

## Minutes

<b>Meeting name</b>	CUSC Modifications Panel
<b>Meeting number</b>	177
<b>Date of meeting</b>	28 August 2015
<b>Location</b>	Teleconference

## Attendees

Name	Initials	Position
Mike Toms	MT	Panel Chair
Jade Clarke	JC	Panel Secretary
John Martin	JM	Code Administrator
Ian Pashley	IP	National Grid Panel Member
Michael Dodd	MD	Users' Panel Member
Simon Lord	SL	Users' Panel Member
Garth Graham	GG	Users' Panel Member
Kyle Martin	KM	Users' Panel Member
Bob Brown	BB	Consumers' Panel Member
Abid Sheikh	AS	Authority Representative
Claire Kerr	CK	ELEXON
Cem Suleyman	CS	Drax Power (CMP250 Proposer)
George Moran	GM	British Gas (CMP251 Proposer)
Damian Clough	DC	National Grid (CMP252 Proposer)

## Apologies

Name	Initials	Position
Paul Jones	PJ	Users' Panel Member
Paul Mott	PM	Users' Panel Member
Patrick Hynes	PH	National Grid Panel Member
James Anderson	JA	Users' Panel Member

*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

4659. Introductions were made around the group. Apologies from Paul Jones, Paul Mott, Patrick Hynes and James Anderson.

## 2 Approval of Minutes from the last meeting

4660. The minutes from the last meeting held on 31 July 2015 were approved subject to changes and are now available on the National Grid website.

## 3 Review of Actions

4661. **Minute 4703: PH to get update from DNO steering group on progress of CMP223 related DCUSA Modification.** JC noted that PH had circulated an e-mail to the CUSC Panel on 10<sup>th</sup> August 2015 stating that SP Energy Networks will be presenting a draft DCUSA Change Proposal for discussion at the next Connections COG meeting in early September 2015.

4662. **Minute 4709: AS to explain view on obligations around implementation of remedies within the CMA report.** AS noted that the CMA have provided their provisional findings at this stage and that Ofgem are assisting and engaging with the CMA. The remedies outlined within the CMA report are only options at this stage and are subject to further comment and development by the CMA and therefore AS didn't consider it appropriate for Ofgem to comment on them at this point and advised waiting for the final report from the CMA.
4663. It was noted that the Panel wanted to know what the status of the CMA 'remedy' would be in the case of it ending up in the CMA's final report. Would it be a 'recommendation' to Ofgem to consider or would it be a 'requirement' for Ofgem to action? AS noted that he did not have any information on this at this stage and he would not be able to comment on the status of these initial CMA findings at this stage.

#### 4 New CUSC Modification Proposals

4664. **CMP250 'Stabilising BSUoS with at least a twelve month notice period'**  
CMP250 aims to eliminate BSUoS volatility and unpredictability by proposing to fix the value of BSUoS over the course of a season, with a notice period for fixing this value being at least 12 months ahead of the charging season.
4665. CS presented slides to the Panel explaining that BSUoS is not known ahead of time and recently it has become very volatile and unpredictable, which could result in a user making a loss within a settlement period. CS presented a graph to the Panel showing the difference between forecast BSUoS and actual BSUoS showing how unpredictable BSUoS can be. CS summarised the defect as being that Users have no certainty when it comes to BSUoS and this needs stabilising.
4666. CS noted that CMP250 aims to introduce three elements to fix this defect, these are;
- Fix the BSUoS over a period of time (probably as season)
  - Introduce a notice period (suggested to be at least 12 months)
  - Have a reconciliation process to recover under/over recovery within periods.
4667. CS noted that this was the high level solution suggested by Drax, however they were open to Workgroup development and alternatives.
4668. The Panel had no questions for CS on the content of his proposal and agreed that the Modification should not be classed as Self-Governance and should be developed by a Workgroup.
4669. SL noted that when there is a transfer of risk, someone will end up paying for it. Whether it is National Grid or it gets picked up across the transmission system, this is something the Workgroup would need to consider. BB also noted that it would be important for the Workgroup to consider whether transferring this risk actually has a consumer benefit. The Panel agreed for both these questions to be included on the Workgroup Terms of Reference.
4670. AS was asked whether Ofgem had any views around how this modification would be applied in a situation where there is an independent SO. AS noted that this could be a question for the Workgroup to consider in their Terms of Reference. The Panel agreed.
4671. The Panel agreed that the Terms of Reference for the CMP250 Workgroup should include the following items;
- Consider who picks up the costs of transferring the risk.

- b. Consider whether transferring the risk has a consumer benefit
  - c. Can CMP250 be applied with an independent SO?
4672. The Panel set an initial Workgroup timetable of four months. The Workgroup will aim to report back to the CUSC Panel in December 2015. The Panel noted that there are a few issues which they would like the Workgroup to consider so understand the Workgroup may need an extension to the timetable at some point.
4673. **CMP251 'Removing the error margin in the cap on total TNUoS recovered by generation and introducing a new charging element to TNUoS to ensure compliance with European Commission Regulation 838/2010'**  
 CMP251 aims to ensure that there is no risk of non-compliance with European Regulation 838/2010 by removing the error margin introduced by CMP244 and by introducing a new charging element to the calculation of TNUoS. CMP251 was raised as Urgent by the Proposer.
4674. GM presented slides to the CUSC Panel explaining that CMP224 was implemented in 2014 and that it introduced an error margin to help prevent TNUoS tariffs breaching the limit as set out in the EC Regulation 838/2010. GM noted that the first year under the new CMP224 legal text, with changes to the £/€ exchange rate, has not ensured compliance with the EC Regulation. Whilst the TNUoS tariffs for generation are currently within the range as set out within the Regulation, there is a possibility that they may exceed the limit by the end of this year. GM clarified that the defect is that CMP244 will not ensure compliance with the EC Regulation.
4675. GM noted that there were two aims of the CMP251 Modification;
  - a. Remove the error margin introduced by CMP224, and;
  - b. Introduce a new TNUoS Charging element for generation to be able to reconcile any under/over recovery of charges.
4676. GM noted that CMP251 better meets Applicable CUSC Objectives (b) and (c) and that the Modification should be classed as Urgent to ensure that National Grid does not breach the limit for Generation Charges set out within the EC Regulation.
4677. The Panel agreed that CMP251 should not be considered as Self-Governance and should be developed by a Workgroup. Before recommending whether the Proposal should be treated as Urgent, the Panel considered what issues should be included within the Workgroup Terms of Reference.
4678. GG questioned the legality of the Modification in terms of breaching the €2.5 upper limit. GG's concern was that if you breach the €2.5 upper limit and reconcile the additional charges above this paid by generators in one year in a future year, you would not technically be complying with the EC Regulation.
4679. GM noted that a generator would receive the reconciliation within the same Charging year; however GG noted that the EC Regulation is measured over the Calendar year and not the Charging year.
4680. MD noted that he had understood the reconciliation differently in that he thought it would be a one off charge or payment rather than a spread over a number of months. GM clarified that it would be a one off charge or payment. The Panel agreed that this is an issue which the Workgroup needs to discuss and agreed to add it to the Terms of Reference.
4681. SL asked GM if the generator charge ended up being €2.3 within the calendar year, whether he would be seeking to charge the extra €0.2 euro to generators. GM confirmed that this was the case and one of the aims of the proposal. SL felt that this

is quite different in nature to a modification that ensured you didn't exceed the €2.5 upper limit, as it actually fixes the generator charge at this value. GG noted that the EC Regulation is to keep the charges paid by GB generators, on average, within the range of €0-€2.5 rather than fixing the charge at €2.5. The Panel agreed that this should be something for the Workgroup to consider.

4682. It was noted that the Workgroup would probably require legal advice on the points mentioned by the Panel above and asked National Grid if this could be obtained before the first Workgroup meeting to ensure timely progression of the Modification. IP agreed to seek legal advice on CMP251. GG noted that he would circulate an e-mail to the CUSC Panel detailing what he suggests National Grid ask in terms of legal advice. The Panel also welcomed views on this from the Proposer.

**ACTION: National Grid to seek legal advice on issues outlined by CUSC Panel on CMP251 and provide to Workgroup.**

4683. MD suggested that the Workgroup should assess the impact on competition, in particular for small parties and their ability to deal with reconciliation. MD suggested that the Workgroup also consider the impact on demand customers.

4684. IP noted that there could be some interaction between CMP251 and CMP244 'Set final TNUoS tariffs at least 15 months ahead of each charging year' and suggested that the Workgroup consider this.

4685. The Panel were asked their views on whether CMP251 should be treated as Urgent.

4686. SL's view was that the dis-benefit of urgency is that there may be some issues that won't get proper consideration due to time restrictions and that for this reason he would not recommend CMP251 is progressed as Urgent.

4687. MD noted that he understands why urgency may have been requested by the Proposer; however he too had concerns about the issues that wouldn't be fully considered and therefore also recommended that CMP251 should not be treated as Urgent.

4688. BB advised that from a customer point of view, the Workgroup needs to come to the right decision on the modification. BB recommended rapid completion of the Workgroup process rather than treating it as Urgent.

4689. GG noted that he had spoken to JA and PM before the meeting and they had shared their views on the modification and the request for urgency. GG noted that he had reviewed Ofgem's guidance for urgency and considered it carefully. GG thinks there are significant implications if this modification is not progressed in the correct way and that time would be best served if this modification is not treated as Urgent. JA and PM shared these views.

4690. GG noted that if the Urgent timetable was followed; with, potentially, implementation in late December 2015; that there would be an impact on Suppliers in January 2016 in terms of reconciling the €0.15 'overcharge' identified in the Proposers' presentation for calendar year 2015. GM disagreed with this. GM Clarified that the intention was that the change would not be applied retrospectively for the 2015/16 charging year but would amend the methodology from 2016/17 onwards. The Panel agreed to include this within the Terms of Reference for the Workgroup.

4691. KM agreed with the views expressed by other Panel members and advised he did not support the request for urgency for CMP251.

4692. IP noted that it is not certain that the GB generator TNUoS charges for 2015 will breach €2.5 and if it did happen, there are other routes to ensure compliance with the EC Regulation. IP advised that urgency would not allow enough time to fully consider this modification.
4693. The Panel agreed that the Terms of Reference for CMP251 should include the following items;
- a. Consider the legality of breaching the EC Regulation then reconciling the difference the following year.
  - b. Consider whether you should fix the generator charge at €2.5 as proposed rather than remaining within the €0-€2.5 range as per the EC Regulation.
  - c. Assess impact on competition
  - d. Consider any interaction with CMP244.
4694. The Panel agreed unanimously not to recommend to Ofgem that CMP251 is treated as Urgent and discussed the timetable it should follow. JC showed the Panel the standard four month Workgroup timetable, noting that the Workgroup would report back to the December CUSC Panel which will be earlier than other months. JC therefore advised that considering the development required for CMP251 anything less than the timetable presented may be unrealistic. The Panel agreed for the Workgroup to report back to the CUSC Panel in December 2015.
4695. **CMP252 'Housekeeping changes to CMP235/CMP236 legal text'**. CMP252 aims to correct minor errors within the implemented legal text for CMP235/CMP236. CMP252 has been raised as a Fast Track CUSC Modification.
4696. DC presented slides to the CUSC Panel advising them that CMP235/236 had been implemented on 29<sup>th</sup> July 2015. Following implementation it was recognised that there were minor mistakes within the legal text. CMP252 aims to make minor changes to the legal text to change '*BMU*' to '*BM Unit*' and to take the word '*affected*' out as this was included within a version of the draft legal text and was not removed. DC noted that CMP252 meets the Self-Governance Fast Track criteria by fixing minor typographical errors.
4697. The Panel unanimously agreed that CMP252 should be considered as Fast Track and should be implemented. A 15 Working Day appeals window for CMP252 has now commenced and will close on 21<sup>st</sup> September 2015. If no objections to CMP252 are raised, it will be implemented on 22<sup>nd</sup> September 2015.

## 5 Workgroups / Standing Groups

4698. **CMP242 'Charging arrangements for interlinked offshore transmission solutions connecting to a single onshore substation'**.  
CMP242 aims to ensure that any circuit (inter)linking offshore platforms connecting to a common onshore substation and additional capacity that can be utilised on export cables to shore by offshore generation as a result are appropriately charged. JC advised that CMP242 is progressing as planned and is expected to report back to the CUSC Panel in September. The Workgroup have not voted yet, however they have a meeting scheduled for 4<sup>th</sup> September 2015 in which they plan to vote. If the Workgroup vote does not go ahead on the 4<sup>th</sup> September, the Workgroup won't make their deadline of the September CUSC Panel. JC advised the Panel that if this happens, she would e-mail the CUSC Panel in September to request a one month extension.
4699. **CMP243 'a fixed Response Energy Payment option for all generating technologies'**

CMP243 aims to allow all generators, regardless of technology type, the option of choosing whether their Response Energy Payment (REP) is based on the current methodology or a fixed value suggested at £0/MWh. JC noted that CMP243 has had two Workgroup meetings and is progressing well. However, due to analysis being required for Workgroup discussions and the summer period, the Workgroup would need a two month extension to their current timetable. The Panel agreed to the 2 month extension. The Workgroup will now report back to the CUSC Panel in November 2015.

4700. **CMP244 'Set final TNUoS tariffs at least 15 months ahead of each charging year'**

CMP244 seeks to increase the length of the notice period for TNUoS tariffs (currently 2 months) to a suggested minimum period of 15 months. JC advised that the CMP244 Workgroup had now had four Workgroup meetings and they expect to need at least another two meetings before the Workgroup Consultation. There has been a lot of analysis required for the Workgroup discussions; however, this was expected by the CUSC Panel when setting the initial timetable of 6 months. The Workgroup aim to report back to the CUSC Panel in November 2015, so do not require an extension to the Workgroup timetable at this point.

4701. **CMP245/CMP246 'Introduction of a new 'Category 5 Intertripping Scheme' to include System to System intertrips in relation to One-off Charges'**

CMP245 & CMP246 aim to clarify the position in relation to the treatment of a System to System intertrip by classing it as a new Category 5 Intertripping Scheme. JC noted that the Workgroup has had two meetings and the Proposer has decided that his original defect as outlined within the CUSC Proposal form is not what he now thinks the defect is. As presented to the CUSC Panel in June 2015, the Proposer had a business issue with being charged a one off charge for a System to System intertrip. The Proposer therefore considered the defect to be that there are no arrangements within the CUSC on how to charge for System to System intertrips. Following discussions with the Workgroup, the Proposer now feels that the real issue is around ambiguity around one-off works within the CUSC and what can be charged as a one-off charge. JC noted that PH had circulated an email explaining this to the Panel following the second Workgroup meeting. JC advised that there is nothing explicit within the CUSC around being able to change the defect and asked the Panel how they suggested the Proposer should proceed.

4702. GG advised that there is probably nothing within the CUSC on changing the defect after its initial submission as it is probably assumed that the defect is solid and cannot be changed. GG explained that the Proposer has proposer ownership; however this is in relation to being able to change the solution to the defect which is outlined within the Proposal form, and not to change the defect itself.

4703. BB noted that if the defect was originally proposed as this new defect, this may have resulted in a different Terms of Reference and different Workgroup members.

4704. It was recognised that there would probably be two possible ways of progressing with this issue, these would be;

1. Allow the Proposer to change the defect, which would include changing the proposal form and title of the modification and informing the industry of the change.
2. Advise the Proposer to withdraw their modification and raise a new proposal with the new defect, and inform the industry and invite new Workgroup members. The Panel noted that with this second option the Workgroup could continue the development of the modification under the new defect.

4705. GG suggested that JC circulates the Proposers' new wording of the CMP245 & CMP246 defect so that the Panel can understand whether the defect has fundamentally changed.
4706. SL clarified that the business issue the Proposer has remains the same; however, the Proposer is seeking to address an issue within the CUSC which is outside the original scope of the modification and they no longer want to address the original defect.
4707. MD noted that he had concerns about the precedent which could be set by allowing the Proposer to change their defect after its initial submission / as it progressed through the process. GG requested that this issue gets added to the agenda for the next GSG meeting to make it explicit within the CUSC that the defect cannot be changed once it is submitted by the Proposer. BB suggested the GSG look at other Codes to see if the CUSC can remain consistent with other arrangements.

**ACTION: GG to raise issue of changing the defect of a CUSC Modification Proposal at the next GSG meeting.**

4708. The Panel agreed that the most straightforward and clear way to proceed is to progress with the same Workgroup used for CMP245/6, however request that the Proposer withdraw these two Modification proposals and submit new ones at the September CUSC Panel meeting.

**CMP248 'Enabling capital contributions for transmission connection assets during commercial operation'.**

4709. CMP248 aims to enable users that have existing arrangements to pay annual charges for transmission connection assets the opportunity to make capital contributions associated with those transmission connection assets. JC advised the Panel that the Workgroup have not met yet due to poor availability throughout August. The first Workgroup meeting has been planned for 10th September 2015.
4710. **CMP249 'Clarification of Other Charges (CUSC 14.4) – Charging arrangements for customer requested delay and backfeed'.**  
CMP249 aims to include the principles underpinning the 'CEC before TEC' policy within Section 14 of the CUSC, state the methodology for calculation and clarify in which situations this would be applied. JC noted that the Workgroup has not met yet due to poor availability throughout August. The first Workgroup meeting is planned for 22<sup>nd</sup> September 2015.
4711. **Governance Standing Group (GSG).** GG noted that there has been no GSG since the last CUSC Panel meeting and that the next GSG meeting has been postponed until October 2015 to allow more time for completion of the Standing Group actions.
4712. **Transmission Charging Methodologies Forum (TCMF).** IP advised that there has been no TCMF since the last CUSC Panel meeting.
4713. **Commercial Balancing Services Group (CBSG).** JC noted that there had been no CBSG meeting since the last CUSC Panel. There is one being planned for late September 2015.
4714. **Balancing Services Standing Group (BSSG).** JC noted that there had been no BSSG meeting since the last CUSC Panel. There is one being planned for late September 2015.

4715. **Joint European Stakeholder Group (JESG).** GG stated that there was a JESG meeting held on 26<sup>th</sup> August 2015 and that the meeting included updates on the electricity market design, the various market codes, such as CACM and Balancing plus the operational codes.

## 7 CUSC Modifications Panel Vote

4716. **There were no votes at this meeting.**

## 8 Authority Decisions as at 20 August 2015

4717. There was one Authority decision this month.
4718. **CMP239 'Grandfathering Arrangements for the Small Generator Discount'** CMP239 seeks to implement grandfathering arrangements in the CUSC from the expiry of License Condition C13 on 31 March 2016.
4719. AS noted that CMP239 was rejected by the Authority.
4720. AS gave an update on the two CUSC Modifications which are currently with the Authority for a decision, CMP227 'Change the G:D split of TNUoS charges, for example to 15:85' and CMP237 'Response Energy Payment for Low Fuel Cost Generation'. AS noted that the Authority are expecting to make a decision on CMP227 in line with their 25 working day KPI within September 2015. AS also advised that, in light of the recent CUSC Modification Proposal 243 which has similarities to CMP237, the Authority plan to delay a decision on CMP237 until they have received the Final CUSC Modification Report for CMP243.

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

4721. AS noted that the Authority had approved the CACoP Principle 13 on 26<sup>th</sup> August 2015 and encouraged the Panel to start applying this where appropriate.

## 10 AOB

4722. JC noted that the CUSC Panel Elections results had now been announced and that all current CUSC Panel members will remain as Panel members for the following term. JC also welcomed Cem Suleyman as a new Alternate CUSC Panel member.
4723. GG asked if JC could send a note to the CUSC Panel advising them on the role of an Alternate CUSC Panel member. JC agreed to this.

**ACTION: JC to circulate note on role of Alternate CUSC Panel Member.**

## 11 Next meeting

4724. The next meeting of the CUSC Modifications Panel will be held on 25<sup>th</sup> September 2015 at National Grid House, Warwick.