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value for all customers*

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21 December 2009

Dear Alison,

Standard condition C14 (Grid Code) ('SLC C14') of the electricity transmission licence of National Grid Electricity Transmission plc ('NGET')

I am writing in response to NGET's request of 30 October 2009 for a further extension to a Grid Code derogation ('the existing derogation')¹ in relation to National Grid Grain LNG's (NG GLNG's) non-embedded customer site at Grain ('the site'). The existing derogation is in respect of the obligation under SLC C14 to comply with Operating Code ('OC') 6.6 of the Grid Code, and in particular OC 6.6.6.

The existing derogation expired on 30 November 2009. This letter sets out the background to this issue and the reasons for the Authority's decision to grant a further derogation until 31 May 2010.

Background

Grid Code OC 6.6 requires that users install the necessary equipment to enable automatic low frequency demand disconnection ('LFDD') in order to limit the consequences of a major loss of generation or an event on the system. OC 6.6.6 sets out the relevant obligations for non-embedded customers.

On 3 November 2008, NGET requested a derogation against the obligation to comply with OC 6.6 in this instance because automatic LFDD capability had not been provided at the site, a 100MW demand connection with a commissioning date of 9 November 2008.

NGET requested a time-limited derogation on the basis that it intended to work with NG GLNG ahead of engineering week 24 of 2009 (week commencing 8 June 2009) to identify any options under which NG GLNG may be able to operate whilst meeting Grid Code obligations in respect of providing automatic LFDD capability.

¹ The existing derogation was originally granted on 3 November 2008, and extended on 12 June 2009.

On 11 November 2008, the Authority advised NGET of its decision to grant the derogation² to expire on the earlier of 12 June 2009 and the date, if any, upon which the Authority exercised its right to revoke the derogation.

In granting the derogation, the Authority noted from the information provided that:

- NGET does not consider that a time limited derogation would have an operational impact on the transmission system, and
- NGET does not consider that the lack of automatic LFDD when NG GLNG is first connected is inconsistent with NGET's broader application of LFDD services from users.

Further we noted that this electricity supply is required to provide power to support the expansion at the Isle of Grain LNG terminal, and considered that a delay in connecting NG GLNG could have a significant impact on security of gas supply and ultimately therefore on consumers. We also advised that we would, in parallel, undertake a consultation³ concerning the grant of this derogation with a view to determining if there is any reason to revoke or not extend the derogation should a more enduring derogation be applied for. No concerns were raised in responses to our consultation with respect to the granting of the time limited derogation.

On 4 June 2009, NGET advised that the works would not be completed to achieve compliance by 12 June 2009, and requested an extension until 30 November 2009. On 12 June 2009 we granted the requested extension, although also noted that we had ongoing concerns about NGET's internal compliance process that had resulted in such a late request for an extension. The extended derogation was conditional upon the issue being resolved by 30 November. We set out, for the avoidance of doubt, that this means that either compliance should be achieved, or where NGET has identified reasons why Grid Code compliance is not appropriate or required on a more enduring basis, we expect NGET to take all reasonable steps to secure an appropriate derogation by that date. The extended derogation was also conditional upon NGET providing monthly progress reports on the status of the works required to achieve compliance.

NGET's request for further extension

On 30 September 2009, as part of its monthly progress report to Ofgem, NGET indicated that it may seek a further extension to the existing derogation. On 30 October 2009, NGET requested a further extension until 31 May 2010. In its request, NGET advised that:

- whilst the LFDD equipment will be *installed* by NGG at the site before the existing derogation expires, it will not be fully *commissioned* by that date
- delays to installation (and therefore commissioning) have arisen as it was necessary for NGET to complete remedial works on a new Super Grid Transformer circuit before NGG could begin installation, and it took time for NGET and NGG to agree a suitable outage period for these remedial works (to avoid adversely impacting operation of LNG site)

² <http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=24&refer=Networks/Techn/TechStandds>

³ This consultation was issued on 18 December 2008 and is available on our website: <http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?file=081212GrainconsultationLN16708.pdf&refer=Networks/Techn/TechStandds>

- the remedial works are now complete, and the LFDD equipment is being installed, but NGG is reluctant to undertake the reconfigurations of its electrical system necessary to complete commissioning of the LFDD equipment, as this would take place during the peak period of gas injection into the NTS. NGG believes that this may compromise operations at the LNG site
- commissioning is expected to be completed by the end of April 2010, but extension is sought by NGET until 31 May 2010 to accommodate potential delays/unforeseen circumstances

NGET has also advised that the delay in installing this equipment will have no adverse impact on other users or NGET's ability to operate the transmission system, as there is currently a peak demand of around 30MW at the site (ie, the site does not currently require the full 100MW) and costs associated with any delays to installing LFDD equipment in respect of this 30MW would be negligible.

The Authority's decision

Having considered all the relevant information before us, and having regard to the Authority's principal objective and general duties, the Authority has decided, in this instance, to grant a derogation until 31 May 2010 from the requirement to implement and comply with OC 6.6.6 of the Grid Code in relation to the site, on the conditions and subject to the rights of revocation described below. The Authority's Direction is set out in appendix 1 to this letter.

We note that Ofgem has previously set out its concerns with regard to NGET's internal compliance process that have resulted in late requests for derogation in respect of the site. Whilst we welcome the earlier notice in this instance of the request for a further extension, we are concerned that the further extension is required, ie that the non-compliance remains unresolved, and is not expected to be resolved until 31 May 2010, around 18 months since the issue was first identified. We are concerned that NGET may not be taking sufficiently robust actions (for example through appropriate contractual obligations on the user in this instance) to ensure compliance is achieved in a timely manner, and that there does not appear to be a process under the Grid Code to monitor compliance and enforcement and take appropriate remedial action where necessary.

Whilst Ofgem has powers to take licence enforcement action if an electricity licensee is not complying with its licence obligation to comply with the Grid Code (and if we consider it is appropriate to do so), we consider that it may also be appropriate for the Grid Code to include a process for appropriately monitoring compliance and enforcement. We note that there is an existing working group established by the Grid Code Review Panel (GCRP) to develop processes for assessing, monitoring and addressing concerns relating to compliance with the Grid Code Connection Conditions. We note that this working group was established at NGET's request. We consider that there is a similar need for industry engagement to define a process for more robust monitoring arrangements for other Grid Code obligations (including OC6.6.6).

We also expect NGET to review its own processes, to consider any changes it may be appropriate to make (for example to the bilateral agreements it enters into with users) and to bring forward appropriate changes if required.

We note that this is the third time we have been asked to grant a derogation for this non-compliance, and on each occasion NGET has advised us that the delay in installing LFDD equipment at the site will have no adverse impact on other users or NGET's ability to operate the transmission system. We understand that NGET considers that the existing Grid Code obligations in relation to LFDD equipment remain appropriate, following their review of these obligations when we first granted the derogation in relation to this site. However, given the low impact of non-compliance identified in this particular instance and the resource required by both Ofgem and NGET to progress derogation requests, we consider that the Grid Code obligations in relation to LFDD should be further reviewed. We request that NGET consider if changes are required to the Grid Code, including to the process by which decisions are made to request derogations. This review (which should be conducted with the assistance of a GCRP working group) should consider whether there is scope to provide for greater discretion on NGET's part.

The review should also consider the need for more robust compliance and enforcement monitoring arrangements within the Grid Code. NGET is required to report to us within six months the findings from the Grid Code review and the findings and actions taken following the review of NGET's internal processes.

Rights of revocation

If the Authority:

- (a) considers that the existence or continued existence of this derogation is inconsistent or incompatible with any requirement or condition imposed on NGET by its licence or applicable legislation; or
- (b) considers that the continued existence of this derogation is inconsistent or incompatible with the Authority's principal objective or statutory duties,

it may, following consultation with the licensee, revoke this derogation. Where the revocation is made on the basis of (a) above, the Authority will also consider whether any enforcement action is necessary or appropriate.

Conditions of grant

We are granting a time limited derogation until 31 May 2010, which is conditional upon the issue being resolved by that date. For the avoidance of doubt, this means that either compliance should be achieved, or where NGET has identified reasons why Grid Code compliance is not appropriate or required on a more enduring basis, we expect NGET to take all reasonable steps to secure an appropriate derogation by that date.

The derogation is also conditional upon NGET providing monthly progress reports on the status of the works required to achieve compliance.

In addition, the derogation is conditional upon NGET raising with the GCRP (i) the development of arrangements under the Grid Code for monitoring compliance with and enforcement of the code and (ii) the scope to review existing obligations potentially to provide for greater discretion on NGET's part to avoid inefficient use of resources in relation to requests for derogation. NGET is required to report to Ofgem by the end of June 2010 the findings of any working group that is established.

Further, the derogation is conditional upon NGET reviewing its internal processes for ensuring timely Grid Code compliance and enforcement, and reporting back to Ofgem by the end of June 2010 on the outcome of the review and any actions NGET has taken or intends to take.

This letter constitutes notice for the purposes of section 49A of the Electricity Act 1989 in relation to the Direction.

Yours sincerely

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

Stuart Cook
Acting Senior Partner, Transmission and Governance

Appendix 1 – Direction to NGET



The Company Secretary
National Grid Electricity Transmission plc
National Grid Transco House
Warwick Technology Park
Gallows Hill
Warwick
CV34 6DA

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Direction issued to National Grid Electricity Transmission plc (“NGET”) by the Gas and Electricity Markets Authority pursuant to paragraph 12 of standard condition C14 (Grid Code) of NGET’s electricity transmission licence

1. This Direction is issued by the Gas and Electricity Markets Authority (the “Authority”) pursuant to paragraph 12 of standard condition C14 (“SLC C14”) of the electricity transmission licence (the “Licence”), granted or treated as granted under section 6(1)(b) of the Electricity Act 1989 (the “Act”) to NGET (the “Licensee”).
2. Paragraph 12 of SLC C14 of the Licence provides that the Authority may (following consultation with the Licensee) issue directions relieving the Licensee of its obligations to implement or comply with the Grid Code in respect of such parts of the national electricity transmission system and/or to such extent as may be specified in the directions.
3. The Authority hereby directs pursuant to paragraph 12 of SLC C14 that the Licensee is relieved of its obligations under paragraph 1 of SLC C14 of the Licence to the extent and for the period specified below.
4. The Authority hereby directs that the Licensee is relieved of its obligation to implement and comply with Operating Code (OC) 6.6.6 of the Grid Code in respect of the non-embedded customer connection for National Grid Grain LNG at the Grain substation.
5. This Direction shall have immediate effect and shall expire on the earlier of 31 May 2010 the date, if any, upon which the Authority exercises its right to revoke this Direction in accordance with paragraph 6 below.
6. The Authority may, following consultation with the Licensee, revoke this Direction if it considers that the existence or continued existence of this Direction:
 - (a) is inconsistent or incompatible with any requirement or condition imposed upon the Licensee by the Licence or any applicable legislation; or
 - (b) is inconsistent or incompatible with the Authority’s principal objective or statutory duties.
7. This Direction is conditional upon the Licensee
 - (i) resolving the non-compliance referred to in paragraphs 3 and 4 above by 31 May 2010;
 - (ii) providing the Authority with monthly reports on its progress to resolving the non-compliance;
 - (iii) raising with the Grid Code Review Panel (a) the development of arrangements under the Grid Code for monitoring compliance with and enforcement of the code

and (b) the scope to review existing obligations potentially to provide for greater discretion on NGET's part to avoid inefficient use of resources in relation to requests for derogation. NGET is required to report to Ofgem by the end of June 2010 the findings of any working group that is established, and

(iv) reviewing its internal processes for ensuring timely Grid Code compliance and enforcement and reporting back to Ofgem by the end of June 2010 on the outcome of the review and any actions the Licensee has taken or intends to take.

8. Where the Licensee has identified reasons why Grid Code compliance is not appropriate or required on a more enduring basis, the Licensee shall take all reasonable steps to secure an appropriate derogation by the date that this Direction ceases to be in effect.

Dated: 21 December 2009

A handwritten signature in black ink, appearing to read 'Stuart Cook', is written over a horizontal line.

**SIGNED on behalf of the Authority by
Stuart Cook,
Acting Senior Partner, Transmission and Governance**

Authorised for that purpose by the Authority