

## Minutes

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|------------------------|----------------------------------|
| <b>Meeting name</b>    | Special CUSC Modifications Panel |
| <b>Meeting number</b>  | 196                              |
| <b>Date of meeting</b> | 25 October 2016                  |
| <b>Location</b>        | National Grid House, Warwick     |

## Attendees

| Name                     | Initials | Position                        |
|--------------------------|----------|---------------------------------|
| Mike Toms                | MT       | Panel Chair                     |
| Ryan Place               | RP       | Panel Secretary (alternate)     |
| John Martin              | JM       | Code Administrator              |
| Nikki Jamieson           | NJ       | National Grid Panel Member      |
| Bob Brown (dial-in)      | BB       | Users' Panel Member             |
| Cem Suleyman (dial-in)   | CS       | Users' Panel Member             |
| Garth Graham (dial-in)   | GG       | Users' Panel Member             |
| Paul Mott                | PM       | Users' Panel Member             |
| James Anderson (dial-in) | JA       | Users' Panel Member             |
| Nadir Hafeez (dial-in)   | NH       | Authority Representative        |
| Louise Schmitz           | LS       | CMP264/65/69/70 Workgroup Chair |
| Donald Smith (dial-in)   | DS       | CMP261 Ofgem Representative     |

## 1 Apologies

Apologies were provided from Heena Chauhan (HC), Paul Jones (PJ), Simon Lord (SL), Kyle Martin (KM) and Nick Rubin (NR).

*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/>

## 2 Introductions

5755. Introductions were made around the group. Ryan Place (RP) joined the Panel as the alternate for Heena Chauhan (HC).

## 3 Workgroups / Standing Groups

5756. **CMP264/265/269/270 'Embedded Generation Triad Avoidance Standstill', Gross Charging of TNUoS for HH demand where embedded Generation is in the Capacity Market', Potential Consequential changes to the CUSC as a result of CMP264', and 'Potential consequential changes to the CUSC as a result of CMP265'**. CMP264 seeks to make changes to the Transport and Tariff Model and billing arrangements to remove the netting of output from New Embedded Generators until Ofgem has completed its consideration of the current electricity transmission Charging Arrangements (and any review which ensues) and any resulting changes have been fully implemented. CMP265 specifically

seeks to address the issue that half hourly metered (HH) demand for TNUoS purposes is currently charged net of embedded generation. CMP270 and CMP269 both seek to address a number of consequential changes required to non-charging sections of the CUSC to reflect the CMP264 and CMP265 Proposals.

5757. RP presented slides to the Panel explaining the Workgroup findings to the Panel. RP confirmed that the Workgroup had met their Terms of Reference; the Panel Chair asked the Panel whether they agreed that the modification should progress to Code Administrator Consultation.
5758. MT asked the Code Administrator whether the Workgroup Chair saved alternatives, as the Chair felt that they were 'considered to be better than baseline'. JM clarified that as Workgroup Chair, he had reviewed the voting and different viewpoints of Workgroup members and that in the interest of fairness there was a case to progress some alternatives on the balance of evidence provided as part of the Workgroup. Bearing in mind that the Authority had made it clear during the Workgroup process that they would like a range of options, as Workgroup Chair it was important to progress a range of Alternatives whilst ensuring it was an efficient number. JA as Proposer of CMP264 confirmed that he was happy with the inclusion of the Alternatives raised as they had different features to the original Proposal.
5759. GG flagged that he was concerned that Volume 1 of the Workgroup Report is over 2000+ pages long. Of the 2000+ only around 123 pages is actually the Workgroup Report and the rest is legal text which might put off some respondents. GG proposed to split Volume 1 into parts A and B (A being the Workgroup Report and B the legal text). The Panel agreed that this seemed like a reasonable change.

**ACTION: Split the CMP264/CMP265 Report Volume 1 in Part A and B.**

5760. MT wanted to check with JA and PM that as Proposers of CMP264 and CMP265 the Report is in consultable condition and that the Workgroup has met its obligations. JA and PM stated yes and flagged the work by the Chair has ensured that a good job has been done in the time available.
5761. BB noted that the Code Administrator and Workgroup had done a very good job in producing the report under tight timescales set by the Panel. However, BB noted that the report identified in several areas, including consumer impacts, that there was limited analysis and time spent due to accelerated timescales. This made it difficult for him as a Panel member to make an informed decision as it did not give a clear holistic assessment of benefits and risks, rather Workgroup member submissions. BB also flagged that he had concerns with the number of Alternatives raised, as there was limited analysis to support these and the Workgroup terms of reference included a requirement to propose the fewest number of alternatives. Referring to the statement made in paragraph 5758, BB stated he had concerns that the Ofgem steer to require more Alternatives, is a divergence from the industry 'self-regulation' approach governed by the Panel.
5762. MT asked BB if he was happy for the Workgroup Report to progress to Code Administrator consultation in light of the comments above. BB confirmed that he did not feel that the ToR had been met so it should not progress.
5763. MT asked NH whether he was happy for the Workgroup Report to progress to Code Administrator Consultation. NH confirmed that he was happy with whatever the Panel recommends.
5764. The Panel also confirmed that they felt the Workgroup had met their ToR and that they were happy for it to move to CA Consultation.

5765. GG flagged that in Section 12 of Volume 1 the paragraph numbering is out as it still has tracked changes. Also, once the Volume 1 has been separated into sections A and B it would be useful to have a contents page. Finally, in Volume 3 there is an issue with a couple of consultation responses formatting on pages 222-224 and 661-668.

**ACTION: Amend the CMP264/CMP265 Report Volume 3 Consultation responses on Page 222-224.**

5766. CS felt as part of the Code Administrator Consultation it would be prudent to ask respondents to provide 1 or 2 page summaries. Moreover, GG suggested that the Code Administrator should flag to consultation respondents that there is no need to repeat comments that have been provided in the Workgroup Report, rather just refer to the section in the report.

**ACTION: Flag 1-2 page summaries beneficial on CMP264/CMP265 Code Administrator Consultation email**

5767. Finally, BB felt it might be useful to run a lesson learnt session with Industry and the Code Administrator on how the process had gone with this suite of proposals.

**ACTION: Run a lesson learnt on CMP264/CMP265.**

5768. **CMP261 'Ensuring the TNUoS paid by Generators in GB in Charging Year 2015/16 is in compliance with the €2.5/MWh annual average limit set in EU Regulation 838/2010 Part B (3)'** CMP261 seeks to ensure that there is an ex post reconciliation of the TNUoS paid by GB Generators during charging year 2015/16 which will take place in Spring 2016 with any amount in excess of the €2.5/MWh upper limit being paid back, via a negative Generator residual levied on all GB Generators who have paid TNUoS during the period 1st April 2015 to 31st March 2016 inclusive.

5769. RP presented slides to the Panel explaining the Workgroup findings to the Panel. RP confirmed that the Workgroup had met their Terms of Reference; the Panel Chair asked the Panel whether they agreed that the modification should progress to Code Administrator Consultation.

5770. GG questioned the term 'steer' used by the Code Administrator when referring to the Authority direction for further analysis. GG added that two Workgroup members also felt that the request for further analysis was stronger than a 'steer'. GG also felt that the further analysis was not owned by the Workgroup; rather the analysis was done by the National Grid team at the request of the Authority. There have been more meetings between National Grid and the Authority directly rather than with the Workgroup on the analysis. As a result, GG felt it was more suitable to phrase it as the Workgroup acting a 'sounding board' as the Workgroup will not see the legal advice which was the basis for the further analysis.

5771. DS added that the Authority had given a steer to provide extra analysis in order to assist in making a decision on the modification. DS also confirmed early in the process that the Authority representative suggested to the Workgroup considering the nature of the underlying assets required when connecting to the system. Following the Authority seeking independent legal advice, it was made clear that the Authority would definitely need to consider the underlying assets required when connecting to the system and DS had therefore requested the Workgroup carry out this analysis.

5772. MT asked the Authority representative (DS) whether, if the extra analysis is not included in the Workgroup Report if it is likely that the Report will be sent back to the Panel at a later stage. DS stated that it was unlikely the Report would be sent back, but said that they would appreciate it if the Workgroup process be extended so that the analysis could be completed as part of the Workgroup process and to give Workgroup members the opportunity to provide questions for the Authority legal counsel. DS indicated that he felt the analysis would be ready

for the Workgroup to discuss for Thursday 27 October and a further Workgroup meeting to discuss and sign off could be held the week after. GG felt that waiting for the further analysis would delay the process by more than one to two weeks which is not acceptable considering how the further analysis has already slowed down the process of the modification by two to three months. NJ added that at the time the analysis was requested, it was not clear that the delay would be so long.

5773. DS stated that an alternative option is for the Code Administrator Consultation to be published now with the current version of the further analysis within the Report, whilst still working in the background with National Grid. Once the analysis has been concluded this can then be shared with the Workgroup in an informal way. Unfortunately in doing this, it will not give industry a chance to respond to the further analysis as part of the consultation response whilst Workgroup members may not engage as they would have been discharged of their duties. RP stated that it was important to be seen to follow due process; as a result the Code Administrator would not be happy to carry out any extra work with the Workgroup outside of the Workgroup process. DS reiterated that Ofgem are keen to get good robust advice from counsel and in order to do that he felt including the completed analysis in the Workgroup consultation would assist with this by giving industry the chance to comment on it.
5774. GG also flagged that he was concerned the legal position of Workgroup members might be compromised, in accepting the further analysis that has been done directly between the Authority and National Grid if presented any legal challenge. NJ stated that National Grid only undertook the further analysis as no one else in the Workgroup wanted to carry it out.
5775. MT asked the Panel whether the Report should be sent to Code Administrator Consultation or, pause and wait until the further analysis is completed before consulting on the Workgroup Report.
5776. JA felt that the process should not be further delayed; there is the option for the Authority to carry out further analysis as part of a regulatory impact assessment, so if further analysis is required it should be requested as part of that process to allow the modification to progress onwards.
5777. CS felt due to secrecy on the legal advice and the possibility of the Authority requesting extra analysis as part of the regulatory impact assessment; the Report should move onto Code Administrator consultation unless the Authority can commit to providing visibility of the legal opinion.
5778. BB asked Ofgem if they would provide more visibility on the legal opinion once sought. Due to the modification already being slowed, he confirmed he feels it prudent to move onto Code Administrator Consultation. GG noted that initial legal advice was sought some time ago and not shared by Ofgem. DS confirmed that Ofgem could include in the Code Administrator Consultation a summary of the legal advice, however, due to the situation and time constraints it is unlikely that is something that would be done. DS could also not guarantee this would definitely be possible.
5779. PM added that he felt it should go to Code Administrator Consultation.
5780. NJ stated that National Grid has no urge to delay the process. NJ also has concerns that National Grid have been compromised in being asked to do further analysis which has not been accepted and signed off by the Workgroup, which the Workgroup had previously committed to undertaking.
5781. MT flagged to the Panel that this analysis was likely to be requested of National Grid regardless of it being outside of the Workgroup process.

5782. GG confirmed that the modification should progress to Code Administrator Consultation as the ToR has been met; conscious of the fact that the modification was requested as Urgent and despite not being granted urgency but being treated as 'accelerated' it has taken 10 months to get to Workgroup Report stage.
5783. MT wanted to make it clear to the Panel that whilst they want to put the modification out to Code Administrator Consultation, they need to be aware that the Authority may need to request further information when it sees fit.
5784. DS added that the Authority did not interpret the Regulation 838/2010 under CMP224, and that counsel agreed with them on this point. PM felt it was considered under CMP224 as there was an original and an alternative which included either 'local circuit include' or 'local circuit exclude'. DS confirmed that there were two interpretations, strict and broad, following this the Authority approved a methodology that resulted in charges that comply with a strict interpretation and a broad interpretation, but did not approve the interpretation of the Regulation. GG added when you are presented with two options one option to with legal text to include and one option to with legal text to exclude, when you approve one option you are making a determination based on the Regulation. DS added constructing charges to try and ensure compliance with the Regulation is different to considering whether there has been a breach of the Regulation. GG pointed out to the Panel that the legal text for 'CMP224 include' has a different construct to the legal text for 'CMP224 option to exclude'.
5785. GG also questioned whether the further analysis would add any value to the Code Administrator Consultation as people would find it difficult to come to any conclusion on the views the Authority's counsel view may take. DS confirmed that the analysis is not looking at any legal question.
5786. PM asked what the additional analysis consists of. NJ confirmed that the National Grid Workgroup member initially pulled together some analysis following the steer from the Authority but it did not hit the mark. National Grid then had some further calls with the Authority to confirm two points: the different types of connections on the system and some examples of assets that currently exist on the network. NJ confirmed the most recent analysis has been completed and shared with the Workgroup and the Authority. The view that is that it is nearly there bar some minor tweaks. GG noted that this sharing with the Workgroup only occurred ten minutes before the Panel meeting started, so he was unable to comment as to whether it was nearly there yet.
5787. DW said Ofgem hasn't already interpreted the regulation EC838/2010 when it passed CMP224 Original, instead of WACM1. PM challenged this.
5788. The Panel asked if the further analysis could be consulted on in a regulatory impact assessment. PM added that Ofgem can always gather further evidence than what is in the FMR, at any stage – as it has done for CMP264/5 where it has issued an "open letter" to gather further evidence. It has wider responsibilities than the CAOs. DS responded this could be an option but could not confirm that a regulatory impact assessment would be carried out.
5789. The Panel confirmed that they felt the Workgroup have met there ToR and that they were happy for it to move to CA Consultation.

#### 4 AOB

5790. None

## 5 Next meeting

The next meeting of the CUSC Modifications Panel will be held on 28 October 2016. A number of proposed Special CUSC Panel meetings have also agreed as noted below.

### Notification of Future Meetings:

#### Monthly CUSC Panel Meetings (10:00 to 14:00):

- **Meeting No 198: 25 November 2016 at National Grid House, Warwick**
  - *Papers Day: 17 November 2016*
  - *Proposed Agenda Items:*
    - *CMP261 Vote*
    - *CMP266 Vote*
- **Meeting No 199: 14 December 2016 at National Grid House, Warwick**
  - *Papers Day: 6 December 2016*
  - *Proposed Agenda Items:*

#### Proposed Special CUSC Panel Meetings:

- **Meeting No 197: 15 November 2016 via teleconference (9:30-10:30)**
  - *Papers Day: 8 November 2016*
  - *Proposed Agenda Items*
    - *CMP267 and CMP268 Votes*
- **Meeting No 198: 23 November 2016 via teleconference (10:00-12:00)**
  - *Papers Day: 17 November 2016*
  - *Proposed Agenda Items*
    - *CMP264/CMP265/CMP269/CMP270 Vote*