



National Grid

AMENDMENT REPORT

CUSC Proposed Amendment CAP044

Extension of Election Arrangements to Panel Alternates

The purpose of this report is to assist the Authority in their decision of whether to implement Amendment Proposal CAP044

Amendment Ref	CAP044
Issue	1.0
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Prepared by	National Grid

I DOCUMENT CONTROL**a National Grid Document Control**

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0.1	17/3/03	National Grid	Draft for internal comment
0.2	19/3/02	National Grid	Draft for Industry comment
1.0	26/3/03	National Grid	Formal Version for submission to the Authority

b Document Location

Nation Grid Website:

<http://www.nationalgrid.com/uk/indinfo/cusc>

c Distribution

Name	Organisation
The Gas and Electricity Markets Authority	Ofgem
CUSC Parties	Various
Panel Members	Various
National Grid Industry Information Website	

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1.0 SUMMARY AND RECOMMENDATION

- 1.1 CAP044 was proposed by National Grid and submitted to the Amendments Panel for consideration at their meeting on 22nd November 2002. The Amendments Panel determined that CAP044 should be considered by the Governance Standing Group acting as a Working Group. The Working Group provided an initial report to the Panel on 13th December 2002. The Panel agreed that the Working Group should continue to consider an Alternative Amendment and provide a final report to the Panel on 21st February. The Panel decided that National Grid should proceed to industry consultation. The period of consultation closed on 12th March.
- 1.2 CAP044 proposes to extend the current election arrangements for Resigning Panel Members set out in Annex 8A of the CUSC to Resigning Alternate Members which would also become a new defined term in the CUSC. The Working Group developed an Alternative Amendment which attracted majority support from Working Group Members. The Alternative Amendment proposes nomination of Alternate Members by all Users in the event of Resigning Panel Alternates and selection by the Panel.
- 1.3 National Grid received five responses to the CAP044 consultation document, four of which supported the Alternative Amendment. The remaining Respondent (CAP044-CR-02) did not support either CAP044 or the Alternative Amendment put forward by the Working Group and instead proposed a further Alternative Amendment which proposes that nominations are invited from all Users and if more nominations are received than vacancies than an election will be held. This further Alternative Amendment is based on one of the options originally considered by the CAP044 Working Group. That option did not receive wide support within the Working Group compared to the option that comprised the Alternative Amendment put forward by the Working Group. The Alternative Amendment put forward by the Working Group is hereinafter referred to as Alternative Amendment (A) and the Alternative Amendment put forward by the respondent in CAP044-CR-02 is referred to as Alternative Amendment (B).

National Grid Recommendation

- 1.4 National Grid recommends that CAP044 Alternative Amendment (A) be approved for implementation.
- 1.5 It is recommended that the CUSC be modified in line with the Alternative Amendment 10 days after the Authority's decision.

2.0 PURPOSE AND SCOPE OF THE REPORT

- 2.1 This Amendment Report has been prepared and issued by National Grid under the rules and procedures specified in the Connection and Use of System Code (CUSC) as designated by the Secretary of State. It addresses issues relating to extension of the existing Election Arrangements to Alternate Members contained in Annex 8A of the CUSC.
- 2.2 Further to the submission of Amendment Proposal CAP044 (see Annex 1) and the subsequent wider industry consultation that was undertaken by National Grid, this document is addressed and furnished to the Gas and Electricity Markets Authority ("the Authority") in order to assist them in their

decision whether to implement Amendment Proposal CAP044 or any Alternative Amendment .

- 2.3 This document outlines the nature of the CUSC changes that are proposed. It incorporates National Grid's recommendations to the Authority concerning the Amendment. Copies of all representations received in response to the consultation have been also been included and a 'summary' of the representations received is also provided. Copies of each of the responses to the consultation are included as Annex 3 to this document.
- 2.4 This Amendment Report has been prepared in accordance with the terms of the CUSC. An electronic copy can be found on the National Grid website, at <http://www.nationalgrid.com/uk/indinfo/cusc>

3.0 THE PROPOSED AMENDMENT

- 3.1 CAP044 seeks to amend Annex 8A.4 to make it clear that the election arrangements currently in place to cater for "Resigning Panel Members" also applies to "Resigning Alternate Members". "Resigning Alternate Members" would also become a new defined term in the CUSC. The CUSC Amendments Panel agreed in principle at its meeting on 25 October that the fact that the CUSC does not deal with the problem of "Resigning Alternate Members" is a defect in the current Code which requires a solution.
- 3.2 The Proposer, National Grid, argued that the amendment to Annex 8A.4 to extend election arrangements currently applying in the event of Resigning Panel Members also to Resigning Alternate Members would improve efficiency in the amendment procedures. It would ensure that National Grid could more efficiently discharge its obligations in the amendment process by reducing the likelihood of inquorate CUSC Amendments Panel meetings as well as improving the choice of Alternate Members available to Panel Members in the event that they were unable to attend Panel meetings.
- 3.3 The amended CUSC text to give effect to CAP044 is contained in Annex 1, Part A.

Working Group Discussions

- 3.4 The CUSC Amendments Panel decided that the Governance Standing Group should consider CAP044 as a Working Group and report back to the Panel. In accordance with their Terms of Reference the Working Group considered the National Grid Proposal CAP044 and also developed and considered Alternative Amendment (A) which is described in this report.
- 3.5 The Applicable CUSC Objectives are defined within Condition C7F of the Transmission Licence as:
- (a) in relation to a proposed modification of the modification procedures, the requirements of paragraph 6 (to the extent that they do not conflict with the objectives set out in paragraph 1); and
 - (b) in relation to any other proposed modification, the objectives set out in paragraph 1.
- 3.6 The objectives detailed in paragraph 1 are the efficient discharge by the licensee of the obligations under the Act and licence and to facilitate

competition in the generation and supply of electricity and where consistent facilitating competition in the sale, distribution and purchase of electricity.

- 3.7 In relation to this Amendment Proposal, the Working Group agreed that the objectives of (a) above (i.e. Paragraph 6 of the Transmission Licence), is the relevant objective against which this Amendment Proposal should be judged when deciding whether they are better facilitated. In summary paragraph 6 requires the licensee to establish and operate procedures to modify the CUSC itself in order to better facilitate the Applicable CUSC Objectives and therefore the amendment proposal must better facilitate this process so that the broader objectives of facilitating competition can be achieved.
- 3.8 The Working Group considered that it was important to note that the Proposer, National Grid, had identified a defect discussed at earlier Panel meetings and had proposed one solution for correcting the deficiency. From the outset of the group's discussions, it had been apparent that there was a variety of possible mechanisms for addressing the defect, and the Proposer was supportive of the desire to explore the options against stated criteria that fit with the Applicable CUSC Objectives.
- 3.9 Five possible solutions were identified and explored by the Working Group:
- A - The original Amendment Proposal, based on a partial election by CUSC parties who voted for alternates who have vacated the alternate role ("partial solution")
 - B - Election based on a poll of all eligible CUSC parties ("full election")
 - C - Co-option of alternates by the Panel
 - D - Co-option of alternates by the Panel following calls for nominations for candidates from CUSC Parties
 - E - More frequent elections, say annual, which might have the effect of reducing the erosion of the pool of alternates.

Each of the possible approaches received support from at least one Working Group member as the basis for its further evaluation.

Evaluation criteria

- 3.10 In addition to the Applicable Objective described in Paragraph 6 of Condition C7F of the Transmission Licence, which relates to the efficiency of the CUSC amendment procedures, the GSG considered that some more specific evaluation criteria should be adopted to guide its deliberations. Whilst these cannot of course hold precedence over the objective in Paragraph 6 of Condition C7F, they nonetheless enable a more detailed assessment of the options. They are:
- enables practicality/workability (i.e.: the solution will work whatever happens to the market structure);
 - facilitates linkage with voting parties (though not accountability as the role of an Alternate is explicitly non representational); and
 - minimises unnecessary complexity.

Against these criteria each GSG member except the chairman was asked to state a preference or preferences for one or more of the five options.

- 3.11 The options received support as follows:

Option	Member 1	Member 2	Member 3	Member 4	Member 5	Member 6
A					✗	
B	✗					
C		✗		✗	✗	
D	✗	✗	✗		✗	✗
E						✗

Overall, most members of the group felt that co-option was the best route but with more support for the option based on the variant whereby CUSC parties are asked for initial nominations (Option D). Based on its deliberations, the Working Group agreed to develop an Alternative Amendment based on nomination/co-option (i.e. Option D) in its report.

- 3.12 The Group anticipated that the number and strength of consultation responses would be a useful indicator to the Authority about the balance of interest amongst the CUC Parties regarding this issue.

Working Group Conclusions

- 3.13 The majority of Working Group Members supported the evaluation approach described in this Report. However one Working Group Member indicated in response to the initial draft of the Working Group Report that he might want to change the ranking of the options set out in the table in paragraph 3.11 above in the light of the intention of the election arrangements and the ability for them to work in all situations, without giving unintended powers to unrepresentative or inappropriate groups. After further discussion with the Working Group Member the Working Group agreed that an Alternative Amendment based on Option D was still the choice of the Group on a majority basis.

4.0 IMPLEMENTATION AND TIMESCALES

- 4.1 CAP044 and Alternative Amendments (A) & (B) do not have a material impact outside the scope of the CUSC. It is proposed that implementation takes place with effect from 10 days after the Authority's decision.

5.0 IMPACT ON THE CUSC

- 5.1 The Proposed Amendment and the Alternative Amendments (A) & (B) would require amendment to Annex 8A of the CUSC. There is no impact on any other part of the CUSC.
- 5.2 The text required to give effect to the Proposed Amendment and the Alternative Amendments (A) & (B) is contained at Annex 2 of this document.

6.0 ASSESSMENT AGAINST APPLICABLE CUSC OBJECTIVES

- 6.1 The terms of the Transmission Licence require National Grid to establish and operate procedures for the modification of the CUSC, including the modification procedures themselves, so as to better facilitate achievement of the Applicable CUSC Objectives. The Proposed Amendment addresses a defect in the CUSC. The Proposed Amendment will enable National Grid to more efficiently discharge its obligations under Paragraph 1 (a) of Condition C7F of the Transmission Licence.

7.0 IMPACT ON CUSC PARTIES

- 7.1 No impact has been identified on CUSC Parties from the Proposed Amendment or of the Alternative Amendments (A) & (B) detailed in this document.

8.0 IMPACT ON CORE INDUSTRY DOCUMENTS

- 8.1 Neither the Proposed Amendment nor the Alternative Amendments (A) & (B) will have an impact on Core Industry Documents or other industry documentation.

9.0 ALTERNATIVE AMENDMENTS

- 9.1 Alternative Amendment (A) was put forward by the CAP044 Working Group as described in Paragraphs 3.4 - 3.13 above. Alternative Amendment (B) was put forward by respondent CAP044-CR-02 during the industry consultation on CAP044.

Assessment Against Applicable CUSC Objectives

- 9.2 The terms of the Transmission Licence require National Grid to establish and operate procedures for the modification of the CUSC, including the modification procedures themselves, so as to better facilitate achievement of the Applicable CUSC Objectives. Alternative Amendments (A) & (B) address the same defect in the CUSC that CAP044 was designed to address. Both Alternative Amendments (A) & (B) will therefore enable National Grid to more efficiently discharge its obligations under Paragraph 1 (a) of Condition C7F of the Transmission Licence.

10.0 VIEWS AND REPRESENTATIONS

- 10.1 This Section contains a summary of the views and representations made by consultees during the consultation period in respect of the Proposed Amendment.

Summary of Views of Panel Members

- 10.2 No formal responses to the CAP044 Consultation were received from Amendments Panel members. However, during discussions of CAP044 at Panel meetings, Panel members supported the Proposer's view and that of the CAP044 Working Group that the Proposed Amendment addressed a defect in the CUSC.

View of Industry Document Owners

- 10.3 No responses to the CAP044 Consultation have been received from Core Industry Document Owners.

Responses to Consultation

- 10.4 The following table provides an overview of the representations received. Copies of the representations are attached as Annex 3.

Reference	Company	Supportive	Comments
CAP044-CR-01	Scottish Power Generation Limited & ScottishPower Energy Retail Limited	No	Respondent supports Alternative Amendment (A) and refers to "housekeeping" change for 8A.4.3.3

CAP044-CR-02	British Gas Trading Limited	No	Respondent supports Alternative Amendment (B)
CAP044-CR-03	British Energy plc	No	Respondent supports Alternative Amendment (A)
CAP042-CR-04	Powergen UK plc	No	Respondent supports Alternative Amendment (A)
CAP042-CR-05	EDF	No	Respondent supports Alternative Amendment (A)

- 10.5 National Grid received a total of five responses to the industry consultation on CUSC Amendment Proposal CAP044. All the respondents supported the principle behind the Proposed Amendment, but four supported the Alternative Amendment (A) as a more effective way of facilitating achievement of the Applicable CUSC Objectives. One respondent (CAP044-CR-01) suggested that CAP044 may either not provide sufficient nominees or hints at selective nomination and that this should be avoided, even though Panel Members and Alternates act impartially under CUSC. The respondent believed that Alternative Amendment (A) should ensure both provision of a sufficient pool of nominees and avoid any perception of selective nomination. This respondent also noted that the current text in the CUSC includes a numbering inconsistency - Paragraph 8A.4.3.1 is followed by 8A.4.3.3. Correction of this inconsistency will be the subject of a future "housekeeping" amendment. One respondent (CAP044-CR-03) noted that Alternative Amendment (A) represents a pragmatic and relatively simple solution which can be implemented early to provide a "top up" mechanism for the pool of Alternates both now and in the future. This respondent also referred to a broader review of election arrangements and the provision of an audit report on the 2001 CUSC Panel election. National Grid is pursuing these issues in consultation with the Governance Standing Group and the Amendments Panel.
- 10.6 One respondent (CAP044-CR-02) did not support either the Proposed Amendment or Alternative Amendment (A) and proposed Alternative Amendment (B). The respondent agreed that there was a defect that should be addressed in that there were no arrangements described in the CUSC for replacing a Panel Alternate if there are less than 5 such Alternates available. However, the respondent argued that the replacement process should be in the hands of the electorate (in this case Users), that it should be capable of application at any time whatever the structure of the market and should be reasonably simple to administer.
- 10.7 The respondent's preference is that parties whose votes were cast for the resigning member or were cast for an unsuccessful nominee should be the only parties to be allowed to vote in this case as all other parties original votes are still "valid". However, the respondent argues that this may have consequences if there have been changes in market structure whereby the relevant companies no longer exist, or where there are unfilled vacancies where this obviously wouldn't work. The respondent does not support the principle whereby all Panel members, which they believe would include National Grid, Ofgem etc. would have a say in the appointment of Members representing Users. Against this background the respondent recognises that Option B as identified by the CAP044 Working Group and described in this report is probably the most realistic solution i.e. nominations are invited from all Users and if more nominations are received than vacancies then a full election be held. For other vacancies, the respondent believes that when National Grid are notified of any nomination they should respond by inviting other nominations and proceed as above.

- 10.8 The respondent believed that the whole election process for CUSC Panel members could be improved as some of the shortcomings of the arrangements described above also apply to Panel members. The respondent felt that these concerns should be addressed before the next round of Elections is held (Summer 2003).
- 10.9 The respondent in CAP044-CR-02 indicated that "We do not support the principle whereby all Panel Members, which would include: NGC, Ofgem etc. would have a say in the appointment of Members representing Users." National Grid believes that Ofgem would not participate in the selection process envisaged in Alternative Amendment (A). Alternative Amendment (A) allows for selection of a replacement Alternate Member by the Amendments Panel "in accordance with the provisions of Paragraph 8.10...." (Voting). It is National Grid's interpretation of Section 8 of the CUSC that the Authority's representative is entitled to attend the CUSC Amendments Panel and speak as an observer but may not vote. The Authority's representative would not therefore participate in any selection arrangement under Alternative Amendment (A). The Authority may wish to comment further on this point in its Decision on CAP044. National Grid agrees with the respondent that under Alternative Amendment (A), National Grid would be entitled to a vote in the selection process (only one vote under Paragraph 8.10.5). However, If the occasion arose National Grid would be prepared to give an undertaking to waive its right to vote.

11.0 NATIONAL GRID RECOMMENDATION

- 11.1 National Grid recommends that Alternative Amendment (A) should be implemented. National Grid originally proposed CAP044 but agrees with the majority of the CAP044 Working Group and the majority of respondents to the industry consultation that Alternative Amendment (A) is a more sensible and pragmatic solution to the defect that exists in the CUSC. While National Grid does not disagree with the arguments put forward by the respondent in CAP044-CR-02 in opposition to CAP044 and Alternative Amendment (A), on balance it does not believe that Alternative Amendment (B) meets the sensible and pragmatic additional criteria correctly identified by the CAP044 Working Group compared to Alternative Amendment (A).
- 11.2 Alternative Amendment (B) would require that nominations (and if necessary elections) for replacements for resigning Alternate Members would apply at any time whereas for resigning Panel Members the nominations (and if necessary elections) will not apply if replacement is for less than six months. In National Grid's view this introduces unnecessary complexity into arrangements for replacement of resigning Alternate Members when they do not apply to resigning Panel Members.
- 11.3 The CUSC currently only provides for those Users who voted for a Resigning Panel Member (or Users who did not vote for and are not affiliates of any User which voted for any elected Panel Member still serving) to participate in the replacement process where this will be for less than six months. For a replacement period of less than six months the User who nominated the Resigning Panel Member can appoint a replacement.
- 11.4 National Grid accepts that, while exact replication of the arrangements for replacing Resigning Panel Members and Resigning Panel Alternates (as proposed in CAP044) is a possible approach, it is also unnecessarily complex. The arrangements for replacing resigning Panel Alternates in

Alternate Amendment (A) are more pragmatic and sensible given the relatively minor nature of the defect in the CUSC that is addressed here and would better facilitate achievement of the Applicable CUSC Objectives.

- 11.5 National Grid notes that a review of elections arrangements has recently been the subject of consideration by the Governance Standing Group and report to the CUSC Amendments Panel. However, National Grid believes that CAP044 deals with a defect in the CUSC that can be addressed separately from this wider review. National Grid has therefore adopted an approach that assesses CAP044 and the Alternative Amendments (A) & (B) on their merits in the context of the current CUSC.

12.0 COMMENTS ON THE DRAFT AMENDMENT REPORT

- 12.1 National Grid received two responses containing comments on the draft Amendment Report. Copies are contained at Annex 4 to this report.
- 12.2 The respondent (CAP044-AR-01) had originally put forward Alternative Amendment (B) during the industry consultation. The respondent made comments on Paragraphs 10.9 and 11.5 of the draft Amendment Report and the legal drafting for Alternative Amendment (B). National Grid discussed Paragraphs 10.9 and 11.5 and the legal drafting for Alternative Amendment (B) further with the respondent and the outcome is reflected below and in this final version of the Amendment Report.
- 12.3 Concerning Paragraph 10.9, in CAP044-AR-01 the respondent considers that, were the Authority minded to implement Alternative Amendment (A), then National Grid, Ofgem and Energywatch should give an undertaking indicating whether or not they would waive their rights to vote in such circumstances before any formal approval. Consistent with its undertaking in Paragraph 10.9 above National Grid would be prepared to give such an undertaking. The current Energywatch Representative on the Panel has given National Grid an informal view that Energywatch would similarly be prepared to waive its vote should the Authority be minded to implement Alternative Amendment (A). As indicated in Paragraph 10.9 above the Authority may wish to comment on its own position in the Decision on CAP044.
- 12.4 Concerning Paragraph 11.5, National Grid agreed several changes with the respondent that are now reflected in the Paragraph in this final version of the report. National Grid also notes the respondent's comment in CAP044-AR-01 expressing disappointment at the lack of progress by the GSG established under the CUSC Panel in the review of the election process as per their Terms of Reference provided by the Panel.
- 12.5 Concerning the legal drafting for Alternative Amendment (B), the respondent subsequently clarified his concern to National Grid. The respondent noted that the new Paragraph 8.4.4.1 in the legal drafting in the draft Amendment Report referred back to the provisions in existing Paragraph 8A.2.1.2 which in turn referred to existing Paragraph 8A.1.1.3. Paragraph 8A.1.1.3 makes reference to a list of Users for the purposes of an election "who are Users as at 20th June in the election year." The respondent's concern was therefore that, should the Authority approve Alternative Amendment (B), the list of Users to be employed in any election following the resignation of an Alternate Member would not be the list of current Users, which was not the intention of his Alternative Amendment. National Grid accepts this point and has amended the legal drafting for Alternate Amendment (B) in consultation with the respondent to include a change to Paragraph 8A.1.1.3 that will ensure

that a list of Users employed for any election is valid at the time the Resigning Alternate Member ceases to hold office. National Grid notes that currently in CUSC, any elections for replacements for Resigning Panel Members would employ a list of Users as at 20th June in the election year and similar arguments for employing a more recent list for this purpose could be made and even a case for including Resigning Panel Members in Alternative Amendment (B). This issue was discussed with the Proposer of Alternative Amendment (B) and as a result National Grid has not included a reference to Resigning Panel Members in the legal drafting. In National Grid's view this should probably be the subject of a separate Amendment Proposal as CAP044 only deals with the defect identified in the CUSC in respect of replacements for Resigning Alternate Members.

- 12.6 The respondent in CAP044-AR-02, a Panel Member, commented in relation to Paragraph 10.9 of the Report, relating to CUSC Paragraph 8.10 (voting). The respondent indicated that if the voting arrangements for the selection of a replacement Alternate Member are to be that specified in the CUSC Paragraph 8.10, then Panel Members would be required to determine the issue impartially, as opposed to simply appointing a replacement for a person originally appointed by Users. In these circumstances it would seem appropriate for National Grid to waive its right to vote because the impartiality requirements of CUSC 8.2.4.1 do not apply to the person exercising the NGC vote. This issue is discussed in Paragraphs 10.9 and 12.3 above.

ANNEX 1 – AMENDMENT PROPOSAL FORM

CUSC Amendment Proposal Form	CAP044
Title of Amendment Proposal: Extension of Election Arrangements to Panel Alternates.	
Description of the Proposed Amendment (mandatory by proposer): This amendment proposes that the election arrangements contained in Annex 8A.4 relating to "Resigning Panel Members" should be extended to include Resigning Panel Alternates which should also become a defined term in the CUSC.	
Description of Issue or Defect that Proposed Amendment seeks to Address (mandatory by proposer): The Proposal to amend Annex 8A.4 to makes it clear that the election arrangements currently in place to cater for "Resigning Panel Members" also applies to "Resigning Alternate Members". "Resigning Alternate Members" would also become a new defined term in the CUSC. The CUSC Amendments Panel agreed in principle at its meeting on 25 October that the fact that the CUSC does not deal with the problem of "Resigning Alternate Members" is a lacuna in the current Code which requires a solution.	
Impact on the CUSC (this should be given where possible): Annex 8A.4 of the CUSC would require amendment to give effect to the change proposed. The draft text to give effect to this proposal is contained in Annex 1.	
Impact on Core Industry Documentation (this should be given where possible): None.	
Impact on Computer Systems and Processes used by CUSC Parties (this should be given where possible): None.	
Details of any Related Modifications to Other Industry Codes (where known): None.	
Justification for Proposed Amendment with Reference to Applicable CUSC Objectives** (mandatory by proposer): The terms of the Transmission Licence require National Grid to establish and operate procedures for the modification of the CUSC, including the modification procedures themselves, so as to better facilitate achievement of the Applicable CUSC Objectives. Amendment to Annex 8A.4 to extend election arrangements currently applying in the event of Resigning Panel Members also to Resigning Alternate Members would improve efficiency in the amendment procedures. It would ensure that National Grid could more efficiently discharge its obligations in the amendment process by reducing the likelihood of inquorate CUSC Amendments Panel Meetings as well as improving the choice of Alternate Members available to Panel Members in the event that they were unable to attend Panel meetings.	
Details of Proposer: Organisation's Name	National Grid Company plc

Capacity in which the Amendment is being proposed: (i.e. CUSC Party, BSC Party or "energywatch")	CUSC Party
Details of Proposer's Representative: Name: Organisation: Telephone Number: Email Address:	Andy Balkwill National Grid Company plc 024 76423198 andy.balkwill@uk.ngrid.com
Details of Representative's Alternate: Name: Organisation: Telephone Number: Email Address:	Emma Groves National Grid Company plc 024 76423053 emma.groves@uk.ngrid.com
Attachments (Yes/No): Yes If Yes, Title and No. of pages of each Attachment: Attachment 1 – Draft Text to give effect to proposal. One page.	

Notes:

- Those wishing to propose an Amendment to the CUSC should do so by filling in this "Amendment Proposal Form" that is based on the provisions contained in Section 8.15 of the CUSC. The form seeks to ascertain details about the Amendment Proposal so that the Amendments Panel can determine more clearly whether the proposal should be considered by a Working Group or go straight to wider National Grid Consultation.
- The Panel Secretary will check that the form has been completed, in accordance with the requirements of the CUSC, prior to submitting it to the Panel. If the Panel Secretary accepts the Amendment Proposal form as complete, then he will write back to the Proposer informing him of the reference number for the Amendment Proposal and the date on which 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, then he may reject the Proposal. The Panel Secretary will inform the Proposer of the rejection and report the matter to the Panel at their next meeting. The Panel can reverse the Panel Secretary's decision and if this happens the Panel Secretary will inform the Proposer.

The completed form should be returned to:

Richard Dunn
Panel Secretary
Commercial Development
National Grid Company plc
National Grid House
Kirby Corner Road
Coventry, CV4 8JY
Or via e-mail to: CUSC.Team@uk.ngrid.com

(Participants submitting this form by email will need to send a statement to the effect that the proposer acknowledges that on acceptance of the proposal for consideration by the Amendments Panel, a proposer which is not a CUSC Party shall grant a licence in accordance with Paragraph 8.15.7 of the CUSC. A Proposer that is a CUSC Party shall be deemed to have granted this Licence).

3. Applicable CUSC Objectives** - These are defined within the National Grid Company Transmission Licence under Section C7F, paragraph 15. Reference should be made to this section when considering a proposed amendment.

ANNEX 2 – PROPOSED TEXT TO MODIFY CUSC

Part A – Text to give effect to the Proposed Amendment (Proposed by National Grid)

Change Marked Version

ANNEX 8A ELECTION OF USER'S PANEL MEMBERS

8A.4. VACANCIES

8A.4.1 General

8A.4.1.1 If a **Panel Member** (the "Resigning" Panel Member) or an Alternate Member (the "Resigning" Alternate Member) ceases to hold office pursuant to Paragraph 8.5:

- (a) not less than 6 months before the expiry of the term of his office, Paragraph 8A.4.2 shall apply.
- (b) less than 6 months before the expiry of the term of his office, Paragraph 8A.4.3 shall apply.

8A.4.1.2 The provisions of Paragraph 8A.2.1.2 shall apply, mutatis mutandis, to any replacement **Panel Member** or Alternate Member under this Paragraph 8A.4.

8A.4.2 Replacement for not less than 6 months

8A.4.2.1 Where this Paragraph 8A.4.2 applies, a replacement **Panel Member** or Alternate Member shall be elected (for the remainder of the term of office of the **Resigning Panel Member** or Resigning Alternate Member) in accordance with Paragraph 8A.2 and 8A.3 but subject to the further provisions of this Paragraph 8A.4.2.

8A.4.2.2 Only those Users who voted for the **Resigning Panel Member** or Resigning Alternate Member, or who did not vote for (and are not Affiliates of any User which voted for) any elected **Panel Member** or Alternate Member still serving, shall participate in the election by nominating candidates or submitting voting papers.

8A.4.2.3 **NGC** shall circulate to all **Users** a list of the **Users** who are to participate in the election.

8A.4.2.4 For the purposes of this Paragraph 8A.4.2 a **User** is considered (in any election of Users' **Panel Members** and Alternate Members) to have voted for an elected candidate where that **User** indicated a **Preference Vote** in favour of that candidate which was counted (under the first or second or third voting round or further round under Paragraph 8A.3.6, as the case may be) in electing that candidate.

8A.4.2.5 The timetable for the election shall be expedited and **NGC** shall prepare a timetable accordingly.

8A.4.3 Replacement for less than 6 months

8A.4.3.1 Where this Paragraph 8A.4.3 applies, the User which nominated the **Resigning Panel Member** or Resigning Alternate Member shall be entitled (by notice to **NGC**) to appoint a replacement **Panel Member** or Alternate Member for the remainder of the term of office of the **Resigning Panel Member** or Resigning Alternate Member.

8A.4.3.3 If such **User** does not appoint a replacement, the position shall remain vacant until the next full election.

11.3 DEFINITIONS

"Resigning Alternate Member" as defined in Paragraph 8A.4.1

Clean Version**ANNEX 8A ELECTION OF USER'S PANEL MEMBERS****8A.4. VACANCIES****8A.4.1 General**

8A.4.1.1 If a **Panel Member** (the "**Resigning**" **Panel Member**) or an **Alternate Member** (the "**Resigning**" **Alternate Member**) ceases to hold office pursuant to Paragraph 8.5:

- (c) not less than 6 months before the expiry of the term of his office, Paragraph 8A.4.2 shall apply.
- (d) less than 6 months before the expiry of the term of his office, Paragraph 8A.4.3 shall apply.

8A.4.1.2 The provisions of Paragraph 8A.2.1.2 shall apply, mutatis mutandis, to any replacement **Panel Member** or **Alternate Member** under this Paragraph 8A.4.

8A.4.2 Replacement for not less than 6 months

8A.4.2.1 Where this Paragraph 8A.4.2 applies, a replacement **Panel Member** or **Alternate Member** shall be elected (for the remainder of the term of office of the **Resigning Panel Member** or **Resigning Alternate Member**) in accordance with Paragraph 8A.2 and 8A.3 but subject to the further provisions of this Paragraph 8A.4.2.

8A.4.2.2 Only those Users who voted for the **Resigning Panel Member** or **Resigning Alternate Member**, or who did not vote for (and are not Affiliates of any User which voted for) any elected **Panel Member** or **Alternate Member** still serving, shall participate in the election by nominating candidates or submitting voting papers.

8A.4.2.3 **NGC** shall circulate to all **Users** a list of the **Users** who are to participate in the election.

8A.4.2.4 For the purposes of this Paragraph 8A.4.2 a **User** is considered (in any election of Users' **Panel Members** and **Alternate Members**) to have voted for an elected candidate where that **User** indicated a **Preference Vote** in favour of that candidate which was counted (under the first or second or third voting round or further round under Paragraph 8A.3.6, as the case may be) in electing that candidate.

8A.4.2.5 The timetable for the election shall be expedited and **NGC** shall prepare a timetable accordingly.

8A.4.3 Replacement for less than 6 months

8A.4.3.1 Where this Paragraph 8A.4.3 applies, the User which nominated the **Resigning Panel Member** or **Resigning Alternate Member** shall be entitled (by notice to **NGC**) to appoint a replacement **Panel Member** or **Alternate Member** for the remainder of the term of office of the **Resigning Panel Member** or **Resigning Alternate Member**.

8A.4.3.3 If such **User** does not appoint a replacement, the position shall remain vacant until the next full election.

11.3 DEFINITIONS

"Resigning Alternate Member" as defined in Paragraph 8A.4.1

Part B – Text to give effect to the Alternative Amendment (A)
(Proposed by the CAP044 Working Group)**Change Marked Version**

8A.4.1.3 If an **Alternate Member** (the "**Resigning**" **Alternate Member**) ceases to hold office pursuant to Paragraph 8.5 at any time, **NGC** shall as soon as practicable circulate to all **Users** (by publication on the **NGC Website** and, where relevant details are supplied, by electronic mail), and a copy to the **Authority**, an invitation to nominate candidates who must be willing to be an **Alternate Member**. **NGC** shall notify the **Amendments Panel** at the next appropriate regular meeting of the nominations it receives and the **Amendments Panel** shall decide, in accordance with the provisions of Paragraph 8.10, on the candidate who should replace the **Resigning Alternate Member** (for the remainder of the term of office of the **Resigning Alternate Member**). The **Panel Secretary** shall give prompt notice to all **Panel Members**, all **CUSC Parties** and the **Authority** of the appointment of any **Alternate Member** under the arrangements described in this Paragraph.

8A.4.1.4 For the avoidance of doubt, the provisions of Paragraph 8.6 of the **CUSC** shall apply to any **Alternate Member** appointed under the arrangements described in Paragraph 8A.4.1.3 as if he were appointed under the election arrangements described in this Annex 8A.

11.3 DEFINITIONS

"Resigning Alternate Member" as defined in Paragraph 8A.4.1.3

Clean Version

- 8A.4.1.3** If an **Alternate Member** (the "**Resigning**" **Alternate Member**) ceases to hold office pursuant to Paragraph 8.5 at any time, **NGC** shall as soon as practicable circulate to all **Users** (by publication on the **NGC Website** and, where relevant details are supplied, by electronic mail), and a copy to the **Authority**, an invitation to nominate candidates who must be willing to be an **Alternate Member**. **NGC** shall notify the **Amendments Panel** at the next appropriate regular meeting of the nominations it receives and the **Amendments Panel** shall decide, in accordance with the provisions of Paragraph 8.10, on the candidate who should replace the **Resigning Alternate Member** (for the remainder of the term of office of the **Resigning Alternate Member**). The **Panel Secretary** shall give prompt notice to all **Panel Members**, all **CUSC Parties** and the **Authority** of the appointment of any **Alternate Member** under the arrangements described in this Paragraph.
- 8A.4.1.4** For the avoidance of doubt, the provisions of Paragraph 8.6 of the CUSC shall apply to any **Alternate Member** appointed under the arrangements described in Paragraph 8A.4.1.3 as if he were appointed under the election arrangements described in this Annex 8A.

11.3 DEFINITIONS

"**Resigning Alternate Member**" as defined in Paragraph 8A.4.1.3

**Part C– Text to give effect to the Alternative Amendment (B)
(Proposed by British Gas Trading)****Change Marked Version****ANNEX 8A ELECTION OF USERS' PANEL MEMBERS**

8A.1.1.3 For the purposes of an election under Paragraph 8A.1.1.2(a) references to **Users** are to persons who are **Users** as at 20th June in the election year. For the purposes of an election under Paragraph 8A.4.4 references to **Users** are to persons who are **Users** at the date that the relevant **Resigning Alternate Member** ceases to hold office pursuant to Paragraph 8.5.

8A.4.4 Replacement of "Resigning" Alternate Members

8A.4.4.1 If an **Alternate Member** (the **Resigning Alternate Member**) ceases to hold office pursuant to Paragraph 8.5 the provisions of Paragraph 8A.2.1.2 shall apply, mutatis mutandis, to any replacement **Alternate Member** under this Paragraph 8A.4.4

8A.4.4.2 A replacement **Alternate Member** shall be elected (for the remainder of the term of office of the **Resigning Alternate Member** in accordance with Paragraph 8A.2 and 8A.3 but subject to the further provisions of this Paragraph 8A.4.4.

8A.4.4.3 **NGC** shall circulate to all **Users** a list of the **Users** who are to participate in the election.

8A.4.4.4 The timetable for the election shall be expedited and **NGC** shall prepare a timetable accordingly.

11.3 DEFINITIONS

"Resigning Alternate Member" as defined in Paragraph 8A.4.4

Clean Version**ANNEX 8A ELECTION OF USERS' PANEL MEMBERS**

8A.1.1.3 For the purposes of an election under Paragraph 8A.1.1.2(a) references to **Users** are to persons who are **Users** as at 20th June in the election year. For the purposes of an election under Paragraph 8A.4.4 references to **Users** are to persons who are **Users** at the date that the relevant **Resigning Alternate Member** ceases to hold office pursuant to Paragraph 8.5.

8A.4.4 Replacement of "Resigning" Alternate Members

8A.4.4.1 If an **Alternate Member** (the **Resigning Alternate Member**) ceases to hold office pursuant to Paragraph 8.5 the provisions of Paragraph 8A.2.1.2 shall apply, mutatis mutandis, to any replacement **Alternate Member** under this Paragraph 8A.4.

8A.4.4.3 A replacement **Alternate Member** shall be elected (for the remainder of the term of office of the **Resigning Alternate Member** in accordance with Paragraph 8A.2 and 8A.3 but subject to the further provisions of this Paragraph 8A.4.4.

8A.4.4.5 **NGC** shall circulate to all **Users** a list of the **Users** who are to participate in the election.

8A.4.4.7 The timetable for the election shall be expedited and **NGC** shall prepare a timetable accordingly.

11.3 DEFINITIONS

"Resigning Alternate Member" as defined in Paragraph 8A.4.4

ANNEX 3 – COPIES OF REPRESENTATIONS RECEIVED TO CONSULTATION

This Annex includes copies of any representations received following circulation of the Consultation Document (circulated on 24th February 2003 requesting comments by close of business on 12th March 2003).

Representations were received from the following parties:

No.	Company	File Number
1	Scottish Power Generation Limited & ScottishPower Energy Retail Limited	CAP044-CR-01
2	British Gas Trading Limited	CAP044-CR-02
3	British Energy plc	CAP044-CR-03
4	Powergen UK plc	CAP044-CR-04
5	EDF Trading Ltd and EDF (Generation)	CAP044-CR-05

Reference	CAP044-CR-01
Company	Scottish Power Generation Limited & ScottishPower Energy Retail Limited

CUSC Amendment Consultation

To: Richard Dunn
Commercial
National Grid Company plc
National Grid House
Kirby Corner Road
Coventry CV4 8JY

12th March 2003

CAP044: Extension of Election Arrangements to Panel Alternates

Dear Richard,

Many thanks for the opportunity to consider the consultation document in respect of CUSC Amendment Proposal CAP044. This response is provided on behalf of Scottish Power Generation plc and ScottishPower Energy Retail Limited.

CAP044 seeks a relatively straightforward change to the CUSC. There will always be a risk that Alternate Panel members may resign or cease to hold office at any time during the two years between Panel elections. It seems sensible to have a mechanism to allow new Alternate members to be appointed as there would otherwise be a risk to the Panel's activities, particularly if meetings were not quorate.

The main question raised by CAP044 is the method of appointment. The Original Amendment, providing for nomination of new Alternate members from a limited group of CUSC Parties, viz. those who voted for the resigning Alternate member or did not vote at all, may either not provide sufficient nominees or hints at selective nomination. This should be avoided, even though Panel members and Alternates act impartially under the CUSC. It is sensible to adopt the approach in the Alternative Amendment allowing all CUSC Parties to nominate Alternate members, with subsequent co-option of Alternate members by the Panel. This should ensure both provision of a sufficient pool of nominees and avoids any perception of selective nomination.

We agree that CAP044 Alternative meets the Applicable CUSC Objective enabling NGC to more efficiently discharge its obligations under its Licence.

We agree that the legal drafting is appropriate for the Alternative. We have a small housekeeping change to make to the legal drafting of the Original if it is approved, viz. "8A.4.3.3" should be "8A.4.3.2".

If you wish to discuss the content of this response, please do not hesitate to contact me.

Yours sincerely,

Abid Sheikh

Commercial Analyst (0141 568 3113)

Reference	CAP044-CR-02
Company	British Gas Trading Limited



energy management group

National Grid Company plc
National grid House
Kirby Corner Road
Coventry
CV4 8JY

Charter Court
50 Windsor Road
Slough
Berkshire
SL1 2HA

Tel. (01753) 758051
Fax (01753) 758368
Our Ref. G: cusc
Your Ref.

For the Attention of Richard
Dunn - Commercial

26 March 2003

Dear Richard,

Re: CAP044 – Extension of Election Arrangements to Panel Alternates

Thank you for the opportunity to comment on this Amendment Proposal (AP). British Gas (BGT) agrees that there is a flaw with the current CUSC wording in this area, but does not support the AP or the Alternative as we do not believe that either of them is the best solution. We would therefore propose that the following be raised as an Alternative Proposal.

BGT agree that since there are no arrangements described in CUSC as to how Panel Alternates are replaced or added if there are less than 5 such members available there is a deficiency in the Code that needs rectifying. However, BGT believe that the replacement process should be in the hands of the affected parties (in this case Users), that it should be capable of applying at any time, whatever the structure of the market and should be reasonably simple to administer.

The preference should be that parties whose votes were cast for the resigning member or were cast for an unsuccessful nominee should be the only parties to be allowed to vote in this case as all other parties original votes are still "valid". However, this may have consequences if there have been changes in market structure whereby the relevant companies no longer exist, or where there are unfilled vacancies where this obviously wouldn't work. We do not support the principle whereby all Panel members, which would include; NGC, Ofgem etc. would have a say in the appointment of Members representing Users. Against this background it is recognised that Option B as described in the report is probably the most realistic solution ie. nominations are invited from all Users and if more nominations are received than vacancies then an election be held. For other vacancies, when NGC are notified of any nomination they should respond by inviting other nominations and proceed as above.

BGT believes that the whole election process for CUSC Panel members could be improved as some of the shortcomings of the arrangements described above also apply to Panel members. We believe that these concerns should be addressed before the next round of Elections is held.

Should you wish to discuss any of our comments further, please do not hesitate to contact me.

Yours sincerely,

Simon Goldring
Transportation Manager

Reference	CAP044-CR-03
Company	British Energy plc

12th March 2003



Richard Dunn
Commercial
The National Grid Company plc
Kirby Corner Road
COVENTRY
CV4 8JY

Dear Richard,

CUSC Consultation Document CAP044:
Extension of Election Arrangements to Panel Alternates

In consideration of the above CAP, we would advise that we SUPPORT the principle of the proposed amendment but believe that the Alternative Amendment better facilitates achievement of the Applicable CUSC Objectives compared with both the existing CUSC and the original Amendment Proposal.

As the Working Group discussed and noted, there are a potential host of solutions which could be developed to remedy the defect and therefore any one solution could be equally effective. On balance, and in support of the Alternative Amendment, the 'co-option' solution of industry-nominated candidates, which is subject to a majority vote of those Panel Members eligible to vote, represents a pragmatic and relatively simple solution which can be implemented early to provide a 'top-up' mechanism for the pool of Alternates both now and in the future. We note too that any Alternate appointed in this manner will have the same rights and protection provisions afforded as any other member which is an important safeguard.

We would observe that whilst the CUSC Panel appears to have been satisfied that the CAP044 Working Group has discharged its specific responsibilities identified in their Terms of Reference, the broader 'election' review by an Elections Standing Group, as agreed by the Panel at their 22nd November meeting, has not yet occurred. Subject to the conclusions of such a review, recommendations for further amendments may be made to the election process, and therefore resolution to the issue raised by CAP044 should be a pragmatic 'fit for purpose' solution, which is satisfied by the Alternative Amendment.

We would also record here that we understand that NGC have been asked to provide an audit report on the 2001 CUSC Panel election and associated processes. Such a report should be made publicly available to inform any wider review process and assist with the forthcoming industry elections. It is recognised however, that the opportunity to conduct a review, propose, consult and implement any formal amendment proposals prior to the 1st July, being the start of the election timetable as specified in CUSC 8A.1.2.1, has probably now been lost.

If you have any queries associated with this response, please do not hesitate to contact me to discuss further

Yours faithfully,

Steve Phillips

Senior Trading Consultant
Market Development
Power & Energy Trading

Reference	CAP044-CR-04
Company	PowerGen plc

Christiane Sykes
Trading Arrangements



Richard Dunn
Commercial
National Grid Company plc
National Grid House
Kirby Corner Road
Coventry
CV4 8JY

10th March 2003
Reference **CAP044 Extension of Election Arrangements to Panel Alternates**

Dear Richard

Thank you for the opportunity offered to Powergen to respond to National Grid's consultation document on the Extension of Election Arrangements to Panel Alternates.

Powergen are in favour of the alternative amendment proposal applying option D of co-option of alternates by the Panel following calls for nominations for candidates from CUSC Parties. This option appears to offer the most transparent and open process for electing panel alternates and is line with the terms of the Transmission Licence in improving efficiency in the amendment procedures.

We look forward to the implementation of the modification in the near future.

Yours sincerely,

Christiane Sykes.

Reference	CAP044-CR-05
Company	EDF Trading Ltd and EDF (Generation)

From: Steve Drummond [Steve.Drummond1@btopenworld.com]

Sent: 12 March 2003 20:34

To: Dunn, Richard

Cc: nick.taylor@edftrading.com; Philippe Gaillet; nick.frydas@edftrading.com

Subject: CUSC - CAP044 Consultation (Extension of Election Arrangements to Panel Alternates)

Richard, Further to the request to respond to the CAP044 Consultation document as given on the National Grid CUSC website

<http://www.nationalgridinfo.co.uk/cusc/amendments.asp?id=29>

<<http://www.nationalgridinfo.co.uk/cusc/amendments.asp?id=29>>

Please accept on behalf of EDF Trading Ltd and EdF (Generation) our support for Option D for co-opting Alternate Members to the CUSC Panel. Adoption of this proposal would address the current omission in the CUSC and therefore better meet the CUSC Objectives. Kind regards Steve Drummond UK Market Adviser to EDFT

ANNEX 4 – COPIES OF COMMENTS RECEIVED ON THE DRAFT AMENDMENT REPORT

This Annex includes copies of any representations received following circulation of the Draft Amendment Report (circulated on 19th March 2003 requesting comments by close of business on 25th March 2003).

Representations were received from the following parties:

No.	Company	File Number
1	British Gas Trading Limited	CAP044-AR-01
2	David Lane - Panel Member, Clear Energy	CAP044-AR-02

Reference	CAP044-AR-01
Company	British Gas Trading Limited

From: Goldring, Simon [Simon.Goldring@centrica.co.uk]
Sent: 24 March 2003 11:33
To: 'richard.dunn@uk.ngrid.com'
Cc: Lane, Danielle; Sequeira, Brian; Manley, Mark
Subject: Re: CAP044 - Amendment Report

Richard,

Further to the draft report I offer the following comments:

10.9 - Your note confirms our position that only user representatives should be allowed to vote. I note that NGC are prepared to give an undertaking that they would not vote, but the position in respect of Ofgem is only supposition and energywatch would also fall into the same category. If Ofgem were minded to approve Alternative A, then we would recommend that an undertaking were provided by NGC, Ofgem and energywatch before any formal approval.

11.5 - BGT have submitted their response in the context of CAP044 ie the lack of a process to replace Alternate Panel members NOT in the context of a complete improvement of the Panel election processes. We therefore believe that Alternative B is not only better than the status quo, but is better than Alternative A. We would also note that we are disappointed at the lack of progress by the GSG in the review of the election process as per the Terms of Reference provided by the Panel.

Legal Drafting - The legal drafting does not reflect our intended proposal. Whilst it would be preferable that only the disenfranchised voters were allowed to vote, recognising that this might lead to an ineffective process, the intention was that all registered users be allowed to make nominations and to participate in any subsequent election.

Should you wish to clarify any of these points please do not hesitate to contact me.

Regards
Simon Goldring

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Reference	CAP044-AR-02
Company	David Lane - Panel Member, Clear Energy

From: David Lane [David@clearenergy.co.uk]
Sent: 25 March 2003 14:42
To: richard.dunn@uk.ngrid.com
Subject: RE: CAP044: Draft Amendment Report - Panel Member Comments

Richard

I wish to comment on paragraph 10.9 of the Report, relating to CUSC Paragraph 8.10 (voting):

If the voting arrangements for the selection of a replacement Alternate Member are to be that specified in CUSC Paragraph 8.10, then Panel Members would be required to determine the issue impartially, as opposed to simply appointing a replacement for a person originally appointed by Users. In these circumstances, it would seem appropriate for NGC to waive its right to vote because the impartiality requirements of CUSC Paragraph 8.2.4.1 do not apply to the person exercising the NGC vote.

Subject to the above, having read the Report, I believe it has addressed all the issues as required by Paragraph 8.20.2 of the CUSC.

Regards
David Lane
CUSC Amendments Panel Member
ClearEnergy
01761 451668
07720 716259