nationalgrid

Stage 04: Code Administrator Consultation

Connection and Use of System Code (CUSC)

CMP254

'Addressing discrepancies in disconnection/de-energisation remedies'

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

CMP254 seeks to bring the CUSC in line with the DCUSA in regards to Supplier's rights under their Supply Contract and the Electricity Act 1989 to disconnect an indebted customer.

Published on: **19th January 2016**
Length of Consultation: **10 Working Days**
Responses by: **2nd February 2016**

The Workgroup concludes:
That WACM4 best facilitates the CUSC objectives and should be implemented. The Original Proposal, WACM3 and WACM5 each received one vote each as best facilitating the CUSC objectives.

High Impact: *Consumers*

Medium Impact: *Suppliers*

Contents

About this document

The purpose of this document is to consult on CMP254 with CUSC Parties and other interested industry members. Representations received in response to this consultation document will be included in the Code Administrator's CUSC Modification Report that will be furnished to the CUSC Panel for their decision. Parties are requested to respond by **5pm** on **2nd February 2016** to cusc.team@nationalgrid.com using the Code Administrator Consultation Response Pro-forma which can be found via the following link: http://www2.nationalgrid.com/UK/Industry-information/Electricity-codes/CUSC/Modifications/CMP254/

Document Control

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Any Questions?

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1 Summary

1.1 This document describes the Original CMP254 CUSC Modification Proposal and seeks views from Industry members relating to the Proposal.

1.2 CMP254 was proposed by EDF Energy and was submitted to the CUSC Modifications Panel for their consideration on 30th October 2015. A copy of this Proposal is provided within Annex 1. The Panel agreed with the Proposers request that the Proposal be developed and assessed against the CUSC Applicable Objectives in accordance with an urgent timetable. This request for 'urgency' was however rejected by Ofgem who instead recommended that the Workgroup follow an accelerated timetable. The Workgroup was required to consult on the Proposal during this period to gain views from the wider industry. Following the Workgroup Consultation, the Workgroup considered responses; voted on the proposed solutions to the defect and reported back to the Panel at a Special CUSC Panel meeting on 18th January 2016. The Panel decided that this Modification Report should proceed to Code Administrator Consultation for 10 Working Days.

1.3 This Code Administrator Consultation 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/CMP254/, along with the CUSC Modification Proposal Form.

1.4 Following the Workgroup Consultation, as summarised in this report, the Original Proposal and five Workgroup Alternative CUSC Modifications (WACMs) were proposed:

1.4.1 Original Proposal: Aims to bring the CUSC in line with the DCUSA in regards to Supplier's rights under their Supply Contract and the Electricity Act 1989 to disconnect an indebted customer.

1.4.2 WACM1: De-energisation/re-energisation text with additional National Grid's proposed indemnity wording allowing Grid to not proceed with de-energisation for technical or other reasons. The indemnity from the SO to the Supplier in the Original is removed.

1.4.3 WACM2: De-energisation/re-energisation text modified to limit the circumstances that the SO can reject or delay a de-energisation instruction to technical matters, with indemnity text in both directions (SO to Supplier, Supplier to SO), but with indemnities between Supplier and National Grid capped at £5m each way.

1.4.4 WACM3: The Original with an additional process of up to about a week to identify and liaise with Downstream Customers, where there are any, prior to de-energisation to consider possible alternative solutions.

1.4.5 WACM4: WACM1 with the Downstream Customer process.

1.4.6 WACM5: WACM2 with the Downstream Customer process.

National Grid's View

1.5 We recognise that Suppliers have a right under the terms of the Electricity Act and their Supply agreements to discontinue the supply to premises in the event of non-payment and we support the introduction of a mechanism within the CUSC to enable this. Whilst all the options presented would introduce such a mechanism, we do feel that the impact of a de-energisation should also be taken into account before proceeding, particularly from technical, safety, and environmental points of view.

1.6 In certain circumstances, the technical configuration of or ongoing works on the transmission system may be such that undertaking a de-energisation would endanger the security of other Users' connections to the transmission system, and in extreme circumstances may even result in their de-energisation (especially in circumstances where the party the Supplier wishes to de-energise is uncooperative). In such circumstances it

may not appropriate for the SO to undertake the de-energisation in a timely manner or (in extreme cases) at all. As the SO is best placed to consider whether such circumstances exist, it is vital that the enduring arrangements allow the SO to use its judgement, as proposed under WACMs 1, 2, 4 & 5. We do not believe that these solutions prevent Suppliers from discontinuing supplies if the SO believes that de-energisation at the transmission level would present technical issues. For example, legal action could be taken to allow the discontinuation of a supply using the customer's equipment (circuit breaker).

1.7 During the Workgroup discussions, a number of concerns were raised regarding the need for any de-energisation to be undertaken in a safe and environmentally friendly manner. During these discussions, National Grid highlighted that it would look to use its existing procedures to undertake a de-energisation. Such procedures will involve communications with the party to be de-energised to ensure that it can be done safely. Whilst most de-energisations would be carried out remotely by the TO, on occasion there may be a requirement to attend the site. As the circumstances in which a Supplier is likely to instruct the SO to undertake a de-energisation is likely to involve a customer that is experiencing financial difficulty with hundreds at risk of unemployment, there is an increased risk associated with this. As such additional health, safety and environmental considerations should be taken into account by the SO to protect the TO's operatives, the customer, and any third party when considering when and whether to proceed with the de-energisation. Under the proposed options, only WACMs 1 & 4 allow for such considerations to be taken into account.

1.8 National Grid recognises the potential impact that the proposed options may have on downstream customers connecting to a private network. We believe that the options that allow for a supplier to identify such sites and enter dialogue with the companies involved (WACMs 3, 4 & 5) will offer a level of protection to these customers' businesses that the other options do not explicitly provide. We believe that this will also aid the SO to coordinate any resulting de-energisation safely and effectively.

1.9 Finally, we note the three different indemnities proposed. In the scenarios in which de-energisation is undertaken under the proposals, whilst notification will be provided in advance to customers, they may have to be undertaken without their cooperation (e.g. should they be disagree with their Supplier's decision). This therefore increases the risk associated with undertaking such actions in comparison with de-energisations that would be undertaken as part of the SO/TOs' normal course of business (due to network outages, connection works, etc.). As it is the commercial decision of Supplier as to whether or not a de-energisation process proposed is initiated, it is our view that the Supplier should face the potential consequences of this being carried out. This would ensure that the full risk involved in the process is taken into account when deciding whether to de-energise its customer. We therefore believe the indemnities provided by WACMs 1 & 4 are most appropriate.

1.10 As WACM4 sufficiently deals with each of the points above, we believe that it best facilitates the applicable CUSC objectives.

Workgroup Conclusion

1.11 At the final Workgroup meeting, Workgroup members voted on the Original Proposal and the five WACMs: Half of the Workgroup voted that WACM4 best facilitates the CUSC objectives and should be implemented. The Original Proposal, WACM3 and WACM5 each received one vote each as best facilitating the CUSC objectives.

2 Background

2.1 Under the terms of the Electricity Act 1989 and Suppliers' contracts with their customers, a Supplier has the right to disconnect a customer site from the electricity network should their electricity charge for the customer's site be unpaid to the Supplier.

2.2 For domestic and small business customers, a Supplier can undertake this action. However, for larger customers connecting at higher voltages, assistance is required from the DNO or SO (and in turn the relating TO).

2.3 In the case of a distribution connected customer this process is governed by the DCUSA, placing an obligation on the DNO to undertake a disconnection/de-energisation. For a transmission related customer as disconnection would require the physical removal of assets (which is a costly and timely process to carry out or reverse), the Supplier would look to request the de-energisation of a customer site. The de-energisation of a customer would involve the opening of switchgear (e.g. circuit breakers) to prevent the flow of energy. However, no such process or obligation is set out for such a de-energisation of a transmission connected customer (Non-Embedded Customer) under the CUSC. To overcome this issue, EDF Energy has proposed to modify the CUSC to introduce arrangements for this (CMP254). Details of this proposal are highlighted in section 4.

2.4 CMP254 has been discussed as part of an industry Workgroup, the discussions of which are summarised in Section 5, with areas of discussion including:

a) The nature of any existing mechanisms (e.g. under the DCUSA or BSC);
b) The impact of the proposal on any customers connecting to a private network operated by the defaulting party (Downstream Customers);
c) The need to undertake de-energisation in a safe and environmentally friendly manner; and
d) Any technical or legal issues that may have an implication on de-energisation.

2.5 The Proposer clarified during the Workgroup deliberations that CMP254 would apply to the 'de-energisation' of a customers' site(s) and was not related to the permanent 'disconnection' of the site(s). Both 'De-energisation' and 'Disconnection' are defined terms in the CUSC (Section 11).

3 Why Change

3.1 The Proposer has highlighted that there is a gap in the current industry arrangements in how a Supplier's right to disconnect an indebted customer pursuant to the Supplier's rights under its Supply Contract, or the Electricity Act 1989[1], is given effect for network operators at different voltage levels.

3.2 For a distribution-connected customer, if it fails to pay its debts to its Supplier, its Supplier can (subject to certain conditions) disconnect the customer's site from the electricity network. This may usually be practical for domestic and small business customers, where most Suppliers will have suitable operatives, or could use a suitable contractor. However, for customers energised at higher voltages, safety of the disconnection/de-energisation process becomes a concern and special skills are needed; therefore the Supplier is able to use the industry rules to request that the DNO de-energises the customer's site on the Supplier's behalf (at the Supplier's cost) – via a specific provision in DCUSA.

3.3 For Non-Embedded Customers, known in the CUSC as "Non-Embedded Customers", the skill level to effect a de-energisation is much higher, and specialist very high voltage qualifications are needed to do so safely, held in essence almost entirely by transmission company employees. No Supplier will have the skills to disconnect them itself for non-payment of debts. There may occasionally be issues concerning access to a site to de-energise or disconnect at an electrical boundary within the private large-industry site. A network company will generally be able to de-energise or disconnect from its own equipment external to the customer's site. There should be a specific provision in CUSC to mirror that in DCUSA, but there isn't. The defect is the lack of this equivalent right via the industry rules to enable Suppliers to request that the transmission network company de-energises such customers.

3.4 If not addressed, Suppliers will be unwilling to supply Non-Embedded Customers at all, or will only do so on onerous advance-payment, perhaps premium, terms, harming such customers as a class – their trade association has expressed concerns about these customers facing some green/policy-related costs that their industrial competitors overseas, using "dirtier" electricity, don't; and the viability of their operations in Britain is strongly related to their Supply costs. Smaller Suppliers, where generally active in the Industrial & Commercial market segment, may well feel unable to participate in the market to supply Non-Embedded Customers under CUSC baseline, damaging competition in Supply.

3.5 If the defect identified in CMP254 is not addressed, a risk thus exists which is likely to increase costs for Suppliers and for consumers in particular (pass-through of risk in premium or credit requirement), or consumers in general (if a Supplier fails as a result of its indebtedness from such a customer, reducing competition). The most effective way of addressing this risk is for the person responsible for managing and operating the connection to the electricity network to de-energise the non-paying Non-Embedded Customer, to prevent further indebtedness to the Supplier from building up.

3.6 The BSC has provision (Section H 3.2.1(d), "Consequences of Default") for the BSC Panel to require, with prior approval from Ofgem, a Transmission Company or a Distribution System Operator to de-energise plant or apparatus (comprising BM Units) of a defaulting party (generally speaking this means a defaulting Supplier, and this includes disconnection of any of its customers

[1] Under Schedule 6, F6 of The Electricity Act 1989 confirms where a customer has not paid within 28 days of the payment due date its Supplier may either install prepayment meter or initiate disconnection.

that are grid-connected, among others). This part of the BSC adds that the Transmission Company and DSOs all “hereby irrevocably and unconditionally consent to such de-energisation” ”. The relevance of this is that it means the Transmission Company is already compelled to have staff able to deliver de-energisation of Non-Embedded Customers in a timely manner on request, so this CMP254 proposed solution does not require the Transmission Company to develop additional skills, resources or procedures and plans beyond those which it must already have in place for BSC purposes.

4 Summary of Workgroup Discussions

4.1 This section provides information regarding what the Workgroup have discussed in relation to this proposal. The points discussed concerned a number of different areas as presented below.

Existing disconnection/de-energisation mechanisms

4.2 The Workgroup considered how the existing disconnection/de-energisation process under the DCUSA works in practice, particularly the level of notification that is required to ensure that any disconnection/de-energisation is undertaken in a safe and controlled manner.

4.3 Some Workgroup members described the process that Suppliers would follow to request a de-energisation of distribution-connected business customers. Under this scenario the Supplier would issue the customer with a notice of de-energisation and inform the DNO the details of the meter for which it requires the supply to be de-energised. The DNO would then proceed with the fulfilling the request. Suppliers said that their experience is that DNOs do not usually require evidence, as the DNO relies on the indemnity under the DCUSA to protect it from any resulting liability, therefore being able to assume that the Supplier has undertaken appropriate checks, controls, and communications.

4.4 The Workgroup also considered the requirement that National Grid has to de-energise a Supplier's customer(s) site(s) upon the Supplier falling into financial default under the BSC. Under BSC Section H 3.2.1, the (BSC) Panel can instruct the SO to de-energise Plant or Apparatus comprising one or more BMUs for which the lead party is in default of the BSC, but only with prior approval of the Authority. Upon such an instruction, the SO shall use all reasonable endeavours to comply as quickly as practicably as possible.

4.5 One Workgroup member had discussed de-energisation procedures when initiated under BSC Section H prior to the first Workgroup meeting and was advised by Elexon a relevant procedure was Elexon's BSC Procedure (BSCP) 15. However, it was noted that this procedure relates to de-registering a BMU (metered site) for settlement purposes which actually occurs post – disconnection. It was suggested that BSCP515 which explains disconnection arrangements for distribution connected sites is more relevant. It was noted that a Supplier's customers would almost all be distribution connected. Elexon hasn't felt the need to produce a procedure to expand on BSC Section H regarding de-energisation of transmission connected sites. Elexon would certainly need to be involved from a Settlement administration and meter de-registration perspective in the event of disconnection. The Proposer clarified that the intention of the proposed changes under CMP254 would not give effect to disconnection. Instead a Supplier's instruction would be to de-energise a site until it is satisfied that the reason for doing so has been resolved, and its instruction to the SO to re-energise the site is actioned. Elexon would not have any role in the CMP254 de-energisation process.

Impact of the CMP254 proposal

4.6 The Workgroup considered the potential impact of the proposal. The National Grid representative highlighted that this issue potentially affected 15 connections to its network providing supplies to private sector companies, although others connecting premises operated by public sector bodies also exist.

4.7 The Proposer explained that under the existing arrangements, if, as under baseline (existing) CUSC, a Non-Embedded Customer site cannot be de-energised in the event it is not paying its electricity bills, this could have a significant financial impact on its Supplier, as a typical value of the electricity

consumption of one of these sites could be in the region of £1m per week. To offset this risk, Suppliers may be unwilling to supply Non-Embedded Customers at all, or may only do so on more onerous or premium terms.

4.8 Whilst the Workgroup recognised that there was a need to protect Suppliers from related losses, some members raised concerns regarding the potential de-energisation of downstream customers (those whose electricity supply is tied in to a Non-Embedded Customer's private network, where there is no alternative means of supply). These downstream customers could be paying the Non-Embedded Customer) for their power supply in good faith, unaware of the connectee's financial problems, and that disrupting their supplies would damage the downstream customers' business. Some members of the group believed that this was a risk that these businesses accepted when opting to connect in this manner and such a risk would be addressed within their bilateral commercial arrangements. It was suggested that this was no different than other 'landlord' type arrangement at, for example, business parks, office blocks or shopping malls. Other members of the group noted that some of these private network connections have been in existence for a long time, even prior to privatisation of the electricity network; although it was also noted that this would have been taken into consideration when Parliament approved the Electricity Act 1989 rights for Suppliers to disconnect for non-payment. Some members of the group believed that the de-energisation process should provide downstream customers with a period of time to allow commercial and physical solutions to be negotiated with the Supplier, with whom they currently do not have a relationship, and with the Non-Embedded Customer who owns the private network assets and has the relationship with the downstream customers, prior to de-energisation of the supply from the transmission network.

4.9 It was noted that the issue of there being other "downstream" customers on the primary (on-paying) customer's site, as a private network connection, also exists for DNO connected customers; the text in DCUSA enabling the Supplier to disconnect the primary DNO connected customer makes no reference or special provision to these privately connected downstream customers. It was also noted that some DNO connections can be to quite large sites, being at 132 kV in England and Wales; sites connected at 132 kV, covered by DCUSA in England and Wales, would be covered by CMP254, if passed, in Scotland.

4.10 It was noted by two attendees at the first Workgroup meeting, that if a downstream customer had the right of veto for a period of time over de-energisation of the non-paying Non-Embedded Customer site, a perverse incentive could be for Non-Embedded Customer sites to encourage the setting-up of downstream customers on their site (maybe even through within group structuring), perhaps giving free access to their network for this purpose, as a form of protection/delay against possible de-energisation if the host Non-Embedded Customer site got into financial difficulties.

4.11 The Workgroup considered whether downstream customers had a legal right to a continued supply in the event a Supplier wished to de-energise the Non-Embedded Customer for non-payment. One member stated that in the case of a distribution connected customer who pays its bills, it is the DNO that has an obligation to keep supplies to its connectees in place, whilst it is the SO's requirement to keep supplies to the DNO (the Non-Embedded Customer) in place; assuming that the same rights and obligations transfer across, it would be the owner of a private network that is required to keep supplies to downstream customers in place. It was highlighted that in not paying their Supplier, the private network owner would be failing to fulfil its obligation of continued supply to its downstream customers due to the Supplier's right to disconnect under the Electricity Act. One member highlighted that the requirements surrounding the provision of third party access to licence exempt

electricity and gas networks[2] under the EU Third Package has affected the rights of downstream customers, as these now allow downstream customers to demand at any time their own settlement metering and at any time select their own Supplier. It was noted that this wouldn't necessarily solve the risk that downstream customers are carrying where there is still a rigid, in physical terms (lacking sufficient switchgear), private network so that the power supplies to the downstream customers cannot be kept intact whilst de-energising the main Non-Embedded Customer whose private network it is, where the Supplier of that Non-Embedded Customer is not being paid for the ongoing electricity demand.

4.12 The Citiworks ruling was debated by the group. Some members of the Workgroup noted that when it is applied to the UK market, there may be some scenarios which were not covered in this ruling (especially in relation to deenergisation). A paper from DECC considered what the Citiworks precedence may mean to the GB market and noted that although the scenario had not occurred yet it could occur in the future.

4.13 Members of the Workgroup noted that under UK and EU law there are agreed processes to managing indebted parties although others noted that innocent parties such as downstream customers would still be required to be safeguarded and protected.

4.14 When considering alternatives to de-energising a downstream customer, it was identified that the owner/operator of the Switchgear connecting a site to its supply was the most appropriate person to operate and disconnect the site, although it was also noted that this could also be the defaulting party and they would have limited incentive to switch off the energy supply.

4.15 National Grid has since the final Workgroup meeting received an update from its Legal department regarding the rights of downstream Customers.

4.16 Class exemptions are available in respect of the need to hold an electricity distribution or electricity supply licence under the Electricity (Class Exemptions from the Requirements for a Licence) Order 2001 (as amended).

4.17 In general terms these exemptions are likely to be available to Non-Embedded Customer who would therefore be exempt from the need to hold both a distribution licence and, in terms of the onward supply of electricity by the NEC, an electricity supply licence.

4.18 Where exempt, the regulations issued under the Electricity Act governing standards of performance in connection and supply (The Electricity Standards of Performance) Regulations 2015 and Electricity (Connection Standards of Performance) Regulations 2015) do not apply and the rights that the downstream parties have in respect of both connection and supply (and the obligations of the Non-Embedded Customer in this respect) would generally be covered off in the arrangements between the Non-Embedded Customer and such downstream parties. These may be specific terms in any contract covering connection/supply or "implied" terms created by conduct. It is difficult therefore to speculate as to the nature of those contractual terms and the circumstances and consequences on the exempt distribution network/supplier were the obligation to supply to be broken.

4.19 Notwithstanding the exemptions however certain statutory obligations still apply to the exempt distribution system in terms of rights for such customers to change supplier (Electricity Act 1989, Schedule 2ZA) and under The

[2] https://www.gov.uk/government/publications/provision-of-third-party-access-to-licence-exempt-electricity-and-gas-networks-revised-version12

Electricity Safety, Quality and Continuity Regulations 2002, in respect of making and maintaining connections and, particularly relevant in this context is the requirement at clause 23(2) to "take all reasonably practicable steps to avoid interruptions of supply from his own acts" and to generally give not less than 2 days written notice to discontinue supply (clause 29).

4.20 The Workgroup discussed the possibility of enabling dialogue between the downstream customers and the Supplier with the aim of reaching a commercial or physical arrangement to avoid de-energisation of their individual sites. The National Grid representative highlighted that the lack of visibility of downstream customers presented an issue. It was noted that either National Grid or the Supplier should be kept informed of who such customers were, should they exist as this could have safety implications.

4.21 The Proposer advocates an obligation on all Non-Embedded Customers, of which there are 15, to keep National Grid informed at all times of the identity and, ideally, contact details of any downstream customers on their sites. One member of the Workgroup did not believe that this was relevant until the point of de-energisation, and that the Non-Embedded Customer should only be obligated to provide such information upon receipt of the de-energisation notice. Other members of the Workgroup pointed out that if the Non-Embedded Customer was in financial difficulty, the customer could be in a state of turmoil, with administration staff not necessarily at their posts (or somewhat distracted by implications of events for their own personal careers/futures), putting the rapid delivery of accurate information in "real time" at risk. It was suggested by these members that the information should be provided up front and kept up to date.

4.22 There was some discussion surrounding whether this information should be provided to the SO or the Supplier. One view was that if the Supplier had this information, they could inform these customers earlier, before de-energisation was permitted under the contract terms, or under the Electricity Act, to enable any dialogue regarding continued supply to occur earlier. A counter argument to this was raised by Suppliers, was that their contract with the Non-Embedded Customer would invariably prevent sharing such information. However, others, including the Proposer, felt that this best sat with National Grid as the party coordinating the de-energisation with the TOs.

4.23 At a later meeting the Workgroup discussed what would be considered a pragmatic approach for safeguarding downstream customers and who would be the appropriate party responsible for this activity. The Workgroup also agreed that guidance could also be sought from Ofgem on a case by case basis. A seven day process to identify and discuss alternatives to de-energisation with downstream customers that are not affiliates of the main non-embedded customer was discussed and agreed by the Workgroup.

4.24 Concerns were expressed at the first Workgroup meeting and at two later meetings where Workgroup Alternative CUSC modifications involving the new process around downstream customers were discussed, regarding the use of shell companies to use such a process to delay a potential de-energisation. The concerns are around the possibility that a non-embedded customer could set up part of its process or operations on a site, as a nominally separate affiliate. The presence of this "downstream customer" could then, if affiliates were not excluded as a trigger, be such as to trigger the extra process required in Workgroup Alternative CUSC modifications 3, 4, and 5 in circumstances when de-energisation would otherwise have been immediate, adding several days delay before de-energisation could be given effect. This would create a possible incentive for all non-embedded customers to set up such affiliates as a means of providing some protection against de-energisation, once circumstances arise where the retail contract allows for de-energisation.

4.25 The extra process required in Workgroup Alternative CUSC modifications 3, 4, and 5was therefore, to address this concern, designed in a way such that Suppliers would not be required to liaise with downstream customers where these all fell within the same corporate group as the non-embedded customer (although they would still have the freedom to do so), although the identification of these was still required (e.g. for safety reasons). The process developed was incorporated into Workgroup Alternative CUSC modifications 3, 4, and 5.

4.26 Six days after the Workgroup meeting at which the merits of the Workgroup Alternative CUSC modifications and the original against CAOs had been voted on, the a concern was raised that the Workgroup's considerations could be potentially discriminatory to parties that are within the same corporate group but operated independently. For example, it was suggested that a multinational company could own companies running both a steel plant and a car plant in the same area, and one company may be unaware of the financial state of the other; the steel plant could, it was envisaged, thus give no special consideration to the interests of its affiliated car plant on the same site, that arise from the steel plant's non-payment. Three members of the Workgroup wrote back to express a contrary view that this did not represent undue or unreasonable discrimination, this element of the legal text arising directly from explicit discussions on affiliates and the concerns around gaming; one member of the Workgroup wrote back to express a view that this did represent unfair discrimination; and the National Grid representative wrote back to say, it could see reasoning behind the difference in treatment but recognised that this could be discriminatory in a limited set of circumstances, but the chance of such discrimination occurring is likely to be small.

4.27 The group discussed the suggestion from one Workgroup member regarding the application of The Electricity Act 1989 S96 as route of recourse or appeal to the Secretary of State for downstream customers. It was noted that this would apply to other situations where power cuts are perceived to be needed at several days' notice under the electricity supply emergency code, and not the scenarios being discussed by the Workgroup

4.28 The Workgroup discussed the procedure that would be undertaken in the event that the SO had de-energised a site following a Supplier's instruction, and the customer paid its bills. It was noted that it would be in the best interests of all concerned to arrange re-energisation as quickly as possible, due to financial and reputational drivers. However, it was noted that dialogue with customers would be required to decide the appropriate timing.

4.29 The Workgroup considered whether a Non-Embedded Customer not paying their Supplier should be considered an Event of Default under the CUSC. This would enable the SO to draw on any securities it holds against Termination Amounts to ensure that the Non-Embedded Customer's connection is funded should it be wound up. The Workgroup felt that this was not necessary, as for those required to post security, the failure to pay any connection charges is in itself an Event of Default, which would enable the SO to draw upon any security should this occur.

Safety, Environmental and Technical considerations

4.30 The Workgroup discussed the potential safety and technical implications associated with the de-energisation of a Non-Embedded Customer (and potential their downstream customers).

4.31 Some of the Workgroup accepted that there was a need to have a process in place for Suppliers to be able to protect their risk in the event of insolvency/non-payment, but also argued that de-energisation could result in a variety of technical, environmental and safety implications that would require careful consideration.

4.32 The National Grid representative highlighted that safety was the primary concern when undertaking any type of work on the Transmission System, and would be reluctant to undertake a de-energisation/re-energisation if it didn't think it was safe to do so. It was noted that there were already processes in place to undertake de-energisation and re-energisation safely (e.g. in the event of system outages), and that it would look to undertake the same processes should a Supplier instruct such an action. However, it was acknowledged that should the Non-Embedded Customer not cooperate in the usual manner, further steps may need to be taken (e.g. attending site).

4.33 The Workgroup discussed the overriding obligation on businesses to de-energise in a safe and environmentally friendly manner, in particular to meet legislation. One member was able to confirm that their business had a 5 year rolling plan that was continuously reviewed allowing any changes to be assessed. This considered a number of power outage scenarios, but concerns were raised that in some cases this may not consider an enduring interruption of supply. The Proposer noted that an unforeseen and prolonged power cut could happen at any time (e.g. in the event of a serious equipment fault, adverse weather condition or a blackout) and that system restoration after a national blackout is could to take up to 7 days[3]. He argued that a Supplier instructed de-energisation should be more manageable as customers would know when to expect this due to, he suggested, 24 hours' prior notice generally being able to be provided.

4.34 It was noted that the Electricity Act allows for 7 days' notice of a disconnection/de-energisation to be provided by a Supplier to the customer. Some Workgroup members noted that whilst this was in fact the default level, some sites sign up to more rapid de-energisation (and after fewer days of non-payment than the electricity act) in exchange for a cheaper energy tariff. It was noted that these customers would only be signing up to such terms should their sites be able to cope in a safe manner with such a shorter notice period. Others believed that there needed to be adequate safety checks in place before proceeding with any de-energisation, regardless of the terms in their supply contract.

4.35 In relation to technical issues, it was highlighted that there are customer sites in existence in which customers rather than the SO/TO have control over the manual switching of circuit breakers that would typically be used to de-energise their site. In these cases, it would still be possible to de-energise the site, but this may place the connections of other Users of the transmission network at risk. It was highlighted that as this equipment is often on the customer's land, legal action may be required to gain access to undertake a de-energisation without affecting other Users.

4.36 One Workgroup member stated that he believed that some DNOs have downstream connections (i.e. connections to the DNO) on private networks from Non-Embedded Customer sites, and that it would not be in the public interest to de-energise the relevant Non-Embedded Customers as this would cause power cuts in the relevant parts of the DNO network that rely on the DNO's connection to the Non-Embedded Customer's private network. One Workgroup member suggested that in the context of it 'not being in the public interest to de-energise such connections' it should be noted that Parliament (in granting this power under the Electricity Act) has already opined that it is in the public interest that such de-energisation takes place where non-payment arises. Some Workgroup members questioned whether this was actually the case, or whether it was the case that the Non-Embedded Customer had both an HV feed for its industrial purposes and an LV feed for lighting, etc. in which case the DNO would not be reliant on this connection.

[3] It was noted that the Governments current planning assumption for GB is 5 days.

4.37 Since this discussion, the National Grid representative has investigated, and whilst there is no evidence of the exact scenario described, one was uncovered in which the TO-owned circuit breaker controlled flows to both a DNO and a Non-Embedded Customer. In this scenario, each customer has their own circuit breaker to de-energise their site in the event of a fault, outage, or as they require, but the SO cannot de-energise one customer without de-energising the other.

4.38 Similarly, de-energisation of some sites may result in operational issues on the Gas Transmission Network, which could disrupt gas supplies. Some of the Workgroup noted that there was an over-arching requirement to keep the gas flowing, and under these circumstances it would be difficult for the SO to fulfil a Supplier's request to de-energise a site.

Insolvency

4.39 The Workgroup noted that under the Insolvency Act (as amended in October 2015), provided an Insolvency Practitioner paid ongoing energy charges, the supply to that site cannot be de-energised, even if the customer did not pay its bills prior to Insolvency. It was noted that this scenario may need to be considered within the legal drafting.

4.40 The Workgroup also considered whether Insolvency of a Non-Embedded Customer would affect any rights a downstream customer of its private network has to its supply as this could potentially lead to their disconnection, should the assets be sold to a third party for scrap or use elsewhere. However, it was noted that if downstream customers valued their connection, then they would look to purchase the private network from the receiver.

Cost Recovery

4.41 The Workgroup discussed the proposal for the relevant Supplier to reimburse the SO for any costs incurred in undertaking the de-energisation of one of its customers upon its request. The Workgroup agreed that this concept was sensible.

4.42 The Workgroup also considered the scenario in which a customer connected to a non-National Grid-owned transmission network is de-energised. In this case, the Supplier would still pay the SO for the cost of undertaking the de-energisation and the SO would use this to cover any charges it incurs from the relevant TO via the STC.

Indemnities

4.43 The Proposer highlighted (providing text to this effect, sourced from DCUSA) the need for the Supplier instructing de-energisation to indemnify the SO for any resulting liabilities that it may incur as a result of doing so (providing the SO has acted appropriately), and that the SO should indemnify the Supplier for any physical loss, damage, etc. to it or its representatives as a result of not undertaking the de-energisation as instructed. The Workgroup generally felt that this seemed reasonable.

4.44 The National Grid representative highlighted that there is an existing liability clause in place under Section 6.12 of the CUSC, limited to £5m for claims relating to or resulting from physical damage as a consequence of breaching the CUSC. However, it was acknowledged that additional wording is required to cover the act of a Supplier instructing the SO to undertake a de-energisation, as its right to de-energise falls outside the CUSC. The National Grid representative also highlighted the need to consider the role of the TO in any indemnities. Under the existing frameworks, it is expected that indemnities between Users and TOs are provided indirectly via the SO (via the CUSC and SO-TO Code).

4.45 The Workgroup considered alternative indemnity wording proposed by National Grid, which removed any explicit indemnities from National Grid to Supplier. The National Grid representative highlighted that the indemnity from the Supplier to the SO in this alternative went further than that in the Original by covering the SO against liabilities wider than physical damage (e.g. claims for loss of earnings) and also indemnifying the SO in the event that damages are claimed due to the fault of the SO in undertaking the de-energisation (unlike in the Original). The National Grid representative argued that the potential for something going wrong when a party is in financial difficulty (and possibly uncooperative) is more likely and it should therefore not face any more risk than it would otherwise under the CUSC. As it is the commercial decision of the Supplier as to whether or not the de-energisation process is initiated, it was the representative's view it is the Supplier who should face the potential consequences of this being carried out, allowing this to be taken into account in its decision making. Some members disagreed with this view and felt that not providing such protections to the SO actually provides an incentive for it to carry out adequate checks before proceeding with the de-energisation, making it less likely that things would go wrong. This became WACM1

4.46 One further member of the group proposed that the National Grid indemnity wording could be modified to limit the liability of the Supplier to £5m, to mirror the liability amount the SO would face. They also proposed that National Grid should be liable if negligent in undertaking the de-energisation. Some members expressed concerns over limiting the liabilities in this manner, as it may not provide sufficient incentives to the parties involved. This became WACM2

Review draft legal text

4.47 Legal text has been developed for the Original and five Workgroup Alternative CUSC Modifications and can be found in Annex 5 of this document.

Implementation

4.48 The Proposer suggested a 5 Business Day implementation period. It was noted that none of the SO's IT systems should be require changing to implement the changes.

Consideration of the Workgroup Consultation responses

4.49 The Workgroup considered each of the responses received to the Workgroup Consultation when deciding which options should be included within the final Workgroup Report as formal WACMs.

4.50 The Workgroup agreed that they should include further options to be included within the Workgroup Report to assist the Authority in making their decision on CMP254 in the form of an additional five WACMs.

Original Proposal

4.51 After considering responses received to the Workgroup Consultation, the Proposer clarified and confirmed that the Original Proposal for CMP254 would remain the same.

5 Original Proposal and Workgroup Alternatives

5.1 The Original proposal aims to bring the CUSC in line with the DCUSA in regards to Supplier's rights under their Supply Contract and the Electricity Act 1989 to disconnect an indebted customer. As raised, the proposer asks that words be inserted into the CUSC of similar form to those in DCUSA (section 25.2 onwards, as part of DCUSA section 25 "Energisation, De-Energisation And Re-Energisation") as to de-energisation of a customer by the networks firm where a Supplier requests it due to bad debt. This ensures consistency with the way this matter is treated in DCUSA.

5.2 The suggested legal text provided by the Proposer in the mod proposal was closely based on DCUSA wording can be found in Annex 1 of this document.

5.3 Following a review of the Workgroup Consultation responses, the Workgroup considered the Original Proposal agreed to develop five additional alternative solutions.

5.4 WACM1: This has been proposed by National Grid and provides revised de-energisation/re-energisation text with additional proposed indemnity wording.

5.5 WACM2: This has been proposed by SSE and is based on National Grid's proposed de-energisation/re-energisation text modified to limit the circumstances that the SO can reject or delay a de-energisation instruction to technical matters, with similar indemnity text to that proposed by National Grid, but capped at £5m per event or set of related events.

5.6 WACM3: This has been proposed by BOC and is based on the Proposer's Original Proposal with an additional process to identify and liaise with Downstream Customers that are not affiliates of the main non-embedded customer prior to de-energisation to consider possible alternative solutions.

5.7 WACM4: This has been proposed by National Grid and is based on WACM1 with the Downstream Customer process contained within WACM3.

5.8 WACM5: This has been proposed by SSE and is based on WACM2 with the Downstream Customer process contained within WACM3.

Workgroup Approval of WACMs

5.9 The Workgroup considered all WACMs and supported the existence of WACM3, WACM4 and WACM5 to be assessed against the applicable CUSC objectives by majority. For completeness and to provide evidence to Authority of the level of debate carried out by the Workgroup, the Workgroup Chairman exercised his rights and saved WACM1 and WACM2.

6 Impact and Assessment

Impact on the CUSC

6.1 Changes to Section 3

Impact on Greenhouse Gas Emissions

6.2 None identified.

Impact on Core Industry Documents

6.3 None identified.

Impact on other Industry Documents

6.4 None identified.

7 Proposed Implementation and Transition

7.1 In terms of implementation and transition, Ofgem have recommended that the Workgroup follow an accelerated timetable for CMP254 and expect the modification to be implemented 5 days after the Authority provide a decision.

8 Workgroup Consultation Responses

8.1 Six responses were received to the Workgroup Consultation. These responses are contained within Annex 4 of this report.

8.2 The following table provides an overview of the Standard Workgroup question responses received.

	Do you believe that CMP254 Original proposal, or any potential alternatives for change that you wish to suggest, better facilitates the Applicable CUSC Objectives?	Do you support the proposed implementation approach?	Do you have any other comments?	Do you wish to raise a WG Consultation Alternative Request for the Workgroup to consider?
EDF Energy	Yes, strongly better facilitates applicable CUSC objective (b). If defect is not addressed, Suppliers will be unwilling to supply non-embedded customers at all, or will only do so on onerous advance-payment, perhaps premium terms, damaging competition in the purchase of electricity.	Yes.	No.	No.
Haven Power	Yes. CMP254 better facilitates effective competition (b).	Yes.	No.	No.
Npower Business Solutions	Yes – CMP254 Original best facilitates the Applicable CUSC Objectives	Yes.	No.	No.
Smartest Energy	We believe that CMP254 facilitates competition in that it protects a supplier from the bad debt of a large customer who could cause their supplier (and hence other customers) a significant deterioration in service. Indeed, the size of such directly-connected customers is so great that a smaller supplier would not be prepared to supply them without greater protections in place. This is not good for competition.	Yes.	No.	No.
SSE	We do believe that CMP254 does better facilitate the Applicable CUSC Objective (b) (and is neutral with respect to (a) and (c)).	We support this proposed implementation approach.	No.	No.
Tata Steel	We would want to see clarity on provisions for Downstream users, common with growing appreciation of those users in European regulation and development of private energy networks (ie. objective b and c).	Risk and timelines are overstated: the clarity of rights and obligations of downstream users is essential.	We understand there appear to be a dichotomy between embedded and non-embedded users across industry Codes and that this has come to light during the extraordinary failure of one industrial user. It may be timely for legacy regulation to be reviewed and enhanced, both at DCUSA and CUSC level. This should provide clarity around roles and responsibilities of all relevant market participants and those effected users tied in with legacy arrangements.	No

8.3 The following table provides an overview of the CMP254 Specific Workgroup question responses received;

	How many days would the industry require to implement this proposal? Proposal is 5 Business days; the standard is 10 Business days. Ofgem's direction is to follow an accelerated, not standard, timetable.	Are you aware of any legislation that provides a right of continued supply to downstream customers in the event of non-payment by the Non-Embedded Customer? Please provide evidence.	Are there any circumstances under which you believe downstream customers or their interests should be allowed to prevent, veto or delay the execution of this instruction to de-energise their host site? Please provide the evidence to support such intervention.	Should there be an appeals process for the de-energisation instruction? If so, please describe what the process should be e.g. criteria allowing appeal, timing (before or after de-energisation), etc.	Do you believe that there are additional steps that need to be taken to identify and communicate safety or environmental issues?	Do you believe that there are additional steps that need to be taken to identify and communicate technical issues?	Do you believe that there are additional steps that need to be taken to identify and communicate any other (e.g. commercial) issues?	Given your views on the questions above, whose responsibility, if anyone's, is it to identify, notify and assess the impact on downstream customers and what should the timings around this be?	Do you have any further views on how the de-energisation process and any notifications should work e.g. in relation to the impact on downstream Users?
EDF Energy	5 working days consistent with Ofgem's direction. There are no knock-on changes to processes or systems that warrant any delay in implementation.	No, there is no such legislation.	No, and no such equivalent provision under the DCUSA. It would also seem prudent for the downstream customer to ensure that the contract with the non-embedded customer requires the non-embedded customer to notify the downstream customer if the non-embedded customer is unable to pay its Supplier, so that the downstream	No, there should not be any appeals process before, or after, de-energisation. There is no appeals process under the DCUSA equivalent provisions or BSC, either. From a *vires* perspective it would be odd for the CUSC to give the downstream customer a right that conflicted with primary legislation (the Electricity Act	No, no additional steps are needed. Customers' sites must all be resilient to loss of incoming supplies, as that can happen to any site at any time.	No (see reply to question 9 and full response in Annex 4).	No (see reply to question 9 and full response in Annex 4).	No-one is responsible for these actions regarding de-energisation of a downstream customer. It would also seem prudent for the downstream customer to ensure that the contract with the non-embedded customer, requires the non-embedded customer to notify the downstream customer if the non-embedded customer is	No

			customer can begin to prepare for the contingency of de-energisation in good time. From a *vires* perspective it would be odd for the CUSC to give the downstream customer a right that conflicted with primary legislation (the Electricity Act 1989 gives Suppliers a right to de-energise after 28 days non-payment). An alternative for such customers to avoid this issue is to take Supplies direct from the local DNO or Grid, depending on voltage.	1989 gives Suppliers a right to de-energise after 28 days non-payment).				unable to pay its Supplier, so that the downstream customer can begin to prepare for the contingency of de-energisation in good time. We do believe that non-embedded customers should be obliged to tell National Grid the identity and full contact details of any downstream customers that are connected to their private network. Having said that, we consider that relations between the non-embedded customers and downstream customers are likely to be close; they are on the same site and the one is using the other's private assets	
Haven Power	We would support the accelerated timetable of 5 business days.	No.	No.	No.	No comment.	No.	No.	No comment.	No.
Npower Business Solutions	5 Business Days as per proposal	No	No.	No.	No.	No.	No.	It is the responsibility of the downstream	No

								customer to have sufficient rights within its contract with the non-embedded customer to understand the non-embedded customer's performance in terms of its obligations to the supplier.	
Smartest Energy	5 days seems perfectly reasonable.	No.	One would expect the Connection Agreement between the respective parties to make provisions for the eventuality of the host site being de-energised, although we accept that, if the host site is in liquidation, the downstream customer may not gain much by exercising his rights under such a Connection Agreement. However, it is not appropriate for the existence of downstream customers to be used as a reason to prevent or delay a de-energisation.	No.	No. We are not convinced that the de-energisation scenario introduces safety issues. Such sites must be able to cope with unexpected power losses for other reasons.	No.	No.	This should be covered in the Connection Agreement between the host site and the downstream customers.	No.
SSE	We believe that	We are not	We are not	If such an appeal	All reasonable	The possibility of	Any additional	The host site.	The host site

	five Business Days is sufficient time to implement this proposal.	aware of any such legislation. On the contrary, we are aware of the legislation (in the Electricity Act 1989) that provides for the non-continuation of the electricity supply to customers in the event of non-payment.	aware of any credible legal circumstances under which a party would be able to prevent, veto or delay the execution of the instruction to de-energise a site given by a Supplier in accordance with its rights under the Electricity Act 1989. Notwithstanding the above, if downstream customers were able to prevent, veto or delay the de-energisation of the host site for non-payment then this could create a perverse incentive on the host site to sign up downstream customers (in order to prevent, veto or delay the host sites' de-energisation for non-payment).	process were to be implemented then it should be equivalent to (and not exceed) any appeal process for an equivalent situation in terms of de-energisation from the distribution network for non-payment.	and practical steps should be taken by all affected parties to ensure that safety is not compromised. We agree that the same process (as that used in the event of system outages) should be applied where a Supplier instructs a de-energisation for non-payment.	a loss of electricity supply exists today for all sites – irrespective of the cause – and can happen with zero notification. All consumers must be prepared accordingly. In the case of a de-energisation for non-payment notice will have been provided so the parties concerned can then prepare accordingly	steps (if required) are between the host site and their downstream customers.		should use its reasonable endeavours to inform its downstream customers of the planned de-energisation (of the host site, and thus the downstream customers) as soon as reasonably practical after they (the host site) are informed of the planned de-energisation.
Tata Steel	The Proposal cannot be implemented without development of process to account for downstream	Can the Electricity Act 1989 S96 be considered as a route of recourse or appeal to the SoS? European market	The strategic context of the downstream user is relevant: the impact of de-energisation in a globally competitive	As a suggestion, Electricity Act S 96 may imply provision may already exist.	Dependant on the status of the industrial site, the competent authorities would be aware of the requirements of an industrial site.	Mutual cooperation should already exist between competent authorities and the users, dependant on	We believe that Ofgem should take the lead on bringing clarity in this area and focussed on the protection of downstream	Difficult to suggest procedural changes without having the numbers of effected downstream	For the rare occasion this issue may manifest, a process for de-energisation would include sufficient timings

	users, including safety, health and environmental, as well as the business context of that downstream user.	developments suggests clarity is required to reflect both current and developing scenarios where these involve multiple users fed from one connection point . The elimination of risk (of unilateral actions by a licensed supplier) on the downstream user via a new discrete connection point is unfeasible. In a European context, our Dutch plant advice a protocol exists in Law for Insolvent business, whereby for 30 working days a program responsible party would remain active at the connection of the private network. The connection point would be minimised to the minimum possible capability for the downstream users. After 30 days the national	market would be equivalent to disconnection..			the safety status of an industrial site.	consumers.	users. . Without commitment, a simple idea might be to develop a licence exempt qualification to include some form of additional and confidential information obligation with Ofgem. This applies equally at DN level. This level of bureaucracy may be disproportionate to the risk being addressed	for downstream business users to verify to Ofgem they are aware of the risk to their energy supplies and converse with mitigation steps they could take, if any. This applies equally at DN level.

		or regional grid operator and the curator (the Receiver) will decide what to do, taking into account the connection of the third party on the Distribution System. More generally, we understand the TSO has a confidential protocol how de-energisation would operate; this is not covered in the public domain.							

9 Views

Workgroup View

9.1 The Workgroup believes that the Terms of Reference have been fulfilled and CMP254 has been fully considered.

9.2 For reference the CUSC Objectives are;

a) The effective discharge by The Company of the obligations imposed upon it by 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 Initial View

9.3 National Grid considered that CMP254 WACM4 would better facilitate Applicable CUSC Objectives as it sufficiently deals with all of the additional issues considered by the Workgroup including technical and safety issues, process for downstream users and indemnities.

Workgroup Vote

9.4 The Workgroup met on 8th January 2016 and voted on the Original Proposal and the five Workgroup Alternative CUSC Modifications. Overall, three out of the six Workgroup members voted that WACM4 best facilitates the applicable CUSC Objectives. The votes received are as follows;

Vote 1: Whether each proposal better facilitates the Applicable Objectives against the CUSC baseline

Original				
Workgroup member	Applicable CUSC Objective			Overall
	(a)	(b)	(c)	
Garth Graham	Yes, as these duties include ensuring that other licenced parties can perform those actions permissible by the Act (or licence or code).	Yes, as noted by both the proposer and Smartest Energy, there would be a serious adverse effect on competition in supply of electricity if a supplier were unable to disconnect their customer for non-payment.	Neutral	Yes
Wayne Mullins	No – it doesn't consider potential technical consideration and places undue risk on SO	No – on balance. Although it allows Suppliers to their right to de-energise, they could do so without taking the full risk of their decision into	Neutral	No

		account.		
Grant Holland	No – technical safety considerations	Yes – keen to support a change that allows supplier to de-risk	Neutral	No
Alison Meldrum	No – puts TSO in an invidious position regarding technical, safety issues.	Yes – in line with Smartest energy comments	No –as it ignores downstream user	No
Paul Mott	Yes – duties of the licensee include ensuring that other parties can perform their duties under the act. Original better achieves inter-code consistency and hence simplification and accessibility of codes to all parties, due to its strong and clear roots in DCUSA text on this same issue.	Yes – if not addressed, Suppliers will be unwilling to supply such customers at all, or will only do so on onerous advance-payment, perhaps premium, terms, harming such customers as a class. Smaller Suppliers, where generally active in the I&C market segment, are probably unable to participate in the market to supply transmission-connected customers under CUSC baseline, damaging competition in Supply.	Neutral - Original neither better nor worse because it is not relevant	Yes
Rob Coombes	Yes - it allows clearly permits the de-energisation of non-embedded customers which is not currently achievable without court intervention (which still may not be effective or timely) and hence caps an infinite risk.	Yes - It does because it allows clearly permits the de-energisation of non-embedded customers which is not currently achievable without court intervention and hence caps an infinite risk.	Neutral	Yes

WACM1				
Workgroup member	**Applicable CUSC Objective**			**Overall**
	(a)	**(b)**	**(c)**	
Garth Graham	Yes, as these duties include ensuring that other licenced parties can perform those actions permissible by the Act (or licence or code).	No. The benefits of competition in supply noted under Original would be outweighed by the inequality in indemnity between the Company and the User.	Neutral	No
Wayne Mullins	Yes – considers potential technical issues and right to de-energisation, also risk on SO is appropriate	Yes- although doesn't explicitly consider downstream customers, by providing appropriate indemnities it encourages Suppliers to take account of the full risk of their decision.	Neutral	Yes
Grant Holland	No	Yes	Neutral	No
Alison Meldrum	No - Same as original	Yes	No	No
Paul Mott	No - felt that this was likely to be ineffective	No – for the same reason as Objective (a)	Neutral	No

	and inoperable because it didn't lets Grid not de-energise for technical reasons "or otherwise". Therefore it didn't meet any objectives, nor overall, better than baseline. Indemnity text is poor too – Grid can be grossly negligent and the supplier still indemnifies them, as WACM1 legal text doesn't exclude that (the situation when Grid are negligent) as to when Supplier indemnifies them. Also differs from DCUSA text, losing the possibility of inter-code consistency.			
Rob Coombes	No - It does not because of the ambiguity within the reasons that the Company has in order to not carry out the de-energisation.	No - It does not because of the ambiguity within the reasons that the Company has in order to not carry out the de-energisation.	Neutral	No

WACM2				
Workgroup member	**Applicable CUSC Objective**			**Overall**
	(a)	**(b)**	**(c)**	
Garth Graham	Yes, as these duties include ensuring that other licenced parties can perform those actions permissible by the Act (or licence or code).	Yes, as noted by both the proposer and Smartest Energy, there would be a serious adverse effect on competition in supply of electricity if a supplier were unable to disconnect their customer for non-payment.	Neutral	Yes
Wayne Mullins	Yes - Although indemnity has a limit, It allows the SO to de-energise considering technical issues.	No – Although it allows Suppliers to their right to de-energise, they could do so without taking the full risk of their decision into account (albeit to a greater extent than the Original).	Neutral	No
Grant Holland	No	Yes	Neutral	No
Alison Meldrum	Same as original -no	yes	No	No
Paul Mott	Yes – same reasons as original and is better than baseline (but added that he couldn't see why liabilities should be capped - why not leave them cost-reflective; therefore not better than baseline to quite same extent as original; also differs slightly from DCUSA text in capping liabilities, losing the a little of the	Yes – same reasons as original and is better than baseline (but added that he couldn't see why liabilities should be capped - why not leave them cost-reflective; therefore not better than baseline to quite same extent as original; also differs slightly from DCUSA text in capping liabilities, losing the a little of the possibility for	Neutral	Yes

	possibility for inter-code consistency)	inter-code consistency)		
Rob Coombes	Yes- is better than baseline (to about the same extent as original)	Yes- is better than baseline (to about the same extent as original)	Neutral	Yes

WACM3				
Workgroup member	**Applicable CUSC Objective**			**Overall**
	(a)	**(b)**	**(c)**	
Garth Graham	Yes, as these duties include ensuring that other licenced parties can perform those actions permissible by the Act (or licence or code).	Yes, as noted by both the proposer and Smartest Energy, there would be a serious adverse effect on competition in supply of electricity if a supplier were unable to disconnect their customer for non-payment.	Neutral	Yes
Wayne Mullins	No – same reason as original	No – same reason as original	Neutral	No
Grant Holland	Yes – provides balance and safeguards to customer	Yes	Neutral	Yes
Alison Meldrum	Yes- downstream customer acknowledged	Yes	Yes- follows spirit of internal markets regulation	Yes
Paul Mott	No - Have uncertainties about workability of this mod – have a concern around whether the NEC (non-embedded customer) could sue the Supplier if the Supplier revealed that the NEC has not been paying to the point where it is liable to de-energisation under the terms of its retail contract, or has otherwise triggered a de-energisation clause in its retail contract; the downstream customer might demand new terms (advance payment for any services or items it may be rendering, or selling, to the NEC) in its relationship with the NEC. Also, the downstream customer might not necessarily be bound by any confidentiality agreement, unless the NEC has put one in its contract with the downstream customer; so the downstream customer might tell other parties of the NEC's payment difficulties. This could result in a credit downgrade and even put the NEC at risk of a "spiral of decline" as a result,	No – for the same reason as Objective (a)	Neutral	No

	because its cost of financing could increase. A question (we are not sure of the answer) is, does CUSC protect the Supplier from being sued by the NEC for revealing to the downstream customer that the NEC not been paying? Because of this significant uncertainty over its workability in practice, Paul Mott did not believe that WACM3 better met any of the CUSC applicable objectives individually, or overall, than baseline.			
Rob Coombes	Yes - for the same reason as the original, but to a greater degree as felt that a process to consider the downstream customers, as set out in WACM3, was useful.	Yes- for the same reason as Objective (a)	Neutral	Yes

WACM4				
Workgroup member	**Applicable CUSC Objective**			**Overall**
	(a)	**(b)**	**(c)**	
Garth Graham	Yes, as these duties include ensuring that other licenced parties can perform those actions permissible by the Act (or licence or code).	No. The benefits of competition in supply noted under Original would be outweighed by the inequality in indemnity between the Company and the User.	Neutral	No
Wayne Mullins	Yes – as stated In WACM1	Yes – as stated in WACM 1 and additionally for considering the impact on downstream users.	Neutral	Yes
Grant Holland	Yes	Yes	Neutral	Yes
Alison Meldrum	Yes	Yes	Yes	Yes
Paul Mott	No- as it did not better facilitate any of the CUSC applicable objectives individually, or overall, than baseline, because of his reasoning on WACMs 3 and 1 which together comprise its basis.	No - for the same reason as Objective (a)	Neutral	No
Rob Coombes	No - It does not because of the ambiguity within the reasons that the Company has in order to not carry out the de-energisation.	No- It does not because of the ambiguity within the reasons that the Company has in order to not carry out the de-energisation.	Neutral	No

WACM5				
Workgroup member	**Applicable CUSC Objective**			**Overall**
	(a)	**(b)**	**(c)**	
Garth Graham	Yes, as these duties include ensuring that other licenced parties can perform those actions permissible by the Act (or licence or code).	Yes, as noted by both the proposer and Smartest Energy, there would be a serious adverse effect on competition in supply of electricity if a supplier were unable to disconnect their customer for non-payment.	neutral	Yes
Wayne Mullins	Yes- as WACM2	No – as WACM2	Neutral	No
Grant Holland	Yes	Yes	Neutral	Yes
Alison Meldrum	Yes	Yes	Yes	Yes
Paul Mott	No – because of the same reasoning on WACM3 which forms part of its dual basis.	No - for the same reason as Objective (a)	Neutral	No
Rob Coombes	Yes	Yes	Neutral	Yes

<u>Vote 2</u>: Whether each proposal better facilitates the Applicable Objectives against the Original Proposal

WACM1				
Workgroup member	**Applicable CUSC Objective**			**Overall**
	(a)	**(b)**	**(c)**	
Garth Graham	Neutral (both Original and WACM better facilitate).	No (WACM is not better that Original in facilitating competition)	Neutral	No
Wayne Mullins	Yes	Yes	Neutral	Yes
Grant Holland	Yes	Neutral	Neutral	Yes
Alison Meldrum	Neutral	Neutral	Neutral	Neutral
Paul Mott	No – for the same reason as vote 1	No – for the same reason as vote 1	Neutral	No
Rob Coombes	No - It does not because of the ambiguity within the reasons that the Company has in order to not carry out the de-energisation.	No- It does not because of the ambiguity within the reasons that the Company has in order to not carry out the de-energisation.	Neutral	No

WACM2				
Workgroup member	Applicable CUSC Objective			Overall
	(a)	(b)	(c)	
Garth Graham	Neutral (both Original and WACM better facilitate).	Neutral (both Original and WACM better facilitate).	Neutral	Neutral
Wayne Mullins	Yes	Yes	Neutral	Yes
Grant Holland	Yes	Neutral	Neutral	Yes
Alison Meldrum	Neutral	Neutral	Neutral	Neutral
Paul Mott	No – for the same reason as vote 1	No – for the same reason as vote 1	Neutral	No
Rob Coombes	Neutral	Neutral	Neutral	Neutral

WACM3				
Workgroup member	Applicable CUSC Objective			Overall
	(a)	(b)	(c)	
Garth Graham	Neutral (both Original and WACM better facilitate).	Neutral (both Original and WACM better facilitate).	Neutral	Neutral
Wayne Mullins	Neutral	Yes	Neutral	Yes
Grant Holland	Yes	Neutral	Neutral	Yes
Alison Meldrum	Yes	Neutral	Yes	Yes
Paul Mott	No – for the same reason as vote 1	No – for the same reason as vote 1	Neutral	No
Rob Coombes	Yes - for the same reason as the original, but to a greater degree as felt that a process to consider the downstream customers, as set out in WACM3, was useful.	Yes- for the same reason as Objective (a)	Neutral	Yes

WACM4				
Workgroup member	Applicable CUSC Objective			Overall
	(a)	(b)	(c)	
Garth Graham	Neutral (both Original and WACM better facilitate).	No (WACM is not better that Original in facilitating competition)	Neutral	No

Wayne Mullins	Yes	Yes	Neutral	Yes
Grant Holland	Yes	Neutral	Neutral	Yes
Alison Meldrum	Yes	Neutral	Yes	Yes
Paul Mott	No – for the same reason as vote 1	No – for the same reason as vote 1	Neutral	No
Rob Coombes	No -It does not because of the ambiguity within the reasons that the Company has in order to not carry out the de-energisation.	No - It does not because of the ambiguity within the reasons that the Company has in order to not carry out the de-energisation.	Neutral	No

WACM5				
Workgroup member	**Applicable CUSC Objective**			**Overall**
	(a)	**(b)**	**(c)**	
Garth Graham	Neutral (both Original and WACM better facilitate).	Neutral (both Original and WACM better facilitate).	Neutral	Neutral
Wayne Mullins	Yes	Yes	Neutral	Yes
Grant Holland	Yes	Neutral	Neutral	Yes
Alison Meldrum	Yes	Neutral	Yes	Yes
Paul Mott	No – for the same reason as vote 1	No – for the same reason as vote 1	Neutral	No
Rob Coombes	Yes	Yes	Neutral	Yes

Vote 3: Which option BEST facilitates achievement of the ACOs? (Including CUSC baseline)

Workgroup member	Best Option	Reason (please provide justification)
Garth Graham	WACM5	Has the equality of indemnity with the downstream parties' process.
Wayne	WACM4	It allows us to take into account both technical and other (e.g. safety) circumstances into account

Mullins		when receiving a de-energisation instruction. Risk placed on supplier therefore supplier can take into account full risk when making it's Commercial decision to de-energise and it considers the downstream process
Grant Holland	WACM4	Provide balance with downstream customer incentive to get indemnity right - b
Alison Meldrum	WACM4	Downstream acknowledgement and indemnity structure
Paul Mott	Original	Original best overall and on (a) and (b); neutral on (c). Original best achieves code consistency and hence simplification and accessibility due to its clear roots in DCUSA.
Rob Coombes	WACM3	Due to the incorporation of a short process to consider whether there was a solution allowing downstream customers to be kept on supply without the Supplier racking up any more losses, whilst not having the text in WACM1 that rendered the modification potentially inoperable in practice, and not omitting DCUSA text on the indemnity from Grid to the Supplier – and not rendering the indemnity from Supplier to Grid effective even when Grid has been negligent

10 How to Respond

If you wish to respond to this Code Administrator Consultation, please use the response pro-forma which can be found under the 'Industry Consultation' tab via the following link;

http://www2.nationalgrid.com/UK/Industry-information/Electricity-codes/CUSC/Modifications/CMP254/

10.2 Responses are invited to the following questions;

1. Do you believe CMP254 or its alternative solution better facilitates the Applicable CUSC Objectives? Please include your reasoning.

2. Do you support the proposed implementation approach? If not, please state why and provide an alternative suggestion where possible.

3. Do you have any other comments?

10.3 Views are invited on the proposals outlined in this consultation, which should be received by **5pm** on **2nd February 2016**. Please email your formal response to: CUSC.team@nationalgrid.com

10.4 If you wish to submit a confidential response, please note the following;

Information provided in response to this consultation will be published on National Grid's website unless the response is clearly marked 'Private & Confidential', we will contact you to establish the extent of this confidentiality. A response marked 'Private & Confidential' will be disclosed to the Authority in full by, unless agreed otherwise, will not be shared with the CUSC Modifications Panel or the industry and may therefore not influence the debate to the same extent as a non-confidential response.

Please note an automatic confidentiality disclaimer generated by your IT System will not in itself, mean that your response is treated as if it had been marked 'Private & Confidential'

11 Glossary / Acronyms

Authority	Ofgem
BMU	Balancing Mechanism Unit
BSC	Balancing and Settlement Code
CUSC	The Connection and Use of System Code
DCUSA	Distribution Connection and Use of System Agreement
De-energisation	The movement of any isolator, breaker or switch of the removal of any fuse whereby no electricity can flow to or from the relevant system through the User's equipment.
Disconnection	Permanent physical disconnection of equipment
DNO	Distribution Network Operator
Downstream customer	A consumer who is a customer of, usually, the Non-Embedded Customer, usually located on the Non-Embedded Customer's site and always using the Non-Embedded Customer's private network for its electricity supply; typically has no relationship at all with the Supplier to the Non-Embedded Customer, or any other Supplier.
DSO	Distribution System Operators
NETSO	National Electricity Transmission System Operator
Non-Embedded Customer	A customer receiving electricity directly from the National Electricity Transmission System irrespective of from whom it is supplied.
SO	System Operator
STC	System Operator -Transmission Owner Code
TO	Transmission Owner
User	A person who is a party to the CUSC Framework Agreement other than National Grid
WACM	Workgroup Alternative CUSC Modification. This is an alternative modification to the CUSC Modification Proposal developed by the Workgroup under the Workgroup terms of reference.

Annex 1 – CMP254 CUSC Modification Proposal Form

CUSC Modification Proposal Form CMP254

nationalgrid

Connection and Use of System Code (CUSC)

Title of the CUSC Modification Proposal

Addressing discrepancies in disconnection/de-energisation remedies

Submission Date

22nd October 2015

Description of the Issue or Defect that the CUSC Modification Proposal seeks to address

There is a gap in the current industry arrangements in how a Supplier's right to disconnect an indebted customer pursuant to the Supplier's rights under its Supply Contract or the Electricity Act 1989 is given effect.

- For a distribution-connected customer, if it fails to pay its debts to its Supplier, its Supplier can (subject to certain conditions) disconnect it. This may usually be practical for domestic and small business customers, where most Suppliers will have suitable operatives, or can hire a bailiff/agent. However, for customers energised at higher voltages, safety becomes a concern and special skills are needed; therefore the Supplier is able to use the industry rules to request that the DNO de-energises it on the Supplier's behalf (at the Supplier's cost) – via a specific provision in DCUSA.

- For transmission-connected customers, known in the CUSC as "non-embedded customers", the skill level to effect a disconnection is much higher and specialist very high voltage qualifications are needed to do so safely, held in essence almost entirely by transmission company employees. No Supplier will have the skills to disconnect them itself for non-payment of debts. There may occasionally be issues concerning access to a site to de-energise or disconnect at an electrical boundary *within* the private large-industry site. A network company will generally be able to de-energise or disconnect from its own equipment external to the site. There should be a specific provision in CUSC to mirror that in DCUSA, but there isn't. The defect is the lack of this equivalent right via the industry rules to enable Suppliers to request that the transmission network company de-energises such customers.

- If not addressed, Suppliers will be unwilling to supply non-embedded customers at all, or will only do so on onerous advance-payment, perhaps premium, terms, harming such customers as a class – they already face some green/policy-related costs that their industrial competitors overseas, using "dirtier" electricity, don't; and the viability of their operations in Britain is strongly related to their Supply costs. Smaller Suppliers, where generally active in the I&C market segment, may well feel unable to participate in the market to supply non-embedded customers under CUSC baseline, damaging competition in Supply.

- If not addressed, a risk thus exists which is likely to increase costs for suppliers and for

consumers in particular (pass through of risk in premium or credit requirement), or consumers in general (if risk is shared with other customers by supplier, or passed through to all parties if the supplier fails, reducing competition). The most effective way of addressing this risk is for the person responsible for managing and operating the connection to de-energise the non-embedded customer.

• Note that the BSC has provision (section 3.2.2 (d)) for the BSC Panel to require, with prior approval from Ofgem, a Transmission Company or a Distribution System Operator to de-energise plant or apparatus (comprising BM Units) of a defaulting party (generally speaking this means a defaulting Supplier, and this includes disconnection of any of its customers that are grid-connected, among others). And the transmission company and DSOs all "consent" in the BSC wording, to this. The relevance of this is that it means the Transmission Company is *already* compelled to have staff able to deliver de-energisation of transmission-connected customers in a timely manner on request, so this CUSC mod does not require it to develop additional skills, resources or procedures and plans beyond those which it must already have in place for BSC purposes.

Description of the CUSC Modification Proposal

It is suggested that words be inserted into the CUSC of similar form to those in DCUSA (*section 25.2 onwards, as part of DCUSA section 25 "Energisation, De-Energisation And Re-Energisation*") as to de-energisation of a customer by the networks firm where a Supplier requests it due to bad debt.

The form of these words is for debate at a workgroup. We offer below the form of words in the DCUSA, as a possible framework in developing legal text for this CUSC mod :

The Company shall, to the extent that it may lawfully do so, at the request of the User, when the User is entitled to have carried out Energisation Works, De-energisation Works and Re-energisation Works, carry out such works at the cost of the User within a reasonable time or, in circumstances of urgency, as soon as is reasonably practicable.

The Company shall if requested by the User, inform the User of its reasonable requirements for the details by reference to which Metering Points or Metering Systems to be Energised, De-energised or Re-energised are to be identified.

Duty to Indemnify

Where the Company carries out Works on behalf of the User (as above), the Company shall indemnify the User against all actions, proceedings, costs, demands, claims, expenses, liability, loss or damage arising from, or incurred by the User as a consequence of, physical damage to the property of the User, its officers, employees or agents, and in respect of the liability of the User to any other person for loss in respect of physical damage to the property of any person, in each case as a consequence of acting contrary to an accurate and appropriate instruction to De-energise a Metering Point or Metering System;

Save for any matters arising from or in connection with the negligent act or omission or default of the Company, its officers, employees or agents, the User shall indemnify the Company

against all actions, proceedings, costs, demands, claims, expenses, liability, loss or damage arising from, or incurred by the Company as a consequence of, physical damage to the property of the Company, its officers, employees or agents, and in respect of the liability of the Company to any other person for loss in respect of physical damage to the property of any person, in each case as a consequence of acting in reliance on any instructions given by the User to the Company which are materially inaccurate or misleading;

and

Where the User requests the Company to Energise, De-energise or Reenergise a single point of connection that is both an Exit Point and an Entry Point, the User shall also indemnify the Company against all actions, proceedings, costs, demands, claims, expenses, liability, loss or damage made against or incurred or suffered by the Company and resulting directly from such Works howsoever arising (including, where the User is Registered in respect of the Exit Point, any claim by the user Registered in respect of the Entry Point, and vice versa) except insofar as such actions, proceedings, costs, demands, claims, expenses, liability, loss or damage arise from the negligent act or omission or default of the Company, its officers, employees or agents.

Impact on the CUSC

Section 5 of the CUSC (events of default, de-energisation, and disconnection) will need amendment – currently it only allows for disconnection in the case of bad debt in relation to charges collected by The Company, and not in relation to charges payable to a Supplier.

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

Include your view as to whether this Proposal has a quantifiable impact on greenhouse gas emissions : No

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

BSC ☐

Grid Code ☐

STC ☐

Other ☐
(please specify)

NGET may not wish to send staff to disconnect non-embedded customers in Scotland when it is obliged to do so, or where the switchgear is remotely-controlled it may not always be able to do remotely because the remote switchgear is controlled from a Scottish control point, but this would not be a new issue created by this mod : the STC should already allow for Grid to request disconnections by Scottish TOs, to deliver Grid's obligations under the CUSC where a

non-embedded customer fails to pay National Grid its transmission bills, and to deliver Grid's obligations under the BSC (the BSC has provision for the BSC Panel to require, with prior approval from Ofgem, a Transmission Company or a Distribution System Operator to de-energise plant or apparatus (comprising BM Units) of a defaulting party (generally speaking this means a defaulting Supplier, and this includes disconnection of any of its non-embedded customers, among others). And the transmission company and DSOs all "consent" in the BSC wording, to this). If the STC does not make allowance for this, then it is already flawed with regards to the situation without this new CUSC mod, and would need amendment accordingly.

Urgency Recommended: Yes

We suggest that this is debated at the CUSC panel where process is determined

Justification for Urgency Recommendation

If you have answered yes above, please describe why this Modification should be treated as Urgent.

The gap we have identified in the industry framework means that there is a risk to suppliers in relation to non-payment by large non-embedded customers. This can lead to significant commercial impacts on suppliers and so needs to be addressed urgently.

Self-Governance Recommended: Yes

We suggest that this is debated at the CUSC panel where process is determined; there does seem to be a case for self-governance as the change would merely ensure that the existing provisions of the electricity act are physically able to be safely delivered, in the rare event of a large customer being unable to pay its Supplier for its electricity.

Justification for Self-Governance Recommendation

If you have answered yes above, please describe why this Modification should be treated as Self-Governance.

There does seem to be a case for self-governance as the change would merely ensure that the existing provisions of the electricity act are physically able to be safely delivered, in the rare event of a large customer being unable to pay its Supplier for its electricity)

A Modification Proposal may be considered Self-governance where it is unlikely to have a material effect on:

- Existing or future electricity customers;
- Competition in generation or supply;
- The operation of the transmission system;
- Security of Supply;
- Governance of the CUSC
- And it is unlikely to discriminate against different classes of CUSC Parties.

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

There is no current CUSC SCR

Impact on Computer Systems and Processes used by CUSC Parties:

None

Details of any Related Modification to Other Industry Codes

None

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

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.

Please tick the relevant boxes and provide justification:

There is no actual way to tick the boxes on this electronic document, and no tick-in-a-box symbol that one can insert from any font either, so we have written “yes” or “no”

NO (a) the efficient discharge by The Company of the obligations imposed upon it by the Act and the Transmission Licence

YES (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**.

Reason : If not addressed, Suppliers will be unwilling to supply such customers at all, or will only do so on onerous advance-payment, perhaps premium, terms, harming such customers as a class – they already face many green/policy-related costs that their industrial competitors overseas, using “dirtier” electricity, don’t, and the viability of their operations in Britain is acutely related to their Supply costs. **Smaller Suppliers, where generally active in the I&C market segment, are probably unable to participate in the market to supply transmission-connected customers under CUSC baseline, damaging competition in Supply**.

NO (c) compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency.

Additional details

Details of Proposer: (Organisation Name)	EDF Energy
Capacity in which the CUSC Modification Proposal is being proposed: (i.e. CUSC Party, BSC Party or "National Consumer Council")	CUSC Party
Details of Proposer's Representative: Name: Organisation: Telephone Number: Email Address:	Paul Mott, EDF Energy, 0203 126 2314, paul.mott@edfenergy.com
Details of Representative's Alternate: Name: Organisation: Telephone Number: Email Address:	Mark Cox, EDF Energy, 01452658415 Mark.Cox@edfenergy.com
Attachments (No): **If Yes, Title and No. of pages of each Attachment:**	

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

Phone: 01926 653606

For examples of recent CUSC Modifications Proposals that have been raised please visit the National Grid Website at http://www2.nationalgrid.com/UK/Industry-information/Electricity-codes/CUSC/Modifications/Current/

Submitting the Proposal

Once you have completed this form, please return to the Panel Secretary, either by email to jade.clarke@nationalgrid.com and copied to cusc.team@nationalgrid.com, or by post to:

Jade Clarke
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.

Annex 2 – CMP254 Terms of Reference

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Workgroup Terms of Reference and Membership
TERMS OF REFERENCE FOR CMP254 WORKGROUP

CMP254 aims to bring the CUSC in line with the DCUSA in regards to Supplier's rights under their Supply Contract and the Electricity Act 1989 to disconnect and indebted customer. CMP254 had originally been requested to be progressed as an urgent modification and had been supported by the CUSC Panel. However, Ofgem have rejected this request from the CUSC Panel but do support an accelerated timetable.

Responsibilities

1. The Workgroup is responsible for assisting the CUSC Modifications Panel in the evaluation of CUSC Modification Proposal **CMP254 'Addressing discrepancies in disconnection / de-energisation remedies'** tabled by EDF Energy at the CUSC Modifications Panel meeting on 30th October 2015.

2. The proposal must be evaluated to consider whether it better facilitates achievement of the Applicable CUSC Objectives. These can be summarised as follows:

   Applicable CUSC Objectives

   (a) the efficient discharge by the Licensee of the obligations imposed on it by 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.

3. It should be noted that additional provisions apply where it is proposed to modify the CUSC Modification provisions, and generally reference should be made to the Transmission Licence for the full definition of the term.

Scope of work

4. The Workgroup must consider the issues raised by the Modification Proposal and consider if the proposal identified better facilitates achievement of the Applicable CUSC Objectives.

5. In addition to the overriding requirement of paragraph 4, the Workgroup shall consider and report on the following specific issues:

   a) Implementation
   b) Review draft legal text

c) *Consider how the legal text from DCUSA would map across to the CUSC.*
d) *What are the circumstances in which a customer would be disconnected?*
e) *How would ongoing connection charge liabilities be handled?*
f) *What happens if there are technical or safety issues associated with de-energisation?*
g) *What will the arrangements be around de-energisation?*
h) *What arrangements are in place in the event of re-energisation (NEW)*
i) *What technical /commercial / safety provisions need to be considered ahead of de-energisation and the impact on downstream customers?*
j) *What arrangements are in place for insolvency and adherence to the amended insolvency act as amended in October 2015.*
k) *Who is the party that is going to pay for the actual de-energisation activities?*

6. The Workgroup is responsible for the formulation and evaluation of any Workgroup Alternative CUSC Modifications (WACMs) arising from Group discussions which would, as compared with the Modification Proposal or the current version of the CUSC, better facilitate achieving the Applicable CUSC Objectives in relation to the issue or defect identified.

7. The Workgroup should become conversant with the definition of Workgroup Alternative CUSC Modification which appears in Section 11 (Interpretation and Definitions) of the CUSC. The definition entitles the Group and/or an individual member of the Workgroup to put forward a WACM if the member(s) genuinely believes the WACM would better facilitate the achievement of the Applicable CUSC Objectives, as compared with the Modification Proposal or the current version of the CUSC. The extent of the support for the Modification Proposal or any WACM arising from the Workgroup's discussions should be clearly described in the final Workgroup Report to the CUSC Modifications Panel.

8. Workgroup members should be mindful of efficiency and propose the fewest number of WACMs possible.

9. All proposed WACMs should include the Proposer(s)'s details within the final Workgroup report, for the avoidance of doubt this includes WACMs which are proposed by the entire Workgroup or subset of members.

10. There is an obligation on the Workgroup to undertake a period of Consultation in accordance with CUSC 8.20. The Workgroup Consultation period shall be for a period of 15 Working days as determined by the Modifications Panel.

11. Following the Consultation period the Workgroup is required to consider all responses including any WG Consultation Alternative Requests. In undertaking an assessment of any WG Consultation Alternative Request, the Workgroup should consider whether it better facilitates the Applicable CUSC Objectives than the current version of the CUSC.

12. As appropriate, the Workgroup will be required to undertake any further analysis and update the original Modification Proposal and/or WACMs. All responses including any WG Consultation Alternative Requests shall be included within the final report including a summary of the Workgroup's deliberations and conclusions. The report should make it clear where and

why the Workgroup chairman has exercised his right under the CUSC to progress a WG Consultation Alternative Request or a WACM against the majority views of Workgroup members. It should also be explicitly stated where, under these circumstances, the Workgroup chairman is employed by the same organisation who submitted the WG Consultation Alternative Request.

13. The Workgroup is to submit its final report to the Modifications Panel Secretary on 24th November 2015 for circulation to Panel Members. The final report conclusions will be presented to the CUSC Modifications Panel at a special Panel meeting on 14th January 2016.

Membership

14. It is recommended that the Workgroup has the following members:

Role	Name	Representing
Chairman	John Martin	Code Administrator
*National Grid Representative**	Wayne Mullins	National Grid
*Industry Representatives**	Paul Mott (Proposer)	EDF Energy
	George Douthwaite	Npower
	Alison Meldrum	Tata steel
	Grant Holland	BOC
	Garth Graham	SSE
Authority Representatives	Dominic Green	Ofgem
Technical secretary	Heena Chauhan	Code Administrator

NB: A Workgroup must comprise at least 4 members (who may be Panel Members). The roles identified with an asterisk in the table above contribute toward the required quorum, determined in accordance with paragraph 14 below.

15. The Chairman of the Workgroup and the Modifications Panel Chairman must agree a number that will be quorum for each Workgroup meeting. The agreed figure for CMP254 is that at least 4 Workgroup members must participate in a meeting for quorum to be met.

16. A vote is to take place by all eligible Workgroup members on the Modification Proposal and each WACM. The vote shall be decided by simple majority of those present at the meeting at which the vote takes place (whether in person or by teleconference). The Workgroup chairman shall not have a vote, casting or otherwise. There may be up to three rounds of voting, as follows:

- Vote 1: whether each proposal better facilitates the Applicable CUSC Objectives;
- Vote 2: where one or more WACMs exist, whether each WACM better facilitates the Applicable CUSC Objectives than the original Modification Proposal*;*
- Vote 3: which option is considered to BEST facilitate achievement of the Applicable CUSC Objectives. For the avoidance of doubt, this vote should include the existing CUSC baseline as an option.

The results from the vote and the reasons for such voting shall be recorded in the Workgroup report in as much detail as practicable.

17. It is expected that Workgroup members would only abstain from voting under limited circumstances, for example where a member feels that a proposal has been insufficiently developed. Where a member has such concerns, they should raise these with the Workgroup chairman at the earliest possible opportunity and certainly before the Workgroup vote takes place. Where abstention occurs, the reason should be recorded in the Workgroup report.

18. Workgroup members or their appointed alternate are required to attend a minimum of 50% of the Workgroup meetings to be eligible to participate in the Workgroup vote.

19. The Technical Secretary shall keep an Attendance Record for the Workgroup meetings and circulate the Attendance Record with the Action Notes after each meeting. This will be attached to the final Workgroup report.

20. The Workgroup membership can be amended from time to time by the CUSC Modifications Panel.

Appendix 1 – Indicative Workgroup Timetable

The following timetable is indicative for CMP254

22nd October 2015	CUSC Modification Proposal and request for Urgency submitted
30th October 2015	CUSC Panel considers Proposal and request for Urgency
30th October 2015	Request for Workgroup members (3 Working days)
30th October 2015	Panel's view on urgency submitted to Ofgem for consideration
5th November 2015	Ofgem view on urgency provided
6th November 2015	Workgroup meeting 1
9th November 2015	Workgroup meeting 2
16th November 2015	Workgroup meeting 3
26th November 2015	Workgroup Consultation issued (15 Working days)
17th December 2015	Deadline for responses
6th January 2016	Workgroup meeting 4
8th January 2016	Workgroup meeting 5 (if required)
14th January 2016	Workgroup report issued to CUSC Panel
18th January 2016	Workgroup report presented to CUSC Panel (Special CUSC Panel meeting)

Post Workgroup modification process

19th January 2016	Code Administrator Consultation issued (10 Working days)
2nd February 2016	Consultation closes

3rd February 2016	Draft FMR published for industry comment
4th February 2016	Deadline for comments
5th February 2016	Draft FMR issued to Panel
8th February 2016	Panel Recommendation Vote
8th February 2016	Final FMR circulated for Panel comment
9th February 2016	Deadline for Panel comment
10th February 2016	Final report sent to Authority for decision
16th March 2016	Indicative Authority Decision due
23rd March 2016	Implementation Date

Annex 3 – Workgroup attendance register

A – Attended
X – Absent
O – Alternate
D – Dial-in

Name	Organisation	Role	6th Nov 2015	9th Nov 2015	16TH Nov 2015	5th January 2016	8th January 2016
John Martin	National Grid	Chair	A	A	A	A	A
Heena Chauhan	National Grid	Technical Secretary	A	A	A	A	A
Paul Mott	EDF Energy	Proposer	A	A	A	A	A
Wayne Mullins	National Grid	Workgroup member	A	A	A	A	A
George Douthwaite (Alternate: Rob Coombes)	NPower	Workgroup member	O	O (D)	X	O	X
Grant Holland	BOC	Workgroup member	D	D	D	D	D
Alison Meldrum	Tata Steel	Workgroup member	D	D	D	D	D
Garth Graham (Alternate: Angus MacRae)	SSE	Workgroup member	X	X	O	D	D
Dominic Green (Alternate: Edda Dirks)	Ofgem	Authority Representative	O	A	A	A	A

Annex 4 – Workgroup Consultation Responses

CUSC Workgroup Consultation Response Proforma

CMP254 – Addressing discrepancies in disconnection/de-energisation remedies

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 **17th December 2015** to 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 Workgroup.

Any queries on the content of the consultation should be addressed to Heena Chauhan at heena.chauhan@nationalgrid.com

These responses will be considered by the Workgroup at their next meeting at which members will also consider any Workgroup Consultation Alternative Requests. Where appropriate, the Workgroup will record your response and its consideration of it within the final Workgroup Report which is submitted to the CUSC Modifications Panel.

Respondent:	Paul Mott
Company Name:	EDF Energy
Please express your views regarding the Workgroup Consultation, including rationale. **(Please include any issues, suggestions or queries)**	For reference, the Applicable CUSC objectives are: **Standard CUSC Objectives** (a) the efficient discharge by the Licensee of the obligations imposed on it by 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.

Standard Workgroup consultation questions

Q	Question	Response
1	**Do you believe that CMP254 Original proposal, or any potential alternatives for change that you wish to suggest, better facilitates the Applicable CUSC Objectives?**	Yes, CMP254 original strongly better facilitates applicable CUSC objective (b), namely "*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*". If the defect in baseline CUSC is not addressed, Suppliers will be unwilling to supply non-embedded customers at all, or will only do so on onerous advance-payment, perhaps premium, terms, harming such customers as a class and damaging competition in the purchase of electricity. Smaller Suppliers, where generally active in the I&C market segment, are probably unable to participate in the market to supply transmission-connected customers under CUSC baseline, damaging competition in Supply**.**
2	**Do you support the proposed implementation approach?**	Yes. See reply to question 5.
3	**Do you have any other comments?**	
4	**Do you wish to raise a WG Consultation Alternative Request for the Workgroup to consider?**	No

Specific questions for CMP254

Q	Question	Response
5	**How many days would the industry require to implement this proposal? Proposal is 5 Business days; the standard is 10 Business days. Ofgem's direction is to follow an accelerated, not standard, timetable.**	The proposal for implementation 5 working days after an Ofgem decision on this modification is consistent with Ofgem's decision that this mod be processed to an accelerated timeframe; none of the SO's IT systems will need changing to implement the changes that arise from this modification. The parties impacted by this modification are aware of the modification and there are no knock-on changes to process or systems that warrant any delay in its implementation.

Q	Question	Response
6	**Are you aware of any legislation that provides a right of continued supply to downstream customers in the event of non-payment by the Non-Embedded Customer? Please provide evidence.**	No, there is no such legislation.
7	**Are there any circumstances under which you believe downstream customers or their interests should be allowed to prevent, veto or delay the execution of this instruction to de-energise their host site? Please provide the evidence to support such intervention.**	No, there are no circumstances under which downstream customers should be allowed to prevent, veto or delay the execution of this instruction to de-energise their host site. There is no such provision under the DCUSA equivalent provisions, either (a few DNO-connected large customer sites, also have "downstream customers" privately connected to, and supplied by, them). The BSC provisions that allow the BSC Panel to instruct Grid to de-energise the Grid-connected customers of a *Supplier* that is in default, also call for, and feature, no provisions for veto/delay by downstream customers. If downstream customers connect onto a non-embedded customer's private site, if continuity of supply is important to them, they would presumably contract in a way that ensures continuity of supply for them in these circumstances, in terms of ability to immediately take over the relevant assets and in terms of switchgear to enable them to remain on supply whilst allowing Grid to immediately de-energise the non-paying host business, where the non-embedded customer in breach of its retail contract (or where the Electricity Act allows for de-energisation for non-payment). It would also seem prudent for the downstream customer to ensure that the contract with the non-embedded customer, requires the non-embedded customer to notify the downstream customer if the non-embedded customer is unable to pay its Supplier, so that the downstream customer can begin to prepare for the contingency of de-energisation in good time. From a *vires* perspective it would be odd for the CUSC to give the downstream customer a right that conflicted with primary legislation (the Electricity Act 1989 gives Suppliers a right to de-energise after 28 days non-payment). . An alternative for such customers to avoid this issue, is to take Supplies direct from the local DNO or Grid, depending on voltage.

Q	Question	Response
8	**Should there be an appeals process for the de-energisation instruction? If so, please describe what the process should be e.g. criteria allowing appeal, timing (before or after de-energisation), etc.**	No, there should not be any appeals process before, or after, de-energisation. There is no appeals process under the DCUSA equivalent provisions, either. The BSC provisions that allow the BSC Panel to instruct Grid to de-energise the Grid-connected customers of a *Supplier* that is in default, also call for, and feature, no appeals provision by affected customers – neither by the main non-embedded customer, nor by any "downstream" customers privately connected to that main non-embedded customer's network. From a *vires* perspective it would be odd for the CUSC to give the downstream customer a right that conflicted with primary legislation (the Electricity Act 1989 gives Suppliers a right to de-energise after 28 days non-payment).
9	**Do you believe that there are additional steps that need to be taken to identify and communicate safety or environmental issues?**	No, no additional steps are needed. Customers' sites must all be resilient to loss of incoming supplies, as that can happen to any site at any time. DCUSA provisions that are similar to CMP254 apply to customers connected at up to 132 kV (which in Scotland, would fall under CMP254); the DCUSA text calls for no additional steps of the type mentioned in questions 9 to 11. The BSC provisions that allow the BSC Panel to instruct Grid to de-energise the Grid-connected customers of a *Supplier* that is in default, also call for, and feature, no additional steps of the type mentioned in questions 9 to 11.
10	**Do you believe that there are additional steps that need to be taken to identify and communicate technical issues?**	No (see reply to question 9).
11	**Do you believe that there are additional steps that need to be taken to identify and communicate any other (e.g. commercial) issues?**	No (see reply to question 9)

Q	Question	Response
12	**Given your views on the questions above, whose responsibility, if anyone's, is it to identify, notify and assess the impact on downstream customers and what should the timings around this be?**	No-one is responsible for these actions regarding de-energisation of a downstream customer as a consequence, where this is so, of de-energisation of a non-embedded customer in breach of its retail contract (or where the Electricity Act allows for de-energisation for non-payment). It is for the downstream customer to take this into account in deciding whether to take its power from a non-embedded customer's private network / private transformer (or, if already doing so, whether to continue to do so), or whether to take power direct from Grid or DNO; or, to (re-)contract with the non-embedded customer so as to ensure that the commercial and physical arrangements enable the downstream customer to remain energised when Grid de-energises the non-embedded customer. It would also seem prudent for the downstream customer to ensure that the contract with the non-embedded customer, requires the non-embedded customer to notify the downstream customer if the non-embedded customer is unable to pay its Supplier, so that the downstream customer can begin to prepare for the contingency of de-energisation in good time. We do believe that non-embedded customers should be obliged to tell National Grid the identity and full contact details of any downstream customers that are connected to their private network, and of any changes from time to time in this, ahead of any event, so that if Grid is instructed to de-energise a non-embedded customer, it has to hand the identity and full contact details of these customers and can give them 24 hours' notice of de-energisation. Having said that, we consider that relations between the non-embedded customers and downstream customers are likely to be close; they are on the same site and the one is using the other's private assets .
13	**Do you have any further views on how the de-energisation process and any notifications should work e.g. in relation to the impact on downstream Users?**	No

CUSC Workgroup Consultation Response Proforma

CMP254 – Addressing discrepancies in disconnection/de-energisation remedies

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 **17th December 2015** to 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 Workgroup.

Any queries on the content of the consultation should be addressed to Heena Chauhan at heena.chauhan@nationalgrid.com

These responses will be considered by the Workgroup at their next meeting at which members will also consider any Workgroup Consultation Alternative Requests. Where appropriate, the Workgroup will record your response and its consideration of it within the final Workgroup Report which is submitted to the CUSC Modifications Panel.

Respondent:	Richard Mawdsley richard.mawdsley@havenpower.com
Company Name:	Haven Power
Please express your views regarding the Workgroup Consultation, including rationale. **(Please include any issues, suggestions or queries)**	For reference, the Applicable CUSC objectives are: **Standard CUSC Objectives** (a) the efficient discharge by the Licensee of the obligations imposed on it by 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.

Standard Workgroup consultation questions

Q	Question	Response
1	**Do you believe that CMP254 Original proposal, or any potential alternatives for change that you wish to suggest, better facilitates the Applicable CUSC Objectives?**	Yes. CMP254 better facilitates effective competition (b) of the CUSC objectives, as it enables suppliers to compete within the I&C market to supply transmission-connected customers under the CUSC baseline.
2	**Do you support the proposed implementation approach?**	Yes.
3	**Do you have any other comments?**	No.
4	**Do you wish to raise a WG Consultation Alternative Request for the Workgroup to consider?**	No

Specific questions for CMP254

Q	Question	Response
5	**How many days would the industry require to implement this proposal? Proposal is 5 Business days; the standard is 10 Business days. Ofgem's direction is to follow an accelerated, not standard, timetable.**	We would support the accelerated timetable of 5 business days.
6	**Are you aware of any legislation that provides a right of continued supply to downstream customers in the event of non-payment by the Non-Embedded Customer? Please provide evidence.**	No.

Q	Question	Response
7	**Are there any circumstances under which you believe downstream customers or their interests should be allowed to prevent, veto or delay the execution of this instruction to de-energise their host site? Please provide the evidence to support such intervention.**	No.
8	**Should there be an appeals process for the de-energisation instruction? If so, please describe what the process should be e.g. criteria allowing appeal, timing (before or after de-energisation), etc.**	No.
9	**Do you believe that there are additional steps that need to be taken to identify and communicate safety or environmental issues?**	No comment.
10	**Do you believe that there are additional steps that need to be taken to identify and communicate technical issues?**	No.
11	**Do you believe that there are additional steps that need to be taken to identify and communicate any other (e.g. commercial) issues?**	No.
12	**Given your views on the questions above, whose responsibility, if anyone's, is it to identify, notify and assess the impact on downstream customers and what should the timings around this be?**	No comment.

Q	Question	Response
13	**Do you have any further views on how the de-energisation process and any notifications should work e.g. in relation to the impact on downstream Users?**	No.

CUSC Workgroup Consultation Response Proforma

CMP254 – Addressing discrepancies in disconnection/de-energisation remedies

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

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Any queries on the content of the consultation should be addressed to Heena Chauhan at heena.chauhan@nationalgrid.com

These responses will be considered by the Workgroup at their next meeting at which members will also consider any Workgroup Consultation Alternative Requests. Where appropriate, the Workgroup will record your response and its consideration of it within the final Workgroup Report which is submitted to the CUSC Modifications Panel.

Respondent:	Rob Combes T: 07920 833057 E: rob.combes@npower.com
Company Name:	npower Business Solutions
Please express your views regarding the Workgroup Consultation, including rationale. **(Please include any issues, suggestions or queries)**	For reference, the Applicable CUSC objectives are: **Standard CUSC Objectives** (d) the efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission Licence; (e) 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; (f) Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency.

Standard Workgroup consultation questions

Q	Question	Response
1	**Do you believe that CMP254 Original proposal, or any potential alternatives for change that you wish to suggest, better facilitates the Applicable CUSC Objectives?**	Yes – CMP254 Original best facilitates the Applicable CUSC Objectives
2	**Do you support the proposed implementation approach?**	Yes
3	**Do you have any other comments?**	No
4	**Do you wish to raise a WG Consultation Alternative Request for the Workgroup to consider?**	No

Specific questions for CMP254

Q	Question	Response
5	**How many days would the industry require to implement this proposal? Proposal is 5 Business days; the standard is 10 Business days. Ofgem's direction is to follow an accelerated, not standard, timetable.**	5 Business Days as per proposal
6	**Are you aware of any legislation that provides a right of continued supply to downstream customers in the event of non-payment by the Non-Embedded Customer? Please provide evidence.**	No

Q	Question	Response
7	**Are there any circumstances under which you believe downstream customers or their interests should be allowed to prevent, veto or delay the execution of this instruction to de-energise their host site? Please provide the evidence to support such intervention.**	No
8	**Should there be an appeals process for the de-energisation instruction? If so, please describe what the process should be e.g. criteria allowing appeal, timing (before or after de-energisation), etc.**	No
9	**Do you believe that there are additional steps that need to be taken to identify and communicate safety or environmental issues?**	No
10	**Do you believe that there are additional steps that need to be taken to identify and communicate technical issues?**	No
11	**Do you believe that there are additional steps that need to be taken to identify and communicate any other (e.g. commercial) issues?**	No
12	**Given your views on the questions above, whose responsibility, if anyone's, is it to identify, notify and assess the impact on downstream customers and what should the timings around this be?**	It is the responsibility of the downstream customer to have sufficient rights within its contract with the non-embedded customer to understand the non-embedded customer's performance in terms of its obligations to the supplier.

Q	Question	Response
13	**Do you have any further views on how the de-energisation process and any notifications should work e.g. in relation to the impact on downstream Users?**	No

CUSC Workgroup Consultation Response Proforma

CMP254 – Addressing discrepancies in disconnection/de-energisation remedies

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 **17th December 2015** to 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 Workgroup.
Any queries on the content of the consultation should be addressed to Heena Chauhan at heena.chauhan@nationalgrid.com

These responses will be considered by the Workgroup at their next meeting at which members will also consider any Workgroup Consultation Alternative Requests. Where appropriate, the Workgroup will record your response and its consideration of it within the final Workgroup Report which is submitted to the CUSC Modifications Panel.

Respondent:	Colin Prestwich
Company Name:	SmartestEnergy
Please express your views regarding the Workgroup Consultation, including rationale. **(Please include any issues, suggestions or queries)**	We are generally supportive of the proposal.

Standard Workgroup consultation questions

Q	Question	Response
1	**Do you believe that CMP254 Original proposal, or any potential alternatives for change that you wish to suggest, better facilitates the Applicable CUSC Objectives?**	We believe that CMP254 facilitates competition in that it protects a supplier from the bad debt of a large customer who could cause their supplier (and hence other customers) a significant deterioration in service. Indeed, the size of such directly-connected customers is so great that a smaller supplier would not be prepared to supply them without greater protections in place. This is not good for competition. For reference, the Applicable CUSC objectives are: Standard CUSC Objectives (a) the efficient discharge by the Licensee of the obligations imposed on it by 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.
2	**Do you support the proposed implementation approach?**	Yes
3	**Do you have any other comments?**	No
4	**Do you wish to raise a WG Consultation Alternative Request for the Workgroup to consider?**	No

Specific questions for CMP254

Q	Question	Response
5	**How many days would the industry require to implement this proposal? Proposal is 5 Business days; the standard is 10 Business days. Ofgem's direction is to follow an accelerated, not standard, timetable.**	5 days seems perfectly reasonable

Q	Question	Response
6	**Are you aware of any legislation that provides a right of continued supply to downstream customers in the event of non-payment by the Non-Embedded Customer? Please provide evidence.**	No
7	**Are there any circumstances under which you believe downstream customers or their interests should be allowed to prevent, veto or delay the execution of this instruction to de-energise their host site? Please provide the evidence to support such intervention.**	One would expect the Connection Agreement between the respective parties to make provisions for the eventuality of the host site being de-energised, although we accept that, if the host site is in liquidation, the downstream customer may not gain much by exercising his rights under such a Connection Agreement. However, it is not appropriate for the existence of downstream customers to be used as a reason to prevent or delay a de-energisation. Whilst it may seem unfair on sites which have opted for their own settlements to lose power (were they to exist), those who have not opted out under the Citiworks precedent will either also be extracting without paying or will be paying to a party which is not passing payment to their own supplier.
8	**Should there be an appeals process for the de-energisation instruction? If so, please describe what the process should be e.g. criteria allowing appeal, timing (before or after de-energisation), etc.**	No
9	**Do you believe that there are additional steps that need to be taken to identify and communicate safety or environmental issues?**	No. We are not convinced that the de-energisation scenario introduces safety issues. Such sites must be able to cope with unexpected power losses for other reasons.
10	**Do you believe that there are additional steps that need to be taken to identify and communicate technical issues?**	No

Q	Question	Response
11	**Do you believe that there are additional steps that need to be taken to identify and communicate any other (e.g. commercial) issues?**	No
12	**Given your views on the questions above, whose responsibility, if anyone's, is it to identify, notify and assess the impact on downstream customers and what should the timings around this be?**	This should be covered in the Connection Agreement between the host site and the downstream customers.
13	**Do you have any further views on how the de-energisation process and any notifications should work e.g. in relation to the impact on downstream Users?**	No

CUSC Workgroup Consultation Response Proforma

CMP254 – Addressing discrepancies in disconnection/de-energisation remedies

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 **17th December 2015** to 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 Workgroup.

Any queries on the content of the consultation should be addressed to Heena Chauhan at heena.chauhan@nationalgrid.com

These responses will be considered by the Workgroup at their next meeting at which members will also consider any Workgroup Consultation Alternative Requests. Where appropriate, the Workgroup will record your response and its consideration of it within the final Workgroup Report which is submitted to the CUSC Modifications Panel.

Respondent:	*Garth Graham (garth.graham@sse.com)*
Company Name:	*SSE*
Please express your views regarding the Workgroup Consultation, including rationale. **(Please include any issues, suggestions or queries)**	For reference, the Applicable CUSC objectives are: **Standard CUSC Objectives** (g) the efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission Licence; (h) 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; (i) Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency.

Standard Workgroup consultation questions

Q	Question	Response
1	**Do you believe that CMP254 Original proposal, or any potential alternatives for change that you wish to suggest, better facilitates the Applicable CUSC Objectives?**	We do believe that CMP254 does better facilitate the Applicable CUSC Objective (b) (and is neutral with respect to (a) and (c)) for the reasons set out in the Proposal form.
2	**Do you support the proposed implementation approach?**	We note that the Proposer suggests a five Business Day implementation period (as none of the SO's IT systems should require changing to implement the changes). We support this proposed implementation approach.
3	**Do you have any other comments?**	We have nothing further to say at this time.
4	**Do you wish to raise a WG Consultation Alternative Request for the Workgroup to consider?**	*No*

Specific questions for CMP254

Q	Question	Response
5	**How many days would the industry require to implement this proposal? Proposal is 5 Business days; the standard is 10 Business days. Ofgem's direction is to follow an accelerated, not standard, timetable.**	As noted in response to Q2, we believe that five Business Days is sufficient time to implement this proposal.
6	**Are you aware of any legislation that provides a right of continued supply to downstream customers in the event of non-payment by the Non-Embedded Customer? Please provide evidence.**	We are not aware of any such legislation. On the contrary, we are aware of the legislation (in the Electricity Act 1989) that provides for the non continuation of the electricity supply to customers in the event of non payment.

Q	Question	Response
7	**Are there any circumstances under which you believe downstream customers or their interests should be allowed to prevent, veto or delay the execution of this instruction to de-energise their host site? Please provide the evidence to support such intervention.**	We are not aware of any credible legal circumstances under which a party would be able to prevent, veto or delay the execution of the instruction to de-energise a site given by a Supplier in accordance with its rights under the Electricity Act 1989. Notwithstanding the above, if downstream customers were able to prevent, veto or delay the de-energisation of the host site for non payment then this could create a perverse incentive on the host site to sign up downstream customers (in order to prevent, veto or delay the host sites' de-energisation for non payment).
8	**Should there be an appeals process for the de-energisation instruction? If so, please describe what the process should be e.g. criteria allowing appeal, timing (before or after de-energisation), etc.**	If such an appeal process were to be implemented then it should be equivalent to (and not exceed) any appeal process for an equivalent situation in terms of de-energisation from the distribution network for non payment.
9	**Do you believe that there are additional steps that need to be taken to identify and communicate safety or environmental issues?**	All reasonable and practical steps should be taken by all parties (including, in particular, the host site) to communicate the planned de-energisation to all affected parties (including, in particular, downstream customers) to ensure that safety is not compromised. We are also mindful of the statement in paragraph 5.17 that:- "It was noted that there were already processes in place to undertake de-energisation and re-energisation safely (e.g. in the event of system outages), and that the same processes would be applied should a Supplier instruct such an action." We agree that the same process (as that used in the event of system outages) should be applied where a Supplier instructs a de-energisation for non payment.

Q	Question	Response
10	**Do you believe that there are additional steps that need to be taken to identify and communicate technical issues?**	The possibility of a loss of electricity supply exists today for all sites – irrespective of the cause – and can happen with zero notification. All consumers must be prepared accordingly. Thus a de-energisation for non payment in and of itself should not present any additional technical (or safety or environmental) issues that are not already addressed by both the host site and any downstream customers. In the case of a de-energisation for non payment (unlike, say, a de-energisation due to a storm or third party damage) notice will have been provided so the parties concerned (such as the host site and downstream customers) who can then prepare accordingly (something they are unable to do in the event of a de-energisation due to a storm or third party damage).
11	**Do you believe that there are additional steps that need to be taken to identify and communicate any other (e.g. commercial) issues?**	Any additional steps (if required) are between the host site and their downstream customers.
12	**Given your views on the questions above, whose responsibility, if anyone's, is it to identify, notify and assess the impact on downstream customers and what should the timings around this be?**	The host site.
13	**Do you have any further views on how the de-energisation process and any notifications should work e.g. in relation to the impact on downstream Users?**	The host site should use its reasonable endeavours to inform its downstream customers of the planned de-energisation (of the host site, and thus the downstream customers) as soon as reasonably practical after they (the host site) are informed of the planned de-energisation.

CUSC Workgroup Consultation Response Proforma

CMP254 – Addressing discrepancies in disconnection/de-energisation remedies

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Any queries on the content of the consultation should be addressed to Heena Chauhan at heena.chauhan@nationalgrid.com

These responses will be considered by the Workgroup at their next meeting at which members will also consider any Workgroup Consultation Alternative Requests. Where appropriate, the Workgroup will record your response and its consideration of it within the final Workgroup Report which is submitted to the CUSC Modifications Panel.

Respondent:	*Alison Meldrum*
Company Name:	*Tata Steel Europe*
Please express your views regarding the Workgroup Consultation, including rationale. **(Please include any issues, suggestions or queries)**	For reference, the Applicable CUSC objectives are: **Standard CUSC Objectives** (j) the efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission Licence; (k) 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; (l) Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency.

Standard Workgroup consultation questions

Q	Question	Response
1	**Do you believe that CMP254 Original proposal, or any potential alternatives for change that you wish to suggest, better facilitates the Applicable CUSC Objectives?**	The Group have discussed examples (not exhaustive) of risk factors around de-energisation of what is a relatively small pool of direct connection points. This discussion would have illustrated the safety, health and environmental complexities behind the main fiscal connection point and across these private networks. We would want to see clarity on provisions for downstreams users, common with growing appreciation of those users in European regulation and development of private energy networks (ie. objective b and c). This clarity is equally relevant at DN level.
2	**Do you support the proposed implementation approach?**	Risk and timelines are overstated: the clarity of rights and obligations of downstream users is essential.
3	**Do you have any other comments?**	We understand there appear to be a dichotomy between embedded and non embedded users across industry Codes and that this has come to light during the extraordinary failure of one industrial user. The threat of uncompetitive risk premiums meted out on industrial consumer is not appealing, but for sakes of accuracy, the portrayal of these recent events seems over-stated, not the emergency it is portrayed. The Proposer describes a *typical* value of £1 m per week exposure. Could this be over-stated, these values possibly manifesting from a combination of default rates and the loss of on site generation from waste-gases ie. not typical? Private and license exempt power, gas and heat networks are both a legacy and developing phenomenon. It may be timely for legacy regulation to be reviewed and enhanced, both at DCUSA and CUSC level. This should provide clarity around roles and responsibilities of all relevant market participants and those effected users tied in with legacy arrangements.
4	**Do you wish to raise a WG Consultation Alternative Request for the Workgroup to consider?**	*If yes, please complete a WG Consultation Alternative Request form, available on National Grid's website[1], and return to the CUSC inbox at cusc.team@nationalgrid.com*

Specific questions for CMP254

Q	Question	Response

[1] http://www.nationalgrid.com/uk/Electricity/Codes/systemcode/amendments/forms_guidance/

Q	Question	Response
5	**How many days would the industry require to implement this proposal? Proposal is 5 Business days; the standard is 10 Business days. Ofgem's direction is to follow an accelerated, not standard, timetable.**	The Proposal cannot be implemented without development of process to account for downstream users, including safety, health and environmental, as well as the business context of that downstream user.
6	**Are you aware of any legislation that provides a right of continued supply to downstream customers in the event of non-payment by the Non-Embedded Customer? Please provide evidence.**	What is the purpose of Electricity Act 1989 **S96** ? Is this a route of recourse or appeal to the SoS ? The development of European Internal Markets regulation, the development of private heat, power and gas networks suggests clarity is required to reflect both current and developing scenarios where these involve multiple users fed from one connection point . The elimination of risk (of unilateral actions by a licensed supplier) on the downstream user via a new discrete connection point is unfeasible. The process for new or enhanced connection works at HV/EHV and Transmission level is protracted, even at DN level, initial feasibility applications involving Mod App / SOW process could take 3 months at their initial stages and and potentially multiple year lead time for delivery. In a European context, our Dutch plant advise a protocol exists in Law for Insolvent business, whereby for 30 working days a program responsible party would remain active at the connection of the private network. The connection point would be minimised to the minimum possible capability for the downstream users. After 30 days the national or regional grid operator and the curator (the Receiver) will decide what to do, taken into account the connection of the third party on the Distribution System. More generally, we understand the TSO has a confidential protocol how denergisation would operate; this is not covered in the public domain.

Q	Question	Response
7	**Are there any circumstances under which you believe downstream customers or their interests should be allowed to prevent, veto or delay the execution of this instruction to de-energise their host site? Please provide the evidence to support such intervention.**	The strategic context of the downstream user is relevant: the the impact of de-energisation in a globally competitive market would be equivalent to disconnection. For example: Tata Steel operates Teesside Beam Mill in the Teesside Steelmaking Complex at Lackenby in the North East of England. The electricity supply is fed from a private network (owned by a separate party) which in turn is connected to National Grid at 275kV. The supply to Teesside Beam Mill is at 66kV and average weekly consumption is 1300 MWh. The facility has a turnover of approximately £200m, employs approximately 400 people and manufacture 0.5 million tonnes of Structural Sections. The output of Teesside Beam Mill is approximately half of the total UK consumption of structural sections. It serves the UK construction market through stockholders and distributors but also directly supports major construction projects **on a Just-In-Time basis**, recent examples of such projects are The Shard, The Leadenhall Building (Cheese Grater), Heathrow Terminal 5 and the Olympic Park. *What does steel mean to the UK?* In 2012 the UK's metals sectors comprised 24,000+ enterprises and employed over 330,000 people. They are worth over £45.5bn to the UK economy, generating £16.5bn GVA and sector exports 150% of UK demand. Tata Steel exports around 50% of its products to Europe. Steel is a driver of productivity which, along with other UK Foundation Industries, is characterised by sector productivity of 136%. Steel has a clear, strategic value to the country and is valuable in driving export and productivity growth. Steel is a key foundation of significant, strategic supply chains (e.g. automotive, construction, energy) and an engine of regional growth and opportunity. 2-3 jobs are dependent on every direct steel sector job, often in less prosperous parts of the country. The industry produces hundreds of high skilled, high value-added apprentices, vocational trainees and graduates. We are well linked into the UK's innovation infrastructure through partnerships with leading universities, participation in Catapults and our own R&D investment. In this regard, steel is a real asset to a high value, high skill economy.

Q	Question	Response
8	**Should there be an appeals process for the de-energisation instruction? If so, please describe what the process should be e.g. criteria allowing appeal, timing (before or after de-energisation), etc.**	As a suggestion, Electricity Act S 96 may imply provision may already exist.
9	**Do you believe that there are additional steps that need to be taken to identify and communicate safety or environmental issues?**	Dependant on the status of the industrial site, the competant authorities would be aware of the requirements of an industrial site.
10	**Do you believe that there are additional steps that need to be taken to identify and communicate technical issues?**	Mutual cooperation should already exist between competant authorities and the users, dependant on the safety status of an industrial site.
11	**Do you believe that there are additional steps that need to be taken to identify and communicate any other (e.g. commercial) issues?**	We believe that Ofgem should take the lead on bringing clarity in this area and focussed on the protection of downstream consumers.
12	**Given your views on the questions above, whose responsibility, if anyone's, is it to identify, notify and assess the impact on downstream customers and what should the timings around this be?**	Difficult to suggest procedural changes without having the numbers of effected downstream users. . Without commitment, a simple idea might be to develop a licence exempt qualification to include some form of additional and confidential information obligation with Ofgem. This applies equally at DN level. This level of bureacracy may be disproportianate to the risk being addressed
13	**Do you have any further views on how the de-energisation process and any notifications should work e.g. in relation to the impact on downstream Users?**	For the rare occasion this issue may manifest, a process for de-energisation would include sufficient timings for downstream business users to verify to Ofgem they are aware of the risk to their energy supplies and converse with mitigation steps they could take, if any. This applies equally at DN level.

CMP254 Draft Legal Text

ORIGINAL

3.6.9 SUPPLIER DEENERGISATION OF NON-EMBEDDED CUSTOMERS

3.6.9.1 **The Company** shall, to the extent that it may lawfully do so, at the request of the the **Supplier**, when the **Supplier** is entitled to have the **Deenergisation** of a **Non-Embedded Customer's Connection Site(s)**, carried out, carry out such **Deenergisation** on behalf of and at the cost of the **Supplier** within a reasonable time or, in circumstances of urgency, as soon as is reasonably practicable.

3.6.9.2 **The Company** shall, if requested by the **Supplier**, inform the **Supplier** of its reasonable requirements for the details of the **Non-Embedded Customer's Connection Site(s)** to be **Deenergised.**

3.6.9.3 **The Company** shall **Reenergise** the **User's Equipment** at the **Non-Embedded Customer's Connection Site(s)** as soon as is reasonably practicable after the circumstances leading to **Deenergisation** under Paragraph 3.6.9.1 have ceased to exist.

Duty to Indemnify

3.6.9.4 Where **The Company** carries out a **Deenergisation** on behalf of a **Supplier** under Paragraph 3.6.9.1, **The Company** shall indemnify the **Supplier** against (a) all actions, proceedings, costs, demands, claims, expenses, liability, loss or damage made against or incurred or suffered by or incurred by, the **Supplier** as a consequence of, physical damage to the property of the **Supplier**, its officers, employees or agents, (including any claim by another **User** connecting at the same substation) and (b) in respect of the liability of the **Supplier** to any other person for loss in respect of physical damage to the property of any person, in each case as a consequence of **The Company** acting contrary to an accurate and appropriate instruction from the **Supplier** to **Deenergise** the **Non-Embedded Customer's Connection Site**;

3.6.9.5 Save for any matters arising from or in connection with the negligent act or omission or default of **The Company**, its officers, employees or agents, the **Supplier** shall indemnify **The Company** against (a) all actions, proceedings, costs, demands, claims, expenses, liability, loss or damage arising from, or incurred by, **The Company** as a consequence of physical damage to the property of **The Company**, its officers, employees or agents, and (b) in respect of the liability of **The Company** to any other person for loss in respect of physical damage to the property of any person, in each case as a consequence of acting in reliance on any instructions given by the **Supplier** to **The Company** to **Deenergise** the **Non-Embedded Customer's Connection Site** which are materially inaccurate or misleading;

3.6.9.6 Where the **Supplier** requests **The Company** to **Deenergise** a single point of connection that is both a **Grid Supply Point** and a **Grid Entry Point**, the **Supplier** shall also indemnify **The Company** against all actions, proceedings, costs, demands, claims, expenses, liability, loss or damage made against or incurred or suffered by **The Company** and resulting directly from such

Deenergisation howsoever arising (including any claim by another **User** connecting at the same substation) except insofar as such actions, proceedings, costs, demands, claims, expenses, liability, loss or damage arise from the negligent act or omission or default of **The Company**, its officers, employees or agents.

3.6.9 SUPPLIER DEENERGISATION OF NON-EMBEDDED CUSTOMERS

3.6.9.1 Where the **Supplier** supplying the **Connection Site** satisfies **The Company** (acting reasonably) that it has the right to discontinue the **Supply** to the **Connection Site** under the terms of its **Supply Agreement** or the **Act** and the network configuration is such that it is necessary to **Deenergise** the **Non-Embedded Customer's Connection Site** to achieve this and the **Supplier** instructs **The Company** to **Deenergise** the **User's Equipment** at the **Connection Site** to give effect to this, **The Company** shall, to the extent that it may lawfully do so, as soon as reasonably practicable **Deenergise** the **Non-Embedded Customer's Connection Site** (unless **The Company** considers that it is not reasonably practicable, whether on technical grounds or otherwise, to effect such **Deenergisation,** in which case it will provide its reasoning to the **Supplier** at the earliest practicable opportunity) and if it does **Deenergise**, shall promptly notify the **Supplier** of the date and time at which such **Deenergisation** was effected. The **Supplier** shall reimburse **The Company** any expense incurred in relation to such **Deenergisation**, if any, and shall indemnify **The Company** against any costs, liability, loss or damage suffered by **The Company** as a result of such **Deenergisation**.

3.6.9.2 **The Company** shall **Reenergise** the **User's Equipment** at the **Connection Site** as soon as reasonably practicable after the circumstances leading to **Deenergisation** under Paragraph 3.6.9.1 have ceased to exist.

WACM 2

3.6.9 SUPPLIER DEENERGISATION OF NON-EMBEDDED CUSTOMERS

3.6.9.1 Where the **Supplier** supplying the **Connection Site** satisfies **The Company** (acting reasonably) that it has the right to discontinue the **Supply** to the **Connection Site** under the terms of its **Supply Agreement** or the **Act** and the configuration is such that it is necessary to **Deenergise** the **Non-Embedded Customer's Connection Site** to achieve this and the **Supplier** instructs **The Company** to **Deenergise** the **User's Equipment** at the **Connection Site** to give effect to this, **The Company** shall, to the extent that it may lawfully do so, as soon as reasonably practicable **Deenergise** the **Non-Embedded Customer's Connection Site** (unless **The Company** considers that it is not reasonably practicable, on technical grounds, to effect such **Deenergisation** in which case it will provide its reasoning to the **Supplier** at the earliest practicable opportunity) and if it does **Deenergise**, shall promptly notify the **Supplier** of the date and time at which such **Deenergisation** was effected. The **Supplier** shall reimburse **The Company** any expense incurred in relation to such **Deenergisation**, if any, and shall, except where and to the extent that it is a result of the negligent act or omission or default of **The Company**, indemnify **The Company** against any costs, liability, loss or damage suffered by **The Company** as a result of such **Deenergisation** provided that such liability shall not exceed £5million per event or series of related events. **The Company** shall indemnify the **Supplier** against any costs, liability, loss or damage suffered by the **Supplier** as a result of the negligent act or omission or default of **The Company** in undertaking such **Deenergisation** provided that such liability shall not exceed £5million per event or series of related events.

3.6.9.2 **The Company** shall **Reenergise** the **User's Equipment** at the **Connection Site** as soon as reasonably practicable after the circumstances leading to **Deenergisation** under Paragraph 3.6.9.1 have ceased to exist.

WACM3
Section 3 Changes:

3.6.9 SUPPLIER DEENERGISATION OF NON-EMBEDDED CUSTOMERS

3.6.9.1 **The Company** shall, to the extent that it may lawfully do so, at the request of the the **Supplier**, when the **Supplier** is entitled to have the **Deenergisation** of a **Non-Embedded Customer**, **Connection Site(s)**, carried out, carry out such **Deenergisation** on behalf of and at the cost of the **Supplier** within a reasonable time or, in circumstances of urgency, as soon as is reasonably practicable.

3.6.9.2 **The Company** shall if requested by the **Supplier**, inform the **Supplier** of its reasonable requirements for the details of the **Non-Embedded Customer'sConnection Site(s)** to be **De-energised.**

3.6.9.3 **The Company** shall **Reenergise** the **User's Equipment** at the **Non-Embedded Customer's Connection Site** as soon as is reasonably practicable after the circumstances leading to **Deenergisation** under Paragraph 3.6.9.1 have ceased to exist.

Duty to Indemnify

3.6.9.4 Where **The Company** carries out a **Deenergisation** on behalf of a **Supplier** under Paragraph 3.6.9.1, **The Company** shall indemnify the **Supplier** against (a) all actions, proceedings, costs, demands, claims, expenses, liability, loss or damage made against or incurred or suffered by the **Supplier** as a consequence of, physical damage to the property of the **Supplier**, its officers, employees or agents, (including any claim by another **User** connecting at the same substation) and (b) in respect of the liability of the **Supplier** to any other person for loss in respect of physical damage to the property of any person, in each case as a consequence of **The Company** acting contrary to an accurate and appropriate instruction from the **Supplier** to **Deenergise** the **Non-Embedded Customer's Connection Site**;

3.6.9.5 Save for any matters arising from or in connection with the negligent act or omission or default of **The Company**, its officers, employees or agents, the **Supplier** shall indemnify **The Company** against (a) all actions, proceedings, costs, demands, claims, expenses, liability, loss or damage arising from, or incurred by **The Company** as a consequence of, physical damage to the property of **The Company**, its officers, employees or agents, and (b) in respect of the liability of **The Company** to any other person for loss in respect of physical damage to the property of any person, in each case as a consequence of acting in reliance on any instructions given by the **Supplier** to **The Company** to **Deenergise** the **Non-Embedded Customer's Connection Site** which are materially inaccurate or misleading;

and

3.6.9.6 Where the **Supplier** requests **The Company** to **Deenergise** a single point of connection that is both a **Grid Supply Point** and a **Grid Entry Point**, the **Supplier** shall also indemnify **The Company** against all actions, proceedings, costs, demands, claims, expenses, liability, loss or damage made against or incurred or suffered by **The Company** and resulting directly from such **Deenergisation** howsoever arising (including any claim by another **User** connecting at the same substation) except insofar as such actions, proceedings, costs, demands, claims, expenses, liability, loss or damage arise from the negligent act or omission or default of **The Company**, its officers, employees or agents.

Downstream Parties

3.6.9.7 A **Non- Embedded Customer** shall provide its **Supplier** on request and as soon as is reasonably practicable with the details of any **Downstream Parties** including (but not limited to) contact names, addresses, email addresses, and telephone numbers.

3.6.9.8 Prior to a **Supplier** instructing **The Company** to **Deenergise** the **Non Embedded Customer's Connection Site(s)** under Paragraph 3.6.9.1:

(i) (a) the **Supplier** shall request the **Non-Embedded Customer** to confirm within 48 hours of such request that the details supplied under Paragraph 3.6.9.7, remain correct and/or provide updated details for any **Downstream Parties**, and where such details had been supplied by the **Non-Embedded Customer** to the **Supplier** within the preceding **10 Business Days**, the **Supplier** may, whilst making this request, in parallel and without delay give notice to arrange the meeting described in (b), below;

(b) where there are **Downstream Parties** (other than **Downstream Parties** that are **Affiliates** of the **Non-Embedded Customer**), the **Supplier** shall, giving not less than 48 hours' notice, arrange a meeting between the **Supplier**, the **Non-Embedded Customer**, those **Downstream Parties** and **The Company** to discuss the impact of the **Deenergisation** and whether an agreement to avoid the **Deenergisation** and resulting impact on those **Downstream Parties** can be reached to the reasonable satisfaction of the **Supplier** (acting reasonably); and

(c) the **Supplier** shall not issue its **Deenergisation** instruction to **The Company** within 72 hours (or such longer period, determined by the **Supplier** from time to time, at their sole discretion, and notified to the attendees of any meeting held under (b)) from the commencement of any meeting held under (b).

(ii)

Section 11 Changes - Definitions inserted / amended under 11.3:

Downstream Party	a third party connected to a **Non-Embedded Customer's System**
Affiliate	in relation to **The Company** (and in relation to Paragraphs ~~3.6.9.7,~~ 3.6.9.8, and 6.14 and 8A.4.2.2, any **User**) means any holding company or subsidiary of **The Company** (or the **User** as the case may be) or any subsidiary of a holding company of **The Company** (or the **User** as the case may be), in each case within the meaning of sections 736, 736A and 736B of the Companies Act 1985 as substituted by section 144 of the Companies Act 1989;

WACM4
Section 3 Changes:

3.6.9 SUPPLIER DEENERGISATION OF NON-EMBEDDED CUSTOMERS

3.6.9.1 Where the **Supplier** supplying the **Connection Site** satisfies **The Company** (acting reasonably) that it has the right to discontinue the **Supply** to the **Connection Site** under the terms of its **Supply Agreement** or the **Act** and the network configuration is such that it is necessary to **Deenergise** the **Non-Embedded Customer's Connection Site** to achieve this and the **Supplier** instructs **The Company** to **Deenergise** the **User's Equipment** at the **Connection Site** to give effect to this, **The Company** shall, to the extent that it may lawfully do so, as soon as reasonably practicable **Deenergise** the **Non-Embedded Customer's Connection Site** (unless **The Company** considers that it is not reasonably practicable, whether on technical grounds or otherwise, to effect such **Deenergisation,** in which case it will provide its reasoning to the **Supplier** at the earliest practicable opportunity) and if it does **Deenergise**, shall promptly notify the **Supplier** of the date and time at which such **Deenergisation** was effected. The **Supplier** shall reimburse **The Company** any expense incurred in relation to such **Deenergisation**, if any, and shall indemnify **The Company** against any costs, liability, loss or damage suffered by **The Company** as a result of such **Deenergisation**.

3.6.9.2 **The Company** shall **Reenergise** the **User's Equipment** at the **Connection Site** as soon as reasonably practicable after the circumstances leading to **Deenergisation** under Paragraph 3.6.9.1 have ceased to exist.

Downstream Parties

3.6.9.3 A **Non- Embedded Customer** shall provide its **Supplier** on request and in any event as soon as is reasonably practicable with the details of any **Downstream Parties** including (but not limited to) contact names, addresses, email addresses, and telephone numbers.

3.6.9.4 Prior to a **Supplier** instructing **The Company** to **Deenergise** the **Non Embedded Customer's Connection Site(s)** under Paragraph 3.6.9.1:

(a) the **Supplier** shall ask the **Non-Embedded Customer** to confirm within 48 hours of such request that the details supplied under Paragraph 3.6.9.3, remain correct and/or provide updated details for or of any **Downstream Parties**, and where such details had been supplied by the **Non-Embedded Customer** to the **Supplier** within the preceding **10 Business Days**, the **Supplier** may, whilst making this request, in parallel and without delay give notice to arrange the meeting described in (b), below;

(b) where there are **Downstream Parties** (other than **Downstream Parties** that are **Affiliates** of the **Non-Embedded Customer**), the **Supplier** shall**,** giving not less than 48 hours' notice, arrange a meeting between the **Supplier**, the **Non-Embedded Customer**, those **Downstream Parties** and **The Company**, to discuss the impact of the **Deenergisation** and whether an agreement to avoid the **Deenergisation** and resulting impact on those **Downstream Parties** can be reached to the reasonable satisfaction of the **Supplier** (acting reasonably); and

(c) The **Supplier** shall not issue its **Deenergisation** instruction to **The Company** within 72 hours (or such longer period, determined by the **Supplier** from time to time, at their sole discretion, and notified to the attendees of any meeting held under (b)) from the commencement of any meeting held under (b).

Section 11 Changes - Definitions inserted / amended under 11.3:

Downstream Customer	A third party connecting to a **Non-Embedded Customer's System**
Affiliate	in relation to **The Company** (and in relation to Paragraphs ~~3.6.9.7,~~ 3.6.9.4, and 6.14 and 8A.4.2.2, any **User**) means any holding company or subsidiary of **The Company** (or the **User** as the case may be) or any subsidiary of a holding company of **The Company** (or the **User** as the case may be), in each case within the meaning of sections 736, 736A and 736B of the Companies Act 1985 as substituted by section 144 of the Companies Act 1989;

WACM 5
Section 3 Changes:

3.6.9 SUPPLIER DEENERGISATION OF NON-EMBEDDED CUSTOMERS

(iii) 3.6.9.1 Where the **Supplier** supplying the **Connection Site** satisfies **The Company** (acting reasonably) that it has the right to discontinue the **Supply** to the **Connection Site** under the terms of its **Supply Agreement** or the **Act** and the configuration is such that it is necessary to **Deenergise** the **Non-Embedded Customer's Connection Site** to achieve this and the **Supplier** instructs **The Company** to **Deenergise** the **User's Equipment** at the **Connection Site** to give effect to this, **The Company** shall, to the extent that it may lawfully do so, as soon as reasonably practicable **Deenergise** the **Non-Embedded Customer's Connection Site** (unless **The Company** considers that it is not reasonably practicable, on technical grounds, to effect such **Deenergisation** in which case it will provide its reasoning to the **Supplier** at the earliest practicable opportunity) and if it does **Deenergise**, shall promptly notify the **Supplier** of the date and time at which such **Deenergisation** was effected. The **Supplier** shall reimburse **The Company** any expense incurred in relation to such **Deenergisation**, if any, and shall, except where and to the extent that it is a result of the negligent act or omission or default of **The Company** indemnify **The Company** against any costs, liability, loss or damage suffered by **The Company** as a result of such **Deenergisation** provided that such liability shall not exceed £5million per event or series of related events~~, unless such liability is a result of the negligent act or omission or default of **The Company**~~. **The Company** shall indemnify the **Supplier** against any costs, liability, loss or damage suffered by the **Supplier** as a result of the negligent act or omission or default of **The Company** in undertaking such **Deenergisation** provided that such liability shall not exceed £5million per event or series of related events.

3.6.9.2 **The Company** shall **Reenergise** the **User's Equipment** at the **Connection Site** as quickly as practicable after the circumstances leading to deenergisation under Paragraph 3.6.9.1 have ceased to exist.

Downstream Parties

3.6.9.3 A **Non- Embedded Customer** shall provide its **Supplier** on request and in any event as soon as is reasonably practicable with the details of any **Downstream Parties** including (but not limited to) contact names, addresses, email addresses, and telephone numbers.

3.6.9.4 Prior to a Supplier instructing **The Company** to **Deenergise** the **Non Embedded Customer's Connection Site(s)** under Paragraph 3.6.9.1:

(a) the **Supplier** shall request the **Non-Embedded Customer** to confirm within 48 hours of such request that the details supplied under Paragraph 3.6.9.3, remain correct and/or provide updated details for any **Downstream Parties**, and where such details had been supplied by the **Non-Embedded Customer** to the **Supplier** within the preceding **10 Business Days**, the **Supplier** may, whilst making this request, in parallel and without delay give notice to arrange the meeting described in (b), below;

(b) where there are **Downstream Parties** (other than **Downstream Parties** that are **Affiliates** of the **Non-Embedded Customer**), the

Supplier shall**,** giving not less than 48 hours' notice, arrange a meeting between the **Supplier**, the **Non-Embedded Customer**, those **Downstream Parties** and **The Company**, to discuss the impact of the **Deenergisation** and whether an agreement to avoid the **Deenergisation** and resulting impact on those **Downstream Parties** can be reached to the reasonable satisfaction of the **Supplier** (acting reasonably); and

(c) The Supplier shall not issue its **Deenergisation** instruction to **The Company** within 72 hours (or such longer period, determined by the **Supplier** from time to time, at their sole discretion, and notified to the attendees of any meeting held under (b)) from the commencement of of any meeting held under (b).

Section 11 Changes - Definitions inserted / amended under 11.3:

Downstream Customer	a third party connected to a **Non-Embedded Customer's System**
Affiliate	in relation to **The Company** (and in relation to Paragraphs ~~3.6.9.7~~, 3.6.9.4, and 6.14 and 8A.4.2.2, any **User**) means any holding company or subsidiary of **The Company** (or the **User** as the case may be) or any subsidiary of a holding company of **The Company** (or the **User** as the case may be), in each case within the meaning of sections 736, 736A and 736B of the Companies Act 1985 as substituted by section 144 of the Companies Act 1989;

Annex 6 – Panel Recommendation on Urgency to Authority

White House,
24 Upper West Street,
Reigate,
Surrey
RH2 9BU
Home: 01737 242960
Mobile Telephone Number: 07770 341581
e-mail: miketoms53@btinternet.com

Abid Sheikh
Industry Codes Manager
Ofgem
By email
30th October 2015

Dear Abid

CUSC Modifications Panel Views on Urgency for CMP254 'Addressing discrepancies in disconnection / de-energisation remedies'

On 22nd October 2015, EDF Energy raised CMP254, with a request for the proposal to be treated as an Urgent CUSC Modification Proposal. The CUSC Modifications Panel ("the Panel") considered CMP254 and the associated request for urgency at the CUSC Modifications Panel meeting held on 30th October 2015. This letter sets out the views of the Panel on the request for urgent treatment and the procedure and timetable that the Panel recommends.

Request for Urgency
The Panel considered the request for urgency with reference to Ofgem's Guidance on Code Modification Urgency Criteria. The unanimous view of the Panel is that CMP254 SHOULD be treated as an Urgent CUSC Modification Proposal.

- There are questions and issues that need to be considered by a Workgroup

In the discussion, members of the Panel also noted concerns over granting urgency, set out below;

- Using an urgent process holds an inherent risk of unintended consequences, which may arise due to there being insufficient time for all aspects of a Modification Proposal to be considered;

Procedure and Timetable
Having decided to recommend urgency to Ofgem, the Panel discussed an appropriate process for CMP254. The Panel agreed that CMP254 would require a Workgroup and subject to Ofgem's decision on Urgency should follow a reduced timetable as set out below;

Please do not hesitate to contact me if you have any questions on this letter or the proposed process and timetable. I look forward to receiving your response.

Yours sincerely

Michael Toms
CUSC Panel Chair

Appendix: Proposed timetable

22nd October 2015	CUSC Modification Proposal and request for Urgency submitted
30th October 2015	CUSC Panel considers Proposal and request for Urgency
30th October 2015	Request for Workgroup members (3 Working days)
30th October 2015	Panel's view on urgency submitted to Ofgem for consideration
3rd November 2015	Ofgem view on urgency provided
5th November 2015	Workgroup meeting 1
9th November 2015	Workgroup meeting 2
11th November 2015	Workgroup Consultation issued (5 Working days)
18th November 2015	Deadline for responses
20th November 2015	Workgroup meeting 3
24th November 2015	Workgroup report issued to CUSC Panel
25th November 2015	Workgroup report presented to CUSC Panel (special meeting)
25th November 2015	Code Administrator Consultation issued (5 Working days)
2nd December 2015	Consultation closes
3rd December 2015	Draft FMR published for industry comment
4th December 2015	Deadline for comments
7th December 2015	Draft FMR issued to Panel
8th December 2015	Panel Recommendation Vote
8th December 2015	Final FMR circulated for Panel comment
9th December 2015	Deadline for Panel comment
10th December 2015	Final report sent to Authority for decision
16th December 2015	Indicative Authority Decision due
17th December 2015	Implementation Date

Annex 7 – Authority response to Panel recommendation on Urgency

Making a positive difference
for energy consumers

Mike Toms
CUSC Panel Chair
c/o National Grid Electricity
Transmission plc
National Grid House
Warwick Technology Park
Gallows Hill
Warwick CV34 6DA

Direct Dial: 0141 341 3979
Email: Catherine.williams@ofgem.gov.uk

Date: 5 November 2015

Dear Mr Toms,

CUSC Modifications Panel request for urgency for CMP254: *'Addressing discrepancies in disconnection/de-energisation remedies'*

On 22 October 2015, EDF Energy (the Proposer) raised Connection and Use of System Code (CUSC) Modification Proposal CMP254. CMP254 seeks to amend the CUSC by inserting a provision that would allow Suppliers to request National Grid Electricity Transmission plc to undertake or, in conjunction with other transmission licensees, facilitate the disconnection/de-energisation of transmission-connected customers. The Proposer requested that CMP254 be progressed on an urgent timetable. The CUSC Modifications Panel (the Panel) considered CMP254 at its meeting on 30 October 2015.

Following its meeting, the Panel wrote to us requesting that CMP254 should be treated as an urgent modification proposal and submitted a proposed timetable for urgent treatment.

This letter sets out our decision ***rejecting*** the request for urgency.

Background to the proposal

The Electricity Act 1989 provides that a Supplier (subject to certain conditions) can disconnect a customer if it fails to pay its debt. If this customer is connected at a higher voltage, special skills may be required to disconnect or de-energise them. As a result, where the customer is connected to higher voltage parts of the distribution network, the Supplier is able to use the industry rules to request that the Distribution Network Operator (DNO) de-energises the customer on the Supplier's behalf, through provisions in the Distribution Connection and Use of System Agreement ("DCUSA").

For transmission connected customers, the Proposer believes that the skills to disconnect or de-energise customers in the event a customer fails to pays its debt will lie with employees of the transmission companies and not the Supplier. The Proposer therefore suggests that there should be specific provisions within the CUSC to mirror those in the DCUSA. This would allow Suppliers to request NGET to undertake or facilitate the de-energisation of transmission-connected customers on its behalf.

In the proposal, the terms 'de-energisation' and 'disconnection' have both been used. However, we understand from the Proposer that the proposed amendment to the CUSC relates to de-energisation rather than disconnection.

The proposal

CMP254 seeks to update the CUSC with a provision to allow Suppliers to request the transmission companies to undertake or facilitate de-energising a customer on their behalf, thereby reflecting similar provisions within the DCUSA for de-energising distribution-connected customers.

The Proposer suggests that, if the lack of a provision is not addressed, Suppliers will be unwilling to supply non-embedded customers or will do so on an advanced-payment, and perhaps premium terms. An increased cost to suppliers could therefore lead to an increased cost to customers due to pass through of risk premium or credit requirements.

EDF Energy requested urgent treatment for the proposal as the lack of a provision within the CUSC, to de-energise non-embedded customers, can lead to significant commercial impacts on suppliers.

Panel Discussion

The Panel discussed the modification, CMP254, at its meeting on the 30th October 2015. The unanimous view of the Panel was that CMP254 should be treated as Urgent. The Panel did, however, note that using an urgent process holds an inherent risk of unintended consequences which may arise due to there being insufficient time for all aspects of a Modification Proposal to be considered.

Our Views

In reaching our decision, we have considered the details contained within the proposal, the Proposer's justification for urgency and the views of the Panel. Subsequent to the Panel meeting, we have also had representation from large industrial users regarding the timetable for the proposed modification. We have also assessed the request against the urgency criteria set out in Ofgem's published guidance[1], in particular whether it is:

Linked to an imminent issue or a current issue that if not urgently addressed may cause:

a) ***a significant commercial impact on parties, consumers or other stakeholder(s)***

From a Supplier's point of view, we recognise that there is a need for this issue to be resolved promptly due to the potential commercial impact on them. However, we also agree with the Panel that progressing CMP254 on an urgent timetable could increase the risk of unintended consequences without proper consideration of the modification. In addition, we have concerns about the ability of large users connected to the transmission network to participate fully in the process if CMP254 is progressed on an urgent timetable. As these users are directly impacted by this modification, in our view it is important that these users are given an opportunity to engage appropriately with the modification process.

Since the modification was proposed, large users, who were not represented on the Panel, have expressed their concern over the speed of the timetable and the fact that it may prevent them being involved.

On balance therefore, our view is that the increased risk of unintended consequences associated with an urgent timetable, and the potential lack of engagement of certain key stakeholder groups with the Workgroup phase if this timetable is adopted, outweighs the benefits of proceeding with it. We therefore *reject* the request for urgency.

We do recognise that there could be a commercial impact on multiple CUSC parties and there is a need, from a Supplier's point of view, to reach a decision on this modification

[1] Our guidance document can be found here: https://www.ofgem.gov.uk/ofgem-publications/61726/ofgem-guidance-code-modification-urgency-criteria.pdf

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quickly. As such, we consider that an accelerated standard timetable, providing sufficient time for all stakeholders, including large users, to be engaged in the process will provide an appropriate balance between these two competing issues. As part of an accelerated standard timetable, we consider that, at a minimum, 15 working days is an appropriate period in which to consult with stakeholders during the Workgroup phase.

For the avoidance of doubt, in rejecting this request for urgency, we have made no assessment of the merits of the modification proposal and nothing in this letter in any way fetters the discretion of the Authority in respect of this modification proposal.

Yours sincerely,

Catherine Williams

Head of Commercial Regulation and System Operator

Duly authorised on behalf of the Authority

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