

CUSC Governance Standing Group (GSG) Consultation

Payment of travel expenses to CUSC Modifications Panel Members and Workgroup/ Standing Group Members

nationalgrid

**Consultation document published on: 16th December 2011
Consultation responses requested by: 20th January 2012**

About this document

National Grid, as Code Administrator, is issuing this consultation on behalf of the CUSC Governance Standing Group (GSG). The GSG is established by the CUSC Modifications Panel under CUSC governance and is tasked to prepare a report on their conclusions and recommendations for the CUSC Modifications Panel regarding governance issues as detailed in the GSG Terms of Reference¹.

This document explores the requirement for Workgroup and Standing Group members to act impartially and the associated issue of entitling CUSC Modifications Panel Members and Workgroup/Standing Group members to be reimbursed for reasonable expenses for travel costs. GSG members discussed and agreed that the payment of reasonable travel expenses would only be made if individuals are attending Workgroup/Standing Group meetings as impartial industry experts.

The GSG welcomes views on the issues contained within this document. Specific questions relating to the document can be found in Section 4. If you have any questions about this document please contact Bali Virk at: Bali.Virk@uk.ngrid.com or via telephone on 01926 656023.

Responses should be submitted to cusc.team@uk.ngrid.com by 5pm on **Friday, 20th January 2012**.

The electronic response proforma can be found on our website at the link below:
<http://www.nationalgrid.com/uk/Electricity/Codes/systemcode/workingstandinggroups/gsg/>

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¹ http://www.nationalgrid.com/NR/rdonlyres/F19B6DC9-47E0-4861-A869-8BF132C088DB/49380/GSGToRv14forGSGmeetingofapproved_29_September.pdf

1 Executive Summary

- 1.1 The GSG considered the issue of impartiality of Workgroup/Standing Group members and payment of travel expenses to CUSC Modifications Panel members and Workgroup/Standing Group members at its meeting on 29th September 2011 and this paper contains the matters discussed. The GSG welcomes industry views on this, please see Section 4 for how to respond.
- 1.2 Currently under the CUSC, there is no explicit requirement for Workgroup/Standing Group members to be impartial at CUSC meetings, nor are there formal arrangements for payment of reasonable travel expenses to CUSC Modifications Panel members and Workgroup/Standing Group members.
- 1.3 This consultation paper details what the current arrangements are under the Balancing and Settlement Code (BSC) and the Uniform Network Code (UNC), explores the issues surrounding impartiality and payment of expenses and invites industry views on the issues raised.
- 1.4 A GSG recommendation paper will be produced for the CUSC Modifications Panel summarising the responses received to this consultation and exploring the options available, including the possibility of a CUSC Modification Proposal being raised.

2 Background

- 2.1 At the CUSC Panel meeting on 26th August 2011, the CUSC Modifications Panel agreed that the GSG Terms of Reference scope of work be updated to include considering payment of expenses to CUSC Modification Panel members and Workgroup/Standing Group members. This issue was discussed at the GSG meeting on 29th September 2011.
- 2.2 Due to the increasing number of non National Grid Workgroup Chairs, the Code Administrator has received requests from industry participants enquiring about their eligibility to claim travel expenses to attend CUSC related meetings; i.e. the Panel, Workgroups, Standing Groups or other ad hoc meetings, if agreed in advance with the Code Administrator. Currently within the CUSC there is no explicit provision for reimbursement of travel expenses, such as those for (i) transport (plane, train, tube, bus, taxi, mileage allowance etc,) (ii) subsistence (meals and non alcoholic drinks) and (iii) accommodation (hotel, bed and breakfast, etc). In this document “travel expenses” refers to items (i), (ii) and (iii). For the avoidance of doubt, ‘expenses’ in this consultation does not relate to any other expenses or costs incurred by attendees at CUSC related meetings including, but no limited to, employment costs, daily fees etc.
- 2.3 The issue of expenses was raised previously, at the CUSC Modifications Panel Meeting on 22nd March 2002. At this meeting, the issue of expenses for independent Panel Members was discussed, in particular in relation to self employed members. The CUSC Modifications Panel Members felt that this issue should be addressed but it was agreed that it should only be limited to **neutral** parties in the CUSC process, i.e. CUSC Modifications Panel Members or Chairs of Workgroups who are required, by the CUSC, to act impartially. This was captured in the CUSC Panel meeting minutes, but was not codified.

GSG Discussions

- 2.4 The GSG considered the current CUSC provision 8.3.4 (i), that CUSC Modifications Panel members shall act impartially and in accordance with the requirements of the CUSC, and CUSC provision 8.20.4, that the Code Administrator shall in consultation with the CUSC Modifications Panel appoint the Chairman of a Workgroup who shall be independent and act impartially. During the GSG discussions it was highlighted that the current CUSC provisions are silent in terms of Workgroup/Standing Group members acting impartially at meetings. The GSG considered that if an entitlement to claim travel expenses within the CUSC was to be introduced then the issue of individuals attending CUSC meetings being obliged to do so as impartial experts would need to be considered.
- 2.5 The GSG noted that if the need to act impartially was introduced then the current Terms of Reference for Workgroup and Standing Group members would need to be revised to reflect this requirement. CUSC provision 8.20.3 states that Workgroups shall ensure “an appropriate cross section of representation, experience and expertise represented at such Workgroup.
- 2.6 The current CUSC provision 8.12.1 details that indemnity is given to CUSC Modifications Panel members to protect these Members if someone brought a claim against them for something they had done/failed to do in the course of their role as a Member. There is implicit recognition that these expenses may be paid. Indemnity does not extend to the normal costs/expenses they would incur in undertaking this role².

² http://www.nationalgrid.com/NR/rdonlyres/8B81E9A0-F1B1-47B7-906D-41DA0DB69167/50497/CUSCSection8CMP195_2Dec_11.pdf

- 2.7 The GSG considered for the payment of travel expenses claims would be limited to a 'reasonable' amount, on production of receipts with amounts over a de-minimus level (which the Code Administrator would provide guidance on) to be agreed in advance with the Code Administrator prior to those costs being incurred. The GSG noted that section B of the BSC³ was more explicit for BSC Panel members to claim travel expenses, and that the current CUSC provision 8.12 was not as explicit.
- 2.8 GSG members felt that a consultation with the industry regarding the issue of travel expenses would enable the GSG to put forward its recommendations to the CUSC Modifications Panel for their approval.
- 2.9 If, after considering responses to this consultation, the GSG recommendation to the CUSC Modifications Panel is that travel expenses should be paid, this may result in a CUSC Modification Proposal being raised to codify the eligibility to claim travel expenses, subject to the requirement for members of Workgroup/Standing Groups to act impartially.
- 2.10 It was agreed that the Code Administrator would target this consultation, in particular, at smaller parties and trade associations including BSC Parties to ensure the widest possible views are received.

³ http://www.elexon.co.uk/ELEXON%20Documents/section_b_v18.0.pdf

3 Areas for consideration

Impartiality

- 3.1 The GSG considered the requirement for impartiality of CUSC Workgroup and Standing Group members, noting that the CUSC is currently silent in this area, whereas in the BSC Workgroup members are required to act independently and are able to claim travel expenses.
- 3.2 Views are invited on whether there should be a requirement for members to act impartially and also that payment of travel expenses should be contingent on industry representatives acting impartially at CUSC Workgroup/Standing Group meetings.

Cross Code consistency

- 3.3 GSG members discussed the current arrangements under the BSC (Sections B and F) which enable BSC Panel and Panel Committee members/alternates and Modification/Standing Issue Workgroup members⁴ to claim reasonable travel expenses incurred for attending BSC meetings. It was noted that all BSC Workgroup members sign a Letter of Agreement from the Company they are employed by stating that the BSC shall prevail over his/her duties as an employee, therefore as a member of the Workgroup they shall act impartially in the meetings. Consequently, within the BSC, members of Workgroups act independently and contribute as industry experts. Observers are not eligible to claim travel expenses.
- 3.4 It was noted that under the UNC there is no mechanism for Panel or Workgroup members to claim travel expenses. Panel Members are appointed by transporters and shippers/suppliers as representatives.
- 3.5 The Code Administration Code of Practice (CACOP)⁵, which was introduced by Ofgem as part of the Industry Code Governance Review, puts forward principles for Code Administrators of the BSC, UNC and CUSC to follow. The CACOP states that where inconsistencies or conflicts exist between the codes and the CACOP, the Code Administrators are required to take all reasonable steps to ensure they are aligned. Currently the CACOP is silent on the issue of impartiality of Workgroup/Standing Group members and payment of travel expenses to industry code meeting attendees.

Remote Meetings

- 3.6 Remote meetings were discussed by GSG members and the Code Administrator confirmed that teleconference facilities are currently available at CUSC meetings to encourage more participants to attend. It was noted that "remote meetings" could also include the use of video conferencing or web technology such as "live meeting" or "webinar". Holding remote meetings would dispense with the need to claim travel expenses.

Benefits

- 3.7 The GSG considered whether there might be a benefit of paying travel expenses to representatives attending CUSC meetings as members (the GSG believed that if travel expenses were to be repaid it should be limited to 'members' and not observers). It was agreed that this may encourage participation in the CUSC modification process from smaller parties. It may also encourage a wider selection of industry views from

⁴ <http://www.elexon.co.uk/pages/submittingexpenses.aspx>

⁵ <http://www.ofgem.gov.uk/Licensing/IndCodes/CGR/Documents1/FinalCoP.pdf>

the big six players to smaller parties to be involved in CUSC debates. However, it was noted that the main issues raised by smaller parties surround resource and time constraints, rather than the cost of travel to attend the meeting(s) per se. It was also acknowledged that smaller parties may wish to retain the ability to represent their organisations rather than being required to act in an impartial manner, and that impartiality may remove an incentive to smaller players to attend such meetings.

Funding

- 3.8 The Code Administrator (National Grid) presently does not have funding for the reimbursement of CUSC Modifications Panel and Workgroup/Standing Group travel expenses. Therefore the costs incurred would need to be included within the next (electricity) Transmission Price Control submission, with the aim of recouping the costs of paying travel expenses through (electricity) Transmission Network Use of System charges.

4 Views invited

4.1 This consultation provides an overview of the issues associated with CUSC Panel and Workgroup/Standing Group members' travel expenses and views are invited from the industry in response to the consultation generally but also the specific questions, as set out below:

1. **Do you think that CUSC Workgroup/Standing Group members should act as impartial experts or as representatives or their employers?**
2. **Do you agree that the provision to claim travel expenses should only be available to parties who are acting "impartially?"**
3. **If the answer to Q2 is "No" would it be an impediment to you if were required to be impartial?**
4. **Do you agree that reasonable (receipted) travel expenses should be paid under the CUSC (see section 2.2 and 2.7 for further information)?**
5. **Do you agree the current wording of the CUSC should be made more explicit for the ability to claim travel expenses rather than by reference to the indemnity as per CUSC provision 8.12.2⁶.**
6. **Would you (or your company) attend more CUSC Workgroup/Standing Group meetings if travel expenses were paid? (See section 3.7 for further information)**
7. **If the answer to Q6 is 'No' would other constraints be more or less likely to impact on your ability to attend – for example lack of time, availability of personnel, or location of meeting?**
8. **Regardless of the ability to claim travel expenses, would you be more willing/able to attend CUSC meetings if the were held entirely by teleconference or by using web technology?**
9. **Do you think the Code Administrator (National Grid) should pick up the costs for reimbursing travel expenses? If not, who should fund them? (See section 3.8 for further information)**
10. **Do you agree that if travel expenses are to be paid that, like the BSC, it should be limited to CUSC Modification Panel/ Workgroup / Standing Group members only (and not be paid, for example, to observers)? (see sections 3.3 and 3.7 for further information)**

⁶ http://www.nationalgrid.com/NR/rdonlyres/8B81E9A0-F1B1-47B7-906D-41DA0DB69167/50497/CUSCSection8CMP195_2Dec_11.pdf

**11. Do you think the CACOP should cover payment of travel expenses?
(See section 3.5 for further information)**

12. Do you have any further comments?

Please send your response to cusc.team@uk.ngrid.com by **5pm on 20th January 2012.**

4.2 If you wish to submit a confidential response please note the following:

Information provided in response to this consultation will be published on National Grid's website unless the response is clearly marked "Private & Confidential", we will contact you to establish the extent of the confidentiality. A response marked "Private and Confidential" will be disclosed to the Authority in full but, 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 and Confidential".

5 Next steps

- 5.1 This consultation document seeks views from CUSC Parties and other interested industry members on the issue of impartiality of CUSC Workgroup/Standing Group members and whether CUSC Modifications Panel members and Workgroup/Standing Group members should be eligible to claim travel expenses for attending CUSC industry meetings.
- 5.2 The GSG will review the consultation responses and prepare a final paper with its recommendations to the CUSC Modifications Panel. The paper will include copies of all consultation responses, except where they have been clearly marked private and confidential, and will also be published on the National Grid website.
- 5.3 The GSG will consider the responses at its meeting on 26th January 2012 with a view to finalising a recommendation paper to be discussed at the next CUSC Modifications Panel meeting.

This appendix contains extracts from Section 8 of the CUSC which are referred to in this consultation, for ease of reference.

Para 8.3.4(i)

8.3.4 Duties of Panel Members

8.3.4(a) A person appointed as a Panel Member, or an Alternate Member, by Users under Paragraph 8.3.1 or 8.7.2, by the Authority under Paragraph 8.4.3 and the person appointed as Panel Chairman under Paragraph 8.4.1, and each of their alternates when acting in that capacity:

- (i) shall act impartially and in accordance with the requirements of the CUSC; and
- (ii) shall not be representative of, and shall act without undue regard to the particular interests of the persons or body of persons by whom he was appointed as Panel Member and any Related Person from time to time.

Para 8.12: Protections for Panel Members

8.12.1 Subject to Paragraph 8.12.2 all CUSC Parties shall jointly and severally indemnify and keep indemnified each Panel Member, the Panel Secretary and each member of a Workgroup and Standing Group ("Indemnified Persons") in respect of all costs (including legal costs), expenses, damages and other liabilities properly incurred or suffered by such Indemnified Persons when acting in or in connection with his office under the CUSC, or in what he in good faith believes to be the proper exercise and discharge of the powers, duties, functions and discretions of that office in accordance with the CUSC, and all claims, demands and proceedings in connection therewith other than any such costs, expenses, damages or other liabilities incurred or suffered as a result of the wilful default or bad faith of such Indemnified Person.

8.12.2 The indemnity provided in Paragraph 8.12.1 shall not extend to costs and expenses incurred in the ordinary conduct of being a Panel Member or Panel Secretary, or member of a Workgroup or Standing Group including, without limitation, accommodation costs and travel costs or any remuneration for their services to the CUSC Modifications Panel or Workgroup or Standing Group.

Para 8.20.3 & Para 8.20.4

8.20.3 A Workgroup shall comprise at least five (5) persons (who may be Panel Members) selected by the CUSC Modifications Panel from those nominated by CUSC Parties, BSC Parties or the National Consumer Council for their relevant experience and/or expertise in the areas forming the subject-matter of the CUSC Modification Proposal(s) to be considered by such Workgroup (and the CUSC Modifications Panel shall ensure, as far as possible, that an appropriate cross-section of representation, experience and expertise is represented on such Workgroup) provided that there shall always be at least one member representing The Company and if, and only if, the CUSC Modifications Panel is of the view that a CUSC Modification Proposal is likely to have an impact on the STC, the CUSC Modifications Panel may invite the STC committee to appoint a representative to become a member of the Workgroup. A representative of the Authority may attend any meeting of a Workgroup as an observer and may speak at such meeting.

8.20.4 The Code Administrator shall in consultation with the CUSC Modifications Panel appoint the chairman of the Workgroup who shall act impartially and as an independent chairman.