grid recovered charges from GB generators that was over that limit could National Grid have taken action to ensure the €2.5 limit was not breached? GG noted that one action that National Grid might take could be a mid-year tariff change.

4410. PJ asked whether the Commission has made any comments on the limit and whether they would be taking ACER's advice. PH advised that this had not been published yet. PM noted that the Workgroup had carefully considered the methodology and taken reasonable steps to leave a margin of error to avoid breaching the limit.

4411. GG stated that it would be useful for stakeholders to know whether to expect a mid-year tariff change to avoid uncertainty. PH noted that if National Grid needed to do a mid-year tariff change, this would have to be agreed by Ofgem.

## 10 Annual KPIs

4412. JC noted that the Annual KPIs were included within the CUSC Panel Papers for January 2015 and will be updated due to minor typographical errors.

## 11 Relevant Interruption Claims Report

4413. JC noted that the Relevant Interruption Claims Report was published with the CUSC Panel Papers in January 2015 for claims submitted 1<sup>st</sup> October 2014 to 31<sup>st</sup> December 2014. GG noted that it would be useful to see how these reports change if CMP235/236 is implemented.

## 12 Update on Industry Codes/General Industry Updates relevant to the CUSC

4414. It was noted that Ofgem have made a submission to the Competition and Markets Authority (CMA) Energy Market investigation. AS stated that Ofgem have submitted comments on various aspects of the Market Reference including Code Governance, noting some ways in which they have tried to improve Code Governance in recent years. AS noted that there is a concern from Ofgem about whether there is a lack of cross-code coordination when developing and implementing code changes for specific significant projects, e.g. smart metering and Ofgem have taken this into account when developing their submission to the CMA.
4415. MD noted that in raising these issues to the CMA, it seems that Ofgem wants the CMA to consider the issues and maybe make some changes. MD also stated that the paper seems to focus on industry-led practices rather than processes Ofgem have control of such as Authority decisions.
4416. PJ stated that one of the main points in the submission seems to be suggesting that Ofgem is seeking more powers in code changes. SL noted that if Ofgem directs National Grid to make a change within the CUSC, these changes will be made with no industry engagement. SL noted the importance of involving the industry with the technical nature of some code changes.
4417. GG noted that if the Authority were to have the ability to raise a Modification, then there may be less engagement with the Industry on that Modification as parties may not consider it worthwhile responding to consultations if they believe the Authority will most likely approve the Modification which they themselves raised. GG also noted that if the Authority has raised, approved and implemented a Modification, if anything were (in hindsight) to go wrong with that Modification, it is the Authority's Modification rather than, as now, an industry Modification.
4418. AS noted that the underlying theme to the comments in the Ofgem submission was to highlight the issue of how to ensure major projects can be delivered across codes and welcomed the engagement of Code Administrators on this subject as it is important that the change that is delivered is the right change and has been developed with industry input. MD noted that Panel Members could not necessarily make a submission to the CMA as independent parties in respect of this recent Ofgem submission.

**ACTION: AS to report back on what is expected from CUSC Panel for CMA investigation and how it should be approached.**

## 13 AOB

4419. PJ asked whether Elexon had arranged a meeting to discuss the issue of cross-code coordination. AT noted that Elexon are currently leading the CACoP review and will be arranging a meeting to discuss the introduction of an additional principle on cross-code coordination.

**ACTION: AT to check with Elexon about cross-code coordination meetings.**

## 14 Next meeting

4420. The next meeting will be held on 27 February 2015 at National Grid House, Warwick.