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Dear Mark,

**Consultation on Role of Code Administrators and Small Participant/Consumer Initiatives**

I am writing to you as the CUSC Amendments Panel Chair on behalf of the CUSC Amendments Panel. Thank you for the opportunity to respond to the above consultation.

The Panel is supportive of the review of the role of code administrators, and welcomes proposals for improvements, provided that flexibility remains which take into account the differences across codes and reflect the costs incurred.

Through CAP160 the Panel has been instrumental in making changes to the amendments process under the CUSC. These changes have been introduced to clarify arrangements and ensure all modifications have adequate time to undertake the required analysis.

The Panel appreciates that the role adopted for code administration differs across the various gas and electricity codes. Any alignment of these roles would need to be underpinned by an appropriate cost-benefit analysis. For instance change to the current code administration function of the CUSC would likely result in significant costs being incurred; we would anticipate that the CUSC resource costs alone would result in an increase from approximately £150K (for 2 FTEs) to somewhere in the region of £600K to £1,300K (for 6-9 FTEs) based on the existing UNC and BSC arrangements<sup>1</sup>. We would want to be certain that this increase in cost is justified by the resultant benefits. Code administration for the CUSC is currently performed by National Grid, providing administrative support to the Panel, working groups, and implementation of adopted amendments. Even though the role is not administered via a legally separate entity, it is effectively administered in an independent manner. A change to this function, whilst arguably introducing additional independence in a physical sense, would likely result in a loss of access to expertise within National Grid which would have to be procured or obtained via CUSC parties. Therefore, in principle, legal independence of administration would appear to be a good idea; however in practice it would result in a difficult balance between the resultant benefits that may be perceived, and the cost and expertise required to realise this.

In terms of quality of analysis, we would consider this to be the responsibility of the working group undertaking development of the proposal, with the Panel taking responsibility for

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<sup>1</sup> From the Critique of Industry Codes Governance Arrangements as published by Brattle and Simmons and Simmons, June 2008:

<http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=66&refer=Licensing/IndCodes/CGR>

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overseeing that the analysis meets the necessary standard. We believe that Ofgem also has a responsibility, from an efficiency point of view, in highlighting to the Working Group or Panel where it believes that further analysis would be required. As such the Panel already has the ability to send back proposals for further analysis and Ofgem are able to contribute to this process through their Panel and working group representation. We believe this avoids the need for supplementary call in or send back powers and the corresponding additional process of consultations and votes this would entail. The Panel does not consider the role of code administrator to include responsibility for the quality of analysis and believes that it has not been made clear how changing the role of code administrator would bring improvements to the quality of analysis.

We believe that the introduction of incremental developments may be beneficial in introducing positive improvements without incurring the level of costs associated with some of the more significant changes proposed. Through the CUSC Governance Standing Group improvements to arrangements are already being developed such as increasing the transparency of deliberations within the Panel, acknowledging that this facilitates industry understanding of the outcome of developments. Moreover CAP160 was introduced in 2008 to change the governance for processing amendments. The CUSC Governance Standing Group will be looking to review this further, based on the experience from Transmission Access Review. The Panel would suggest that additional benefits could be introduced if further clarification regarding Ofgem's role in the CUSC governance process were made. For example, under the CUSC rules Ofgem has the ability to veto Panel requests for timetable extensions. We believe that it would be appropriate for Ofgem to provide criteria regarding the circumstances when a Panel recommendation for a timetable extension can be vetoed, similar to the criteria provided to the Panel regarding the urgency process.

The Panel does not believe that a code of practice is appropriate, rather that greater cooperation and sharing of best practice between code administrators with the involvement of the industry is required. An example would be similar to the Environment Standing Group established under the CUSC facilitating cross-code consideration of carbon issues.

The Panel believes that it would be difficult to evaluate the performance of code administrators, and unclear how such performance measures would add value. If, however, this proposal is to be pursued further we would welcome clarification of the elements of performance that would be evaluated, and would stress that any measure introduced must be flexible in accounting for code differences.

We appreciate the complexities of the gas and electricity industries, and the difficulties that this can create for participants. As a Panel we would welcome views from such participants to fully understand their issues in relation to the CUSC and note that Ofgem stated that no specific concerns had been raised in the consultation. From experience under the CUSC a good cross-section of industry representation has been achieved at working groups when issues of relevance are under development (for instance for CAP148 of the 16 industry representatives 9 were not from the "big 6". CAP167 similarly had a representation of 6 out of 12 not from the "big 6").

In our opinion we believe National Grid acting as administrator for the CUSC, does provide support for all parties to aid understanding, for example the industry seminars as part of the Transmission Access Review process and splitting amendment reports due to small participants having issues downloading documents from the National Grid website due to the size of reports. In order to inform the industry further there may be merit in Ofgem publishing summaries of amendment proposals and the impact on consumers and small participants, similar to Ofgem internal summaries

To conclude the Panel acknowledges the importance of code administration, and welcomes the initiative to develop improvements. However, we would stress that any changes must be proportionate, giving adequate attention to the cost associated with introducing change and the certainty with which corresponding benefits may be realised.

If you wish to discuss further please do not hesitate to contact me or Carole Hook on 01926 654211, or [carole.hook@uk.ngrid.com](mailto:carole.hook@uk.ngrid.com)

Yours sincerely,

*Alison Kay* (by email)