


# CMP323


**Mod Title:** Updating the CUSC governance process to ensure we capture the EBGL change process for Article 18 Terms and Conditions (T&Cs)


01	Proposal Form
02	Code Administrator Consultation
03	Draft CUSC Modification Report
04	Final CUSC Modification Report







**Purpose of Modification:** To ensure that the governance process for making future changes to the European Balancing Guidelines (EBGL) Article 18 (A18) T and Cs that are found in the CUSC incorporates the amendment process as laid out in EBGL Article 6 (A6) and Article (A10).

	<p>The purpose of this document is to consult on CMP323 with CUSC Parties and other interested industry members. Parties are requested to respond by 5pm on 8 April 2020 to <a href="mailto:cusc.team@nationalgrideso.com">cusc.team@nationalgrideso.com</a> using the Code Administrator Consultation Response Pro-forma which can be found via the following link:</p> <p><a href="https://www.nationalgrideso.com/codes/connection-and-use-system-code-cusc/modifications/updating-cusc-governance-process-ensure-we">https://www.nationalgrideso.com/codes/connection-and-use-system-code-cusc/modifications/updating-cusc-governance-process-ensure-we</a></p> <p><b>Published on: 18 March 2020</b></p> <p><b>Length of Consultation: 15 Working Days</b></p> <p><b>Responses by: 8 April 2020</b></p>
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	<b>High Impact:</b> N/A
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	<b>Medium Impact:</b> N/A
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	<b>Low Impact:</b> Code Governance team at National Grid ESO; industry parties raising Modifications
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Timetable		 07976 940 855
<b>The Code Administrator recommends the following timetable:</b>		Proposer: John Welch
Code Administrator Consultation	18 March 2020 to 8 April 2020	 John <a href="mailto:John.Welch@nationalgrideso.com">Welch@nationalgrideso.com</a>
Draft Final Modification Report issued to Panel	16 April 2020	
Modification Panel decision	24 April 2020	National Grid ESO Representative: Jon Wisdom
Final Modification Report issued to the Authority	6 May 2020	 <a href="mailto:Jon.Wisdom@nationalgrideso.com">Jon.Wisdom@nationalgrideso.com</a>
Decision implemented in CUSC	25 June 2020	

## Proposer Details

<b>Details of Proposer:</b> (Organisation Name)	John Welch National Grid ESO
Capacity in which the CUSC Modification Proposal is being proposed: (i.e. CUSC Party, BSC Party or "National Consumer Council")	National Grid Electricity System Operator
<b>Details of Proposer's Representative:</b> Name: Organisation: Telephone Number: Email Address:	John Welch National Grid Electricity System Operator  <a href="mailto:John.Welch@nationalgrideso.com">John.Welch@nationalgrideso.com</a>
<b>Details of Representative's Alternate:</b> Name: Organisation: Telephone Number: Email Address:	Jon Wisdom National Grid Electricity System Operator  <a href="mailto:Jon.Wisdom@nationalgrideso.com">Jon.Wisdom@nationalgrideso.com</a>
<b>Attachments (Yes/No):</b> <b>If Yes, Title and No. of pages of each Attachment:</b>	

## Impact on Core Industry Documentation.

*Please mark the relevant boxes with an "x" and provide any supporting information*

<b>BSC</b>	
<b>Grid Code</b>	
<b>STC</b>	
<b>Other</b>	

(Please specify) - No impacts because of this Modification

## 1 About this document

CMP323 was proposed by National Grid ESO and was submitted to the CUSC Modifications Panel for its consideration on 27 September 2019. The Panel concluded that they were unable to determine the governance route for this Modification and requested that the Proposer provide further clarity and re-present at the October CUSC Panel.

On 25 October 2019, CMP323 was re-presented to the Panel. The Panel, by majority, agreed that the Modification should proceed to Code Administrator Consultation but agreed to delay this until the related BSC and Grid Code Modification Workgroups had been held to ensure there is process alignment across the Codes and the legal text has been agreed.

CMP323 seeks to ensure that the governance process for making future changes to the European Balancing Guidelines (EBGL) Article 18 (A18) T and Cs that are found in the CUSC incorporates the amendment process as laid out in EBGL Article 6 (A6) and Article (A10).

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 ESO website <https://www.nationalgrideso.com/codes/connection-and-use-system-code-cusc/modifications/updating-cusc-governance-process-ensure-we> along with the CUSC Modification proposal form.

## 2 Summary

### Defect

The CUSC needs to incorporate the EBGL change process laid out in A6 and A10 of EBGL, for future amendments to A18 T and Cs for Balancing Service Providers (BSPs) and Balancing Responsible Parties (BRPs). This was currently proposed to be implemented by National Grid ESO for 4 April 2020. Ofgem have now confirmed that they expect that all conditions listed in their letter from 8 October 2019 should be fulfilled by 25 June 2020 at the latest.

Currently NGESO or the Authority are the only parties able to raise a change to the A18 T and Cs, which this means all other CUSC parties raising Modifications will not be able to raise an A18 change proposal necessary for parts of the CUSC that are identified as being part of the A18 T and Cs. Updating the CUSC Governance process will ensure the EBGL process is followed and the modification process remains clear and impact is minimised for industry.

### What

Updates need to be made to ensure that when future changes are made to the A18 T and Cs that are found in the CUSC, the correct procedure is followed as laid out in EBGL.

In addition:

- Any Workgroup Consultation must be open for 1-month and all consultation responses received must be responded to by National Grid ESO, with justification as to why they will be considered or not.
- A draft EBGL A18 proposal must be also raised during the CUSC modification process;
- There must be a process to ensure that any send back by the Authority goes back through the whole EBGL amendment process; and
- CUSC Modifications raised that affect the A18 T and Cs will have to go to the Authority for a decision so Self Governance cannot be an option in these circumstances.

## Why

We need to make this change to ensure that we remove the risk of the EBGL process not being followed and ensure the modification process remains as efficient and inclusive for all parties to the Code.

## How

By making changes to the CUSC Governance Rules we can capture the necessary changes, which will ensure the EBGL process is followed.

## 3 Governance

This Modification will follow the standard governance process and proceed to Code Administrator Consultation as these are administrative changes to the CUSC Governance Rules only.

## 4 Why Change?

Making this change will ensure that we are compliant with EU law and the correct processes are followed.

- We need to make this change to minimise the risk of the EBGL process not being followed. EBGL A6 and A10 lay out the procedure that must be followed when making changes to the A18 T and Cs for BSPs and BRPs.
- Some of these T and Cs are found in the CUSC and the current Governance Rules do not meet the requirements under EBGL - namely there is no 1-month workgroup consultation or responsibility on National Grid ESO to feedback justification against consultation responses.
- There is no process which recognises that an EBGL draft proposal needs raising or allows other CUSC parties to do so.
- There is currently no process to ensure all Modifications go to the Authority or for capturing send back from the Authority.

## 5 Code Specific Matters

### Technical Skillsets

Understanding of Code Governance processes and EBGL (specifically requirements in Articles 6, 10 and 18).

### Reference Documents

EBGL guidelines

[https://www.entsoe.eu/network\\_codes/eb/](https://www.entsoe.eu/network_codes/eb/)

CUSC Governance Rules

<https://www.nationalgrideso.com/document/91381/download>

## 6 Solution

By making changes to the section of the CUSC Governance Rules we can capture the necessary changes, which will ensure the EBGL process is followed, and ensure that all CUSC Parties can raise changes to the A18 T and Cs held within the CUSC.

## 7 Impacts & Other Considerations

**Does this modification impact a Significant Code Review (SCR) or other significant industry change projects, if so, how?**

No.

### Consumer Impacts

None

## 8 Relevant Objectives

Impact of the modification on the Applicable CUSC Objectives (Standard):

Relevant Objective	Identified impact
(a) The efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission Licence;	None
(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;	None

(c) Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency *; and	Positive
(d) Promoting efficiency in the implementation and administration of the CUSC arrangements.	Positive
*Objective (c) refers specifically to European Regulation 2009/714/EC. Reference to the Agency is to the Agency for the Cooperation of Energy Regulators (ACER).	

This proposal positively impacts objectives c and d. Most obviously for c as this proposal is fundamental in ensuring that we capture the EBGL EU regulations and without it we run a high risk of being non-compliant running a process outside of the CUSC framework. It also has a positive impact on administration of the CUSC as it ensures that these processes are captured in the governance rules so that the code can still be managed in an efficient way by the Code Governance team without room for error. Updating the CUSC Governance process will ensure the EBGL process is followed and the modification process remains clear and impact is minimised for industry.

## 9 Implementation

### **Ofgem Decision on the proposed Article 18 terms and conditions related to balancing**

In Ofgem’s decision letter of the 8 October 2019<sup>1</sup> they requested that work is completed for implementation on 4 April 2020.

**Implementation update following original submission of Proposal:** On Thursday 6 February 2020 Ofgem replied to the BSC’s query letter relating to ‘Clarifications on the Authority’s decision of 8 October 2019 on the Electricity System Operator’s proposal for the Terms and Conditions related to balancing’ the Balancing & Settlement Code (BSC) Panel asked Ofgem for “clarification on whether the 4 April 2020 is in itself a condition (or an anticipated date for completion of the conditions)”. Ofgem have now confirmed that they expect that all conditions listed in their letter from 8 October 2019 should be fulfilled by 25 June 2020 at the latest.

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<sup>1</sup> [https://www.ofgem.gov.uk/system/files/docs/2019/10/article\\_18\\_final\\_decision\\_letter\\_-\\_08.10.2019\\_1.pdf](https://www.ofgem.gov.uk/system/files/docs/2019/10/article_18_final_decision_letter_-_08.10.2019_1.pdf)

## 10 Code Administrator Consultation: 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; <https://www.nationalgrideso.com/codes/connection-and-use-system-code-cusc/modifications/updating-cusc-governance-process-ensure-we>

Responses are invited to the following questions;

1. Do you believe that CMP323 better facilitates the Applicable CUSC Objectives? Please include your reasoning.
2. Do you support the proposed implementation approach?
3. Do you have any other comments?

Views are invited on the proposals outlined in this consultation, which should be received by 5pm on 8 April 2020. Please email your formal response to [cusc.team@nationalgrideso.com](mailto:cusc.team@nationalgrideso.com)

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 ESO'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 Legal Text

The Proposer identified that sections of the Governance Rules (Section 8) and the Glossary (Section 11) need to be updated.

Since the Original Proposal was raised, the legal text has been updated to:

- Reflect that the one-month EBGL Article 18 consultation will take place at the Code Administrator Consultation rather than workgroup stage as proposed in the first draft of the text; and
- Reflect discussions in the Grid Code and BSC versions of this Modification, to ensure consistency where appropriate and relevant.

The full legal text is set out in Annex 1.

## 12 Annex 1



## CUSC Drafting for CMP323 – updated March 2020

### 1 CUSC Section 11 (Definitions)

1. The edit to the following definitions at CUSC Section 11 are shown in red.

**EBGL Amendment** means ~~means~~-(a) any amendment to contractual arrangements for the provision of and payment for **Balancing Services** referred to in Section 4.2B5 or (b) any amendment to **CUSC** which amends the **EBGL Article 18 Terms or Conditions** in, as the case may be, such contractual arrangements or **CUSC** including to introduce a new provision for the purposes of Article 18 into, as the case may be, such contractual arrangements or **CUSC**;

**EBGL Article 18 Terms and Conditions** means terms and conditions which have been approved by the **Authority** pursuant to and for the purposes of Article 18 of the **Electricity Balancing Guideline**. In the context of **CUSC** these terms and conditions are identified for convenience in **CUSC** Exhibit Y as such Exhibit Y is amended from time to time.

**Self-Governance Criteria** means a **CUSC Modification Proposal** that, if implemented, (a) is unlikely to have a material effect on: (i) existing or future electricity consumers; and (ii) competition in the generation, distribution, or supply of electricity or any commercial activities connected with the generation, distribution or supply of electricity; and (iii) the operation of the National Electricity Transmission System; and (iv) matters relating to sustainable development, safety or security of supply, or the management of market or network emergencies; and (v) the **CUSC**'s governance procedures or the **CUSC**'s modification procedures, and (b) is unlikely to discriminate between different classes of **CUSC** Parties; c) other than where the modification meets the **Fast Track Criteria** will not constitute an **EBGL Amendment**.

### 2 CUSC Section 4

Edits to Paragraph 2.2B.5 are shown in red.

#### 4.2B.5 EBGL Article 18

Where and to the extent that:-

- (a) contractual arrangements for the provision of and payment for **Balancing Services** which are not set out in **CUSC** contain **EBGL Article 18 Terms and Conditions**;  
and
- (b) an **EBGL Amendment** to such contractual arrangements is proposed which under the **Electricity Balancing Guideline** is subject to consultation and prior approval by the **Authority**,

then, to the extent and from such date as is required by the **Electricity Balancing Guideline**, such **EBGL Amendment** shall be effective only after appropriate consultation and prior approval by the **Authority**. Accordingly, **The Company** shall ensure that the amendment processes contained within such contractual arrangements provide for appropriate consultation and prior approval by the **Authority** before any **EBGL Amendment** becomes effective.

### 3 CUSC Section 8

Edits and additions via CMP 323 are shown in red.

#### 1 Edit CUSC Paragraph 8.1.3 to add (d)

##### 8.1.3 Change Routes

- (a) A **CUSC Modification Proposal** may either proceed directly along the standard **CUSC Modification Process**, or it may be subject to additional process steps, if raised during a **Significant Code Review**.
- (b) If a **CUSC Modification Proposal** is deemed by the **CUSC Modifications Panel** to meet the **Self-Governance Criteria**, it will be subject to a slightly different process.
- (c) If a **CUSC Modification Fast Track Proposal** is determined by the **CUSC Modifications Panel** to meet the **Fast Track Criteria**, it will be subject to the process set out at Paragraph 8.29.
- (d) **an EBGL Amendment will always be a Standard CUSC Modification Proposal unless an Urgent CUSC Modification Proposal or where it meets the Fast Track Criteria.**

#### 2 Edit CUSC Paragraph 8.16.1 to introduce (c)

##### 8.16.1

- (a) A proposal to modify the **CUSC** (excluding the **Charging Methodologies**) may be made:
  - (i) by a **CUSC Party**, by the **Citizens Advice**, by the **Citizens Advice Scotland**, or by a **BSC Party**; or
  - (ii) under Paragraph 8.28.5, by the **CUSC Modifications Panel**;or
  - (iii) by a **Relevant Transmission Licensee** in relation to Exhibit O Part IB Exhibit O Part IIB, Exhibit O Part IC and Exhibit O Part IIC only; or
  - (iv) by the **Authority** or by **The Company** under the direction of the **Authority**, pursuant to Paragraph 8.17A.1.
- (b) A proposal to modify the **Charging Methodologies** may be made:
  - (i) by a **CUSC Party**, by the **Citizens Advice**, by the **Citizens Advice Scotland** or by a **BSC Party**; or
  - (ii) under Paragraph 8.28.5, by the **CUSC Modifications Panel** ;or
  - (iii) by a **Relevant Transmission Licensee** in relation to Exhibit O Part IB, Exhibit O Part IIB, Exhibit O Part IC and Exhibit O Part IIC only; or
  - (iv) by a **Materially Affected Party**, unless otherwise permitted by the **Authority**.
  - (v) by the **Authority**, or by **The Company** under the direction of the **Authority**, pursuant to Paragraph 8.17A.1.

- (c) a proposal which constitutes an **EBGL Amendment** may be made under (a) or (b) above even where not made by **The Company** and the **Authority** may make a proposal under (a) and (b) above to the extent that it constitutes an **EBGL Amendment**.

3 Edit CUSC Paragraph 8.16.4 to introduce (i) and delete “and” at end of (j) and replace “.” at end of (k) with “; and”

8.16.4 A **CUSC Modification Proposal** shall be submitted in writing to the **Panel Secretary** and, subject to the provisions of Paragraph 8.16.4A below, shall contain the following information in relation to such proposal:

- (a) the name of the **Proposer**;
- (b) the name of the representative of the **Proposer** (and his alternate) who shall represent the **Proposer** in person for the purposes of this Paragraph 8.16;
- (c) a description (in reasonable but not excessive detail) of the issue or defect which the proposed modification seeks to address;
- (d) a description (in reasonable but not excessive detail) of the proposed modification and of its nature and purpose;
- (e) where possible, an indication of those parts of the **CUSC** which would require amendment in order to give effect to (and/or would otherwise be affected by) the proposed modification and an indication of the nature of those amendments or effects;
- (f) the reasons why the **Proposer** believes that the proposed modification would better facilitate achievement of the **Applicable CUSC Objectives** as compared with the current version of the **CUSC** together with background information in support thereof;
- (g) the reasoned opinion of the **Proposer** as to why the proposed modification should not fall within a current **Significant Code Review**, whether the proposed modification meets the **Self-Governance Criteria** or whether the proposed modification should proceed along the **Standard CUSC Modification Proposal** route;
- (h) the reasoned opinion of the Proposer as to whether that impact is likely to be material and if so an assessment of the quantifiable impact of the proposed modification on greenhouse gas emissions, to be conducted in accordance with such current guidance on the treatment of carbon costs and evaluation of the greenhouse gas emissions as may be issued by the **Authority** from time to time;
- (i) where possible, an indication of the impact of the proposed modification on **Core Industry Documents** and the **STC**, and an indication of potential inconsistencies between the **CUSC Modification Proposal** and the **Capacity Market Documents** and/or the **CfD Documents**;

- (j) where possible, an indication of the impact of the proposed modification on relevant computer systems and processes used by **CUSC Parties**; and
- (k) a statement to the effect that the **Proposer** acknowledges that on acceptance of the proposal for consideration by the **CUSC Modifications Panel** a **Proposer** which is not a **CUSC Party** shall grant a licence in accordance with Paragraph 8.16.9.

(l) whether or not (and to the extent) that in the **Proposer's** view the **CUSC Modification Proposal** constitutes an **EBGL Amendment**.

*[nb for practical purposes the mod proposal form will be updated to provide for this]*

4 Edit CUSC Paragraph 8.16.7 to introduce (c) and replace “.” at end of (b) with “;”

8.16.7 Promptly upon receipt of a **CUSC Modification Proposal**, the **Panel Secretary** shall:

- (a) allocate a unique reference number to the **CUSC Modification Proposal**;
- (b) enter details of the **CUSC Modification Proposal** on the **CUSC Modification Register**.

(c) note whether in the **Proposer's** view the **CUSC Modification Proposal** constitutes an **EBGL Amendment**.

5 Add the following as CUSC Paragraph 8.18.8A.

## **8.18 CUSC MODIFICATION PROPOSAL EVALUATION**

8.18.1 This Paragraph 8.18 is subject to the **Urgent CUSC Modification Proposals** procedures set out in Paragraph 8.24 and the **Significant Code Review** procedures set out in Paragraph 8.17.

8.18.2 A **CUSC Modification Proposal** shall, subject to Paragraph 8.16.8, be discussed by the **CUSC Modifications Panel** at the next following **CUSC Modifications Panel** meeting convened.

8.18.3 The **Proposer's** representative shall attend such **CUSC Modifications Panel** meeting and the **CUSC Modifications Panel** may invite the **Proposer's** representative to present his **CUSC Modification Proposal** to the **CUSC Modifications Panel**.

8.18.4 The **CUSC Modifications Panel** shall evaluate each **CUSC Modification Proposal** against the **Self-Governance Criteria**.

8.18.5 The **CUSC Modifications Panel** shall follow the procedure set out in Paragraph 8.25 in respect of any **CUSC Modification Proposal** that the **CUSC Modifications Panel** considers meets the **Self-Governance Criteria** unless the **Authority** makes a direction in accordance with Paragraph 8.25.2 and in such a case that **CUSC Modification Proposal** shall be a **Standard CUSC Modification**

**Proposal** and shall follow the procedure set out in Paragraphs 8.19, 8.20, 8.22 and 8.23.

8.18.6 Unless the **Authority** makes a direction in accordance with Paragraph 8.25.4, a **CUSC Modification Proposal** that the **CUSC Modifications Panel** considers does not meet the **Self-Governance Criteria** shall be a **Standard CUSC Modification Proposal** and shall follow the procedure set out in Paragraphs 8.19, 8.20, 8.22 and 8.23.

8.18.7 The **CUSC Modifications Panel** shall evaluate each **CUSC Modification Fast Track Proposal** against the **Fast Track Criteria**.

8.18.8 The **CUSC Modifications Panel** shall follow the procedure set out in Paragraph 8.29 in respect of any **CUSC Modification Fast Track Proposal**. The provisions of Paragraphs 8.19 to 8.25 shall not apply to a **CUSC Modification Fast Track Proposal**.

8.18.8A The **CUSC Modification Panel** shall evaluate each **CUSC Modification Proposal** and determine whether the **CUSC Modification Proposal** constitutes an **EBGL Amendment** and its expected impact on the objectives of the Electricity Balancing Guideline (and in the event of disagreement **The Company's** view shall prevail).

6 Edit CUSC Paragraph 8.19.1 to introduce (f).

8.19.1 (a) The **Code Administrator** and the **CUSC Modifications Panel** shall together establish a timetable to apply for the **CUSC Modification Process**.

(b) The **CUSC Modifications Panel** shall establish the part of the timetable for the consideration by the **CUSC Modifications Panel** and by a **Workgroup** (if any) which shall be no longer than four months unless in any case the particular circumstances of the **CUSC Modification Proposal** (taking due account of its complexity, importance and urgency) justify an extension of such timetable, and provided the **Authority**, after receiving notice, does not object, taking into account all those issues.

(c) The **Code Administrator** shall establish the part of the timetable for the consultation to be undertaken by the **Code Administrator** under this Section 8 and separately the preparation of a **CUSC Modification Report** to the **Authority**. Where the particular circumstances of the **CUSC Modification Proposal** (taking due account of its complexity, importance and urgency) justify an extension of such timescales and provided the **Authority**, after receiving notice, does not object, taking into account all those issues, the **Code Administrator** may revise such part of the timetable.

(d) In setting such a timetable, the **CUSC Modifications Panel** and the **Code Administrator** shall exercise their respective discretions such that, in respect of each **CUSC Modification Proposal**, a **CUSC Modification Report** may be submitted to the **Authority** as

soon after the **CUSC Modification Proposal** is made as is consistent with the proper evaluation of such **CUSC Modification Proposal**, taking due account of its complexity, importance and urgency.

- (e) Having regard to the complexity, importance and urgency of particular **CUSC Modification Proposals**, the **CUSC Modifications Panel** may determine the priority of **CUSC Modification Proposals** and may (subject to any objection from the **Authority** taking into account all those issues) adjust the priority of the relevant **CUSC Modification Proposal** accordingly.

- (f) where the **CUSC Modification Proposal** constitutes an **EBGL Amendment** the timetable shall be such that the **Code Administrator's** consultation is not less than one month.

7 Edit CUSC Paragraph 8.20.8 to introduce (e) and (f).

8.20.8 The terms of reference of a **Workgroup** must include provision in respect of the following matters:

- (a) those areas of a **Workgroup's** powers or activities which require the prior approval of the **CUSC Modifications Panel**;
- (b) the seeking of instructions, clarification or guidance from the **CUSC Modifications Panel**, including on the suspension of a **Workgroup Alternative CUSC Modification(s)** during a **Significant Code Review Phase**;
- (c) the timetable for the work to be done by the **Workgroup**, in accordance with the timetable established pursuant to Paragraph 8.19.1 (save where Paragraph 8.19.5 applies); and
- (d) the length of any **Workgroup Consultation**.

In addition, prior to the taking of any steps which would result in the undertaking of a significant amount of work (including the production of draft legal text to modify the **CUSC** in order to give effect to a **CUSC Modification Proposal** and/or **Workgroup Alternative CUSC Modification(s)**, with the relevant terms of reference setting out what a significant amount of work would be in any given case), the **Workgroup** shall seek the views of the **CUSC Modifications Panel** as to whether to proceed with such steps and, in giving its views, the **CUSC Modifications Panel** may consult the **Authority** in respect thereof.

(e) whether, and the extent to which, the **CUSC Modification Proposal** may constitute an amendment to the **EBGL Article 18 terms and conditions**; and

(f) where the **Workgroup** considers that a **CUSC Modification Proposal** may constitute an amendment to the **EBGL Article 18 terms and conditions**, the impact of those amendments on the objectives of the **Electricity Balancing Guideline**.

8 Edit the first paragraph at CUSC 8.22.2 as follows.

- 8.22.2 After consideration of any **Workgroup** report on the **CUSC Modification Proposal** and if applicable any **Workgroup Alternative CUSC Modification(s)** by the **CUSC Modifications Panel** and a determination by the **CUSC Modifications Panel** to proceed to wider consultation, the **Code Administrator** shall bring to the attention of and consult on the **CUSC Modification Proposal** and if applicable any **Workgroup Alternative CUSC Modification(s)** with:
- (i) **CUSC Parties**; and
  - (ii) such other persons who may properly be considered to have an appropriate interest in it, including **Small Participants**, the **Citizens Advice** and the **Citizens Advice Scotland** ~~;~~ and
  - (iii) where the **CUSC Modification Proposal**, and if applicable, any **Workgroup Alternative CUSC Modification(s)** constitutes an **EBGL Amendment** with the **Authority** and other relevant stakeholders.
  - (iv) Where the **CUSC Modification Proposal**, and if applicable, any **Workgroup Alternative CUSC Modification (s)** constitutes an **EBGL Amendment** the **Code Administrator's** consultation will be not less than one month.

9 Edit CUSC Paragraph 8.22.5 as follows.

8.22.5 Where the **CUSC Modifications Panel** is of the view that the proposed text to amend the CUSC for a **CUSC Modification Proposal** or **Workgroup Alternative CUSC Modification(s)** is not needed in the **CUSC Modification Report** ~~(and provided the **CUSC Modification Proposal** and/or **Workgroup Alternative CUSC Modification(s)** does not constitute an **EBGL Amendment**)~~, the **CUSC Modifications Panel** shall consult (giving its reasons as to why it is of this view) with the **Authority** as to whether the **Authority** would like the **CUSC Modification Report** to include the proposed text to amend the **CUSC**. If it does not, no text needs to be included. If it does, and no detailed text has yet been prepared, the **Code Administrator** shall prepare such text to modify the **CUSC** in order to give effect to such **CUSC Modification Proposal** or **Workgroup Alternative CUSC Modification(s)** and shall seek the conclusions of the relevant **Workgroup** before consulting those identified in Paragraph 8.22.2.



10 Edit the first paragraph at CUSC Paragraph 8.22.8 as follows.

8.22.8 After determination by the **CUSC Modifications Panel** to proceed to wider consultation, such consultation shall be conducted by the **Code Administrator** on the **CUSC Modification Proposal** with:

- (i) **CUSC Parties**; and
- (ii) such other persons who may properly be considered to have an appropriate interest in it, including **Small Participants**, the **Citizens Advice** and the **Citizens Advice Scotland**.; and
- (iii) where the **CUSC Modification Proposal** and if applicable, any **Workgroup Alternative CUSC Modification(s)** constitutes an **EBGL Amendment** with the **Authority** and other relevant stakeholders.
- (iv) Where the **CUSC Modification Proposal** and if applicable, any **Workgroup Alternative CUSC Modification(s)** constitutes an **EBGL Amendment** the **Code Administrator's** consultation will be not less than one month.

11 Add c) to CUSC Paragraph 8.22.10 as follows:

8.22.10 The Consultation Paper will contain:

- (a) the proposed drafting for the **CUSC Modification Proposal** (unless the Authority decides none is needed) in the **CUSC Modification Report** under Paragraph 8.22.11) and will incorporate **The Company's** and the **CUSC Modifications Panel's** initial views on the way forward; and
- (b) the date proposed by the **Code Administrator** as the **Proposed Implementation Date**. Views will be invited on this date.
- (c) where a **CUSC Modification Proposal** or any **Workgroup Alternative CUSC Modification(s)** constitutes an **EBGL Amendment**, the expected impact on the objectives of the **Electricity Balancing Guideline**.

12 Edit CUSC Paragraph 8.22.11 as follows

8.22.11 Where the **CUSC Modifications Panel** is of the view that the proposed text to amend the **CUSC** for a **CUSC Modification Proposal** is not needed (**and provided the CUSC Modification Proposal, and if applicable, any Workgroup Alternative CUSC Modification(s), does not constitute an EBGL Amendment**), the **CUSC Modifications Panel** shall consult (giving its reasons to why it is of this view) with the



**Authority** as to whether the **Authority** would like the **CUSC Modification Report** to include the proposed text to amend the **CUSC**. If it does not, no text needs to be included. If it does, and no detailed text has yet been prepared, the **Code Administrator** shall prepare such text to modify the **CUSC** in order to give effect to such **CUSC Modification Proposal** and consult those identified in Paragraph 8.22.2.

13 Add 8.23.1A after CUSC Paragraph 8.23.1

## 8.23 CUSC MODIFICATION REPORT

8.23.1 Subject to the **Code Administrator's** consultation having been completed, the **CUSC Modifications Panel** shall prepare and submit to the **Authority** a report (the "**CUSC Modification Report**") in accordance with this Paragraph 8.23 for each **CUSC Modification Proposal** which is not withdrawn.

8.23.1A Where a **CUSC Modification Proposal** or any **Workgroup Alternative CUSC Modification** constitutes an **EBGL Amendment**, the **Panel** will consider any consultation responses received and any further work required to assess these as required under **CUSC Paragraph 8.18.8A**

14 Edit CUSC Paragraph 8.23.2 to introduce (l) and (m) and replace "." at the end of (k) with "↓".

8.23.2 The matters to be included in a **CUSC Modification Report** shall be the following (in respect of the **CUSC Modification Proposal**):

- (a) A description of the **CUSC Modification Proposal** and any **Workgroup Alternative CUSC Modification(s)**, including the details of, and the rationale for, any variations made (or, as the case may be, omitted) by the **Proposer** together with the views of the **Workgroup**;
- (b) the **Panel Members' Recommendation**;
- (c) a summary (agreed by the **CUSC Modifications Panel**) of the views (including any recommendations) from **Panel Members** in the **CUSC Modifications Panel Recommendation Vote** and the conclusions of the **Workgroup** (if there is one) in respect of the **CUSC Modification Proposal** and of any **Workgroup Alternative CUSC Modification(s)**;
- (d) an analysis of whether (and, if so, to what extent) the **CUSC Modification Proposal** and any **Workgroup Alternative CUSC Modification(s)** would better facilitate achievement of the **Applicable CUSC Objective(s)** with a detailed explanation of the **CUSC Modifications Panel's** reasons for its assessment, including, where the impact is likely to be material, an assessment of the quantifiable impact of the **CUSC Modification Proposal** and any **Workgroup Alternative CUSC Modification(s)** on greenhouse gas emissions, to be conducted in accordance with such current guidance on the treatment of carbon costs and evaluation of the greenhouse gas emissions as may be issued by the **Authority** from time to time, and providing a detailed explanation of the **CUSC Modifications Panel's**

reasons for that assessment;

- (e) an analysis of whether (and, if so, to what extent) any **Workgroup Alternative CUSC Modification(s)** would better facilitate achievement of the **Applicable CUSC Objective(s)** as compared with the **CUSC Modification Proposal** and any other **Workgroup Alternative CUSC Modification(s)** and the current version of the **CUSC**, with a detailed explanation of the **CUSC Modifications Panel's** reasons for its assessment, including, where the impact is likely to be material, an assessment of the quantifiable impact of the **Workgroup Alternative CUSC Modification(s)** on greenhouse gas emissions, to be conducted in accordance with such current guidance on the treatment of carbon costs and evaluation of the greenhouse gas emissions as may be issued by the **Authority** from time to time, and providing a detailed explanation of the **CUSC Modifications Panel's** reasons for that assessment;
- (f) the **Proposed Implementation Date** taking into account the views put forward during the process described at Paragraph 8.22.4(b) such date to be determined by the **CUSC Modifications Panel** in the event of any disparity between such views and those of the **Code Administrator**;
- (g) an assessment of:
  - (i) the impact of the **CUSC Modification Proposal** and any **Workgroup Alternative CUSC Modification(s)** on the **Core Industry Documents** and the **STC** and an indication of potential inconsistencies between the **CUSC Modification Proposal** and the **Capacity Market Documents** and/or the **CfD Documents**;
  - (ii) the changes which would be required to the **Core Industry Documents** and the **STC** in order to give effect to the **CUSC Modification Proposal** and any **Workgroup Alternative CUSC Modification(s)**;
  - (iii) the mechanism and likely timescale for the making of the changes referred to in Paragraph (ii);
  - (iv) the changes and/or developments which would be required to central computer systems and, if practicable, processes used in connection with the operation of arrangements established under the **Core Industry Documents**, the **STC**, the **Capacity Market Documents** and the **CfD Documents**;
  - (v) the mechanism and likely timescale for the making of the changes referred to in Paragraph (iv);
  - (vi) an estimate of the costs associated with making and delivering the changes referred to in Paragraphs (ii) and (iv), such costs are expected to relate to: for (ii) the costs of amending the **STC** and for (iv) the costs of changes to computer systems and possibly processes which are

established for the operation of the **Core Industry Documents**, the **STC**, the **Capacity Market Documents** and the **CfD Documents**.

together with an analysis and a summary of representations in relation to such matters, including any made by **Small Participants**, the **Citizens Advice** and the **Citizens Advice Scotland**;

- (h) to the extent such information is available to the **Code Administrator**, an assessment of the impact of the **CUSC Modification Proposal** and any **Workgroup Alternative CUSC Modification(s)** on **CUSC Parties** in general (or classes of **CUSC Parties** in general), including the changes which are likely to be required to their internal systems and processes and an estimate of the development, capital and operating costs associated with implementing the changes to the **CUSC** and to **Core Industry Documents** and the **STC**;
  - (i) copies of (and a summary of) all written representations or objections made by consultees during the consultation in respect of the **CUSC Modification Proposal** and any **Workgroup Alternative CUSC Modification(s)** and subsequently maintained;
  - (j) a copy of any impact assessment prepared by **Core Industry Document Owners** and the **STC** committee and a copy of any impact assessment related to the **CUSC Modification Proposal** prepared by the **CM Administrative Parties** in relation to the **Capacity Market Rules**, the **Secretary of State** in relation to the **Capacity Market Documents**, the **CfD Administrative Parties** in relation to the **AF Rules**, or the **Secretary of State** in relation to the **CfD Documents**, and the views and comments of the **Code Administrator** in respect thereof;
  - (k) whether or not, in the opinion of **The Company**, the **CUSC Modification Proposal** (or any **Workgroup Alternative CUSC Modification(s)**) should be made.
- (l) whether the **CUSC Modification Proposal** and if applicable, any **Workgroup Alternative CUSC Modification(s)** constitutes an **EBGL Amendment** and if so, and in addition to (i) above, a **The Company's** justification for including or not including the views resulting from the relevant consultation in the **CUSC Modification Proposal** and if applicable, any **Workgroup Alternative CUSC Modification (s)**.
- (m) where a **CUSC Modification Proposal** or any **Workgroup Alternative CUSC Modification(s)** constitutes an **EBGL Amendment**, the expected impact on the objectives of the **Electricity Balancing Guideline**.

15 Edit CUSC 8.23.4 to introduce:

8.23.4 A draft of the **CUSC Modification Report** shall be tabled at the **Panel Meeting** prior to submission of that **CUSC Modification Report** to the **Authority** as

set in accordance with the timetable established pursuant to Paragraph 8.19.1 at which the Panel may consider any minor changes to the legal drafting, **which may include any issues identified through the Code Administrator's consultation** and:

(i) if the change required is a typographical error the **CUSC Modifications Panel** may instruct the **Code Administrator** to make the appropriate change and the **Panel Chairman** will undertake the **CUSC Modifications Panel Recommendation Vote**; or

(ii) if the change required is not considered to be a typographical error then the **CUSC Modifications Panel** may direct the **Workgroup** to review the change. If the **Workgroup** unanimously agree that the change is minor the **CUSC Modifications Panel** may instruct the **Code Administrator** to make the appropriate change and the **Panel Chairman** will undertake the **CUSC Modifications Panel Recommendation Vote** otherwise the **Code Administrator** shall issue the **CUSC Modification Proposal** for further **Code Administrator** consultation after which the **Panel Chairman** will undertake the **CUSC Modifications Panel Recommendation Vote**.

(iii) if a change is not required after consideration, the **Panel Chairman** will undertake the **CUSC Modifications Panel Recommendation Vote**.

(iv) In the case of a modification that had been directed pursuant to CUSC 8.19.2(d) to proceed directly to wider consultation without the formation of a Workgroup, and if the change required is not considered to be a typographical error, then the **CUSC Modifications Panel** may direct the **Code Administrator** in conjunction with the proposer to review the change. If both parties agree that the change is minor the **CUSC Modifications Panel** may instruct the **Code Administrator** to make the appropriate change and the **Panel Chairman** will undertake the **CUSC Modifications Panel Recommendation Vote**, otherwise the **Code Administrator** shall issue the **CUSC Modification Proposal** for further **Code Administrator** consultation after which the **Panel Chairman** will undertake the **CUSC Modifications Panel Recommendation Vote**. In the case of a change that is not considered to be minor, the **CUSC Modifications Panel** may also consider whether to establish a **Workgroup** of the **CUSC Modifications Panel**, to further consider the **CUSC Modification Proposal**, in which case the procedures set out within CUSC 8.20 will be followed as required.

(v) if a change is not required after consideration, the **Panel Chairman** will undertake the **CUSC Modifications Panel Recommendation Vote**.

16 Edit CUSC Paragraph 8.23.12 as follows:

8.23.12 If the **Authority** determines that the **CUSC Modification Report** is such that the **Authority** cannot properly form an opinion on the **CUSC Modification Proposal** and any **Workgroup Alternative CUSC Modification(s)**, or where the **CUSC Modification Proposal** and/or any **Workgroup Alternative CUSC Modification(s)** constitutes an **EBGL Amendment** where the **Authority** requires an amendment to **CUSC Modification Proposal** and/or any **Workgroup Alternative CUSC Modification(s)** in order to approve it, it may issue a direction to the **CUSC Modifications Panel**:

(a) specifying the additional steps (including drafting or amending existing drafting associated with the **CUSC Modification Proposal** and any **Workgroup Alternative CUSC Modification(s)**), revision

(including revision to the timetable), analysis or information that it requires in order to form such an opinion; and

- (b) requiring the **CUSC Modification Report** to be revised and to be re-submitted.

17 Edit CUSC Paragraph 8.23.13 as follows:

8.23.13 If a **CUSC Modification Report** is to be revised and re-submitted in accordance with a direction issued pursuant to Paragraph 8.23.12, it shall be re-submitted as soon after the **Authority's** direction as is appropriate, **(and in the case of an EBGL Amendment within 2 months)**, taking into account the complexity, importance and urgency of the **CUSC Modification Proposal** and any **Workgroup Alternative CUSC Modification(s)**. The **CUSC Modifications Panel** shall decide on the level of analysis and consultation required in order to comply with the **Authority's** direction and shall agree an appropriate timetable for meeting its obligations. Once the **CUSC Modification Report** is revised, the **CUSC Modifications Panel** shall carry out its **CUSC Modifications Panel Recommendation Vote** again in respect of the revised **CUSC Modification Report** and re-submit it to the **Authority** in compliance with Paragraphs 8.23.4 to 8.23.6.

18 Add the following as CUSC Paragraph 8.23.14.

8.23.14 where Paragraph 8.23.9 and/or Paragraph 8.23.10 is applied to a **CUSC Modification Proposal** which constitutes an **EBGL Amendment** the process and timetable adopted shall meet the minimum consultation requirements of the **Electricity Balancing Guideline**.

19 Edit CUSC Paragraph 8.24.3 as follows.

The matters referred to in Paragraph 8.24.1 are:

- (a) whether such proposal should be treated as an **Urgent CUSC Modification Proposal** in accordance with this Paragraph 8.24 and
- (b) the procedure and timetable to be followed in respect of such **Urgent CUSC Modification Proposal** which in the case of a **CUSC Modification Proposal** and, if applicable, any **Workgroup Alternative CUSC Modification(s)** which constitutes an **EBGL Amendment** shall meet the minimum consultation requirements of the **Electricity Balancing Guideline**.

20 Add the following as CUSC Paragraph 8.1.7

8.1.5 Self-Governance

In addition, **Self-Governance Criteria** are set out against which **CUSC Modification Proposals** must also be evaluated and consulted upon. If a proposal meets the criteria, it may proceed without **Authority** approval, and the **CUSC Modifications Panel** may consult on and determine itself whether to implement the **CUSC Modification Proposal**.

8.1.6 Fast Track

If the **CUSC Modifications Panel** unanimously determine that a **CUSC Modification Fast Track Proposal** meets the **Fast Track Criteria**, it will proceed without **Authority** approval and will be subject to the process set out at Paragraph 8.29.

8.1.7 Where a **CUSC Modification Proposal constitutes an EBGL Amendment, The Company**, when undertaking its role in the **CUSC Panel** or **Working Groups** during the **CUSC Modification Process**, shall provide justification for including or not including the views of stakeholders resulting from the Code Administrator consultation.

21 Insert the following to CUSC Paragraph 8.24.7

8.24.7 For the purposes of this Paragraph 8.24.7, the procedure and timetable in respect of an **Urgent CUSC Modification Proposal** may (with the approval of the **Authority** pursuant to Paragraph 8.24.4 or Paragraph 8.24.5) deviate from all or part of the **CUSC Modification Procedures** or follow any other procedure or timetable approved by the **Authority**, **excepting in the case of a CUSC Modification Proposal or any Workgroup Alternative CUSC Modification(s) which constitute an EBGL Amendment, which shall meet the minimum consultation requirements of the Electricity Balancing Guideline.**

22 Insert the following to CUSC Paragraph 8.24.8

8.24.8 The **CUSC Modification Report** in respect of an **Urgent CUSC Modification Proposal** shall include:

- (a) a statement as to why the **Proposer** believes that such **CUSC Modification Proposal** should be treated as an **Urgent CUSC Modification Proposal**;
- (b) any statement provided by the Authority as to why the Authority believes that such **CUSC Modification Proposal** should be treated as an **Urgent CUSC Modification Proposal**;
- (c) any recommendation of the **CUSC Modifications Panel** (or any recommendation of the **Panel Chairman**) provided in accordance with Paragraph 8.24 in respect of whether any **CUSC Modification Proposal** should be treated as an **Urgent CUSC Modification Proposal**; and
- (d) the extent to which the procedure followed deviated from the **CUSC Modification Procedures** (other than the procedures in this Paragraph 8.24).

(e) **The Company's** justification for including or nor including the views resulting from the relevant consultation in the **CUSC Modification Proposal** and if applicable, any **Workgroup Alternative CUSC Modification (s)**

#### **4 Exhibit Y**

Attach [Exhibit Y] to CUSC and amend the CUSC Table of Contents to reflect this. [(mapping to relevant CUSC sections which also entail article 18 terms and conditions)].