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Direct Dial: 020-7901-7410

6 July 2006

National Grid Electricity Transmission Company (NGET),
CUSC Signatories and Other Interested Parties

Our Ref: IND/COD/CUSC/CAP120

Dear Colleague,

Amendment to the Connection and Use of System Code ("CUSC") - Decision and Direction in relation to Proposed Amendment CAP120: "Connection Application Form - Alternative Connection Offers in England & Wales and Scotland".

The Gas and Electricity Markets Authority (the "Authority"¹) has considered the issues raised in the Amendment Report² in respect of Proposed Amendment CAP120: "Connection Application Form - Alternative Connection Offers in England & Wales and Scotland".

The CUSC Amendments Panel (the Panel) recommended to the Authority that the Proposed Amendment better facilitated achievement of the CUSC Objectives³ and should be approved. The Panel agreed with National Grid Electricity Transmission plc (NGET) that the Proposed Amendment should be implemented ten working days after the Authority's decision.

Having considered the amendment report and the CUSC Amendment Panel's recommendation, as well as having regard to the CUSC Objectives and Ofgem's wider statutory duties⁴, the Authority has decided to direct a modification to the CUSC in line with the amendment proposal for CAP120.

¹ Ofgem is the office of the Authority. The terms "Ofgem" and "the Authority" are used interchangeably in this letter.

² CAP120 Amendment Report dated 1 June 2006.

³ The CUSC Objectives are contained in Standard Condition C10 of the licence to transmit electricity treated as granted to NGET under Section 6 of the Electricity Act 1989 (the "Transmission Licence") and are:

(a) the efficient discharge by the licensee of the obligations imposed upon it under the Act and by this licence;
and
(b) facilitating effective competition in the generation and supply of electricity, and (so far as consistent therewith) facilitating such competition in the sale, distribution and purchase of electricity.

⁴ Ofgem's statutory duties are wider than the matters that the Panel must take into consideration and are explained in sections 3A – 3D of the Electricity Act 1989.

This letter explains the background to CAP120, and sets out the Authority's reasons for its decision. This letter constitutes notice by the Authority under section 49A of the Electricity Act 1989.

Background

In its capacity as the Great Britain System Operator (GBSO) NGET is required under standard licence condition C8 ('Requirement to offer terms') of its licence to offer terms for connection to the GB transmission system. In performing this role, NGET is required to coordinate and cooperate with the Scottish Transmission licensees where an application is made within Scotland.

In some cases, potential connectees to the transmission network may choose to submit multiple Applications for connection, prior to choosing the most commercially viable. It is possible that these alternative applications may be made in England & Wales and Scotland.

In addition to its role as GBSO, NGET is the Transmission Asset Owner (TO) for England & Wales. To recognise the potential advantage that could be gained by the TO business because of information gained by the SO business, Special Condition M of NGET's transmission licence places a restriction on the use of certain information by NGET within its business. NGET is required to ensure that employees involved in the preparation of competing offers are not privy to information concerning alternative applications for connection.

The Proposed Amendment

CAP120 proposes to amend the CUSC Application Form for Bilateral Connection Agreements to include questions to ascertain whether an Applicant has or intends to make one or more alternative applications for connection to the GB transmission system at different locations in England and Wales or Scotland or vice versa, but only intends to connect at one location most beneficial for their project.

The Proposer considers that CAP120 would better facilitate CUSC objective (a) by assisting NGET to determine whether or not it is necessary to invoke procedures required to satisfy Special Condition M ('Restriction on the use of certain information') of the transmission licence and prevent the disclosure of confidential information.

Respondents' views

NGET issued a consultation paper for this Code amendment on 4 April 2006 inviting responses from CUSC Parties and interested parties by 25 April 2006.

NGET received 1 response to the consultation in respect of CAP120. The respondent supported the Proposed Amendment and considered that it would help ensure that the 'chinese walls' between NGET's System Operator and Transmission Asset Owner businesses are enforced and that Scottish licensees are not disadvantaged in preparing connection offers in competition with NGET.

The respondent's view is contained in the Amendment Report in respect of CAP120.

CUSC Amendment Panel's recommendation

The CUSC Amendments Panel Recommendation Vote on CAP120 was conducted at the Panel Meeting on 19th May 2006. The Panel voted that CAP120 DID better facilitate the Applicable CUSC Objectives and was better than the current format. The Panel unanimously considered that it better facilitated objective (a) and four members additionally considered that it better facilitated achievement of objective (b).

The Panel agreed that CAP120 should be approved with an implementation date of 10 days after the Authority's decision.

A final Amendment Report was submitted to the Authority on 1 June 2006.

Ofgem's view

Having considered the Amendment Report, Ofgem considers, having regard to its statutory duties and the Applicable CUSC Objectives, that the Proposed Amendment would better facilitate the achievement of the Applicable CUSC Objectives.

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

Ofgem considers that in improving the clarity of information available to NGET such that it can determine at an earlier stage whether the procedures required to ensure compliance with Special Condition M should be implemented, the Amendment Proposal better facilitates achievement of Applicable Objective (a).

CUSC objective (b) facilitating effective competition in the generation and supply of electricity, and (so far as consistent therewith) facilitating such competition in the sale, distribution and purchase of electricity.

To the extent that the Amendment Proposal reduces the likelihood that NGET will gain a commercial advantage as a result of information gained through its role as GBSO, Ofgem considers that the proposal facilitates effective competition in generation.

Ofgem notes that failure by the applicant to provide all or any of the relevant information in its application for a new connection would not absolve NGET from complying with Special Condition M of its transmission licence.

The Authority's Direction

The Authority has decided to direct that CAP120, as set out in the Amendment Report, should be made and implemented.

Having regard to the above, the Authority, in accordance with standard licence condition C10 paragraph 7(a)⁵ of the licence to transmit electricity granted to NGET under Section 6 of the Electricity Act 1989 (the "Transmission Licence"), hereby directs NGET to modify

⁵ Connection and Use of System Code (CUSC)

the CUSC in accordance with the Proposed Amendment as set out in the Amendment Report.

The modification is to be implemented and take effect from 10 business days after the Authority's decision.

In accordance with standard licence condition C10 paragraph 7(c) of NGET's Transmission Licence, NGET shall modify the CUSC in accordance with this direction of the Authority.

If you have any queries in relation to the issues raised in this letter, please contact Mark Copley (Mark.Copley@ofgem.gov.uk) on 0207 901 7410 or Richard Miller (Richard.Miller@ofgem.gov.uk) on 0141 331 6013.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Robert Hull', with a horizontal line underneath.

Robert Hull

Director, Transmission

Signed on behalf of the Authority and authorised for that purpose by the Authority