New section 6.37 to go in CUSC section 6 “general provisions”

6.37 GC0156 Cost Recovery Claims

6.37.1 All CUSC party generators that are not contracted restoration service providers may submit claims for the recovery of the cost of compliance with the new obligations imposed on them via the Grid Code Change Package GC0156. These obligations relate to a need to be resilient against a loss of external supplies for up to 72 hours, in terms of the subsequent return to service time. Claims will be assessed by an independent claims committee as described in 6.37.7. All costs that result shall be recovered via BSUoS.

6.37.3 Contracted Restoration Services Providers (i.e. those with Restoration Contracts) are not permitted to submit such claims as it is assumed that the cost of their successful tender or negotiated contract price would have included any relevant costs

6.37.4 The claims process will involve a case-by-case assessment of claims for capital expenditure incurred in complying with the new obligations, with accompanying evidence to demonstrate that the costs incurred were reasonable, efficient and proportionate. Claimants will also be able to claim for operational costs. If successful claimants for capital costs do not make a claim, for operational costs, they will be able to make use of an allowance by type, size and technology of claimant for ongoing generic operational costs. Generators which are CUSC party generators, provided that they are not contracted restoration service providers, may opt in to the generic operational costs allowance applicable to their size technology and type without need of further documentation. Generators not opting in, will not receive the operational costs allowance.

6.37.5 the items which may be claimed for include, but are not limited to :

(i) the cost of the design an on-site solution to those Grid Code obligations;

(ii) the cost of identifying costed solutions;

(iii) the cost of seeking and obtaining the necessary planning permission(s) and any other necessary

permits or approvals, including the cost of any environmental impact assessment or other necessary consultancy support

(iv) the cost of procurement of the solution to make the generator compliant with the new grid code obligations

(v) the cost of construction of the solution

(vi) the cost of commissioning of the solution; and

(vii) the cost of any necessary staff training of existing staff in respect of the new requirements

(viii) the cost recruiting more staff if this should prove necessary

(ix) Any additional operational costs, which can be claimed as a per annum figure and will be paid out, if the claim is successful, in perpetuity (until the site is decommissioned or de-energised) (with annual CPI inflation being applied)

(x) a generator may choose to omit an evidenced and specific claim for annual operational costs, if so it may ask to be allocated the annual operational cost allowance that has been determined in accordance with 6.37.6 for its technology type and size. This request must be granted and does not require evidence.

(xi) a generator may choose to omit an evidenced and specific claim for any of (i) to (viii) above, yet may ask to be allocated the annual operational cost allowance that has been determined for its technology type and size. This request must be granted and does not require evidence.

(xi) A requests may be made to the independent claims committee for pre-approval of compliance expenditure (subject to a minimum claim of this nature of £100,000) relating to categories (i) to (viii) above. If such an advance claim is found by the committee to be reasonable, efficient, and proportionate, it shall be paid by the electricity system operator within one month of such approval.

6.37.6 The annual operational expenditure generic allowance will be set and published by the independent claims committee (established as per 6.37.7), comprising an annual allowance (inflated by CPI annually each WHAT MONTH GARTH) banded at the committee’s discretion by the technology type and size of claimants. In establishing the allowance, the independent claims committee will take into consideration their estimates of relevant costs of maintenance of relevant assets, costs of staff, cost of any testing or assurance activities, cost of ongoing training, cost of maintaining fuel stocks, cost of maintaining permitting, costs of additional business rates, and any other factors they identify as relevant. The committee may from time to time update the set of operational cost allowances as new data and their developing understanding allows them to do so, and any new value so assigned to the allowance for any band of generator will over-ride the annual CPI inflation that otherwise applies to the allowances. Any new value(s) will however then be subject to the annual CPI inflation thereafter.

6.37.7 The process for assessing claims will involve the establishment and maintenance of an independent claims committee, made up of independent experts not currently working for any CUSC party generator and who have not worked for any CUSC party generator for the previous 12 months. The CUSC panel will be required to specify and from time to time review the number of members needed on this committee, bearing in mind that its members may work on assessment of claims on a part-time basis with seasonal variations in the committee’s workload.

6.37.7 The CUSC panel will play no part in the appointment of members of the independent claims committee. Members will be appointed to the independent claims committee by the President of the Chartered Institute of Arbitrators. The daily pay rate of committee members will be decided by the President of the Chartered Institute of Arbitrators. The Electricity System Operator will play no role in the appointment of the independent claims committee, nor will the Electricity System Operator play a role in managing its work or setting its pay rate. The Electricity System Operator will pay members of the independent claims committee the rate that has been set for their work upon receipt of their timesheets. The Electricity System Operator will recover the costs of the remuneration of the independent claims committee via BSUoS, along with the costs of successful claims and operational cost allowances.

6.37.8 There is no time limit on how long the independent claims committee may take to assess a claim, or to initially set the operational cost allowance.

6.37.9 When a claim is approved, the independent claims committee shall pass on details of the generator involved to the electricity system operator. Subject to also being provided with payment details for that generator if necessary, the electricity system operator will pay the claim within one month from this time. The committee will not share details of the claim with the electricity system operator, only informing it of the amount to be paid, and of any annual operational costs that have been approved for that generator.

6.37.10 Where the CUSC panel becomes aware of a conflict of interest or any other impropriety or cause for concern affecting a member of the independent claims committee, the Panel may after discussion at its next meeting, by majority vote, at its absolute discretion, vote to strike them off the committee.

6.37.11 One or more members of The Authority will have the right to attend meetings of the independent claims committee if they wish to.

6.37.12 Each claimant shall use reasonable endeavours, exercising good industry practice, to identify if compliance with the GC0156 grid code requirements could be achieved at a materially lower cost by meeting a lesser technical requirement (such as by providing resilience for less than 72 hours) and if so, then they shall advise the ESO accordingly and liaise with the ESO about possible solutions associated with a derogation. If appropriate, they shall seek a derogation from Ofgem on that basis. If the derogation request is denied, then a claim can be submitted for assessment by the independent claims committee.

6.37.13 note that in the event of any generator receiving a system restoration instruction after a system shutdown, entirely separately from these CUSC provisions, ‘Avoidable Cost’ claims are able to be made by the relevant generator under the Balancing and Settlement Code. These are of a very different nature to these CUSC cost claims, and should not be claimed for under these CUSC provisions.