

Connection and Use of System Code (CUSC) Modifications Panel

Consequential changes to the CUSC

resulting from the implementation of Electricity Market Reform

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[An information] Paper by National Grid

Summary

DECC's October consultation document, "Electricity Market Reform: consultation on proposals for implementation" (the "**EMR ConDoc**"), flagged that Government is (together with Ofgem, National Grid and Elexon) assessing which existing licence conditions, industry documents and agreements may need consequential amendments as a result of the Energy Bill's provisions to introduce the Capacity Market and implement the Contracts for Difference ("**CfD**").¹

In relation to the process to implement Electricity Market Reform, DECC has asked National Grid, in an advisory role, to consider the nature of any consequential changes that may need to be made to the CUSC, as well as other industry documents such as the Grid Code and STC.

It is anticipated that Government will consult on the proposed consequential amendments in early 2014, at which time interested parties will be invited to comment on the proposed amendments. This paper is to update Panel members and is intended to give the Panel a high-level overview of the types of changes that, based on the information published to date, National Grid's assessment considers may need to be made to the CUSC.

The Energy Bill includes provisions for the Secretary of State to modify licence conditions, industry documents, and related agreements, for the purpose of giving effect to the Capacity Market and CfD. It is expected that the consequential amendments to the CUSC will be effected under those statutory modification provisions.

Background

Details about the proposals for implementing Electricity Market Reform, including the EMR ConDoc, are available on Government's website: <https://www.gov.uk/government/consultations/proposals-for-implementation-of-electricity-market-reform>

"Consequential" changes are those changes that are required as a consequence of the substantive requirements of the Energy Bill, including The Electricity Capacity Regulations, The Electricity Capacity (Payment) Regulations, the Capacity Market Rules, The Contracts for Difference (Allocation) Regulations, The Contract for Difference (Supplier Obligation) Regulations, and the CfD Allocation Technical Framework.

Description

Broadly, it is currently anticipated that the consequential changes that may need to be made to the CUSC are expected to relate to the following areas: (1) change co-ordination; (2) confidential information and data flows; and (3) dispute resolution procedures. The changes will be framed such that they apply also to documents entered into pursuant to the CUSC, such as the bilateral agreements.

Change co-ordination: Some of the documents that will be put in place to introduce the Capacity Market and implement the CfD cross-refer to various CUSC provisions and concepts, amongst other documents. Accordingly, it is important that if the CUSC is amended, the CUSC change co-ordination

¹ See pages 29, 31 and 231.

arrangements facilitate the identification, co-ordination and implementation of a change to a relevant Electricity Market Reform document consequent on a modification to the CUSC. Hence, a small amendment may be made to the CUSC change co-ordination provision. Note that a similar provision is included in the Capacity Market Rules, whereby the administrator of the Rules is required to establish joint working arrangements for change co-ordination with each core industry document 'owner' to facilitate the identification, co-ordination, making and implementation of change to the core industry documents consequent on a modification to the Capacity Market Rules.

Confidential information and data flows: Various data flows are provided for in the documents that will be put in place to introduce the Capacity Market and implement the CfDs. For all such data flows, it is necessary to ensure that there are no restrictions on providing it to the entity which requires it for Capacity Market and/or CfD purposes (as relevant) and that the data may be used for Capacity Market and/or CfD purposes. As the confidentiality provisions set out in the CUSC also apply generally to information and other data supplied under the Grid Code, the amendments to those confidentiality provisions also will operate generally to permit the use and disclosure of Grid Code information for EMR purposes.

Hence, small amendments may be needed to the CUSC confidentiality provisions, and potentially to other sections relating to data, such as Section 6 dealing with the use of metering data.

Dispute resolution procedures: Various EMR documents set out dispute resolution and appeals processes that are intended to be the sole and exclusive remedy of the specified affected persons (for example, the Capacity Market Rules and The Electricity Capacity Regulations 2014). The CUSC dispute resolution provisions currently provide that disputes between CUSC Parties arising out of, under or in connection with Bilateral Agreements shall be resolved in accordance with the CUSC. National Grid is therefore considering whether there is a risk that an Applicant might seek to have a dispute dealt with under the CUSC rather the relevant EMR mechanism, for example, on the basis that the dispute relates to a Bilateral Agreement. The issue is that it should be clear which mechanism applies in a particular circumstance and to avoid any possible overlap.

Accordingly, amendments are being considered to ensure that the dispute resolution procedures in the CUSC do not apply in relation to the Capacity Market or CfD mechanism, which each have their own dispute resolution procedures, which are intended to be the sole and exclusive remedy of an aggrieved person in relation to a Capacity Market or CfD dispute (as relevant).

Process for consequentialials

This paper has been prepared on the basis of the Electricity Market Reform information that Government has published to date and on the basis of analysis that has been undertaken to date. If further information is published by Government, for example, the CfD Allocation Technical Framework, that may lead to further areas of consequential changes being needed. Also, given that Government's consultation on the proposals for the implementation of Electricity Market Reform does not close until 24 December 2013, it is also possible that further changes will be made to the Capacity Market and CfD key documents. In that case, it is possible that some more consequential amendments may be required.

It should be noted that as the consequential changes are being developed, consideration is also being given to the CUSC modifications that have been proposed and that are being progressed through the CUSC's usual modification process.

As set out in the EMR ConDoc, Government is also considering what consequential amendments may need to be made to the Grid Code, Balancing and Settlement Code, the STC and other industry documents.

ConDoc Responses

As mentioned above, there will be an opportunity for interested parties to comment on the consequential changes to all industry documents when Government issues the relevant consultation document, which is anticipated to be in early 2014. However, if [the Panel has/ Panel members have] any questions or comments in relation to the consequential amendments that may need to be made to the CUSC, these should be directed to Patrick Hynes by 29 November 2013. Please note that National Grid has no role or authority in relation to policy matters and cannot respond to any questions or comments that raise policy points. Policy points should be made in response to the EMR ConDoc.