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Direct Dial: 020-7901- 7355

23 June 2006

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

Our Ref: IND/COD/CUSC/CAP123

Dear Colleague,

Amendment to the Connection and Use of System Code ("CUSC") - Decision and Direction in relation to Proposed Amendment CAP123: "Quorum at Amendment Panel meetings held via teleconference".

The Gas and Electricity Markets Authority (the "Authority"¹) has considered the issues raised in the Amendment Report² in respect of Proposed Amendment CAP123 "Quorum of Amendment Panel meetings held via teleconference".

The CUSC Amendments Panel (the Panel) recommended to the Authority that CAP123 should be approved, with an Implementation Date as suggested by NGET of 10 Business Days after an Authority decision.

Having considered the Amendment Report and the CUSC Amendment Panel's recommendation, as well as having regard to the Applicable CUSC Objectives³ and Ofgem's wider statutory duties,⁴ the Authority has decided to direct a modification to the CUSC in line with Amendment Proposal CAP123.

This letter explains the background to CAP123, 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.

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

² CAP123 Amendment Report dated 1 June 2006.

³ The Applicable 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.

Background

CUSC paragraph 8.7.8 allows for Amendment Panel meetings to be held by *conference between Panel Members who are not all in one place... but are able to (by telephone or otherwise) speak to each other and be heard by each of the others simultaneously.*

CUSC paragraph 8.9.2 however which deals with quorum requirements states that for a Panel meeting to be quorate, *6 Panel Members who have a vote must be present in person or by their alternates.....*

In order to address this defect CAP123 was raised by NGET and submitted for consideration at the CUSC Amendments Panel meeting on 31 March 2006. At the meeting the Panel determined that CAP123 should proceed to wider consultation by NGET. A consultation paper was issued on 3 April 2006 with responses invited by 25 April 2006. The CUSC Amendment Panel Recommendation Vote was conducted at the Panel meeting on 19 May 2006. The final Amendment Report was submitted to the Authority on 1 June 2006.

The Amendment Proposal

The Amendment Proposal would amend paragraph 8.9.2 to ensure that meetings held as provided for by paragraph 8.7.8 were capable of being considered quorate.

The proposer considered that the flexibility to arrange meetings without the need to travel to a specified place ensured that time and resources were utilised in an efficient manner and removing any ambiguity as to whether such meetings could be considered quorate would enhance this efficiency, thus facilitating the achievement of Applicable CUSC Objective (a).

Respondents' views

NGET issued a consultation paper on 3 April 2006 inviting responses from CUSC Parties and interested parties.

NGET received 2 responses to the consultation in respect of CAP123, both of which supported the Amendment Proposal, stating that the removal of ambiguity would facilitate achievement of Applicable CUSC Objective (a) and make the process more cost and time efficient.

The respondents' views are summarised and contained in the Amendment Report in respect of CAP123.

CUSC Amendment Panel's recommendation

The CUSC Amendments Panel recommended that the Amendment Proposal should be approved with an implementation date of 10 Business Days after an Authority decision.

Ofgem's view

Ofgem considers, having regard to its statutory duties and the Applicable CUSC Objectives, that the Amendment Proposal for CAP123 would better facilitate the achievement of Applicable CUSC Objective (a).

Ofgem considers having the flexibility to hold Amendment Panel meetings without the need to travel to a specified place provides for an efficient use of resources. It is important that there be no ambiguity as to whether such meetings can be properly considered quorate. Clarifying the quorum requirements for such meetings as provided for in CAP123, will therefore better facilitate achievement of Applicable CUSC Objective (a).

The Authority's Direction

The Authority has decided to direct that CAP123, as set out in the Amendment Report, should be made and implemented.

Having regard to the above, the Authority, in accordance with Condition C10.7(a) 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 the CUSC in accordance with the amendment proposal as set out in the Amendment Report.

The modification is to be implemented and take effect 10 Business Days after the Authority's decision.

In accordance with Condition C10.7(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 feel free to contact Dipen Gadhia on 020 7901 7168.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'N. Simpson', written over a horizontal line.

Nick Simpson

Director, Industry Codes and Licensing

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