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| CUSC Amendment Proposal Form | CAP:147 |
| Title of Amendment Proposal: Deemed Access Rights to the GB Transmission System for Renewable Generators | |
| Description of the Proposed Amendment (<i>mandatory by proposer</i>): | |
| <p>This Amendment Proposal will prioritise the use of the GB Transmission System by renewable generators, in accordance with the Renewables Directive 2001/77, Article 7.</p> <p>Renewable generators will be given firm access to the GB Transmission System up to their CEC limit by a fixed date and be compensated to the extent they are constrained from exercising such right by the payment of a new category of Interruption Payment. This will be irrespective of whether or not any associated deep reinforcement works have been constructed and/or commissioned by such date. The Amendment Proposal achieves this by the introduction of Deemed Transmission Entry Capacity ("DTEC"), as described below.</p> <p>DTEC will only apply to such portion of a User's output that is generated from renewable sources, as defined by the Electricity (Guarantees of Origin of Electricity Produced from Renewable Sources) Regulations 2003.</p> <p>The key elements of the Amendment Proposal are as follows:</p> <ul style="list-style-type: none"> (a) under its Connection Agreement(s), a renewable generator will be deemed to have DTEC on the earlier of (1) the date by which NGET can deliver Transmission Entry Capacity ("TEC"); or (2) three years after the later of: (i) the date on which the generator obtains its project planning consents; or (ii) the date on which it accepts a Connection Offer from NGET, subject in both cases (1) and (2) to a local connection having been consented and commissioned: such date being the "DTEC Completion Date"; (b) for renewable generators, the concept of TEC will be abolished and replaced by DTEC, which will apply on a permanent basis. NGET will not be obliged to carry out deep reinforcement works in order to guarantee firm access if it considers it to be more economic to make constrained payments but this will not override the provisions of (a)(1) above; (c) in the event that NGET has to constrain generators as a consequence of the GB Transmission System being unable to meet the usage requirements of generators with TEC (including STTEC and LDTEC) and DTEC then it shall be contractually obliged to pay compensation for associated losses; (d) the additional category of Interruption Payment will be funded through NGET's regulated income from Transmission Network Use of System Demand Charges ("TNUoS Charges"); and (e) NGET shall be obliged to constrain conventional generators off the GB Transmission System, where technically possible, rather than constrain off renewable generators. | |

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| <p>Description of Issue or Defect that Proposed Amendment seeks to Address <i>(mandatory by proposer)</i>:</p> <ol style="list-style-type: none">1 Current industry regulations treat all new generation as incremental rather than replacement generation, requiring applicants for connections to wait for system upgrades to accommodate this additional power. This is not in line with Government intentions which envisage renewable generation as primarily replacement generation.2 Current industry regulations do not reflect the terms of the Renewables Directive 2001/77 which obliges Member States to ensure that TSOs guarantee the transmission of renewable energy and which permits TSOs to provide priority access to electricity produced from renewable energy resources.3 Many forms of renewable energy are intermittent and infrequently require use of their maximum permitted TEC. This amendment, by enabling NGET to have a higher level of control of use of the GB Transmission System, permits a more economically efficient judgement to be made about the need for system upgrades than is possible under the current regulations.4 This amendment will permit renewable energy to come to market faster than is possible under the current regulations, supporting the achievement of Government targets for reduction in carbon emissions and Ofgem's secondary objectives under the Electricity Act 1989 Section 3A(5)(c)¹ of (amongst other things) securing a diverse and viable long-term energy supply, and in doing so having regard to the effect on the environment of activities connected with the generation, transmission, distribution or supply of electricity.5 This amendment will remove the timing problems with the obtaining and implementation of planning consents for renewable generation projects in line with the availability of connection dates. This problem has recently been exacerbated by the reduction in validity of planning consents in Scotland from 5 years to 3 years in the Planning etc. (Scotland) Act 2006. |
| <p>Impact on the CUSC</p> <p>Please refer to Annex I at page 6.</p> |
| <p>Impact on Core Industry Documentation <i>(this should be given where possible)</i>:</p> <ol style="list-style-type: none">1 Amendments required to the System Operator - Transmission Owner Code (the "STC") The STC will have to be amended to reflect the Shallow Connection Works regime as set out below.<ol style="list-style-type: none">(a) Section D Part Two which sets out the provisions for the development of Construction Offers and the carrying out of Construction Projects (including the information to be exchanged between a Transmission Owner and NGET as set out in the STC), will have to be amended to include the Shallow Connection Works regime.(b) Schedule 5 will have to be amended to include a requirement that NGET in its Connection application provides the Transmission Owner with any details of the DTEC of the new Connection Site.2 Other Core Industry Documents Please refer to Annex II at page 8 for a list of other industry / regulatory documents that will need to be changed in order to implement the Amendment Proposal. |

¹ As substituted by the Utilities Act 2000 Section 13.

Impact on Computer Systems and Processes used by CUSC Parties (*this should be given where possible*):

Details of any Related Modifications to Other Industry Codes (*where known*):

Justification for Proposed Amendment with Reference to Applicable CUSC Objectives**
(*mandatory by proposer*):

- 1 The Proposer believes that the proposed amendment better facilitates Applicable CUSC Objective (a) (*the efficient discharge by the licensee of the obligations imposed upon it under the Act and by [Transmission Licence]*) as follows:
 - (a) by introducing into the CUSC a regime whereby a Generator that generates electricity from a renewable source is granted access rights to the GB Transmission System within a guaranteed period, the Amendment Proposal would remove the inefficiencies created by the current queuing system for Connection to the GB Transmission System; and
 - (b) by granting the GBSO the option to pay compensation to generators rather than invest to build new transmission assets which may not be economically justified, taking all issues into account, the Amendment Proposal permits a more economic investment analysis to be undertaken.

- 2 The Proposer believes that the proposed amendment better facilitates Applicable CUSC Objective (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*) as follows:
 - (a) by providing greater certainty for renewable generators than under the current system set out in the CUSC, as new parties seeking Connection to the GB Transmission System would be granted a firm date by which access rights can be provided (whilst at the same time, recognising the issues faced by the NGET, for example obtaining the appropriate Consents). Furthermore, OFGEM has stated (in the context of access to the GB Transmission System in respect of all generation) that: "other things being equal, greater certainty for new parties seeking connection to the network over (a) the date by which access rights can be provided (recognising practical constraints, such as the need for consents, faced by the transmission companies) and, (b) the level of financial commitment required to be provided, might be expected to promote competition."²;
 - (b) the implementation of the Amendment Proposal is likely to result in NGET proposing a series of changes to its planning construction procedures so as to ensure that wherever possible, renewable generators' Connections to the GB Transmission System are Commissioned as soon as possible; and
 - (c) by fully reflecting the terms of the Renewables Directive (2001/77/EC).

² OFGEM letter dated 9 May 2006: Access Reform in Electricity Transmission - Working Group Report and Next Steps.

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| Details of Proposer: Organisation's Name: | Mike Davies Wind Energy (Forse) Limited |
| Capacity in which the Amendment is being proposed: (i.e. CUSC Party, BSC Party or "energywatch") | CUSC Party |
| Details of Proposer's Representative: Name: Organisation: Telephone Number: Email Address: | |
| Details of Representative's Alternate: Name: Organisation: Telephone Number: Email Address: | |
| Attachments: YES If Yes, Title and No. of pages of each Attachment: Annex I - Impact on the CUSC pages 6 to 7; and Annex II - Impact on other industry / regulatory documents pages 8 to 9. | |

Notes:

1. Those wishing to propose an Amendment to the CUSC should do so by filling in this "Amendment Proposal Form" that is based on the provisions contained in Section 8.15 of the CUSC. The form seeks to ascertain details about the Amendment Proposal so that the Amendments Panel can determine more clearly whether the proposal should be considered by a Working Group or go straight to wider National Grid Consultation.
2. The Panel Secretary will check that the form has been completed, in accordance with the requirements of the CUSC, prior to submitting it to the Panel. If the Panel Secretary accepts the Amendment Proposal form as complete, then he will write back to the Proposer informing him of the reference number for the Amendment Proposal and the date on which the Proposal will be considered by the Panel. If, in the opinion of the Panel Secretary, the form fails to provide the information required in the CUSC, then he may reject the Proposal. The Panel Secretary will inform the Proposer of the rejection and report the matter to the Panel at their next meeting. The Panel can reverse the Panel Secretary's decision and if this happens the Panel Secretary will inform the Proposer.

The completed form should be returned to:

Beverley Viney
Panel Secretary
Commercial Frameworks
National Grid
National Grid House
Warwick Technology Park
Gallows Hill
Warwick
CV34 6DA

Or via e-mail to: Beverley.Viney@uk.ngrid.com

(Participants submitting this form by email will need to send a statement to the effect that the proposer acknowledges that on acceptance of the proposal for consideration by the Amendments Panel, a proposer which is not a CUSC Party shall grant a licence in accordance with Paragraph

8.15.7 of the CUSC. A Proposer that is a CUSC Party shall be deemed to have granted this Licence).

3. Applicable CUSC Objectives** - These are defined within the National Grid Company Transmission Licence under Section C7F, paragraph 15. Reference should be made to this section when considering a proposed amendment.

ANNEX I

CUSC AMENDMENT PROPOSAL - Deemed Access Rights to the GB Transmission System for Renewable Generators

1 Impact on the CUSC

This Annex I sets out the impact of the Amendment Proposal on the CUSC and identifies the following:

- 1.1 the changes that will need to be made to the CUSC (including the underlying rationale);
- 1.2 the sections of the CUSC that will need to be changed in order to implement the Amendment Proposal; and
- 1.3 (where it has been possible to provide at this stage) the suggested legal text drafting changes required in order to implement the Amendment Proposal.

2 DTEC regime

Section 2 of CUSC

Section 2 of CUSC should be amended by including a new section setting out the framework for the DTEC introduced by the implementation of the Amendment Proposal. This section will provide as follows:

- 2.1 a User that has applied for connection to the GB Transmission System shall be granted DTEC in accordance with the terms of its Construction and Connection Agreements;
- 2.2 following the Commissioning of its Shallow Connection the User will be entitled to have physical access to the GB Transmission System in accordance with the terms of its Connection Agreement;
- 2.3 the DTEC shall cover that proportion of a User's output that is, or is expected to be, generated from renewable sources. In determining whether the electricity generated is from a renewable source, the definition for "renewable energy sources" as set out in the Electricity (Guarantees of Origin of Electricity Produced from Renewable Sources) Regulations 2003, shall apply.

3 Interruption Payments

Section 5.10 of CUSC will need to be amended to specify that Interruption Payments apply (in place of any compensation under the Balancing and Settlement Code) where the Relevant Interruption is as a result of a constraint in the system as opposed to short-term balancing actions.

4 New definitions

Section 11 of CUSC

Section 11 of CUSC would have to be amended by the addition of definitions covering the matters set out below. Where it has been possible to do so, the suggested draft new definitions have been provided. (This list is not exhaustive and it may be necessary to add more definitions when the Amendment Proposal is assessed).

- 4.1 “**DTEC**” means the Deemed Transmission Entry Capacity set out in Appendix []. Existing renewable generators with TEC should keep it rather than switch to DTEC.
- 4.2 “**DTEC Completion Date**” means the date three years after the User accepts the Connection Offer or obtains its Planning Consents, whichever is the later.
- 4.3 “**Deemed BSUoS Charges**” means a reasonable estimate of Total BSUoS Charges that would have been incurred in respect of the BM Unit of a renewable generator had the BM Unit Metered Volume been equal to the DTEC.
- 4.4 “**Deemed TNUoS Charges**” means a reasonable estimate of The Company’s costs in providing Transmission Network Services to the renewable generator had it been exporting the DTEC on to the GB Transmission System.
- 4.5 The definition of “**Interruption**” will need to be amended to apply in circumstances where The Company constrains off a generator and not solely as a result of Deenergisation.
- 4.6 The definition of a “**Interruption Payment**” will need to be amended to include payments:
 - (i) to a renewable generator, where the renewable generator is unable to use its DTEC; and
 - (ii) to a conventional generator where it has been constrained off the system in favour of a renewable generator.

The methodology for payment would be based upon lost revenues (including, for renewable generators, the value of ROCs, recycle payments and LECs) less avoided costs.

- 4.7 “**Renewable Generator**” means [•].

Note: For the purposes of this Amendment Proposal a new definition is required for Planning Consents, which would be narrower than the current definition of Consents. The renewable generator would have a right to the grant of DTEC no later than 3 years from the date of the grant of planning permission. Note that the grant of planning permission will always be subject to the completion of the “s106³” Agreement.

5 Schedule 2 Exhibit 1 (the Connection Agreement)

The standard form Connection Agreement will have to be amended reflect the principles of this Amendment Proposal.

6 Schedule 2 Exhibit 3 (the Construction Agreement)

The standard form Construction Agreement will have to be amended to reflect the principles of the Amendment Proposal.

DTEC should, ideally, be tradeable per CAP 68, e.g. if one project has DTEC and another is still in its three year period of waiting for a connection.

³ Section 106 Town and Country Planning Act 1991. In Scotland the equivalent provision is Section 75 Town and Country Planning (Scotland) Act 1997.

Annex II

CUSC Amendment Proposal - Deemed Access Rights to the Transmission System for Renewable Generators

1 Impact on other industry / regulatory documents

The following documents are not Core Industry Documents and their amendment is outside the scope of this Amendment Proposal. However, if the Amendment Proposal is implemented these documents will need to be amended. Accordingly, this Annex II sets out the suggested amendments.

2 Amendments required to NGET's transmission connection charging / use of system charging methodologies

2.1 The Statement of the Use of System Charging Methodology

2.1.1 Generators are required to pay NGET, among other things, TNUoS Charges. TNUoS Charges are comprised of the following:

- (a) the costs NGET incurs through the Generator's use of the GB Transmission System (other than sole use assets); and
- (b) an element that reflects the residual costs that NGET incurs in respect of all Generators' use of the GB Transmission System.

2.1.2 This does not allow for a Generator exercising DTEC to be charged for the use it would have made of the GB Transmission System. The Statement for the Use of System Charging Methodology will therefore, have to be amended to allow NGET to charge renewable generators that are exercising DTEC (or part of such rights) Deemed TNUoS Charges and Deemed BSUoS Charges.

2.2 The Statement of the Use of System Charges

There may be changes to the numbers set out in this as a consequence of any changes to the Statement of the Use of System Charging Methodology.

3 Amendments to Transmission Licences

3.1 Condition C7 of NGET's Transmission Licence

3.1.1 Condition C7 of the Transmission Licence prohibits NGET from discriminating between Users, in relation to, among other things, the provision of use of the GB Transmission System and in setting Use of System Charges in a way that restricts, distorts or prevents competition in the generation and transmission, supply or distribution of electricity. Implementing the Proposal may result in NGET breaching, or being accused of breaching Condition C7 of its licence.

3.1.2 Accordingly, the Transmission Licence may need to be amended so as to allow NGET to offer different terms of connection and use of the GB Transmission System to renewable generators. This would be entirely consistent with Article 7 of the Renewables Directive (2001/77/EC) which permits transmission system operators to provide priority access to electricity produced from renewable energy sources.

3.2 Condition C10 of NGET's Transmission Licence

It may be necessary to amend the Applicable CUSC Objectives.

3.3 Special Condition AA5 of NGET's Transmission Licence

- 3.3.1 Special Condition AA5 of the Transmission Licence sets out among other things the formula for calculating the maximum amount of transmission revenue that NGET is allowed to recover in any year from transmission charges, and needs to be amended to include the following:
- (a) a separate formula that would calculate the maximum allowable revenue that NGET can recover from transmission charges with an adjustment for the new category of Interruption Payments that are made to renewable generators; and
 - (b) the information to be provided by NGET to the Authority, for example the total number of renewable generators who have exercised their entitlement to DTEC and the total sum of Interruption Payments made in a year to those renewable generators.
 - (c) a separate formula that would calculate the maximum allowable revenue that NGET can recover from transmission charges with an adjustment for the new category of Interruption Payments that are made to conventional generators together with provisions covering information provision to the Authority in relation to the Interruption Payments.
- 3.4 Condition C17 of the Transmission Licence and Condition D3 of the Scottish Transmission Licensees' Licences
- 3.4.1 The Grid Code Planning Code (PC) 6.1 requires that NGET is to apply the Licence Standards: "relevant to planning and development in the planning and development of the Transmission System." The Licence Standards are defined in the Grid Code as Conditions C17 of the Transmission Licence and D3 of the Relevant Licensee's Transmission Licence.
- 3.4.2 Condition C17 of NGET's licence and Condition D3 of the Scottish Transmission Licensees' Licences respectively, require that the (relevant) licensee is to plan develop and operate the licensee's transmission system (and, in the case of NGET) to co-ordinate and direct the flow of electricity on to the GB Transmission System) in accordance with the following:
- (a) the GB Security and Quality of Supply Standard version 1 (the "**GB SQSS**");
 - (b) the STC; and
 - (c) any other standard of planning approved by the Authority.
- 3.4.3 In order to implement the Proposal, NGET, SP and SSE would have to obtain derogations from complying with GB SQSS. NGET would need to apply to the Authority for a derogation from its Transmission Licence requirement to comply with the Grid Code (P.C.6.1).