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*Promoting choice and value for
all gas and electricity customers*

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Dear Mr Toms

Authority decision to 'send back' Connection and Use of System Code (CUSC) modification proposal CMP 201 (Removal of BSUoS charges from generators)

On 10 October 2012, the Connection and Use of System Code (CUSC) Panel submitted a Final Modification Report (FMR) for CUSC modification proposal CMP201¹ 'The removal of BSUoS² charges from generators' to us³ for a decision⁴.

We have reviewed the assessment of the proposal against the background of the Applicable CUSC Objectives, the analysis of the proposal against the objectives, and the Panel members' views and interpretation of this assessment as presented in the FMR. We have decided that we cannot properly consult or form an opinion on CMP201 based on the FMR as submitted to us⁵ and that we should therefore send the proposal back to the industry for further work.

In particular, we have identified three deficiencies in the FMR -

1. Although there is a brief reference (A13.43 of Annex 13) to the potential long term impact of the proposal on competition, there is a lack of analysis that adequately explores how the quantified effect on competition might change over longer time (eg the likely time needed for new generation to set up in Great Britain (GB) and the impact on competition). If the Panel (or the working group) is not in a position to carry out such analysis, then an explanation of why such analysis has not been carried out and a qualitative explanation of the potential impacts should be given in the FMR. In the first instance, we expect the Panel to approach us if there are any matters of interpretation of the governance provisions that they believe to be restricting their ability to conduct analysis of the nature described above in assessing CMP201 against the Applicable Objectives, particularly objective (a).
2. The quantitative assessment of the likely impact on competition in shorter time periods appears to vary throughout the report. We expressed our concerns about this analysis

¹ Documents relating to CMP201 can be found on National Grid's website

<http://www.nationalgrid.com/uk/Electricity/Codes/systemcode/amendments/currentamendmentproposals/>

² National Grid recovers the costs of operating and balancing the system through Balancing Services Use of System (BSUoS) charges. The Statement of the Use of System Charging Methodology includes a detailed methodology for the calculation of daily BSUoS charges and can be found in Section 14 of the CUSC.

³ The terms 'the Authority', 'Ofgem' and 'we' are used interchangeably in this document. Ofgem is the Office of the Gas and Electricity Markets Authority.

⁴ The FMR is available here: <http://www.nationalgrid.com/NR/rdonlyres/3278A40D-4652-46EF-88BB-F9298340A5FC/55561/CMP203FinalModReportv10.pdf>

⁵ Section 8.23.12 of the CUSC sets out the circumstances under which the Authority may require the Panel to undertake further work before resubmitting a FMR to the Authority.

(and the way it is presented) to the Panel and the working group members during the industry process. In particular -

- The assumptions underpinning the analysis are vague and the explanation of the analysis itself is unclear. For example, paragraph 4.33 in the main body of the FMR states that the analysis indicates that GB consumers could have to bear additional costs of around £178m per annum as a result of this proposal. The information provided in Annex 13 of the FMR does not appear to fully support this conclusion. In particular, the description of the analysis (A13.26 to A13.48 inclusive and Annex 14) does not provide enough clarity of the assumptions and parameters used in the analysis, and is not sufficiently clear to demonstrate the impact on end consumers in GB.
- It is not clear how much of the analysis presented in Annexes 13 and 14 is being relied on in the main body of the FMR.
- The analysis appears to describe a short term effect whereby generators pursue market share seemingly at the expense of profit maximising behaviour. However, there is no justification as to why generators would behave in this manner, nor indeed any evidence that they would act in this way.

3. In light of the above concerns, further detail is needed in the FMR of the reasoning behind the Panel members' recommendation. We note that Standard Licence Condition C10 6(b)(v) of the transmission licence requires that the FMR should provide a "detailed explanation of the Panel's reasons for that assessment"⁶. Given the impacts identified in the FMR, a fuller discussion of how members have considered the quantitative analysis (or their reasons for disregarding it) in coming to their recommendation on whether the proposal would better meet Applicable Objective (a) is needed.

For these reasons we consider that, as it stands, the FMR is incomplete. In particular we do not think it provides an adequate assessment of the impact of the proposal on competition and the quantitative effect this proposal has on existing and future end consumers in GB.

In coming to a decision on any CUSC modification proposal, we need to consider whether it better facilitates the Applicable CUSC Objectives compared with the baseline at the time of the decision. We also need to be able to highlight key issues, including the likely impact on existing and future consumers, in any consultation we conduct. We therefore direct the Panel to take additional steps (including sending the proposal back to the CMP201 working group for further consideration and/or undertaking further consultation if it considers this appropriate) to address these concerns. A revised FMR should -

- i. Consider in more detail the longer term impact of the proposal. If the Panel is satisfied that this cannot be quantified then this should be fully explained in the report and an appropriate qualitative assessment included instead.
- ii. Present a clear and consistent assessment of the impact of the proposal on competition. Specifically, greater clarity is needed around the analysis presented in the FMR and the reliance placed on that analysis by Panel members.
- iii. Clearly set out the reasoning behind the Panel's recommendation and the reliance placed on the analysis presented in the revised FMR.

After addressing the issues discussed above, and revising the FMR accordingly, the Panel may re-submit it to us for decision

Yours sincerely

Andrew Burgess
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⁶ This requirement is also set out in section 8 of the CUSC http://www.nationalgrid.com/NR/rdonlyres/8B81E9A0-F1B1-47B7-906D-41DA0DB69167/51434/CUSCSection8_v122CMP198_31Jan_12.pdf