



Direct Dial: 020-7901-7355

11 February 2003

The National Grid Company, CUSC Signatories and
Other Interested Parties

Your Ref: CAP042
Our Ref: IND/COD/CUSC/CAP042

Dear Colleague,

Amendment to the Connection and Use of System Code ("CUSC") - Decision and Notice in relation to Proposed Amendment CAP042: "Extension of timescale for preparation of Amendment Reports".

The Gas and Electricity Markets Authority (the "Authority"¹) has carefully considered the issues raised in the Amendment Report² in respect of Proposed Amendment CAP042 "Extension of timescale for preparation of Amendment Reports".

The National Grid Company plc ("NGC") recommended to the Authority that:

- (i) Proposed Amendment CAP042 be rejected;
- (ii) Alternative Amendment (A) be rejected;
- (iii) Alternative Amendment (B) be approved with an implementation date of 10 days after the Authority's decision.

The Authority has decided not to direct a modification to the CUSC.

This letter explains the background to Proposed Amendment CAP042, as set out in the Amendment Report, and sets out the Authority's reasons for its decision.

Background

Paragraph 8.16.4 of the CUSC currently allows NGC a maximum of 14 days to prepare and submit Amendment Reports to the Authority following the end of the wider consultation period.

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

² CAP042 Amendment Report dated 6 November 2002.

This time limit may however be extended where the particular circumstances of the Amendment Proposal (taking account of its complexity, importance and urgency) justify an extension (see paragraph 8.16.4(e) of the CUSC). Paragraph 8.20.3 of the CUSC requires that NGC circulate the draft Amendment Report to CUSC Parties and Panel Members and that they be given not less than five Business Days to comment on the draft. As these five Business Days fall within the 14-day timescale referred to in paragraph 8.16.4, NGC effectively has five Business Days to prepare the Amendment Report.

Proposed Amendment CAP042 was raised by NGC on 12 September 2002 and was submitted for consideration at the CUSC Amendments Panel Meeting on 20 September 2002. At the meeting the Panel determined that the Proposed Amendment should proceed to wider consultation by NGC. A consultation paper was issued on 30 September 2002 with responses invited by 23 October 2002. The final Amendment Report was submitted to the Authority on 6 November 2002.

The Proposed Amendment

Proposed Amendment CAP042 seeks to amend the CUSC so as to extend the timescale for the preparation of Amendment Reports from 14 days to 28 days. The Proposer considered that extending this timescale would allow NGC adequate time to analyse any Alternative Amendments proposed during the wider consultation period. The Proposer also considered that it would increase the time that NGC has to assess and adequately respond to responses received during consultation and to respond to comments received on circulation of the draft Amendment Report, resolving queries where possible. Furthermore, the Proposer considered that it would allow NGC to manage its workload more effectively when several consultations conclude at the same time which, in the view of the Proposer, would enable NGC to operate the procedures for the amendment of the CUSC more efficiently. The Proposed Amendment would not affect the requirement in paragraph 8.20.3 that draft Amendment Proposals be circulated to CUSC Parties and Panel Members and that they be given not less than five Business Days to comment on the draft.

It was therefore the view of the Proposer that the Proposed Amendment would better facilitate achievement of the Applicable CUSC Objectives³, as it would enable NGC more efficiently to discharge its obligations under the Act and the Transmission Licence.

³ The Applicable CUSC Objectives are contained in Standard Condition C7F of the licence to transmit electricity treated as granted to NGC under Section 6 of the Electricity Act 1989 as amended (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.

Alternative Amendment (A)

Alternative Amendment (A) was submitted during wider consultation in respect of Proposed Amendment CAP042. The proposer of Alternative Amendment (A) supported the nature and purpose of the Proposed Amendment but considered that the CUSC should be amended to extend the timescale for the preparation of Amendment Reports from 14 days to 28 days only "if so required". The proposer of Alternative Amendment (A) considered that in circumstances where NGC was able to prepare Amendment Reports in a shorter period than 28 days, it should endeavour to do so.

It was the view of the proposer of Alternative Amendment (A) that Alternative Amendment (A) would better facilitate achievement of the Applicable CUSC Objectives compared with the Proposed Amendment.

Alternative Amendment (B)

Alternative Amendment (B) was submitted during wider consultation in respect of Proposed Amendment CAP042. The proposer of Alternative Amendment (B) supported the nature and purpose of the Proposed Amendment but considered that the CUSC should be amended to extend the timescale for the preparation of Amendment Reports to "no longer" than 28 days. The proposer of Alternative Amendment (B) considered that it should be made explicit that 28 days would be the maximum timescale for the preparation and submission of Amendment Reports.

It was the view of the proposer of Alternative Amendment (B) that Alternative Amendment (B) would better facilitate achievement of the Applicable CUSC Objectives compared with the Proposed Amendment.

Respondents' views

NGC issued a consultation paper on 30 September 2002 inviting responses from CUSC Parties and interested parties.

NGC received six responses to the consultation in respect of Proposed Amendment CAP042, of which two respondents supported the Proposed Amendment, two respondents supported the nature and purpose of the Proposed Amendment but each submitted an Alternative Amendment that they supported in preference, one respondent did not support the Proposed Amendment and one respondent expressed neither support nor opposition to the Proposed Amendment.

The respondent that did not support the Proposed Amendment considered that an extension of the timescale for the preparation of Amendment Reports from 14 to 28 days would unnecessarily extend the already lengthy timescale for progressing Amendment Proposals through the Amendment Process. Two respondents noted that they would support a review of the overall timescales for progressing Amendment Proposals through the Amendments Process. One respondent further suggested that the standard timescales be revisited to reduce the period for

consultation by 5 Business Days and extend the period for preparation of Amendment Reports by 5 Business Days.

The respondent that expressed neither support nor opposition to the Proposed Amendment stated that under the BSC no specific time is allocated for the production of reports produced during the various stages of the Modification Procedure life cycle. Instead, the stages themselves have specified timescales, with a maximum timescale for the Report Phase being 30 Business Days. The BSC Panel may extend these timescales with the approval of the Authority should the circumstances require such an extension.

The respondents' views are summarised and contained in the Amendment Report in respect of Proposed Amendment CAP042.

Amendments Panel Members' views

No formal responses were submitted by Amendments Panel Members to the consultation on Proposed Amendment CAP042.

NGC's recommendation

NGC recommended to the Authority that Alternative Amendment (B) should be approved with an implementation date of 10 days after the Authority's decision.

NGC considered that extending the timescale for the preparation of Amendment Reports from 14 days to a maximum of 28 days would allow it to produce Amendment Reports in a timely manner within the 28 days and ensuring accuracy, the representation of respondent's views and analysis of any Alternative Amendments.

Ofgem's view

Ofgem considers, having had regard to its statutory duties, that neither Proposed Amendment CAP042 nor the Alternative Amendments, as set out in the Amendment Report, would better facilitate achievement of the Applicable CUSC Objectives.

Paragraph 8.16.4(e) of the CUSC currently allows NGC a maximum of 14 days to prepare and submit Amendment Reports to the Authority following the end of the wider consultation period. Ofgem acknowledges that since this timescale includes five Business Days during which NGC must circulate drafts of Amendment Reports to Panel Members for comment, NGC effectively has five Business Days for the preparation and submission of Amendment Reports.

Ofgem notes that previously NGC has been able to prepare and submit the majority of Amendment Reports within this timescale. However, in instances where NGC has been unable to meet this timescale due to the particular circumstances of the Amendment Proposal, for instance its complexity, importance or urgency, NGC has applied to the Authority for, and has been granted, an extension to the timescale pursuant to Paragraph 8.16.4(e) of the CUSC. It is therefore Ofgem's view that the CUSC already contains adequate provisions for NGC to produce and submit Amendment Reports to the Authority in a timely manner having given full

consideration to responses received during wider consultation and including a full analysis of any Alternative Amendments.

The Authority's Decision

The Authority has therefore decided not to direct that Proposed Amendment CAP042, as set out in the Amendment Report, should be made and implemented.

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 'A. Simpson', written over a horizontal line.

Nick Simpson

Director of Industry Code Development

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