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12 February 2002

Your Ref: CAP003

Our

Ref:IND/COD/CUSC/003

Dear NGC, Connected Parties, Customers and Other Interested Parties

Amendment to the Connection and Use of System Code ("CUSC") – Decision and Direction in relation to Amendment Proposal CAP003: "Panel Indemnities".

The Gas and Electricity Markets Authority (the "Authority")¹ has carefully considered the issues raised in Amendment Proposal CAP003 "Panel Indemnities".

The National Grid Company plc ("NGC") has recommended to the Authority that CUSC Amendment Proposal CAP003 be approved and that it be implemented immediately.

The Authority has decided to direct a modification to the CUSC.

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

This letter explains the background to the Amendment Proposal and sets out the Authority's reasons for its decision. In addition, the letter contains a direction to NGC to amend the CUSC as set out in Amendment Proposal CAP003.

Background to the Proposal

Amendment Proposal CAP003 was proposed by National Grid and submitted for consideration at the CUSC Amendments Panel Meeting on 9 November 2001. The Panel determined that the Amendment Proposal should proceed directly to wider consultation by NGC. A consultation paper was issued on 16 November 2001 with responses welcomed by 9 January 2002. A final Amendment Report was submitted to the Authority on 23 January 2002, with a recommendation that the Amendment Proposal be approved with immediate effect.

The Proposed Amendment

Under the current arrangements persons covered by the indemnity are open to liability if it is found that they were not acting in the proper exercise of the powers of the office. CAP 003 Amendment Proposal seeks to modify the CUSC so as to extend the indemnity afforded to Indemnified Persons. It is proposed that the indemnity currently afforded to persons against any loss caused during the proper exercise of their duties should be extended to cover Indemnified Persons when they believe "in good faith" they are acting in the proper exercise of their powers. The view was put forward that such an extension of the indemnity arrangements in the CUSC would better facilitate the obligation to operate Amendment procedures.

NGC issued a consultation paper on 16 November for views from CUSC Parties and interested parties.

Respondents' views

In total, NGC received 2 responses to the consultation on Proposed Amendment CAP003. Of the responses, both expressed support for the Proposed Amendment.

The respondents' views are summarised and contained in the Amendment Report for Proposed Amendment CAP003 dated 23 January 2002.

NGC's Recommendation

NGC recommended that the Authority should approve the Proposed Amendment and that if approved, the Proposed Amendment should be implemented with immediate effect.

Panel's Recommendation

The Panel recommended that the Authority should approve the Proposed Amendment and that if approved, the Proposed Amendment should be implemented with immediate effect.

Ofgem's view

Ofgem considers, having had regard to its statutory duties, that Amendment Proposal CAP(003) will better facilitate the relevant objectives of the CUSC. The Proposed Amendment better facilitates the achievement of the objective of the efficient discharge by NGC of the obligations imposed by its Transmission Licence because the absence of the proposed indemnity may result in expense and delay in the operation of the CUSC Amendments Panel, the Working Groups and the Standing Groups. These bodies may not be willing to operate effectively in circumstances where the provisions of the CUSC are not absolutely clear.

Further, the continued absence of the proposed indemnity may contribute to a climate of inhibition to the free expression of views during the evaluation of Amendment Proposals. This would not be consistent with facilitating effective competition in the generation and supply of electricity.

Ofgem agrees with the Panel recommendation that the Proposed Amendment should be approved with immediate effect.

The Authority's decision

The Authority has therefore decided to direct that Proposed Amendment CAP003 should be made and implemented immediately in order to allow the resulting benefits to be realised at the earliest opportunity.

Direction under Standard Licence Condition C7F7.(a) of NGC's Transmission Licence

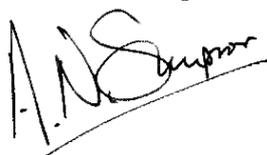
Having regard to the above, the Authority, in accordance with Standard Licence Condition C7F7.(a) of the licence to transmit electricity treated as granted to NGC under Section 6 of the Electricity Act 1989 (the Transmission Licence"), hereby directs NGC to modify the CUSC as set out in Proposed Amendment CAP003.

The modification is to take effect immediately.

In accordance with Standard Licence Condition C7F7.(b) of NGC's Transmission Licence, NGC 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 me on the above number.

Yours sincerely,

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

Nick Simpson

Director, Industry Codes Development

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