

Modification proposal:	Connection and Use of System Code (CUSC) CMP365: Improvements to CUSC Governance Arrangements (CMP365)		
Decision:	The Authority ¹ directs that this modification be made ²		
Target audience:	National Grid Electricity System Owner (NGESO), Parties to the CUSC, the CUSC Panel and other interested parties		
Date of publication:	16 July 2021	Implementation date:	10 working days after decision date

Background

On 11 November 2020, we approved Grid Code modification GC0131³ to improve the Grid Code governance arrangements. GC0131 aimed to ensure the Grid Code and industry are able to respond to drivers of change in a more resource efficient way. NGESO believe that the benefits of GC0131 should be implemented into the CUSC to support making the best use of industry time and alignment of governance rules where appropriate. NGESO considers that the industry is seeking a regulatory framework that can deliver transformational change and that this modification can deliver quick wins to governance processes ahead of any outcome of the Energy Codes Review.⁴

The modification proposal

NGESO (the Proposer) raised this modification on 11 March 2021 with the aim of creating a more efficient process for CUSC modifications and to align the CUSC with other code governance rules.

¹ References to the "Authority", "Ofgem", "we" and "our" are used interchangeably in this document. The Authority refers to GEMA, the Gas and Electricity Markets Authority. The Office of Gas and Electricity Markets (Ofgem) supports GEMA in its day to day work. This decision is made by or on behalf of GEMA.

² This document is notice of the reasons for this decision as required by section 49A of the Electricity Act 1989.

³ <https://www.ofgem.gov.uk/publications-and-updates/gc131-quick-wins-improvements-grid-code-open-governance-arrangements>

⁴ This is the joint review being undertaken by BEIS and Ofgem to develop options for improving the energy codes and their governance. Please see <https://www.ofgem.gov.uk/publications-and-updates/energy-codes-review>.

CMP365 proposes to make the following CUSC governance changes:

- Initial assessment of proposals – to allow the CUSC Panel to clarify and comment on the draft proposal at the pre-modification stage.
- Quoracy – to provide flexibility to the quorum of five workgroup members. Where insufficient persons are nominated to the workgroup, CMP365 gives the option to proceed with three, defined as a “limited membership workgroup”. At the request from the Code Administrator, the Panel may consent to a limited membership workgroup on the following conditions:
 - one of the minimum three members is NGENSO and the remaining two members cannot be from affiliated companies or concerns
 - a workgroup consultation must be held in addition to the mandatory code administrator consultation
 - Code Administrator will request workgroup nominations on a continuing basis and seek the CUSC Panel’s advice if quoracy is still not reached
 - following the vote, the limited membership workgroup must share the draft final workgroup report with all stakeholders
 - Ofgem can instruct the limited membership workgroup to stop work and/or provide a progress report to CUSC Panel. It can also instruct the code administrator to seek further nominations for workgroup membership.
- Assessment of alternatives – to amend the alternative modification criteria so that any alternative proposal may better facilitate achieving the applicable CUSC objective(s) than the proposed modification and not the baseline.
- Titles and summaries of proposals – the ability for code administrator to amend the title or the summary of a modification to better reflect the content or intent of the modification with the agreement of the Proposer. If the Proposer disagrees, then the CUSC Panel will decide the matter at the next panel meeting.
- Role of the Code Administration Consultation - the ability of the CUSC Panel to establish a working group where none existed before to address any substantive issues arising from industry consultation.
- Production of draft legal text – to clarify that the code administrator is responsible for drafting legal text for code change proposals.

The Proposer considers CMP365 better facilitates CUSC objectives (a) and (d) with a neutral impact on the remaining objectives.

CUSC Panel⁵ recommendation

On 28 May 2021, the CUSC Panel (Panel) voted unanimously to recommend CMP365 for approval to Ofgem. The Panel agreed that CMP365 better facilitates the CUSC objectives than the baseline. Panel members considered that this change improves the efficiency of the CUSC code modification process and makes the code better align with National Grid's Transmission licence provisions.

Our decision

We have considered the issues raised by the modification proposal and the final Modification Report (FMR) dated 10 June 2021. We have considered and taken into account the responses to the industry consultation on the modification proposal which are included in the FMR⁶. We have concluded that:

- implementation of the modification proposal will better facilitate the achievement of the applicable objectives of the CUSC;⁷ and
- approving the modification proposal is consistent with our principal objective and statutory duties.⁸

Reasons for our decision

We consider that CMP365 will better facilitate CUSC objectives (a) and (d) and has a neutral impact on the other CUSC objectives.

(a) the efficient discharge by the licensee of the obligations imposed upon it under the Act and by this licence

The Proposer considers that the modification proposal meets objective (a) because it follows the legal wording of the relevant provision⁹ of National Grid's Electricity

⁵ The CUSC Panel is established and constituted from time to time pursuant to and in accordance with section 8 of the CUSC.

⁶ CUSC proposals, final reports and representations can be viewed on NGESO's website at: <https://www.nationalgrideso.com/industry-information/codes/connection-and-use-system-code-cusc/modifications>

⁷ As set out in Standard Condition C10(1) of the Electricity Transmission Licence, available at: <https://epr.ofgem.gov.uk/>

⁸ The Authority's statutory duties are wider than matters which the CUSC Panel Review must take into consideration and are detailed mainly in the Electricity Act 1989 as amended.

⁹ Electricity Transmission Condition C10 6(b) (iv) states: "...for the development and consideration of any alternative modification which may, as compared with the proposed modification, better facilitate achieving the applicable CUSC objective(s)..."

Transmission Licence (the Licence) that sets out how alternatives should be assessed. Currently the CUSC allows a workgroup by majority to raise a workgroup alternative CUSC modification (WACM) if it better facilitates the CUSC objectives than the baseline¹⁰. CMP365 seeks to amend the CUSC so that it mirrors the wording in the Licence provision by requiring any WACM proposal to better meet the objectives than the proposed original modification.

We note that a consultation respondent was concerned that this change to the assessment of alternatives could potentially limit the number of alternatives. The Proposer responded by saying the intention was not to limit alternatives but align the approach to assessing code alternatives across the codes and the Licence. We do not consider this change to negatively impact the ability of a workgroup to raise WACMs. Indeed, it may offer better scrutiny of WACMs before they enter the change process. There is no limit to the number of alternatives that can be raised in the CUSC by industry parties and this could at times result in a plethora of alternatives that have limited prospect of being approved.

We agree that the provisions in the CUSC should align with the relevant provision of the Licence thereby allowing NGESO to efficiently discharge its licence obligation. Therefore, we consider that CMP365 better facilitates this objective.

(d) promoting efficiency in the implementation and administration of the CUSC arrangements

We note that the Panel and consultation respondents unanimously agreed that CMP365 better facilitates this objective. We agree with this assessment that CMP365 meets objective (d).

We note the comments from a consultee respondent that the “limited membership workgroup” is not needed because quoracy is not an issue for CUSC workgroups. We consider that a limited membership workgroup could provide flexibility and mitigate the potential for delay in progressing a modification if it was not possible to obtain a quorate workgroup, if for example the modification was only of interest to a limited number of CUSC parties.

¹⁰ Paragraph 8.20.15 of the [CUSC](#)

We further consider that flexibility to reduce workgroup membership with the accompanying safeguards to maintain fair and proportionate industry representation, including our ability to request that further workgroup members are requested and that the final workgroup report is shared with all stakeholders, should allow modifications to progress in a timely and efficient way. However, we expect the “limited workgroup membership” option to be used as a last resort.

We consider that the other changes proposed in CMP365 such as i) clarifying that the NGESO is responsible for drafting legal text; ii) NGESO suggesting improvements to modification titles and summaries; iii) clarity on way forward when objections and/or substantive responses to the Code Administrator Consultation are received where no workgroup exists; and iv) enabling the Panel to seek clarity of a new modification before accepting it, all lend themselves to positively impact this objective because they all improve the administration and efficiency of the code change process.

For these reasons we consider CMP365 better facilitates this CUSC objective than the baseline because the proposed changes should improve the efficiency and administration of the CUSC.

Decision notice

In accordance with Standard Condition C10 of the Transmission Licence, the Authority, hereby directs that modification proposal CMP365: ‘Improvements to CUSC Governance Arrangements’ be made.

David Hall

Head of Industry Codes & Licensing

Signed on behalf of the Authority and authorised for that purpose