

Modification proposal:	Connection and Use of System Code (CUSC): Revised treatment of BSUoS charges for lead parties of Interconnector BM Units (CMP202)		
Decision:	The Authority ¹ directs that this proposal be made ²		
Target audience:	National Grid Electricity Transmission PLC (NGET), Parties to the CUSC and other interested parties		
Date of publication:	15 August 2012	Implementation Date:	10 business days after Authority decision ³

Background to the modification proposal

National Grid Electricity Transmission plc (NGET)⁴, in its role as National Electricity Transmission System Operator (NETSO), is responsible for keeping the transmission system in balance and maintaining security of supply. NGET recovers the daily cost of balancing the system through Balancing Services Use of System (BSUoS) charges. BSUoS charges are paid by suppliers and generators based on the volume of energy taken from or supplied to the transmission system in each half-hour Settlement Period. Currently, they are split equally between generators and suppliers. Under NGET's current BSUoS charging methodology, BSUoS charges are also levied on interconnector flows depending on whether those flows are imports (charged as if generation) or exports (charged as if demand).

Under the Third Package⁵ Electricity Regulation (EC) 714/2009⁶ an interconnector is defined as a transmission line⁷. As a consequence interconnector flows are neither classed as production (generation) nor consumption (demand) but part of the overall transmission infrastructure facilitating the wider market.

Furthermore, the Electricity Regulation sets out the conditions for access to the network for cross-border exchanges in electricity. Article 14 of the Regulation, "charges for access to networks", covers all the charges that system users must pay in order to use the transmission system. Article 14(3) requires that charges for network access should be set taking into account payments and receipts resulting from the inter-transmission system operator (TSO) compensation (ITC) mechanism.

¹ The terms 'the Authority', 'Ofgem' and 'we' are used interchangeably in this document. Ofgem is the Office of the Gas and Electricity Markets Authority.

² This document is notice of the reasons for this decision as required by section 49A of the Electricity Act 1989.

³ National Grid published an addendum to the Final Modification Report (FMR) for CMP202 providing a clarification on implementation. This addendum is available at:

<http://www.nationalgrid.com/NR/rdonlyres/336AA572-432E-4DA6-8799-D30E6EAC93EE/55048/CMP202Addendum1.pdf>

⁴ As set out in standard condition C5(1) of NGET's Transmission Licence, NGET is required by its licence to keep the use of system charging methodology under review and modify the methodology where it considers that a modification proposal would better meet the relevant objectives.

⁵ The term "Third Package" in this letter refers to the Electricity Regulation and to the Electricity Directive.

⁶ Electricity Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003, available at:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:211:0015:0035:EN:PDF>

⁷ Article 2 of Regulation 714/2009 defines an interconnector as "a transmission line which crosses or spans a border between two Member States and connects transmission systems of Member States".

Article 13 of the Electricity Regulation requires TSOs to receive compensation for costs incurred as a result of hosting cross-border flows of electricity. The ITC Regulation⁸ prescribes the parameters related to setting up the ITC mechanism for costs associated with hosting cross-border flows and a common regulatory approach to transmission charging. The ITC Regulation states that each regulatory authority shall ensure that TSOs participate in the ITC mechanism and that no additional charges are imposed on importers or exporters of electricity by the TSOs for access to networks.⁹

NGET is required to conform to the requirements of the Electricity Regulation. To that end, Articles 13(2) and 13(3) and Articles 14(1) to (3) and 14(5) are "relevant requirements" under the Electricity Act 1989 on NGET. The Authority can enforce any breaches by NGET of these relevant requirements.

The Third Package was transposed into GB legislation by the Electricity and Gas (Internal Markets) Regulations 2011 (the Domestic Regulations) on 10 November 2011.¹⁰ The Third Package creates a new regulatory framework and new institutions to integrate national markets and create a single European energy market. It amends Ofgem's principal objective under the Electricity Act 1989 of protecting the interests of existing and future consumers. The interests of consumers now include their interests in the fulfilment by the Authority, when carrying out its functions as designated regulatory authority for GB, of the objectives set out in the Third Package Electricity Directive¹¹. These include promoting a competitive, secure and environmentally sustainable internal market in electricity within the European Union (EU) and eliminating restrictions on trade in electricity between Member States.

In this respect, the Authority recently approved CUSC charging modification proposal GB ECM-26, to remove Transmission Network Use of System (TNUoS) charges from interconnector flows¹², and Balancing and Settlement Code (BSC) modification P278, to remove GB transmission losses charges for interconnector users.¹³

These developments have led NGET to review the BSUoS charging arrangements.

The modification proposal

⁸ Commission Regulation (EU) No 838/2010 of 23 September 2010 on laying down guidelines relating to the inter-transmission system operator compensation mechanism and a common regulatory approach to transmission charging: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:250:0005:0011:EN:PDF>

⁹ Point 2.1 of Annex part A to Commission Regulation 838/2010.

¹⁰ Available at: <http://www.legislation.gov.uk/ukdsi/2011/9780111513965/contents>

¹¹ Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:211:0055:0093:EN:PDF>

¹² Use of system charging methodology modification proposal GB ECM-26 proposed that Interconnector asset owners (IOs) are treated as a separate class of transmission users distinct from generation or demand and that they are exempt from both TNUoS demand and generation charges to comply with the Electricity Regulation. Ofgem's decision letter can be viewed at <http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=132&refer=Networks/Trans/ElecTransPolicy/Charging>

¹³ Balancing and Settlement Code (BSC) modification proposal P278 (Treatment of Transmission Losses for Interconnector Users) proposed to remove transmission losses from Interconnector BM Units so that the BSC no longer adjusts their Metered Volumes for GB transmission losses. Because GB participates in the ITC mechanism (via NGET as the national TSO), GB transmission losses under the BSC would no longer be allocated to Interconnector BM Units in order to comply with the Electricity Regulation. Ofgem's decision letter can be viewed at <http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=115&refer=Licensing/ElecCodes/BSCCode/BSC>

In December 2011, NGET raised modification proposal CMP202 to remove BSUoS charges from interconnector Balancing Mechanism (BM) Units¹⁴ and Trading Units associated with interconnectors, including those associated with the Interconnector Error Administrator (IEA).

The Third Package Electricity Regulation defines interconnectors as transmission lines and therefore additional charges arising from NGET's Use of System (UoS) Charging Methodology¹⁵ should not apply. BSUoS charges constitute an additional charge for imports and export of electricity and should therefore not be charged on cross-border flows. Furthermore, applying BSUoS charges to interconnector BM Units constitutes a potential barrier to cross-border trade, which is not in line with the wider European objective to promote the development of a single European market in electricity.

In NGET's view, the modification proposal would better facilitate applicable CUSC UoS Charging Methodology objectives (a) and (c) and is neutral with regard to objective (b). It would better facilitate objective (a) as it would promote more efficient trading across EU member states and remove any perverse incentive for limited or inefficient trades that arise from attempts to manage BSUoS exposure. It would also take account of developments in transmission licensees' transmission businesses with regards to the development of an internal market in electricity and the facilitation of cross-border trading and would therefore better facilitate objective (c).

CUSC Panel¹⁶ recommendation

The CUSC Panel considered the draft Final Modification Report (FMR)¹⁷ for CMP202 at its meeting on 29 June 2012. The Panel voted unanimously that CMP202 would better facilitate the applicable CUSC objectives for the UoS Charging Methodology and so should be implemented. The views of Panel members are set out in full in the FMR.

The Authority's decision

The Authority has considered the issues raised by the modification proposal and the FMR dated 11 July 2011. The Authority has considered and taken into account the responses to the Code Administrator consultation on the modification proposal which are attached to the FMR.

The Authority has concluded that:

1. Implementation of the modification proposal will better facilitate the achievement of the applicable objectives of the CUSC for the UoS charging methodology; and
2. Directing that the modification be made is consistent with the Authority's principal objective and statutory duties.¹⁸

¹⁴ All parties that participate in the Balancing Mechanism (BM) have one or more generation or consumption units, known as BM Units, which are used to trade within the BM.

¹⁵ As set out in standard condition C5(5) of NGET's Transmission Licence, see: <http://epr.ofgem.gov.uk/Pages/EPRInformation.aspx?doc=http://epr.ofgem.gov.uk/EPRFiles/Electricity+transmission+full+set+of+consolidated+standard+licence+conditions+-+Current+Version.pdf>

¹⁶ The CUSC Panel is established and constituted from time to time pursuant to and in accordance with section 8 of the CUSC.

¹⁷ CUSC modification proposals, modification reports and representations can be viewed on NGET's website at <http://www.nationalgrid.com/uk/Electricity/Codes/systemcode/amendments/>

¹⁸ The Authority's statutory duties are wider than matters which the Panel must take into consideration and are detailed mainly in the Electricity Act 1989 as amended.

Reasons for the Authority's decision

The majority of the Workgroup which assessed the modification and respondents to the Code Administrator consultation supported the modification. They agreed with the proposer that CMP202 would better align the GB arrangements with those prevalent in other EU Member States, remove a barrier to cross-border trade and be consistent with the wider European objective of enabling the development of a single internal electricity market.

Some Workgroup members and consultation respondents considered that CMP202 would better facilitate applicable CUSC objectives only if it is implemented in conjunction with modification proposal CMP201 which seeks to remove BSUoS charges from GB generators¹⁹. We consider that in order to comply with the Electricity Regulation it is necessary to remove BSUoS charges from interconnector users regardless of what arrangements are applied to other users.

Some Workgroup members expressed concern that if CMP202 is approved, the links between Residual Cashflow Reallocation Cashflow (RCRC)²⁰ and BSUoS would result in a potentially anomalous situation where interconnector BM Units would be liable to monies distributed (or collected) via RCRC resulting from imbalance charges, but would not contribute to the BSUoS charges resulting from balancing the system. The issue of RCRC is being considered separately in BSC modification proposal P285²¹, which proposes to exclude interconnector BM Units from RCRC charges/payments.

The reallocation of BSUoS charges from interconnector users to generators and suppliers would be passed through to end consumers. By looking at historic interconnectors' volumes and resulting BSUoS contributions, NGET estimated that interconnectors currently contribute 2.1% of the total BSUoS charges which would be reallocated to other CUSC parties as a result of this modification. The Workgroup considered that a potential increase in BSUoS charges would be outweighed by the likely benefits of improved access to other EU markets and possibly greater competition which could lead to lower prices.

In our view, the modification better facilitates applicable CUSC objectives (a), (b) and (c) for the UoS charging methodology for the reasons given below.

Applicable objective (a) 'that compliance with the use of system charging methodology facilitates effective competition in the generation and supply of electricity and (so far as is consistent therewith) facilitates competition in the sale, distribution and purchase of electricity'

We are of the view that charging BSUoS to interconnector users constitutes an additional charge for importers and exporters of electricity and thus does not complement the intent of the applicable European legislation. Therefore we consider that removing BSUoS from interconnector users would facilitate compliance with European legislation.

¹⁹ NGET has raised a separate proposal CMP201 'Removal of BSUoS Charges from Generation'.

²⁰ Under the BSC it is a requirement that in any given Settlement Period the net costs arising from Trading Charges is zero. Any money that a BSC party pays in imbalance charges in a given Settlement Period is redistributed amongst all BSC parties, on a scale proportionate to their volume of Credited Energy. This recovery or redistribution is settled through the Residual Cashflow Reallocation Cashflow (RCRC).

²¹ P285 was raised by National Grid on 25 May 2012. P285 is currently undergoing an Assessment Procedure by a Workgroup, and it is intended that the Panel will consider the Workgroup's report and recommendations at its meeting on 11 October 2012.

Furthermore, we consider that removing BSUoS charges for interconnector users would reduce the cost faced by market parties to trade across borders and therefore it removes a potential obstacle to cross-border trade. As a result we believe that CMP202 would promote cross-border trade and competition in generation and supply of electricity in line with objective (a).

Applicable objective (b) 'that compliance with the use of system charging methodology results in charges which reflect, as far as is reasonably practicable, the costs (excluding any payments between transmission licensees which are made under and in accordance with the STC) incurred by transmission licensees in their transmission businesses and which are compatible with standard condition C26 (Requirements of a connect and manage connection)'

We note that the mandatory ITC mechanism is intended to remunerate TSOs for accommodating cross border flows and that the current arrangement gives rise to a situation where the ITC mechanism overlaps with BSUoS charging on interconnector users. Removing overlapping charges (BSUoS and ITC payments to/from NGET) for the same costs improves cost reflectivity consistent with European legislation. Therefore we are of the view that the modification proposal would better facilitate objective (b).

Applicable objective (c) 'that, so far as is consistent with sub-paragraphs (a) and (b), the use of system charging methodology, as far as is reasonably practicable, properly takes account of the developments in transmission licensees' transmission businesses'

We consider that the modification proposal would address concerns that the GB UoS charging methodology is not consistent with the requirements of the Electricity Regulation. In addition it would remove a potential obstacle to cross-border trade in line with NGET's new statutory role and responsibilities to ease the development of a single European market in electricity and therefore better facilitate objective (c).

Assessment against the Authority's statutory objectives and duties

In addition to contributing to the fulfilment of the relevant CUSC objectives, we believe that the modification proposal is consistent with the Authority's principal objective and statutory duties. We are of the view that removing a potential barrier to cross-border trade would support more effective competition between domestic and cross border users of the GB transmission system and also improve access to other markets, which could improve security of supply and facilitate the development of a single European electricity market.

Decision notice

In accordance with standard condition C5 of NGET's Transmission Licence, the Authority hereby directs that modification proposal CMP202 '*Revised treatment of BSUoS charges for lead parties of interconnectors BM Units*' be made.

Pamela Taylor

Associate Partner, European Wholesale

Signed on behalf of the Authority and authorised for that purpose