

# Stage 06: Final CUSC Modification Self-Governance Report

## Connection and Use of System Code

# CMP228

## ‘Definition of ‘Qualified Bank’’

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 proposal seeks to make changes to the definition of ‘Qualified Bank’ to include ‘trade credit insurance company’, thereby increasing the number of prospective providers of security available to Users.

Published on: 10 June 2014  
Date of Panel Determination vote: 30 May 2014



### ***The CUSC Panel has determined:***

CMP228 should be implemented as it better facilitates Applicable CUSC Objective (b).



### ***Implementation:***

CMP228 will be implemented on 7<sup>th</sup> July 2014, pending any appeals



### ***Low Impact:***

Parties required to provide security under Sections 2 and 15.

## Contents



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### Any Questions?

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Contact:

**Jade Clarke**

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Code Administrator

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Proposer:

**John Norbury**

**RWE**

[John.norbury@rwe.com](mailto:John.norbury@rwe.com)

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## About this document

This is the Final CUSC Modification Report which contains details of the CUSC Panels determination in respect of CMP228, as well as responses to the Code Administrator Consultation. This Report has been prepared and issued by National Grid as Code Administrator under the rules and procedures specified in the CUSC.

## Document Control

<b>Version</b>	<b>Date</b>	<b>Author</b>	<b>Change Reference</b>
1.0	2 June 2014	Code Administrator	Version for CUSC Panel comment
2.0	10 June 2014	Code Administrator	Version to Industry

## 1 Summary

- 1.1 This document describes the CMP228 Modification Proposal and seeks views from industry members relating to the proposal.
- 1.2 CMP228 was proposed by RWE (the Proposer) and submitted to the CUSC Modifications Panel (the Panel) for their consideration on 28<sup>th</sup> February 2014. A copy of the Proposal form is provided in Annex 1 of this document. The Panel determined that CMP228 should be considered as Self-Governance and should proceed directly to Code-Administrator Consultation for the standard 15 Business Days. A copy of the Self-Governance statement can be found in Annex 2.
- 1.3 Within the Panel meeting National Grid agreed to include a summary of advice it was seeking from legal and insurance experts to clarify whether the security provided by trade credit providers would be equivalent to that provided by banks within the Code Administrator Consultation for CMP228. A summary of this advice is included in Section 3 of this document.
- 1.4 CMP228 aims to change Section 11 of the CUSC by amending the definition of 'Qualified Bank' to include 'trade credit insurance company', thereby increasing the number of prospective providers of security available to Users.
- 1.5 The Code Administrator Consultation closed on 9<sup>th</sup> May 2014 and received four responses (including one late response); these can be found in Annex 4, a summary of these responses can also be found in Section 8 of this report.
- 1.6 This CUSC Modification Report has been prepared in accordance with the terms of the CUSC. An electronic copy can be found on the National Grid website, <http://www2.nationalgrid.com/UK/Industry-information/Electricity-codes/CUSC/Modifications/CMP228/>, along with the CUSC Modification Proposal form.

### CUSC Modification Panel's Determination

- 1.7 At the meeting of the CUSC Modifications Panel on 30 May 2014, the Panel voted unanimously that CMP228 better facilitates Applicable CUSC Objective (b) and therefore should be implemented. Further details on the CUSC Panel vote can be found in Section 6.

### National Grid's Initial View

- 1.8 National Grid supports the implementation of CMP228 as it better facilitates Applicable CUSC Objective (b). In National Grid's view, the modification has the potential to reduce the cost of providing security faced by those parties that do not meet the required credit rating by increasing the number (and hence choice and competition) of potential security providers.

### Implementation

- 1.9 The 15 Working day Self-Governance appeals window commenced on 30 May 2014 and closes on 20 June 2014. If no objections are received, the Code Administrator will implement CMP228 10 Working days later on 7 July 2014.

## 2 Background

- 2.1 A number of credit and security provisions currently exist under the CUSC in respect of the following categories:
- (i) Termination Amounts (CUSC Paragraph 2.19)
  - (ii) Balancing Services Use of System Charges and Transmission Network Use of System Demand Charges (CUSC Paragraph 3.22)
  - (iii) Cancellation Charge Secured Amounts (CUSC Paragraph 15, Part 3)
- 2.2 Users who do not meet the required credit rating ('The Company Credit Rating') in the case of (i) & (iii), or who exceed their credit limit determined under the terms of the CUSC (the 'User's Allowed Credit') in the case of (ii) are required to provide security to National Grid. A number of alternative forms of acceptable security are specified in the CUSC. One such form of security in relation to (i) & (iii) may typically be in the form of a Letter Of Credit or Performance Bond provided by a 'Qualified Bank'.
- 2.3 The CUSC definition of a Qualified Bank describes the entity as a 'bank', which might imply that the entity is expected to hold a UK banking licence to provide banking services, although this requirement is not specified in the definition. However, the reference to 'bank' in the definition would appear to preclude other financial institutions, particularly insurance companies, which might otherwise meet the CUSC requirements relating to a Qualified Bank, from providing security in the form of a Performance Bond or Letter of Credit.
- 2.4 A Performance Bond from an insurance company may already be provided in relation to Use of System Charges under paragraph 3.22.5 of the CUSC, in the form of an Insurance Performance Bond.

### 3 Modification Proposal

- 3.1 Following the downgrading of several licensed banks by Moody's and Standard & Poor's during 2012 and 2013, the number of financial institutions with an adequate credit rating to provide security on behalf of Users under the CUSC has reduced. A smaller pool of prospective security providers and the potential for further downgrading is unlikely to incentivise Qualified Banks and similar entities to maintain or reduce their charge to Users for providing security acceptable to National Grid.
- 3.2 The CUSC definition of Qualified Bank requires the entity providing a Performance Bond or Letter of Credit to meet the general description of being a 'bank'. CMP228 proposes that this general description be extended to include a company capable of providing trade related credit insurance, or 'trade credit insurance company', thereby increasing the number of prospective providers of security available to Users. Trade credit insurance companies would normally be members of the International Credit Insurance & Surety Association (ICISA) and capable of providing security of a similar level and form as that provided by a bank.
- 3.3 Under this proposed change, the criteria which must be met by a 'trade credit insurance company' to meet the definition of a Qualified Bank would be the same as the criteria to be met by a 'bank', such that the level of security would be similar and neither National Grid nor other Users should be disadvantaged by the choice of entity providing the security.
- 3.4 As part of its own assessment of CMP228, National Grid has discussed the change with legal and insurance experts (both internal and external to National Grid) to clarify whether security provided by a trade credit insurance company is equivalent to that provided by a bank under the existing arrangements. The following is a summary of the main points of these discussions:
  - i) The term 'trade credit insurance company' refers to a company that provides trade credit insurance, which is a separate product to a Performance Bond or Letter of Credit. However, a Performance Bond provided by a bank could be considered equivalent to a surety bond which many insurance companies, including (but not limited to) trade credit insurance companies, can provide.
  - ii) To operate within the United Kingdom, insurance companies must be authorised by the Financial Conduct Authority (FCA) and Prudential Regulation Authority (PRA) to provide their products within the UK, or authorised within another country within the European Economic Area and subject to a passporting arrangement that allows them to provide their products within the UK. Whilst regulated differently to banks, insurance companies are subject to a set of EU-wide capital requirements and risk management standards and compliance with such requirements will be reflected within the insurance company's credit rating.
- 3.5 National Grid has made the Proposer aware of the advice it has received and the points have been considered within the draft legal text presented in Annex 3 of this document as follows:
  - i) The definition revised definition of Qualified Bank includes the term "regulated insurance company" as opposed to the more limiting term "trade credit insurance company"; and
  - ii) For transparency, the requirement that for an insurance company providing security to have the necessary authorisation to do so within the UK in order for the

security to be deemed acceptable to National Grid, has been included within the definition.

## 4 Implementation and Transition

- 4.1 The 15 day appeals window commenced on 30 May 2014 and closes on 20 June 2014. Subject to any appeals, CMP228 will be implemented 10 Working days later on 7 July 2014.

## 5 Impacts

### Impact on the CUSC

- 5.1 CMP228 seeks to change Section 11 of the CUSC – Interpretations and Definitions, with minor consequential changes to Sections 2 and 15.
- 5.2 Draft legal text can be found in Annex 3 of this report.

### Impact on Greenhouse Gas Emissions

- 5.3 None identified.

### Impact on Core Industry Documents

- 5.4 None identified.

### Impact on other Industry Documents

- 5.5 None identified.

### Costs

Industry Costs	
Resource costs	£2,723 – 1 Consultation <ul style="list-style-type: none"><li>• 1.5 man days effect per consultation response</li><li>• 3 consultation respondents</li></ul>
Total Industry costs	£2,723



### Assessment against the Applicable CUSC Objectives

- 6.1 For reference, the Applicable CUSC Objectives, as defined in the Transmission Licence are:
- (a) The efficient discharge by the licensee of the obligations imposed upon it under the Act and the Transmission Licence
  - (b) Facilitating effective competition in the generation and supply of electricity, and (so far as consistent therewith) facilitating such competition in the sale, distribution and purchase of electricity.
  - (c) Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency.

### National Grid's Opinion

- 6.2 National Grid supports the implementation of CMP228. In National Grid's view, the modification has the potential to reduce the cost of providing security faced by those parties that do not meet the required credit rating by increasing the number (and hence choice and competition) of potential security providers, better facilitating Applicable CUSC Objective (b).
- 6.3 Based upon the legal and insurance advice received, National Grid understands that although the scope of potential security providers is being increased, the addition of them as a security provider and nature of the security they issue should not in itself present an additional risk of a bad debt being incurred over that provided by a bank. In the event of a bad debt arising from any insurance security, as with a bad debt resulting from any bank security today, there would be a resulting pass through claim. Approval by self-governance assumes that CMP228 is non-material, and as such National Grid understands that the Authority in not vetoing the self-governance status of CMP228, is also satisfied with the level of risk associated with the change.

### CUSC Modifications Panel Determination Vote

- 6.4 At the CUSC Modifications Panel meeting held on 30 May 2014, the Panel voted unanimously that CMP228 better facilitates Applicable CUSC Objective (b) and so should be implemented. Details of the vote can be found below;

Panel Member	(a)	(b)	(c)	Overall
Ian Pashley	Neutral.	Yes – Whilst noting that the same products will still apply.	Neutral.	Yes.
Garth Graham	Neutral.	Yes – Facilitates competition as it opens up to other providers. I don't think there will be increased risk. Allowing	Neutral.	Yes.

		more providers should also reduce costs.		
Bob Brown	Neutral.	Yes – It introduces additional tools to facilitate competition.	Neutral.	Yes.
James Anderson	Neutral.	Yes – Increasing number of providers will better facilitate competition.	Neutral.	Yes.
Kyle Martin	Neutral.	Yes – Increasing number of providers will better facilitate competition.	Neutral.	Yes.
Paul Jones	Neutral.	Yes – Increasing number of providers will better facilitate competition, also if there are more providers, there is a smaller risk if one provider goes under.	Neutral.	Yes.
Simon Lord	Neutral.	Yes – Increasing number of providers will facilitate competition.	Neutral.	Yes.
Paul Mott	Neutral.	Yes – Increasing number of providers will facilitate competition.	Neutral.	Yes.
Michael Dodd	Neutral.	Yes – Increasing number of providers will facilitate competition.	Neutral.	Yes.

## 7 Code Administrator Consultation Responses

7.1 Four responses (including one late response) were received to the Code Administrator Consultation. The following table provides an overview of the responses received. The full responses can be found in Annex 4.

Company name	Do you believe the CMP228 better facilitates the Applicable CUSC Objectives?	Do you agree with the proposed implementation approach?	Do you agree with the decision to progress CMP228 through the Self-Governance route?	Do you have any other comments?
<b>EDF Energy</b>	Yes – CMP228 may in some cases enable a party to reduce the cost of providing security which makes our market slightly more accessible.	Yes	Yes	Yes – It is imprudent not to have released the actual legal advice to this modification which would make it easier for respondents. The summary in 3.4 of the report highlights some apparent ambiguities and inconsistencies.
<b>RWE</b>	Yes – for the reasons given in the Code Administrator Consultation	Yes	Yes	We welcome the support provided by National Grid in preparing CMP228 and for the additional points which have been incorporated within the draft legal text.
<b>Scottish Power</b>	CMP228 better facilitates the Applicable CUSC Objective (b) as it will potentially increase the number of credit providers available to Parties and thus increase competition in credit provision and potentially reduce costs.	Yes	Yes	No

<b>SSE</b>	Yes – better facilitates objective (b) as it has the potential to reduce the cost of providing security faced by those CUSC Users that do not meet the required credit rating .	Yes	Yes	<p>We support the central element of this modification.</p> <p>We agree with the concerns expressed at the CUSC Panel that increasing the providers of credit must not be at the expense of a degradation in the quality of cover provided.</p> <p>It is important to note that in giving our support for this change, we are relying on the summary of the advice National Grid has obtained from legal and insurance experts.</p>
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- 7.2 There were some concerns highlighted within the EDF response (full response can be found in Annex 4) around ambiguity and inconsistency within the Code Administrator Consultation. National Grid have discussed this response with EDF and agreed to change the wording in paragraph 3.4 i) of this Final CUSC Modification Report from ‘Performance Bond’ to Performance Bond provided by a bank’. This is to clarify that the term ‘Performance Bond’ referred to that under the existing arrangements as opposed to that under the proposed arrangements. A surety bond can be considered equivalent to a performance bond under the existing arrangements (provided by a bank), and can therefore be considered a Performance Bond under the proposed arrangements. The EDF respondent agreed that this change to paragraph 3.4 does seem to remove the scope for confusion, or for apparent inconsistency.
- 7.3 On the respondents other comment, the purpose of the Modification is to allow Performance Bonds and LoCs to be provided by insurer. It is to widen the existing security products slightly in order to allow their provision by insurers, and not to introduce a new form of security. The initial proposal was to limit ‘insurers’ to those that can provide trade credit insurance. However, this is a completely different product used for a different purpose to a Performance Bond or LoC (i.e. cannot be considered equivalent to any of the existing tools). As such limiting the range of providers to trade credit insurers is not appropriate, so the reference was removed.

# CUSC Modification Proposal Form CMP228



## Connection and Use of System Code (CUSC)

<b>Title of the CUSC Modification Proposal</b>
<b>Definition of “Qualified Bank”</b>
<b>Submission Date</b>
18 / 02 / 2014
<b>Description of the Issue or Defect that the CUSC Modification Proposal seeks to address</b>
<p>The <b>CUSC</b> currently requires <b>Users</b> to provide <b>The Company</b> with security in respect of the following categories:</p> <ul style="list-style-type: none"> <li>(i) <b>Termination Amounts</b> (<b>CUSC</b> Paragraph 2.19)</li> <li>(ii) <b>Balancing Services Use of System Charges</b> and <b>Transmission Network Use of System Demand Charges</b> (<b>CUSC</b> Paragraph 3.22)</li> <li>(iii) <b>Cancellation Charge Secured Amounts</b> (<b>CUSC</b> Paragraph 15 Part 3)</li> </ul> <p>For <b>Users</b> who do not meet the required <b>The Company Credit Rating</b> in the case of (i), who exceed their <b>User’s Allowed Credit</b> in the case of (ii), or do not meet <b>The Company Credit Rating</b> in the case of (iii), a number of alternative forms of acceptable security are specified in the <b>CUSC</b>. Such alternative form of security may typically be in the form of a <b>Letter of Credit</b> or <b>Performance Bond</b> provided by a <b>Qualified Bank</b>.</p> <p>The <b>CUSC</b> definition of a <b>Qualified Bank</b> describes the entity as a “bank”, which might imply that the entity is expected to hold a UK banking licence to provide banking services, although this requirement is not specified in the definition. However, the reference to “bank” in the definition would appear to preclude other financial institutions, particularly trade credit insurance companies, which might otherwise meet the <b>CUSC</b> requirements relating to a <b>Qualified Bank</b> from providing security in the form of a <b>Performance Bond</b> or <b>Letter of Credit</b>.</p>
<b>Description of the CUSC Modification Proposal</b>
<p>Following the downgrading of several licensed banks by Moody’s and Standard &amp; Poor’s during 2012 and 2013, the number of financial institutions with an adequate credit rating to provide security on behalf of <b>Users</b> under the <b>CUSC</b> has reduced. A smaller pool of prospective security providers and the potential for further downgradings is unlikely to incentivise <b>Qualified Banks</b> and similar entities to maintain or reduce their charge to <b>Users</b> for providing security</p>

acceptable to **The Company**.

The CUSC definition of **Qualified Bank** requires the entity providing a **Performance Bond** or **Letter of Credit** to meet the general description of being a “bank”. It is proposed that this general description be extended to include a company capable of providing trade related credit insurance, or “trade credit insurance company”, thereby increasing the number of prospective providers of security available to **Users**. Trade credit insurance companies would normally be members of the International Credit Insurance & Surety Association (ICISA) and capable of providing security of a similar level and form as that provided by a bank.

Under this proposed change, the criteria which must be met by a “trade credit insurance company” to meet the definition of a **Qualified Bank** would be the same as the criteria to be met by “bank”, such that the level of security would be similar and neither **The Company** nor other **Users** would be disadvantaged by the choice of entity providing the security.

#### Impact on the CUSC

If this **CUSC Modification** Proposal is accepted, it is anticipated that the following change would need to be made to the **CUSC**:

Amend the definition "**Qualified Bank**" or "**Qualifying Bank**".

#### Do you believe the CUSC Modification Proposal will have a material impact on Greenhouse Gas Emissions? Yes / No

No

#### Impact on Core Industry Documentation. Please tick the relevant boxes and provide any supporting information

None

#### Urgency Recommended: Yes / No

No

#### Justification for Urgency Recommendation

N/A

#### Self-Governance Recommended: Yes / No

Yes

### Justification for Self-Governance Recommendation

This **CUSC Modification Proposal** is intended to increase the range of providers capable of meeting the **CUSC** requirements relating to the provision of security and would not result in a reduction in the level of security currently provided by **Users** to **The Company**. Consequently, the **User** considers it unlikely to have a material effect on any of the above criteria.

### Should this CUSC Modification Proposal be considered exempt from any ongoing Significant Code Reviews?

The Proposer is not aware of any ongoing Significant Code Review related to this Modification Proposal

### Impact on Computer Systems and Processes used by CUSC Parties:

The Proposer does not anticipate that any Computer Systems or Computer Processes would be affected by this **CUSC Modification Proposal**.

### Details of any Related Modification to Other Industry Codes

None.

### Justification for CUSC Modification Proposal with Reference to Applicable CUSC Objectives:

#### Please tick the relevant boxes and provide justification:

√ (a) the efficient discharge by The Company of the obligations imposed upon it by the Act and the Transmission Licence

This **CUSC Modification Proposal** seeks to increase the range of providers capable of meeting the **CUSC** requirements relating to the provision of security available to **Users**, thereby reducing the effective preferential treatment of licensed banks above other financial institutions in the provision of security (Licence Condition 19E).

√ (b) facilitating effective competition in the generation and supply of electricity, and (so far as consistent therewith) facilitating such competition in the sale, distribution and purchase of electricity.

Increasing the number of potential providers of security is expected to reduce the cost to **Users** who are not **Qualifying Companies**, thereby facilitating effective competition in the generation and supply of electricity.

(c) compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency.

These are defined within the National Grid Electricity Transmission plc Licence under Standard Condition C10, paragraph 1.

Objective (c) was added in November 2011. This refers specifically to European Regulation 2009/714/EC. Reference to the Agency is to the Agency for the Cooperation of Energy Regulators (ACER).

*This section is mandatory. You should detail why this Proposal better facilitates the Applicable CUSC Objectives compared to the current baseline. Please note that one or more Objective must be justified.*

### Additional details

<p><b>Details of Proposer:</b> (Organisation Name)</p>	<p>John Norbury (for the RWE Group of companies, including RWE Npower plc, RWE Npower Renewables Limited and RWE Supply &amp; Trading GmbH) Network Connections Manager RWE Supply &amp; Trading GmbH Windmill Hill Business Park Whitehill Way Swindon, Wiltshire SN5 6PB T +44 (0)1793 89 2667 M +44 (0)7795 354 382 john.norbury@rwe.com</p>
<p><b>Capacity in which the CUSC Modification Proposal is being proposed:</b> (i.e. CUSC Party, BSC Party or "National Consumer Council")</p>	<p>CUSC Party</p>
<p><b>Details of Proposer's Representative:</b> Name: Organisation: Telephone Number: Email Address:</p>	<p>As above</p>
<p><b>Details of Representative's Alternate:</b> Name: Organisation: Telephone Number: Email Address:</p>	<p>David Munday UK Group Treasurer RWE Npower plc Windmill Hill Business Park Whitehill Way Swindon, Wiltshire SN5 6PB T +44 (0)1793 89 2280 M +44 (0)7989 493626 david.munday@rwenpower.com</p>



**Attachments (Yes/No):**  
**If Yes, Title and No. of pages of each Attachment: No.**

## Contact Us

If you have any questions or need any advice on how to fill in this form please contact the Panel Secretary:

E-mail [cusc.team@nationalgrid.com](mailto:cusc.team@nationalgrid.com)

Phone: 01926 655223.

For examples of recent CUSC Modifications Proposals that have been raised please visit the National Grid Website at <http://www.nationalgrid.com/uk/Electricity/Codes/systemcode/amendments/curentamendmentproposals/>

## Submitting the Proposal

Once you have completed this form, please return to the Panel Secretary, either by email to [Emma.Clark2@nationalgrid.com](mailto:Emma.Clark2@nationalgrid.com) and copied to [cusc.team@nationalgrid.com](mailto:cusc.team@nationalgrid.com), or by post to:

Emma Clark  
CUSC Modifications Panel Secretary, TNS  
National Grid Electricity Transmission plc  
National Grid House  
Warwick Technology Park  
Gallows Hill  
Warwick  
CV34 6DA

If no more information is required, we will contact you with a Modification Proposal number and the date the Proposal will be considered by the Panel. If, in the opinion of the Panel Secretary, the form fails to provide the information required in the CUSC, the Proposal can be rejected. You will be informed of the rejection and the Panel will discuss the issue at the next meeting. The Panel can reverse the Panel Secretary's decision and if this happens the Panel Secretary will inform you.



National Grid House  
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CUSC Modifications Panel  
Secretary  
[Jade.Clarke@nationalgrid.com](mailto:Jade.Clarke@nationalgrid.com)  
Direct tel +44 (0)1926 653606

7<sup>th</sup> March 2014  
Reference: CMP228 Self-Governance Statement

[www.nationalgrid.com](http://www.nationalgrid.com)

Dear Abid,

This is the CUSC Modifications Panel's Self-governance Statement to the Authority for CUSC Modification Proposal (CMP) 228. National Grid has prepared this Self-governance Statement on behalf of the CUSC Modifications Panel and submits it to you in accordance with CUSC Section 8.25.1.

On 28<sup>th</sup> February 2014 the CUSC Modifications Panel considered CMP228 and confirmed by majority vote that it meets the Self-governance criteria.

As such, CMP228 is unlikely to discriminate between different classes of CUSC Parties and is unlikely to have a material effect on:

- i) Existing or future electricity customers;
- ii) Competition in the generation, distribution, or supply of electricity or any commercial activities connected with the generation, distribution or supply of electricity,
- iii) The operation of the National Electricity Transmission System
- iv) Matters relating to sustainable development, safety or security of supply, or the management of market or network emergencies
- v) The CUSC's governance procedures or the CUSC's modification procedures

National Grid has chosen to procure external legal advice that would clarify part of CMP228 and include a summary of this advice within the Code Administrator Consultation. We therefore have delayed the publication of the Code Administrator Consultation. If National Grid receives legal advice before the proposed timetable begins we will endeavour to send the Code Administrator Consultation out sooner than planned.

The proposed timetable for the progression of CMP228 is as follows:

7 <sup>th</sup> April 2014	Code Administrator Consultation issued (allowed time to seek legal advice and for legal text to be finalised)
30 <sup>th</sup> April 2014	Deadline for responses
21 <sup>st</sup> May 2014	Draft FMR published with Panel papers
30 <sup>th</sup> May 2014	Panel Determination Vote (appeal window opens)
6 <sup>th</sup> June 2014	Deadline for Final report being published
20 <sup>th</sup> June 2014	Self Governance appeal window closes
7 <sup>th</sup> July 2014	Implementation date

The CMP228 form is available at  
<http://www.nationalgrid.com/uk/Electricity/Codes/systemcode/amendments/currentamendmentproposals/>.

National Grid is a trading name for:  
National Grid Electricity Transmission plc  
Registered Office: 1-3 Strand, London WC2N 5EH  
Registered in England and Wales, No 2366977

**nationalgrid**

National Grid House  
Warwick Technology Park  
Gallows Hill, Warwick  
CV34 6DA

If you require any further information please do not hesitate to contact me.

Yours Sincerely,

Jade Clarke  
CUSC Modifications Panel Secretary.

National Grid is a trading name for:  
National Grid Electricity Transmission plc  
Registered Office: 1-3 Strand, London WC2N 5EH  
Registered in England and Wales, No 2366977

Section 11.3 DEFINITIONS

"Qualified Bank" or "Qualifying Bank"

means either:

- (a) a City of London branch of a bank, its successors and assigns, which has throughout the validity period of the **Performance Bond** or **Letter of Credit** it issues in favour of **The Company**, a rating of at least A- in Standard and Poor's long term debt rating or A3 in Moody's long term debt rating provided that such bank is not during such validity period put on any credit watch or any similar credit surveillance which gives **The Company** reasonable cause to doubt that such bank may not be able to maintain the aforesaid rating throughout the validity period and no other event has occurred which gives **The Company** reasonable cause to have such doubt; or
  
- (b) a branch in **Great Britain** of a regulated insurance company, its successors and assigns, which throughout the validity period of the **Performance Bond** or **Letter of Credit** it issues in favour of **The Company**, is authorised or licensed to provide arrangements of this type in the United Kingdom, and has a rating of at least A- in Standard and Poor's long term debt rating or A3 in Moody's long term debt rating provided that such regulated insurance company is not during such validity period put on any credit watch or any similar credit surveillance which gives **The Company** reasonable cause to doubt that such regulated insurance company may not be able to maintain the aforesaid rating throughout the validity period and no other event has occurred which gives **The Company** reasonable cause to have such doubt.

## Section 2:

2.22.2 (b) If the **User** becomes aware that the bank or insurance company issuing the **Performance Bond** or **Letter of Credit** ceases to be a **Qualified Bank** or that the company giving the **Performance Bond** ceases to be a **Qualified Company**, the **User** shall notify **The Company** in writing as soon as it becomes so aware. If **The Company** becomes aware that the bank or insurance company issuing the **Performance Bond** or **Letter of Credit** ceases to be a **Qualified Bank** or that the company giving the **Performance Bond** ceases to be a **Qualified Company**, **The Company** may notify the **User** to that effect in writing. Where the bank, insurance company or the company so ceases to be either a **Qualified Bank** or a **Qualified Company** (as the case may be) as a consequence of **The Company** having reasonable cause to doubt the continued rating of the said bank, insurance company or company, such notice shall be accompanied by a statement setting out **The Company's** reasons for having such doubt. The **User** shall within 21 days of the giving of such notice by **The Company** or the **User** whichever is the earlier provide a replacement **Performance Bond** and/or **Letter of Credit** from a **Qualified Bank** or **Qualified Company**, as the case may be, and/or provide a cash deposit in the required amount in a **Bank Account**. From the date the replacement **Performance Bond** or **Letter of Credit** or **Bank Account** cash deposit is effectively and unconditionally provided and **Valid**, **The Company** will consent in writing to the security which it replaces being released.

## Section 15:

6.2.2 If the **User** becomes aware that the bank or insurance company issuing the **Performance Bond** or **Letter of Credit** ceases to be a **Qualified Bank** or that the company giving the **Performance Bond** ceases to be a **Qualified Company**, the **User** shall so notify **The Company** in writing as soon as it becomes so aware. If **The Company** becomes aware that the bank or insurance company issuing the **Performance Bond** or **Letter of Credit** ceases to be a **Qualified Bank** or that the company giving the **Performance Bond** ceases to be a **Qualified Company**, **The Company** may notify the **User** to that effect in writing. Where the bank, insurance company or the company so ceases to be either a **Qualified Bank** or a **Qualified Company** (as the case may be) as a consequence of **The Company** having reasonable cause to doubt the continued rating of the said bank, insurance company or company, such notice shall be accompanied by a statement setting out **The Company's** reasons for having such doubt. The **User** shall within 21 days of the giving of such notice by **The Company** or the **User** whichever is the earlier provide a replacement **Performance Bond** and/or **Letter of Credit** from a **Qualified Bank** or **Qualified Company**, as the case may be, and/or provide a cash deposit in the required amount in a **Bank Account**. From the date the replacement **Performance Bond** or **Letter of Credit** or **Bank Account** cash deposit is effectively and unconditionally provided and **Valid**, **The Company** will consent in writing to the security which it replaces being released.



## CUSC Code Administrator Consultation Response Proforma

### **CMP228 – Definition of ‘Qualified Bank’**

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 **5pm** on **9<sup>th</sup> May 2014** to [cusc.team@nationalgrid.com](mailto:cusc.team@nationalgrid.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.

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<b>Respondent:</b>	Paul Mott
<b>Company Name:</b>	EDF Energy
<b>Do you believe that the CMP228 better facilitate the Applicable CUSC Objectives? Please include your reasoning.</b>	<p>EDF Energy does believe that the proposal better facilitates the objectives, although we make some important comments about consistency of the legal text in relation to what is revealed of the legal text, in our response to the final question in this consultation, which we ask is taken account of.</p> <p>Subject to that, EDF Energy does believe that the proposal better facilitates the objectives.</p> <p>CMP228 may in some cases enable a relevant party to reduce the cost of providing its security, by increasing the number of potential security providers. The increased competition that is facilitated amongst security providers, makes our market marginally more accessible to those needing to provide securities (those do not meet the required credit rating), thus marginally better facilitating Applicable CUSC Objective (b).</p> <p>For reference, the Applicable CUSC objectives are:</p> <ul style="list-style-type: none"> <li>(a) The efficient discharge by the licensee of the obligations imposed upon it under the Act and the Transmission Licence</li> <li>(b) Facilitating effective competition in the generation and supply of electricity, and (so far as consistent therewith) facilitating such competition in the sale, distribution and purchase of electricity</li> <li>(c) Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency.</li> </ul>



<p><b>Do you support the proposed implementation approach? If not, please state why and provide an alternative suggestion where possible.</b></p>	<p>If CMP228, a self-governance mod, is approved by the CUSC Panel at its meeting on Friday 30th May, there will be a 15 day appeals window commencing on and closing on 20th June.</p> <p>The proposal is that CMP228 will be implemented 10 Working days later - on 7<sup>th</sup> July.</p> <p>We are in agreement with this timeframe.</p>
<p><b>Do you agree with the decision to progress CMP228 through the Self-Governance route?</b></p>	<p>Yes, the modification is not sufficiently major to warrant the full modification process – the more streamlined self-governance approach appears appropriate</p>
<p><b>Do you have any other comments?</b></p>	<p>Yes :</p> <p>It is imprudent not to have released the actual legal advice on this mod, which would aid respondents, and panellists, in forming an informed view on it.</p> <p>The summary in 3.4 of the report, highlights some apparent ambiguities and inconsistencies. “The term ‘trade credit insurance company’ refers”, we are told, “to a company that provides trade credit insurance, <b>which is a separate product to a Performance Bond or Letter of Credit</b>”. The summary notes that a Performance Bond “could be considered equivalent to” a surety bond, but not that such a surety bond is <i>identical</i> to a Performance Bond. However, the legal text in Annex A of the report, under the Section 11.3 definition of a "Qualified Bank" or "Qualifying Bank", says this can be not only a bank (part a of the definition) but also (part b of the definition) an insurer which issues a Performance Bond or Letter of Credit it issues in favour of The Company. Part b of that definition doesn't appear to allow for the insurer issuing trade credit insurance, <b>which is a separate product to a Performance Bond or Letter of Credit</b>, and which is not in fact a Performance Bond or Letter of Credit - albeit being equivalent or comparable. The definition therefore appears to be imperfectly-drafted, in comparison with what has been revealed of the legal advice. Without seeing the full legal advice, it is hard to be sure of the import of this.</p> <p>The following, is merely a comment : the reference in the opening, summary part of the mod proposal that insurers would “normally” be members of International Credit Insurance &amp; Surety Association (ICISA), is a little misleading/imprudent, because the more casual reader might be at risk of taking comfort from this, in that he might assume that the modification text mandates such membership – yet the fuller text of the modification, doesn't actually do so. Since ICISA is not a regulator as such, we do not consider this to be important.</p>

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<b>Respondent:</b>	John Norbury Network Connections Manager RWE Supply & Trading GmbH Windmill Hill Business Park Whitehill Way Swindon SN5 6PB T +44 (0)1793 89 2667 M +44 (0)7795 354 382 john.norbury@rwe.com
<b>Company Name:</b>	RWE Group of GB companies, including RWE Npower plc, RWE Innogy UK Limited and RWE Supply & Trading GmbH.
<b>Do you believe that the CMP228 better facilitate the Applicable CUSC Objectives? Please include your reasoning.</b>	For reference, the Applicable CUSC objectives are: <ul style="list-style-type: none"> <li>(a) The efficient discharge by the licensee of the obligations imposed upon it under the Act and the Transmission Licence</li> <li>(b) Facilitating effective competition in the generation and supply of electricity, and (so far as consistent therewith) facilitating such competition in the sale, distribution and purchase of electricity</li> <li>(c) Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency.</li> </ul> We believe that CMP228 better facilitates the CUSC objectives for the reasons given in the Administrator Consultation.
<b>Do you support the proposed implementation approach? If not, please state why and provide an alternative</b>	We support the proposed implementation approach, which provides for CMP228 to be implemented 7 <sup>th</sup> July 2014. This should enable securities in respect of Cancellation Charge Secured Amounts utilising CMP228 to be put in place by mid-August 2014 for the period 1 <sup>st</sup> October 2014 to 31 <sup>st</sup> March 2015.

<b>suggestion where possible.</b>	
<b>Do you agree with the decision to progress CMP228 through the Self-Governance route?</b>	Yes. We agree with the justification provided by National Grid in its letter to Ofgem dated 7 <sup>th</sup> March 2014.
<b>Do you have any other comments?</b>	As Proposer of CMP228 we are fully supportive of the proposal. We welcome the support provided by National Grid in preparing CMP228 and for the additional points which have been incorporated within the draft legal text.

## CUSC Code Administrator Consultation Response Proforma

### CMP228 – Definition of ‘Qualified Bank’

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<b>Respondent:</b>	James Anderson: james.anderson@scottishpower.com Tel: 0141 614 3006
<b>Company Name:</b>	ScottishPower Energy Management
<b>Do you believe that the CMP228 better facilitate the Applicable CUSC Objectives? Please include your reasoning.</b>	<p>For reference, the Applicable CUSC objectives are:</p> <ul style="list-style-type: none"> <li>(a) The efficient discharge by the licensee of the obligations imposed upon it under the Act and the Transmission Licence</li> <li>(b) Facilitating effective competition in the generation and supply of electricity, and (so far as consistent therewith) facilitating such competition in the sale, distribution and purchase of electricity</li> <li>(c) Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency.</li> </ul> <p>ScottishPower believes that CMP228 better facilitates Applicable CUSC objective (b) as it will potentially increase the number of credit providers available to Parties and will thus increase competition in credit provision and potentially reduce costs. CMP228 also has the potential to make it easier for Parties with non-qualifying credit ratings to secure credit cover and participate in the electricity market.</p>
<b>Do you support the proposed implementation approach? If not, please state why and provide an alternative suggestion where possible.</b>	ScottishPower supports the proposed implementation approach for CMP228.
<b>Do you agree with the</b>	Yes. We believe that CMP228 meets the criteria for progression

<b>decision to progress CMP228 through the Self-Governance route?</b>	under the self-governance regime.
<b>Do you have any other comments?</b>	No.

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

<b>Respondent:</b>	<i>Garth Graham (garth.graham@sse.cpm)</i>
<b>Company Name:</b>	<i>SSE</i>
<b>Do you believe that the CMP228 better facilitate the Applicable CUSC Objectives? Please include your reasoning.</b>	<p>For reference, the Applicable CUSC objectives are:</p> <ul style="list-style-type: none"> <li>(a) The efficient discharge by the licensee of the obligations imposed upon it under the Act and the Transmission Licence</li> <li>(b) Facilitating effective competition in the generation and supply of electricity, and (so far as consistent therewith) facilitating such competition in the sale, distribution and purchase of electricity</li> <li>(c) Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency.</li> </ul> <p>Noting the reasons set out below (in ‘other comments’) we agree with National Grid that CMP228 better facilitates Applicable CUSC Objective (b). In our view CMP228 has the potential to reduce the cost of providing security faced by those CUSC Users that do not meet the required credit rating by increasing the number (and hence choice and competition) of potential security providers that those Users can utilise.</p>
<b>Do you support the proposed implementation approach? If not, please state why and provide an alternative suggestion where possible.</b>	We note the implementation approach set out in Section 4 of the consultation document and we support this proposed implementation approach.
<b>Do you agree with the decision to progress CMP228 through the Self-Governance</b>	Yes, we agree with the decision to progress CMP228 through the Self-Governance route.

<b>route?</b>	
<b>Do you have any other comments?</b>	<p>We support the central element of this Modification Proposal that increasing the number of available security providers will be beneficial.</p> <p>We agree with the concerns expressed at the CUSC Panel that increasing the providers of credit must not be at the 'expense' of a degradation in the quality of cover provided.</p> <p>It is therefore important to note that in giving our support for this change we are relying on the summary of the advice National Grid has obtained from legal and insurance experts in order for them to clarify whether the security provided by trade credit providers would be equivalent to that provided by banks. This advice is summarised in paragraph 3.4 of the consultation document, and the associated changes that arise from this advice are summarised in paragraph 3.5, which we also note.</p> <p>Finally, we are also relying on National Grid's supports for the implementation of CMP228.</p>