

## **CUSC - SECTION 8**

### **CUSC MODIFICATION**

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## **CUSC - SECTION 8**

### **CUSC MODIFICATION**

#### **8. Part A**

#### **8.1 INTRODUCTION**

8.1.1 This section of the **CUSC** sets out how the **CUSC** is to be amended and the procedures set out in this section, to the extent that they are dealt with in the **Code Administration Code of Practice**, are consistent with the principles contained in the **Code Administration Code of Practice**. Where inconsistencies or conflicts exist between the **CUSC** and the **Code Administration Code of Practice**, the **CUSC** shall take precedence. A modification to the **CUSC** may necessitate a modification to relevant **Bilateral Agreements** and/or to the **Mandatory Services Agreements** (and/or in certain circumstances the relevant **Construction Agreement**) and in those circumstances those agreements contain provisions for such alterations to be effected to those agreements.

8.1.2 There is a need to bring proposed amendments to the attention of **CUSC Parties** and others, to discuss such proposals and to report on them to the **Authority** and in furtherance of this, Section 8 provides for the establishment of a **CUSC Modifications Panel**, **Workgroups** and **Standing Groups** and for consultation by the **Code Administrator**.

#### **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 **EBR Amendment** will always be a **Standard CUSC Modification Proposal** unless an **Urgent CUSC Modification Proposal** or where it meets the Fast Track Criteria.

#### **8.1.4 Significant Code Review**

- (a) A **Significant Code Review** is a code review process initiated and led by the **Authority**, on one of a number of potential triggers. The **Authority** will launch a **Significant Code Review** on publication of a notice setting out matters

such as the scope of the review, reasons for it and announcing the start date.

- (b) A **Significant Code Review Phase** begins on the start date set out in the **Authority's** notice, during which time **CUSC Modification Proposals** that relate to the subject matter of the review are restricted, to ensure the process is as efficient as possible. Once the **Authority** has published its **Significant Code Review** conclusions, the **Authority** may direct **The Company** to raise **CUSC Modification Proposals** to put into effect the results of the **Significant Code Review**.
- (c) A process is set out in this Section 8 for analysing and consulting on **CUSC Modification Proposals** with a view to referring to the **Authority** those that may be restricted during a **Significant Code Review**. Subject to Paragraph 8.1.5, those **CUSC Modification Proposals** that are not so restricted proceed along the standard **CUSC Modification Process** of consultation with the industry followed by approval or non-approval by the **Authority**.

#### 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 **EBR 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.

## PART B

### 8.2 CODE ADMINISTRATOR

- 8.2.1 **The Company** shall establish and maintain a **Code Administrator** function, which shall carry out the roles referred to in Paragraph 8.2.2 and 8.3.3. **The Company** shall ensure the functions are consistent with the **Code Administration Code of Practice**.
- 8.2.2 The **Code Administrator** shall in conjunction with other code administrators, maintain, publish, review and (where appropriate) amend from time to time the **Code Administration Code of Practice** approved by the **Authority** provided that any amendments

to the **Code Administration Code of Practice** proposed by the **Code Administrator** are approved by the **CUSC Modifications Panel** prior to being raised by the **Code Administrator**, and any amendments to be made to the **Code Administration Code of Practice** are approved by the **Authority**.

#### 8.2.3 Market-wide Half-Hourly Settlement Implementation

**The Company** shall (and shall ensure that the **Code Administrator** shall) comply with the obligations expressed to apply to **The Company** (either specifically or generally as a category of participant) under section C12 (Market-wide Half Hourly Settlement Implementation) of the **Balancing and Settlement Code**.

### 8.3 THE CUSC MODIFICATIONS PANEL

#### 8.3.1 Establishment and Composition

- (a) The **CUSC Modifications Panel** shall be the standing body to carry out the functions referred to in Paragraph 8.3.3.
- (b) The **CUSC Modifications Panel** shall comprise the following members:
  - (i) the person appointed as the chairperson of the **CUSC Modifications Panel** (the “**Panel Chairperson**”) in accordance with Paragraph 8.4.1, who shall (subject to Paragraph 8.11.4) be a non-voting member;
  - (ii) not more than seven persons appointed by **Users** in accordance with Paragraph 8.4.2(a);
  - (iii) two persons appointed by **The Company** in accordance with Paragraph 8.4.2(c);
  - (iv) The **Consumer Representative**, appointed in accordance with Paragraph 8.4.2(b); and
  - (v) the person appointed (if the **Authority** so decides) by the Authority in accordance with Paragraph 8.4.3.
- (c) The **CUSC Modifications Panel** shall be assisted by a secretary (“**Panel Secretary**”), who shall be a person appointed and provided by the **Code Administrator** and who shall be responsible for the administration of the **CUSC Modifications Panel** and **CUSC Modification Proposals**.

#### 8.3.2 Authority’s Representative

A representative of the **Authority** shall be entitled to attend **CUSC Modifications Panel** meetings as an observer and may speak at any meeting. The **Authority** shall from time

to time notify the **Panel Secretary** of the identity of the observer.

8.3.3 Functions of the **CUSC Modifications Panel** and the **Code Administrator's Role**

- (a) The **CUSC Modifications Panel** shall have the functions assigned to it in this Section 8.
- (b) Without prejudice to Paragraph 8.3.3(a) and to the further provisions of this Section 8, the **CUSC Modifications Panel** shall endeavour at all times to operate:
  - (i) in an efficient, economical and expeditious manner, taking account of the complexity, importance and urgency of particular **CUSC Modification Proposals**; and
  - (ii) with a view to ensuring that the **CUSC** facilitates achievement of the **Applicable CUSC Objectives**.
- (c) **The Company** shall be responsible for implementing or supervising the implementation of **Approved CUSC Modifications** and **Approved CUSC Modification Self Governance Proposals** and **Approved CUSC Modification Fast Track Proposals** in accordance with the provisions of the **CUSC** which shall reflect the production of the revised **CUSC**. The **Code Administrator** and **The Company** shall be responsible for implementing and supervising the implementation of any amendments to their respective systems and processes necessary for the implementation of the **Approved CUSC Modification** and, the **Approved CUSC Modification Self-Governance Proposals** provided there is no successful appeal and, , the **Approved CUSC Modification Fast Track Proposals** provided no objections are received in accordance with Paragraph 8.29. However, it will not include the implementation of **Users'** systems and processes. The **Code Administrator** will carry out its role in an efficient, economical and expeditious manner and (subject to any extension granted by the **Authority** where the **Code Administrator** has applied for one in accordance with Paragraph 8.3.3(d) or (e) in accordance with the **Implementation Date**.
- (d) Subject to notifying **Users**, the **Code Administrator** will, with the **Authority's** approval, apply to the **Authority** for a revision or revisions to the **Implementation Date** where the **Code Administrator** becomes aware of any circumstances which is likely to mean that the **Implementation Date** is unachievable, which shall include as a result of a **Legal Challenge**, at any point following the approval of the **CUSC Modification Proposal**.
- (e) In the event that the Authority's decision to approve or not to approve a **CUSC Modification Proposal** is subject of **Legal Challenge** (and the party raising such **Legal**

**Challenge** has received from the relevant authority the necessary permission to proceed) then the **Code Administrator** will, with the **Authority's** approval, apply to the **Authority** for a revision or revisions to the **Proposed Implementation Date** in the **CUSC Modification Report** in respect of such **CUSC Modification Proposal** as necessary such that if such **CUSC Modification Proposal** were to be approved following such **Legal Challenge** the **Proposed Implementation Date** would be achievable.

- (f) Prior to making any request to the **Authority** for any revision pursuant to Paragraphs 8.3.3(d) (where it is necessary as a result of a **Legal Challenge**) or 8.3.3(e) the **Code Administrator** shall consult on the revision with **CUSC Parties** and such other person who may properly be considered to have an appropriate interest in it in accordance with Paragraphs 8.22.2 and 8.22.6. The request to the **Authority** shall contain copies of (and a summary of) all written representations or objections made by consultees during the consultation period.

#### 8.3.4 Duties of Panel Members

- (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 Chairperson** 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 they were appointed as **Panel Member** and any **Related Person** from time to time.
- (b) Such a person shall not be appointed as a **Panel Member** or an **Alternate Member** (as the case may be) unless they shall have first:
  - (i) confirmed in writing to the **Code Administrator** for the benefit of all **CUSC Parties** that they agree to act as a **Panel Member** or **Alternate Member** in accordance with the **CUSC** and acknowledges the requirements of Paragraphs 8.3.4(a) and 8.3.4(c);
  - (ii) where that person is employed, provided to the **Panel Secretary** a letter from their employer agreeing that they may act as a **Panel Member** or **Alternate Member**, and that the requirement in Paragraph 8.3.4(a)(ii) shall prevail over their duties as an employee; and
  - (iii) declared in writing to the **Code Administrator** for publication for the benefit of all **CUSC Parties** any

interests (in relation to the **CUSC**) as are referred to in Paragraph 8.3.4(e).

- (c) A **Panel Member** or **Alternate Member** shall, upon any change in the interests referred to in Paragraph 8.3.4(b)(iii), disclose such changes (in writing) to the **Panel Secretary**.
- (d) Upon a change in employment of a **Panel Member** or **Alternate Member**, they shall so notify the **Panel Secretary** and shall endeavour to obtain from their new employer and provide to the **Panel Secretary** a letter in the terms required in Paragraph 8.3.4(b)(ii); and they shall be removed from office if they do not do so within a period of sixty (60) days after such change in employment.
- (e) The interests of any **Panel Member** or **Alternate Member** referred to in Paragraph 8.3.4(b)(iii) are:
  - (i) any interests (in relation to the **CUSC**) as are referred to in Paragraph 8.3.4(a)(ii); and
  - (ii) any shares owned or acquired in any **CUSC Party** or **CUSC Parties** at a total aggregate value of over £10,000.

## 8.4 APPOINTMENT OF PANEL MEMBERS

### 8.4.1 Panel Chairperson

- (a) The **Panel Chairperson** shall be an executive director (or other senior employee) of **The Company** until 30 September 2011. Thereafter the **Panel Chairperson** shall be a person appointed (or re-appointed) by **The Company**, having particular regard to the views of the **CUSC Modifications Panel**, and shall be independent of **The Company**.
- (b) A person shall be appointed or re-appointed as the **Panel Chairperson** where the **Authority** has approved such appointment or re-appointment and **The Company** has given notice to the **Panel Secretary** of such appointment, with effect from the date of such notice or (if later) with effect from the date specified in such notice.

### 8.4.2 Other Panel Members

- (a) **Users** may appoint **Panel Members** (and **Alternate Members**) by election in accordance with Annex 8A.
- (b) The **Citizens Advice** or the **Citizens Advice Scotland** may appoint one person as a **Panel Member** representing customers by giving notice of such appointment to the

**Panel Secretary**, and may remove and re-appoint by notice.

- (c) **The Company** may appoint two persons as **Panel Members** by giving notice of such appointment to the **Panel Secretary**, and may remove and re-appoint by notice.

#### 8.4.3 Appointment of Further Member

- (a) If in the opinion of the **Authority** there is a class or category of person (whether or not a **CUSC Party** or a **BSC Party**) who have interests in respect of the **CUSC** but whose interests:

- (i) are not reflected in the composition of **Panel Members** for the time being appointed; but
- (ii) would be so reflected if a particular person was appointed as an additional **Panel Member**,

then the **Authority** may at any time appoint (or re-appoint) that person as a **Panel Member** by giving notice of such appointment to the **Panel Secretary** but in no event shall the **Authority** be able to appoint more than one person so that there could be more than one such **Panel Member**.

- (b) A person appointed as a **Panel Member** pursuant to this Paragraph 8.4.3 shall remain appointed, subject to Paragraphs 8.5 and 8.6, notwithstanding that the conditions by virtue of which they were appointed (for example that the interests they reflect are otherwise reflected) may cease to be satisfied.

#### 8.4.4 Natural Person

No person other than an individual shall be appointed a **Panel Member** or their alternate.

### 8.5 **TERM OF OFFICE**

The term of office of a **Panel Member**, the **Panel Chairperson** and **Alternate Members** shall be a period expiring on 30 September every second year following the **CUSC Implementation Date**. A **Panel Member**, the **Panel Chairperson** and **Alternate Member** shall be eligible for reappointment on expiry of their term of office.

### 8.6 **REMOVAL FROM OFFICE**

- 8.6.1 A person shall cease to hold office as the **Panel Chairperson**, a **Panel Member** or an **Alternate Member**:

- (a) upon expiry of their term of office unless re-appointed;
- (b) if they:
  - (i) resign from office by notice delivered to the **Panel Secretary**;

- (ii) become bankrupt or make any arrangement or composition with their creditors generally;
  - (iii) are or may be suffering from mental disorder and either is admitted to hospital in pursuance of an application under the Mental Health Act 1983 or the Mental Health (Scotland) Act 1960 or an order is made by a court having jurisdiction in matters concerning mental disorder for their detention or for the appointment of a receiver, *curator bonis* or other person with respect to their property or affairs;
  - (iv) become prohibited by law from being a director of a company under the Companies Act 1985;
  - (v) die; or
  - (vi) are convicted on an indictable offence; or
- (c) as provided for in Paragraph 8.3.4(d);
- (d) if the **CUSC Modifications Panel** resolves (and the **Authority** does not veto such resolution by notice in writing to the **Panel Secretary** within fifteen (15) **Business Days**) that they should cease to hold office on grounds of their serious misconduct;
- (e) if the **CUSC Modifications Panel** resolves (and the **Authority** does not veto such resolution by notice in writing to the **Panel Secretary** within fifteen (15) **Business Days**) that they should cease to hold office due to a change in employer notwithstanding compliance with Paragraph 8.3.4(d).

8.6.2 A **CUSC Modifications Panel** resolution under Paragraph 8.6.1(d) or (e) shall, notwithstanding any other paragraph, require the vote in favour of at least all **Panel Members** less one (other than the **Panel Member** or **Alternate Member** who is the subject of such resolution) and for these purposes an abstention shall count as a vote cast in favour of the resolution. A copy of any such resolution shall forthwith be sent to the **Authority** by the **Panel Secretary**.

8.6.3 A person shall not qualify for appointment as a **Panel Member** or **Alternate Member** if at the time of the proposed appointment they would be required by the above paragraph to cease to hold that office.

8.6.4 The **Panel Secretary** shall give prompt notice to all **Panel Members**, all **CUSC Parties** and the **Authority** of the appointment or re-appointment of any **Panel Member** or **Alternate Member** or of any **Panel Member** or **Alternate Member** ceasing to hold office and publication on the **Website** and (where relevant details are supplied to the **Panel Secretary**) despatch by electronic mail shall fulfil this obligation.

## 8.7 ALTERNATES

### 8.7.1 Alternate: Panel Chairperson

The **Panel Chairperson** shall preside at every meeting of the **CUSC Modifications Panel** at which they are present. If they are unable to be present at a meeting, they may appoint an alternate (who shall be a senior employee of **The Company**) to act as the **Panel Chairperson**, who may or may not be a **Panel Member**. If neither the **Panel Chairperson** nor their alternate is present at the meeting within half an hour of the time appointed for holding the meeting, the **Panel Members** present may appoint one of their number to be the chairperson of the meeting.

### 8.7.2 Alternate(s): Users Panel Members

- (a) At the same time that **Users** appoint **Panel Members** under Paragraph 8.4.2(a), they shall appoint up to five (5) alternate members for **Panel Members** appointed pursuant to Paragraph 8.3.1(b)(ii) ("**Alternate Members**") by election in accordance with Annex 8A.
- (b) Such **Alternate Members** will form a group from which the **Panel Chairperson** shall select a person to act as an alternate in accordance with this Paragraph 8.7.
- (c) Where any **Panel Member** appointed pursuant to Paragraph 8.3.1(b)(ii) gives the notice referred to in Paragraph 8.8.12 the **Panel Chairperson** shall select through a rota system an **Alternate Member** to act as the absent **Panel Member** for the relevant—**CUSC Modifications Panel** meeting, and may remove a person so appointed as alternate, by giving notice of such appointment or removal to the **Panel Secretary**. If there are no **Alternate Members** left on the rota who have not already been selected to act as alternate for the relevant **CUSC Modifications Panel** meeting the **Panel Chairperson** shall select through a rota system a **Panel Member** or **Alternate Member** to act as alternate for the absent **Panel member**.
- (d) All information to be sent by the **Panel Secretary** to **Panel Members** pursuant to this Section 8 shall also be sent by the **Panel Secretary** to each **Alternate Member** (whether or not currently selected as an alternate for a **Panel Member**) by electronic mail (where relevant details shall have been provided by each **Alternate Member**).

### 8.7.3 Alternates: Other Panel Members

A **Panel Member** appointed pursuant to Paragraphs 8.3.1(b)(iii), 8.3.1(b)(iv) or 8.3.1(b)(v) may appoint a person (whether or not a **Panel Member**) to be their alternate, and may remove a person so

appointed as alternate, by giving notice of such appointment or removal to the **Panel Secretary**.

8.7.4 Alternates: General Provisions

- (a) The appointment or removal of an alternate shall be effective from the time when such notice is given to the **Panel Secretary** or (if later) the time specified in such notice.
- (b) The **Panel Secretary** shall promptly notify all **Panel Members** and **CUSC Parties** of appointment or removal by any **Panel Member** of any alternate and publication on the **Website** and (where relevant details have been provided to the **Panel Secretary**) despatch by electronic mail shall fulfil this obligation.
- (c) In accordance with Paragraph 8.7.2, an alternate may act as alternate for more than one **Panel Member**.

8.7.5 Alternates: Rights, Cessation and References

- (a) Where an alternate has been selected under this Paragraph 8.7:
  - (i) the alternate shall be entitled:
    - (aa) to receive notices of meetings of the **CUSC Modifications Panel**;
    - (bb) to attend, speak and vote at any meeting of the **CUSC Modifications Panel** at which the **Panel Member** for whom they are acting as an alternate is not present, and at such meeting to exercise and discharge all of the functions, duties and powers of such **Panel Member**;
  - (ii) the alternate shall cast one vote for each **Panel Member** for whom they are acting as alternate in addition (where they are a **Panel Member** themselves) to their own vote;
  - (iii) Paragraphs 8.8, 8.9, 8.10, 8.11 and 8.12 shall apply to the alternate as if they were the **Panel Member** for whom they are acting as an alternate and a reference to a **Panel Member** elsewhere in the **CUSC** shall, unless the context otherwise requires, include their duly appointed alternate.
  - (iv) for the avoidance of doubt, the **Panel Member** for whom an alternate has been selected shall not enjoy any of the rights transferred to the alternate at any meeting at which, or in relation to any matter on which, the alternate acts on their behalf.

- (b) A person appointed as an alternate under paragraph 8.7.3 shall automatically cease to act as such an alternate:
  - (i) if the **Panel Member** for whom they are acting as an alternate ceases to be a **Panel Member** provided that, where such person is an **Alternate Member**, they shall continue to be an **Alternate Member** available for appointment under paragraph 8.7.2; or
  - (ii) if any of the circumstances in Paragraph 8.6.1(b) applies in relation to such person.

## 8.8 MEETINGS

- 8.8.1 Meetings of the **CUSC Modifications Panel** shall be held at regular intervals and at least every month at such time and such place as the **CUSC Modifications Panel** shall decide.
- 8.8.2 A regular meeting of the **CUSC Modifications Panel** may be cancelled if:
  - (a) the **Panel Chairperson** considers, having due regard to the lack of business in the agenda, that there is insufficient business for the **CUSC Modifications Panel** to conduct and requests the **Panel Secretary** to cancel the meeting;
  - (b) the **Panel Secretary** notifies all **Panel Members**, not less than five (5) **Business Days** before the date for which the meeting is to be convened, of the proposal to cancel the meeting; and
  - (c) by the time three (3) **Business Days** before the date for which the meeting is or is to be convened, no **Panel Member** has notified the **Panel Secretary** that they object to such cancellation.
- 8.8.3 If any **Panel Member** wishes, acting reasonably, to hold a special meeting (in addition to regular meetings under Paragraph 8.8.1) of the **CUSC Modifications Panel**:
  - (a) they shall request the **Panel Secretary** to convene such a meeting and inform the **Panel Secretary** of the matters to be discussed at the meeting;
  - (b) the **Panel Secretary** shall promptly convene the special meeting for a day as soon as practicable but not less than five (5) **Business Days** after such request.
- 8.8.4 Any meeting of the **CUSC Modifications Panel** shall be convened by the **Panel Secretary** by notice (which will be given by electronic

mail if the relevant details are supplied to the **Panel Secretary**) to each **Panel Member** (and to the **Authority**):

- (a) setting out the date, time and place of the meeting and (unless the **CUSC Modifications Panel** has otherwise decided) given at least five (5) **Business Days** before the date of the meeting;
- (b) accompanied by an agenda of the matters for consideration at the meeting and any supporting papers available to the **Panel Secretary** at the time the notice is given (and the **Panel Secretary** shall circulate to **Panel Members** any late papers as and when they are received by them).

8.8.5 The **Panel Secretary** shall send a copy of the notice convening a meeting of the **CUSC Modifications Panel**, and the agenda and papers accompanying the notice, to each **CUSC Party** and each **BSC Party** at the same time at which notice is given to the **Panel Members**, and publication on the **Website** and despatch by electronic mail (if the relevant details are supplied to the **Panel Secretary**) shall fulfil this obligation.

8.8.6 Any **Panel Member** (or, at the **Panel Member's** request, the **Panel Secretary**) may notify matters for consideration at a meeting of the **CUSC Modifications Panel** in addition to those notified by the **Panel Secretary** under Paragraph 8.8.4 by notice to all **Panel Members** and persons entitled to receive notice under Paragraph 8.8.5, not less than three (3) **Business Days** before the date of the meeting.

8.8.7 The proceedings of a meeting of the **CUSC Modifications Panel** shall not be invalidated by the accidental omission to give or send notice of the meeting or a copy thereof or any of the accompanying agenda or papers to, or failure to receive the same by, any person entitled to receive such notice, copy, agenda or paper.

8.8.8 A meeting of the **CUSC Modifications Panel** may consist of a conference between **Panel Members** who are not all in one place (although at least one must be at the venue in the notice of meeting) but who are able (by telephone or otherwise) to speak to each of the others and to be heard by each of the others simultaneously.

8.8.9 With the consent of all **Panel Members** (whether obtained before, at or after any such meeting) the requirements of this Paragraph 8.8 as to the manner in and notice on which a meeting of the **CUSC Modifications Panel** is convened may be waived or modified provided that no meeting of the **CUSC Modifications Panel** shall be held unless notice of the meeting and its agenda has been sent to the persons entitled to receive the same under Paragraph 8.8.5 at least 24 hours before the time of the meeting.

8.8.10 Subject to Paragraph 8.8.11, no matter shall be resolved at a meeting of the **CUSC Modifications Panel** unless such matter was contained in the agenda accompanying the **Panel Secretary's** notice under Paragraph 8.8.4 or was notified in accordance with Paragraph 8.8.6.

8.8.11 Where:

- (a) any matter (not contained in the agenda and not notified pursuant to Paragraphs 8.8.4 and 8.8.6) is put before a meeting of the **CUSC Modifications Panel**, and
- (b) in the opinion of the **CUSC Modifications Panel** it is necessary (in view of the urgency of the matter) that the **CUSC Modifications Panel** resolve upon such matter at the meeting,

the **CUSC Modifications Panel** may so resolve upon such matter, and the **CUSC Modifications Panel** shall also determine at such meeting whether the decision of the **CUSC Modifications Panel** in relation to such matter should stand until the following meeting of the **CUSC Modifications Panel**, in which case (at such following meeting) the decision shall be reviewed and confirmed or (but not with effect earlier than that meeting, and only so far as the consequences of such revocation do not make implementation of the **CUSC** or compliance by **CUSC Parties** with it impracticable) revoked.

- 8.8.12 Where any **Panel Member** is unable to attend a **CUSC Modifications Panel** they shall use reasonable endeavours to give at least five (5) **Business Days**’ prior notice to the **Panel Secretary**. In the event such absence is unforeseen (such as through illness) then the **Panel Member** shall use reasonable endeavours to give notice to the **Panel Secretary** no later than 07:00 on the day of the planned meeting.

## 8.9 PROCEEDINGS AT MEETINGS

- 8.9.1 Subject as provided in the **CUSC**, the **CUSC Modifications Panel** may regulate the conduct of and adjourn and reconvene its meetings as it sees fit.
- 8.9.2 Meetings of the **CUSC Modifications Panel** shall be open to attendance by a representative of any **CUSC Party**, any **BSC Party**, the **Citizen Advice** or the **Citizens Advice Scotland** and any person invited by the **Panel Chairperson** and/or any other **Panel Member**.
- 8.9.3 The **Panel Chairperson** and any other **Panel Member** may invite any person invited by them under Paragraph 8.9.2, and/or any attending representative of a **CUSC Party**, to speak at the meeting (but such person shall have no vote).
- 8.9.4 As soon as practicable after each meeting of the **CUSC Modifications Panel**, the **Panel Secretary** shall prepare and send (by electronic mail or otherwise) to **Panel Members** the minutes of such meeting, which shall be (subject to Paragraph 8.9.5) approved (or amended and approved) at the next meeting of the **CUSC Modifications Panel** after they were so sent, and when approved (excluding any matter which the **CUSC Modifications Panel** decided was not appropriate for such publication) shall be placed on the **Website**.

- 8.9.5 If, following the circulation of minutes (as referred to in Paragraph 8.9.4), the meeting of the **CUSC Modifications Panel** at which they were to be approved is cancelled pursuant to Paragraph 8.8.2, such minutes (including any proposed changes thereto which have already been received) shall be re-circulated with the notification of the cancellation of the meeting of the **CUSC Modifications Panel**. **Panel Members** shall confirm their approval of such minutes to the **Panel Secretary** (by electronic mail) no later than five (5) **Business Days** following such minutes being re-circulated. If no suggested amendments are received within such five (5) **Business Days** period, the minutes will be deemed to have been approved. If the minutes are approved, or deemed to have been approved, (excluding any matter which the **CUSC Modifications Panel** decided was not appropriate for such publication) they shall be placed on the **Website**. If suggested amendments are received within such five (5) **Business Days** period, the minutes shall remain unapproved and the process for approval (or amendment and approval) of such minutes at the next meeting of the **CUSC Modifications Panel**, as described in Paragraph 8.8.4, shall be followed.

## 8.10 QUORUM

- 8.10.1 No business shall be transacted at any meeting of the **CUSC Modifications Panel** unless a quorum is present throughout the meeting.
- 8.10.2 Subject to Paragraph 8.10.4, a quorum shall be 6 **Panel Members** who have a vote present (subject to 8.8.8) in person or by their alternates, of whom at least one shall be appointed by **The Company**.
- 8.10.3 If within half an hour after the time for which the meeting of the **CUSC Modifications Panel** has been convened a quorum is not present (and provided the **Panel Secretary** has not been notified by **Panel Members** that they have been delayed and are expected to arrive within a reasonable time):
- (a) the meeting shall be adjourned to the same day in the following week (or, if that day is not a **Business Day** the next **Business Day** following such day) at the same time;
  - (b) the **Panel Secretary** shall give notice of the adjourned meeting as far as practicable in accordance with Paragraph 8.8.
- 8.10.4 If at the adjourned meeting there is not a quorum present within half an hour after the time for which the meeting was convened, those present shall be a quorum.

## 8.11 VOTING

- 8.11.1 At any meeting of the **CUSC Modifications Panel** any matter to be decided which shall include the **CUSC Modifications Panel Recommendation Vote** shall be put to a vote of **Panel Members** upon the request of the **Panel Chairperson** or any **Panel Member**.

- 8.11.2 Subject to Paragraphs 8.7.5, 8.11.4 and 8.11.5, in deciding any matter at any meeting of the **CUSC Modifications Panel** each **Panel Member** other than the **Panel Chairperson** shall cast one vote.
- 8.11.3 Except as otherwise expressly provided in the **CUSC**, and in particular Paragraph 8.6.2, any matter to be decided at any meeting of the **CUSC Modifications Panel** shall be decided by simple majority of the votes cast at the meeting (an abstention shall not be counted as a cast vote).
- 8.11.4 The **Panel Chairperson** shall not cast a vote as a **Panel Member** but shall have a casting vote on any matter (except in a **CUSC Modifications Panel Recommendation Vote**) where votes are otherwise cast equally in favour of and against the relevant motion including, for the avoidance of doubt, in the **CUSC Modifications Panel Self-Governance Vote**, where the **Panel Chairperson** is obliged to exercise their casting vote if votes are otherwise cast equally in favour of or against a **CUSC Modification Proposal**, but where any person other than the actual **Panel Chairperson** or their alternate is acting as chairperson they shall not have a casting vote.
- 8.11.5 The two **Panel Members** appointed by **The Company** pursuant to Paragraph 8.3.1(b)(iii) shall together have one vote in relation to each matter which shall be cast jointly by agreement between them or, where only one of **The Company Panel Members** is present at a meeting, by that **The Company Panel Member**.
- 8.11.6 Any resolution in writing signed by or on behalf of all **Panel Members** shall be valid and effectual as if it had been passed at a duly convened and quorate meeting of the **CUSC Modifications Panel**. Such a resolution may consist of several instruments in like form signed by or on behalf of one or more **Panel Members**.

## **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 their office under the **CUSC**, or in what they in good faith believe 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**.

- 8.12.3 The **CUSC Parties** agree that no **Indemnified Person** shall be liable for anything done when acting properly in or in connection with their office under the **CUSC**, or anything done in what they in good faith believe to be the proper exercise and discharge of the powers, duties, functions and discretions of that office in accordance with the **CUSC**. Each **CUSC Party** hereby irrevocably and unconditionally waives any such liability of any **Indemnified Person** and any rights, remedies and claims against any **Indemnified Person** in respect thereof.
- 8.12.4 Without prejudice to Paragraph 8.12.2, nothing in Paragraph 8.12.3 shall exclude or limit the liability of an **Indemnified Person** for death or personal injury resulting from the negligence of such **Indemnified Person**.

## **PART C**

### **8.13 CUSC MODIFICATION REGISTER**

- 8.13.1 The **Code Administrator** shall establish and maintain a register ("**CUSC Modification Register**") which shall record the matters set out in Paragraph 8.13.3.
- 8.13.2 The purpose of the **CUSC Modification Register** shall be to assist the **CUSC Modifications Panel** and to enable the **CUSC Modifications Panel**, **CUSC Parties** and any other persons who may be interested to be reasonably informed of the progress of **CUSC Modification Proposals** and **Approved CUSC Modifications** from time to time.
- 8.13.3 The **CUSC Modification Register** shall record in respect of current outstanding **CUSC Modifications Panel** business:
- (a) details of each **CUSC Modification Proposal** (including the name of the **Proposer**, the date of the **CUSC Modification Proposal** and a brief description of the **CUSC Modification Proposal**);
  - (b) whether such **CUSC Modification Proposal** is an **Urgent CUSC Modification Proposal**;
  - (c) the current status and progress of each **CUSC Modification Proposal**, if appropriate the anticipated date for reporting to the **Authority** in respect thereof, and whether it has been withdrawn, rejected or implemented for a period of three (3) months after such withdrawal, rejection or implementation or such longer period as the **Authority** may determine;
  - (d) the current status and progress of each **Approved CUSC Modification**, each **Approved CUSC Modification Self-Governance Proposal**, and each **Approved CUSC Modification Fast Track Proposal**; and

- (e) such other matters as the **CUSC Modifications Panel** may consider appropriate from time to time to achieve the purpose of Paragraph 8.13.2.

8.13.4 The **CUSC Modification Register** (as updated from time to time and indicating the revisions since the previous issue) shall be published on the **Website** or (in the absence, for whatever reason, of the **Website**) in such other manner and with such frequency (being not less than once per month) as the **Code Administrator** may decide in order to bring it to the attention of the **CUSC Modifications Panel**, **CUSC Parties** and other persons who may be interested.

## 8.14 PROGRESS REPORT

8.14.1 The **Code Administrator** shall prepare and submit to the **Authority** each month (or such less often period if there is no material matter arising to report) a progress report ("**Progress Report**") setting out the matters referred to in Paragraph 8.14.2 in respect of the preceding month and send a copy of the **Progress Report** to each **Panel Member**.

8.14.2 The **Progress Report** shall contain:

- (a) details of any proposal which has been refused pursuant to Paragraph ~~8.16.5~~ or Paragraph 8.16.6;
- (b) the current version of the **CUSC Modification Register**;
- (c) details of:
  - (i) the priority proposed to be accorded or that is accorded to each **CUSC Modification Proposal** in the **CUSC Modification Register** (in accordance with Paragraph 8.19.1);
  - (ii) the scheduling and timetable for consideration of each **CUSC Modification Proposal** and completion of the **CUSC Modification Report** in respect thereof in the context of all other current **CUSC Modification Proposals**;
  - (iii) the impact of the priority accorded to each **CUSC Modification Proposal** by reference to each other pending **CUSC Modification Proposal**;
- (d) details of any decision to amalgamate **CUSC Modification Proposals** in accordance with Paragraph 8.19.2;
- (e) details of any circumstances which lead **The Company** and/or the **CUSC Modifications Panel** to believe that the implementation date for an **Approved CUSC Modification** is unlikely to be met and, if so, why;
- (f) such other matters as the **Authority** may request to be included from time to time; and
- (g) the basis for each of the decisions referred to above.

8.14.3 If, following discussion with the **CUSC Modifications Panel**, the **Authority** issues a notice to the **Panel Secretary** requesting the **Code Administrator** and the **CUSC Modifications Panel** (in relation to developments and changes highlighted in the monthly **Progress Report**):

- (a) not to reject a **CUSC Modification Proposal** which does not satisfy Paragraph 8.16.4; and/or
- (b) not to amalgamate **CUSC Modification Proposals** as set out in the monthly **Progress Report**; and/or
- (c) to accord a different priority to particular **CUSC Modification Proposals** from that set out in the monthly **Progress Report**; and/or
- (d) to amend the timetable for a **CUSC Modification Proposal**,

the **Panel Secretary** shall send a copy of the notice to each **Panel Member** and **Alternate Member**. The **CUSC Modifications Panel** and the **Code Administrator** shall comply with such notice.

8.14.4 The **Panel Secretary** shall publish each **Progress Report** on the **Website** within seven (7) **Business Days** after it is sent to the **Authority**, provided that the **Panel Secretary** shall exclude there from any matters in respect of which the **Authority** issues a notice to the **Panel Secretary** for the purpose of this Paragraph 8.14.4. Copies shall be sent to those **Panel Members**, **Alternate Members** and **CUSC Parties** who have provided electronic mail addresses to the **Code Administrator**.

## 8.15 CHANGE CO-ORDINATION

8.15.1 The **Code Administrator** shall establish (and, where appropriate, revise from time to time) joint working arrangements for change co-ordination with each **Core Industry Document Owner**, with the **STC** committee, the **CM Administrative Parties** and with the **Secretary of State** to facilitate the identification, co-ordination, making and implementation of change to **Core Industry Documents** and the **STC**, and facilitate the identification of potential inconsistencies between **CUSC Modification Proposals** and the **Capacity Market Documents** and the **CFD Documents** respectively consequent on a **CUSC Modification**, including, but not limited to, changes that are appropriate in order to avoid conflict or inconsistency as between the **CUSC** and any **Core Industry Document** and the **STC**, in a full and timely manner.

8.15.2 The working arrangements referred to in Paragraph 8.15.1 shall be such as to enable the consideration, development and evaluation of **CUSC Modification Proposals**, and the implementation of **Approved CUSC Modifications**, to proceed in a full and timely manner and enable changes to **Core Industry Documents** and the **STC** and for potential inconsistencies between **CUSC Modification Proposals** and the **Capacity Market Documents** and/or the **Cfd Documents** to be raised with the **CM Administrative Parties** and the **Secretary of State** consequent on an amendment to be made and given effect wherever possible (subject to any necessary

consent of the **Authority**) at the same time as such **CUSC Modification** is made and given effect.

## 8.16 CUSC MODIFICATION PROPOSALS

### 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 **EBR 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 **EBR Amendment** .

8.16.2 A proposal to modify the **Charging Methodologies** must be made by means of a **CUSC Modification Proposal**, which may not contain any proposal to modify any other section of the **CUSC**, and must comply (as applicable) with condition E10.6 'Use of System charging and methodology' and conditions E11.4 and E11.10 Connection charging methodology of the **ESO Licence**. When making a **CUSC Modification Proposal** in respect of the **Charging Methodologies**,

the **Proposer** may make specific reference to any link with another **CUSC Modification Proposal**.

8.16.3 A **Standard CUSC Modification Proposal** shall follow the procedure set out in Paragraphs 8.18 to 8.23.

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 their 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**;
- (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; and
- (l) whether or not (and to the extent) that in the **Proposer's** view the **CUSC Modification Proposal** constitutes an **EBR Amendment**

8.16.4A The **Proposer** of a **CUSC Modification Fast Track Proposal**, is not required to provide the items referenced at Paragraph 8.16.4 (f) – (j) inclusive, unless either:

- (a) the **CUSC Modifications Panel** has, pursuant to Paragraphs 8.29.5 or 8.29.6, not agreed unanimously that the **CUSC Modification Fast Track Proposal** meets the **Fast Track Criteria**, or has not unanimously approved the **CUSC Modification Fast Track Proposal**; or
- (b) there has been an objection to the **Approved CUSC Modification Fast Track Proposal** pursuant to Paragraph 8.29.12,

whereupon the **Proposer** shall be entitled to provide the additional information required pursuant to Paragraph 8.16.4 for a **CUSC Modification Proposal** within 28 days of the **Panel Secretary's** request. Where the **Proposer** fails to provide the additional information in accordance with such timescales, the **Panel Secretary** may reject such proposal in accordance with Paragraph 8.16.5.

8.16.5 if a proposal fails in any material respect to provide the information in Paragraph 8.16.4 (excluding Paragraphs (e), (i) and (j) thereof), the **Panel Secretary** may, subject to Paragraphs 8.14.3(a) and 8.17A.8, reject such proposal provided that:

- (a) the **Panel Secretary** shall furnish the **Proposer** with the reasons for such rejection;
- (b) the **Panel Secretary** shall report such rejection to the **CUSC Modifications Panel** at the next **CUSC Modifications Panel** meeting, with details of the reasons;
- (c) if the **CUSC Modifications Panel** decides to reverse the **Panel Secretary's** decision to refuse the submission, the **Panel Secretary** shall notify the **Proposer** accordingly and the proposal shall be dealt with in accordance with this Section 8;
- (d) nothing in this Section 8 shall prevent a **Proposer** from submitting a revised proposal in compliance with the

requirements of Paragraph ~~8.16.4~~ in respect of the same subject-matter.

8.16.6 Subject to Paragraph 8.17A.8 and without prejudice to the development of a **Workgroup Alternative CUSC Modification(s)** pursuant to Paragraphs 8.20.13 and 8.20.18, the **CUSC Modifications Panel** shall direct in the case of (a), and may direct in the case of (b), the **Panel Secretary** to reject a proposal pursuant to Paragraph 8.16, other than a proposal submitted by **The Company** pursuant to a direction issued by the **Authority** following a **Significant Code Review** in accordance with Paragraph 8.17.6, if and to the extent that such proposal has, in the opinion of the **CUSC Modifications Panel**, substantially the same effect as:

- (a) a **Pending CUSC Modification Proposal**; or
- (b) a **Rejected CUSC Modification Proposal**, where such proposal is made at any time within two (2) months after the decision of the **Authority** not to direct **The Company** to modify the **CUSC** pursuant to the **ESO Licence** in the manner set out in such **CUSC Modification Proposal**,

and the **Panel Secretary** shall notify the **Proposer** accordingly.

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) reserve the right to modify the title or summary of the **CUSC Modification Proposal** to better reflect the content or intent of the proposal. If such changes are made these shall be agreed by the **Proposer**, or where this cannot be achieved by the **CUSC Modifications Panel** at their next meeting; and
- (d) note whether in the **Proposer's** view the **CUSC Modification Proposal** constitutes an **EBR Amendment**.

8.16.8 Subject to Paragraphs 8.8.6, 8.29 and 8.17B, where the **CUSC Modification Proposal** is received more than 10 (ten) **Business Days** prior to the next **CUSC Modifications Panel** meeting, the **Panel Secretary** shall place the **CUSC Modification Proposal** on the agenda of the next **CUSC Modifications Panel** meeting and otherwise shall place it on the agenda of the next succeeding **CUSC Modifications Panel** meeting.

8.16.9 It shall be a condition to the right to make a proposal to modify the **CUSC** under this Paragraph 8.16 that the **Proposer**:

- (a) grants a non-exclusive royalty free licence to all **CUSC Parties** who request the same covering all present and future rights, **IPRs** and moral rights it may have in such

proposal (as regards use or application in Great Britain);  
and

- (b) warrants that, to the best of its knowledge, information and belief, no other person has asserted to the **Proposer** that such person has any **IPRs** or normal rights or rights of confidence in such proposal,

and, in making a proposal, a **Proposer** which is a **CUSC Party** shall be deemed to have granted the licence and given the warranty in (a) and (b) above.

The provisions of this Paragraph 8.16.9 shall apply to any **WG Consultation Alternative Request**, and also to a **Relevant Party** supporting a **CUSC Modification Proposal** in place of the original Proposer in accordance with Paragraph 8.16.10 (a) for these purposes the term **Proposer** shall include any such **Relevant Party** or a person making such a **WG Consultation Alternative Request**.

8.16.10 Subject to Paragraph 8.17A.8 (which deals with rejection by the **Panel Secretary** of **CUSC Modification Proposals** which are necessary to comply with or implement the **Electricity Regulation** and/or any relevant **Legally Binding Decisions of the European Commission and/or The Agency**, Paragraph 8.17A.4 (which deals with withdrawal of an **CUSC Modification Proposal** in relation to a **Significant Code Review**) and Paragraph 8.17C.1 (which deals with the withdrawal of a **CUSC Modification Proposal** following a **Backstop Direction**) and Paragraph 8.17.7, (which deals with the withdrawal of a **CUSC Modification Proposal** made pursuant to a direction following a **Significant Code Review**), a **Proposer** may withdraw their support for a **Standard CUSC Modification Proposal** by notice to the **Panel Secretary** at any time prior to the **CUSC Modifications Panel Recommendation Vote** undertaken in relation to that **Standard CUSC Modification Proposal** pursuant to Paragraph 8.23.4, and a **Proposer** may withdraw their support for a **CUSC Modification Proposal** that meets the **Self-Governance Criteria** by notice to the **Panel Secretary** at any time prior to the **CUSC Modifications Panel Self-Governance Vote** undertaken in relation to that **CUSC Modification Proposal** pursuant to Paragraph 8.25.9, and a **Proposer** may withdraw their support for a **CUSC Modification Fast Track Proposal** by notice to the **Panel Secretary** at any time prior to the **Panel's** vote on whether to approve the **CUSC Modification Fast Track Proposal** pursuant to Paragraph 8.29 in which case the **Panel Secretary** shall forthwith:

- (a) notify those parties specified in Paragraph 8.16.1 as relevant in relation to the **CUSC Modification Proposal** in question (a "**Relevant Party**") that they have been notified of the withdrawal of support by the **Proposer** by publication on the **Website** and (where relevant details are supplied) by electronic mail. A **Relevant Party** may within five (5) **Business Days** notify the **Panel Secretary** that it is prepared to support the **CUSC Modification Proposal** in place of the original **Proposer**. If such notice is received, the name of such **Relevant Party** shall replace that of the original **Proposer** as the **Proposer**, and the **CUSC**

**Modification Proposal** shall continue. If more than one notice is received, the first received shall be utilised;

- (b) if no notice of support is received under (a), the matter shall be discussed at the next **CUSC Modifications Panel** meeting. If the **CUSC Modifications Panel** so agrees, it may notify **Relevant Parties** that the **CUSC Modification Proposal** is to be withdrawn, and a further period of five (5) **Business Days** shall be given for support to be indicated by way of notice;
- (c) if no notice of support is received under (a) or (b), the **CUSC Modification Proposal** shall be marked as withdrawn on the **CUSC Modification Register**;

#### Code Administrator as Critical Friend

8.16.11 The **Code Administrator** shall provide assistance insofar as is reasonably practicable and on reasonable request to parties with an interest in the **CUSC Modification Process** (including, in particular, **Small Participants** and consumer representatives, and, for the purposes of preparing modifications to the **Charging Methodologies** only, **Materially Affected Parties**) that request it in relation to the **CUSC**, as provided for in the **Code Administration Code of Practice**, including, but not limited to, assistance with:

- (a) Drafting a **CUSC Modification Proposal** including, in relation to **Materially Affected Parties**, drafting a **CUSC Modification Proposal** in respect of the **Charging Methodologies**;
- (b) Understanding the operation of the **CUSC**;
- (c) Their involvement in, and representation during, the **CUSC Modification Process** (including but not limited to **CUSC Modifications Panel**, and/or **Workgroup** meetings) as required or as described in the **Code Administration Code of Practice**; and
- (d) Assisting the **Proposer** and **Workgroup** by producing draft legal text once a clear solution has been developed to support the discussion and understanding of a **CUSC Modification Proposal**; and
- (e) Accessing information relating to the **Charging Statements** (subject to any charge made by **The Company** to cover its reasonable costs of providing the **Charging Statements** in accordance with Paragraph 8.16.12), and any amendment, revision or notice of proposed amendment to the **Charging Statements**, **CUSC Modification Proposals** and/or **CUSC Modifications Proposals** that have been implemented.

8.16.12 **The Company** may provide information in accordance with conditions E10.10 and E10.11 'Use of System Charging and methodology' and conditions E11.12 and E11.13 'Connection charging methodology' of the **ESO Licence**; and insofar as reasonably practicable, the provision by **The Company** of such other

information or assistance as a **Materially Affected Party** may reasonably request for the purposes of preparing a proposal to modify the **Charging methodologies**.

## 8.17 SIGNIFICANT CODE REVIEW

### Significant Code Review Phase

- 8.17.1 If any party specified under Paragraph 8.16.1 makes a **CUSC Modification Proposal** during a **Significant Code Review Phase**, unless exempted by the **Authority** or unless Paragraph 8.17.4(b) applies, the **CUSC Modifications Panel** shall assess whether the **CUSC Modification Proposal** falls within the scope of a **Significant Code Review** and the applicability of the exceptions set out in Paragraph 8.17.4 and shall notify the **Authority** of its assessment, its reasons for that assessment and any representations received in relation to it as soon as practicable.
- 8.17.2 The **CUSC Modifications Panel** shall proceed with the **CUSC Modification Proposal** made during a **Significant Code Review Phase** in accordance with Paragraph 8.18 (notwithstanding any consultation undertaken pursuant to Paragraph 8.17.5 and its outcome), unless directed otherwise by the **Authority** pursuant to Paragraph 8.17.3.
- 8.17.3 Subject to Paragraph 8.17.4, the **Authority** may at any time direct that a **CUSC Modification Proposal** made during a **Significant Code Review Phase** falls within the scope of a **Significant Code Review** and must not be made during the **Significant Code Review Phase**. If so directed, the **CUSC Modifications Panel** will not proceed with that **CUSC Modification Proposal**, and the **Proposer** shall decide whether the **CUSC Modification Proposal** shall be withdrawn or suspended until the end of the **Significant Code Review Phase**. If the **Proposer** fails to indicate its decision whether to withdraw or suspend the **CUSC Modification Proposal** within twenty-eight (28) days of the **Authority's** direction, it shall be deemed to be suspended. If the **CUSC Modification Proposal** is suspended, it shall be open to the **Proposer** at the end of the **Significant Code Review Phase** to indicate to the **CUSC Modifications Panel** that it wishes that **CUSC Modification Proposal** to proceed, and it shall be considered and taken forward in the manner decided upon by the **CUSC Modifications Panel** at the next meeting, and it is open to the **CUSC Modifications Panel** to take into account any work previously undertaken in respect of that **CUSC Modification Proposal**. If the **Proposer** makes no indication to the **CUSC Modifications Panel** within twenty-eight (28) days of the end of the **Significant Code Review Phase** as to whether or not it wishes the **CUSC Modification Proposal** to proceed, it shall be deemed to be withdrawn.
- 8.17.4 A **CUSC Modification Proposal** that falls within the scope of a **Significant Code Review** may be made where:
- (a) the **Authority** so determines, having taken into account (among other things) the urgency of the subject matter of the **CUSC Modification Proposal**; or

- (b) the **CUSC Modification Proposal** is made by **The Company** pursuant to Paragraph 8.17.6.

8.17.5 Where a direction under Paragraph 8.17.3 has not been issued, paragraph 8.17.4 does not apply and the **CUSC Modifications Panel** considers that a **CUSC Modification Proposal** made during a **Significant Code Review Phase** falls within the scope of a **Significant Code Review**, the **CUSC Modifications Panel** may consult on its suitability as part of the **Standard CUSC Modification Proposal** route set out in Paragraphs 8.19, 8.20, 8.22 and 8.23.

#### End of Significant Code Review Phase

8.17.6 Within twenty-eight (28) days after the **Authority** has published its **Significant Code Review** conclusions, the **Authority** may:

(a) issue to **The Company** directions, including directions to **The Company** to make **CUSC Modification Proposals**; or

(b) itself make a **CUSC Modification Proposal** arising from the relevant **Significant Code Review**

8.17.6A If the **Authority** issues a statement that it will continue work and/or issues a direction in accordance with Paragraph 8.17.C.1 then the **Significant Code Review Phase** will be deemed to have ended when:

(a) the **Authority** issues a statement that the **Significant Code Review Phase** has ended;

(b) one of the circumstances in Paragraphs 8.17.6(a) or 8.17.8 occurs (irrespective of whether such circumstance occurs within 28 days after the **Authority** has published its **Significant Code Review** conclusions); or

8.17.7 Where the **Authority** issues directions pursuant to Paragraph 8.17.6(a) **The Company** shall comply with those directions and the **Significant Code Review Phase** shall be deemed to have ended on the date on which **The Company** makes a **CUSC Modification Proposal** in accordance with the **Authority's** directions.

8.17.8 Where the **Authority** makes a **CUSC Modification Proposal** pursuant to 8.17.6(b), the **Significant Code Review Phase** shall be deemed to have ended on the date on which the **Authority** makes such **CUSC Modification Proposal**.

8.17.9 Where a **CUSC Modification Proposal** is raised pursuant to Paragraph 8.17.6, that **CUSC Modification Proposal** shall be treated as a **Standard CUSC Modification Proposal** and shall proceed through the process for **Standard CUSC Modification Proposals** set out in Paragraphs 8.18, 8.19, 8.20, 8.22 and 8.23. Such **Authority** conclusions and directions shall not fetter the voting rights of the **Panel Members** or any recommendation it makes in relation to any **CUSC Modification Proposal** or the recommendation procedures informing the **CUSC Modification Report**.

- 8.17.10 **The Company** may not, without the prior consent of the **Authority**, withdraw a **CUSC Modification Proposal** made pursuant to a direction issued by the **Authority** pursuant to Paragraph 8.17.6 (a).
- 8.17.11 If within twenty-eight (28) days after the **Authority** has published its **Significant Code Review** conclusions, the **Authority** issues to **The Company** a statement that no directions will be issued in relation to the **CUSC**, then the **Significant Code Review Phase** shall be deemed to have ended on the date of such statement.
- 8.17.12 Unless the **Authority** issues a statement in accordance with Paragraph 8.17.6A, if up to and including twenty-eight (28) days from the **Authority's** publication of its **Significant Code Review** conclusions, the **Authority** has issued to **The Company** neither directions pursuant to Paragraph 8.17.6(a) nor a statement pursuant to Paragraph 8.17.11, nor has the **Authority** made a **CUSC Modification Proposal** as described in Paragraph 8.17.6(b) then the **Significant Code Review Phase** will be deemed to have ended.

#### **8.17A AUTHORITY RAISED OR DIRECTED MODIFICATION**

- 8.17A.1 The **Authority** may:
- (a) itself; or
  - (b) direct **The Company** to raise a **CUSC Modification Proposal** where the **Authority** reasonably considers that such **CUSC Modification Proposal** is necessary to comply with or implement the **Electricity Regulation** and/or any relevant **Legally Binding Decisions of the European Commission and/or The Agency** or in respect of **Significant Code Review**.
- 8.17A.2 **The Company** shall comply with any directions from the **Authority** in relation to setting and/or amending a timetable for;
- (a) the raising of a **CUSC Modification Proposal** pursuant to Paragraph 8.17A.1(b); and/or
  - (b) where the **Authority** has approved a **CUSC Modification Proposal** raised pursuant to Paragraph 8.17A.1, implementation of such **CUSC Modification Proposal**.
- 8.17A.3 In respect of a **CUSC Modification Proposal** raised pursuant to Paragraph 8.17A.1, the **CUSC Modification Panel** shall comply with any timetable(s) directed by the **Authority** in relation to setting and/or amending a timetable for the completion of all relevant steps of the **CUSC Modification Process** or such other processes set out in this Section 8.
- 8.17A.4 Notwithstanding any other Paragraphs in this Section 8, a **CUSC Modification Proposal** raised pursuant to

Paragraph 8.17A.1:

(a) shall not be withdrawn by the **Transmission Company** and/or the **CUSC Modification Panel** without the prior consent of the **Authority**.

(b) shall not be amalgamated with any other **CUSC Modification Proposal** without the prior consent of the **Authority**.

- 8.17A.5 If, pursuant to paragraph 8.17A.4(a), the **Authority** consents to the withdrawal of a **CUSC Modification Proposal**, the provisions of Paragraph 8.16.10 shall apply to such **CUSC Modification Proposal**.
- 8.17A.6 In respect of any **CUSC Modification Proposal** which has been raised pursuant to Paragraph 8.17A.9, the views of the relevant **Workgroup**, the voting rights of the **CUSC Modifications Panel** or the recommendation of the **CUSC Modifications Panel** shall not be fettered or restricted notwithstanding that such **CUSC Modification Proposal** has been raised under Paragraph 8.17A.9.
- 8.17A.7 A **CUSC Modification Proposal** shall still be assessed against the **Self Governance Criteria** and **Fast Track Criteria** notwithstanding that it has been raised pursuant to Paragraph 8.17A.1.
- 8.17A.8 A **CUSC Modification Proposal** raised pursuant to Paragraph 8.17A.1 shall not be rejected by the **Panel Secretary** pursuant to Paragraphs 8.16.5 or 8.16.6.
- 8.17A.9 In relation to any **CUSC Modification Proposal** raised by **The Company** other than pursuant to Paragraph 8.17A.1, where the **Authority** reasonably considers such **CUSC Modification Proposal** to be necessary to comply with or implement the **Electricity Regulation** and/or any relevant **Legally Binding Decisions of the European Commission and/or The Agency**, the provisions of Paragraphs 8.17A.2 to 8.17A.8 shall apply.

## **8.17B AUTHORITY LED SCR MODIFICATION**

- 8.17B.1 Where the **Authority** has issued a statement in accordance with Paragraph 8.17.6A and/or a **Backstop Direction** in accordance with Paragraph 8.17C, the **Authority** may submit an **Authority Led CUSC Modification Proposal** for an **Authority Led CUSC Modification** directly to the **CUSC Panel**.
- 8.17B.2 In response to an **Authority Led CUSC Modification Proposal** the **CUSC Panel** shall prepare an **Authority Led CUSC Modification Report** which shall include all the items listed in 8.23.2 (a)-(k) and in particular, as identified in the Licence:

- (a) an evaluation of the proposed modification; and
  - (b) an assessment of the extent to which the proposed modification would better facilitate achievement of the applicable **CUSC** objective(s); and
  - (c) a detailed explanation of the **CUSC Panel's** reasons for that assessment (such assessment to include, where the impact is likely to be material, an assessment of the proposal on greenhouse gas emissions, to be conducted in accordance with such 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
  - (d) a timetable for implementation of the proposed modification, including the date with effect from which such proposed modification could take effect.
- 8.17B.3 The **Authority Led CUSC Modification Report** shall be submitted to the **Authority** taking into account the complexity, importance and urgency of the proposed modification, and in accordance with the time periods specified in the CUSC, which shall not be extended unless approved by the Panel and not objected to by the Authority after receiving notice in accordance with the timetable set by the Authority in Paragraph 8.17B.6.
- 8.17B.4 The **Authority** can require the revision and re-submission of the **Authority Led CUSC Modification Report**, such resubmission to be made, if required by a direction issued by the **Authority** in accordance with Paragraph 8.23.12, as soon after the **Authority's** direction as is appropriate taking into account the complexity, importance and urgency of the proposed modification and in accordance with the time periods specified in the CUSC, which shall not be extended unless approved by the Panel and not objected to by the Authority after receiving notice in accordance with the timetable set by the Authority in Paragraph 8.17B.6.
- 8.17B.5 The timetable referred to in Paragraph 8.17B.2 (d) for implementation of any proposed modification shall be in accordance with any direction(s) issued by the **Authority** for the implementation of a proposed modification where no such direction has been issued by the **Authority**, the timetable shall be such as will enable the modification to take effect as soon as practicable after the **Authority** has directed that such modification should be made, account being taken of the complexity, importance of the proposed modification and in accordance with the time periods specified in the CUSC, which shall not be extended unless approved by the Panel and not objected to by the Authority after receiving notice with the **Authority** having discretion to change the timetable.
- 8.17B.6 The timetable for the completion of the procedural steps for an **Authority Led CUSC Modification**, as outlined in Paragraphs 8.17B.2, 8.17B.3, 8.17B.4, shall be set by the **Authority** in its sole discretion.
- 8.17B.7 The **Authority's** published conclusions and directions and the

**Authority Led CUSC Modification Proposal** shall not fetter the voting rights of the **Panel Members** or any recommendation it makes in relation to any **Authority Led CUSC Modification Proposal** or the procedures informing the report described at Paragraph 8.17B.2.

#### **8.17C BACKSTOP DIRECTION**

**8.17C.1** Where a CUSC Modification Proposal has been made in relation to a Significant Code Review in accordance with Paragraph 8.17A.1 the Authority may issue a direction (a “Backstop Direction”), which requires such proposal(s) and any alternatives to be withdrawn and which causes the Significant Code Review phase to recommence.

#### **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 their **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 **EBR Amendment** and its expected impact on the objectives of the **Electricity Balancing Regulation** (and in the event of disagreement **The Company's** view shall prevail).

## **8.19 PANEL PROCEEDINGS**

- 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 **EBR Amendment** the timetable shall be such that the **Code Administrator's** consultation is not less than one month.
- 8.19.2 In relation to each **CUSC Modification Proposal**, the **CUSC Modifications Panel** shall determine at any meeting of the **CUSC Modifications Panel** whether to:
  - (a) amalgamate the **CUSC Modification Proposal** with any other **CUSC Modification Proposal**;
  - (b) invite the **Proposer** to further develop their **CUSC Modification Proposal** before presenting to a subsequent meeting of the **CUSC Modifications Panel** or to withdraw their **CUSC Modification proposal**;
  - (c) establish a **Workgroup** of the **CUSC Modifications Panel**, to consider the **CUSC Modification Proposal**;
  - (d) review the evaluation made pursuant to Paragraph 8.18.4, taking into account any new information received; or
  - (e) proceed directly to wider consultation (in which case the **Proposer's** right to vary their **CUSC Modification Proposal** shall lapse).
- 8.19.3 Subject to Paragraphs 8.14.3 and 8.17A.4(b), the **CUSC Modifications Panel** may decide to amalgamate a **CUSC Modification Proposal** with one or more other **CUSC Modification Proposals** where the subject-matter of such **CUSC Modification Proposals** is sufficiently proximate to justify amalgamation on the grounds of efficiency and/or where such **CUSC Modification Proposals** are logically dependent on each other.
- 8.19.4 Without prejudice to each **Proposer's** right to withdraw their **CUSC Modification Proposal** prior to the amalgamation of their **CUSC Modification Proposal** where **CUSC Modification Proposals** are amalgamated pursuant to Paragraph 8.19.3:
  - (a) such **CUSC Modification Proposals** shall be treated as a single **CUSC Modification Proposal**;
  - (b) references in this Section 8 to a **CUSC Modification Proposal** shall include and apply to a group of two or more **CUSC Modification Proposals** so amalgamated;
  - (c) the **Proposers** of each such **CUSC Modification Proposal** shall co-operate in deciding which of them is to provide a representative for any **Workgroup** in respect of the amalgamated **CUSC Modification Proposal** and, in default of agreement, the **Panel Chairperson** shall nominate one of the **Proposers** for that purpose.
- 8.19.5 In respect of any **CUSC Modification Proposal** that the **CUSC Modifications Panel** determines to proceed directly to wider consultation in accordance with Paragraph 8.19.2, the **CUSC Modifications Panel**, may at any time prior to the **CUSC Modifications Panel Recommendation Vote** having taken place decide to establish a **Workgroup** of the **CUSC Modifications Panel**

and the provisions of Paragraph 8.20 shall apply. In such case the **CUSC Modifications Panel** shall be entitled to adjust the timetable referred to at Paragraph 8.19.1(b) and the **Code Administrator** shall be entitled to adjust the timetable referred to at Paragraph 8.19.1(c), provided that the **Authority**, after receiving notice, does not object.

- 8.19.6 Where the **CUSC Modifications Panel** in accordance with Paragraph 8.19.2(b) invites the Proposer to further develop their CUSC Modification Proposal, and the Proposer agrees, on the Proposer presenting this to a subsequent meeting of the **CUSC Modifications Panel**, the **Panel** will determine a way forward from the options in 8.19.2 (a), (c), (d) and (e) or invite the **Proposer** to withdraw their modification proposal.
- 8.19.7 Where the **CUSC Modifications Panel** in accordance with Paragraphs 8.19.2(b) or 8.19.6 invites the **Proposer** to further develop or withdraw their **CUSC Modification Proposal** and this is declined, the **Panel** will determine a way forward from the options in 8.19.2 (a), (c), (d) or (e).

## 8.20 WORKGROUPS

- 8.20.1 If the **CUSC Modifications Panel** has decided not to proceed directly to wider consultation (or where the provisions of Paragraph 8.19.5 apply), a **Workgroup** will be established, or an existing **Standing Group** identified and actioned, by the **CUSC Modifications Panel** to assist the **CUSC Modifications Panel** in evaluating whether a **CUSC Modification Proposal** better facilitates achieving the **Applicable CUSC Objectives** and whether a **Workgroup Alternative CUSC Modification(s)** would, as compared with the **CUSC Modification Proposal**, better facilitate achieving the **Applicable CUSC Objectives** in relation to the issue or defect identified in the **CUSC Modification Proposal**. Where a **Standing Group** is identified and actioned in relation to a **CUSC Modification Proposal**, a reference to **Workgroup** in this Section 8 shall, in relation to that **CUSC Modification Proposal**, be deemed to be a reference to that **Standing Group** acting in that capacity. Unless specifically appointed pursuant to this Paragraph or permitted pursuant to Paragraph 8.22, a **Standing Group** shall not comment upon any **CUSC Modification Proposal**.
- 8.20.2 A single **Workgroup** may be responsible for the evaluation of more than one **CUSC Modification Proposal** at the same time, but need not be so responsible.
- 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**, the **Citizens Advice** or the **Citizens Advice Scotland** 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 chairperson of the **Workgroup** who shall act impartially and as an independent chairperson.

8.20.5 No **Workgroup** or meeting of a **Workgroup** will be considered quorate with less than five (5) persons, in addition to the **Code Administrator** representative or the chairperson of the **Workgroup**. Where insufficient persons are nominated to a **Workgroup** for it to be quorate, the **Code Administrator** will report this to the next meeting of the **CUSC Modifications Panel**. The **Panel** may:

- (a) Request the **Code Administrator** to seek further nominations;
- (b) Reconsider their decision on how to progress the **CUSC Modification Proposal** as allowed under 8.19.2; or
- (c) Request that those parties that have nominated themselves to a **Workgroup** which is less than quorate should proceed as a **Limited Membership Workgroup**, subject to the following additional checks and balances:
  - (i) A **Limited Membership Workgroup** shall always hold a **Workgroup Consultation** in addition to the mandatory **Code Administrator Consultation**.
  - (ii) Prior to the **Workgroup Consultation**, a draft of this shall be circulated to the **CUSC Modifications Panel** for five (5) days or another timescale as agreed by the **CUSC Modifications Panel** for approval.
  - (iii) At the same time as the **Workgroup Consultation** is initiated, the **Code Administrator** shall again formally seek nominations and if quoracy is not established then again seek advice from the **CUSC Modifications Panel** on how to proceed from the options set out in this 8.20.5.

Where a **Workgroup** remains non-quorate, and with the permission of the **CUSC Modifications Panel**, a **Limited Membership Workgroup** may (subject to Paragraph 8.20.6) continue following a **Workgroup Consultation** as if it were a standard **Workgroup**.

8.20.6 A **Limited Membership Workgroup** may at any point be instructed by the **Authority** to either:

- (a) Stop work: or

- (b) To provide a report on progress to the next meeting of the **CUSC Modifications Panel**

The **Authority** may also at any point instruct the **Code Administrator** to seek further nominations for membership

8.20.7 Where a specific meeting of an otherwise quorate **Workgroup** is not quorate, or where member(s) of a **Limited Membership Workgroup** are unable to attend a meeting:

- (a) A member of the **Workgroup** unable to attend will be invited by the **Code Administrator** to send an alternate
- (b) All members will be invited to participate by telephone, webinar or other equivalent if not able to attend in person
- (c) A meeting may proceed as a **Workgroup** meeting as long as none of the members either present or absent raise an objection to this, however no voting can take place unless the **Code Administrator** has obtained enough votes to be quorate from members not in attendance or from all members of a **Limited Membership Workgroup**. This shall include where there has not been an opportunity to check with all **Workgroup** members to see if they have an objection (typically where a change of plans or circumstances has occurred too late to achieve this),
- (d) If any **Workgroup** member objects to the progressing of a **Workgroup** without them, they must communicate this to the **Code Administrator** at least 24 hours before the meeting indicating that they will not be present and do not wish the meeting to take place. The **Code Administrator** will then endeavour to rearrange the meeting to accommodate such a member's availability.
- (e) Where a **Workgroup** member is repeatedly unavailable, as guidance on 3 consecutive occasions, and does not give permission for the **Workgroup** to proceed without them as in (d), under 8.20.9 the **CUSC Modifications Panel** may choose to replace or remove them.

8.20.8 The **CUSC Modifications Panel** may add further members or the **Workgroup** chairperson may add or vary members to a **Workgroup**.

8.20.9 The **CUSC Modifications Panel** may (but shall not be obliged to) replace any member or observer of a **Workgroup** appointed pursuant to Paragraph 8.20.3 at any time if such member is unwilling or unable for whatever reason to fulfil that function and/or is deliberately and persistently disrupting or frustrating the work of the **Workgroup**.

8.20.10 The **CUSC Modifications Panel** shall determine the terms of reference of each **Workgroup** and may change those terms of reference from time to time as it sees fit.

8.20.11 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 **EBR Article 18 Terms and Conditions**; and
- (f) where the **Workgroup** considers that a **CUSC Modification Proposal** may constitute an amendment to the **EBR Article 18 Terms and Conditions**, the impact of those amendments on the objectives of the **Electricity Balancing Regulation**.

8.20.12 Subject to the provisions of this Paragraph 8.20.12 and unless otherwise determined by the **CUSC Modifications Panel**, the **Workgroup** shall develop and adopt its own internal working procedures for the conduct of its business and shall provide a copy of such procedures to the **Panel Secretary** in respect of each **CUSC Modification Proposal** for which it is responsible. Unless the **CUSC Modifications Panel** otherwise determines, meetings of each **Workgroup** shall be open to attendance by a representative of any **CUSC Party**, any **BSC Party**, the **Citizens Advice**, the **Citizens Advice Scotland** and any person invited by the chairperson, and the chairperson of a **Workgroup** may invite any such person to speak at such meetings.

8.20.13 After development by the **Workgroup** of the **CUSC Modification Proposal**, and (if applicable) after development of any draft **Workgroup Alternative CUSC Modification(s)**, the **Workgroup** will (subject to the provisions of Paragraph 8.20.19) consult ("**Workgroup Consultation**") on the **CUSC Modification Proposal** and, if applicable, on any draft **Workgroup Alternative CUSC Modification(s)** with:

- (a) **CUSC Parties**; and
- (b) such other persons who may properly be considered to have an appropriate interest in it.

Where following the establishment of a **Workgroup** in relation to a **CUSC Modification Proposal**, the terms of reference of a **Standing Group** have been amended by the **CUSC Modifications Panel** to include the ability to comment on that **CUSC Modification Proposal**, that **Standing Group** as a body shall be deemed to fall within subparagraph (b) above and therefore shall be able to respond to the **Workgroup Consultation**. It shall not, however, in so doing undertake the functions of a **Workgroup**. In the absence of such a change in terms of reference, the **Standing Group** as a body shall have no ability to respond to any **Workgroup Consultation**.

8.20.14 The **Workgroup Consultation** will be undertaken by issuing a **Workgroup Consultation** paper (and its provision in electronic form on the **Website** and in electronic mails to **CUSC Parties** and such other persons, who have supplied relevant details, shall meet this requirement). Such **Workgroup Consultation** paper will include:

- (a) Issues which arose in the **Workgroup** discussions
- (b) Details of any draft **Workgroup Alternative CUSC Modification(s)**
- (c) The date proposed by the **Code Administrator** as the **Proposed Implementation Date**.

8.20.15 **Workgroup Consultation** papers will be copied to **Core Industry Document Owners**, the **CM Administrative Parties**, the **CfD Administrative Parties** and the secretary of the **STC** committee.

8.20.16 Any **CUSC Party**, **BSC Party**, the **Citizens Advice** or the **Citizens Advice Scotland** may (subject to Paragraph 8.20.20) raise a **Workgroup Consultation Alternative Request** in response to the **Workgroup Consultation**. Such **Workgroup Consultation Alternative Request** must include:

- (a) the information required by Paragraph 8.16.4 (which shall be read and construed so that any references therein to "amendment proposal" or "proposal" shall be read as "request" and any reference to "**Proposer**" shall be read as "requester"); and

- (b) sufficient detail to enable consideration of the request including details as to how the request better facilitates the **Applicable CUSC Objectives** than the current version of the **CUSC**, than the **CUSC Modification Proposal** and than any draft **Workgroup Alternative CUSC Modification(s)**.

8.20.17 The **Workgroup** shall consider and analyse any comments made or any **Workgroup Consultation Alternative Request** made by any **CUSC Party** in response to the **Workgroup Consultation**.

8.20.18 If a majority of the members of the **Workgroup** or the chairperson of the **Workgroup** believe that the **Workgroup Consultation Alternative Request** may better facilitate the **Applicable CUSC Objectives** than the **CUSC Modification Proposal**, the **Workgroup** shall develop it as a **Workgroup Alternative CUSC Modification(s)** or, where the chairperson of the **Workgroup** agrees, amalgamate it with one or more other draft **Workgroup Alternative CUSC Modification(s)** or **Workgroup Consultation Alternative Request(s)**;

8.20.19 Unless the **CUSC Modifications Panel** directs the **Workgroup** otherwise pursuant to Paragraph 8.20.,20 and provided that a **Workgroup Consultation** has been undertaken in respect of the **CUSC Modification Proposal**, no further **Workgroup Consultation** will be required in respect of any **Workgroup Alternative CUSC Modification(s)** developed in respect of such **CUSC Modification Proposal**.

8.20.20 The **CUSC Modifications Panel** may, at the request of the chairperson of the **Workgroup**, direct the **Workgroup** to undertake further **Workgroup Consultation(s)**. At the same time as such direction the **CUSC Modifications Panel** shall adjust the timetable referred to at Paragraph 8.19.1(b) and the **Code Administrator** shall be entitled to adjust the timetable referred to at Paragraph 8.19.1 (c), provided that the **Authority**, after receiving notice, does not object. No **Workgroup Consultation Alternative Request** may be raised by any **CUSC Party** during any second or subsequent **Workgroup Consultation**.

8.20.21 The **Workgroup** shall finalise the **Workgroup Alternative CUSC Modification(s)** for inclusion in the report to the **CUSC Modifications Panel**.

8.20.22

- (a) Each **Workgroup** chairperson shall prepare a report to the **CUSC Modifications Panel** responding to the matters detailed in the terms of reference in accordance with the timetable set out in the terms of reference.
- (b) If a **Workgroup** is unable to reach agreement on any such matter, the report must reflect the views of the members of the **Workgroup**.
- (c) The report will be circulated in draft form to **Workgroup** members and a period of not less than five (5) **Business**

**Days** or if all **Workgroup** members agree three (3) **Business Days** given for comments thereon. Any unresolved comments made shall be reflected in the final report.

8.20.23 The chairperson or another member (nominated by the chairperson) of the **Workgroup** shall attend the next **CUSC Modifications Panel** meeting following delivery of the report and may be invited to present the findings and/or answer the questions of **Panel Members** in respect thereof. Other members of the **Workgroup** may also attend such **CUSC Modifications Panel** meeting.

8.20.24 At the meeting referred to in Paragraph 8.20.23 the **CUSC Modifications Panel** shall consider the **Workgroup's** report and shall determine whether to:-

- (a) refer the **CUSC Modifications Proposal** back to the **Workgroup** for further analysis (in which case the **CUSC Modifications Panel** shall determine the timetable and terms of reference to apply in relation to such further analysis); or
- (b) proceed then to wider consultation as set out in Paragraph 8.22; or
- (c) decide on another suitable course of action.

8.20.25 Subject to paragraph 8.17.4 if, at any time during the assessment process carried out by the **Workgroup** pursuant to this Paragraph 8.20, the **Workgroup** considers that a **CUSC Modification Proposal** or any **Workgroup Alternative CUSC Modification(s)** falls within the scope of a **Significant Code Review**, it shall consult on this as part of the **Workgroup Consultation** and include its reasoned assessment in the report to the **CUSC Modifications Panel** prepared pursuant to Paragraph 8.20.22. If the **CUSC Modifications Panel** considers that the **CUSC Modification Proposal** or the **Workgroup Alternative CUSC Modification(s)** falls within the scope of a **Significant Code Review**, it shall consult with the **Authority**. If the **Authority** directs that the **CUSC Modification Proposal** or **Workgroup Alternative CUSC Modification(s)** falls within the scope of the **Significant Code Review**, the **CUSC Modification Proposal** and any **Workgroup Alternative CUSC Modification(s)** shall be suspended or withdrawn during the **Significant Code Review Phase**, in accordance with Paragraph 8.17.3.

8.20.26 The **Proposer** may, at any time prior to the final evaluation by the **Workgroup** (in accordance with its terms of reference and working practices) of that **CUSC Modification Proposal** against the **Applicable CUSC Objectives**, vary their **CUSC Modification Proposal** on notice (which may be given verbally) to the chairperson of the **Workgroup** provided that such varied **CUSC Modification Proposal** shall address the same issue or defect originally identified by the **Proposer** in their **CUSC Modification Proposal**.

8.20.27 The **CUSC Modifications Panel** may (but shall not be obliged to) require a **CUSC Modification Proposal** to be withdrawn in

accordance with paragraph 8.17.6 if, in the **Panel's** opinion, the **Proposer** of that **CUSC Modification Proposal** is deliberately and persistently disrupting or frustrating the work of the **Workgroup** and that **CUSC Modification Proposal** shall be deemed to have been so withdrawn. In the event that a **CUSC Modification Proposal** is so withdrawn, the provisions of paragraph 8.16.10 shall apply in respect of that **CUSC Modification Proposal**.

## 8.21 STANDING GROUPS

- 8.21.1 The **CUSC Modifications Panel** may set up one or more standing groups (each a "**Standing Group**") to consider and report to the **CUSC Modifications Panel** on issues specified by the **CUSC Modifications Panel** relating to the connection and use of system arrangements in **Great Britain**, including the **Charging Methodologies**. The **CUSC Modifications Panel** may change issues specified from time to time as it sees fit. In setting up a **Standing Group**, the **CUSC Modifications Panel** shall determine the terms of reference of the **Standing Group** (and may change those terms of reference from time to time as it sees fit) and specify a time period within which the **Standing Group** is to report to it on the issue it is to consider and may establish other timetable requirements in relation to the intended scope of the **Standings Group's** considerations. At the end of the time period by which the **Standing Group** is to report, the **CUSC Modifications Panel** shall decide whether the **Standing Group** is to continue and, if it is to continue, shall specify a time period in which it is to further report.
- 8.21.2 A **Standing Group** shall comprise at least five (5) persons (who may be **Panel Members**) selected by the **CUSC Modifications Panel** from those nominated by **CUSC Parties** for their relevant experience and/or expertise in the aspect or issue to be considered by such **Standing Group** (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 **Standing Group**) 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 **Standing Group**. A representative of the **Authority** may attend any meeting of a **Standing Group** as an observer and may speak at such meeting.
- 8.21.3 The **Code Administrator** shall in consultation with the **CUSC Modifications Panel** appoint the chairperson of each **Standing Group** who shall act impartially and as an independent chairperson.
- 8.21.4 The **CUSC Modifications Panel** may add further members or the **Standing Group** chairperson may add or vary members to a **Standing Group** after it is established.
- 8.21.5 The **CUSC Modifications Panel** may (but shall not be obliged to) replace any member of a **Standing Group** appointed pursuant to Paragraph 8.21.2 at any time if such member is unwilling or unable

for whatever reason to fulfil that function and/or is deliberately and persistently disrupting or frustrating the work of the **Standing Group**.

8.21.6

- (a) Each **Standing Group** chairperson shall prepare a report to the **CUSC Modifications Panel** responding to the matter detailed in the terms of reference in accordance with the time period set by the **CUSC Modifications Panel**.
- (b) If a **Standing Group** is unable to reach agreement on any such matter, the report must reflect the views of the members of the **Standing Group**.
- (c) The report will be circulated in draft form to **Standing Group** members and a period of not less than five (5) **Business Days** given for comments thereon. Any unresolved comments made shall be reflected in the final report.
- (d) The chairperson or another member (nominated by the chairperson) of the **Standing Group** shall attend the next **CUSC Modifications Panel** meeting following delivery of the report and may be invited to present the findings and/or answer the questions of **Panel Members** in respect thereof. Other members of the **Standing Group** may also attend such **CUSC Modifications Panel** meeting.

8.21.7 Subject to the provisions of this Paragraph 8.21 and unless otherwise determined by the **CUSC Modifications Panel**, the **Standing Group** shall develop and adopt its own internal working procedures for the conduct of its business and shall provide a copy of such procedures to the **Panel Secretary**. Unless the **CUSC Modifications Panel** otherwise determines, meetings of each **Standing Group** shall be open to attendance by a representative of any **CUSC Party**, any **BSC Party**, the **Citizens Advice**, the **Citizens Advice Scotland** and any person invited by the chairperson or any other member of that **Standing Group**, and the chairperson or any other member of that **Standing Group** may invite any person to speak at such meetings.

## 8.22 THE CODE ADMINISTRATOR CONSULTATION

- 8.22.1 In respect of any **CUSC Modification Proposal** where a **Workgroup** has been established or a **Standing Group** identified and actioned Paragraph 8.22.2 to 8.22.6 shall apply.
- 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 **EBR 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 **EBR Amendment** the **Code Administrator's** consultation will be not less than one month.

Where following the establishment of a **Workgroup**, the terms of reference of a **Standing Group** have been amended by the **CUSC Modifications Panel** to include the ability to comment on that **CUSC Modification Proposal**, that **Standing Group** as a body shall be deemed to fall within sub-paragraph (ii) above and therefore shall be able to respond to the **Code Administrator's** consultation. It shall not, however, in so doing undertake the functions of a **Workgroup**. In the absence of such a change in terms of reference, the **Standing Group** as a body shall have no ability to respond to any consultation.

8.22.3 The consultation will be undertaken by issuing a Consultation Paper (and its provision in electronic form on the **Website** and in electronic mails to **CUSC Parties** and such other persons, who have supplied relevant details, shall meet this requirement).

8.22.4 The Consultation Paper will contain:

- (a) the proposed drafting for the **CUSC Modification Proposal** and any **Workgroup Alternative CUSC Modification(s)** (unless the **Authority** decides none is needed in the **CUSC Modification Report** under Paragraph 8.22.5) and will indicate the issues which arose in the **Workgroup** discussions, where there has been a **Workgroup** 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** and, where the **Workgroup** terms of reference require and the dates proposed by the **Workgroup** are different from those proposed by the **Code Administrator**, those proposed by the **Workgroup**. In relation to a **CUSC Modification Proposal** that meets the **Self-Governance Criteria**, the **Code Administrator** may not propose an implementation date earlier than the sixteenth (16)

**Business Day** following the publication of the **CUSC Modifications Panel's** decision to approve or reject the **CUSC Modification Proposal**. Views will be invited on these dates.

- 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 **EBR 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.
- 8.22.6 Consultation Papers will be copied to **Core Industry Document Owners**, the **CM Administrative Parties**, the **CfD Administrative Parties** and the secretary of the **STC** committee.
- 8.22.7 In respect of any **CUSC Modification Proposal** where a **Workgroup** has not been established nor a **Standing Group** identified and actioned Paragraph 8.22.7 to 8.22.11 shall apply.
- 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 **EBR 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 **EBR Amendment** the **Code Administrator's** consultation will be not less than one month.

Where following the decision of the **CUSC Modifications Panel** to proceed directly to consultation by the **Code Administrator**, in relation to a **CUSC Modification Proposal**, the terms of reference

of a **Standing Group** have been amended by the **CUSC Modifications Panel** to include the ability to comment on that **CUSC Modification Proposal**, that **Standing Group** as a body shall be deemed to fall within sub-paragraph (ii) above and therefore shall be able to respond to the **Code Administrator's** consultation. It shall not, however, in so doing undertake the functions of a **Workgroup**. In the absence of such a change in terms of reference, the **Standing Group** as a body shall have no ability to respond to any consultation.

8.22.9 The consultation will be undertaken by issuing a Consultation Paper (and its provision in electronic form on the **Website** and in electronic mails to **CUSC Parties** and such other persons, who have supplied relevant details, shall meet this requirement). The Consultation Paper will be copied to the **CM Administrative Parties** and the **CFD Administrative Parties**.

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 **EBR Amendment**, the expected impact on the objectives of the **Electricity Balancing Regulation**.

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 **EBR 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.

## 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.

8.23.1.A Where a **CUSC Modification Proposal** or any **Workgroup Alternative CUSC Modification** constitutes an **EBR 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**

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 **EBR Amendment** and if so, and in addition to (i) above, **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 **EBR Amendment**, the expected impact on the objectives of the **Electricity Balancing Regulation**.

8.23.3 A draft of the **CUSC Modification Report** will be circulated by the **Code Administrator** to **CUSC Parties**, **Panel Members** and such other persons who may properly be considered to have an appropriate interest in it, which for these purposes will include the **CM Administrative Parties** and the **CfD Administrative Parties** (and its provision in electronic form on the **Website** and in electronic mails to **CUSC Parties** and **Panel Members**, who must supply relevant details, shall meet this requirement) and a period of no less than five (5) **Business Days** given for comments to be made thereon. Any unresolved comments made shall be reflected in the final **CUSC Modification Report**.

8.23.4 A draft of the **CUSC Modification Report** shall be tabled at a meeting of the **CUSC Modifications Panel** prior to submission of that **CUSC Modification Report** to the **Authority** held in accordance with the timetable established pursuant to Paragraph 8.19.1, and at which the **CUSC Modifications 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 Chairperson** 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 Chairperson** will undertake the **CUSC Modifications Panel Recommendation Vote**. For changes that are not considered by the **Workgroup** to be minor the **Code Administrator** shall issue the **CUSC Modification Proposal** for further **Code Administrator** consultation after which the **Panel Chairperson** will undertake the **CUSC Modifications Panel Recommendation Vote**.

(iii) if a change is not required after consideration, the **Panel Chairperson** 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(e) 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 the **CUSC Modifications Panel**, the **Code Administrator** and the **Proposer** agree that the change is minor the **CUSC Modifications Panel** may instruct the **Code Administrator** to make the appropriate change and the **Panel Chairperson** will undertake the **CUSC Modifications Panel Recommendation Vote**, otherwise for changes that are not considered to be minor the **Code Administrator** shall issue the **CUSC Modification Proposal** for further **Code Administrator** consultation after which the **Panel Chairperson** 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 by the **CUSC Modifications Panel**, the **Panel Chairperson** will undertake the **CUSC Modifications Panel Recommendation Vote**.

8.23.5 A draft of the **CUSC Modification Report** following the **CUSC Modifications Panel Recommendation Vote** will be circulated by the **Code Administrator** to **Panel Members** (and in electronic mails to **Panel Members**, who must supply relevant details, shall meet this requirement) and a period of no less than five (5) **Business Days** given for comments to be made on whether the **CUSC Modification Report** accurately reflects the views of the **Panel Members** as expressed at the **CUSC Modifications Panel Recommendation Vote**. Any unresolved comments made shall be reflected in the final **CUSC Modification Report**.

8.23.6 Each **CUSC Modification Report** shall be addressed and furnished to the **Authority** and none of the facts, opinions or statements contained in such **CUSC Modification Report** may be relied upon by any other person.

8.23.7 Subject to Paragraphs 8.23.9 to 8.23.13, in accordance with the **ESO Licence**, the **Authority** may approve the **CUSC Modification Proposal** or a **Workgroup Alternative CUSC Modification(s)** contained in the **CUSC Modification Report** (which shall then be an "**Approved CUSC Modification**" until implemented). If the **Authority** believes that neither the **CUSC Modification Proposal** (nor any **Workgroup Alternative CUSC Modification(s)**) would better facilitate achievement of the **Applicable CUSC Objectives**, then there will be no approval. In such a case, the **Code Administrator** will notify **CUSC Parties** and will raise the issue at the next **CUSC Modifications Panel** meeting.

8.23.8 The **Code Administrator** shall copy (by electronic mail to those persons who have supplied relevant details to the **Code Administrator**) the **CUSC Modification Report** to:

- (i) each **CUSC Party**;
- (ii) each **Panel Member**;
- (iii) any person who may request a copy and shall place a copy on the **Website**; and
- (iv) the **CM Administrative Parties** and the **CfD Administrative Parties**

8.23.9 **Revised Fixed Proposed Implementation Date**

8.23.9.1 Where the **Proposed Implementation Date** included in a **CUSC Modification Report** is a **Fixed Proposed Implementation Date** and the **Authority** considers that the **Fixed Proposed Implementation Date** is or may no longer

be appropriate or might otherwise prevent the **Authority** from making such decision by reason of the effluxion of time the **Authority** may direct the **CUSC Modifications Panel** to recommend a revised **Proposed Implementation Date**.

8.23.9.2 Such direction may:

- (a) specify that the revised **Proposed Implementation Date** shall not be prior to a specified date;
- (b) specify a reasonable period (taking into account a reasonable period for consultation) within which the **CUSC Modifications Panel** shall be requested to submit its recommendation; and
- (c) provide such reasons as the **Authority** deems appropriate for such request (and in respect of those matters referred to in Paragraphs 8.23.9.2(a) and (b) above).

8.23.9.3 Before making a recommendation to the **Authority**, the **CUSC Modifications Panel** will consult on the revised **Proposed Implementation Date**, and may in addition consult on any matters relating to the **CUSC Modification Report** which in the **CUSC Modifications Panel**'s opinion have materially changed since the **CUSC Modification Report** was submitted to the **Authority** and where it does so the **CUSC Modifications Panel** shall report on such matters as part of its recommendation under **CUSC** Paragraph 8.23.9.4, with:

- (a) **CUSC Parties**; and
- (b) such other persons who may properly be considered to have an appropriate interest in it.

Such consultation will be undertaken in accordance with **CUSC** Paragraphs 8.22.3 and 8.22.6.

8.23.9.4 Following the completion of the consultation held pursuant to **CUSC** Paragraph 8.23.9.3 the **CUSC Modifications Panel** shall report to the **Authority** with copies of all the consultation responses and recommending a **Revised Proposed Implementation Date**.

8.23.9.5 The **Authority** shall notify the **CUSC Modifications Panel** as to whether or not it intends to accept the **Revised Proposed Implementation Date** and where the **Authority** notifies the **CUSC Modifications Panel** that it intends to accept the **Revised Proposed Implementation Date**, the **Revised Proposed Implementation Date** shall be deemed to be the **Proposed Implementation Date** as specified in the **CUSC Modification Report**.

8.23.10 **Authority Approval**

If:

- (a) the **Authority** has not given notice of its decision in respect of a **CUSC Modification Report** within two (2) calendar months (in the case of an **Urgent CUSC Modification Proposal**), or four (4) calendar months (in the case of all other **CUSC Modification Proposals**) from the date upon which the **CUSC Modification Report** was submitted to it; or
- (b) the **CUSC Modifications Panel** is of the reasonable opinion that the circumstances relating to the **CUSC Modification Proposal** and/or **Workgroup Alternative CUSC Modification** which is the subject of a **CUSC Modification Report** have materially changed,

the **CUSC Modifications Panel** may request the **Panel Secretary** to write to the **Authority** requesting the **Authority** to give an indication of the likely date by which the **Authority's** decision on the **CUSC Modification Proposal** will be made.

8.23.11 **CUSC** Paragraphs 8.23.9 and 8.23.10 shall only apply in respect of any **CUSC Modification Proposals** submitted after the **CAP 179 Implementation Date**.

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 **EBR 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.

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 **EBR 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.

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

## **8.24 URGENT CUSC MODIFICATION PROPOSALS**

8.24.1 If a **Relevant Party** recommends to the **Panel Secretary** that a proposal should be treated as an **Urgent CUSC Modification Proposal** in accordance with this Paragraph 8.24, the **Panel Secretary** shall notify the **Panel Chairperson** who shall then, in accordance with Paragraphs 8.24.2(a) to (e) inclusive, and notwithstanding anything in the contrary in this Section 8, endeavour to obtain the views of the **CUSC Modifications Panel** as to the matters set out in Paragraph 8.24.3. If for any reason the **Panel Chairperson** is unable to do that, the **Panel Secretary** shall attempt to do so (and the measures to be undertaken by the **Panel Chairperson** in the following paragraphs shall in such case be undertaken by the **Panel Secretary**).

8.24.2

- (a) The **Panel Chairperson** shall determine the time by which, in their opinion, a decision of the **CUSC Modifications Panel** is required in relation to such matters, having regard to the degree of urgency in all circumstances, and references in this Paragraph 8.24.1 to the “time available” shall mean the time available, based on any such determination by the **Panel Chairperson**;
- (b) The **Panel Secretary** shall, at the request of the **Panel Chairperson**, convene a meeting or meetings (including meetings by telephone conference call, where appropriate) of the **CUSC Modifications Panel** in such manner and upon such notice as the **Panel Chairperson** considers appropriate, and such that, were practicable within the time available, as many **Panel Members** as possible may attend;
- (c) Each **Panel Member** shall be deemed to have consented, for the purposes of Paragraph 8.8.9. to the convening of such meeting or meetings in the manner and on the notice determined by the **Panel Chairperson**. Paragraph 8.8.10 shall not apply to any such business.
- (d) Where:
  - (i) it becomes apparent, in seeking to convene a meeting of the **CUSC Modifications Panel** within the time available, that quorum will not be present; or

- (ii) it transpires that the meeting of the **CUSC Modifications Panel** is not quorate and it is not possible to rearrange such meeting within the time available

The **Panel Chairperson** shall endeavour to contact each **Panel Member** individually in order to ascertain such Panel Member's vote, and (subject to paragraph 8.24.2(e)) any matter to be decided shall be decided by a majority of those **Panel Members** who so cast a vote. Where, for whatever reason no decision is reached, the **Panel Chairperson** shall proceed to consult with the **Authority** in accordance with Paragraph 8.24.5;

- (e) Where the **Panel Chairperson** is unable to contact a least four **Panel Members** within the time available and where:
  - (i) It is only **The Company** who has recommended that the proposal should be treated as an **Urgent CUSC Modification Proposal**, then those **Panel Members** contacted shall decide such matters, such decision may be a majority decision. Where in such cases no decision is made for whatever reason, the **Panel Chairperson** shall proceed to consult with the **Authority** in accordance with Paragraph 8.24.5; or
  - (ii) any **CUSC Party** (other than, and/or in addition to, **The Company**), the **Citizens Advice**, the **Citizens Advice Scotland** or any **BSC Party** has recommended that the proposal should be treated as an **Urgent CUSC Modification Proposal**, then the **Panel Chairperson** may decide the matter (in consultation with those **Panel Members** (if any) which they managed to contact) provided that the **Panel Chairperson** shall include details in the relevant **CUSC Modification Report** of the steps which they took to contact other **Panel Members** first.

8.24.3 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 **EBR Amendment** shall meet the minimum consultation requirements of the **Electricity Balancing Regulation**.

8.24.4 The **Panel Chairperson** or, in their absence, the **Panel Secretary** shall forthwith provide the **Authority** with the recommendation (if any) ascertained in accordance with Paragraphs 8.24.2(a) to (e)

inclusive, of the **CUSC Modifications Panel** as to the matters referred to in Paragraph 8.24.2, and shall consult the **Authority** as to whether such **CUSC Modification Proposal** is an **Urgent CUSC Modification Proposal** and, if so, as to the procedure and timetable which should apply in respect thereof.

8.24.5 If the **CUSC Modifications Panel** has been unable to make a recommendation in accordance with Paragraph 8.24.2.(d) or Paragraph 8.24.2(e) as to the matters referred to in Paragraph 8.24.3 then the **Panel Chairperson** or, in their absence, the **Panel Secretary** may recommend whether they consider that such proposal should be treated as an **Urgent CUSC Modification Proposal** shall forthwith consult the **Authority** as to whether such **CUSC Modification Proposal** is an **Urgent CUSC Modification Proposal** and, if so, as to the procedure and timetable that should apply in respect thereof.

8.24.6 The **CUSC Modifications Panel** shall:

- (a) not treat any **CUSC Modification Proposal** as an **Urgent CUSC Modification Proposal** except with the prior consent of the **Authority**;
- (b) comply with the procedure and timetable in respect of any **Urgent CUSC Modification Proposal** approved by the **Authority**; and
- (c) comply with any direction of the **Authority** issued in respect of any of the matters on which the **Authority** is consulted pursuant to Paragraph 8.24.4 or Paragraph 8.24.5.

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 **EBR Amendment**, which shall meet the minimum consultation requirements of the **Electricity Balancing Regulation**. The **CUSC Modifications Panel** must notify the **CM Administrative Parties** and the **CfD Administrative Parties** of any **Urgent CUSC Modification Proposal** and when approving any alternative procedure or timetable, the **Authority** must consider whether or not such procedure and timetable should allow for the **CM Administrative Parties** and the **CfD Administrative Parties** to be consulted on the **Urgent CUSC Modification Proposal** and if so how much time should be allowed. Where the procedure and timetable approved by the **Authority** in respect of an **Urgent CUSC Modification Proposal** do not provide for the establishment (or designation) of a **Workgroup** the **Proposer's** right to vary the **CUSC Modification Proposal** pursuant to paragraphs 8.16.10 and 8.20.26 shall lapse from the time and date of such approval.

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 Chairperson**) 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)**

8.24.9 Each **CUSC Party** and each **Panel Member** shall take all reasonable steps to ensure that an **Urgent CUSC Modification Proposal** is considered, evaluated and (subject to the approval of the **Authority**) implemented as soon as reasonably practicable, having regard to the urgency of the matter and, for the avoidance of doubt, an **Urgent CUSC Modification Proposal** may (subject to the approval of the **Authority**) result in the **CUSC** being amended on the day on which such proposal is submitted.

8.24.10 Where an **Urgent CUSC Modification Proposal** results in an amendment being made in accordance with Paragraph 8.28, the **CUSC Modifications Panel** may or (where it appears to the **CUSC Modifications Panel** that there is a reasonable level of support for a review amongst **CUSC Parties** shall following such amendment, action a **Standing Group** in accordance with Paragraph 8.21 on terms specified by the **CUSC Modifications Panel** to consider and report as to whether any alternative amendment could, as compared with such amendment better facilitate achieving the **Applicable CUSC Objectives** in respect of the subject matter of that **Urgent CUSC Modification Proposal**.

## 8.25 SELF-GOVERNANCE

8.25.1 If the **CUSC Modifications Panel**, having evaluated a **CUSC Modification Proposal** against the **Self-Governance Criteria**, pursuant to Paragraph 8.18.4, considers that the **CUSC Modification Proposal** meets the **Self-Governance Criteria**, the **CUSC Modifications Panel** shall submit to the **Authority** a **Self-Governance Statement** setting out its reasoning in reasonable detail.

8.25.2 The **Authority** may, at any time prior to the **CUSC Modifications Panel's** determination made pursuant to Paragraph 8.25.9, give

written notice that it disagrees with the **Self-Governance Statement** and may direct that the **CUSC Modification Proposal** proceeds through the process for **Standard CUSC Modification Proposals** set out in Paragraphs 8.19, 8.20, 8.22 and 8.23.

- 8.25.3 Subject to Paragraph 8.25.2, after submitting a **Self-Governance Statement**, the **CUSC Modifications Panel** shall follow the procedure set out in Paragraphs 8.19, 8.20 and 8.22.
- 8.25.4 The **Authority** may issue a direction to the **CUSC Modifications Panel** in relation to a **CUSC Modification Proposal** to follow the procedure set out for **CUSC Modification Proposals** that meet the **Self-Governance Criteria**, notwithstanding that no **Self-Governance Statement** has been submitted or a **Self-Governance Statement** has been retracted and the **CUSC Modifications Panel** shall follow the procedure set out in Paragraphs 8.19, 8.20 and 8.22.
- 8.25.5 Subject to the **Code Administrator's** consultation having been completed pursuant to Paragraph 8.22, the **CUSC Modification Panel** shall prepare a report (the "**CUSC Modification Self-Governance Report**").
- 8.25.6 The matters to be included in a **CUSC Modification Self-Governance Report** shall be the following (in respect of the **CUSC Modification Proposal**):
- (a) details of its analysis of the **CUSC Modification Proposal** against the **Self-Governance Criteria**;
  - (b) copies of all consultation responses received;
  - (c) the date on which the **CUSC Modifications Panel Self-Governance Vote** shall take place, which shall not be earlier than seven (7) days from the date on which the **CUSC Modification Self-Governance Report** is furnished to the **Authority** in accordance with Paragraph 8.25.7; and
  - (d) such other information that is considered relevant by the **CUSC Modifications Panel**.
- 8.25.7 A draft of the **CUSC Modification Self-Governance Report** will be circulated by the **Code Administrator** to **CUSC Parties** and **Panel Members** and the **CM Administrative Parties** and the **CfD Administrative Parties** (and its provision in electronic form on the **Website** and in electronic mails to **CUSC Parties** and **Panel Members**, who must supply relevant details, shall meet this requirement) and a period of no less than five (5) **Business Days** given for comments to be made thereon. Any unresolved comments made shall be reflected in the final **CUSC Modification Self-Governance Report**.
- 8.25.8 Each **CUSC Modification Self-Governance Report** shall be addressed and furnished to the **Authority** and none of the facts, opinions or statements contained in such **CUSC Modification Self-Governance Report** may be relied upon by any other person.

- 8.25.9 Subject to Paragraph 8.25.11, if the **Authority** does not give written notice that its decision is required pursuant to Paragraph 8.25.2, or if the **Authority** determines that the **Self-Governance Criteria** are satisfied in accordance with Paragraph 8.25.4, then the **CUSC Modification Self-Governance Report** shall be tabled at the **Panel Meeting** following submission of that **CUSC Modification Self-Governance Report** to the **Authority** at which the **Panel Chairperson** will undertake the **CUSC Modifications Panel Self-Governance Vote** and the **Code Administrator** shall give notice of the outcome of such vote to the **Authority** as soon as possible thereafter.
- 8.25.10 If the **CUSC Modifications Panel** vote to approve the **CUSC Modification Proposal** pursuant to Paragraph 8.25.9 (which shall then be an “**Approved CUSC Modification Self-Governance Proposal**”) until implemented), then subject to the appeal procedures set out in Paragraphs 8.25.14 to Paragraph 8.25.19 the **CUSC Modification Proposal** may be implemented by **The Company** without the **Authority**’s approval and brought to the attention of **CUSC Parties** and such other persons as may properly be considered to have an appropriate interest in it.
- 8.25.11 The **CUSC Modifications Panel** may at any time prior to the **CUSC Modification Panel**’s determination retract a **Self-Governance Statement** –subject to Paragraph 8.25.4, or if the **Authority** notifies the **CUSC Modifications Panel** that it has determined that a **CUSC Modification Proposal** does not meet the **Self-Governance Criteria** the **CUSC Modifications Panel** shall treat the **CUSC Modification Proposal** as a **Standard CUSC Modification Proposal** and shall comply with Paragraph 8.23, using the **CUSC Modification Self-Governance Report** as a basis for its **CUSC Modification Report**.
- 8.25.12 Except where the **Authority** has issued a direction pursuant to Paragraph 8.25.4, the **CUSC Modifications Panel** may remove a **CUSC Modification Proposal** from the process detailed in this Paragraph 8.25 before making its determination pursuant to Paragraph 8.25.9. In that circumstance, the **CUSC Modification Proposal** shall be treated as a **Standard CUSC Modification Proposal** and shall proceed through the process for **Standard CUSC Modification Proposals** set out in Paragraphs 8.19, 8.20, 8.22 and 8.23.
- 8.25.13 The **Code Administrator** shall make available on the **Website** and copy (by electronic mail to those persons who have supplied relevant details to the **Code Administrator**) the **CUSC Modification Self-Governance Report** prepared in accordance with Paragraph 8.25 to:
- (i) each **CUSC Party**;
  - (ii) each **Panel Member**; and
  - (iii) any person who may request a copy,
- and shall place a copy on the **Website**.

8.25.14 A **CUSC Party**, the **Citizens Advice** or the **Citizens Advice Scotland** or any **BSC Party** or (where the **CUSC Modification Proposal** and any related **Workgroup Alternative CUSC Modification(s)** is a proposal to modify the **Charging Methodologies**) a **Materially Affected Party** may appeal to the **Authority** the approval or rejection by the **CUSC Modifications Panel** of a **CUSC Modification Proposal** and any **Workgroup Alternative CUSC Modification(s)** in accordance with Paragraph 8.25.9, provided that the **Panel Secretary** is also notified, and the appeal has been made up to and including fifteen (15) **Business Days** after the **CUSC Modifications Panel Self-Governance Vote** has been undertaken pursuant to Paragraph 8.25.9. If such an appeal is made, implementation of the **CUSC Modification Proposal** shall be suspended pending the outcome. The appealing **CUSC Party**, the **Citizens Advice**, the **Citizens Advice Scotland**, **BSC Party** or **Materially Affected Party** must notify the **Panel Secretary** of the appeal when the appeal is made.

8.25.15 The **Authority** shall consider whether the appeal satisfies the following criteria:

- (a) The appealing party is, or is likely to be, unfairly prejudiced by the implementation or non-implementation of that **CUSC Modification Proposal** or **Workgroup Alternative CUSC Modification(s)**; or
- (b) The appeal is on the grounds that, in the case of implementation, the **CUSC Modification Proposal** or **Workgroup Alternative CUSC Modification(s)** may not better facilitate the achievement of at least one of the **Applicable CUSC Objectives**; or
- (c) The appeal is on the grounds that, in the case of non-implementation, the **CUSC Modification Proposal** or **Workgroup Alternative CUSC Modification(s)** may better facilitate the achievement of at least one of the **Applicable CUSC Objectives**; and
- (d) It is not brought for reasons that are trivial, vexatious or have no reasonable prospect of success.

and if the **Authority** considers that the criteria are not satisfied, it shall dismiss the appeal.

8.25.16 Following any appeal to the **Authority**, a **CUSC Modification Proposal** or **Workgroup Alternative CUSC Modification(s)** shall be treated in accordance with any decision and/or direction of the **Authority** following that appeal.

8.25.17 If the **Authority** quashes the **CUSC Modifications Panel's** determination in respect of a **CUSC Modification Proposal** or **Workgroup Alternative CUSC Modification(s)** made in accordance with Paragraph 8.25.9 and takes the decision on the relevant **CUSC Modification Proposal** and any **Workgroup Alternative CUSC Modification(s)** itself, following an appeal to the **Authority**, the **CUSC Modifications Panel's** determination of that **CUSC Modification Proposal** and any **Workgroup Alternative**

**CUSC Modification(s)** contained in the relevant **CUSC Modification Self-governance Report** shall be treated as a **CUSC Modification Report** submitted to the **Authority** pursuant to Paragraph 8.23.6 (for the avoidance of doubt, subject to Paragraphs 8.23.9 to 8.23.13) and the **CUSC Modifications Panel's** determination shall be treated as its recommendation pursuant to Paragraph 8.23.4.

8.25.18 If the **Authority** quashes the **CUSC Modifications Panel's** determination in respect of a **CUSC Modification Proposal** or **Workgroup Alternative CUSC Modification(s)** made in accordance with paragraph 8.25.9, the **Authority** may, following an appeal to the **Authority**, refer the **CUSC Modification Proposal** back to the **CUSC Modifications Panel** for further re-consideration and a further **CUSC Modifications Panel Self-Governance Vote**.

8.25.19 Following an appeal to the **Authority**, the **Authority** may confirm the **CUSC Modifications Panel's** determination in respect of a **CUSC Modification Proposal** or **Workgroup Alternative CUSC Modification(s)** made in accordance with Paragraph 8.25.9.

## **8.26 TRANSMISSION CHARGING METHODOLOGY FORUM**

8.26.1 A **Transmission Charging Methodology Forum** shall be established by **The Company** and shall be chaired by **The Company**.

8.26.2 The **CUSC Modifications Panel** shall adopt the terms of reference of the **Transmission Charging Methodology Forum** and may change those terms of reference from time to time as it sees fit.

8.26.3 The **Transmission Charging Methodology Forum** shall provide a forum for regular communication and discussion of issues relating to the **Transmission Charging Methodologies** and their development between **The Company** and **CUSC Parties, BSC Parties** and any **Materially Affected Parties**.

## **8.27 CONFIDENTIALITY**

8.27.1 Any representations submitted by a person pursuant to the **CUSC Modification Procedures** may be made publicly available save as otherwise expressly requested by such person by notice in writing to the **Code Administrator**. A **Workgroup Consultation Alternative Request** may in all cases be made publicly available.

8.27.2 The **CUSC Modifications Panel, The Company** and the **Code Administrator** shall not be liable for any accidental publication of a representation which is the subject of a request made under Paragraph 8.27.1.

8.27.3 For the avoidance of doubt, all representations (whether or not marked confidential) shall be sent to the **Authority**.

## **8.28 IMPLEMENTATION**

- 8.28.1 The **CUSC** shall be modified either in accordance with the terms of the direction by the **Authority** relating to, or other approval by the **Authority** of, the **CUSC Modification Proposal** or any **Workgroup Alternative CUSC Modification(s)** contained in the relevant **CUSC Modification Report**, or in respect of **CUSC Modification Proposals** or any **Workgroup Alternative CUSC Modification(s)** that are subject to the determination of the **CUSC Modifications Panel** pursuant to Paragraph 8.25.9, in accordance with the relevant **CUSC Modification Self-Governance Report** subject to the appeal procedures set out in Paragraphs 8.25.14 to 8.25.19.
- 8.28.2 The **Code Administrator** shall forthwith notify (by publication on the **Website** and, where relevant details are supplied by electronic mail):
- (a) each **CUSC Party**;
  - (b) each **Panel Member**;
  - (c) the **Authority**;
  - (d) each **Core Industry Document Owner**,
  - (e) the secretary of the **STC** committee;
  - (f) the **CM Administrative Parties**;
  - (g) **CfD Administrative Parties**;
  - (h) each **BSC Party** via ELEXON;
  - (i) each **Materially Affected Party**; and
  - (j) the **Citizens Advice** and the **Citizens Advice Scotland**

of the change so made and the effective date of the change.

- 8.28.3 Except where a **CUSC Modification Proposal** would amend any of the **Charging Methodologies**, a modification of the **CUSC** shall take effect from the time and date specified in the direction, or other approval, from the **Authority** referred to in Paragraph 8.28.1 or, in the absence of any such time and date in the direction or approval, from 00:00 hours on the day falling ten (10) **Business Days** after the date of such direction, or other approval, from the **Authority**.

A modification of the **Charging Methodologies** shall take effect as follows:

- (i) from 1 April of any given year unless otherwise directed by the **Authority** in accordance with Paragraphs 8.23.9, 8.23.12, 8.23.13 or 8.28.3A and following consultation with the **Panel**;
- (ii) subject to (iii) below, the 1 April shall be determined by reference to date of the **Authority** decision to approve the modification as follows:
  - a) where the Authority decision is more than 6 (six) months prior to the end of a **Charging Year (Charging Year t)**, implementation of that **CUSC Modification Proposal** shall

take effect such that it is implemented in **Charging Year t+1**.

- b) where the Authority decision is less than 6 (six) months prior to the end of Charging Year t, implementation of that **CUSC Modification Proposal** shall be deferred such that it is implemented in **Charging Year t+2**.

(iii) Paragraph (ii) above shall not apply in respect of a **CUSC Modification Proposal** to the **Charging Methodologies**:

- (a) where the **Authority** has directed otherwise;
- (b) where there is at least a **Charging Year** between the date of the **Authority** decision and the **Implementation Date**;
- (c) where the **CUSC Modification** is an **Urgent CUSC Modification**; or
- (d) which **The Company** has raised at the direction of the **Authority** or which the **Authority** has raised.

A modification of the **CUSC** pursuant to Paragraph 8.25.10 shall take effect-, subject to the appeal procedures set out in Paragraphs 8.25.14 to 8.25.19, from the time and date specified by the **Code Administrator** in its notice given pursuant to Paragraph 8.28.2, which shall be given after the expiry of the fifteen (15) **Business Day** period set out in Paragraph 8.25.14 to allow for appeals, or where an appeal is raised in accordance with Paragraph 8.25.14, on conclusion of the appeal in accordance with Paragraphs 8.25.15 or 8.25.19 but where conclusion of the appeal is earlier than the fifteen (15) **Business Day** period set out in Paragraph 8.25.14, notice shall be given after the expiry of this period. A modification of the **CUSC** pursuant to Paragraph 8.29 shall take effect, from the date specified in the **CUSC Modification Fast Track Report**.

8.28.3A Where the **Authority** considers that taking into account the complexity, importance and urgency of the modification exceptional circumstances apply the **Authority** may, having set out in writing its reasons for this, direct a modification of the **CUSC** in respect of the **Charging Methodologies** to take effect from a date other than 1 April.

8.28.4 A modification made pursuant to and in accordance with Paragraph 8.28.1 shall not be impaired or invalidated in any way by any inadvertent failure to comply with or give effect to this Section.

8.28.5 If a modification is made to the **CUSC** in accordance with the **ESO Licence** but other than pursuant to the other **CUSC Modification Procedures** in this Section 8, the **CUSC Modifications Panel** shall determine whether or not to submit the modification for review by a **Standing Group** in accordance with Paragraph 8.21 on terms specified by the **CUSC Modifications Panel** to consider and report as to whether any alternative modification could, as compared with such modification better facilitate achieving the **Applicable CUSC Objectives** in respect of the subject matter of the original modification.

- 8.28.6 Notwithstanding the provisions of Paragraph 8.28.3, **CUSC Modification Proposal** CAP 160 changes the **CUSC Modification Process** and therefore may affect other **CUSC Modification Proposals** which have not yet become **Approved CUSC Modifications**. Consequently, this Paragraph deals with issues arising out of the implementation of **CUSC Modification Proposal** CAP 160. In particular this Paragraph deals with which version of the **CUSC Modification Process** will apply to **CUSC Modification Proposal(s)** which were already instigated prior to the implementation of **CUSC Modification Proposal** CAP 160.

In respect of any **CUSC Modification Proposal** which the **CUSC Modification Panel** has determined, as at the date and time of implementation of **CUSC Modification Proposal** CAP 160 (as directed by the **Authority**), should proceed to wider consultation by **The Company** is known as an “**Old CUSC Modification Proposal**”. In respect of any **CUSC Modification Proposal** where the **CUSC Modification Panel** has not determined, as at the date and time of implementation of **CUSC Modification Proposal** CAP 160 (as directed by the **Authority**), that it should proceed to wider consultation by **The Company** is known as a “**New CUSC Modification Proposal**”. The provisions of Section 8 and the associated definitions in Section 11 which will apply to any **Old CUSC Modification Proposal(s)** are the provisions of Section 8 and the associated definitions in Section 11 of the **CUSC** which are in force immediately prior to the implementation of CAP 160. The provisions of Section 8 and the associated definitions in Section 11 which will apply to any **New CUSC Modification Proposals** are the provisions of the **CUSC** in force from time to time.

- 8.28.7 Notwithstanding the provisions of Paragraph 8.28.3, **CUSC Modification Proposals** CAP 183, 184, 185 and 188 change the **CUSC Modification Process** and therefore may affect other **CUSC Modification Proposals** which have not as at the last date of the implementation of these changes become **Approved CUSC Modifications**. Consequently, this Paragraph deals with issues arising out of the implementation of **CUSC Modification Proposals** CAP 183, 184, 185 and 188. In particular this Paragraph deals with which version of the **CUSC Modification Process** will apply to **CUSC Modification Proposal(s)** which were already instigated prior to the implementation of the last of **CUSC Modification Proposals** CAP 183, 184, 185 and 188.

Any **CUSC Modification Proposal** that was submitted pursuant to Paragraph 8.16.4 prior to the implementation of the last of **CUSC Modification Proposals** CAP 183, 184, 185 and 188 is known as an “**Old CUSC Modification Proposal**”. Any **CUSC Modification Proposal** that was submitted pursuant to Paragraph 8.16.4 on the date of or any date following implementation of the last of **CUSC Modification Proposals** CAP 183, 184, 185 and 188 is known as a “**New CUSC Modification Proposal**”. The provisions of Section 8 and the associated definitions in Section 11 that will apply to any **Old CUSC Modification Proposal(s)** are the provisions of Section 8 and the associated definitions in Section 11 of the **CUSC** that are in force immediately prior to the implementation of the last of CAP 183, 184, 185 and 188. The provisions of Section 8 and the associated

definitions in Section 11 that will apply to any **New CUSC Modification Proposals** are the provisions of the **CUSC** in force from time to time.

8.28.8 Modification **CMP365** changes the **CUSC** process for **CUSC Modification Proposals** and therefore may affect other **CUSC Modification Proposals** which have not yet become **Approved CUSC Modifications**. Consequently, this 8.28.8 deals with issues arising out of the implementation of **Modification CMP365**. In particular this deals with which version of the **CUSC** process for **CUSC Modification Proposals** will apply to **CUSC Modification Proposal(s)** which were already instigated prior to the implementation of **Modification CMP365**.

Any **CUSC Modification Proposal** in respect of which a **CUSC Modification Report** has been sent to the **Authority** prior to the date and time of implementation of **Modification CMP365** is known as an “**Old CMP365 CUSC Modification**”. Any **CUSC Modification Proposal** in respect of which a **CUSC Modification Report** has not been sent to the **Authority** as at the date and time of implementation of **Modification CMP365** is known as a “**New CMP365 CUSC Modification**”. The **CUSC** provisions which will apply to any **Old CMP365 CUSC Modification(s)** are the provisions of the **CUSC** in force immediately prior to the implementation of **CMP365**. The provisions of the **CUSC** which will apply to any **New CMP365 CUSC Modifications** are the provisions of the **CUSC** in force from time to time.

## 8.29 FAST TRACK

- 8.29.1 Where a **Proposer** believes that a modification to the **CUSC** which meets the **Fast Track Criteria** is required, a **CUSC Modification Fast Track Proposal** may be raised. In such case the **Proposer** is only required to provide the details listed in Paragraph 8.16.4 (a), (b), (c), (d), (e) and (k).
- 8.29.2 Provided that the **Panel Secretary** receives any modification to the **CUSC** which the **Proposer** considers to be a **CUSC Modification Fast Track Proposal**, not less than ten (10) **Business Days** (or such shorter period as the **Panel Secretary** may agree, provided that the **Panel Secretary** shall not agree any period shorter than five (5) **Business Days**) prior to the next **CUSC Modifications Panel** meeting, the **Panel Secretary** shall place the **CUSC Modification Fast Track Proposal** on the agenda of the next **CUSC Modifications Panel** meeting, and otherwise, shall place it on the agenda of the next succeeding **CUSC Modifications Panel** meeting.
- 8.29.3 To facilitate the discussion at the **CUSC Modifications Panel** meeting, the **Code Administrator** will circulate a draft of the **CUSC Modification Fast Track Report** to **CUSC Parties**, the **Authority** and **Panel Members** (and its provision in electronic form on the **Website** and in electronic mails to **CUSC Parties**, the **Authority** and **Panel Members**, who must supply relevant details, shall meet this

requirement) for comment not less than five (5) **Business Days** ahead of the **CUSC Modifications Panel** meeting which will consider whether or not the **Fast Track Criteria** are met and whether or not to approve the **CUSC Modification Fast Track Proposal**.

- 8.29.4 It is for the **CUSC Modifications Panel** to decide whether or not a **CUSC Modification Fast Track Proposal** meets the **Fast Track Criteria** and if it does, to determine whether or not to approve the **CUSC Modification Fast Track Proposal**.
- 8.29.5 The **CUSC Modifications Panel's** decision that a **CUSC Modification Fast Track Proposal** meets the **Fast Track Criteria** pursuant to Paragraph 8.29.4 must be unanimous.
- 8.29.6 The **CUSC Modifications Panel's** decision to approve the **CUSC Modification Fast Track Proposal** pursuant to Paragraph 8.29.4 must be unanimous.
- 8.29.7 If the **CUSC Modifications Panel** vote unanimously that the **CUSC Modification Fast Track Proposal** meets the **Fast Track Criteria** and to approve the **CUSC Modification Fast Track Proposal** (which shall then be an "**Approved CUSC Modification Fast Track Proposal**") until implemented, or until an objection is received pursuant to Paragraph 8.29.12), then subject to the objection procedures set out in paragraph 8.29.12 the **CUSC Modification Fast Track Proposal** will be implemented by **The Company** without the **Authority's** approval. If the **CUSC Modifications Panel** do not unanimously agree that the **CUSC Modification Proposal** meets the **Fast Track Criteria** and/or do not unanimously agree that the **CUSC Modification Fast Track Proposal** should be made, then the **Panel Secretary** shall, in accordance with Paragraph 8.16.4A notify the **Proposer** that additional information is required if the **Proposer** wishes the **CUSC Modification Proposal** to continue.
- 8.29.8 Provided that the **CUSC Modifications Panel** have unanimously agreed to treat a **CUSC Modification Proposal** as a **CUSC Modification Fast Track Proposal** and unanimously approved that **CUSC Modification Fast Track Proposal**, the **CUSC Modifications Panel** shall prepare and approve the **CUSC Modification Fast Track Report** for issue in accordance with Paragraph 8.29.11.
- 8.29.9 The matters to be included in a **CUSC Modification Fast Track Report** shall be the following (in respect of the **CUSC Modification Fast Track Proposal**):
- (a) a description of the proposed modification and of its nature and purpose;
  - (b) details of the changes required to the **CUSC**, including the proposed legal text to modify the **CUSC** to implement the **CUSC Modification Fast Track Proposal**;
  - (c) details of the votes required pursuant to Paragraphs 8.29.5 and 8.29.6

- (d) the intended implementation date, from which the **Approved CUSC Modification Fast Track Proposal** will take effect, which shall be no sooner than fifteen (15) **Business Days** after the date of notification of the **CUSC Modifications Panel's** decision to approve; and
- (e) details of how to object to the **Approved CUSC Modification Fast Track Proposal** being made.

8.29.10 Upon approval by the **CUSC Modifications Panel** of the **CUSC Modification Fast Track Report**, the **Code Administrator** will issue the report in accordance with Paragraph 8.29.11.

8.29.11 The **Code Administrator** shall copy (by electronic mail to those persons who have supplied relevant details to the **Code Administrator**) the **CUSC Modification Fast Track Report** prepared in accordance with Paragraph 8.29 to:

- (i) each **CUSC Party**;
- (ii) each **Panel Member**;
- (iii) the **Authority**; and
- (iv) any person who may request a copy,

and shall place a copy on the **Website**.

8.29.12 A **CUSC Party**, a **BSC Party**, the **Citizens Advice**, the **Citizens Advice Scotland** or the **Authority** may object to the **Approved CUSC Modification Fast Track Proposal** being implemented, and shall include with such objection an explanation as to why the objecting person believes that it does not meet the **Fast Track Criteria**. Any such objection must be made in writing (including by email) and be clearly stated to be an objection to the **Approved CUSC Modification Fast Track Proposal** in accordance with this Paragraph 8.29 of the **CUSC** and be notified to the **Panel Secretary** by the date up to and including fifteen (15) **Business Days** after notification of the **CUSC Modifications Panel's** decision to approve the **CUSC Modification Fast Track Proposal**. If such an objection is made the **Approved CUSC Modification Fast Track Proposal** shall not be implemented. The **Panel Secretary** will notify each **Panel Member**, each **CUSC Party** and the **Authority** of the objection. The **Panel Secretary** shall notify the **Proposer**, in accordance with Paragraph 8.16.4A that additional information is required if the **Proposer** wishes the **CUSC Modification Proposal** to continue.

## ANNEX 8A ELECTION OF USERS' PANEL MEMBERS

### 8A.1 GENERAL

#### 8A.1.1 Introduction

**8A.1.1.1** This Annex 8A sets out the basis for election of **Users' Panel Members** and **Alternate Members** for the purpose of Paragraphs 8.4.2. and 8.7.2

**8A.1.1.2** This Annex 8A shall apply:

- (a) in relation to each year (the "**Election Year**") in which the term of office of **Users' Panel Members** and **Alternate Members** expires, for the purposes of electing **Users' Panel Members** and **Alternate Members** to hold office with effect from 1st October in that year;
- (b) subject to and in accordance with Paragraph 8A.4, upon a **Users' Panel Member** and/or **Alternate Members** ceasing to hold office before the expiry of their term of office.

**8A.1.1.3** For the purposes of an election under Paragraph 8A.1.1.2(a) references to **Users** are to persons who are **Users** as at 20th June in the election year.

**8A.1.1.4** On or around 20<sup>th</sup> June in each election year the **Code Administrator** shall publish a list of **Users** (in accordance with Paragraph 8A.1.1.3) and their associated **Voting Groups** (as defined in Paragraph 8A.3.1.2).

**8A.1.1.5** All Users shall provide reasonable assistance to the **Code Administrator** to ensure that the list referred to in Paragraph 8A.1.1.4 is complete, accurate and up to date.

**8A.1.1.6** Where and to the extent that any **User** identifies an error or omission in such list (including in respect of the allocated **Voting Groups**), the **User** shall use best endeavours to notify the **Code Administrator** as soon as reasonably practicable and in any case in advance of the date identified under Paragraph 8A1.2.1(b). The **Code Administrator** shall use reasonable endeavours to investigate any errors or omissions of which it has received notice and to make the relevant rectifications in advance of the date identified under Paragraph 8A1.2.1(b).

**8A.1.1.7** The **Code Administrator** shall administer each election of **Users' Panel Members** and **Alternate Members** pursuant to this Annex 8A.

#### 8A.1.2 Election timetable

**8A.1.2.1** The **Code Administrator** shall not later than 1st July in the election year prepare and circulate to all **Users** (by publication on the **Website** and, where relevant details are supplied, by electronic mail), with a copy to the **Authority**, an invitation to nominate candidates who must be willing to be either a **User Panel Member** or an **Alternate Member** and a timetable for the election (the "**Election Timetable**"), setting out:

- (a) the date by which nominations of candidates are to be received, which shall not be less than three (3) weeks after the timetable is

circulated;

- (b) the date by which the **Code Administrator** shall circulate a list of candidates and voting papers;
- (c) the date by which voting papers are to be submitted, which shall not be less than three (3) weeks after the date for circulating voting papers;
- (d) the date by which the results of the election will be made known, which shall not be later than 15th September in the **Election Year**.

**8A.1.2.2** If for any reason it is not practicable to establish an election timetable in accordance with Paragraph 8A.2.1.1 or to proceed on the basis of an election timetable which has been established, the **Code Administrator** may establish a different timetable, or revise the election timetable, by notice to all **Users**, the **CUSC Modifications Panel** and the **Authority**, provided that such timetable or revised timetable shall provide for the election to be completed before 1st October in the **Election Year**.

**8A.1.2.3** A nomination or voting paper received by the **Code Administrator** later than the respective required date under the election timetable (subject to any revision under Paragraph 8A.1.2.2) shall be disregarded in the election.

## **8A.2. CANDIDATES**

### **8A.2.1 Nominations**

**8A.2.1.1** Nominations for candidates shall be made in accordance with the **Election Timetable**.

**8A.2.1.2** Subject to Paragraph 8A.1.1.3, each **User** may nominate one candidate for election by giving notice to the **Code Administrator**.

### **8A.2.2 List of candidates**

**8A.2.2.1** The **Code Administrator** shall draw up a list of the nominated candidates and circulate the list to all **Users** by the date specified in the **Election Timetable**.

**8A.2.2.2** The list shall specify the **User** by whom each candidate was nominated and any affiliations which the candidate may wish to have drawn to the attention of **Users**.

**8A.2.2.3** Except where Paragraphs 8A.4.3 or 8A.4.4 apply, if seven (7) or fewer candidates are nominated no further steps in the election shall take place and such candidate(s) shall be treated as elected as **Users' Panel Members** and Paragraph 8A.3.2.4 shall apply in relation to such candidate(s).

**8A2.2.4** Where Paragraph 8A.4.3 applies, if only one (1) candidate is nominated, no further steps in the election shall take place and such candidate shall be treated as elected as a **Panel Member** and Paragraph 8A.3.2.4 shall apply in relation to such candidate.

**8A.2.2.5** Where Paragraph 8A.4.4 applies, if five (5) or fewer candidates are

nominated, no further steps in the election shall take place and such candidate(s) shall be treated as elected as **Alternate Members** and Paragraph 8A.3.2.4 shall apply in relation to such candidate(s).

- 8A.2.2.6** Each nominated candidate shall make the declaration referred to in Paragraph 8.3.4(b)(iii) in order for such candidate's relevant interests to be published alongside the list of nominated candidates pursuant to Paragraphs 8A2.2.1 and 8A.2.2.2. Failure to make such a declaration shall result in the relevant candidate becoming an ineligible candidate who shall not be included on the list of nominated candidates.

## **8A.3. VOTING**

### **8A.3.1 Voting papers**

- 8A.3.1.1** Voting papers shall be submitted in accordance with the election timetable.

- 8A.3.1.2** In accordance with the process set out in Paragraph 8A.1.1 the **Code Administrator** will allocate each **User** to a **Voting Group**. For the purposes of this Annex 8A, a "**Voting Group**" means a **User** who is eligible to vote and all **Affiliates** of that **User** who are eligible to vote

- 8A.3.1.3** Each **Voting Group** shall be entitled to submit one voting paper in respect of each of the following **Voting Sub-Groups**, provided that one or more **Users** in such **Voting Group** fall within the relevant **Voting Sub-Group**:

- (a) the **Generation Voting Sub-Group**;
- (b) the **Supply Voting Sub-Group**;
- (c) the **Demand Voting Sub-Group**; and
- (d) the **Interconnector Voting Sub-Group**.

For the avoidance of doubt, each **Voting Group** will therefore be entitled to submit up to four (4) voting papers, being one paper per **Voting Sub-Group**.

- 8A.3.1.4** All **Users** eligible to vote within a **Voting Group** shall receive voting papers. Each **Voting Group** shall be responsible for designating which specific **User(s)** within their **Voting Group** shall submit voting paper(s) on behalf of the relevant Voting Sub-Group(s) in accordance with Paragraph 8A.3.1.3.

- 8A.3.1.5** In the event that the number of voting papers submitted by **Users** within a **Voting Group** exceeds the entitlement set out in Paragraph 8A.3.1.3:

- (a) the **Code Administrator** shall use reasonable endeavours to contact each of the relevant **Users** to establish which voting paper(s) shall be deemed valid and which voting paper(s) shall be deemed invalid and disregarded; and
- (b) where the **Code Administrator** has not been able to contact the relevant **Users** using reasonable endeavours, the **Code Administrator** shall select from the voting papers at random. Any

voting paper(s) selected by the **Code Administrator** shall be deemed valid and all other voting paper(s) from the relevant **Voting Group** shall be deemed invalid and disregarded

### **8A.3.2 Preference votes and voting rounds**

**8A.3.2.1** Each **Voting Group** submitting a voting paper or voting papers shall vote by indicating on each eligible voting paper a first, second and third preference ("**Preference Votes**") among the candidates.

**8A.3.2.2** A voting paper need not indicate a second, or a third, preference, but the same candidate may not receive more than one **Preference Vote** in a single voting paper.

**8A.3.2.3** Candidates shall be elected in three voting rounds (together where necessary with a further round under Paragraph 8A.3.6) in accordance with the further provisions of this Paragraph 8A.3.

**8A.3.2.4** The **Code Administrator** shall determine which candidates are elected and announce (to the **Authority** and all **Users**) the results of the election in accordance with the election timetable.

**8A.3.2.5** The **Code Administrator** shall not disclose the **Preference Votes** cast by **Users** within any **Voting Group** or received by candidates; but a **User** may by notice to the **Authority** require that the **Authority** scrutinise the conduct of the election, provided that such **User** shall bear the costs incurred by the **Authority** in doing so unless the **Authority** recommends that the election results should be annulled.

**8A.3.2.6** Further references to voting papers in this Paragraph 8A.3 do not include voting papers which are invalid or are to be disregarded (i.e. voting papers not made or submitted in accordance with the **CUSC**.)

### **8A.3.3 First voting round**

**8A.3.3.1** In the first voting round:

(a) the number of first **Preference Votes** allocated under all voting papers to each candidate shall be determined.

(b) the first round qualifying total shall be:

$$(T / N) + 1$$

where

T is the total number of first **Preference Votes** in all voting papers;

N is the number of **Users' Panel Members** and/or **Alternate Members** to be elected.

**8A.3.3.2** If the number of first **Preference Votes** allocated to any candidate is equal to or greater than the first round qualifying total, that candidate shall be elected.

### **8A.3.4 Second voting round**

**8A.3.4.1** In the second voting round:

- (a) the remaining candidates are those which were not elected in the first voting round;
- (b) the remaining voting papers are voting papers other than those under which the first **Preference Votes** were for candidates elected in the first voting round;
- (c) the number of first and second **Preference Votes** allocated under all remaining voting papers to each remaining candidate shall be determined;
- (d) the second round qualifying total shall be

$$( T' / N' ) + 1$$

where T' is the total number of first **Preference Votes** and second **Preference Votes** allocated under all remaining voting papers; N' is the number of **Panel Members** and/or **Alternate Members** remaining to be elected after the first voting round.

**8A.3.4.2** If the number of first and second **Preference Votes** allocated to any remaining candidate is equal to or greater than the second round qualifying total, that candidate shall be elected.

**8A.3.5 Third voting round**

**8A.3.5.1** In the third voting round:

- (a) the remaining candidates are those which were not elected in the first or second voting rounds;
- (b) the remaining voting papers are voting papers other than those under which the first or second **Preference Votes** were for candidates elected in the first or second voting rounds;
- (c) the number of first, second and third **Preference Votes** allocated under all remaining voting papers to each remaining candidate shall be determined;
- (d) the third round qualifying total shall be

$$( T'' / N'' ) + 1$$

where T'' is the total number of first **Preference Votes**, second **Preference Votes** and third **Preference Votes** allocated under all remaining voting papers;

N'' is the number of **Panel Members** remaining to be elected after the first and second voting rounds.

**8A.3.5.2** If the number of first, second and third **Preference Votes** allocated to any remaining candidate is equal to or greater than the third round qualifying total, that candidate shall be elected.

**8A.3.6 Further provisions**

**8A.3.6.1** If after any voting round the number of candidates achieving the required **Preference Votes** threshold exceeds the number of persons remaining to be elected, the following tie-break provisions shall apply between the tied candidates. In addition, if after the third voting round any **Panel Member(s)** or **Alternate Member(s)** remain to be elected the following tie-break provisions shall apply between the remaining candidates:

- (a) the tied or remaining candidates (as applicable) shall be ranked in order of the number of first **Preference Votes** allocated to them, and the candidate(s) with the greatest number of such votes shall be elected;
- (b) in the event of a tie between two or more candidates within Paragraph (a), the candidate(s) (among those tied) with the greatest number of second **Preference Votes** shall be elected;
- (c) in the event of a tie between two or more candidates within Paragraph (b), the **Code Administrator** shall select the candidate(s) (among those tied) to be elected by drawing lots.

**8A.3.6.2** As soon as reasonably practicable after any election process has concluded the **Code Administrator** shall publish an election report including but not limited to the following:

- i) the total number of voting papers distributed to **Users** eligible to vote;
- ii) the total number of voting papers received;
- iii) the total number of first, second and third preference votes allocated to each candidate in all voting papers;
- iv) the total number of remaining voting papers in each voting round;
- v) the total number of remaining **Panel Members** to be elected in each voting round;
- vi) the value of the qualifying total in each voting round; and
- vii) the total number of qualifying **Preference Votes** allocated to each remaining candidate under all remaining voting papers in each voting round.

### **8A.3.7 Alternate Members and Panel Members**

**8A.3.7.1** Except where Paragraphs 8A.4.3 or 8A.4.4 apply, the seven (7) candidates receiving the greatest number of votes shall be elected as **Users' Panel Members** and the next five (5) shall be elected as **Alternate Members**.

**8A.3.7.2** Where Paragraph 8A.4.3 applies the number of candidate(s) up to and including the number of **Panel Member Interim Vacancies** receiving the greatest number of votes pursuant to the **Interim Panel and Alternate Election Process** shall be elected as **Users' Panel Member(s)** and the remaining candidates up to and including the number of **Alternate Member Interim Vacancies** receiving the greatest number of votes shall be elected as **Alternate Member(s)**.

**8A.3.7.3** Where Paragraph 8A.4.4 applies the five (5) candidates receiving the greatest number of votes pursuant to the **Alternate Election Process** shall be elected as **Alternate Members**.

#### **8A.4. VACANCIES**

##### **8A.4.1 General**

**8A.4.1.1** If a **Panel Member** ceases to hold office pursuant to Paragraph 8.6.1 (b) (i) then Paragraph 8A.4.2 shall apply.

**8A.4.1.2** [Not used]

**8A.4.1.3** If an **Alternate Member** ceases to hold office pursuant to Paragraph 8.6 (the “**Resigning**” **Alternate Member**) then Paragraph 8A.4.4 shall apply.

**8A.4.1.4** The provisions of Paragraph 8A.2.1.2 shall apply, mutatis mutandis, to any replacement **Panel Member** or any replacement **Alternate Member** under this Paragraph 8A.4.

**8A.4.2** [Not used]

##### **8A.4.3 Replacement of a Panel Member who ceases to hold office pursuant to Paragraph 8.6.1**

**8A.4.3.1** Subject to Paragraph 8A.4.3.2, such **Panel Member** shall, where one or more **Alternate Member(s)** hold office, be replaced by the **Alternate Member** who previously received the highest number of cumulative **Preference Votes** but if there were a tie-break in relation to such **Preference Votes** then the tie-break provisions set out in Paragraph 8A.3.6.1 shall apply, in either circumstance such **Alternate Member** selected to be a **Panel Member** shall then become a **Resigning Alternate Member** and be replaced in accordance with Paragraph 8A.4.4.

**8A.4.3.2** If there are no **Alternate Members** in office upon a **Panel Member** ceasing to hold office then:

(a) Where there are not less than six (6) months remaining until the next full election further **Panel Members** shall be elected in accordance with Paragraphs 8A.2, 8A.3 and subject to the following Paragraphs 8A.4.3.3 to 8A.4.3.5 (inclusive) (the “**Interim Panel and Alternate Election Process**”).

(b) Where there are less than six (6) months remaining until the next full election no further **Panel Members** or **Alternate Members** shall be elected pursuant to this Paragraph 8A.4.3 and the positions shall remain vacant until the next full election.

**8A.4.3.3** Where this Paragraph 8A.4.3.3 applies the **Code Administrator** shall indicate in the invitation referred to at Paragraph 8A.1.2.1 the number of vacancies for both **Panel Member(s)** (“**Panel Member Interim Vacancies**”) and **Alternate Member(s)** (“**Alternate Member Interim Vacancies**”) for which the **Interim Panel and Alternate Election Process** is being held.

**8A.4.3.4** Any **Panel Member(s)** or **Alternate Member(s)** elected pursuant to the **Interim Panel and Alternate Election Process** shall cease to hold office

at the next full election.

**8A.4.3.5** The timetable for the **Interim Panel and Alternate Election Process** shall be expedited and the **Code Administrator** shall prepare a timetable accordingly.

**8A.4.4 Replacement of a Resigning Alternate Member**

**8A.4.4.1** Subject to Paragraph 8A.4.4.2 a **Resigning Alternate Member** shall not be replaced.

**8A.4.4.2** If there are no **Alternate Members** remaining in office following the resignation of an **Alternate Member** or their appointment as **Panel Member** in accordance with 8A.4.2 or 8A.4.3 then

- (a) Where there are not less than six (6) months remaining until the next full election further **Alternate Members** shall be elected in accordance with Paragraphs 8A.2, 8A.3 and subject to the following paragraphs 8A.4.4.3 to 8A.4.4.5 (inclusive) (the "**Alternate Election Process**").
- (b) Where there are less than six (6) months remaining until the next full election no further **Alternate Members** shall be elected and the positions shall remain vacant until the next full election

**8A.4.4.3** Where this paragraph 8A.4.4.3 applies, a reference in Paragraphs 8A.2 and 8A.3 to a **Users' Panel Member** or **Panel Member** shall not apply except in the case of Paragraph 8A.3.5.1 (d) where the reference to "**Panel Members**" shall be read and construed as a reference to "**Alternate Members**".

**8A.4.4.4** Any **Alternate Member(s)** elected pursuant to the **Alternate Election Process** shall cease to hold office at the next full election.

**8A.4.4.5** The timetable for the **Alternate Election Process** shall be expedited and the **Code Administrator** shall prepare a timetable accordingly.

**END OF SECTION 8**