AMENDMENT REPORT VOLUME 2

CUSC Amendment Proposal CAP165

Transmission Access – Finite Long-term Entry Rights

This document contains consultation responses and requests

Amendment Ref	CAP165
Issue	1.0
Date of Issue	08 January 2009
Prepared by	National Grid

ANNEX 1 – WORKING GROUP CONSULTATION RESPONSES

This annex contains the Working Group consultation responses. The following table provides an overview of these representations.

Reference	Company
CAP165-WGC-01	Association of Electricity Producers
CAP165-WGC-02	British Energy
CAP165-WGC-03	British Wind Energy Association
CAP165-WGC-04	Centrica
CAP165-WGC-05	DONG Walney UK
CAP165-WGC-06	Drax Power
CAP165-WGC-07	EdF Energy
CAP165-WGC-08	EON UK
CAP165-WGC-09	ESB International
CAP165-WGC-10	Fairwind (Orkney) Ltd
CAP165-WGC-11	First Hydro Company
CAP165-WGC-12	GDF SUEZ
CAP165-WGC-13	Immingham CHP LLP
CAP165-WGC-14	Magnox North
CAP165-WGC-15	Renewable Energy Association
CAP165-WGC-16	RWE npower
CAP165-WGC-17	ScottishPower Energy Wholesale
CAP165-WGC-18	Scottish Renewables
CAP165-WGC-19	Scottish and Southern Energy
CAP165-WGC-20	Welsh Power
CAP165-WGC-21	Wind Energy

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31st October 2008

Dear Hêdd

AEP Response to the Connection and Use of System Code Amendment Proposals CAP161-166

Thank you for the opportunity to comment on the Connection and Use of System Amendment proposals CAP161-166. Please find attached our response.

If you wish to discuss any aspects of our response please contact Barbara Vest, Head of Electricity Trading on 07736 107 020

Yours sincerely

By email

David Porter OBE
Chief Executive

Copied to:
John Overton DECC
Stuart Cook Ofgem
Patrick Hynes National Grid
Sarah Hall National Grid

Association of Electricity Producers response to the Transmission Access Review consultations CAP161-166 issued October 2008

1. The Association of Electricity Producers represents generating companies in the UK with our membership comprising a wide range of technologies utilising fossil, nuclear and renewable sources of energy. A large number of our members have interests in generating stations using renewable energy or plan to build new, more carbon efficient plant, in future and are therefore in the process of either seeking investment, planning permission, or await connection to the Transmission System. Between them, members will undertake a vast majority of the investment needed to meet the Government's targets for renewable energy for 2010 and 2020. Members also include a number of non-generators. Members operate in a competitive electricity market and they have a keen interest in its success, not only in delivering power at the best possible price, but also in meeting environmental requirements. A full list of Membership is provided in the Appendix 3.

2. The Association is clear that for our country to prosper, the United Kingdom must be an attractive place to invest in energy infrastructure. To that extent if the regulatory and legislative climate is not inviting, investment in new generation projects can and will locate elsewhere. Therefore any review of transmission access must seek to deliver a clear, consistent and proportionate light-touch regulatory regime that encourages investment in the range of generation technologies capable of facilitating delivery of at least 20GW of new and replacement generation, built over the period from now till 2020. This will help to achieve all of the government's energy policy goals. We recognise the pressing case for resolution of many of the issues to be addressed within the suite of NGET proposals.

3. Our members agree that for electricity producers, network access is a long-term issue consistent with the whole life of a generating project. Primary access to electricity networks should operate in a transparent non-discriminatory manner and be cost based for all connections regardless of generation technology, voltage, location or network asset ownership. Network access should be viewed solely as a necessary enabling service that allows generators to get their product to their customer. Generators must continue to have rights of access that are clearly defined ensuring delivery of a predictable volume and duration that does not compromise the commercial viability of the generator.

4. The Association welcomes the opportunity to comment on the six Transmission Access Review (TAR) proposals raised by National Grid Electricity Transmission (NGET) and will, in addition, include its views on the process of development and assessment followed to date. We would also like to take the opportunity to propose options for further future developments of the new transmission access arrangements.

5. This response is in two parts. The first offers some general comments on the overall effect and implications of the proposed reforms, including commentary on the process so far and potential enhancement to the development cycle of these far ranging reforms. The second section details our members' views of the six individual amendment proposals. The Association would be pleased to discuss aspects of this response directly with DECC, Ofgem or NGET.

Industry Engagement to Date

6. The history behind the perceived need for the TAR has been well documented so far. We have seen a range of facilitating modifications that have been raised and developed by industry[1]. The proposals have been assessed by Connection and Use of System Code Working Groups, with some adopted (CAP150 – Capacity Reduction), some recently rejected (CAP131 – User Commitment for new and existing Generators) and some with the Authority for determination (CAP148 – Deemed Access Rights to the GB Transmission System for Renewable Generators). As an industry we will always seek to progress and enhance our day to day operational environment and recognise the need to adapt the transmission access arrangements further in order to achieve the challenging renewable energy targets set by Government.

7. To that end, on receipt of the suite of six TAR proposals our members ensured full engagement representing a wide range of technologies within the three Working Groups. The groups were established to develop and assess the options to facilitate delivery of more flexible transmission access onto the Transmission Systems within England, Wales and Scotland. Those volunteering to participate within the TAR Working Groups accepted the difficulty of the task. Having reached the point at which National Grid Electricity Transmission (NGET) has composed and issued all six consultation documents however our members have severe reservations about the overall robustness and thoroughness of the assessment of the proposals developed to date. This is an issue raised by the Authority in its 13th October 2008 determination of CAP131: User Commitment for New and Existing Generators[2]. Allowing the three Working Groups only five months to undertake a development that is of a scale equivalent to the introduction of the New Electricity Trading

[1] See list of Electricity Access related modifications listed in Appendix 1
[2] CAP131 response
http://www.nationalgrid.com/NR/rdonlyres/6ED038C8-9A08-46B3-806B-9C3C330A4F4A/28940/CAP131D.pdf

Arrangements was always going to be challenging. On the gas side of the industry our colleagues have been struggling with a similar issue for almost ten years.

8. The process was further complicated by the fact that Working Group 1 was dealing with four amendments in parallel. The task faced by Working Group 2, who dealt with two contentious and complex proposals, was no less onerous. This lack of time and intensity of work undertaken leaves our members concerned that the objectives of the Transmission Access Review may not actually be delivered. Due to the intensity of effort required to complete this task, the Working Groups had to rely on much of the work being undertaken by sub groups and NGET, meaning that the risk of a disjoint in the overall design was increased. Indeed as late as the Working Group 2 meeting of 8th October significant gaps in the auction design process were being discovered. Bearing in mind the Ofgem criticism of the state of industry Final Reports[3] we find it difficult to understand how such a process could lead to accurate cost and benefit analysis and be supported by thorough in depth qualitative analysis to the level that Ofgem require as standard. The Ofgem attendees at the Working Group meetings must be aware of how frustrating the lack of time has proven to be.

9. The Association's members are concerned whether, during this short consultation period, industry will have enough information to develop viable alternate proposals, particularly from those who have not had the time or resource to engage within the Working Groups, and who could provide a valuable additional perspective. We have requested on several occasions that NGET issues an open invitation to industry to participate in 'A Day in the Life of' workshop which would encompass all six proposals to ensure the design delivers what it is proposing to and to educate the wider community about the purpose of each of the proposals, whether implemented to interact with one another or in isolation. This should have been undertaken prior to publication of the six consultation reports however time did not allow this to happen. This is a huge omission for such a radical suite of changes.

Work outstanding

10. Our members believe that they have secured evergreen transmission access rights and that NGET has no ability to remove those rights without legislation and significant compensation. We therefore do not believe that the CAP165 - Finite Long Term Entry Rights or CAP 166 - Long-Term Entry Capacity Auctions are permissible. Ofgems refusal to enter further dialogue on this issue within the Working Groups[4] has been an added frustration. We were told, during the July 08

[3] Ofgem Code Governance Review Open letter http://www.ofgem.gov.uk/Licensing/IndCodes/CGR/Documents1/Open%20letter%20announcing%20governance%20review.pdf and CAP131 Decision Letter http://www.nationalgrid.com/NR/rdonlyres/6ED038C8-9A08-46B3-806B-9C3C330A4F4A/28940/CAP131D.pdf

[4] Stuart Cook presentation to Working Groups 1, 2 and 3 July 2008 http://www.nationalgrid.com/NR/rdonlyres/D36AC4A0-65AC-4223-B509-FDF4E61DCBA/26976/0807OfgempresentationatTARWG2meeting.pdf

Working Group meetings, that Ofgem believed that 'Existing generators do not have "evergreen" rights to the system (but we [Ofgem] are open to "legal" arguments)'. This is not at all helpful. To date, the issue of removal of rights and transition to a new regime has yet to be addressed. There are a great many Bilateral Agreements between NGET and individual power stations that will have to be unravelled. We do not believe that it is within the scope of this suite of amendments to change them.

11. There are several areas where we have requested additional clarification and have yet to be convinced that this will be delivered. This particularly concerns the lack of evidence around the potential for stranding of Transmission Assets (an important driver behind the raising of CAP165). This is a difficult concept to come to terms with in light of the current queue of generation awaiting transmission connection. In addition, industry consternation around the purpose, value and benefits of adopting an auction approach has yet to be allayed. During development of the short-term connection options the lack of process and transparency around the re-allocation of released Transmission Entry Capacity[5] became apparent. We require reassurance of timely and transparent resolution/reallocation going forward. In addition we do not believe that Security of Supply issues around increased numbers of intermittent generators connecting to the System have yet been fully assessed

12. We need a clear identification of what specifically exists within the proposed design to encourage NGET to offer Firm Connections. The suite of proposals, or indeed a combination of, should lead to an identification of enhanced long term signals to encourage power plant build within the UK. At present this is proving difficult to envisage due to the lack of overall detail and in-depth analysis.

13. Members also raise concerns that important recent innovations delivered by CAP150 – Capacity Reduction proposal have yet to be tried and tested.

14. In addition we have recently seen The Authority reject CAP131 – User Commitment for new and existing Generators. CAP131 emerged from work undertaken within the Ofgem-led Access Reform Options Development Group (ARODG) and was presented to the September 2006 Connection and Use of System Code Panel meeting. The Panel decided that CAP131 should proceed to Working Group assessment for 3 months with the first meeting of the Working Group held on 19 October 2006. The Working Group requested an extension of 2 months at the CUSC Panel Meeting on 24 November 2006 which the Authority approved. The Working Group Final Report was issued to the Authority on 24th July 2007 who issued an Impact Assessment 6 June 2008 and subsequently its determination letter to reject on 13th October 2008.

15. Even though Ofgem was meeting attendees throughout the CAP131 process and had chaired the ARODG meetings it stated that '*the key issue raised by all of the*

[5] TEC was released to the market in April 08 by a Scottish generator and capacity was only partially reallocated later in the year. The question remains as to what happened in between and where did the residual go?

proposals is whether the different treatment of new and existing generators under CAP131 and the alternative proposals would give rise to undue discrimination. As such, an assessment of the appropriate level of user commitment for both new and existing generators is necessary so that any recommendations to the Authority to approve a proposal that has differential treatment are based on clear rationale, and where the issue of discrimination is engaged, any potential discrimination can be justified objectively. We note from responses to the IA that the working group did not directly assess whether or not new and existing generators was an appropriate distinction for different treatment of security cover. We have not seen a robust argument that the risk and impact of termination can be neatly categorised as between new and existing generators.' With Ofgem attending the majority of TAR meetings it is hoped that any concerns will have been aired well before the six amendment reports are finalised. We consider Ofgem attendees are not Authority members and therefore their views cannot be deemed to be fettering Authority discretion.

16. Finally we await the Authority determination for CAP148 – Deemed Access Rights to the GB Transmission System for Renewable Generators. Until such time as we have certainty on this then we must assess the current suite of proposals against the current baseline. This further complicates the ability to fully understand the potential final design and overall impact on the future of the six proposals currently under examination.

Positives to take from the experience to date

17. At the beginning of this process the AEP sought the increased engagement and visibility of BERR (now DECC) and Ofgem staff throughout the development of each proposal. Ofgem was able to respond positively and members are convinced that this will enhance the decision making process as Ofgem staff will have been able to ensure Authority members were fully briefed throughout. One further improvement we anticipate will be the benefit at the determination stage when the Authority should be expected to follow the industry lead in expediting its decision-making phase in a timely manner. The industry, after all, has worked to an exacting timetable, it would be inappropriate for the Authority not to follow suit.

18. We believe that it should be possible, once the industry consultation process is complete to undertake some form of identification and fast tracking of 'Quick Wins' where a clear cost benefit has been identified. For example if the arrangements to support Transmission Entry Capacity Sharing can be adequately defined then this option should provide a positive System benefit and offer the opportunity to reduce the queue of those awaiting transmission access.

19. Many members have commented on the perceived benefit of adopting a holistic approach to the development of the six proposals which included co-incident revisions to the supporting Charging Methodologies within the design phase. We are aware that Ofgem is currently consulting on the appropriateness of including

Charging Methodologies within an industry code governance framework[6]. Deliberations during the TAR process may prove that whilst to some this may appear beneficial, it might not be necessary to wait to formalize this approach if in future, where an impact on a Charging Methodology has been identified, a parallel assessment of any necessary charging changes is undertaken. We would suggest on conclusion of this exercise that this approach be assessed and if found beneficial adopted as best practice. We would however suggest that it would be beneficial to make sure both strands of development Working Groups hold occasional joint meetings as we found, for example, within this TAR process a disjoint between the Working Groups 1 and 2 understanding of the definition and purpose of Local Connection Nomination to that of Working Group 3.

20. During discussion of CAP165 – Finite Long Term Entry Rights amendment an improved understanding of the rationale behind the proposal emerged and many of our members now have an increased appreciation of the potential risks faced by NGET with regard to the future usage of the Transmission Network and perceived problems with the 5 day notice period for termination of entry capacity. In response a group of our members developed an alternate proposal WGAA3[7] which it is hoped will address NGET's concerns in a more proportionate manner. This compromise solution will introduce a notification process for generators to indicate their intention to remain on the System and therefore the guarantee of income for NGET. This may lead to enhancement of NGET's future network planning and network investment assessments which will ultimately flow through to the improved accuracy of future Price Controls.

Areas of Concern

21. Association members are concerned about the impact the uncertainty of this process will have on future investment for existing and commissioning plant, especially at a time when we know we need least 20 GW of new and replacement generation. Whilst generators believe that they have evergreen rights, i.e. those that continue until they notify NGET to the contrary, there exists a particular concern in relation to pre-commissioning generators who are currently signatories to construction agreements. Such generators are clear that the security they have lodged with NGET (in some cases in cash) was specifically lodged to cover the costs associated with providing a connection for their new plant. The amount of security can increase during the course of construction (if they are on Final Sums) as the costs of their connection increases, notably if a new party joins a cluster and triggers further deeper reinforcement. The assets that they are providing security for are set out in the construction agreement, and discussions with NGET set out why each is required. It therefore follows that they can reasonably believe that they were

[6] Ofgem Code Governance Review: Charging Methodologies Governance Options http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?file=CGR_CM_Sept_FINAL.pdf&refer=Licensing/IndCodes/CGR

[7] WGAAA3 introduced at the 20th August 2008 Working Group 1 meeting

securitising a connection right. As some of the agreement involve security sums ranging from tens of thousands to many millions, it would be reasonable for them to assume that the connection was not simply for a year. Such new plants have secured financing based not only on the project being a viable construction, but that they have secured transmission rights to give them access to the market to sell their power. Should the Authority agree to any modification that removes these rights we believe that it may face legal challenge which will send a dangerous message to developers that new build in the UK faces unmanageable risk.

22. Many AEP members have experience across both the gas and electricity markets and have raised grave concerns about the potential introduction of any form of auctioning process. The Association believes that capacity auctions are not an appropriate means of allocating network capacity. Our members believe that this approach does not deliver improved long term investment signals, inappropriately introduces under and over recovery into a regulated income stream and carries with it an onerous and unnecessary administrative burden. In particular any change which increases the uncertainty faced by GB generators, such as the introduction of auctions, will make GB less attractive for investment in generation when compared with our European competitors. If auctions are adopted this should result in a proportionate reduction of System Operator revenue incomes. This should be the end result as an auction approach means that the management, and associated risks, of a significant proportion of connection moves from NGET to generators who will be making the decisions, providing the funding and bearing the risks to support how much transmission access they procure and utilise under such a regime.

23. During the early stages of the CAP166 – Long Term Entry Capacity Auctions the Associations Electricity Network Committee extended an invitation to our gas colleagues to share with us their knowledge and experience of the gas auction regime. Despite having a much longer timeframe to develop the supporting business rules, auctioning within the gas regime has been beset with difficulties, so much so that six years in we still see corrective modifications being raised (UNC187a Transfer and Trades)[8]. The original rationale for the introduction of auctioning was apparently to highlight areas within the gas transmission network which required investment, an outcome yet to be delivered. NGET knows where the investment is needed within the electricity transmission network. NGET knows it has a queue of projects awaiting a reasonable connection offer. Why then do we need to introduce a costly and resource intensive auctioning process to provide the same answer?

24. Working Group 2 has had only five months to consider CAP166, a difficult enough task, complicated further by having to do so in shared meetings that also dealt with the development of CAP165 – Finite Long Term Entry Rights. Working Group members had no experience of designing an auction and we fear that if Ofgem persists in promotion of auctions many years will be spent correcting what is most

[8] See list of Gas access related modifications listed in Appendix 2

likely a flawed design. Our members, participating in the Working Group 2 work, have contributed in an open minded and constructive manner. Even so the whole process of consideration of an auction design for TAR has been fraught with difficulty from the start. Zone definition, upon which the original proposal depended, proved impossible to complete in any meaningful manner, despite the very best efforts of NGET. The academic world is light on auction theory of the type required for electricity networks, therefore input from an appropriate level of expertise from within the academic world proved difficult. Devising a working model, albeit on an Excel spreadsheet, was a task which challenged the best amongst the Working Group 2 membership. We know that at the 8th October Working Group 2 meeting significant gaps in the auction design process were discovered. Yet at the point when the Connection and Use of System Code Panel requested three months additional development time, in order to ensure a valuable and worthwhile consultation would be issued to the industry, Ofgem refused to allow any more than two weeks. At present we have yet to be fully convinced of the costs, benefits and impacts associated with such an approach. Indeed it would perhaps be more appropriate to allow more time and effort to enable the existing queue mitigation measures introduced by CAP150 – Capacity Reduction, which was only implemented on 16th May 2008, to work before embarking on such radical and costly measures.

25. NGET issued the Working Group CAP166 – Long Term Entry Capacity Auctions consultation on 17th October 2008 with, as expected, the assessment far from complete. This is most disappointing, especially when the intensity of activity required by both NGET and the Working Group 2 members meant an unwelcome distraction from the process of assessment of the already released suite of TAR Working Group consultations. This also adversely impacted the period when the Working Groups needed to ensure wider understanding of the proposals as currently developed and have an opportunity to consider alternative approaches. The three months would have been used to attempt to improve the auction design and ensure that it was subject to robust testing. The Working Group may also have had time to begin development of the auction assessment method statement and carry out an assessment of the impact of auctions on Security of Supply.

26. We believe that System planning standards should ensure consistent treatment for all generation connections and wherever possible should allow choice of connection by the generator. Policies and procedures for provision of connections and management of the connection process should be non-discriminatory, transparent, cost reflective and subject to industry governance. Government and regulatory policy makers must recognise the fundamentally important role that the planning system and its associated processes play in the promoting effective investment in the electricity transmission network. The associated planning constraints inevitably result in a long, slow process for electricity transmission build. Current Planning Bill enhancements may improve the process, however as it will only apply in England and Wales, this will not help those requiring connections in Scotland.

27. The extremely short assessment timetable has meant that there remains uncertainty about the true impact on power price and linkage to carbon should any of the amendments be approved. One emerging likely scenario however is the impact in Scotland where a significant number of renewable generators could be allowed to connect to a network which is known to be already severely constrained. It is feasible that we end up in a situation whereby renewable generation has to constrain off competing renewable generation. This appears counter intuitive to what the transmission access review is trying to achieve and an area which requires further debate.

28. In the background to this whole development process there have remained uncertainties around the legislative backstop route frequently referenced by Ofgem with little known about what this alternative approach might involve. The question of whether this could be a better way to achieve more appropriate and targeted results remains until such time as DECC provide more detail about what might be proposed, when this might occur and what would fall within or without scope. Our members would benefit from further information at the earliest opportunity.

Proposed way forward

29. During development of the suite of proposals it became apparent that there were some possible winners and losers amongst the six approaches and our Associations Energy Network Committee discussed potential preferred combinations. Committee members noted however that Connection and Use of System Code Panel must assess each amendment individually against the baseline in existence at the time of their deliberations. The committee felt that CAP161 – System Operator Release of Short-Term Entry Rights, CAP162 – Entry Overrun and CAP163 – Entry Capacity Sharing could exist together and offered the best combination whilst recognising that CAP163 – Entry Capacity Sharing may need CAP162 – Entry Overrun in order to operate efficiently. CAP166 - Auctions was unworkable both in its' interaction with the sharing proposal and from a security of supply point of view. We would suggest therefore, in light of exacting time constraints, that it may be appropriate to concentrate future effort on resolving the design and assessment options being dealt with by Working Group 1further.

30. In summary implementation of CAP161-System Operator Release of Short-Term Entry Rights, 162 – Entry Overrun and 163 – Entry Capacity Sharing would allow more choice for generators to manage access and facilitate the connection of renewable generation in the short term. Whilst CAP164 - Connect and Manage does not work in its current form ongoing development of a Working Group alternate to address the issue of cost reflectivity may yet prove beneficial. Association policy reflects the lack of support for CAP166.

31. Whichever of the suite of amendments are to be subject to further development our members believe that it is paramount, in order to ensure improved wider

understanding of what is to be delivered for transmission access, a more robust assessment approach be established from this point. During the development of the New Electricity Trading Arrangements (NETA) industry established a Steering Group supported by a number of Expert Groups and a Programme Management Board. The impact of the proposals under review if adopted will mean a radical shift from the current baseline. It therefore follows that the industry requires a suitable developmental framework be established in order to move the process forward. We would suggest such an approach be given appropriate consideration.

32. The stated aim of the Transmission Access Review is to ensure that the GB transmission system and associated charging and access arrangements are able to facilitate the connection of the significant amount of additional renewable electricity generation required to meet the Government's targets by 2020. While charging and access arrangements are vital the primary means of achieving these targets will be through significant investment in network infrastructure by Grid Owners. We are concerned that insufficient emphasis and urgency is being placed on the need for such network investment and appropriate incentivisation of Grid Owners and Operators to achieve this. Without such investment being signalled generators will not have the confidence to make long term investments no matter how attractive changes to charging and access arrangements are perceived to be.

33. Grid Owners and Operators should be adequately incentivised through their licence requirements and security standards to deliver the most appropriate network to enable generators and suppliers to trade their energy. Association members believe that additional financial incentives should only be required where a clear business case has been identified and would support proposals to encourage network owners to move towards more strategic and timely investment ahead of full user commitment provided it is linked to appropriate risk and reward arrangements. To that end, in order to kick start this process now, we would propose Ofgem consider a relaxation of revenues within the scope of their Transmission Operator Incentive Scheme review in order to enable NGET to invest. It is likely that such investments will result in an increase in Transmission Network Use of System charges however for some members this would be preferable to the uncertainty delivered by increases in Balancing Services Use of System charges that would otherwise be incurred to resolve System constraints. If such an approach were adopted we believe this should be introduced alongside requirements for Network Asset Owners and System Operators to publish sufficient network information to assist the understanding of key network investments by generator developers in order that they can monitor progress towards provision of additional wires.

34. GB transmission charging and access arrangements for generators are already significantly different to those for generators in the major neighbouring European Union Member States with GB generators facing much more uncertainty under these arrangements. From an investment and competition viewpoint it is important to assess the European impact of changes to GB arrangements. The European Commission's stated aim is to increase the harmonisation of trading arrangements;

particularly on a regional basis across Europe. Any changes taking us further away from our most important neighbours require justification.

CUSC WORKING GROUP CONSULTATION – RESPONSE PROFORMA

CAP161 – System Operator Release of Short-Term Entry Rights

Respondent:	*Barbara Vest Head of Electricity Trading* *Tel: 0207 930 9390 Mob: 07736 107 020*
Company Name:	Association of Electricity Producers
Please express your views including rational with regard to the Working Group Consultation? **Including any issues, suggestions or queries**	Association members believe that this proposal is non discriminatory. We believe it may have merit in that it could help reduce the queue if it encourages TEC release. However this statement applies only if any release of TEC is appropriately managed. This concern crystallised during one of the earliest Working Group 1 meetings when it was revealed that TEC released by a Scottish generator appeared not to have been redistributed in a timely manner to those waiting in the queue. There is a question about what happened to the total amount as only a proportion of the amount available was subsequently released. Did NGET effectively remove this TEC as Scottish System is non-compliant? Pay as bid will be difficult for Users in the initial stages as there is little visibility of the economic value of access in the short term All options of SO release carry a risk of increased, or decreased, BSUoS as a result of incorrect analysis and price calculations by the SO, the risk decreases as timescales/duration decrease Full recovery of costs/BSUoS unknown as the extent of utilization of this option yet to be ascertained. In addition the full impact on BSUoS/RCRC remains unknown as to date no load flow modeling has been carried out. It will be necessary that the option is fully trialed and tested in order to reveal the full impact on the System and wider industry costs. It is possible that if there is significant use of this option that there could result in an over/under recovery of TNUoS Linkage to SO Incentive Scheme unknown however there is consensus amongst our members that NGET need to bear some of the risks/costs where they their analysis proves incorrect. e.g. this links into the increase in BSUoS costs 2008/09

	There were concerns about the 5 week-ahead model as conditions can change in this timeframe meaning this option may not work for wind as too far from real time, therefore the 2 day ahead option has been developed. In the case of short term release of access 2 day ahead auctions (or day ahead if it goes that way), if the cost of access increases quickly, generators who provide cash security would have great difficulty, certainly in the current climate in providing NGET with any additional credit amounts within these timescales. Should NGET investigate the potential to carry insurance cover against such generators? In the case of 1 day rights, it is likely not too cost them too much and would facilitate greater flexibility and might promote more participation? Credit issues generally need to be addressed as this is a major and potentially costly change from current arrangements. 5 week-ahead release should enable the SO to carry out improved planning. This option may work for some technologies (e.g. Pumped Storage, Hydro, OCGTs). The suite of options (2DA, 5WA and up to 42 week ahead CLDTEC) provides opportunities for all technologies to manage access and power sales over different time periods Transition yet to be discussed, in particular the linkage to the charging regime. Do we assume cutover to new regime seamless? In addition does the current queue disappear with a new one created whilst generators await long term connection arrangements to be delivered? It may be the case that in some areas where there are lower constraint costs generation may choose to use SO Release rather than pay TNUoS. This may result in the introduction of an element of Free Riding. Not a transparent process so unease if included within the SO incentive scheme. Once the SO has recovered its costs any residual should flow through to BSUoS We note that details such as NGET's auction assessment method statement are not yet available. There must be an opportunity for industry comment on the draft auction assessment method statement once it is available
Do you believe that the proposed original	May deliver improvements against Applicable CUSC Objective A "Efficient discharge by the Licensee of its obligations" as the

or any of the alternatives better facilitate the CUSC applicable objectives, please state your reasoning?	proposal should lead to improved optimisation use of GB Transmission System. CAP161 should lead to increased competition by enabling more efficient use of the GB transmission system, especially by generating plant with low load factors or with variable output. Assessment of this proposal against Applicable CUSC Objective B has proven difficult but our members believe that the release of access on a short term basis will provide more choice for generators and consequently promote competition in the power markets. However a robust analysis of this view has yet to be undertaken
Do you support the proposed implementation Date?	Provided it is supported by a robust and beneficial cost benefit analysis, including a full understanding of the impact on the SO Incentive Scheme and charging regime
Do you wish to raise a WG Consultation Request for the Working Group to consider?	No

Specific questions for CAP161

Q	Question	Rationale
1.	**Is there a benefit in moving to a day ahead auction?** **If so do CUSC Parties prefer the first or second option for the timeline for the 2 day SO Release auction, noting the resource implications in section 34.70?**	Yes, although requiring additional resource there must be benefits as such an approach would enable generators and the SO to use the most up to date weather and network information (outages/constraints) available at the time. Such enhancements will emerge with experience
2.	**What information, published ex post, would be useful to participants?**	We note that "*the Working Group agreed that after the auction, all information, and the result of the auction should be published, as soon as reasonably possible, including all successful and unsuccessful bid information (location, volumes and prices (bid and buyback))*." We agree with these considerations. We would also expect updates at the NGET Operational Forum in order to identify potential future enhancements

Q	Question	Rationale
3.	**Would Parties prefer a seven day a week auction or 5 day a week auction?**	We consider that the day-ahead auctions should take place at weekends as well as weekdays. It is up to parties to decide how best to utilise this option

CUSC WORKING GROUP CONSULTATION – RESPONSE PROFORMA

CAP162 – Entry Overrun

Respondent:	*Barbara Vest Head of Electricity Trading* *Tel: 0207 930 9390 Mob: 07736 107 020*
Company Name:	Association of Electricity Producers
Please express your views including rational with regard to the Working Group Consultation? **Including any issues, suggestions or queries**	Association members believe that this proposal is non discriminatory. We believe this to be a more commercial solution to the existing cumbersome breach provisions for overrunning access rights Creates a capacity imbalance mechanism for all users The full impact on BSUoS/RCRC remains unknown as to date no load flow modeling has been carried out. It will be necessary that the option is fully trialed and tested in order to reveal the full impact on the System and wider industry costs. It is possible that if there is significant use of this option that there could result in an over/under recovery of TNUoS The Simple Methodology can be implemented in the short term, is transparent and with part of the charge published ex-ante, gives a better view to generators to enable them to make use of Entry Overrun. Any risks associated with the accuracy and cost reflectivity outweigh the benefits of early implementation. The Cost Recovery model requires significant additional resource however the benefits of this additional overhead compared to the additional cost has yet to be assessed. The Marginal Methodology has been developed in a prototype Excel Spreadsheet and is at this stage not well known by the industry and has been insufficiently tested The treatment of the over/under recovery resulting from the use of all of the options is unknown, potentially complex and non-transparent. The socialised costs within the scalar model would result in those who are overrunning benefitting if there is an over recovery funds redistribution

	Appropriate credit will be required for Entry Overrun. The level required would be established in the assessment stage in accordance with the Best Practice Guidelines for Gas and Electricity Network Operator Credit Cover and has yet to be fully reviewed by the Working Group Additional constraint costs must be allocated to those who cause them with calculation and allocation methodology applied in a timely manner If majority of generators utilise overrun in future what is the impact on investment signals for NGET. Where is the tipping point for overrun?
Do you believe that the proposed original or any of the alternatives better facilitate the CUSC applicable objectives, please state your reasoning?	This proposal may facilitate increased competition May increase opportunity to connect to the NGET if new entrants can utilise some of the spare capacity potentially freed up by exiting connectees Should enable opportunity to assess risk/reward to enable arbitrage between mix of firm/non firm products Should enable opportunity to assess risk/reward to enable arbitrage between mix of firm/non firm products This proposal should lead to increased competition therefore is offers a code enhancement against Applicable CUSC Objective B
Do you support the proposed implementation Date?	Provided it is supported by a robust and beneficial cost benefit analysis
Do you wish to raise a WG Consultation Request for the Working Group to consider?	No

CUSC WORKING GROUP CONSULTATION – RESPONSE PROFORMA

CAP163 – Entry Capacity Sharing

Respondent:	*Barbara Vest Head of Electricity Trading* *Tel: 0207 930 9390 Mob: 07736 107 020*
Company Name:	Association of Electricity Producers
Please express your views including rational with regard to the Working Group Consultation? **Including any issues, suggestions or queries**	Association members believe that this proposal is non discriminatory. CAP163 provides for a user led framework for entry capacity sharing, with the entry capacity nodal approach limiting the risks of the additional constraint costs identified by introduction of a zonal entry capacity sharing approach Despite the best efforts of NGET development of this proposal was severely hampered by problems identified within the Nodal v Zonal debate. If artificially large Zones are created to facilitate more sharing then this could significantly increase constraint costs which would be socialised through BSUoS In addition the introduction of entry capacity sharing on a nodal basis needs further development to allow industry to understand the application process for exchange rates and their calculation. Generators would see little value in an ex post exchange rate based on overrun process as they would have no visibility in advance of the cost of access The impact on and interaction with the current TEC Trading Scheme has yet to be fully assessed This proposal may be of limited value if generators cannot find someone to share with at suitable exchange rates
Do you believe that the proposed original or any of the alternatives better facilitate the CUSC applicable objectives, please state your reasoning?	In theory this proposal should allow more effective utilisation of existing Transmission network and may deliver signals for network investment. In addition if successfully implemented this might improve Security of Supply if more generators are seen to be connecting to the System .e.g. if windfarm developers share with existing plant. However in order to attract participation the exchange rate methodology must be robust and transparent. If achieved then this proposal may be an improvement against CUSC Applicable Objective's A and B
Do you support the proposed implementation Date?	Provided it is supported by a robust and beneficial cost benefit analysis
Do you wish to raise a	No

WG Consultation Request for the Working Group to consider?	

CUSC WORKING GROUP CONSULTATION – RESPONSE PROFORMA

CAP164 – Connect and Manage

Respondent:	*Barbara Vest Head of Electricity Trading* *Tel: 0207 930 9390 Mob: 07736 107 020*
Company Name:	Association of Electricity Producers
Please express your views including rational with regard to the Working Group Consultation? **Including any issues, suggestions or queries**	A variety of access products and exchange and trading services should be available to generators to enhance the optimisation of use of available access, subject to their impact on other users and the avoidance of risk of compromising the access standards of other users. These products and services should be developed as options to facilitate optimisation, not as prescriptions to discriminate between generators. Association members believe that this proposal is non discriminatory only because users have a choice on whether to accept a TEC Effective Date. However any perceived benefit is negated due to the resulting discrimination against all other network users as the potentially significant additional costs of Connect and Manage are then socialised and therefore not targeted on those who cause them The headline for this proposal should be that, in theory, the amendment could facilitate additional generation to connect to the Transmission System; however analysis shows that the impact of the additional System constraints and associated costs would wipe out any delivered carbon benefit. This problem is further exacerbated by the fact that much of the generation wishing to make use of this option will be aiming to connect in areas already severely constrained. This will inevitably lead to renewables limiting access to other renewables (constrained off). In addition the GBSO would need to ensure that adequate reserve was available to meet the increased likelihood of unexpected changes in generator output The problem areas on the transmission network are already known therefore the linkage to and reliance on local works is critical. The result could be that there is little impact on System investment as signals already there but cannot be met due to planning restrictions and other factors. Planning in England, Wales and Scotland is a slow process in terms of electricity network investment. In Scotland for example Planning Permission has a 3 year lifespan. Delivery of Transmission

	System enhancements can easily take longer and therefore the risk of 'timed out' permissions is a real one. The service standards for connection should be agreed and there should be appropriate redress when the standard is not achieved or delivered in an agreed timescale. Wherever possible there should be competition in the provision of connections, with connecting parties having the option to organise the provision of connection assets. Economic rationality applied to the provision of access means that there must always be scope for some degree of constraint in access to the network, but this must be determined through clear access rules and procedures that take account of the costs and benefits Although more renewable generators should have the opportunity to connect earlier some of the benefit may be achieved by better management of the queue There is no evidence that CAP164 would improve investment signals to NGET to invest in new transmission. One option may be to amend the SO incentives scheme to be multi-year with NGET sharing a proportion of the much higher BSUOS payments as a result of CAP164. This would then incentivise investment
Do you believe that the proposed original or any of the alternatives better facilitate the CUSC applicable objectives, please state your reasoning?	Even though this proposal may allow more generation to connect earlier than would be the case under the current arrangements, the overall additional costs imposed on the wider community could be considered as not proportionate or cost reflective. However our members are contributing to the development of an alternative proposal to address these concerns the aim of which is to provide an improved balance between the socialisation of costs and cost targeting for those generators which cause them
Do you support the proposed implementation Date?	Provided it is supported by a robust and beneficial cost benefit analysis
Do you wish to raise a WG Consultation Request for the Working Group to consider?	No

CUSC WORKING GROUP CONSULTATION – RESPONSE PROFORMA

CAP165 – Finite Long Term Entry Rights

Respondent:	*Barbara Vest Head of Electricity Trading* *Tel: 0207 930 9390 Mob: 07736 107 020*
Company Name:	Association of Electricity Producers
Please express your views including rational with regard to the Working Group Consultation? **Including any issues, suggestions or queries**	Industry believes that they have evergreen transmission access rights and have seen no evidence to show that this is not the case. The fact that well in advance of connection generators are required to invest significant sums in order to allow NGET to provide the required level of connection and System reinforcement, followed by years of further TNUoS payments is evidence that the rights are evergreen until such time as the generator decides transmission access is no longer required. The fact that Ofgem refused further dialogue on this did not help understand the full purpose of this proposal. In their July 2008 presentation to the Working Group Ofgem stated that 'Existing generators do not have "evergreen" rights to the system(but we [Ofgem] are open to "legal" arguments)'[9] This was not a satisfactory way to leave this crucial issue. Of concern is the fact that to date there has been no attempt to address issues around the process of withdrawal and compensation for removal of existing rights and transition to the new regime In response to the emerging understanding around the potential impact of a 5 day termination notice the Working Group have developed, and are still coming to grips with, what some consider as a compromise agreement offering NGET a rolling [4year] notification period of their intent to generate. This would align to investment lead times. In addition this makes a commitment workable in that it is linked to liquidity in the market rather than a requirement to link amounts to an overinflated price at auction or long commitment period. This addresses the potential high level of outturn costs associated

[9] Stuart Cook presentation 9th July 2008
http://www.nationalgrid.com/NR/rdonlyres/D36AC4A0-65AC-4223-B509-2FDF4E61DCBA/26976/0807OfgempresentationatTARWG2meeting.pdf

	with the original proposal. For example, a 20 year commitment at a high TNUoS price may result in a generator being exposed to excessively high cost during periods when power price drops significantly. The resulting burden could force business into bankruptcy with costs falling on all other participants and no advance warnings for NGET. The economics of this approach just do not add up. The introduction of finite rights removes generator flexibility and as a consequence reduces efficient exit from the System
Do you believe that the proposed original or any of the alternatives better facilitate the CUSC applicable objectives, please state your reasoning?	Working through this proposal has enabled the industry to better understand the problems faced by NGET with regard to generator withdrawal from use of the transmission network. However industry believes that they have evergreen rights and, despite requests to Ofgem for proof that this was not the case, Ofgem refused further dialogue on this issue. We can see no benefit within this proposal against any of the Applicable CUSC Objectives
Do you support the proposed implementation Date?	No because we do not see this as a valid proposal. Our members believe that they have secured evergreen transmission access rights and that NGET have no ability to remove those rights without legislation and significant compensation
Do you wish to raise a WG Consultation Request for the Working Group to consider?	No

CUSC WORKING GROUP CONSULTATION – RESPONSE PROFORMA

CAP166 – Long Term Entry Capacity Auctions

Respondent:	*Barbara Vest Head of Electricity Trading* *Tel: 0207 930 9390 Mob: 07736 107 020*
Company Name:	Association of Electricity Producers
Please express your views including rational with regard to the Working Group Consultation? **Including any issues, suggestions or queries**	Despite their best efforts the lack of time afforded to the Working Group meant that assessment of this proposal was not complete Following evidence presented by the Connection and Use of System Code Panel that the consultation was not fit for release we were surprised at Ofgems insistence that the Working Group were to complete their deliberations within a maximum two week extension period rather than the requested three months (Note: the Working Groups original recommendation to the CUSC Panel was a minimum six month extension). This follows Ofgems criticism of industry code change assessment reports raised via its Code Governance Review, and most recently its CAP131 – User Commitment for New and Existing Generators determination letter. It has been impossible, due to the lack of detail, assessment of benefit and omission of clear evidence in support of a case for change, to fully assess and respond to this particular Working Group consultation
Do you believe that the proposed original or any of the alternatives better facilitate the CUSC applicable objectives, please state your reasoning?	In its current state we can see no evidence of benefit within this proposal against any of the Applicable CUSC Objectives
Do you support the proposed implementation date?	No because we do not see this as a valid proposal
Do you wish to raise a WG Consultation Request for the Working Group to consider?	No

APPENDIX 1

ELECTRICITY TRANSMISSION ACCESS RELATED CUSC AMENDMENTS RAISED TO DATE

CAP	Description	1st CUSC Meeting	Date implemented
167	Definition of a threshold(s) associated with the request for a Statement of Works	16/05/2008	
166	Transmission Access – Long-term Entry Capacity Auctions	25/04/2008	
165	Transmission Access – Finite Long-term Entry Rights	25/04/2008	
164	Connect and Manage	25/04/2008	
163	Entry Capacity Sharing	25/04/2008	
162	Entry Overrun	25/04/2008	
161	SO Release of Short-term Entry Rights	25/04/2008	
157	Ext of Qualified Company Definition	27/07/2007	14/02/2008
150	Capacity Reduction	29/06/2007	16/05/2008
149	TEC with Restricted Rights	29/06/2007	24/05/2008
147	Deemed Access Rights for Renewable Generators	23/02/2007	
143	Interim Transmission Entry Capacity	15/12/2006	N/A
142	Temporary TEC Exchanges	24/11/2006	21/06/2007
131	User Commitment for New and Existing Generators	29/09/2006	
127	Calculation and Securing of Value at Risk	29/09/2006	01/06/2007
126	Qualifying Guarantee and Independent Security	29/09/2006	N/A
119	Clarification of Users Credit Allowances	27/01/2006	15/06/2006
99	Incorporation of Credit Management Tools	29/07/2005	21/12/2005
98	Withdrawn - Supplier VAR		Withdrawn
97	Small and Medium Embedded Power Stations	29/07/2005	14/07/2006
94	Limited Duration TEC		01/04/2006
93	Elec From Distribution Systems to Trans System		Rejected
92	UoS liability provisions for access products		Rejected
91	Credit Allowance for Rated and Unrated Companies	00/05/05	Merged
90	Credit Limits for rated companies	00/05/05	Merged
89	Maximum Unsecured Credit Limit	00/05/05	01//02/06

69	Forecasts Used in the Calc of TNUoS Charges		29/12/2004
68	Competing Requests for TEC	13/11/2003	01/04/2005
58	Legal Text post implementation of CAP043	26/09/2003	
54	Addition of Year Round TNU0S Charges	26/09/2003	
48	Firm Access and Temp Physical Disconnection	21/03/2003	

APPENDIX 2

GAS ACCESS RELATED UNC MODIFICATION RAISED TO DATE

Mod Ref	Mod Title	Date Raised	Category
0230	Amendment to the QSEC and AMSEC Auction Timetables	08-Oct-08	Mod
0221	Review of Entry Capacity and the Appropriate Allocation of Financial Risk	13-Aug-08	Review
0216A	Introduction of Additional Pay-as-Bid Auctions for NTS Entry Capacity	22-May-08	Mod
0216	Introduction of an Additional Discretionary Release Mechanism for NTS Entry Capacity	09-May-08	Mod
0189	Amendment to the QSEC Auction Timetable	12-Dec-07	Mod
0187A	Alterations to the RMSEC Auction to Accommodate Transfer and Trade of Capacity Between ASEPs	23-Jan-08	Mod
0187	Alterations to the RMSEC Auction to Accommodate Transfer and Trade of Capacity Between ASEPs	12-Dec-07	Mod
0170	User Admission Requirements for Applicant Shippers Who Solely Wish to Participate in Long Term Entry Capacity Auctions	04-Sep-07	Urgent
0169A	Transfer and Trading of Capacity between ASEPs	14-Aug-07	Urgent
0169	Transfer and Trading of Capacity between ASEPs	09-Aug-07	Urgent
0163	Offering Capacity at Donor ASEP in Trades & Transfer Process	24-Jul-07	Urgent
0163V	Offering Capacity at Donor ASEP in Trades & Transfer Process	24-Jul-07	Urgent
0159	National Grid NTS discretionary release of Interruptible NTS Entry Capacity	11-Jul-07	Mod
0156A	Transfer and Trading of Capacity between ASEPs	6-Jul-07	Urgent
0156	Transfer and Trading of Capacity between ASEPs	6-Jul-07	Urgent
0151A	Transfer of Sold Capacity between ASEPs	16-May-07	Urgent
0151	Transfer of Sold Capacity between ASEPs	10-May-07	Urgent
0150A	Introduction of Unsold Entry Capacity Transfers	16-May-07	Urgent
0150	Introduction of the AMTSEC Auction	10-May-07	Urgent
0138	Transitional arrangements for Entry Capacity Transfers to Sold Out ASEPs	28-Mar-07	Urgent
0137	Entry Capacity & Baseline Summary Report	09-Mar-07	Mod
0133	Introduction of the AMTSEC Auction	07-Feb-07	Mod
0129	Delay to the 2007 AMSEC Auctions	09-Jan-07	Urgent

0128	Amendment to Entry Capacity Baselines	14-Dec-06	Urgent
0119	Amendment to the Entry Overrun Charge	11-Oct-06	Mod
0118A	Entry Capacity Transfers in Constrained Period	26-Oct-06	Mod
0118	Entry Capacity Transfers in Constrained Period	11-Oct-06	Mod
0057	Extending established UNC governance arrangements to include the Incremental Entry Capacity Release Methodology Statement (IECR)	13-Oct-05	Mod
0043	Limitation on offering for sale unsold capacity	09-Aug-05	Urgent
0037	Limitation on offering for sale unsold capacity	13-Jul-05	Urgent
0036	Limitation of incr. capacity in QSEC auctions	13-Jul-05	Urgent
0030	Extension of the QSEC auction timetable for 2005	24-Jun-05	Mod

NB. THIS LIST DOES NOT TAKE ACCOUNT OF THE 126 NETWORK CODE MODIFICATIONS

APPENDIX 3

President of the Association: Sir Michael Spicer MP
Chairman of the Board of Directors: Dr Steve Riley
Chief Executive: David Porter

AEP Members

AES UK HQ
Alcan Smelting & Power UK
Alstom Power Service UK
APX Group
Areva T&D UK Ltd
Barclays Capital
Barking Power Ltd
Bircham Dyson Bell
Blarghour Power Company Ltd
Bond Pearce Solicitors
British Energy plc
British Hydropower Association
British Nuclear Group
British Wind Energy Association
C R Foster & Partners
CantorCO2e Ltd
Centrica Energy
Chubu Electric Power Co
Citigroup
Climate Change Capital
ConocoPhillips UK Ltd
Constellation Energy Commodities Group
Corby Power Ltd
Corus Group plc
Cory Environmental Ltd
Doosan Babcock Energy Ltd
Drax Power Ltd
E.ON UK
Econnect Ltd
EDF Energy
EDF Trading Ltd
Electrabel
Electricity Supply Board Ireland
Empower Training Services
Environmental Services Association
Eversheds
Fichtner Consulting Engineers Ltd
Garbhaig Hydro Power Company Ltd
Gaz de France
Gifford Ltd
Guernsey Electricity
Hammonds
International Power
InterGen
Inver Farmers
IPA Energy + Water Consulting
KEMA Ltd
Local Waste Solutions
Logica UK Ltd
Manx Electricity Authority
Marsh Ltd
Merrill Lynch Commodities Europe Ltd
Natural Power
Optimum Energy
Oran Utilities Ltd
Partnership for Renewables
Power Plant Services Ltd

Premier Power Ltd
PÖyry Energy (Oxford) Ltd
Rocksavage Power Company
RWE npower
Scottish & Southern Energy plc
ScottishPower
Summerleaze
Tanaris
Teesside Power Ltd
Tokyo Electric Power Co
Troutman Sanders LLP
University of Dundee
Uskmouth Power Company Ltd
Waste Recycling Group
Wavegen-Applied Research Western Technology
Windcluster 2000 Ltd
Wood Mackenzie Global Consultants

Dr T Cocker
Dr P Jackson
Dr K Miller
Dr D C Pike
Mr R Rigg
Mr G W Rufford
Dr G Thomas
Mr F Wiggin

AEP Associate Members
Mr S Andrews
Mr T Manning
Mr H Moss
Mr T Russell
Dr M Taylor
Mr D Tolley

AEP Life Members
Mr M Bowden
Mr N Bryson

Hêdd Roberts
Electricity Charging and Access Development
National Grid Electricity Transmission Ltd
National Grid House
Warwick Technology Park
Gallows Hill
Warwick
CV34 6DA

31 October 2008

Dear Hêdd

British Energy response to the working group consultations for CUSC amendment proposals 161 - 165.

The British Energy group of companies welcomes the opportunity to respond to the above consultations. British Energy own and operate eight nuclear power stations as well as Eggborough Power Station (a large coal plant with two units fitted with FGD) and four small embedded gas generator sites. Two of our nuclear stations are located in Scotland accounting for approximately 2300MW of capacity. We also have interests through a joint venture in developing an island windfarm in Scotland.

It is important to note that during our contribution to the CUSC working groups we put aside our belief that we have enduring transmission access rights in order to facilitate the Transmission Access Review (TAR) process. As you know we do not accept that this is correct and our right to raise this very important aspect is reserved.

British Energy is supportive of TAR and its important objectives of connecting renewable generation to the system. However it is our view that TAR alone is not enough to deliver the required volume of renewable generation. A review of SQSS may allow the connection of more generation on the current system and an improvement in the planning process should allow more rapid building of the network required for future generation.

Although we are supportive of TAR we do have some comments on the current process.

We feel that the proposed changes to the current access regime are as significant as the introduction of NETA and yet by delivering TAR via the CUSC amendment process the industry has not been given the opportunity to approach it in the same way. The three CUSC working groups have had six months to deliver six CUSC amendment proposals and the associated charging changes. This has indeed been challenging. The working groups had a clear remit that each CUSC amendment should operate standalone or in conjunction with one or more of the other CUSC amendments. Although National Grid have been effective in chairing and coordinating the three working groups the very fact that there were three has made it very difficult to deliver a coherent and deliverable access regime whilst taking into account all aspects of the changes and industry wide impacts.

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It is also our view that TAR should focus on primary changes which enable the connection of renewable generation, not secondary, unnecessary. We believe that focusing only on those changes which need to be made will facilitate a more rapid implementation of the modifications. An area of particular concern to British Energy is the move from a residual charge based on kWh to one based on kWh. This was presented as a fundamental part of the CUSC proposals without any justification for the change. It is our view that this is a secondary change which creates large, arbitrary windfall gains and losses and is not required to meet the objectives of TAR.

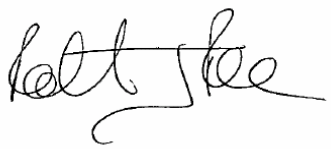
With regard to the modifications, we support the implementation of all short term measures (CAP161-163) which allow users to choose a right of access to the transmission system from a number of options over different timescales. These short term measures will allow the SO to make more efficient use of the existing transmission assets and will facilitate competition in the generation market by providing more flexible means for access to the system. Whilst some industry parties may have concerns over detailed aspects of the short term measures we believe that, providing SO incentives are aligned these can be implemented for April 2010. However we would ask that as take up of the short term measure advances that the effectiveness of these changes is continually monitored and reviewed so that improvements can be made via the usual CUSC amendment process.

We do not support CAP164 in its present state but believe that a reasonable solution can be found and that the working group should be allowed to progress an alternative which provides a better balance of cost reflectivity. The aim of the alternative is to provide an improved balance of socialised cost and costs targeted on those generators which cause them

We do not at present support CAP165. Our participation in the working groups has highlighted the issue of the uncertainty that National Grid faces with regard to generator exit from the transmission system. However we do not understand the extent to which stranded assets on the system is a real issue. Without this knowledge it is impossible to carry out a cost benefit analysis of the proposed modification. It is our view that any benefit of CAP165 remains unproven unless a cost benefit analysis (which considers the electricity system as a whole) is performed.

Please find attached our detailed comments on the working group consultations for CAP161-165. If you have any comments or questions relating to our responses please contact me on 01452 653170.

Yours sincerely



Rob Rome
Head of Transmission & Trading Arrangements

CUSC WORKING GROUP CONSULTATION – RESPONSE PROFORMA

CAP165 [Finite Long-term Entry Rights]

Respondent:	Cathy McClay 01452 653158
Company Name:	British Energy
Please express your views including rational with regard to the Working Group Consultation? **Including any issues, suggestions or queries**	During our contribution to the CUSC working groups we put aside our belief that we have an enduring transmission access rights in order to facilitate the process. As you know we do not accept that this is correct and our right to raise this very important aspect is reserved. **General Views on Modification** The economic operation of the electricity system requires generators to have the ability to exit and enter the system efficiently. Efficient exit from the system is facilitated by the current transmission access scheme which allows generators to leave the system with 5 days notice. However, it has been suggested that the current flexibility could result in stranded transmission system assets. CAP165 seeks to reduce this risk by providing National Grid with more information about exit decisions. British Energy has participated fully in the CAP165 working group. However we still do not understand the extent to which stranded assets on the system is a real issue. On several occasions the working group requested information on the historic cost of stranded assets, but this information was not provided. In addition, given the volume of generation which wishes to connect to the system and the proposed CUSC amendments to improve the use of capacity in the short-term, British Energy is not convinced that the issue of stranded assets in the future will be significant. Without knowledge of the potential cost of stranded assets it is impossible to carry out a cost benefit analysis of the proposed modification. In order to understand the true impact on customers, any cost benefit analysis should consider the electricity system as a whole rather than simply the efficiency of network investment. For example, if an improvement in network investment is outweighed by increased costs due to a reduction in the efficient exit of generators from the system, this will result in higher costs for customers. It is our view that any benefit of CAP165 remains unproven unless a cost benefit analysis of the type described above is performed. Even if it is demonstrated that improving the information provided to National Grid is beneficial to system efficiency, British Energy does not believe that finite rights are the best means of providing this information. CAP165 would require generators to book rights initially for a period, with the opportunity to extend these rights at a later date if rights are available. If no rights are available then the generator must purchase rights from another user or cease generating (if CAP 162 is introduced then the generator could

	also choose to overrun). It is our view that CAP165 would initially lead to a hoarding of rights by generators due to the asymmetric nature of the risks which they face. Consider a generator which books access for a period which is less than they actually require. If this generator cannot extend their rights or purchase rights from another counterparty they must cease generating when their finite rights end, losing all generation income. Alternatively, a generator may book access for a period which is more than they actually require. If the generator cannot subsequently trade the rights on, the loss is limited to the cost of the access; this will be much lower than the cost of lost generation which occurs in the case of under-booking. The asymmetry in the risk is reduced if there is a liquidly traded secondary market in access. However, no such market currently exists and CAP165 does not propose improvements on the current approach for access trading. Initially it was envisaged that CAP165 could be implemented on a zonal basis and that trading could take place within zones without the requirement for National Grid to be involved. However, the work on defining zones demonstrated that creating large stable zones was not possible. CAP165 is now envisaged to be a nodal allocation of rights and so under current access trading, National Grid would need to provide an exchange rate. At present this process takes between 3 weeks and 3 months and so a liquid secondary market is unlikely to develop unless the process is altered dramatically. It is therefore the view of British Energy that under CAP165 an economically rational generator will over-book capacity if there is uncertainty over the closure date of plant. This will lead to inaccurate information being provided to National Grid regarding closure decisions. Under CAP165 generators are required to commit to paying for rights for a fixed number of years without knowing what the cost of rights will be in those years. A fixed duration commitment should ideally be matched by a fixed price. British Energy understands the issues with fixing the price and we do not believe it is appropriate to do so. We therefore question whether it is appropriate to require generators to commit to paying for rights for a number of years when it is not possible to fix the costs. Of all the alternatives presented, British Energy believes that WGAA3 best meets the CUSC objectives. However, until a cost-benefit analysis is carried out we do have a view as to whether it is an improvement on the current situation. Under the original and other alternatives, generators will purchase access rights for a finite period which may exceed 20 years. It is our view that information on plant closures 20 years in the future is not particularly helpful in planning the system. Indeed, CAP131 indicated that on average only 12.5% of investment-spend occurs more than 3.5 years prior to commissioning. Therefore, if generators provide National Grid with information over this timescale then over 85% of the stranded asset issue is eliminated. WGAA3 achieves this aim and we believe that it provides a compromise between the flexibility of access that generators require and the need for National Grid to have better information regarding generator closures for network planning. Ideally a generator would like the flexibility to exit the system in the timescales over which it makes its economic decisions. This timescale is largely driven by liquidity in the electricity market. The market in baseload power is generally liquid for about 2 years and so it is possible for a baseload generator to lock in over this period. Beyond this horizon it is not possible to lock in a sizeable

	portfolio and so the economics of the plant is uncertain. For peaking plant the horizon is shorter because the peak market is generally only liquid within year. In addition, generation plant is subject to regulatory changes such as LCPD which can dramatically alter the economics of the plant. Although the existence of such legislation is often known well in advance, the details which impact plant economics and therefore closure decisions are often finalised very late in the process. The 4 year rolling window proposed in WGAA3 is therefore a compromise by generators taking into account both the risks that they can manage and the pattern of investment spend by National Grid. It is our view that risks should sit with those that are best placed to manage them but it is important to note that some risks cannot be managed. By asking generators to increase their notice period to exit the system, the economic risk for generators increases. As the risk cannot be fully managed by generators it is our view that the cost of the risk will be passed onto customers in the form of a risk premium on the wholesale price. The above discussion provides British Energy's views on the principles of CAP165. We would now like to address the specific questions contained in the consultation report. **Security** Existing generators are not currently required to post security for access payments. It is our view that these security arrangements should remain under CAP165. We believe that a generator should be liable for payments for the duration of an access booking. The security on this liability should reflect the risk faced by National Grid that they will not receive the payment. The risk of an existing generator in a positive charging zone defaulting on access payments without another generator stepping in within the same financial year is close to zero. No historic examples of this issue can be found. Due to their credit rating any of the non-vertically integrated players would have to post security in the form of cash which is particularly onerous for smaller, independent generators. British Energy believes that differential treatment between pre-commissioning and post-commissioning generators is appropriate as the risks posed by the two classes of generators are different. Every pre-commissioning project will have a different risk profile but we do not believe that it is possible to calculate security on a project by project basis. It is our view that any security amount should be based on the liability that the generators face. Under CAP165 the liability is to pay TNUoS charges for a number of years. It is therefore appropriate that pre-commissioning security is based on a multiple of TNUoS and we do not support the final sums methodology of WGAA2. **LCN and user commitment** Local connections are a critical supporting factor for all of the short-term access right proposals. The LCN relates to a physical connection, not a financial access product and consequently it should not be defined as a finite right. For the avoidance of doubt, it was not the conclusion of Working Group 3 that LCN should be finite rather the view was that the issue should be consulted on.

	Indeed, in the two weeks after this CAP165 consultation was released Working Group 2 concluded that LCN should be enduring (see CAP166 working group report, section 4.2.4). As we have already stated, CAP165 creates additional uncertainty for generators by obliging them to choose an end date for wider access rights. This may mean that wider access rights end 'too soon' for a generator, i.e. the generator may still be economical both for its owner and therefore for the UK electricity market but will have lost its firm access rights. In this situation, it would be desirable if the generator had enduring local access rights so that it could make use of the useful short-term measures for access (entry capacity sharing, SO release and entry overrun). However, if LCN is defined as finite then this option may not be available. This would not be a good result for the generator, consumers or the SO who may wish to use that generator to maintain security of supply. Whilst it would seem unlikely that a generator would require an LCN of less than their installed capacity there may be occasions when generators would wish to share an LCN. If all parties are comfortable with local access through the sharing arrangement then this is something which should be facilitated as described in section 4.10.10 of the working group report. In terms of transition we would prefer the third option, where generators would notify National Grid of its desired LCN in advance of a predefined date. This would ensure that all pre and post-commissioning plants were able to choose an LCN which is acceptable (and less than CEC) or be given a default LCN equal to their TEC holding. If a generator chose a higher LCN which meant that additional local works were required then arrangements should be consistent with the current construction agreement process. As it is feasible that a generator applying for a new connection might require LCN but not a wider access right (or apply on different timescales) it would seem appropriate for user commitment for a local connection be specified separately from the user commitment for wider access rights.
Do you believe that the proposed original or any of the alternatives better facilitate the CUSC applicable objectives, please state your reasoning?	British Energy does not believe that the finite rights proposals (CAP165 original, WGAA1 or WGAA2) better facilitate the CUSC applicable objectives for the reasons provided above. WGAA3 may better meet the objectives but until a cost benefit analysis has been carried out no case has been made
Do you support the proposed implementation,	British Energy agrees with the dates in the consultation report and believes that these should be fixed for the reasons provided in

if no please state why and provide an alternative suggestion were possible?	Section 7.4 of the report.
Any other comments?	No
Do you wish to raise a WG Consultation Request for the Working Group to consider?	No **If your response is yes please complete a WG Consultation Request form and return to the above address with your completed Working Group Consultation responses proforma.**

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Hêdd Roberts,
National Grid

31st October 2008

Dear Hêdd,

In view of the interaction of the current suite of TAR CUSC Amendments and associated charging modifications, as described in your Guidance Note accompanying the consultations, BWEA would like to make some over-arching comments on each of the access reform models, to accompany our responses to each of the individual Amendments.

Firstly, we would like to record our appreciation of the co-ordinated manner in which both CUSC, charging and related issues (such as zoning) have been developed and assessed. This has been invaluable and we would urge you to consider adopting this as common practice for future modifications.

Our remaining comments are on the two basic models of access reform proposed under CAPs 161 through to 165. Our comments on access allocation via an auction will follow in our CAP 166 response.

Connect and Manage

As you know, BWEA has supported Connect and Manage as a model which we feel could bring significant benefits. We take issue with some of the impact assessment that has been undertaken, but do accept that *in extremis* there are some potentially undesirable consequences that could be avoided. We do not have a consensus position on how these consequences should be avoided, but note the work on CAP 164 Alternatives and the calls for there to be much stronger incentives on all parties to better manage constraints.

Evolutionary Change

We are concerned that the Evolutionary Change proposals would not bring forward connections where this was cost effective, because of the low utility of the products to our membership. This is not a comment on the cost-reflectivity or otherwise of the products, it is more a question of the predictability of costs and benefits, and the complexity of some of the proposals.

At the very least, introduction of the evolutionary change model would mean that to avail of the short-term access products, a good portion of our membership would need to re-appraise their market entry strategy, re-finance their projects, consider implementing new trading operations, install new technical equipment, and, if they are considering trading independently, navigate the Balancing and Settlement Code and familiarise themselves with trends in BSUoS and the likely future market for constraint services and costs. If there is a one-off, early opportunity to secure any "spare" capacity at a good price, these members will clearly be at a disadvantage.

Furthermore, we are concerned that none of the Evolutionary Change proposals for short-term access provide our members with any guarantees on access for the amount of time required to make a new project bankable.

We are also concerned that by targeting constraint costs on users of short term access, they are being unfairly exposed to costs over which they have little or no control. This is further exacerbated by the existing non-compliance of the Scotland-England boundary. We would look for some very firm reassurances on these points should these proposals be implemented.

If you would like to discuss any of these points, or any of those in our responses to the individual TAR modifications, please don't hesitate to contact me.

Yours sincerely,

Dr Gordon Edge,
Director of Economics & Markets,
BWEA

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Sarah Hall,
National Grid

31st October 2008

Dear Sarah,

Consultation on CUSC Amendment Proposal CAP165: Finite long-term entry rights – BWEA response

BWEA welcomes the opportunity to respond to this consultation. BWEA was established in 1978 and is the representative body for companies active in the UK wind, wave and tidal stream energy markets. Its membership has grown rapidly over recent years and now stands at 448 companies, representing the vast majority of connected wind capacity owners, and the companies installing and servicing these generators. The UK has a rich variety of renewable energy resources, and the largest wind resource in Europe. Wind energy currently supplies approximately 1.5 million homes in the UK. It is important to support and encourage the growth of the sector and associated benefits.

Our comments are informed by renewables industry representation on Working Group 2 and from canvassing wider views from our membership. If you would like to discuss any aspect of this response, please don't hesitate to contact me.

Our response is structured as follows:

- General comments on finite access rights
- Comments on issues raised in the consultation.
- Views on the original and the alternatives

General comments

BWEA supports the driving rationale for CAP 165, that is, to:

- Provide the market with firm, reliable information on when existing power stations will close and thus release transmission capacity, thereby providing new users with reliable connection dates, as early as possible;
- Avoid unnecessary transmission system reinforcement which, had there been better information on future spare capacity, would not have been built;

- Avoid unncessary work by the TOs in having to assume that plant will remain on the system when this is, in reality, unlikely;
- Provide clarity on the circumstances under which a user must relinquish capacity.

During Working Group 2 discussions, a number of issues were raised with CAP 165, specifically some negative implications of the requirement to book a finite period of access. We understand these to comprise:

(1) The barrier it presents to repowering projects which would, strictly speaking, need to queue for any marginal increases in access capacity required;
(2) Existing generators may be inclined to over-book capacity as a precautionary measure;
(3) Closure signals are only useful up to the planning horizon of National Grid and, possibly, other users;
(4) The difficulties of predicting, to the year, when to relinquish rights.

BWEA has provided an initial response to the issues raised below, and would be happy to explore solutions through Working Group 2.

(1) Repowering

Clearly, users would prefer to have some flexibility over marginal increments and decrements in capacity over time without needing to navigate a queue process and, potentially, wait for 10+ years to respond to market signals which by then may have altered.

Furthermore, repowering existing sites and stations can provide better value for the market and customers than greenfield sites.

We would hope that the market benefits of repowering versus greenfield would be reflected through relative project economics and the planning system. Queue management tools and a new access regime should also reduce the number of speculative sites in the queue (if there is a queue – i.e. there would be no queue under a Connect and Manage regime).

That said, it may be worth exploring whether there should be some flexibility to allow increments or decrements in capacity which did not trigger the need to be treated as a completely new user.

(2) Over-booking of capacity

Some Working Group members felt that the market could react to a CAP 165 regime by booking the maximum capacity that users might conceivably need. Where users could not predict for how long they might require capacity, they would over-book capacity just in case they needed it, and trade out the liability at a later date, if they did not need it. Therefore, the closure signals arising from CAP 165 may be no better than they are today.

BWEA agrees that this is a possible and undesirable outcome of CAP 165. We consider that careful and fair allocation of capacity to existing users is a critical aspect of CAP 165. Therefore we would question the present proposal that users should be "*free*" to nominate the number of years for which they would like capacity. Should there be a test, similar in intent to the CAP 150 Amendment for pre-commissioning users, which matches bookings to the proven ability of parties to use the capacity?

Also related to the initial allocation is whether parties should be able to trade out of their liabilities. We have commented on trading of capacity later in this response.

(3) Planning horizon

Some Working Group members suggested that closure signals are of diminishing value to the market the further out they are. Specifically, they thought that closure signals which went further out than a certain period would not be material to National Grid's plans for new capacity (because National Grid's plans very far ahead are 'on the drawing board' rather than firm and committed plans).

BWEA accepts these points in principle, but would note that:

- Definition of National Grid's planning horizon is key;
- Other market participants benefiting from closure signals, including pre-commissioning users, may have longer planning horizons than National Grid;
- In any event closure signals beyond firm planning horizons are useful for the 2020-type scenarios being considered by groups such as the Electricity Networks Strategy Group (ENSG).

(4) Predicting closure

Some Working Group members were uncomfortable with committing to a firm closure date, and would prefer to flex the date in response to market conditions and business plans. If any ability to flex closure dates is removed, this might compromise the ability to extend station life in response to the market and/or to re-use existing sites and/or equipment.

BWEA is certainly sympathetic to these concerns, which many of our members share, especially in respect of plans for pre-commissioning sites. However, we do not see an argument in favour of allowing existing users the ability to flex their closure dates whilst at the same time removing, through CAP 150, the ability of pre-commissioning users to flex their commissioning date.

We also consider earlier comments under (1) on repowering to be relevant here. We do think it is worth considering whether there should be some rule-based flexibility around the need to commit to a firm date for both commissioning and closure.

WGAA3

The concerns expressed under points (3) and (4) above lead to the proposal of WGAA 3. This proposes that users decide each year whether they wish to commit to stay on the system for the next 4 years, or whether they wish to relinquish their rights in 3 years time. In effect, it is evergreen rights, but with a 3 year notice period for closure.

BWEA considers that a 3 year notice period is a marginal improvement on the baseline situation for closure signals. Whilst sympathetic to the difficulties in commiting to a firm closure date, BWEA for the most part considers that WGAA3 is an insufficient response to the nature of the defect targeted by CAP 165.

We note that this option also appears to impose a minimum booking period of 4 years for existing users and so would not facilitate earlier release of capacity.

Evergreen transmission access rights

BWEA's views on evergreen transmission rights are in the context of a debate on the principles of an evergreen versus a finite regime. Our views are provided without prejudice to any legal argument on the matter.

BWEA's members have mixed views on evergreen rights. Some have planned their business on the basis of evergreen rights, and reject the notion that these rights should be changed.

Other members queuing for capacity do not see any good reason why existing users should be granted *ad infinitum* rights to use the transmission system.

Conceptually, TNUoS is an annual rent, and it would seem reasonable to secure an agreement which grants access over a defined number of years akin to a lease, and in return, be granted use of an asset which is maintained and, where necessary renewed, on your behalf. The alternative, paying up front for an asset for which you then own, is most akin to a deep charging regime. It is our understanding that there is no support for a deep charging regime. BWEA does not support a deep charging regime.

Evergreen rights for local works

As a necessary pre-requisite for wider access, BWEA would question the value of making wider rights finite if local works are evergreen. It would in effect render all existing rights – wider and local – evergreen.

The argument put forward in favour of local works being evergreen is that they were envisaged by some Working Group members as sole-user assets. Notwithstanding that the group has agreed that not all local works are sole-user, even if they were, surely a finite right to an asset which no-one else wants to use is, by default, an evergreen right?

User commitment

Given the difficulties in finding a solution to user commitment and the increasing complexity of the debate, BWEA would suggest that the final Working Group report is explicit on the levels of security, liability and 'at risk' assets for different classes of users for the different proposals on user commitment. It would be helpful if Working Group 2 approached this systematically and covered off Ofgem's and users' concerns.

BWEA respresents a very large community of new and pre-commissioning users. Our members accept that some form of user commitment is entirely appropriate. We supported a change to the final sums regime on the grounds of its volatility and, sometimes, size, which made it difficult for pre-commissioning users in managing their exposure. On that basis, a CAP 131-type commitment or fixed final sums should be an improvement.

CAP 131 was also structured to address concerns over speculative applications in the GB queue. It may be that other changes to the access regime address the GB queue, in which case we would question the value of a pre-trigger date commitment.

BWEA agrees with Ofgem that user commitment should either be the same across different users or, if it is different, the difference should be justified. BWEA is also conscious of concerns expressed in the Working Group that new generators could be securing assets that benefit other unsecuritised users – for instance demand customers. We would ask that this concern is addressed.

We would also comment that, regardless of the level of user commitment provided, we understand that there is also a Regulatory "need" test which reinforcements need to satisfy, especially in the context of reinforcements triggered by multiple projects. When individual users are providing their user commitment, but their contingent reinforcements are still not being progressed, they would be entitled to understand why. We would therefore request some clarity on these issues.

Trading capacity

The CAP 165 consultation report states that "*A User that no longer had a requirement for booked transmission access rights might alternatively decide to trade such rights to another User, and this would be facilitated by the existing provisions of the CUSC.*"

BWEA agrees that the *quid pro quo* for a liability to pay TNUoS for the fixed duration of a booking should be the ability to trade this liability. BWEA would question whether users should be free to trade access, at any price, when it has been given to them at the TNUoS price. Under these circumstances, it may be more appropriate for any trades to remain at a regulated price, on a first-come-first-served basis. We have not formed a strong opinion on this point but would like to raise it for discussion.

Non physical players

BWEA has no fundamental objections to the inclusion of non-physical players, and would note that pre-commissioning users already have many features of what might be considered to be non-physical players. We are not sure that it is as black and white as saying that non physical players are excluded at present, and would need to be explicity included.

BWEA would welcome market entry of parties who were less risk-averse than the current transmission owners in providing new capacity. This could be via the TOs themselves being incentivised to take more risk, and/or by the entry of new parties.

We would question whether the discussion on purely non-physical players is appropriate to the Connection and Use of System Code, which is written for parties connecting to and using the transmission system. Any financial and/or trading arrangements which underpin this could arguably be set up elsewhere. The discussion in the context of the CUSC is perhaps whether non-physical players may at some point need to become physical – for instance through network asset or power station asset ownership.

The Original and Alternatives

BWEA does not have a consensus view in support of one particular Alternative. For members queuing for capacity, the retention of evergreen rights under WGAA3 is not supported.

Yours sincerely,

Dr Gordon Edge, Director of Economics & Markets, BWEA

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01753 431000

31 October 2008

Dear Hêdd,

Re: Centrica responses to the draft working groups reports for CAP161-165

Centrica welcomes the opportunity to comment on the draft Working Group reports for CAP161-165, the CUSC modification proposals that form part of the so-called Transmission Access Review suite.

Please find enclosed our responses to the draft Working Group reports. Below we have set out some introductory comments.

The aim of the Transmission Access Review, jointly led by Ofgem and BERR (now DECC), was to deal with the large queue of generators waiting for a connection to the transmission system, in particular in light of meeting the government's 2020 renewable targets.

Centrica – as owner and developer of both conventional and renewable generation – believes it is vital for meeting the renewable targets and also ensuring security of supply that a transmission access regime is in place that addresses the GB Queue and encourages investment in renewable as well as conventional generation.

It is our view – and has been since the beginning of the Transmission Access Review process – that significant investment in the transmission system and changes to the planning process are the key solutions to the GB Queue. We welcome improved GB Queue management and the GB SQSS Review because we believe that in combination with transmission investment and planning reform these initiatives will go a long way to reducing the GB Queue. We therefore hope to see significant progress in these areas soon.

In addition to network investment, we are supportive of making better use of the existing transmission access capacity through the introduction of short-term access products (CAP161-163). We also support the principle of Connect & Manage (CAP164), but we believe that an equitable solution to the smearing of increased constraint costs amongst all users must be found before that proposal could get our full support.

We remain of the view that TEC is and should be an evergreen right and that, in the context of the solutions mentioned earlier, the introduction of finite rights (CAP165) and capacity auctions (CAP166) is not proportionate, and for this and many well rehearsed reasons we do not support these proposals. In our view finite rights and capacity auctions would only increase risks and uncertainty for developers and existing generators at a time when significant investment in both renewable and conventional generation is much needed.

Centrica considers that the working groups have not been given sufficient time to fully consider possible alternative modification proposals, the interaction between the different proposals and the proposed changes to the charging methodology. Although we very much appreciate the hard work done by the industry and National Grid, we have serious concerns about the robustness of some of the analysis that the working groups have been able to carry out in the limited time available, in particular with regards to auctions. In our view a thorough analysis that covers these aspects is essential to ensure an access regime that is coherent and fit for purpose.

In this regard we do not understand how Ofgem's decision to reject the CUSC Panel's request for an extension (except for 2 extra weeks for the auction proposal) can be reconciled with Ofgem's earlier comments about lack of analysis and justification in for example the recent CAP131 and CAP148 Impact Assessments.

Centrica will continue to be actively involved in the CUSC modification process. To avoid unnecessary delays, we trust Ofgem will inform the working groups of areas requiring further analysis and justification, before the work of the groups must come to an end. This would be a significant improvement compared to the process followed with the modification proposals mentioned earlier.

Please note that the enclosed responses to the draft Working Group reports are our initial views and are subject to further analysis and discussion by the working groups.

If you have any queries regarding our response, please do not hesitate to contact me.

Kind regards,

Merel van der Neut Kolfschoten
Centrica Energy

CUSC WORKING GROUP RESPONSE PROFORMA

CAP 165

Respondent:	*Fiona Navesey 07789 570884*
Company Name:	Centrica
Please express your views including rational with regard to the Working Group Consultation? **Including any issues, suggestions or queries**	General Points Centrica supports the following key points: • National Grid needs more certainty than currently provided on the retirement of post commissioned generators • User Commitment security should be applied to pre-commissioning (new and incremental build) generators • Local and Wider securities should be based on the same principles – for simplicity • User Commitment should only be applied to one of the connections not both Local and Wider. We agree that applying it to the local connection is most appropriate • Non-physical players may bring some benefits. (E.g. could provide a risk management option for smaller generators and possibly improve liquidity, but this would need to be significant to overcome the cost and complexity of protecting generators through the licensing / anti-hoarding measures applied to the non-physical players. There could also be some considerable downside to non-physical players such as likely increases in transaction costs and hence costs to the end consumer; may provide poor transmission investment signals; NGETstill requires data on type and location of generation to build reinforcements; and lastly would require major changes to the CUSC. In summary, whilst non-physical players could provide some benefits it is not practical at this stage to include them in this proposal. It could however, be considered as an extension to the access arrangements at a later date. • WGAA3 and a rolling Commitment Period provides the best solution although Centrica does not agree with the length of the Commitment Period. Centrica does not concur on a number of points as follows: • Centrica does not agree that security should be applied to post commissioned generators because we believe that post commissioned generators do not represent the same risk profile as pre-commissioned generators and as such should not be treated the same. Introducing more security could be a barrier to entry for some generators. Having an asset connected to the network should be security enough. • Centrica believes it access rights are evergreen and the rights are automatically renewed every year given payment of TNUoS. If the rights are deemed not evergreen and changeable under the CUSC arrangements then the issue escalates further. E.g. a generator could book Finite Rights for 40 years, in order to secure investment for a new project, and then

	find that post investment a future mod overturns this right. Without a robust legal explanation from Ofgem regarding their position on this issue it has proved difficult to progress this modification. Other Issues: • Charging arrangements i.e. the fixing, or not, of TNUoS (locational, residual or both) for fixed duration rights have not been explored sufficiently to enable even a high level evaluation of the financial risks. • Given the modification proposal assumes current access rates are not evergreen, then transitioning from an evergreen right to a finite right needs to be fully developed and understood. This has not been achieved.
Do you believe that the proposed original or any of the alternatives better facilitate the CUSC applicable objectives, please state your reasoning?	Given Centrica believes its access rights are evergreen, the current modification and the alternatives do not facilitate better the CUSC applicable objectives. A better understanding of the impacts on NGET of the current 5 day termination notice was gained and the Working Group developed a compromise agreement offering NGET a rolling 4year notification period of their intent to generate. The aim was to align/link investment lead times with liquidity in the market rather than a requirement to link amounts to auction prices or a long commitment period. Centrica believes the current compromise amendment WGAA3 places too much risk on the generator due to lower liquidity and / or certainty in the power market beyond two years and would want the period cut to two years. A four year commitment may also have a perverse impact on the overall objectives as it may delay / deter players from exiting the market at an appropriate time, if associated exit costs are too high. Care needs to be taken to ensure the termination burden does not force a company into bankruptcy with potential socialisation of the associated costs and even less notice for NGET. In CAP131 NGET has previously accepted 6 months as reasonable notice and Centrica does not understand why for this modification four years commitment is required. Centrica believes WGAA3 comes closest to delivering an acceptable solution but does not agree with the Commitment Period required and proposes that a shorter period of 2 years should be considered at the next Working Group.
Do you support the proposed implementation, if no please state why and provide an alternative suggestion were possible?	If this mod was to be implemented then the timescales could be reasonable. However, without agreement on the nature of existing access rights and a process for migrating from evergreen to finite rights this is difficult to assess.

Any other comments?	The Working Group, under the direction of Ofgem, has had to place too much focus on mechanisms for avoiding any stranded assets. Given that the current issue is excess demand it is difficult to see why assets would be stranded in any significant scale in the medium to long term (2020); and historically, as there has also been no significant stranding it seems unreasonable to over complicate simple solutions to avoid stranding.
Do you wish to raise a WG Consultation Request for the Working Group to consider?	*No.* Centrica believes WGAA3 comes close to delivering an acceptable solution but does not agree with the Commitment Period required. We propose that a two year Commitment Period should be considered at the next Working Group.

Specific questions for CAP167

Q	Question	Rationale
1.	Is it is appropriate for generators' existing transmission access rights to be changed by a CUSC amendment.	No. The existing rights are evergreen. Allowing changes within the CUSC would increase Regulatory risk.
2.	Whether the appropriate level of security for post-commissioning users should be zero or based on one year's worth of TNUoS.	The amount should be zero as currently. Value at risks is minimal for a post commissioned generator. If a generator becomes insolvent then the likelihood is that another company will take it over and pay the outstanding TNUoS charges. The cost of providing the additional security could outweigh the socialised cost in the unlikely event of a generator failing and not being taken over. In addition, there is no evidence historically that this has ever been an issue. Applying an additional security could be deemed a barrier to entry for new players.

Q	Question	Rationale
3.	Whether, if the appropriate level of security was based on one year's worth of TNUoS, the security requirement should be: (a) the remaining balance the current year's TNUoS; (b) one rolling year's worth of TNUoS; or (c) six months' worth of TNUoS. .	See above. If security was deemed necessary Centrica believes it should be the solution that creates the least administration. Changing the amount every month would be onerous – especially for the smaller players. A rolling year feels the most sensible but may constitute a financial barrier for smaller players.
4.	Whether LCN should be a finite or an evergreen right.	As per the question 1 the access rights (local and wider) are evergreen.
5.	Whether it would be more appropriate to include the user commitment amounts in the arrangements for local connections rather than in those for wider transmission access rights.	Centrica believes that User Commitment should only be applied once and that it is logical to apply it to the local works, given, when considered in parallel with the other TAR mods, only a local connection is required to generate.
6.	The proposed implementation dates, and whether such dates should be fixed or open-ended.	Given the urgency of the transmission access issue implementation dates should be fixed as described in the modification. This will also limit the regulatory risks currently faced by existing and new generators and ensure a timely implementation.

ANNEX 11 – CUSC WORKING GROUP RESPONSE PROFORMA

CAP165 Transmission Access – Finite Long-term Entry Rights

Respondent:	*Anthony Cotton, xanco@dongenergy.dk, tel 01473 780933*
Company Name:	*Submitted on behalf of DONG Walney (UK) Ltd*
Please express your views including rational with regard to the Working Group Consultation? **Including any issues, suggestions or queries**	*CAP165 is still being considered by DONG and at present we do not wish to express a view on its merits or otherwise. However, if a recommendation is to go forward to implement these changes we consider it essential that the NGET TEC Register be developed to include details for each power station's contracted LDN (in MW and duration) and TEC (MW and duration) and this should be part of the modification.*
Do you believe that the proposed original or any of the alternatives better facilitate the CUSC applicable objectives, please state your reasoning?	

Do you support the proposed implementation, if no please state why and provide an alternative suggestion were possible?	

Any other comments?	
Do you wish to raise a WG Consultation Request for the Working Group to consider?	*If the working group does not consider that the TEC register should be developed as suggested, then a Consultation alternative is required.* **If your response is yes please complete a WG Consultation Request form and return to the above address with your completed Working Group Consultation responses proforma.**

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FAO Sarah Hall
UK Transmission Commercial
NGT House
Warwick Technology Park
Gallows Hill
Warwick
CV34 6DA

31st October 2008

Dear Sarah,

CAP165 Finite Long-term Entry Rights Working Group Consultation Response

Drax Power Limited is the operating subsidiary of Drax Group plc and the owner and operator of Drax Power Station in North Yorkshire. We are pleased to have the opportunity to respond to the CUSC Working Group Consultation on CAP164 Connect and Manage.

To date, our responses have been provided on the basis that we do not have enduring transmission access rights. As you know, we do not accept that this is correct, and our right to raise this very important aspect is reserved.

The Government has committed to challenging targets for the connection of renewable generation by 2020; a challenge that requires substantial new investment by both current industry parties and new entrants. Drax has recently announced its intentions to invest in three new biomass plants that will provide a combined total of 900MWs of renewable generation capacity; these investments will count towards meeting the Government's renewable targets. Drax shares the concerns of other industry parties that the changes proposed as a result of the Transmission Access Review are on a par to the scale of NETA. However, the industry has only been allocated a very short timescale in which to develop solutions that address the issues highlighted in the joint report developed by Ofgem and BERR earlier this year.

Drax acknowledges that there are serious issues regarding the GB Queue in terms of the timely provision of access for serious investors, whose connection dates have been substantially delayed due to the volume of speculative connection requests. However, we note that the recently approved CAP150 amendment, which aims to address these GB Queue management issues, has not been given the time required to test its effectiveness. It is of grave concern that persistent changes to the access arrangements only serve to provide further uncertainty for investors, particularly at a time when the Government is striving to encourage investment on an unprecedented scale.

A detailed response to the CAP165 consultation can be found in the attached Working Group Consultation Response Proforma in Appendix 1, although we would like to highlight the following points:

1. It is our opinion that neither the original CAP165 proposal nor any of the alternatives would release more transmission entry capacity than the current baseline;

2. Users can only secure long-term access to the system if they commit to long commitment periods, although this would in-turn subject generators to a high commitment payment should market economics change and they wish to exit the market;

3. Although it is argued that securitisation is only for one year, User "commitments" are likely to relate to periods much further out than market liquidity, which is a very risky position for a new (or existing) investor to take;

4. Users are only certain of being able to generate in the years that they gain an access booking (i.e. they cannot be guaranteed extensions beyond the booking period unless access is still available), which encourages Users to commit to long booking periods;

5. Committing to longer commitment periods only works for larger cash-rich companies, as a downturn in market prices / change in legislation may force smaller companies to abandon projects; the commitment alone may force such parties into default / administration, thereby causing them to default on their commitment, which in turn may lead to the socialisation of defaulted payments across the industry;

6. It should be noted that barriers to exit will only compound the issues associated with barriers to entry; obstructing old plant from disconnecting (due to potentially high commitment costs incurred when leaving the market) will mean lower volumes of access rights are released for new plant to utilise;

7. Drax believes that for all CAP165 variants, local connection rights (obtained via the purchase of LCN) should be evergreen rather than finite;

8. Whilst it is recognised that CAP165 would provide National Grid with better investment signals, it is important to recognise that the amendment introduces further substantial risks (above the current baseline) to the generator, at a time when the encouragement of new generation is vital;

9. Such risks must be manageable in a way that correlates to the risks of the market in which the investor intends to operate (for example, the arrangements must enable an investor to respond to economic signals and changes in legislation).

Further to the above points, Drax believes that a more robust solution may be the combining of the four year rolling rights amendment alternative in the CAP165 Working Group Consultation (CAP165 WGAA3) with the Connect and Manage amendment proposal (CAP164). The combination would:

1. Ensure new plant can connect in a timely manner (CAP164);

2. Provide greater commitment to National Grid from generators, in the form of guaranteed transmission access revenue over the rolling period;

3. Provide enhanced investment signals to National Grid, as the longer notice periods for decommissioning plant would help National Grid avoid a high proportion of costly, unneeded wider infrastructure investment;

4. Allow generators to make decisions based upon the current economic indicators in the market (for example forward power, fuel & carbon curves);

5. In terms of changes to the CUSC, this approach is more akin to the current arrangements than the other available options.

Overall, Drax currently believes that neither CAP165 Original nor any of the alternatives would aid the connection of new plant to the transmission network, as no new entry capacity is created. This proposal purely provides greater investment signals to National Grid, whilst simultaneously increasing risk to the User, who must effectively gamble their new investment on either:

(a) Locking into long-term entry capacity with a huge commitment that could potentially bankrupt them in an economic downturn; or

(b) Not locking into long-term entry capacity and facing the risk of losing the ability to gain access to the system, which could potentially place the investment in jeopardy.

Drax believes that at this stage of the process, when comparing the CAP165 amendment proposal to CAP164 and CAP166, the CAP164 amendment would be the most useful in terms of ensuring new generators can connect in a timely manner, whilst also ensuring that the integrity of the system is maintained from a security of supply perspective. CAP165 would not provide new capacity nor would it aid a more timely connection for new Users.

However, Drax considers that a combination of CAP164 and CAP165 WGAA3 could provide a more robust solution; we have stated this in our CAP164 Working Group Consultation response for consideration by Woking Group 1. However, Working Group 2 may need to consider any potential changes required to CAP165 WGAA3 that would allow it to work with CAP164.

We look forward to reviewing the final report upon completion. If you have any queries regarding the comments in this response, please feel free to contact me.

Yours sincerely,

Stuart Cotten

Regulation
Drax Power Limited

APPENDIX 1

CUSC WORKING GROUP CONSULTATION – RESPONSE PROFORMA
CAP165 FINITE LONG-TERM ENTRY RIGHTS

Respondent:	Stuart Cotten
Company Name:	Drax Power Limited
Please express your views including rational with regard to the Working Group Consultation? **Including any issues, suggestions or queries**	To date, our responses have been provided on the basis that we do not have enduring transmission access rights. As you know, we do not accept that this is correct, and our right to raise this very important aspect is reserved. With regards to the workings of the amendment, Drax believes that neither the original amendment nor any of the alternatives proposed under CAP165 would release more transmission access capacity than the current baseline. However, we understand the rationale for the System Operator seeking improved investment signals to help avoid inefficient investments. In terms of providing those improved investment signals, the proposed CAP165 amendment, along with WGAA1 and WGAA2, arguably attempts to improve the signals by shifting the majority of the connection risk to the generator. Whilst there is a possibility of users disconnecting from the system in an unreasonable period of time after connection / Transmission Owner investment, a generator would not seek to do this without good reason, especially if the user has just invested in a new generation plant. Such moves are more likely to occur due to a change in market economics or Government / EU legislation, which is outside of the control of generators. The proposed CAP165 amendment, along with WGAA1 and WGAA2, creates a number of huge uncertainties for the investor, including: ▪ How many years should a user commit to? Many years of commitment would provide security of access to the system, but would subject the user to a high commitment payment should market economics change; ▪ Although it could be argued that securitisation is only for one year, the value that Users must commit relate to periods much further out than market liquidity, which is a very risky position for a new (or existing) investor to take; ▪ Users are only certain of being able to generate in the years that they gain an access booking (i.e. they cannot be guaranteed extensions beyond the booking period unless access is still available), which encourages Users to commit to long booking periods; ▪ Committing to longer commitment periods only works for larger cash-rich companies, as a downturn in market prices / change in legislation may force smaller companies to abandon projects; the commitment alone may force such

	parties into default / administration, thereby causing them to default on their commitment, which in turn may lead to the socialisation of defaulted payments across the industry; ▪ It should be noted that barriers to exit will only compound the issues associated with barriers to entry; obstructing old plant from disconnecting (due to potentially high commitment costs incurred when leaving the market) will mean lower volumes of access rights are released for new plant to utilise. Further to this, Drax believes that LCN should be evergreen rather than finite. We believe that a key part of the Transmission Access Review is to seek to ensure that generators can gain transmission access in a timely and efficient manner. By allowing generators to connect locally and then maintain the option of using that local connection, generators will be able to choose the most appropriate way to procure wider access during the course of its life, without the potential of losing all connection to the system prior to completing its financial lifecycle. The important fact here is that an investment's projected life at the time of connection is not necessarily the point at which the plant would want to close as the end of the commitment period approaches; the potential to lose all access products (due to losing the local connection) is a significant risk to manage for an investor, and it is a risk that may be constantly changing due to the volatility of the market. With users being unable to respond to changes in economic circumstances, they could face issues such as: (a) at the end of a plant's originally conceived life, it may have to close due to a decision it made twenty years earlier, even though it could continue to make a profit using short-term access products and paying for its current LCN product, but it could not afford to trigger new local access works to remain on the system; and (b) a plant may be forced to generate during a time when it is uneconomical to do so, as (i) paying for the committed rights for the year in question, (ii) selling generation and (iii) making a loss, may be more attractive than having to pay off the remainder of its commitment and releasing the access rights (even though the answer to this scenario may be that a generator could *potentially* trade the rights, they are *not guaranteed* to find a buyer). However, conversely, WGAA3 allows generators to respond to economic (market liquidity) and legislative signals, whilst at the same time provides National Grid with investment signals that are more aligned with their investment lead times (due to the four year rolling nature of the rights). Drax believes that when taking into account all four of the CAP165 variants, WGAA3 provides the best balance of investment signals and financial risk between National Grid and CUSC parties.
Do you believe that the proposed original or any of the alternatives better	No. Drax believes that the current baseline affords generators evergreen access rights to the local and wider system, which provides generators with a stable access product, therefore a stable

facilitate the CUSC applicable objectives, please state your reasoning?	route to market. The original CAP165 proposal, along with WGAA1 and WGAA2, seek to remove that stability and require generators to make detailed decisions on the lifecycle of its plant from the outset of the project. A generator could not commit to sell power into the wholesale market for periods greater than the period of market liquidity, so why would it be able to commit to transmission access ten, fifteen or even twenty years from today? However, an investor would not want to invest in new generation if the longest period it could *guarantee* wider transmission access for was five years (i.e. there would not be enough time to provide a return on the investment). The original CAP165 proposal, along with WGAA1 and WGAA2, encourages investors to take the risk of committing to wider access rights for longer periods of time; there is an option to sell the rights, but there may *not* be an option to purchase rights without triggering costly incremental capacity. Potentially, a generator could provide a longer period of commitment if it were able to hedge its position by entering into long-term contracts with suppliers for the sale of its generation. However, this in itself would remove generators from the wholesale market, which could have detrimental effects on wholesale market liquidity (therefore competition). With regards to WGAA3, whilst this variant does not change the baseline in terms of new transmission access capacity being released (similarly to the other CAP165 variants), it does enhance investment signals to National Grid whilst allowing generators the ability to react to market signals and new Government / EU legislation. WGAA3 provides an appropriate balance of risk between National Grid and generators. The current four year rolling rights period is based upon a compromise between the two years of decent liquidity in the wholesale market and the average six year connection period for new National Grid connections. National Grid could *save* up to 75% of unneeded investment costs associated with a generator exiting the system if the exiting generator was required to submit a notice of disconnection by the minimum three year notice point. When compared to the current baseline, National Grid could have *committed* 100% of an unneeded investment by the time they receive an exiting generator's five days minimum notice under the baseline. Overall, Drax does not provide a better solution than the baseline, although WGAA3 would be a better option than the original CAP165 proposal, WGAA1 and WGAA2. Further to this, there is a potential to provide a more robust solution by combining CAP165 WGAA3 with CAP164 (see our answer to "Do you wish to raise a WG Consultation Request for the Working Group to consider?" below).
Do you support the proposed implementation, if no please state why and provide an alternative suggestion were possible?	Drax believes that until further details are known regarding the process for the removal of access rights and how an appropriate compensation would be calculated (for all CAP165 variants), we will remain unable to answer this question.
Any other comments?	No

Do you wish to raise a WG Consultation Request for the Working Group to consider?	No. However, further to the above points, Drax believes that combining the four year rolling rights amendment alternative in the CAP165 Working Group Consultation (CAP165 WGAA3) with the Connect and Manage amendment proposal (CAP164) may have benefit, as the combination would: 1. Ensure new plant can connect in a timely manner (CAP164); 2. Provide greater commitment to National Grid from generators, in the form of guaranteed transmission access revenue over the rolling period; 3. Provide enhanced investment signals to National Grid, as the longer notice periods for decommissioning plant would help National Grid avoid a high proportion of costly, unneeded wider infrastructure investment; 4. Allow generators to make decisions based upon the current economic indicators in the market (for example forward power, fuel & carbon curves); 5. In terms of changes to the CUSC, this approach is more akin to the current arrangements than the other available options. Drax urges that the Working Group considers the possibility of this combination and requests that comments from the group are captured in the final report. As a part of this work, Working Group 2 may need to consider any potential changes required to CAP165 WGAA3 that would allow it to work with CAP164.

Specific questions for CAP165

Q	Question	Rationale
1.	The Working Group invites industry views on whether it is appropriate for generators' existing transmission access rights to be changed by a CUSC amendment.	To date, our responses have been provided on the basis that we do not have enduring transmission access rights. As you know, we do not accept that this is correct, and our right to raise this very important aspect is reserved. The Working Group has not yet covered the process for the removal of access rights and how an appropriate compensation would be calculated. We look forward to reviewing these arrangements in the final report.

Q	Question	Rationale
2.	The Working Group requests views on whether the appropriate level of security for post-commissioning users should be zero or based on one year's worth of TNUoS.	As recorded in the consultation document, there is currently no security posted for TNUoS and historically this has not been a problem. However, it is appropriate to recognise that the system is going through a state of change where there will be an increased number of generators, potentially with substantially differing commercial arrangements. Unless there is quantifiable evidence to suggest a change is required to the current baseline, Drax believes that the arrangements should match the current baseline.
3.	The Working Group also seeks views as to whether, if the appropriate level of security was based on one year's worth of TNUoS, the security requirement should be: (a) the remaining balance of the current year's TNUoS; (b) one rolling year's worth of TNUoS; or (c) six months' worth of TNUoS.	Unless there is quantifiable evidence to suggest a change is required to the current baseline, Drax believes that the arrangements should match the current baseline. If it is considered that security is required, it would make sense to base it upon the remaining balance of the current year's TNUoS.
4.	The Working Group seeks views on whether LCN should be a finite or an evergreen right.	Drax believes LCN under the CAP165 proposal should be evergreen. Please see our comments above.
5.	The Working Group requests views on whether it would be more appropriate to include the user commitment amounts in the arrangements for local connections rather than in those for wider transmission access rights.	It would appear reasonable for the User Commitment Amounts to be included in the arrangements for local connections rather than wider, in order to ensure such amounts are secured on plants that only require a local connection.
6.	The Working Group requests views on the proposed implementation dates, and whether such dates should be fixed or open-ended.	Drax agrees with the views of the Working Group. Implementation dates should be set in a way that promotes regulatory certainty and ensures that the analysis and views contained within the report are still relevant to the amendment at the time of decision. Further to this, Ofgem has consistently reminded the industry of the need to ensure that the Transmission Access Review process remains to a tight timeline, given the importance of the review. The requirement to commence the new arrangements at the start of a charging year means that the decide-by dates set out in the report will allow the Authority a significant period of time to make their decision. In fact, the period of time the Authority will have to come to a decision will be significantly longer than the time allocated to the industry to develop the actual amendments.

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Registered Office: Drax Power Station, PO Box 3, Selby, North Yorkshire YO8 8PQ

Patrick Hynes
National Grid Electricity Transmission
Warwick Technology Park

31st October 2008

Dear Patrick,

EDF Energy operates 5GW of thermal generating capacity, is presently developing a 1.3GW CCGT, a diverse renewables portfolio and has ambitions to build four new nuclear reactors. The company is also spearheading the governments nuclear new build programme with the acquisition of British Energy.

EDF Energy thanks NGET for its efforts in administering the proposals of the transmission access review. We understand these consultations concentrate solely on the utilisation and allocation of existing capacity rather than for additional investment in the network. We hope DECC, NGET, Ofgem and the transmission licensees complete a successful review of long term investment and licensee incentives to expedite funding and investment in capacity.

In simple terms the CUSC amendments vary "Allocation", "Rights" and "Charge" as below:

	Allocation	Rights	Charge	Issues
[1]	Firm capacity allocated to generators	Capacity is Property Right	Generators pay transmission LRMC charge	If capacity over allocated, new generator causes SRMC (constraints) yet pays LRMC; ("Invest then Connect" vs. "Connect & Manage").
[2]	Generators swap, trade, or buy at auction, capacity	Capacity is near to real time commodity – likely to have UIOLI	Charge largely "value" based, not LRMC or SRMC	Arguments over reallocation vs. "grandfathering" and market power. Introduces risk.
[3]	No capacity allocated to generators - unfirm	Generators spill onto system – no rights	All exposed to ex-post locational transmission charge	Difficult to calculate locational access charge; price will be very high where constrained.

It is EDF Energy's believes a stable regulatory regime for transmission access is a fundamental prerequisite for the massive investment in generation capacity required for fulfilling the government's carbon and security of supply goals. It is inconceivable for this investment to be made under a complex and risky regulatory environment. Therefore any amendments based on options [2] or [3] above, including CAP166, 161, 162, 163 and 165 are not an improvement on current arrangements, which are akin to option [1]. This leads us to comment on CAP164, which would provide investor certainty, but at an unacceptable cost to consumers.
Unfortunately CAP161, 162, 163 may increase the efficiency of allocating entry capacity for existing generators; they have little merit for investors in new capacity.

Our conclusion is that the solution to transmission access is strategic investment in new capacity; changing the regulatory regime will have little benefit. In the absence of any further evidence demonstrating the effectiveness of the proposals to investors, we do not support any of the proposals.

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We continue to be a keen participant in industry discussions and would like to make the following general observations about TAR:

1. *TAR process was initiated to facilitate connection of more generation to the Grid;* what prevents this from happening is the absolute amount of capacity available to accommodate generators.
2. *The ultimate test of the Review must be made in respect of a new connectee's investment appraisal requirements*
    - Secure transmission rights
    - A stable charging regime throughout the life of the asset
    - Transparent and cost reflective charges
    - Where possible, a simple charging regime
3. *The constraints present within the UK transmission system can only ultimately be resolved through investment* to increase the capacity of the system. In fact the original NETA market design assumed that constraints were transitory and not semi permanent. Furthermore the only efficient way of achieving this investment is through the price control and reform of the planning regulations which have the effect of preventing investment in the Grid.
4. We are also aware that *other engineering solutions which can be taken to increase existing capacity* for example dymamic live line ratings. This increase in capacity could be achieved at little cost when compared to the cost of constraints.
5. We should *not underestimate the cost of constraints both in the balancing mechanism and more importantly wholesale markets*. It is not obvious from the proposals that the generators with the cheapest input costs automatically have access to the market. For example, there may be a scenario where a more expensive generator located in an unconstrained zone is competing with a generator in a constrained zone with no access to the market, but yet can generate at close to zero marginal cost. The wholesale price could therefore be artificially inflated in the case described above as efficiently allocated capacity may not in all cases equate to the plant with lowest marginal cost.
6. With proposals that do not address the underlying issue of the volume of capacity, the same problems of connection persist. *New investment in renewable generation will therefore be discouraged as a result of regulatory uncertainty*. This risk could manifest itself in the necessity of long-term rights when compared to the "bank-ability" of short term rights for an investor looking to connect.
7. *For existing generators risk and uncertainty surrounds existing entry rights*. High wholesale prices may mean that it is economic to invest in existing plant by extending its life rather than investing in new plant. The loss of firm TEC may prevent this efficient outcome.
8. The *complexity of the arrangements is also a barrier to entry for new entrants* and costly to existing players who may have to build their own model of the transmission system in order to predict constraints and adjust their bidding strategies.
9. Finally, *the TAR process itself was both rushed and resource intensive.* The consultation period lasted for two weeks yet there was over 600 pages of proposals. It would have been

preferable to consider the issues in greater depth given the extent of the change and the high risks involved if accepting a sub optimal solution.

Specific conclusions regarding each amendment

1. CAPs 161, 162, 163 and 165 will not improve the transmission access regime as they do not provide bankable capacity;
2. CAP164 "Connect & Manage" is a flawed concept as, although it provides bankable capacity, it will have deleterious consequences for the balancing mechanism;
3. CAP165 Finite rights places an unacceptable commitment on existing generators; the WGAA3 is a more acceptable compromise between generator and transmission planning;
4. CAP166 Long term Auctions will provide bankable capacity for investors yet the expense of existing generators, thus ruining the investment climate;
5. EDF Energy believes CAP166 WGAA1 (Long Term Entry Capacity Auctions) would be improved if charging and incremental capacity arrangements are revised significantly;
6. There is no justification for commoditising the TNUoS residual as the system is planned to meet peak transfers so should be charged as such;

Please find overleaf a summary table of EDF Energy's analysis framework and regulatory position regarding the amendments.

Any questions, please contact David Scott [020 3126 2315] or I [020 3126 2325].

Yours sincerely,

Dr. Sebastian Eyre
Principal Regulatory Advisor
Energy Regulation, Energy Branch

EDF Energy framework for successful TAR package	Existing	CAP161 ST Auctions	CAP162 Overrun	CAP163 Sharing	CAP164 C&M	CAP165 LT Rights	CAP166 LT Auctions
Strategic investment: strengthening for new circuits and existing system boundaries for key nuclear development areas	FAIL	FAIL	FAIL	FAIL	FAIL	FAIL	FAIL
Firmer connection dates offered by the Licensees to the developer	FAIL	FAIL	FAIL	FAIL	PASS	N/A	PASS
Greater User commitment from generators is acceptable, as long as it is asset (LRMC) based	FAIL	FAIL	FAIL	FAIL	FAIL	PASS	PASS
Cost reflective charges: Transmission charges to be Asset (LRMC) or constraint (SRMC) based, but not pay as bid "value" based	PASS	PASS	PASS	PASS	FAIL	PASS	FAIL
Regulating constraints: ability to regulate constraint gaming (especially in Scotland) to make SRMC acceptable	PASS*	N/A	N/A	N/A	FAIL	N/A	N/A
Overall	Support: investment is the solution not regulatory upheaval	No support: Original best	No support	No support	No support	No support: WGAA3 best	WGAA1 best; suggest alternative proposals
Summary of opinion	We accept Invest then Connect is not perfect, yet provides investor certainty	Fail in providing bankable capacity for investors	Fail in providing bankable capacity for investors	Fail in providing bankable capacity for investors	Bankable capacity but flawed charging; Justicability issues would affect regulatory frameworks	Accept commitment can lead to more efficent use of capacity	Auction reallocation bad for existing generators; reinforces need for firm capacity
Conditions	*Constraints in Scotland have been unacceptable due to SQSS incompliance	Zones based on as few boundaries as possible; accepting limitations of boundaries, this compromise should capture the majority of costs			Already have some C&M in Scotland; has proved unacceptable	Compromise between Tx planning and forward curve timescales is 4 years	Zones based on few boundaries
		Licensee could be incentivised for short term utilisation of network					Incremental capacity test "hurdle" should be lower for longer life plant due to lower depreciation charge
Proposed alternative for WG to consider	N/A	No	Yes: Removal of the [-RCRC] element to the settlement charge	No	No: Recommend BSC Information Imbalance charge instated alongside Energy Imbalance Charge	No	Yes: i] Incremental capacity hurdle; ii] TNUoS liability
Charging view	Present charging regime is fair and transparent; local TNUoS is improvement		The [-RCRC] in the charge is not justified	Exchange rate based on ex-post Overrun rates	Introduces cross-subsidy between BSUoS & TNUoS		There should be no TNUoS liability for generators; just auction payments; so TNUoS is [G=0%, D=100%]

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CUSC WORKING GROUP CONSULTATION – RESPONSE PROFORMA

CAP165 Transmission Access – Finite Long-Term Entry Rights

31st October 2008, Sarah Hall.

Respondent:	*David Scott, Energy Branch, 5th Floor, Cardinal Place, 80 Victoria Street, London, SW1E 5JL; 0203 126 2315*
Company Name:	EDF Energy
Please express your views including rational with regard to the Working Group Consultation? **Including any issues, suggestions or queries**	EDF Energy believes that the capital investment involved in commissioning a power station is, in itself, sufficient user commitment. However we recognise that National Grid could benefit from additional notice of generator closure when planning the system and allocating capacity. Of the amendments, we believe that WGAA3 is a compromise between these two positions , but offer no support to it. In general, EDF Energy believes a successful transmission package will include the following elements under which we have assessed CAP165: **Strategic investment: strengthening for new circuits and existing system boundaries for key generation development areas ahead of need** New large generation stations, including nuclear and CCGTs will be sited close to existing plant; these areas will be generation "hubs" and will need to have the connection reinforced – investment plans should be assessed for the connection of multiple power stations. For instance, evaluate investment around Kingsnorth and Sizewell, ahead of application by new developers. In such a case the revenue allowance to facilitate the strategic investment should be granted. We would also note that it is likely that offshore developments will be connected on to an onshore hub. FAIL: CAP165 does not address this. **Firmer connection dates offered by the Licensees to the developer** At present the transmission company does not offer firm connection dates, even if it is given seven years or more notice of connection. FAIL: CAP165 does not address this. **Greater User commitment from generators is acceptable, as long as it is asset (LRMC) based** Capital intensive developers aim to reduce project risk by establishing costs as early as possible in the project timeline. The

	principle of committing to buy transmission access for a long contract period at a fixed price would be acceptable. The commitment should recognise the length of commitment and require a subsequently lower price based on the depreciation charge - i.e. 60+ years for nuclear stations valued against 20 years for Wind. PASS: CAP165 will help in establishing user commitment for a long contract period, so assets can be more effectively allocated to generators subsequent connecting to the system **Cost reflective: Transmission charges to be Asset (LRMC) or constraint (SRMC) based, but not pay as bid "value" based** The concept of committing to buy transmission access and hedging the risk of transmission costs is acceptable, yet not if the developer has to pay for the "scarcity" value associated with it. A commitment to pay for the asset value, represented by the Long Run Marginal Cost (LRMC) of transmission, is equitable. Should the developer or existing generator not commit to buying firm transmission access outright, then the cost of constraints or the Short Run Marginal Cost (SRMC) is an acceptable cost. PASS: CAP165 forces generators to commit to LRMC TNUoS charges. **Ofgem investigates constraint gaming (especially in Scotland) to make SRMC acceptable** The SRMC of constraints is presently well in excess of the actual cost of bringing on another generator and bidding down another generator. This pushes up the value of SRMC from £10-20/MWh to over £100/MWh; should the developer have to face SRMC charges in this instance it will be paying "rent" to another generator. Not applicable: CAP165 does not address this.
Do you believe that the proposed original or any of the alternatives better facilitate the CUSC applicable objectives, please state your reasoning?	The WGAA3 should enable the transmission licensees to more effectively discharge their responsibilities in planning the system, yet it places onerous conditions onto existing generators, adversely affecting competition. The Original with [8] years liability for generators to pay TNUoS will have significant consequences on the generation market by introducing significant investor uncertainty and risk. The WGAA3 at [4] years ameliorates this somewhat, yet we believe it remains worse than the existing arrangements.
Do you support the proposed implementation, if no please state why and provide an alternative suggestion were possible?	EDF Energy does not support the proposed implementation of the Original, nor the alternatives but believe the WGAA3 is the best option.. We accept that closure notices of existing generators can help the transmission licensees plan for use of the system. However we believe the [8] years proposed in the original is unfair on such generators as they have no information (forward prices) to confirm whether then dark or spark spreads will support their operation. We believe the WGAA3 proposed by Drax is a compromise between what information generators can give and what the licensee needs to plan the system. Clearly [4] years as proposed by Drax is better than the existing [5] days. We consider that it is due discrimination between users looking to increase or decrease entry capacity holdings (pre-commissioning versus post commissioning generators). On these grounds we accept the element of the WGAA3 proposal where liabilities for increases in capacity be linked to 50% of the final sums liabilities (contingent liabilities) based at the time of the offer

	for additional capacity is issued. EDF Energy believes this will probably lead to generators having contingent liabilities in excess of the resultant assets that need to be built. This is because, in the initial offer, works (and costs) are normally far greater than those eventually commissioned, principally as at this stage there are a mass of developers with agreements, thus pushing up the value of the liabilities.

Any other comments?	No
Do you wish to raise a WG Consultation Request for the Working Group to consider?	~~*YES*~~ / *NO* **If your response is yes please complete a WG Consultation Request form and return to the above address with your completed Working Group Consultation responses proforma.**

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Sarah Hall
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31 October, 2008

Dear Sarah,

CAP165 - Transmission Access – Finite Entry Rights

Thank you for the opportunity to respond to the above consultation. This response is made on behalf of E.ON UK plc.

We believe that the main rationale that has been made for a finite definition of access right, with the associated user commitment, is to ensure that the transmission companies have sufficient information about generators' intended usage of the transmission system in order for them to plan their networks. The existence of a power station on the network or the knowledge that a generator is planning to build a new power station, are clear indications of a need for access rights. The requirement for knowledge about how long those rights will last must only arise if it can affect future investment in the system. For instance, if the transmission companies only plan their networks 6 to 7 years out then why would they be interested in the information that a generator wants transmission access for a significant number of years beyond this?

Therefore, we are sceptical of a solution to CAP165 that requires a significant booking of finite rights a significant number of years out. We do not believe that generators can provide certainty about the life of their stations this far into the future. We therefore can see the benefit of WGAA3 proposed by one working group member that requires a four year notice period for relinquishing rights. This appears to be a sensible compromise position reflecting the difference between the timescales that transmission companies would ideally like for planning purposes and those that generators are practically able to

provide accurate information over. We are more sceptical however about the user commitment elements of this alternative and are concerned that it may provide an avenue for generators to unduly minimise their level of liabilities to avoid reasonable levels of commitment.

We understand why each of the alternatives has been raised. Clearly, the original is not feasible given that the work of working group 3 has shown that rights defined at the zone level are not appropriate. Therefore, WGAA1 was necessary to introduce nodal rights. WGAA2 we have some sympathy with as it seeks to set cost reflective user commitments for pre commissioning generators, but to fix them at the time of the connection offer. This is a legitimate alternative to the generic final sums methodology that is used for WGAA1 and the original.

We have been involved with the working group for CAP165 and are generally supportive of much of the detail that has been drawn up to define the amendment, even if we are sceptical of the benefit of the finite definition of rights per se. We therefore do not propose to repeat comments that have already been well made by members of the group. We do note that the working group has raised a number of particular questions in the consultation and our responses to these are as follows:

The Working Group invites industry views on whether it is appropriate for generators' existing transmission access rights to be changed by a CUSC amendment.

Given that the existing access rights of generators are defined in the CUSC, as well as by reference to the charging methodology, we would expect that they could be altered by way of a change to the relevant part of the CUSC. This does not mean that we believe that this is appropriate. Confidence that the market arrangements are not going to alter significantly on a regular basis is important to encourage investor confidence and interest. Changes must be made for strong evident reasons.

The Working Group requests views on whether the appropriate level of security for post-commissioning users should be zero or based on one year's worth of TNUoS.

It is arguable that no security should be required, as at present. If a generator defaults by way of insolvency, then its generation asset tends to be sold on quickly to another party who then picks up the liability for paying charges. It would be in the new party's interest to acquire the connection agreement for the station as otherwise it would be liable to pay another entire year's worth of charges rather than the remainder of the previous liability. Therefore, in reality either the same amount of money would be paid for access or, if the generator didn't acquire the construction agreement, more. Therefore, there is negligible risk.

We note that there appears to be a view that an older generation station would pose a greater risk of default. This may be the case in as much as an old power station may be less likely to be purchased by another party. However, we agree with the working group view that it would be impractical to draw up rules for additional security capital for the end of power station lives.

The Working Group also seeks views as to whether, if the appropriate level of security was based on one year's worth of TNUoS, the security requirement should be: (a) the remaining balance the current year's TNUoS; (b) one rolling year's worth of TNUoS; or (c) six months' worth of TNUoS.

If there is felt a need for some level of cover to be put in place, then it should not cover more than the remainder of the year's TNUoS liability.

The Working Group seeks views on whether LCN should be a finite or an evergreen right.

There is no rationale for defining LCN as a finite right. In principle, the assets covered by these nominations should cover the local assets required for individual generators. As such these assets generally should not be sharable with other generators. This is the rationale for stripping them out from the wider access rights. Those assets that are sharable more widely are covered by wider access rights that can be acquired through a number of routes: short term release; sharing; auctions or overrun. However, the local assets required for the station concerned would still have to be procured by the generator to avoid free riding.

The purpose of the finite rights for wider access is that when a right comes to an end, National Grid is aware that this frees up wider capacity that can be used by other generators. This same rationale does not apply for local assets as it is difficult to see how they can be used by other generators. If they are shareable with other generators then they should be included with wider assets.

The Working Group requests views on whether it would be more appropriate to include the user commitment amounts in the arrangements for local connections rather than in those for wider transmission access rights.

The benefit of the user commitment amounts liability is that it should help deter highly speculative applications for access by providing some form of commitment from the time of acceptance of the connection offer. This would seem to be a beneficial quality in respect of applications for increases in local or wider access. Clearly, double counting should be avoided so a generator that asks for an increase in LCN and an increase in wider access rights should not see a liability for two user commitment amounts. However, there is no reason why they should have to be associated solely with applications for local connections or wider access right requirements.

The Working Group requests views on the proposed implementation dates and whether such dates should be fixed or open-ended.

At this point, the arguments made by the working group members in favour of fixed implementation dates would seem to hold the most weight.

Therefore, in summary we are sceptical over the value of ascribing a finite timescale over transmission access rights. However, if information on station closure intentions is

required then the timescale for this should be commensurate with that over which the information will be useful for transmission companies. Therefore, we are more supportive of WGAA3.

I hope the above comments prove helpful.

Yours sincerely

Paul Jones
Trading Arrangements

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31 October 2008

Dear Mark

Response to Working Group Consultations in respect of Modification Proposals CAP161-166

ESB International (ESBI) is pleased to submit this response to the Working Group consultations in respect of the suite of transmission access related Connection and Use of System Code (CUSC) modification proposals. Given the interdependencies between proposals and the need to consider them as a package, we have summarised our views in a single response.

With a background as the principle electricity utility in Ireland and with diverse overseas interests, ESBI has been involved in the GB generation market since 1993 through its 50% ownership and its role in operation and management of the 350MW Corby Power Station. We are a 100% owner of the 400MW Coolkeeragh plant in Northern Ireland and during 2009 will be completing the construction of the 840MW Marchwood plant, of which we were the developer and in which we have 50% ownership. ESBI is actively seeking to expand on this generation portfolio with a view to owning and operating an additional 3GW of primarily gas fired and renewable generation capacity. A significant development activity supports this objective.

As such the ability to secure transmission access on a timely and certain basis is critical to our business. Indeed, in our view, transmission access currently represents the single greatest barrier to entry into the GB generation market. We have therefore followed the transmission access review closely and are encouraged

by recent developments. We consider it imperative that fundamental and wholesale changes are made to transmission access arrangements as quickly as possible if the twin challenges of meeting environmental targets and ensuring security of supply over the medium and long term are to be met.

In our view there are two key issues which any changes need to address.

- *The unduly discriminatory allocation of access rights* – A system which allows incumbents to roll over capacity at zero cost while requiring new entrants to secure the cost (or a proportion of the cost) of new infrastructure and wait for an undefined time until that infrastructure is built is clearly unduly discriminatory, and a major barrier to competition. Moreover it is not fit-for-purpose or capable of meeting the energy challenges GB is currently facing. ESBI supports transparent and non-discriminatory means of allocating capacity.

- *The ambiguity surrounding access rights* – In our view the lack of clarity surrounding the rights associated with Transmission Entry Capacity (TEC) is a key issue. The differing interpretations of the rights and obligations that TEC confers serves to significantly complicate issues surrounding transferring, trading or sharing capacity and requires clarification.

ESBI has carefully considered the various issues raised by modification proposals CAP161-166. In general, we support the following principles.

- *Fundamental change, implemented quickly* – The current problems with transmission access are undermining investment in the GB generation market and preventing new capacity coming on stream. This is thwarting the achievement of environmental targets and endangers security of supply. Changes need to be made quickly and proposals that are capable of timely implementation are urgently required, and should be prioritised.

- *Products that optimise use of the network* – The energy policy challenges facing GB are likely to lead to the connection of significant volumes of intermittent generation and cause material changes in the operating patterns of existing generation. In order to make best use of the network, we support a suite of products that reflect the differing operational characteristics of plant.

- *Certainty of capacity delivery* - The current absence of certainty about when a connection can be achieved significantly increases the risk and cost of investment. ESBI strongly supports the delivery of capacity within clearly specified timescales, with appropriate risk placed on National Grid where it fails to deliver that investment.

- *User commitment for all* - Given the scale of the investment that can be triggered by either the connection or disconnection of generation, ESBI supports proportionate user commitments for all system users.

We consider it vital that fundamental changes are made to transmission access arrangements. Those changes need to be capable of being implemented quickly and need to address the significant risks and barriers to market entry which new entrants currently face. While some incremental changes (such as CAP161-163) may support more fundamental change, it is important that they do not divert attention from the key issues at stake and are not seen as a comprehensive solution. ESBI supports a transmission access regime combining non-discriminatory capacity allocation, certainty of capacity delivery and proportionate user commitment.

In our view each of CAP164, 165 and 166 have the potential move towards these goals. However, we consider that CAP165 and, in particular, CAP166 present significant development and implementation challenges and require further work before a firm view on their relative merits can be reached. While there are some difficulties with CAP164, given the pressing need for change, we support its implementation as quickly as practicable because it has the potential to facilitate much quicker connection of the new generation Great Britain needs.

A series of more detailed comments in respect of individual modification proposals are contained in an annex to this document. ESBI would be happy to discuss the issues raised in this response if that would prove useful. We intend to continue to monitor the debate and respond to subsequent consultations where we can usefully do so.

Yours sincerely,

Martin Read

UK General Manager

1. RESPONSES TO MODIFICATION PROPOSALS

1.1. Overview

In this annex to our response we provide more detailed comments on each of the modification proposals. Where a point is relevant to more than one proposal we do not duplicate views.

1.2. CAP161 – System Operator Release of Short-Term Entry Rights

ESBI is broadly supportive of the concepts of releasing transmission access based on economic rather than physical criteria (i.e. if accepting the bid value where it exceeds the forecast cost of accommodating the bid volume over the requested period) and offering a range of access products that reflect the characteristics of plants of different fuel types, ages and operating patterns. We consider that CAP161 may prove beneficial by providing incentives for generators to opt for an access product other than TEC, thus potentially freeing up capacity and making more efficient use of the network.

We note that the amendment, and indeed variants of each of the other amendments, includes revised processes for local only applications and a change in the nature of entry rights from nodal to zonal. In general we can see benefit in decoupling local and wider works and in allowing generators to decide on the product they will use to gain access to the main transmission network. However we consider that it will be important to clearly define the nature of local connection rights. We also understand the rationale for a zonal definition of access rights, though note the likely trade-offs between the size of zone, the level of additional costs and the volume of access rights that can be released. We do however have concerns that the costs of transitioning to a zonal methodology may be significant and that it could create a competitive advantage for some players.

While we broadly support the CAP161 proposal and associated Working Group Alternative Amendments, we do not consider that these benefits might be expected to be as material as those associated with other Amendment Proposals (which CAP161 may support and reinforce). We would therefore be concerned were resources which could be used more productively elsewhere diverted towards developing and implementing CAP161.

In general we consider that if the potential benefits of Amendment Proposals CAP161-163 are to be realised, there is a need for innovative and effective incentives on National Grid. While this is clearly not a matter for a Working Group, we consider that Ofgem should consider options as a matter of priority.

1.3. CAP162 – Entry Overrun

ESBI considers that CAP162 could have a role to play in increasing generator choice and ensuring that access products reflect plant operating conditions. However while CAP162 is a proposal to amend the CUSC, views on the proposal, and the extent to which it is likely to be useful, will be driven by the method of charging.

While we support cost-reflective charging, the risk of using a product with an unknown liability (and credit consequences which require further clarification) is likely to be so great as to significantly diminish the usefulness of the product. Therefore, we are sympathetic to attempts to try and provide some indication of prices *ex-ante*, recognising that this inevitably involves a reduction in cost-reflectivity.

Overall we do not consider CAP162 to represent a fundamental change to transmission access arrangements or as something capable of addressing our key concerns. However, we do feel that it has the ability to free up some capacity and may therefore prove useful as part of a suite of changes. As such we are broadly supportive of the proposal.

1.4. CAP163 – Entry Capacity Sharing

As with CAP161 and 162 we consider that CAP163 may provide incremental benefits by increasing the range of options available to parties, potentially better optimising use of the network. However, we consider it imperative that entry capacity sharing operates on a transparent and non-discriminatory basis and affords the same opportunities to all classes of system users. We note that the proposal is relatively complex and may prove difficult to both implement and administer. As such we consider it important to consider whether the costs are proportionate to the anticipated benefits.

1.5. CAP164 – Connect and Manage

ESBI considers that CAP164 represents the most effective means of making significant beneficial changes to transmission access arrangements which are capable of implementation relatively quickly and easily. As such we support the CAP164 arrangements.

While we can understand concerns about increases in operational costs, we consider that it is important to fully take into account the factors which offset these costs. Providing certainty to new entrants will reduce the costs of market entry and clearly increase competition in the generation market. Given that plant seeking to enter the market is likely to have lower costs and be relatively less environmentally damaging, entry should put downward pressure on energy prices and deliver carbon savings; which facilitates the achievement of the Government's energy policy goals. In our view, increases in operational costs should persist for a relatively short

period given that increased generation market competition would be expected to promote the closure (or reduced operation) of relatively more inefficient plant.

We also consider that CAP164 would be beneficial to security of supply. Environmental legislation means that a large proportion of plant will need to leave the market over the next decade. Hence it is important that investors, such as ourselves, can freely enter the market to fill the capacity gap. A regulatory framework which provides certainty about when capacity can be delivered, as provided by CAP164, is critical in making significant investment decisions.

To an extent CAP164 reduces concerns about undue discrimination. It is available to all parties and provides all users with the same access right. In addition, it, to an extent, reduces the need to clarify the property right associated with TEC (by giving all parties an evergreen right and hence reducing the value of that right). We would strongly advocate the early implementation of CAP164.

1.6. CAP165 – Finite Long-Term Entry Rights

In general ESBI is supportive of the clear definition of long-term entry rights, user commitments from all parties and capacity being provided when a clear trigger is met. While we are broadly supportive of CAP165, we are concerned that it may not provide as significant a set of benefits as alternative proposals, particularly as it does not provide the necessary certainty over capacity delivery, and are concerned by the proportionality of proposed commitments.

ESBI considers that it is appropriate for parties to commit financially to secure capacity. However, we also consider that in return for that commitment there should be a corresponding obligation on the transmission licensee regarding capacity delivery, which CAP165 fails to deliver.

We also have some concerns about the proportionality of commitments for existing users. While we think it is reasonable for a commitment to existing capacity to be made, we are concerned that the length of commitment being requested may not reflect the risks imposed on the transmission network by some users (for example plant that has just connected) and may create additional risks for generators that they are not able to effectively manage. In our view non-discrimination does not necessarily require an equal commitment from new and existing users, but a commitment that reflects the relative risk of asset stranding that new and existing users impose.

Therefore, while we support the basic principles of CAP165, we consider that further work is required to address detailed aspects of the proposal. A suitable form of CAP165 could complement the implementation of CAP164.

1.7. CAP166 – Long Term Capacity Auctions

While we recognise that many aspects of CAP166 require further development and clarification, we have sought to include a number of comments and observations below.

In general, ESBI agrees that the absence of an ability to discover the true value of transmission access rights may compromise the efficient development of the network of electricity and, in particular, agree that the existing arrangements create a barrier to entry. We also agree that, as a general principle, users should only be able to realize value from a transmission access right if they have had to pay value for those rights through a transparent and non-discriminatory process. As such we consider that well designed capacity auctions could provide significant improvements when compared to existing arrangements.

We recognise that in auctioning capacity the devil is inevitably in the detail and that there will be design and implementation challenges. We support elements of the current CAP166 proposals but have significant concerns about others. For example, ESBI supports the use of locational TNUoS charges as reserve prices as this would maintain a link between the price paid and the long run marginal cost of assets and may reduce the risk of significant under-recovery of revenues; which could lead to large and volatile charges. However, the statement that "Long-term entry access rights would be defined on a zonal basis, such that each user can share capacity between its power stations on a real time basis at a 1:1 exchange rate within these defined zones" raises significant concerns about undue discrimination. It is of paramount importance that all parties, irrespective of ownership, fuel type or operating regime, can compete on a non-discriminatory basis. It will be essential to ensure that no party, for example a portfolio player, is afforded a competitive advantage as a result of auction design. Therefore arrangements, and regulatory oversight, will be required to ensure equitable optimisation of capacity holdings. We would also support development and publication of the methodology to determine the level of user commitment required to trigger new investment and the period within which investment will be delivered. In our view understanding these factors is critical to evaluating the proposal.

We recognise that auctions can provide capacity to any party willing to make a sufficiently significant user commitment within defined timescales (while also allocating scarce capacity in the short term). Therefore, it could be argued that CAP166 has much in common with the CAP164 proposals. It may therefore be appropriate to consider whether auctioning capacity would provide significant benefits above those provided by CAP164 or, potentially, whether CAP164 might present a practicable interim option, allowing auctions to be further developed?

1.8. Conclusions

Overall we are supportive of elements of each of the proposed modifications. We consider that some or all of CAP161-163 could provide useful incentives for parties to opt for alternative capacity products and optimise use of the transmission network. However, we do not view them as solutions in themselves and consider that fundamental change to transmission access arrangements needs to be implemented quickly.

In our view each of CAP164, 165 and 166 have the potential move towards these goals. However, we consider that CAP165 and, in particular, CAP166 present significant development and implementation challenges and require further work before a firm view on their relative merits can be reached. While there are some difficulties with CAP164, given the pressing need for change, we support its implementation as quickly as practicable because it has the potential to facilitate much quicker connection of the new generation Great Britain needs. We are conscious that additional changes will be required to support the implementation of these proposals and will respond to these in due course, where we have particular views to contribute.

Fairwind (Orkney) Ltd

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Date: 31st October 2008

National Grid
National Grid House

Attn Sarah Hall

Dear Sarah,

CAP 165 WG Consultation Response

These notes reflect our overall impression of the proposed modification

The Working Group requests views on whether it is appropriate for generators' existing rights to be changed by a CUSC amendment

There may be an issue in regard to property rights

The Working Group requests views as to whether the appropriate level of security for post-commissioning users should be zero or based on one year's worth of TNUoS.

Based on 1 years worth

The requirement should be

b) One rolling year

The Working Group seeks views on whether LCN should be a finite or evergreen right

It should correspond with the right for wider access. It is likely that some local works will be shared and will in many ways resemble wider works. For single user local spurs where the right is finite it is effectively an evergreen right for that user.
The LCN should, therefore, be finite.

The Working Group requests views on whether it would be more appropriate to include the user commitment amounts in the arrangements for local connections rather than in those for wider.

The reason for the user commitment amount is to give some proof as to the seriousness of intent an applicant to use the system and to be around to connect to potentially reinforced transmission assets. There is only justification to use this once – either for LCN or Wider. Presumably the UCAM would be attached to whatever of LCN or Wider that the user first requested.

The Working Group requests views on the proposed implementation dates …

No comment.

Other Comments

Non-physical Players

It has been assumed that any advantages of having non-physical players in the mix would be more than outweighed by the potential for abuse or gaming. However, users who have yet to gain planning permission may be termed, at least in some way, non-physical. For those users a connection may be aspirational.

Non-physical players which trigger grid investment would, presumably, secure relevant UCAM and CAM much the same as a generator with an aspirational connection.

Non-physical players could be a role in supplying liquidity for groups of smaller generation to access the system who may not be in a position to secure significant sums.

Security

For pre-commissioning generators, which provide UCAM and CAM, based on 8 years worth of relevant TNUoS, the risk is assumed to be the same whether or not the user has planning consents.

For post-commissioning generators the risk of stranding (because of built power stations) is deemed to be at or close to zero.

It may be worth considering an arrangement for projects with planning permission and proof of order of plant which could provide for a reduction in the CAM to 4 years relevant TNUoS (or half of the full (X years) TNUoS)

In the working group discussion 4.8.12 it points to pre-commissioning parties **securing** the entire liability of their booking. We have noted that there is in fact no proposal in the CAP for new users to secure anything beyond 8 years TNUoS.

Working Group Alternative Amendments

WGAA1

Nodal rather than zonal makes sense if zones are small

WGAA2

The differences between securities for pre-and post commissioning users are potentially wider than the Original or WGAA1. The amounts described for pre-commissioning parties would be transparent and bespoke for each user. The level of such securities are likely to be consistently higher than under WGAA1 (8 x relevant TNUoS). PCL is effectively Final Sums without the 50% relief proposed by WGAA1. The extra exposure to provide potentially higher levels of securities could provide an unacceptable barrier to entry into the market by new users.

WGAA3

For post-commissioning generators it provides for an evergreen 4 year rolling right. Some signal is given to GBSO, however if a user decides to terminate earlier than planned. It is debatable, however, if this gives any better cover than WGAA1 for early termination.
Presumably as the long term right here is evergreen, then the associated LCN would also have to be evergreen.

The proposal for Pre-commissioning security seems quite severe, as CAM is non-returnable in case of termination irrespective of the actual sums spent on the secured assets. This could pose an unacceptable barrier to entry for new users because of the extra risk posed.

Recommendation for amendment against current arrangements
All are better (Though WGAA2 and WGAA3 only marginally so – in that they at least give signals for existing generation leaving the system)

Best of Original or WGAAs

WGAA1 (Original may be unworkable because it is zonal?)

Dennis Gowland

Director

31.10.08
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31st October 2008

Sarah.a.hall@uk.ngrid.com

Dear Sarah

CAP 165 Finite Rights

International Power (IPR) is responding to your consultation on behalf of First Hydro Company, Saltend Cogeneration Company Ltd, Rugeley Power Ltd, Deeside Power Development Company Ltd and Indian Queens Power Ltd.

Existing rights

We believe that the existing rights are clear in the CUSC such that if a generator pays TNUoS then the right to use the system rolls forward to the following year. We believe that this is enshrined in the CUSC and the expectation that the existing methodology would continue has been a key point in decisions relating to ownership and location of power stations. Any proposal to change this fundamental right (a power station without TEC has no value) will have significant legal and market related issues, both for parties with TEC offers and for those with existing TEC.

Although we believe that this is the current situation we have set these views aside so as to be able to respond constructively to this consultation.

Proposed Changes

It is difficult to forecast accurately the life of a power station against a background of significant market volatility and regulatory risk. In particular for fossil fuelled stations changes to environmental legislation, which are outside the control of companies, are the main drivers

that lead either to closure or significant re-planting of existing stations. For these reasons any method adopted for indicating the life of a station that involves a commitment of greater than 8 years is likely to result in the sub-optimal allocation of rights. We believe that existing plant could commit to a rolling 8 year allocation and be reasonably certain of the transmission access required for this period.

Plant that is less influenced by environmental legislation (such as hydro and renewable) would be better able to commit with certainty to longer periods of access and have reasonable certainty of requiring that access.

Of the three options proposed we prefer WGAA3 as this allows a rolling commitment in realistic timescales. However, we accept that a longer commitment period could be acceptable (up to 8 years) for plant that is subject to significant environmental legislation and possibly greater than this for other plant.

We believe that post commissioning security should be designed to cover the credible risk associated with a party defaulting on the payment of the charges for transmission access. Should an existing power station fall into financial difficulties then the physical asset can be sold to a new owner by either the administrators or the existing owner. In these circumstances there may be a short period where payments are not made. To date there have been no examples of this and any 'forced' sales have always resulted in TNUoS liabilities being paid. Given this situation we don't believe that existing generators should be required to have any security in place as it cannot be justified in terms of the risks imposed on other users.

We believe that existing power stations present a significantly different risk profile to that of pre-commissioning stations in that pre-commissioning stations present an inherently higher level of defaulting risk. Further, as a pre-commissioning station approaches commissioning then the risk falls such that in the final year a pre-commissioning station is similar to an existing station.

We believe that the pre-commissioning security should be based on WGAA2 methodology i.e. based on pre-commissioning liabilities fixed at the point the offer is accepted. We think that 4 years out 100% of these liabilities should be covered by security but this should drop by 25% per year such that in the final year only 25% of the liabilities are covered by security. This approach would incorporate the actual liabilities together with a probability of the use of the assets post-commissioning.

Local Capacity Nomination

Generators can buy short term and long term products up to the level of the Local Capacity Nomination (LCN). The default level for LCN is current TEC with the provision that during transition to the new arrangements a Generator can request a higher level of LCN up to the Station CEC limit. This will be granted as long as there are no local works required. Should there be local works required a formal modification application will be needed.

The definition of where the boundary for local works lies needs to be clarified and should be related only to works up to the MITS with a similar definition used in the charging for Local TNUoS.

The time duration of the LCN product needs to be matched as a minimum to the duration of long term rights that are allocated either by auction (CAP166) or allocation (CAP165) but will also need to cater for the situation where only short term products are used. In the situation where short term rights are used we believe that LCN should be enduring but a lead time of 2 years should be required to reduce the level of LCN . We believe that enduring rights for LCN but with a longer notice period than at present (as described in CAP166 consultation) should be used for CAP161 proposals.

We believe that post commissioning security should be designed to cover the credible risk associated with a party defaulting on the payment of the charges associated with LCN (Local TNUoS). Should an existing power station fall into financial difficulties the physical assets are available for sale (by owner or administrators) to a new party. In these circumstances there may be a short period where payments are not made. To date there have been no examples of any 'forced' sales resulting in non payment of a TNUoS liabilities. Given this situation we don't believe that any security should be required from existing generators as it cannot be justified by the level of risk imposed on the system.

The summary of our views on CAP165 are:-

- Rolling 8 year commitment for new and existing users
- New users security based initial on 100% of pre-commission liabilities dropping to 25% of liabilities in final year prior to commissioning
- No security should be required from existing users.

We have submitted a WG consultation request form relating to our suggestion on pre-commissioning security and post commissioning user commitment.

We hope that these comments are useful.

Yours sincerely,

Simon Lord,
Transmission Services Manager

GDF SUEZ

Patrick Hynes
National Grid
UK Transmission Commercial
NGT House
Warwick Technology Park
Gallows Hill
Warwick
CV34 6DA

31 October 2008

Dear Patrick,

CUSC Amendment Proposals 161 - 165

Further to the industry consultation process this year, please find enclosed the responses from Gaz de France ESS (UK) Ltd on;

- CAP161 – System Operator Release of Short-Term Rights
- CAP162 – Entry Capacity Overrun
- CAP163 – Entry Capacity Sharing
- CAP164 – Connect & Manage
- CAP165 – Finite Long-Term Entry Rights

The view of Gaz de France ESS (UK) Ltd and supporting arguments are enclosed in the documentation, however there are various points which we feel need highlighting which apply to all the above amendments and the process which has lead us to this point.

GDF Suez Group, the parent company of Gaz de France ESS (UK) Ltd, owns and operates two gas-fired CHP assets, a 215MW power plant at Shotton and the recent major purchase of Teesside Power, a 2000MW power plant. Any review of access arrangements should promote a simple, transparent regime that will not only benefit existing and new forms of generation but that will also encourage investment.

Long term access is vital to all generators and potential new investors who have to guarantee a return to owners or financial backers. Access should be allocated on a non-discriminatory basis with costs based on the connection itself rather than the generating technology. The System Operator should be able to manage the network optimally and participants should work with them in cooperation towards this goal.

The changes offered in all the amendments which comprise the Transmission Access Reform offer a wide scope of proposed changes to the industry with a view to meeting the government's EU 2020 emissions targets. While we support the merits of encouraging new developments to meet these aggressive targets,

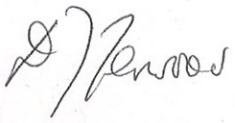
existing generators, which underpin the security of the system and widespread provision of baseload power, should not be adversely impacted in any way.

To facilitate these changes, three Working Groups, established to debate short term strategy, long term strategy and management of the agreed changes earlier in 2008, comprised of industry representatives were established and tasked with the review. The individuals who accepted these difficult roles should be commended, as the delivery of these reforms is key to the future of generation in the United Kingdom.

Finally, it has to be pointed out that the intensity and complexity of work undertaken by these groups in relatively short timescales has been a cause of major concern within Gaz de France ESS (UK) Ltd. All six amendments (we will submit a formal response to CAP166 separately in line with its specific deadline) have the potential for significant impact on the industry. The proposals are all fundamental changes to access arrangements, but, nonetheless, have been hurriedly prepared without full consideration being given to key aspects including their impact assessment and cost benefit analysis. In addition, various charging methodology changes have been discussed in parallel with these proposals which has placed a further strain on already stretched resources. This can only have had a detrimental effect on work carried out in these areas and the ability of industry participants to form reasoned and considered opinions for response.

Should you wish to discuss any of these points or the contents of the response proformas in greater detail, please do not hesitate to contact either me on 0113 306 2101 or Phil Broom on 0113 306 2104.

Yours Sincerely,



Dan Jerwood
Gaz de France ESS (UK) Ltd

CUSC WORKING GROUP CONSULTATION – RESPONSE PROFORMA

CAP165 – Transmission Access – Finite Long-term Entry Rights

Respondent:	*Dan Jerwood, Regulatory Affairs* *Email: dan.jerwood@gazdefranceenergy.co.uk Tel: 0113 306 2101 Mob: 07733 322463*
Company Name:	Gaz de France ESS (UK) Ltd
Please express your views including rational with regard to the Working Group Consultation? **Including any issues, suggestions or queries**	Gaz de France ESS (UK) Ltd believes that we, in common with all existing connected parties that hold TEC and who elect to continue to pay TNUoS annually, have evergreen transmission access rights. We have complied with terms of connection agreements, underwritten the necessary investment to deliver our production and signed delivery contracts on the assumption that we can get our produce to market. Non-discrimination requirements suggest that parties who now wish to be connected to the transmission network and who create the need to invest significant sums of money in order to obtain a suitable level of connection and access to customers, including the associated reinforcement works, should be bound by similar arrangements. It was these broad arrangements that successfully delivered extensive new investment and security of supply during the 1990s. The introduction of TEC and supporting short-term products are structured on these principles that have worked well. It might be appropriate to apply this proposal to only new generators and existing generators who require an incremental capacity increase after an agreed implementation date. The argument that this is not the case has not been suitably explained through the Working Group process, and the refusal to provide further evidence to back this opinion has been neither sufficient nor satisfactory. In fact the report does not define the defect in terms of the access right; it simply notes that current user commitment arrangements provide a degree of uncertainty to the network owners and they do not have security for TNUoS charges from post-commissioning generators. Both these "defects" can be tackled relatively simply (even though Ofgem has just rejected CAP131) without any change to the basic access rights that have been vested. See our suggestion with regard to a possible alternative below. Consequently, the most relevant point that we can draw from this amendment is the difficulties encountered by National Grid working with a 5 day notice period for generation to withdraw from their current capacity rights and we would concede the need to have two year notice as contemplated under CAP131 or a comparable period. This approach is far more preferable to the option offered in the amendment of because; • Generators may feel they need to pay a premium to secure necessary rights (no one has any idea where to actually pitch an offer). • If a reserve price is included then National Grid are guaranteed to receive sufficient income to cover the operating costs of that zone and potentially putting themselves in a position to increase the income that they draw from capacity charges. • What stability will there be in electricity prices over the next 20-30 years. There is potential that they may fall considerably which would drastically affect the income of generators who would still be obliged to cover excessively high connection

	costs. Setting aside the principle of removing TEC rights, there are multiple problems with the proposal for finite long-term rights under CAP165. For instance there is: • no clear description of the subscription process • no clear definition of the proposed transition period and a confusing range of implementation possibilities • a confusing range of zoning options • insufficient definition of the nodal alternative. Furthermore the changing impacts are the subject of a separate consultation which has only recently appeared. This is not a good example of an orderly change process.
Do you believe that the proposed original or any of the alternatives better facilitate the CUSC applicable objectives, please state your reasoning?	This amendment provides no improvements under any of the CUSC Objectives. It would moreover significantly increase the risk of doing business and increase market complexity. It favours the largest players with extensive resource and introduces significant new unmanageable risks. Given the limited definition of how the arrangements would work, we consider CAP165 would also have significant unintended consequences. Gaz de France ESS (UK) Ltd does however acknowledge the problems National Grid now face caused by notification of generator closure within current timescales.
Do you support the proposed implementation?	No – This is not a valid amendment proposal as it would be illegal to overwrite current access rights embodied by TEC.
Do you wish to raise a WG Consultation Request for the Working Group to consider?	YES Revising periods for notice of withdrawal would represent a proportionate response to the first main aspect of the defect identified by National Grid. It follows that providing security against two years TNUoS as the cancellation amount would provide more than sufficient protection for National Grid, in so doing removing uncertainty, and would address the other main deficiency listed.

Patrick Hynes
UK Transmission Commercial
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Warwick Technology Park
Gallows Hill
Warwick CV34 6DA

patrick.hynes@uk.ngrid.com

Dear Patrick

Transmission Access Review: CAP161—165 consultations

Immingham CHP LLP welcomes the opportunity to comment on the first five of the six Transmission Access Review (TAR) change proposals to Cusc raised by National Grid.

This response is in two parts. The first offers some general thoughts, including comments on process. The second section details our views on the five individual amendment proposals that close out on 31 October.

Part 1 - General comments

Generator access rights

It is essential that in making changes to the access regime existing transmission access rights are respected. Generators with bilateral connection agreements with National Grid have evergreen rights and National Grid has no ability to remove those rights without legislation and appropriate compensation. This baseline has important implications for the TAR; but in particular it means that the CAP165 *Finite long term entry rights* (and CAP 166 *Long-term entry capacity auctions,* which we will respond to separately) is not lawful.

To date the issue of removal of rights and the transition to a proposed new regime has yet to be addressed explicitly by the Working Groups, and these matters require immediate consideration.

In this context we endorse the fuller points on the firm nature of existing rights made in the response provided to these consultations by the Association of Electricity Producers.

Industry process

We are very concerned about the robustness and thoroughness of the assessment of the proposals developed to date. The development is of a scale comparable to the introduction of the New Electricity Trading Arrangements—the process is essentially dealing with a complete redefinition of contractual access rights, how to trade them and any shortfall in these. Allowing the three Working Groups only five months to undertake a development has degraded the process and significantly undermined the quality of the outputs. This should be compared with the gas sector, where the industry has been struggling with a similar set of issues for almost ten years but fundamental changes still occurring, fuelling perceptions of regulatory risk in that sector and increasing immeasurably market complexity deterring new entry.

Ofgem has been openly critical of the state of industry modification reports in the recent governance review and its decision on the scope of that review.[1] However we find it difficult to understand how the current TAR/CAP process could lead to accurate cost-benefit analysis and be supported by thorough in-depth qualitative analysis to the level that Ofgem require and which the industry itself aspires to.

In practical terms these constraints on the process mean that the current round of consultations are absent of any meaningful cost/benefit analysis (the only report with any quantification is CAP164, but even this is limited and tied to a specific aspect of the evaluation). In the absence of this quantitative analysis, we are surprised by the tone of the assessment sections of the reports suggesting the Working Groups are developing clear views. In fact with no rounded impact assessments we fail to see how the reports can contain any firm recommendations at all.

We are also concerned about the short consultation period and the evident problems that groups have had in developing viable alternate proposals. Most of these alternatives have scarcely got beyond the conceptual stage and have not been defined in sufficient detail for respondents to comment on.

While we highlight these particular concerns, there is a general lack of overall detail and analysis. There are also concerns that important recent innovations delivered by CAP150 *Capacity reduction* proposal have yet to be tried and tested and cannot be factored into the analysis and the baseline. We also think there are further benefits available from better queue management that should be taken into account and these might pre-empt some of the more radical change proposals under consideration.

Finally on process the industry still awaits the Authority determination for CAP148 *Deemed access rights to the GB transmission system for renewable generators*. Similar considerations with regard to CAP131, which had been live for over two years until recently, has also aggravated the industry's assessment process, introducing further variables.

Given this profoundly unsatisfactory process we think:

- these points on process should be clearly communicated to the Cusc Panel and Ofgem;
- the panel, as owners of the integrity of the process, should resolve whether the information provided to Cusc signatories in these consultations provides a robust enough basis on which the Working Groups to move to making recommendations.

Part 2 - Immingham CHP LLP summary views

Consultation pro formas on each of CAP161-165 are attached.

In summary:

- We support the principle behind CAP161 – *Short-term entry rights*: However more focussed analysis is required to more fully define the solution and demonstrate the benefits, especially how they might deliver more robust solutions than the current short-term access products available to the market;

[1] Ofgem Code Governance Review Open letter http://www.ofgem.gov.uk/Licensing/IndCodes/CGR/Documents1/Open%20letter%20announcing%20governance%20review.pdf and CAP131 Decision Letter http://www.nationalgrid.com/NR/rdonlyres/6ED038C8-9A08-46B3-806B-9C3C330A4F4A/28940/CAP131D.pdf

- Again we support the principle behind CAP162 – *Overrun* provided it does not compromise the "ticket-to-ride" principle. Further holders of existing rights should not be adversely impacted in the event of aggregate zonal rights being exceeded. If they are, full economic compensation should be provided. The charging mechanism should be kept as simple as possible and avoid interaction with the BSC arrangements and systems. As with CAP161 significant further work is needed before the report can be finalised;
- In principle CAP163 – *Capacity sharing* has our support as well. National Grid might have to assist matching parties, and the alternative involving the open sharing model may also have merit provided the right holder is agreeable to trading the rights. Missing detail is required in a number of areas;
- We believe that CAP164 – *Connect and manage* offers **the best short-term option** for meeting the Government's objectives, optimizing existing capacity and expediting clearance of the queue. We think the consultation report understates the increased efficiency that would arise from more efficient, low-carbon plant getting onto the system sooner and the greatly increased certainty this proposal would bring to developers, with real benefits to security of supply going forward;
- We strongly oppose CAP165 – *Finite long-term rights.* This proposal is driven by ideology and the defect has not been properly defined. As noted above, we consider it unlawful and it entails misappropriation of existing property rights held by connected parties and does not include an appropriate compensation mechanism.

Immingham CHP LLP has tried to comment on these proposals constructively despite the problems inherent in the process and the timetable. This is reflected in our qualified support for CAP161-163 and our explicit support for CAP164. The fact remains that the documents are incomplete, hurried and do not set out the pros and cons of change well. The proposals have not been properly worked up and do not represent a fit basis for consultation.

It should be noted that our owner ConocoPhillips embarked upon entry into the market in the run up to NETA implementation. As part of that process the existing MCUSA was transposed into the Cusc, which necessitated very close examination by us and expert advisers of the consequences of these changes. Since then we have seen Betta implementation, which saw the Government take powers to reallocate and constrain access rights held by some generators. We now see complex proposals brought forward entailing considerable further and fundamental change at a time when we are committed to further investment on Immingham stage 2, and when we have possible further low carbon investment in the pipeline.

The consultation documents are littered with statements that these change proposals are motivated by desires to help low carbon developers such as ourselves, and to stimulate competition and better enable achievement of the Government's climate targets.

From our perspective ill-considered change of this nature rushed through to meet arbitrary externally administered timetables is of itself a significant retrograde step even if the change proposals themselves are well-intended. The only parties who will be able to properly assess these proposals and probably benefit from them are the large-integrated players that have been able to populate the working groups and influence the construction of the proposed solutions.

We would suggest the exercise is an object lesson in regulatory risk.

If you have any questions on this response or require further views do not hesitate to contact.

Kirsten Elliott-Smith

Cusc Working Group consultation

CAP161 System Operator Release of Short-Term Entry Rights

Respondent:	*Kirsten Elliott-Smith,* *Tel: 020 7408 6651*
Company Name:	Immingham CHP LLP
Please express your views including rational with regard to the Working Group Consultation? **Including any issues, suggestions or queries**	We support the principle of short-term incremental capacity release of surplus access capacity by the SO provided existing rights can be delivered. We believe it may have merit in that it could help reduce the queue if it encourages TEC release. However there are a number of practical questions that need to be dealt with before a firm view can be expressed. The interaction with current 'short-term' products such as LDTEC requires much clearer definition, as the Working Group assumes the existing products would remain in place. Other areas where further definition is needed, include: ▪ what is the mechanism for releasing the capacity and would it be capped on a zonal or national basis? ▪ what would happen if rights could not be delivered and how would access holders be protected in such circumstances? ▪ how should users price this product? Pay as bid could lead to users with expensive rights while the product is in it's infancy. ▪ what are the credit/ security requirements around this product? ▪ what impact will the various options have on BSUoS? ▪ what would happen if the additional balancing costs exceed the supplementary revenues? ▪ how should National Grid be incentivised to mitigate these costs? ▪ what guarantees are there that BSUoS costs will not rise as a consequence of the SO's actions? ▪ what will National Grid's assessment principles be for a short-term auction? What other factors apart from bid price will be included? ▪ when would the market see associated information? ▪ how would a buy back mechanism work? We oppose the CLDTEC option: National Grid acknowledges the price which might be wrong therefore leaving the wider community to make up the difference in the costs (which are not quantified) through BSUoS.
Do you believe that the proposed original or any of the alternatives better facilitate the CUSC applicable objectives, please state your reasoning?	This amendment could lead to improvements under CUSC Objective (a) because of more efficient use of available capacity within week and on the day. Given it is likely to be utilised by intermittent plant, it may also assist with the meeting of emissions targets, implying the operation of the system would be more carbon efficient. The auction processes could be very resource intensive and the cost of credit

	required and the associated complexity, particularly for new providers, might prove a barrier to entry. These factors have implications for objective (b). Due to the short-term nature of this amendment and the associated products, there will be no investment made on the basis of this product alone. In fact it is possible that the availability of short-term mechanisms might deter parties from making their true longer-term intentions known. But, given our view of limited uptake of these products, we do not think that overall it will offer any significant improvement to CUSC Objective (b). In the round we think there will be overall benefits primarily under objective (a) provided cost and complexity can be contained. We do not have on the particular consultation questions raised. We would observe that the more flexible the arrangements (closer to real time, longer market opening etc), the greater the potential benefit, but there is clearly a trade off with the associated costs and complexity. In determining its view on these issues National Grid will need to better understand the likely take up of the different options.
Do you support the proposed implementation	Yes provided it is more clearly detailed and supported by a robust and beneficial cost benefit analysis. A further qualification is the need to show the facility would be utilised. It remains unclear as to what level of interest this product will produce and how it might be utilised. We can see no analysis of size of surplus holdings at different times of year, and there is no analysis of why existing short-term products have not been utilised.
Do you wish to raise a WG Consultation Request for the Working Group to consider?	No.

Cusc Working Group consultation

CAP162 Entry Overrun

Respondent:	*Kirsten Elliott-Smith,* *Tel: 020 7408 6651*
Company Name:	Immingham CHP LLP
Please express your views including rational with regard to the Working Group Consultation? **Including any issues, suggestions or queries**	This amendment is superior to the current arrangements for handling of entry capacity overrun within the CUSC as it effectively creates an access capacity imbalance mechanism for all users. Assuming existence of a short-term release mechanism that addresses limitations with current short-term access products such as that proposed by CAP161, it is doubtful the facility would be significantly utilised. However it is important that overrun is discouraged and that a pricing mechanism should incentivise parties not to operate above access limits, and that if they wish to increase their holding they do so through the purchase of short-term products. Arguments have been submitted for three differing methodologies with the methodology based on multiples of BSUoS (possibly net of-RCRC) currently preferred by the Working Group. We agree this is the best option available. Multiples need to be set sufficiently high to ensure that additional balancing costs that arise from overrun are recovered so that access right holders are not subsidising parties that overrun. We think referencing RCRC introduces an unnecessary complication. In particular any action involving overrun that creates an insufficiency of access for existing rights holders should be strongly disincentivised. In such circumstances constrained parties should receive full economic compensation. The full impact on BSUoS/RCRC remains unknown as to date no load flow modeling has been carried out. It is possible that if there is significant use of this option that there could result in an over/under recovery of TNUoS. Both of these issues require further detailed consideration.
Do you believe that the proposed original or any of the alternatives better facilitate the CUSC applicable objectives, please state your reasoning?	This amendment provides a commercial mechanism for exporting over a generators agreed access rights. It is essential that there is such a mechanism, especially if incremental capacity release is to occur as incentives to participate in the short-term mechanism could otherwise be greatly undermined. In this sense it should better facilitate CUSC objective (a) as it may lead to a more optimised transmission system. It is doubtful whether the proposal has a significant impact under CUSC objective (b). Competition could be enhanced as there would be sharper incentives to operate within access holdings removing a competitive distortion and any incentives to free-ride. Over the longer term we do not see this as impacting on the quality of investment decisions by National Grid.
Do you support the proposed implementation, if no please state why and provide an alternative suggestion were possible?	Yes, provided the solution is kept simple. We believe use of a BSUoS multiplier is easiest, but wider impact analysis must also be completed to test this. We cannot see how a nodal model would work (assuming a BSUoS based tariff) and doubt it would introduce any additional benefits but could increase costs.

	Any alternative that involves interaction with the BSC and the central trading arrangements should be avoided owing to cost and complexity.
Do you wish to raise a WG Consultation Request for the Working Group to consider?	No.

CUSC WORKING GROUP CONSULTATION

CAP163 – Entry Capacity Sharing

Respondent:	*Kirsten Elliott-Smith,* *Tel: 020 7408 6651*
Company Name:	Immingham CHP LLP
Please express your views including rational with regard to the Working Group Consultation? **Including any issues, suggestions or queries**	This change should see wider uptake from generators who cannot make full use of their access rights e.g. wind generation or hydro generation or cannot avail themselves of them in a timely manner. This change will be of use to new projects which have been completed without wider reinforcement work in place. However there are cases where 'conventional' generation might not be making full use of their connection for short periods of time and, provided they can find a suitable party to share with it, it could offer them capacity to share on a limited basis. However, finding a party to enter into an agreement with may prove difficult for users wanting to make use of this option, and we note there is no assessment of likely market take up. A number of issues require further consideration including: ▪ the question of whether this proposal may preclude the introduction of a proper TEC trading scheme ▪ participants views of the value of rights within a zone mean that a !:1 exchange may not appear attractive. This raises a question as to how attractive and variable exchange rates are likely to be. We would argue more fundamentally that rights have to be zonal to match current TEC rights, but they could be deemed to be equivalent within zone to facilitate exchange ▪ there would also need to be clear parameters for ensuring that overruns on shared capacity were clearly identified and allocated. This issue would be more manageable if, as the group proposes, sharing could occur after the event ▪ zonal and nodal definitions in the report remain unresolved and complex. We must have a clear understanding of the potential impact of these issues before either the Working Group, the Cusc Panel or National Grid make firm and informed recommendations.
Do you believe that the proposed original or any of the alternatives better facilitate the CUSC applicable objectives, please state your reasoning?	This amendment has the ability to allow more efficient use of the current network and could provide National Grid with better investment signals, including important information on when it might defer, rephrase or reprioritise investment. It has the ability to improve both objective (a) through more efficient use of transmission access and objective (b) by the introduction of sharing markets (if suitable parties can identify each other). There may be security benefits if capacity sharing allows more generation onto the system sooner. Against this there may be risks that the expectation of capacity sharing could see investment decisions on new network capacity deferred.

Do you support the proposed implementation, if no please state why and provide an alternative suggestion were possible?	Yes – this option provides greater flexibility for both existing and new grid users. A real concern involves the difficulty parties both wanting and owning rights will experience in finding each other. Would National Grid be able to facilitate a process where parties could express interest in entering into sharing arrangements? Exchange rate methodologies however must be robust and transparent for this proposal to work, but we sense these might introduce unnecessary complications and therefore costs. .It is also likely that this might lead to different views on value, and to start with a flat zonal approach is therefore to be preferred. In this context the alternative of an open sharing model may offer a simpler route but it has not as yet been properly defined. In particular the outline of this alternative requires amendment so that the option of release of rights is with the current rights holder and not at the SO's option.
Do you wish to raise a WG Consultation Request for the Working Group to consider?	No.

Cusc Working Group consultation

CAP164 Connect and Manage

Respondent:	*Kirsten Elliott-Smith,* *Tel: 020 7408 6651*
Company Name:	Immingham CHP LLP
Please express your views including rational with regard to the Working Group Consultation? **Including any issues, suggestions or queries**	This amendment should provide an accelerated route to market for all generators and could therefore facilitate the more rapid introduction of renewable generation and other sources of low carbon power, which will contribute to the meeting of renewables and emissions targets. Of the various CAP proposals being developed, this provides the most certain route for achieving early benefits, and ICHP supports this change. It is likely that there would be reasonable uptake of this option, suggesting real benefits; this is in contrast to the other short-term change proposals being progressed, which can be described as speculative. Further development would be beneficial in some areas but in general this solution is better developed than the other CAP proposals. Nevertheless the document could be more specific with regard to: ▪ any compensation paid by National Grid for delays it causes to connection should not be recovered through increased charges to the wider industry ▪ we agree that force majeure for the generator should be carved out of the commitment arrangements, but the detailed provisions in this area need to be developed ▪ what reassurance is there that existing rights holdings would be guaranteed? How would they be compensated in the event of non-delivery? ▪ the alternatives have not been defined, but we would not support any bid cap on BM actions or volume cap on the physical system as these would be operationally fraught to implement.
Do you believe that the proposed original or any of the alternatives better facilitate the CUSC applicable objectives, please state your reasoning?	This amendment is likely to be neutral under objective (a) over time as an increase in short-run operating costs associated with increased constraints (once supplementary TNUoS costs have been needed against these) is likely to be offset by a more secure, efficient system over the shorter-term and more orderly investment over the longer-term. CAP164 significantly improves against the baseline CUSC baseline with regard to objective (b) "facilitating effective competition". By allowing more generation onto the system sooner, there must be competitive benefits in both generation and green supply. It will also improve the quality of competition by providing certainty to new entrants in generation. Capacity sharing represents a simpler, more certain route to commissioning low carbon capacity, especially in a situation where capacity sharing is an option. This can only provide investors with greater predictability over their projects, lessening their risk and allowing for more secure generation as we approach increased risk of a capacity gap. Plant seeking to enter the market is likely to have lower costs and be relatively less environmentally damaging, and entry should put downward pressure on energy prices and deliver carbon savings. Both these factors should improve

	operational benefits. Increased generation market competition would also be expected to promote the closure (or reduced operation) of relatively more inefficient plant.
Do you support the proposed implementation, if no please state why and provide an alternative suggestion were possible?	Yes
Do you wish to raise a WG Consultation Request for the Working Group to consider?	No.

Cusc Working Group consultation

CAP165 Finite Long Term Entry Rights

Respondent:	*Kirsten Elliott-Smith,* *Tel: 020 7408 6651*
Company Name:	Immingham CHP LLP
Please express your views including rational with regard to the Working Group Consultation? **Including any issues, suggestions or queries**	In common with all existing connected parties that hold TEC and who elect to continue to pay TNUoS annually, we have evergreen transmission access rights. We have complied with terms of connection agreements, underwritten the necessary investment to deliver our production and signed delivery contracts on the assumption that we can get our produce to market. Non-discrimination requirements suggest that parties who now wish to be connected to the transmission network and who create the need to invest significant further sums of money in order to obtain a suitable level of connection and access to customers, including the associated reinforcement works, should be bound by similar arrangements. The current arrangements broadly speaking delivered extensive new investment and security of supply during the 1990s. The introduction of TEC and supporting short-term products are structured on the same principles and have worked well. Ofgem has not set out any counter-arguments through the Working Group process, and it is not satisfactory that they have not provided any evidence to back up its assertions. In fact we would observe that the CAP165 report does not define the defect in terms of the access right at all; it simply notes that current user commitment arrangements provide a degree of uncertainty to the network owners and it goes on to say that they do not have security for TNUoS charges from post-commissioning generators. Both these "defects" can be tackled relatively simply (even though Ofgem has just rejected CAP131) without any change to the basic access rights that have been vested in the form of TEC. Setting aside the principle of removing TEC rights, there are multiple problems with the proposal for finite long-term rights under CAP165. For instance there is: ▪ no clear description of the subscription process ▪ no clear definition of the proposed transition period and a confusing range of implementation possibilities ▪ a confusing range of zoning options ▪ insufficient definition of the nodal alternative. Furthermore the charging impacts are the subject of a separate consultation which has only recently appeared. This is not a good example of an orderly change process.
Do you believe that the proposed original or any of the alternatives better facilitate the CUSC applicable objectives, please state your reasoning?	This amendment provides no improvements under any of the CUSC objectives. It would moreover significantly increase the risk of doing business in the sector and increase market complexity. It favours the largest players with extensive resource and introduces significant new unmanageable risks. Given the limited definition of how the arrangements would work, we consider

	CAP165 would also probably have significant unintended consequences.
Do you support the proposed implementation, if no please state why and provide an alternative suggestion were possible?	No – This is not a valid amendment proposal as it would be illegal to overwrite current access rights embodied by TEC. The proposed solution is not proportionate to the stated defect. Given the stated defect, we are concerned that to date there has been no attempt to address alternative solutions around the process of withdrawal and providing associated security without any fundamental revision to access rights, as this provides a much more proportionate response.
Do you wish to raise a WG Consultation Request for the Working Group to consider?	No.

Magnox North

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31 October 2008

Patrick Hynes
UK Transmission Commercial
NGT House
Warwick Technology Park
Gallows Hill
Warwick
CV34 6DA

Direct tel: 01453 81 3631
Direct fax: 01453 81 2001

Your ref:
Our ref:

Dear Patrick

Response to National Grid TAR Consultation CAP161-166

I am responding on behalf of the Nuclear Decommissioning Authority (NDA) to the Transmission Access Review (TAR) Working Group consultation. As you are probably aware, the NDA is the owner of the former Magnox, UKAEA and BNFL sites, which currently includes two directly connected large power stations, one embedded large power station, one embedded small power station, several directly connected demand sites, and a number of distribution-connected demand sites.

Our comments on the individual CUSC amendments 161 to 166 are provided separately.on the standard Pro-forma provided for this. I have emailed comments on CAP 161-164 to you, on CAP 165 to Sara Hall, and on CAP 166 to Mark Duffield. This letter contains some general comments applicable to all the amendments

The NDA understands the objective of TAR to allow more new generation to connect to the system sooner than under the current arrangements. This is a desirable objective, which the NDA supports, particularly in view of Government policy for a rapid increase in the use of renewables for generation. But TAR does not create additional transmission assets, and it is not clear whether TAR would allow a significant amount of additional generation to connect early.

TAR goes well beyond the six CUSC amendments, and is likely to require significant changes to the charging principles, and to the security standards (GBSQSS). Because the various possible changes are strongly interlinked, comments on individual changes cannot be taken in isolation. Overall, whatever combination of changes is eventually introduced, the NDA considers it important that the following general principles are followed, for the benefit of all users:

- There should be no reduction in the security of grid connection, or security of supply, to any particular user or to users as a whole
- The introduction of short term access products etc should not cause a material increase in charges, compared with current arrangements, to generators who chose to continue to use long term access products.

- There should be no material transfer of charges from one party to another, for example, by the introduction of a flat MW-hour charge. A transfer of charges from one class of users to another class of users would effectively be a cross-subsidy and is unacceptable as it conflicts with the applicable CUSC objectives.
- There should not be a material increase in charges to demand users compared with continuing current arrangements.
- There should also be no material increase in the volatility or uncertainty of future charges to users, when compared with a continuation of the current arrangements

The short term measures CAP161, CAP162 and CAP163 allow the unlocking of potential additional short term capacity compared with current arrangements, and allow the system operator to use existing transmission assets a little more efficiently. They would not necessarily have an adverse effect on existing users and so are generally acceptable. CAP 164 might allow some additional capacity but with a risk of significant increased costs to most users, and windfall payments to a few generators. CAP 165 and CAP166 do not release additional capacity, but effectively re-allocate capacity rights between generators; for this reason CAP165 and 166 need to be examined carefully to ensure they do not introduce undue discrimination.

The amendment proposals deal exclusively with access rights for generation, and do not discuss demand. It has been a general principle in the past that generation and demand should generally be treated in a symmetrical manner, where this is reasonable. We would like the working groups to consider this issue, and indicate in the final working group reports whether there may be consequential changes for demand.

I hope the comments are clear; they are not confidential. Please contact me if you wish to discuss further.

Yours Sincerely

David Ward

Grid Interface Engineer
Operational Programmes, EWST, Magnox North
david.m.ward@magnoxnorthsites.com

CUSC WORKING GROUP CONSULTATION – RESPONSE PROFORMA

CAP165 - Transmission Access – Finite Long-Term Entry Rights

CUSC parties are invited to respond to this consultation, expressing their views [and in respect of the specific questions detailed below]. Parties are invited to supply the rationale for their responses.

Please send your responses by 31 October 2008 to Sarah Hall at sarah.a.hall@uk.ngrid.com. Please note that any responses received after the deadline may not receive due consideration by the Working Group.

Any queries on the content of the consultation should be addressed to Patrick Hynes.

These responses will be considered by the Working Group and will record the conclusion they reach on your request; as well as showing their discussions of your requests and the conclusion they reach on your request. If appropriate the group will amend their report accordingly and will record your response in the Working Group Report.

Respondent:	*David Ward* *Email: david.m.ward@magnoxnorthsites.com* *Phone: 01453 813631*
Company Name:	Magnox North Ltd (on behalf of the Nuclear Decommissioning Authority)
Please express your views including rational with regard to the Working Group Consultation? **Including any issues, suggestions or queries**	Economic operation of the electricity supply system requires that generators can enter and exit the system easily and efficiently. Clearly there is a problem with entry at the moment with the queue extending for a decade in many parts of the network, but it is not clear that problems with exit are contributing to this. Exit currently is easy for generators with a minimum of five days notice required (if given in late March). It has been suggested that this flexibility for generators causes a risk of stranded assets, and CAP165 tries to reduce this risk, but there seems to be no evidence in the working group report on the risk or cost of stranded assets. Without such information it is difficult to know whether CAP 165 is attempting to remedy a problem that does not exist in practice. The current notice period of potentially as little as 5 working days is very short, and a modest increase in the minimum notice period would be acceptable if it can be justified, but the effective notice period implied in the amendment proposals because of fixed commitments extends to many years. CAP 165 requires generators to commit to pay for access rights for a fixed number of years, without knowing what the cost might be in future. In most markets a fixed commitment is normally associated with a fixed price. But there would be issues with a fixed price for transmission access extending over many years, so we question whether it is appropriate to have a fixed

	commitment. The original amendment proposal was for access rights on a Zonal basis, allowing users to share capacity between its power stations on a real time basis within a zone. This appears disadvantage small portfolio or single station users compared to large portfolio users; this point was picked up by the working group. It also appears to clash with the current planning process whereby connection applications are effectively for a single node for a defined generation capacity for a defined type of plant, and defined generator data, as specified in the Grid Code. We note that the work by the working group seems to suggest that it is not possible to define suitable zones, which we think means the original amendment proposal is unworkable. The original amendment and WGAA1 and WGAA2 all require generators to commit to pay for access rights for a fixed number of years. They do not seem to give the opportunity to give up access rights before the end of the fixed number of years, even if extended notice is given, nor the opportunity to reduce access rights. Given the relative cost of access and income from generation and the risk of not being able to extend access, we feel sure that most generators will feel the need to commit to access rights for the full expected life of their plant plus a significant margin, thereby hoarding access rights, and denying them to others. The cost of this overbooking and the cost of the security that may be required will ultimately be passed on to consumers. WGAA3 does not have quite these defects, by requiring a defined notice period. But still it is not clear why a notice period of even four years is necessary; more work is needed to justify this. See the question at the end of this response.
Do you believe that the proposed original or any of the alternatives better facilitate the CUSC applicable objectives, please state your reasoning?	We do not believe that CAP165 original, WGAA1 or WGAA2 better facilitate the CUSC applicable objectives for the reasons given above. WGAA3 may better meet the objectives but until a full cost benefit analysis has been carried out this is not certain.
Do you support the proposed implementation, if no please state why and provide an alternative suggestion were possible?	We do not support the implementation of the original amendment or WGAA1 or WGAA2 in any timescale A proper cost benefit analysis of WGAA3 is required before it can be considered for implementation.
Any other comments?	*The Working Group invited industry views on whether it is appropriate for generators' existing transmission access rights to be changed by a CUSC amendment.*

	The key point is that existing generators invested in building their plant and/or refurbishing it under a system that allowed them access to the transmission system for as long as they needed/wanted it. Some of this investment would not have been made if it had been known that there was a risk that transmission access could be withdrawn at any time. Withdrawal of existing rights would send a message to potential investors in generation that access rights could be modified or withdrawn in future; this increases commercial risk and may discourage investment in new generation. This seems undesirable at a time when the system as a whole, and government policy, requires a lot of investment in new generation. See question 1 below on allowing access rights (and TNUoS liability) to start and end at any time of the year. See question 2 below on why a shorter notice period to reduce access rights or disconnect is not acceptable after eight years.
Do you wish to raise a WG Consultation Request for the Working Group to consider?	No **If your response is yes please complete a WG Consultation Request form and return to the above address with your completed Working Group Consultation responses proforma.**

Specific questions for CAP165

Q	Question	Rationale
1.	Why has no consideration been given to allowing access rights (and corresponding TNUoS charges) to start and end at any time of the year and not just at the beginning/end of the financial year?	It appears that there could be up to a year's transmission access which is unavailable because access and charges start and end at the start of the financial year. This also acts as bit of a barrier to entry, as new generators generally connect part way through a financial year, but have to pay for all of it.
2.	If a minimum commitment of 8 years is necessary to minimise the potential cost risk of stranded assets, why is it not then acceptable to have a short notice period to disconnect once a generator has been connected 8 years and paid 8 years charges?	It is not clear why National Grid think it necessary for generators to give firm commitment to the end of life of the generation plant (which is something that cannot be predicted with precision anyway), when they only need a commitment of 8 years to pay for the assets!
3.	.	

WORKING GROUP RESPONSE TO MAGNOX NORTH LTD

The Working Group considered the specific questions in Magnox North Ltd's response.

Question 1
Why has no consideration been given to allowing access rights (and corresponding TNUoS charges) to start and end at any time of the year and not just at the beginning/end of the financial year?

The Working Group has given consideration to the granularity of long-term access rights. It was considered that financial year blocks give a suitable level of flexibility when booking long-term access rights. Moving away from annual financial year charging would increase the complexity of charge setting for long-term access products.

Question 2
If a minimum commitment of 8 years is necessary to minimise the potential cost risk of stranded assets, why is it not then acceptable to have a short notice period to disconnect once a generator has been connected 8 years and paid a years charges.

It is important to note that during transition the minimum booking of eight years will not apply. Under the enduring arrangements new users will be required to book a minimum of eight years, however Users may extend their initial booking by a period less than eight years providing no further reinforcement is required.

It is necessary for generators to give firm commitment to the end of their capacity requirement because of the interaction with other users. In the example where a new user connects next to an existing user the new user must provide a minimum or 8 years commitment. If the existing user leaves the system the new investment is not necessary. To avoid unnecessary reinforcement being made existing users need to provide clear closure signals within the system planning time frame.

The option of having a notice period shorter than the minimum booking period is considered in one of the alternatives. For example WGAA4 has a four year minimum booking period for new users and a 15 month notice period.

Sarah Hall
UK Transmission Commercial
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CV34 6DA

sarah.a.hall@uk.ngrid.com

By 23rd October 2008

Dear Sarah,

Response to Working Group consultation on CAP 165

The Renewable Energy Association is pleased to be able to offer its comments on your consultation on CAP 165. As you are aware our members work on all types of renewable power and heat projects and obtaining more timely access to the transmission system is one of the key issues that if achieved would help our aim and that of the Government of reducing CO_2 emissions.

Having considered the matter we do not think that CAP 165 would increase the efficiency of planning and operation of Great Britain's electricity system. Whilst it would make planning of the transmission system easier, the financial impact of power stations being less able to optimise their closure decisions would have a greater impact on both the cost of operation and security of supply. Allowing power stations to make closure or mothballing decisions at short notice, whilst making it harder to plan the transmission system, maximises security of supply and minimises the cost of providing any given level of security of supply. Changing the rules so that generators had to commit a number of years ahead would result in either an increased probability of there being insufficient plant available or plant being kept open unnecessarily, with the costs of so doing ultimately falling on the electricity consumer.

There is, of course, an argument that the current position discriminates between new and existing generators. Existing generators essentially have an option to renew their transmission access every year and because of this can block or at least delay significantly the connection of new generators. We agree that this is discriminatory but take the view that the way to rectify it is to implement CAP 164 so that new generators could always, providing their local connection could be built, enjoy firm transmission access after 3 years (or whatever figure X is set to in CAP 164). Our opposition to CAP 165 is therefore predicated on the assumption that CAP 164 is implemented.

If a form of CAP 165 were to be implemented in spite of our opposition then we would find the four year rolling commitment option to be the least bad. In addition we think that the implementation date should be after all decisions have been made on CAP 161 to CAP 166 inclusive as parties clearly need to know the enduring rules for transmission access before they can decide on booking long term capacity.

Because of our opposition to CAP 165 we are not answering the detailed questions asked. We have however completed the standard pro forma overleaf.

Please let us know if you would like to discuss any aspects of this letter further.

Yours sincerely,

Gaynor Hartnell,
Deputy Director,
Renewable Energy Association.

Respondent:	*Name and contact details* Gaynor Hartnell 0207 925 3578 ghartnell@r-e-a.net
Company Name:	Renewable Energy Association
Please express your views including rational with regard to the Working Group Consultation? **Including any issues, suggestions or queries**	The modification is based on the premise that optimised transmission system planning optimises the total power system efficiency, which it does not. Security and the cost of providing this security is dominated by having sufficient but not excessive generation capacity available and this is achieved by giving generators as much flexibility as possible regarding closure decisions.
Do you believe that the proposed original or any of the alternatives better facilitate the CUSC applicable objectives, please state your reasoning?	Because we believe that the original and all alternatives would increase the cost of maintaining a given level of supply security and / or threaten the level of security provided we oppose the modifications. Out of the original and the alternatives the rolling four year commitment is the least bad.
Do you support the proposed implementation, if no please state why and provide an alternative suggestion were possible?	If this modification is implemented it should be done after all decisions on CAP 161 to 166 are known so that parties committing to long term access are aware of what they are committing to and the options available.

RWE npower

Hedd Roberts
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Name David Mannering
Phone 01793 89 2172
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31st October, 2008

CUSC Amendment Proposals CAP161: System Operator release of Short-Term Entry Rights, CAP162: Entry Overrun, CAP163: Entry Capacity Sharing, CAP164: Connect and Manage, CAP165 Transmission Access Finite Long-term Entry Rights, Working Group Reports, October 2008

Dear Hedd,

Please find attached our response to the Consultations for CUSC Amendment Proposals 161 to 165. This response is provided on behalf of the RWE group of companies, including RWE npower, RWE Supply and Trading GmbH and npower renewables, a fully owned subsidiary of RWE Innogy.

There are three key principles which we believe changes should satisfy:

- Short term access should be available to facilitate the efficient use of the system, especially spare capacity
- Short term access should not allow free riding or obscure signals which would otherwise indicate to NGC a need to invest in additional capacity
- Costs should be borne by those who impose them, not smeared across users generally.

Our detailed response to the individual CUSC Amendment Proposals is included as an attachment to this letter. We would note the following:

- Although we support the implementation of short-term access rights (CAP161, CAP162 and CAP163) they must be defined and priced in a way that does not undermine the incentive to book long-term access rights. We fully endorse the "ticket-to-ride" principle;

- Charges should be cost-reflective for all types of generation connected to the network and should vary according to location to reflect capital costs in building and maintaining the network together with any local congestion costs. Given the

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huge need for new plant over the next decade or so, it is fundamentally important that potential developers face the correct locational price signals;

- The resolution of constraints should be market-based rather than administered and the costs reflected back on those users that caused them to be incurred rather than smeared across all users. There should be explicit financial support (such as ROCs) for connecting renewable generation not discriminatory arrangements for network access; and

- Notwithstanding our concerns with the process as set out below, we believe that there are some merits in these CUSC Amendment Proposals, but they need to be considered and implemented as a coherent package as any reformed access regime must be stable over time, avoid perverse incentives and minimise regulatory risk.

The stated aim of National Grid in raising the suite of CUSC Amendment Proposals is to support the objectives of the Transmission Access Review in facilitating the connection of more renewable generation to the GB Transmission System. RWE has actively supported the process and indeed is making an important contribution in CUSC working groups. However, we do not believe that sufficient time has been allowed for consideration of such important potential amendments to the CUSC and Charging Methodologies. Arguably, this has resulted in proposals not being fully worked up before consultation.

In addition, there has not been enough focus on applying existing arrangements, such as CAP 150 (Capacity Reduction). We believe that infrastructure delivery coupled with more proactive queue management, linked to the successful implementation of the proposed changes to the statutory infrastructure planning regime, would resolve many of the problems with the GB Transmission Queue and that this in turn would contribute to meeting the Government's renewable generation targets.

If you wish to discuss any aspect of our response, please do not hesitate to contact me.

Yours sincerely,

By email so unsigned

David Mannering
Director of Economic Regulation

Attachment - CUSC Amendment Proposals CAPs 161-165 - Comments

Attachment: **CUSC Amendment Proposals CAPs 161-165 - Comments**

CAP161 – System Operator (SO) Release of Short-term Entry Rights

We support the principle of the release of short-term entry rights in order to optimise use of the GB Transmission System (GBTS) as long as this does not increase costs to all users (through increased constraint costs caused by the GBSO releasing too many rights or getting its forecasts wrong or being incorrectly targeted). We believe that the 2-day-ahead (2DA), and 5-week-ahead (5WA) release of short-term rights by the GBSO would lead to a more optimal use of the GBTS and could in principle provide users with more flexibility. However, we do not support C-LDTEC as this would potentially require the GBSO to forecast system conditions and associated constraint costs up to 45 weeks in advance. This could lead to excessive constraint costs and potentially allow certain users to avoid paying the true long run costs of system investment.

Our view is that the 5WA and 2DA options should only be used to acquire incremental short-term access to supplement longer-term access holdings and therefore would not replace the efficient long-term investment signals to the TOs. However, we are concerned that C-LDTEC could lead to inefficient investment as the short term allocation process does not allow the long term locational signals to be discovered.

CAP162 – Transmission Access – Entry Overrun

We support the principle of Overrun as it should allow the GBSO and users to optimise the use of the GB transmission system, but only when used in conjunction with acquiring long-term access products. The proposal would enable the GBSO to maintain efficient and economic investment in new infrastructure with a charging system which retains overall cost-reflectivity. Overrun should facilitate access sharing and remove the possibility of a CUSC Breach if users generate above their Entry Capacity holding (currently TEC). Overrun should be available to all generator types and would not be discriminatory if it is priced to reflect any additional costs caused by overrunning. Furthermore, cost reflective overrun charges should remove the risk of “free-riding” in relation to transmission investment.

Entry Overrun should allow more generation to connect to the GBTS and hence increase competition provided that the overrun prices include any additional constraint costs incurred in operating the system. Also users should have a reasonably clear idea of what these additional costs might be before they decide to overrun in any particular period. The proposed simple (Overrun) methodology using (BSUoS-RCRC) multiplied by a scalar (X) that reflects constraint costs as a proxy for constraint costs in any half-hour period could provide an appropriate solution, at least as an interim (temporary) solution, as it does give some approximation to what potential “system” costs might be in a particular zone at a particular time.

Our preference is for a marginal methodology which would seem to offer the most appropriate outcome in relation to the efficient costs of short-term access at various locations on the GBTS. If the marginal methodology was available to users then it may be possible for them to make a reasonable forecast of the costs for short-term access at various locations on the system. Alternatively, the GBSO could release its forecasts of these costs at the day-ahead stage so that users could make an economic judgement whether to overrun at a particular location. However we note that a marginal methodology may not be available for an April 2010 implementation date and an interim, perhaps based on the simple methodology, may be required.

We do not support the Cost Recovery Methodology as it would be very difficult to identify exactly

which costs were attributable to overrunning parties and there would inevitably be a degree of subjectivity in disaggregating these costs. This model may be expensive to administer and may not help users at different locations to easily predict potential Overrun prices at any particular time or location.

Entry Overrun would facilitate Entry Capacity Sharing (CAP163) by allowing a generation level above notified shared access. The proposal addresses the restriction in the existing CUSC arrangements which mean that sharing parties are in breach of the CUSC if they exceed notified access capacity. The interim simple or enduring marginal Methodology could also be used as a basis for allocating the increased costs of constraints for Connect & Manage generators (see CAP164 below).

CAP163 – Transmission Access – Entry Capacity Sharing

RWE supports the principle of Entry Capacity Sharing as we believe that it may allow more optimum use of the existing transmission system. The benefits of the proposal will depend on the sharing arrangements introduced. It is not efficient or cost reflective to create artificially large "sharing zones" which would lead to a significant increase in constraint costs that have to be borne by consumers. The conclusions of the working group indicated that node-to-node sharing with pre-defined exchange rates (where possible) would seem to give the best solution as this would allow or should allow all users to share transmission access with a large number of parties.

Of the three notification options presented, RWE prefers the ex ante approach where parties can change notifications up to the day-ahead stage. In addition information on completed sharing arrangements should be released to the market at this time. Day-ahead arrangements would give adequate time for users (including weather-dependent generators such as wind) to arrange sharing and also ensure that information is released to the market to inform trading decisions. A codified approach may be considered as the next best option. It is less flexible but is easier to implement and manage when compared with the ex ante approach. We do not support ex post notification as this could provide perverse incentives and be open to gaming.

We do not believe that the Open Sharing model provides any benefit above that provided by the other sharing options considered by the Working Group and therefore do not support it.

As mentioned above, there is a strong connection with CAP162. Whilst Entry Capacity Sharing could be introduced without CAP162, we believe that it would work better if CAP162 was introduced at the same time.

CAP164 – Connect and Manage

RWE supports the principle of connect and manage but has serious concerns about the treatment of additional constraint costs that arise.

It is possible that an approach based on connect and manage could allow more generation to connect to the transmission system. However, it is also likely that most of the additional generation will be in areas of the GBTS which are already constrained. This could lead to increased constraint costs as the wider transmission system would not be ready to accept the anticipated increases in generation (this was indicated in Ofgem's Regulatory Impact Assessment for CAP148 (Deemed TEC) which allowed only new Renewable generation to connect and showed that the likely Carbon cost savings would be far outweighed by increased constraint costs).

CAP164 does not discriminate against any generation type and may have merits in facilitating the connection of more renewables. However, under the original CAP164 proposal increased constraint costs will be borne by users through increased BSUoS costs and may lead to higher prices for all consumers. We can only offer our support for Connect and Manage on condition that any resultant increases in constraint costs are either allocated to parties causing them or these resultant costs are significantly reduced. Failure to do this would give inappropriate incentives and, over time, lead to an increasingly inefficient grid access regime.

A simple (Overrun) methodology developed for CAP162 where X*(BSUoS-RCRC) in a particular zone for any half hour period could be used as an interim proxy for constraint costs under a connect and manage regime in order to provide an approximate targeting of these costs on users that have caused them. However, our preference is for a marginal methodology which would seem to offer the most economic and efficient outcome in relation to the efficient costs of short-term access at various locations on the GBTS.

A possible method of reducing resultant increased constraint costs from connect and manage is a volume cap in specific areas where the volume of connect and manage generation is significant. This option may have some merit but whether we support it or not will depend on the choice of the numeric limit, the level of the likely increase in constraint costs and the way that these costs are allocated. We believe that a volume cap is better than the other potential alternatives discussed in the Working Group Report i.e. Interim TEC, a bid/offer cap, TNUoS nets off some BSUoS or an Incremental Capacity Release methodology.

An alternative means of limiting the amount of connect and manage generation is to lengthen the guaranteed lead time for connection. The WG Report shows analysis for 3-year and 4-year lead times. Rather counter-intuitively, the net benefit for a 3-year lead time is greater than that for 4-years (this is not borne out by Ofgem's cost-benefit analysis for CAP148 Deemed TEC). We are not convinced by this analysis (for CAP164) and feel that a 4-year lead time would be better than 3-years as there would be less time between connection and delivery of wider system reinforcement.

In general, we believe that the efficient development of the transmission network and the timely connection of all types of generation technologies, both in the short term and for the longer timescales, would only be better achieved if the suite of CUSC modifications is considered as a whole to avoid distortions between users and the varying timescales.

CUSC Amendment Proposal CAP165 Transmission Access – Finite Long-term Entry Rights

We recognise the concerns associated with signals for plant closure as identified in the CAP165 defect. However, we do not support the implementation of the original amendment as drafted and do not believe that as set out it better facilitates the relevant CUSC objectives. In particular pre commissioning liabilities that are no longer directly reflective of the costs incurred will increase risk of stranded assets and could result in inefficient investment (Objective a)). Furthermore the 50% sharing factor will impact on other users where user liabilities do not meet the stranded costs and this could detrimentally impact on competition (Objective (b)). In addition we remain concerned about the use of non refundable final sums and consider that they would result in termination charges that are no longer reflective of the costs actually incurred by users and may, in some cases, be considered a penal charge.

Of the alternatives set out in the consultation document we support the use of cost reflective final sums as set out in WGAA2, subject to an appropriate open and transparent methodology for the establishment of the final sums. This approach should address the concerns expressed in the document with regard to the potential issues with the visibility of final sums. Further we would suggest that such a methodology could establish whether these cost reflective final sums should or could be shared with other users (perhaps through a sharing factor). We believe that this issue should be explored further in the implementation of the amendment proposal.

Our response to the specific questions raised on the consultation is included below:

Question: The Working Group invites industry views on whether it is appropriate for generators' existing transmission access rights to be changed by a CUSC amendment.

Answer: The existing transmission rights are established under the current NGET licence through the:

1. CUSC in relation to connection and use of the system; and
2. The charging methodologies in relation to the liabilities for paying to use the system; and
3. The GBSQSS in relation to the design of the transmission system to deliver a pre defined level of security.

The rights as currently defined allow the user to connect and use the system subject to certain connection conditions up to a defined level of capacity subject to an annual liability to pay (or receive a credit) for use of the system with a defined level of constraint costs recovered from all users through BSUoS. As a consequence of the arrangements under the licence, changes to any of these documents can affect the nature of a user's rights to use the transmission system.

We do not believe that a change to the CUSC can exclusively result in a fundamental change to the nature of the existing rights to use the system. This can only be achieved through changes to more than one of the documents that govern the rights to use the system. This is explicitly recognised under CAP165 with the consequential amendments to the charging arrangements (in particular the liability for charges).

The key question for users is whether any such change is proportionate in relation to the defect that is being addressed. In this context it is important to recognise that changes to the framework for existing rights will impact on wider security of supply and risk in the electricity market. We believe that further work is required to clarify the implications for the enduring charging arrangements that are associated with CAP165 (e.g. the treatment of the residual) in order to understand the impact of this CUSC change.

It is also worth noting that the other outstanding CUSC amendments (short term release (CAP161), capacity overrun (CAP162) and capacity sharing (CAP163)) fundamentally change the nature of existing rights, particularly the concept of exceeding the existing transmission entry capacity up to the level of the connection capacity.

Question: The Working Group requests views on whether the appropriate level of security for post-commissioning users should be zero or based on one year's worth of TNUoS.

We support post commissioning security based on one-year's worth of TNUoS or the balance thereof for users commissioning within year. It should be noted that this security should be established for both the local connection capacity and the long term finite rights. The commissioning dates for these may vary.

Question: The Working Group also seeks views as to whether, if the appropriate level of security was based on one year's worth of TNUoS, the security requirement should be:

(a) the remaining balance the current year's TNUoS;
(b) one rolling year's worth of TNUoS; or
(c) six months' worth of TNUoS.

Answer: TNUoS is established as an annual charge. Therefore, we believe that security should be established on the remaining balance of the current year's TNUoS (including the residual liabilities, however calculated).

Question: The Working Group seeks views on whether LCN should be a finite or an evergreen right.

We are concerned about the definition of the local connection (LCN). We believe that the local connection capacity could be defined as follows:

"those transmission assets that are not connection assets but are required to enable a user (or more than one user sharing a local connection) to export output up to the level of the connection entry capacity (CEC) of each generating unit in compliance with the GBSQSS to a main interconnected transmission system (MITS) substation using assets that are capable of being shared (with demand) but not currently shared or not capable of being shared at the time of the offer to connect to the transmission system"

Consequently we believe that the LCN can be considered as an enduring right to remain connected to the transmission system. However, the right to "use" the system could be subject to an appropriate notification process for termination (similar to WGAA2) or user commitment for the local connection (a booked period similar to CAP165). We believe that further work is required to clarify the nature of LCN rights and in particular to address circumstances where the LCN (or part thereof) becomes a "shared" asset as part of the main interconnected transmission system.

Question: The Working Group requests views on whether it would be more appropriate to include the user commitment amounts in the arrangements for local connections rather than in those for wider transmission access rights.

It is essential that user commitment amounts are included for both the local connections (however defined) and for wider transmission access rights. This should ensure that the SO and TOs receive appropriate investment signals and minimises the risk of stranded assets.

The Working Group requests views on the proposed implementation dates, and whether such dates should be fixed or open-ended.

It is preferable to use fixed implementation dates to ensure that there is some certainty for the market. However, we believe that further work is required to provide a detailed and practical implementation timetable given that are large number of existing agreements that will require revision as a consequence of the CAP165 process.

SCOTTISHPOWER
Energy Wholesale

Sarah Hall
UK Transmission Commercial
NGT House
Warwick Technology Park
Gallows Hill
Warwick CV34 6DA

30 October 2008

Dear Sarah,

Response to the Working Group Report CAP165
Transmission Access – Finite Long-term Entry Rights

Thank you for the opportunity to respond to this Working Group Report. This response and the attached Working Group Consultation response proforma are submitted on behalf of ScottishPower Energy Management Ltd, ScottishPower Generation Ltd and ScottishPower Renewable Energy Ltd.

ScottishPower does not support the original amendment and does not consider that it is appropriate for a generator's existing transmission access rights to be changed by a CUSC amendment. We do not accept that our "evergreen" transmission access rights under the CUSC are unclear and we reserve our right to raise this very important issue in the future.

Across all the proposed amendments (CAP161-165) ScottishPower would prefer to see a zonal approach adopted as this would facilitate greatest use of the existing transmission system and greatly simply the access products available to users. We note National Grid's concerns that large zones may result in an increase in constraint costs but would urge that an overly pessimistic methodology for determining zones is not adopted which would reduce the utilisation of the access products proposed.

ScottishPower challenges the assertion that the current notice period can lead to inefficient investment signals for transmission assets and requests that National Grid or Ofgem provide evidence of historic levels of inefficient investment as a result of short-notice plant closures and how this is expected to change in the future. In the absence of evidence of such a defect, the requirement for this proposed amendment disappears.

Security Level Post-Commissioning

We believe that the level of security required from post-commissioning generators should be zero. No evidence of a significant historical or future risk from the lack of provision of security by post-commissioning generators has been provided to support the claim that a defect exists in the current arrangements. As stated in the Report, there has only been one instance where an insolvent generator's assets have not been acquired within the same charging year (and that was in a negative charging zone).

SCOTTISHPOWER
Energy Wholesale

Finite or Evergreen LCN
We believe that due to the user specific nature of the assets provided to create a local transmission connection that LCN should be an evergreen right.

User Commitment Amounts

ScottishPower believes that there is a significant difference in the risk profile of a generator pre and post-commissioning as evidenced by the consistent past ability of insolvent generator assets to be sold on without a break in the payment of TNUoS charges. Pre-commissioning, however, projects face a number of additional planning, technical and financial risks which may result in the asset not being completed and the associated connection works being abandoned.

In the event that a significant risk of "stranded assets" can be demonstrated, it would be appropriate for post-commissioning generators to provide a level of user commitment not exceeding 4 years (i.e. a 4 year rolling notice period). This represents an acceptable conjunction between the System Operator's timescale for committing to significant expenditure on additional infrastructure and the period over which an existing generator can make a reasonable economic assessment of the remaining life of its plant.

ScottishPower supports the use of a generic calculation of pre-commissioning user commitment (based upon the wider TNUoS charge) which would provide stable and predictable security levels that could be incorporated in a user's economic assessment of the viability of a project.

Given the proposal that users will be able to apply for local access rights without wider rights, it would seem appropriate that user commitment amounts should be included in the arrangements for local connections.

Working group Alternative Amendments

Given ScottishPower's preference for zonal arrangements (see above) we do not support Working group Alternative Amendment (WGAA) 1.

WGAA 2 retains a project-specific calculation of User commitment and is less predictable or transparent than a generic methodology. Fixing the User commitment (PCL) at the time of an offer may result in a user providing excess security should any of the connection infrastructure subsequently become shared with another generator.

ScottishPower supports WGAA3 which provides both a generic methodology for calculating pre-commissioning user commitment and a post-commissioning user commitment methodology which is consistent with a generator's ability to predict the remaining life of its plant.

Implementation Dates

ScottishPower believes that the proposed implementation dates should be fixed to reduce the time period during which users will be exposed to regulatory risk.

I hope you find these comments useful. Should you have any queries on the points raised, please feel free to contact us.

Yours sincerely,

James Anderson
Commercial and Regulation Manger


SCOTTISHPOWER
Energy Wholesale

CUSC WORKING GROUP CONSULTATION – RESPONSE PROFORMA

CAP165 Transmission Access – Finite Long-term Entry Rights

Respondent:	*James Anderson, Commercial & Regulation Manager* *Telephone: 0141 568 4469*
Company Name:	*ScottishPower Energy Wholesale*
Please express your views including rational with regard to the Working Group Consultation? **Including any issues, suggestions or queries**	ScottishPower does not support the original amendment and does not consider that it is appropriate for a generator's existing transmission access rights to be changed by a CUSC amendment. We do not accept that our "evergreen" transmission access rights under the CUSC are unclear and we reserve our right to raise this very important issue in the future. Across all the proposed amendments (CAP161-165) ScottishPower would prefer to see a zonal approach adopted as this would facilitate greatest use of the existing transmission system and greatly simply the access products available to users. We note National Grid's concerns that large zones may result in an increase in constraint costs but would urge that an overly pessimistic methodology for determining zones is not adopted which would reduce the utilisation of the access products proposed. ScottishPower challenges the assertion that the current notice period can lead to inefficient investment signals for transmission assets and requests that National Grid or Ofgem provide evidence of historic levels of inefficient investment as a result of short-notice plant closures and how this is expected to change in the future. In the absence of evidence of such a defect, the requirement for this proposed amendment disappears. **User Commitment Amounts** ScottishPower believes that there is a significant difference in the risk profile of a generator pre and post-commissioning as evidenced by the consistent past ability of insolvent generator assets to be sold on without a break in the payment of TNUoS charges. Pre-commissioning, however, projects face a number of additional planning, technical and financial risks which may

	result in the asset not being completed and the associated connection works being abandoned. In the event that a significant risk of "stranded assets" can be demonstrated, it would be appropriate for post-commissioning generators to provide a level of user commitment not exceeding 4 years (i.e. a 4 year rolling notice period). This represents an acceptable conjunction between the System Operator's timescale for committing to significant expenditure on additional infrastructure and the period over which an existing generator can make a reasonable economic assessment of the remaining life of its plant. ScottishPower supports the use of a generic calculation of pre-commissioning user commitment (based upon the wider TNUoS charge) which would provide stable and predictable security levels that could be incorporated in a user's economic assessment of the viability of a project.
Do you believe that the proposed original or any of the alternatives better facilitate the CUSC applicable objectives, please state your reasoning?	ScottishPower does not believe that the proposed Amendment better facilitates the applicable CUSC objectives than the existing baseline as we do not accept that the defect claimed in the original amendment has been proven. Given ScottishPower's preference for zonal arrangements (see above), we do not support Working group Alternative Amendment (WGAA) 1. WGAA 2 retains a project-specific calculation of User commitment and is less predictable or transparent than a generic methodology. Fixing the User commitment (PCL) at the time of an offer may result in a user providing excess security should any of the connection infrastructure subsequently become shared with another generator. ScottishPower believes that WGAA3, which provides both a generic methodology for calculating pre-commissioning user commitment and a post-commissioning user commitment methodology which is consistent with a generator's ability to predict the remaining life of its plant is better than WGAA1 and 2 but does not better facilitate the applicable CUSC objectives than the existing baseline for the reasons outlined above. CAP165 could lead to reduced competition and reduced security of supply through forcing generators to take earlier closure decisions rather than face user commitment for a longer period of transmission access in which they face considerable regulatory, environmental and market uncertainties.

Do you support the proposed implementation, if no please state why and provide an alternative suggestion were possible?	ScottishPower supports the proposed implementation date.

Any other comments?	*N/A*
Do you wish to raise a WG Consultation Request for the Working Group to consider?	***NO***

Specific questions for CAPXXX [if required]

Q	Question	Rationale
1.	**Changing generator's existing rights by a CUSC Amendment**	ScottishPower does not support the original amendment and does not consider that it is appropriate for a generator's existing transmission access rights to be changed by a CUSC amendment. We do not accept that our "evergreen" transmission access rights under the CUSC are unclear and we reserve our right to raise this very important issue in the future.
2.	**Security Level Post-Commissioning**	We believe that the level of security required from post-commissioning generators should be zero. No evidence of a significant historical or future risk from the lack of provision of security by post-commissioning generators has been provided to support the claim that a defect exists in the current arrangements. As stated in the Report, there has only been one instance where an insolvent generator's assets have not been acquired within the same charging year (and that was in a negative charging zone).
3.	**Security Requirement**	If the appropriate level of security was based on one year's worth of TNUoS, the security requirement should be the remaining balance of the current year's TNUoS.
4.	**Finite or Evergreen LCN**	We believe that due to the user specific nature of the assets provided to create a local transmission connection that LCN should be an evergreen right
5.	**User Commitment in Local Connection Arrangements**	Given the proposal that users will be able to apply for local access rights without wider rights, it would seem appropriate that user commitment amounts should be included in the arrangements for local connections.
6.	**Fixed or open-ended implementation dates**	ScottishPower believes that the proposed implementation dates should be fixed to reduce the time period during which users will be exposed to regulatory risk.

31 October 2008

Hedd Roberts
UK Transmission Commercial
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Warwick Technology Park
Gallows Hill
Warwick
CV34 6DA
hedd.roberts@uk.ngrid.com

Dear Hedd

Working Group Consultations: CAP161 to 165
A covering letter

In view of the interaction of the current suite of TAR CUSC Amendments and associated charging modifications, as described in your Guidance Note accompanying the consultations, Scottish Renewables would like to make some over-arching comments on each of the access reform models, to accompany our responses to each of the individual Amendments.

Firstly we would like to record our appreciation of the co-ordinated manner in which both CUSC, charging and related issues (such as zoning) have been developed and assessed. This has been invaluable and we would urge you to consider adopting this as common practice for future modifications.

Our remaining comments are on the two basic models of access reform proposed under CAPs 161 through to 165. Our comments on access allocation via an auction will follow in our CAP 166 response.

Connect and Manage

As you know Scottish Renewables has supported Connect and Manage as a model which we feel could bring significant benefits. We take issue with some of the impact assessments that has been undertaken, but do accept that *in extremis* there are some potentially undesirable consequences that could be avoided. In that vein we have submitted a request for an Alternative to CAP 164. We would note that this should not detract from the need for stronger incentives on the management of constraint costs.

Evolutionary Change

We are concerned that the Evolutionary Change proposals would not bring forward connections where this was cost effective, because of the low utility of the products to our membership. This is not a comment on the cost reflectivity or otherwise of the products, it is more a question of the predictability of costs and benefits, and the complexity of some of the proposals.

At the very least, introduction of the evolutionary change model would mean that to avail of the short-term access products, a good portion of our membership would need to: re-appraise their market entry strategy, re-finance their projects, consider implementing new trading operations, install new technical equipment and, if they are considering trading independently, navigate the Balancing and Settlement Code and familiarise themselves with trends in BSUoS and the likely future market for constraint services and costs. If there is a one-off, early opportunity to secure any "spare" capacity at a good price, these members will clearly be at a disadvantage.

Furthermore we are concerned that none of the Evolutionary Change proposals for short term access provide our members with any guarantees on access for the amount of time required to make a new project bankable.

We are also concerned that by targeting constraint costs on users of short term access, they are being unfairly exposed to costs over which they have little or no control. This is further exacerbated by the existing non-compliance of the Scotland-England boundary. We would look for some very firm reassurances on these points should these proposals be implemented.

If you would like to discuss any of these points, or any of those in our responses to the individual TAR modifications, please don't hesitate to contact me.

Yours sincerely

Jason Ormiston
Chief Executive
Scottish Renewables

31 October 2008

Patrick Hynes
UK Transmission Commercial
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Warwick
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sarah.a.hall@uk.ngrid.com

Dear Sarah

Working Group Consultation: CAP165

Scottish Renewables, the trade association for the Scottish renewables industry, welcomes the opportunity to respond to this consultation. Our comments are informed by renewables industry representation on Working Group 2 and from canvassing wider views from our membership. If you would like to discuss any aspect of this response, please don't hesitate to contact me.

Our response is structured as follows:

- General comments on finite access rights
- Comments on issues raised in the consultation.
- Views on the original and the Alternatives

General comments

Scottish Renewables supports the driving rationale for CAP 165, that is, to

- Provide the market with firm, reliable information on when existing power stations will close and release transmission capacity, thereby providing new users with reliable, and as early as possible, connection dates;
- Avoid unnecessary transmission system reinforcement which, had there been better information on future spare capacity, would not have been built;
- Avoid unncessary work by the TOs in having to assume that plant will remain on the system when this is in reality unlikely; and,
- Provide clarity on the circumstances under which a user must relinquish capacity.

During Working Group 2 discussions, a number of issues were raised with CAP 165 and specifically, some negative implications of the requirement to book a finite period of access. We understand these to comprise:

1. The barrier it presents to repowering projects which would, strictly speaking, need to queue for any marginal increases in access capacity required;
2. Existing generators may be inclined to over-book capacity as a precautionary measure;
3. Closure signals are only useful up to the planning horizon of National Grid and, possibly, other users; and,
4. The difficulties of predicting, to the year, when to relinquish rights.

Scottish Renewables has provided an initial response to the issues raised below, and would be happy to explore solutions through Working Group 2.

Repowering
Clearly, users would prefer to have some flexibility over marginal increments and decrements in capacity over time without needing to navigate a queue process and, potentially wait for 10 or more years to respond to market signals which, by then, may have altered.

Furthermore, repowering existing sites and stations may provide better value for the market and customers.

We would hope that the market benefits of repowering versus greenfield would be reflected through relative project economics and the planning system. Queue management tools and a new access regime should also reduce the number of speculative sites in the queue (if there is a queue; i.e. there would be no queue under a Connect and Manage regime).

That said, it may be worth exploring whether there should be some flexibility to allow increments or decrements in capacity which did not trigger the need to be treated as a completely new user.

Over-booking of capacity
Some Working Group members felt that the market could react to a CAP 165 regime by booking the maximum capacity that users might conceivably need. Where users could not predict for how long they might require capacity, they would over-book capacity just in case they needed it, and trade out the liability at a later date, if they did not need it. Therefore, the closure signals arising from CAP 165 may be no better than they are today.

Scottish Renewables agrees that this is a possible and undesirable outcome of CAP 165. We consider that careful and fair allocation of capacity to existing users is a critical aspect of CAP 165. Therefore we would question the present proposal that users should be "*free*" to nominate the number of years for which they would like capacity. Should there be a test, similar in intent to CAP 150 for pre-commissioning users, which matches bookings to the proven ability of parties to use the capacity?

Also related to the initial allocation is whether parties should be able to trade out of their liabilities. We have commented on trading of capacity later in this response.

Planning horizon
Some Working Group members suggested that closure signals are of diminishing value to the market the further out they are. Specifically, they thought that closure

signals which went further out than a certain period would not be material to National Grid's plans for new capacity (because National Grid's plans, which are very far ahead, are 'on the drawing board' rather than firm and committed plans).

Scottish Renewables accepts these points in principle, but would note that:

- Definition of National Grid's planning horizon is key;
- Other market participants benefiting from closure signals, including pre-commissioning users, may have longer planning horizons than National Grid; and,
- In any event, closure signals beyond firm planning horizons are useful for the 2020-type scenarios being considered by groups such as the Electricity Networks Strategy Group (ENSG)

Predicting closure

Some Working Group members were uncomfortable with commiting to a firm closure date, and would prefer to flex the date in response to market conditions and business plans. If any ability to flex closure dates is removed, this might compromise the ability to extend station life in response to the market and/ or to re-use existing sites and/ or equipment.

Scottish Renewables is certainly sympathetic to these concerns which many of our members share, especially in respect of plans for pre-commissioning sites. We do not see however an argument in favour of allowing existing users the ability to flex their closure dates whilst at the same time removing, through CAP 150, the ability of pre-commissioning users to flex their commissioning date.

We also consider earlier comments under (1) on repowering to be relevant here. We do think it is worth considering whether there should be some rule-based flexibility around the need to commit to a firm date for both commissioning and closure.

WGAA3

The concerns expressed under points (3) and (4) above lead to the proposal of WGAA 3. This proposes that users decide each year whether they wish to commit to stay on the system for the next four years, or whether they wish to relinquish their rights in three years time. In effect, it is evergreen rights, but with a three year notice period for closure.

Scottish Renewables considers that a three year notice period is a marginal improvement on the baseline situation for closure signals. Whilst sympathetic to the difficulties in commiting to a firm closure date, Scottish Renewables considers that WGAA3 is an insufficient response to the nature of the defect targeted by CAP 165.

We note that this option also appears to impose a minimum booking period of 4 years for existing users and so would not facilitate earlier release of capacity.

Evergreen transmission access rights

Scottish Renewables's views on evergreen transmission rights are in the context of a debate on the principles of an evergreen versus a finite regime. Our views are provided without prejudice to any legal argument on the matter.

Scottish Renewables as an organisation does not support the principle of evergreen rights and does not see any good reason why existing users should be granted *ad infinitum* rights to use the transmission system.

We note some of our members have planned their business on the basis of evergreen rights. Scottish Renewables would note that any transition needs to be fair and transparent.

Conceptually, TNUoS is an annual rent, and it would seem reasonable to secure an agreement which grants access over a defined number of years akin to a lease, and in return, be granted use of an asset which is maintained and, where necessary renewed, on your behalf. The alternative, paying up front for an asset for which you then own, is most akin to a deep charging regime. It is our understanding that there is no support for a deep charging regime and Scottish Renewables does not support a deep charging regime.

Evergreen rights for local works

As a necessary pre-requisite for wider access, Scottish Renewables would question the value of making wider rights finite if local works are evergreen. It would in effect render all existing rights – wider and local – evergreen.

The argument put forward in favour of local works being evergreen is that they were envisaged by some Working Group members as sole-user assets. Notwithstanding that the group has agreed that not all local works are sole-user, even if they were, surely a finite right to an asset which no-one else wants to use is, by default, an evergreen right?

User commitment

Given the difficulties in finding a solution to user commitment and the increasing complexity of the debate, Scottish Renewables would suggest that the final Working Group report is explicit on the levels of security, liability and 'at risk' assets for different classes of users for the different proposals on user commitment. It would be helpful if Working Group 2 approached this systematically and covered off Ofgem's and user's concerns.

Scottish Renewables respresents a very large community of new and pre-commissioning users. Our members accept that some form of user commitment is entirely appropriate. We supported a change to the final sums regime on the grounds of its volatility and, sometimes, size, which made it difficult for pre-commissioning users in managing their exposure. On that basis, a CAP 131-type commitment or fixed final sums should be an improvement.

CAP 131 was also structured to address concerns over speculative applications in the GB queue. It may be that other changes to the access regime address the GB queue, in which case we would question the value of a pre-trigger date commitment.

Scottish Renewables agrees with Ofgem that user commi tment should either be the same across different users or, if it is different, the difference should be justified. Scottish Renewables is also conscious of concerns expressed in the Working Group

that new generators could be securing assets that benefit other unsecuritised users – for instance demand customers. We would ask that this concern is addressed.

We would also comment that, regardless of the level of user commitment provided, we understand that there is also a Regulatory "needs" test which reinforcements need to satisfy, especially in the context of reinforcements triggered by multiple projects. When individual users are providing their user commitment, but their contingent reinforcements are still not being progressed, they would be entitled to understand why. We would therefore request some clarity on these issues.

Trading capacity

The CAP 165 consultation report states that "*A User that no longer had a requirement for booked transmission access rights might alternatively decide to trade such rights to another User, and this would be facilitated by the existing provisions of the CUSC."*

Scottish Renewables agrees that the *quid pro quo* for a liability to pay TNUoS for the fixed duration of a booking should be the ability to trade this liability. Scottish Renewables would question whether users should be free to trade access, at any price, when it has been given to them at the TNUoS price. Under these circumstances, it may be more appropriate for any trades to remain at a regulated price, on a first-come-first-served basis. We have not formed a strong opinion on this point but would like to raise it for discussion.

Non physical players

Scottish Renewables has no fundamental objections to the inclusion of non-physical players, and would note that pre-commissioning users already have many features of what might be considered to be non-physical players. We are not sure that it is as black and white as saying that non physical players are excluded at present, and would need to be explicity included.

Scottish Renewables would welcome market entry of parties who were less risk-averse than the current transmission owners in providing new capacity. This could be via the TO's themselves being incentivised to take more risk, and / or by the entry of new parties.

We would question whether the discussion on purely non physical players is appropriate to the Connection and Use of System Code, which is written for parties connecting to and using the transmission system. Any financial and / or trading arrangements which underpin this could arguably be set up elsewhere. The discussion in the context of the CUSC is perhaps whether non physical players may at some point need to become physical – for instance through network asset or power station asset ownership.

The Original and Alternatives

Scottish Renewables does not have a consensus view in support of one particular Alternative. Scottish Renewables notes that in so far as it is not in favour of evergreen rights, it does not support WGAA3.

We hope that you find the above helpful. Needless to say, if we can clarify any of the points made please do not hesitate to get in touch.

Yours sincerely

Jason Ormiston
Chief Executive
Scottish Renewables

Scottish and Southern Energy

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Our Reference:
Your Reference:

Date : 31 October 08

Dear Hêdd,

Working Group Consultation Documents for CAPs 161, 162, 163, 164 and 165

This response is sent on behalf of Keadby Generation Ltd.; SSE Energy Supply Ltd.; SSE Generation Ltd.; Medway Power Ltd.; Slough Energy Supplies Ltd.; Airtricity Ltd. and Airtricity Generation (UK) Ltd.

We welcome the opportunity to respond to these five CUSC Amendment Proposal Working Group Consultations. We have provided specific comments, via completed pro-forma, for each of the five consultation documents (see attached). In addition, we have some general comments which are applicable across the suite of five proposals (except where we indicate otherwise). These are set out in this letter which should be considered as a supplementary response to each of the five specific pro-forma responses.

General observations

Scottish and Southern Energy (SSE) has supported the Transmission Access Review (TAR) that was initiated by the UK Government and Ofgem last year. Throughout this process, we have argued that the key elements for a successful transmission access regime are clear, proportionate commitment from Users of the GB transmission system and cost-reflective, stable and predictable charges for

access and use of the transmission system. As a consequence, we have favoured the 'Connect and Manage' type of approach for new Users (akin to that proposed under CAP164).

It remains our view that 'Connect and Manage' should form the core of any transmission access regime. In exchange for a strong, but proportionate, User commitment from applicants, National Grid should be obliged to provide a firm connection date that is no later than four years after that User commitment. This would provide strong and meaningful investment signals for both new generation and network infrastructure.

In relation to the proposals for short term access products, in general we understand and support the principle that underlies CAPs 161, 162 and 163. These products would supplement those existing short term access products (STTEC, LDTEC, TTECE and TEC Trading). As was illustrated through discussions in the Working Groups, these existing products have been little used and this is an issue that should be address upfront in relation to these new short term access products. We note that, by providing access to the GB transmission system within operational timescales, the network capacity utilised through these access products will sit outwith the system planning assumptions. Given this, we expect these new short term access products, if implemented, to be largely used by existing Users, to 'top up' their firm access rights, rather than by new Users.

We strongly believe that the Working Group should give further consideration and undertake an assessment of the possible useage of these short term access products. This would allow a meaningful cost benefit analysis and impact assessment to be undertaken. It is important that the potential benefits are assessed before implementation costs are incurred (for example, investment in costly IT systems). In addition, more detailed reporting on this issue is required to aid our decisions as to whether or not these amendments better facilitate the CUSC objectives.

In relation to the proposal for new long term access products, we remain unconvinced that there is a meaningful defect to the CUSC that requires the major change to the transmission access regime proposed by CAP165. We note the limited time available to the industry to debate this issue (and support comments made in the Working Group and elsewhere on the impact of the short timescales on the quality of the report). However, based on the evidence presented to date, we continue to believe that existing Users have evergreen rights to use the transmission system so long as they comply with their contractual obligations. This, in our view, means that CAP165 (and CAP166) is not a valid proposal.

Not withstanding our comments above, we note in relation to CAP165 the debate over the duration of access rights has been very much focused, to date, on providing network investment signals. We believe that this approach does not give due regard to the potential impact on Users' decisions. In particular, we are mindful of the older plant currently on the system and the number of opted-out units. What would be the commercial decisions made by these Users if they were required to secure a future numbers of years of transmission access? In particular what would the detrimental impact be on security of supply if this Amendment was implemented? We believe this security of supply issue should be given urgent consideration by the Working Group and, as a consequence, we are submitting a Working Group Consultation Alternative Request (for CAP165 only) to that affect.

Comments applicable to CAPs 161, 162, 163, 164 and 165

Draft legal text has not been provided for these consultations. Without seeing the specific detail of what will actually appear in the CUSC we have been limited in our ability to provide full comments on these proposed changes to the CUSC. We look forward, in accordance with section 8.17.8 (d) of the CUSC, to the Working Groups completing the legal text and providing this in their Final Working Group reports issued to the CUSC Panel. We believe that Users should have the opportunity to comment on where this legal text is materially different to their understanding of the proposal (as set out in these consultations) and, if appropriate, further consultation(s) should be conducted before the CUSC Panel submit their reports to the Authority.

The Working Groups have still to complete all the items to be addressed as part of their **Terms of Reference**. Again, this lack of detail restricts our ability, at this stage, to provide a complete response to these consultations. In particular it limits our ability to assess each of these changes in terms of them better meeting the applicable CUSC objectives as the full details are not clear to the Working Group and, therefore, not clear to us.

Many of these proposals would 'lock-in' the current **TNUoS charging methodology**. We strongly believe that the current charging methodology is undermining Government policy by sending a signal not to invest in new generation in those areas with an abundance of natural renewable resource. Developing an access regime that has, at its core, this charging regime is clearly an issue given the extreme price signals of TNUoS at the margins of the system, and the volatility and unpredictability of the methodology. Not only would this reduce the value of the access product in large parts of the country, greater and prolonged exposure to TNUoS would increase risk and hence cost to Users. We believe the Working Groups should consider the potential impact of this approach on the decisions of Users with respect to the utilisation of these transmission access products.

We have concerns that the proposed changes are not conducive to facilitating the required **investment signals** for both generators and transmission system owners. For example, whilst it is inherently correct that the SO releases any spare capacity in the short term and therefore that CAP161 (SO Release) is a useful product, we do not see it providing the longer term certainty for generators or transmission system owners to invest in new capacity. Equally, if a User opted to gain access through short term products (feasible for low load factor plant in unconstrained zones), then this would move that User out of the system planning timescale.

"Spare" capacity is fundamentally driven by the longer term suite of incentives on transmission providers to invest in infrastructure and without proper consideration of how this is supported by additional new shorter term measures, there is significant potential for inefficient outcomes. Conversely, the intention behind CAP165 of removing the existing transmission access rights of generators (both new and existing) is a hugely damaging development as far as investor certainty is concerned and, at the very least, will increase industry costs by the necessary inclusion of additional risk premia in business plans.

The **treatment of negative zones** has still to be fully addressed by the Working Groups when considering the impact of these five proposals, rendering both the analysis and consideration

incomplete. We note that there is the potential for perverse outcomes, particularly in the use of short term products, in negative zones and this should be explored by the Working Group. We also note the evidence presented to the Working Groups that the cost of connection in negative zones can be substantial (for example, around London). It is clearly inappropriate to require no User commitment from Users in these areas requiring, in effect, Users in positive zones to underwrite and cross-subsidise the required network investment in negative (as well as positive) zones. We look forward to this being rectified in the Final Working Group Reports issued to the CUSC Panel.

We believe that it is important that the new transmission access products are both **easily tradable and available in sufficient volumes** to provide the required benefits for Users. If parties are expected to rely on the current (baseline) CUSC arrangements for trading (as per the CAP68/CAP142 arrangements) for the new products then, based on the history to date, this is highly unlikely to happen. We look forward to reviewing and commenting on the Working Group developments of the tradability elements of the five proposals.

Details are still lacking on how these changes will impact on / consider the implication for **distribution-connected generation Users**.

The proposed changes have not fully addressed what will happen at times of **network unavailability**. Notwithstanding our comments on our existing rights, under the proposed new regime transmission access rights will be sold. As such the purchaser will, correctly, expect to be fully compensated if and when those rights are withdrawn.

The proposed approach with the five amendments do not, at present, seem to permit Users the **right to appeal** to the Authority for a determination in the event of the GBSO taking actions, under any of the proposals, which are contrary to the requirements of the CUSC. For the avoidance of doubt, it should be made clear, with all five changes, that applications for these new access products should be treated as variations to connection agreement and that the associated disputes process will apply. Furthermore, where a User believes that the GBSO has not acted in accordance with the CUSC requirements that it can seek a determination from the Authority.

It is essential that **cost benefit analysis** is completed for all five proposals and that the associated 'Post Implementation Evaluation' criteria are set out. Where a cost benefit analysis has been completed then all the associated details should be published and this data should be used as the benchmark for a post implementation evaluation. In other words, if the cost benefit analysis concludes that 'x' MW of new generation will come forward as a result of CAPXXX being implemented the post implementation evaluation should determine if 'x' MW was achieved or not.

Discussions were held in the Working Groups as regards the **transmission access rights of existing Users**. For the avoidance of doubt, as both an existing User and a party with considerable 'new' capacity under development (for which we hold rights for transmission access via our signed contractual agreements with the GBSO) we believe we have contractual evergreen rights to use the GB transmission system so long as we continue to pay all the charges associated with our contractual obligations. Nothing in either this covering letter or the attached pro-forma should be taken as either an acceptance of, or support for, the unilateral removal/reallocation of these existing rights by us.

We note that the Working Groups are still considering what, exactly, the **definition of 'local' and 'wider'** actually means in terms of the legal wording in the CUSC. Whilst the consultation documents provide some helpful indications of what these might be, we cannot come to a conclusion on our view of these two key elements of the proposal until we have seen the actual definitions for them. We also note that this proposal to split the GB transmission system into local and wider elements is a fundamental change to the network arrangements and question whether it is appropriate to progress this as, essentially, a sub-requirement of this process.

A common theme of the proposed User commitment arrangements is that, from the Trigger Date, a new User will be required to make a **non-refundable financial commitment** to the GBSO. In positive charging zones this commitment might be substantial (raising issues for independent developers) and volatile (where it is linked to the prevailing tariff). Yet, the GBSO is not committed to provide anything in return. We believe that the Working Groups should give further consideration to the 'product' that is being purchased by the non-refundable financial commitment.

Non physical players (CAP165)

Discussions were held within the Working Groups on the possible involvement of **non physical players** with respect to these new access products (as recorded in section 4.6 of the CAP165 report). As the CUSC is currently constituted we do not believe it is permissible for non physical players to be involved in booking or holding transmission access rights. We look forward to the publication of the advice from DECC (formerly BERR) as outlined in paragraph 4.6.2 of the CAP165 report in due course.

We agree with the comments in the report that if non physical players were to be permitted to book/hold transmission access rights that this would be directly contrary to the wording and intention of CAP150. If the Authority were to reverse the CAP150 decision (only made in May of this year) by allowing for the involvement of non physical players in the CUSC this would, in addition to undermining CAP150, increase the regulatory uncertainty surrounding Authority decisions.

Those that support the involvement of non physical players might, *in extremis*, have a case if: (a) the cost of transmission access was "too high" due to monopoly rents being extracted; or (b) transmission access was unavailable due to shortage of resources. Unless we are very much mistaken neither of these apply for GB transmission access. With respect to (a) the GBSO and three TOs make a regulated rate of return which is subject to extensive oversight by the Authority so the overall cost of transmission access cannot, by any reasonable measure, be considered excessive (although the perverse machinations of the TNUoS charging methodology does adversely impact on Users in peripheral areas). With regard to (b) given the active involvement of the Authority in ensuring that the GBSO and three TOs have sufficient funds to provide the necessary transmission assets we cannot see how non physical players can 'magically' source additional transmission towers/wires etc., that cannot be sourced by the GBSO and TOs at a lower (regulated) cost.

Furthermore, those parties that advocate the involvement of non physical players need to recognise that such players are not charities. They will expect/require a very large risk premium to be paid by the physical party which eventually uses 'their' capacity in the future. It is to be expected that transmission capacity funded via a non physical player will cost a physical player far more than equivalent capacity either funded via that physical player themselves or by the GBSO and TOs. This higher cost will, in turn, have to be passed onto end consumers. Future complaints by physical players about the high prices sought by non physical players would need to be seen, by the Authority, in this light: risk-reward equals higher (unregulated) prices.

Finally, its worth noting that, given the current situation within the global financial community, its by no means certain that any non physical players would come forward in the near term to actually fund, via their booking/holding, transmission access capacity over the timeframe required to trigger the building of incremental capacity. In view of this, coupled with the legal inability for non physical players to be party to the CUSC, it seems appropriate that this aspect of the long term arrangements is not pursued further at this time. If, at a future date, the involvement of non physical players is resurrected then we look forward to commenting on the draft primary legislation, and associated changes to market arrangements that would flow from it, at that time.

CAP164 Working Group Consultation Request

We would like to advise you that we understand that the Scottish Renewables Forum wish to raise a Working Group Consultation Request for CAP164 (Connect & Manage). As noted in the minutes[1] of the CUSC Panel meeting on 1st May 2008 SSE stepped forward to enable the SRF to be represented on the CUSC TAR Working Groups. Its in this light that we have offered to 'sponsor' the SRF CAP164 Working Group Consultation Request; otherwise it could not be raised and considered by the Working Group. Our 'sponsorship' should not be taken as reflecting our views on this request from the SRF. We, like other CUSC Parties, will comment in due course on this request if it proceeds to becoming a Working Group Amendment Alternative.

I hope these comments and those in the attached pro-forma are useful to the Working Groups in taking forward the further development of these five proposals, and we look forward to the opportunity to provide further comments once the details of the proposed access products have been established.

Yours sincerely,

Garth Graham
Electricity Market Development Manager
Energy Strategy

[1] 1525. The Panel agreed that they were comfortable that it appeared on paper that SSE had two members of Working Groups 1 (CAP161-164) and 2 (CAP165-166) as one of the nominations was actually on behalf of the Scottish Renewable Forum (SRF) and had no contractual relationship with SSE (who had stepped forward to provide a CUSC party to enable the SRF to be nominated to the Working Groups) .

CUSC WORKING GROUP CONSULTATION – RESPONSE PROFORMA

CAP165 [Finite Long-term Entry Rights]

CUSC parties are invited to respond to this consultation, expressing their views [and in respect of the specific questions detailed below]. Parties are invited to supply the rationale for their responses.

Please send your responses by ###### to ####. Please note that any responses received after the deadline may not receive due consideration by the Working Group.

Any queries on the content of the consultation should be addressed to ######.

These responses will be considered by the Working Group and will record the conclusion they reach on your request; as well as showing their discussions of your requests and the conclusion they reach on your request. If appropriate the group will amend their report accordingly and will record your response in the Working Group Report.

Respondent:	*Garth Graham, Market Development Manager* *garth.graham@scottish-southern.co.uk*
Company Name:	Scottish & Southern Energy
Please express your views including rational with regard to the Working Group Consultation? **Including any issues, suggestions or queries**	In addition to our general comments (see covering letter) we note that work on this Amendment proposal by the Working Group is still 'work-in-progress' and therefore our comments on this consultation maybe enhanced/altered in due course as the group completes its work on the Legal Text, its Terms of Reference and associated issues. We note the discussions that were held in the Working Groups as regards the transmission access rights of existing Users. For the avoidance of doubt, as both an existing User and a party with considerable 'new' capacity under development (for which we hold rights for transmission access via our signed contractual agreements with the GBSO) we believe we have contractual evergreen rights to use the GB transmission system so long as we continue to pay all the charges associated with our contractual obligations. Nothing in

	either our covering letter or this pro-forma should be taken as either an acceptance of, or support for, the unilateral removal/reallocation of these existing rights by us. Notwithstanding this, we are prepared, for the purposes of responding to this consultation document to follow the example of the Working Group and "accepted the suggestion of the Chair that, without prejudice to those rights, in order to proceed with the work of developing and assessing CAP165 [that we] …. set aside [our]… views of existing transmission access rights". It is in this light that we wish to raise a Working Group Consultation Request (see below).
Do you believe that the proposed original or any of the alternatives better facilitate the CUSC applicable objectives, please state your reasoning?	Based on the information available to date we believe that CAP165 Original does not better facilitate meeting the applicable CUSC objectives (when compared with the baseline). It is detrimental to both of the Applicable CUSC Objectives; (a) by virtue of its damage to security of supply and (b) by virtue of reducing effective competition. With regard to the proposed Working Group Alternative Amendment 1 (sketched out in section 6 of the consultation document) we are mindful that the original proposal was based on a zonal, rather than a nodal, centred product. We therefore believe that WGAA1 does not better facilitate meeting the applicable CUSC objectives (when compared with the baseline or with the original). With regard to the proposed Working Group Alternative Amendment 2 (outlined in section 6 of the consultation document) we believe that this, when compared with the original proposal, has merit in terms of enhancing competition. We therefore believe that whilst WGAA2 does not (when compared with the baseline) better facilitate meeting the applicable CUSC objectives it does better facilitate meeting the applicable CUSC objectives when compared with the original. With regard to the proposed Working Group Alternative Amendment 3 (detailed in section 6 of the consultation document) we believe that this, when compared with the original proposal, has considerable merit in terms of enhancing competition and security of supply. We therefore believe that WGAA3 does better facilitate meeting the applicable CUSC objectives (when compared with the baseline or with the original).

Do you support the proposed implementation, if no please state why and provide an alternative suggestion were possible?	Implementation on 1st April 2010 is a reasonable aspiration on the assumption that the Authority makes a decision on this Amendment proposal by 30th September 2009. Notwithstanding our comments above concerning our acceptance (if CAP165 is approved by the Authority) of an implemented from 1st April 2010 we would be concerned by any suggestion of approval for expenditure (incurred by National Grid) being granted prior to the Authority approval of the CAP165 change. We believe such approval for expenditure, if given, would be tantamount to fettering the Authority's discretion on CAP165. It is neither efficient nor economic, either for National Grid or CUSC Parties, for resources to be utilised and costs incurred to further develop an Amendment; over and above what is in the Final Amendment Report issued by the Panel to the Authority; prior to a decision being made on that Amendment by the Authority. Furthermore, we do not believe there is the vires, under the CUSC, for such a step to be taken. If, despite our comments on this, work were to proceed in this way then we would expect to be able to charge National Grid monthly a reasonable fee (using the NGC fee structure/costs set out in Schedule 3 of the Statement of Use of System Charges) along with all associated expenses for all our time, effort, travel etc., on this area of work.

Any other comments?	**[Formatting prevents us including all our comments to the Question in the space provided. We therefore include them here for completeness.]** **Q1 Views on whether it is appropriate for generators' existing transmission access rights to be changed by a CUSC amendment.** No. CUSC Parties have entered into a binding Bilateral Connection Agreement with the GBSO. This confers rights and responsibilities on both parties to that agreement. The unilateral removal of a property right (which is what the TEC transmission access rights are) without full compensation is, we believe, illegal. In addition it is hugely damaging to investor confidence. Generators, having signed their BCA etc., commit many hundreds of millions of pounds investment in their new power plant. It should be noted that this financial commitment, vis a vis the power station, dwarfs the financial commitment (underwritten in no small part by the generator) made by the GBSO. Over the next ten years or so it has been suggested that circa £100Bn of investment will be needed in new power station assets. If, as is suggested with CAP165 (and 166) the transmission access rights of generators can, unilaterally, be removed (via a CUSC change) and reallocated via another means then there is nothing (in either the CUSC, Licence or Act) that prevents this happening in the future. History has taught us; with, for example, the way the transmission access rights work within the GB gas market; that once this area is opened up for change it will be subject to 'tinkering' for many years to come. Such 'tinkering' causes increased uncertainty for investors leading to (i) reduced investment and (ii) increased risk premiums being applied to those investments that are made.

	Q9 Views on the proposed implementation dates, and whether such dates should be fixed or open-ended. We believe that the implementation date should be fixed. In coming to this view we have been mindful of the Judge's comments in his ruling on the recent (BSC) Transmission Losses Modifications judicial review (which centred on implementation dates and the Authority decision date) at paragraph 83 of his judgement:- "The justification for a Proposed Modification put forward by the Panel might be dependent upon a very time sensitive analysis of costs and benefits, and the Panel timetable for implementation might accordingly be tailored to that time sensitive analysis. If for any reason there were then a long delay before the Authority could take a final decision, a question might arise whether the Authority was in substance and reality considering the same modification as had been submitted by the Panel, or was considering an altogether different modification, putatively predicated on a cost benefit analysis that the Panel did not, and could not have, evaluated. In such circumstances a power to remit the matter to the Panel for complete reconsideration, rather than a power in the Authority to change the timetable for implementation of what had in substance become by lapse of time a different modification, might better preserve the institutional balance between the Panel and the Authority and better serve the objectives of the BSC." In addition to the Judge's comments we have also been mindful of the Authority's comments with regard to (BSC) P93 ("Introduction of Process for Amendment of Proposed Modification Implementation Dates") in its Decision Letter of 21st November 2002. "……prior to the Modification Report being issued to the Authority, Ofgem has the ability at various points in the process to direct the alteration of proposed Implementation Dates. Consequently, under normal circumstances, the proposed Implementation Dates for Proposed Modifications that have a dependency on external factors (such as system updates) should be set so that the Authority will be in a position to make a determination in time for Parties to effect appropriate changes to their systems. The rationale behind submitting an Implementation Date is to provide certainty to Parties as to when a

	change to the Code will take effect. Ofgem considers that the addition of yet another mechanism to alter Implementation Dates would introduce unnecessary regulatory uncertainty to the market with no corresponding gains in efficiency. This would not better facilitate achievement of the Applicable BSC Objectives in that it would not promote efficiency in the implementation and administration of the balancing and settlement arrangements." Whilst related specifically to the BSC we believe these comments are directly relevant to the CUSC as well. For example, with its involvement in the CUSC TAR Working Groups "Ofgem has the ability at various points in the process to direct the alteration of proposed Implementation Dates". Taking these comments on board and being mindful of the need for date certainty (i) for system changes (not just by National Grid but also CUSC Parties as well) and (potentially) (ii) cost benefit analysis (including, if appropriate, carbon savings etc.) there is, we believe, a good case for a specific implementation date to be set (linked to a 'decide-by-date' by the Authority). We therefore conclude that the dates set out in paragraph 7.2 of the consultation document are appropriate.
Do you wish to raise a WG Consultation Request for the Working Group to consider?	*YES* **See our completed WG Consultation Request form.**

Specific questions for CAP165

Q	Question	Rationale
1.	**Views on whether it is appropriate for generators' existing transmission access rights to be changed by a CUSC amendment.**	[due to lack of space here see our comments in "Any Comments" above.]
2.	**The Working Group requests views on whether the appropriate level of security for post-comissioning users should be zero or based on one year's worth of TNUoS.**	Neither. It should, at most, be based on the remaining balance of the current year's TNUoS.
3.	**Views as to whether, if the appropriate level of security was based on one year's worth of TNUoS, the security requirement should be:-**	N/A
4.	**(a) the remaining balance the current year's TNUoS;**	Yes.
5.	**(b) one rolling year's worth of TNUoS; or**	No.
6.	**(c) six months' worth of TNUoS.**	No.
7.	**Views on whether LCN should be a finite or an evergreen right.**	The LCN should be an evergreen right. This aligns with the existing evergreen nature of the current transmission access rights.
8.	**Views on whether it would be more appropriate to include the user commitment amounts in the arrangements for local connections rather than in those for wider transmission access rights.**	The User Commitment should reflect a fair proportion of the cost that a User will place upon the GBSO in seeking transmission access.
9.	**Views on the proposed implementation dates, and whether such dates should be fixed or open-ended.**	[due to lack of space here see our comments in "Any Comments" above.]

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Dear Sarah

CAP 165 Transmission Access – Finite Long-term Rights

Welsh Power welcomes the opportunity to comment on this CUSC modification proposal. As the owners of an existing coal fired plant, Uskmouth Power, and the developers of a new CCGT power station, Severn Power, Welsh Power believes that transmission access is vital to securing the GB electricity market in both the short and longer term. Of all of the modifications currently out for consultation in this area, we feel that this is the one that offers the best balance between commitment on the side of the generators and risk management by the Transmission Owner (TO).

For the record, Welsh Power would like to state that we believe that we currently have rights of access to the transmission system that are ours, subject to the payment of the associated charges, until such time as we chose to hand those rights back to NGC. In the case of our new development, Severn, we believe that our construction and connection agreement is very clear in that we are underwriting the costs of securing a new connection and access to the transmission system, again on the basis of a long term firm right. We do not think Ofgem has made a robust case that these rights were not firm right and could at any time be removed from us.

The main thrust of this modification does maintain the rights that existing generators have, but encourages them to hand back rights giving longer term signals that they will no longer be needing their capacity. The idea being to get TO in a position where it could make capacity for new entrants available quicker as they know that 4 years in advance a generator is coming off the system. If a generator chooses to come off earlier it will have to pay charges – it is liable for the charges associated with the capacity that it has booked – thus giving a firm financial commitment to the TO. Welsh Power is generally supportive of the aims of the modification, though we note that it does not overcome the fundamental problem with transmission access, that the TO is simply not delivering capacity in a timely manner.

Welsh Power does not feel that given the number of consultations currently open, participants have been given long enough to meaningfully asses the modifications. The larger players may have teams of staff who can be dedicated to this work, but for smaller players such as Welsh Power the resources are simply not there. Given Ofgem has said that they have concerns that the modification processes create a barrier to entry for small players, we are surprised that Ofgem did not support giving players a longer time to consider these modifications.

Furthermore we do not think that the modification has all of the details worked up to allow us to fully consider alternatives that could be raised. For example the treatment of security for local works has not been fully considered. There is also no fully worked up definition of the local boundary for LNC. The way that zones for charging could be defined is another area of incomplete work. Ofgem may want to achieve quick changes, but we do not believe that it will help anyone if modifications are not fully developed before going to the industry for consultation and ultimately Ofgem for decision.

Original modification

As the original modification was based on zonal rights, which analysis subsequently showed did not actually work, as the transmission rights were not very interchangeable on a zonal basis, this modification is effectively defunct. We will not therefore comment on it.

Alternative 1 - WGAA1

As we understand it, long term rights are defined as a number of whole years (financial) nominated by the generator. The generator is liable to pay the charges associated with these rights (i.e. you book 10 years you are liable for 10 years of charges) and generators can apply at any time to extend their rights. This process is fine, but the generator needs to know how long out he needs to book capacity within a given area, such as to maintain his rights. For example if a generator is in a zone where work for new connections must start 6 years in advance, he would want to maintain a booking 6 years out to ensure that he did not lose any rights. If he is in a zone with spare capacity he may only need to hold one year.

For new plants booking say 10 years is not a problem, but for older plant, notably coal, there are too many other factors at play in deciding for how long to run a plant, many of which they have no control over. For example, the proposed amendments to the LCPD would see all coal plants close in 2016. We could book capacity beyond this point, but would have to feed the financial exposure into power prices. We believe that the costs to the UK consumer are likely to be lower if the potential “unused wider access” is simply smeared through the transmission charges. It is therefore vital that the generator knows how far out he must book to avoid having a stranded asset, but he can limit his financial exposure as much as possible.

New generators book a set number of years, but must put up security to get those rights (paying about 50% of the costs). This change would be in the form on a non-refundable termination charge based on a generic methodology – a multiple (8) of the relevant TNUoS tariff. As the generator is also paying for local access rights Welsh Power would like to see NGC provide an assessment of how much security a range of current connection charges would have to put up under both the current *user commitment and final sums) and the new methodologies. Without this analysis there can be little informed discussion about whether the proposal over comes the barriers to entry for new entrants posed by the significant costs of access that already exist.

We would also believe, but could not prove, that NGC will still end up holding security for significant multiples of the actual costs of the “wider” works in some regions, tying up credit with NGC at a time that the industry can least afford it. Again we would like to see some analysis on the changes in the level of credit held by NGC for wider works under this proposal.

As we do not know what the impact on existing pre-commissioning generators would be (an indication that the modification was not developed enough prior to consultation), but they have secured financing based on the current methodology, we would propose an alternative modification that allows existing pre-commissioning generators to stay with their current methodology, making their commitment to future years at the point of commissioning. If the change in methodology significantly increased the costs to a pre-commissioning generator we are concerned that in the current financial markets they may not be able to secure the additional credit required. We note that the larger players, with significant credit ratings, do have face the same financing issues than small independent players, whose interests need protecting at this very difficult time.

For new projects, with connection dates significantly in the future, we feel that they should not be required to put up more than £1/kW up to the point where commencement is only 2 years off. While there is a cap of £3/kW, that money could potentially be required years ahead of any work starting, due to the length of the queues. While we understand that Ofgem want to see the number of speculative connections removed, we do not feel it is appropriate to tie up money for extremely long periods. Again we propose this as an alternative modification.

Welsh Power do not feel that the TO should keep all of the security if projects are pulled and they have spent no money. We continue to believe that the final sums methodology, which gives back money not spent, is equitable and economically efficient. Post the trigger date the cancellation amount should be scaled back if the money spent is say 50% less than secured. The money kept should be no more than 20% above what is spent. We believe that this strikes a better balance between under recovery and over recovery.

Welsh Power is also extremely concerned that by being linked to TNUoS, rising by 25% per year up to the final year where 100% of the 8xTNUoS is secured, the new security arrangements could potentially be very volatile. As the methodology uses the current TNUoS, a new generator could find this charge altering considerably over their construction depending on the zone they are in or even changes to the zones. Under today’s regime the liability is fixed at the time you sign a construction agreement. We do not believe that this is a manageable risk to new generators, especially smaller independent companies. We therefore believe there should be the option to fix the charges at the time of the agreement, as we would expect to do with all other parts of our construction programme.

Welsh Power recognises that the fixing of charges would then mean pre and post commissioning generation is treated differently, but we do not believe it is unduly discriminatory as the pre-commissioning plant needs to finance its build, while a post commissioning plant can alter its output charges to reflect changes in TNUoS. Ofgem must recognise that pre and post commissioning businesses are fundamentally different, notably in financing terms.

Welsh Power feels that the link to TNUoS may be discriminatory in that two generators requiring exactly the same works could face markedly different cancellation amounts because they happen to be in different zones. They may have even started their projects in the same zones. Given these are charges from a regulated monopoly, arising from a product that the user cannot hedge the risk from, this seems to be incompatible with NGC's licence condition to promote competition between generators.

For post commissioning generators we do not believe that the risk of the TO not getting paid is extremely limited (as history shows). There is no reason to believe that it will not be the same going forward. We believe that 6 months of TNUoS as security is more than sufficient and in reality will mean NGC carries significant credit cover for tiny risk, which appear to be on the whole inefficient in broader macro-economic sense. We would further note that BSC rules also leads to the industry carrying way too much credit cover compared to the value at risk, and Ofgem should be concerned that credit cover is becoming a significant barrier to entry.

The long term rights in the alternative modifications are nodal, but in this alternate only relate to wider system rights. Each generator would still have local access rights, which they would have to also book and pay for. As we understand it, the "wider" rights are actually rights to the boundaries past the next MITS substation from the plant. The local connection could actually therefore still involve under writing some fairly deep costs and would still be based on some form of commitment to cover at least 50% of the costs of those assets. We do not feel that the group has had enough time to fully work up a model of "wider" access for us to be able to undertake a meaningful assessment of their impact.

It is unclear to us how the LNC and TAC interact with any trading allowed under CUSC either now or in the future. Is it the case that wider TAC can always be traded on a one to one basis with other players within a region? Will be told how many parties are in each region? Will there be a definition of the wider works boundaries? We note the work of the group on different exchange rates, but do not feel that the analysis is sufficient for us to make informed comments at this stage. Ideally we would all want a system that frees up the maximum capacity, but there is a balance to be struck between flexibility and stability. Looking to the gas market we do not feel that the transfer and trade system has necessarily resulted in the most efficient outcome, but has instead put off required investment to better facilitate trading gas rather than capacity. Whichever route is chosen it is vital that the governance sits under the CUSC so if the methodology does not work it can easily change by the industry rather than as the result of a bi-lateral discussion between NGC and Ofgem.

In terms of the LNC, Welsh Power would prefer to see a shallower connection boundary for the LNC rights. We believe that they should be evergreen as the generator is not only underwriting much of the costs, so is effectively paying for the assets, but is also undertaking significant investment on his own site that is only of value with the connection. He should therefore be given the right to use those assets for the long term. We would expect the application fees for the connections to reduce with shallower connections and limited issues associated with sharing. As discussed above we do not like the idea of linking any of the security for new generators to the TNUoS regime, so would favour some form of final sums for LNC.

Please note that this alternate is simply not developed enough for us to gauge what the impact would be for the sites that we are currently developing or may look to develop in the future. This has created significant regulatory uncertainty and we do not feel in a position to offer many meaningful alternatives at this stage.

For the transition regime it would be worth considering a set of simple rules. For example you will be assumed to want 8 years of LNC and TAC unless you notify us otherwise. It is not clear to us how the notification of a downward revision of time would work for LNC and assume that this is an area that the group will give consideration to. In particular we would note that a reduction in LNC may have no impact on available capacity, so a liability seems unnecessary. Also if modifications allowing over run are also signed off it would be reasonable to allow for the LNC to stay and a plant to overrun.

We believe that informal consultations are required, if not formal ones, on a number of facets of the proposed modification, such as on transition arrangements and the generation zoning methodology. On the zones, we believe the issues of stability and liquidity are vital to facilitating long term development of the network and encouraging best use of available transmission capacity. We believe that the CUSC gives parties the right to be fully consulted on modifications and to be in a position to propose alternates. As this modification stands that is not currently possible.

Welsh Power proposes two alternates to WGAA1:

WP Alternate 1 - The transition should allow the generator to choose to stay on their current methodology, where connection offers are more than 3 years out from the trigger date no financial commitment should be given and the cancellation amount can be no more than 20% of the money actually spent by the TO.

WP Alternate 2 - The same as WP Alternate 1, but rather than a floating charge against TNUoS, the generator has the option of locking in their profile of charges at the signature date or trigger date. As NGC is trying to calculate the number of years to give a charge of half of the investment cost it seems reasonable to lock in charges at the time of signature, or the trigger date. As we are talking about “wider works” it is still probable that NGC has a variety of users covering half of the costs, so it can still carry multiples of the cost in the form of credit for the same works.

WGAA2

Welsh Power believes that WAGG2 offers the best option for improving the longer term access arrangements. It has the significant advantage of being based on the actual cost of the connection, both for local and wider works. By fixing the costs at the time of signature the PCL offers the user a firm and manageable development cost. The user faces termination charges that match what the TO has spent, so is not facing any unforeseen costs. As there is no link to TNUoS charges, the generator faces far greater stability and it will be easier to find financing for smaller players.

Welsh Power realises that Ofgem would have concerns about the TO under recovering in the event of rising costs under this methodology. However, as we can book a fixed price power station we are surprised that we cannot book a fixed price connection. Ofgem must ask itself why NGC is not capable of offering the same fix prices as other providers. We also believe that while the TO may under recover on some connections (only where a generator pulls out) this is likely to be balanced by an over recovery on connections that could come in under budget.

Welsh Power is comfortable that the pre and post commissioning generators are treated differently as they are fundamentally different companies. One is a development company, with a large financing requirement and a desire to pin costs down until it can start to earn revenue. The other is an ongoing concern that ever with a change of owners is likely to go on producing power to make money. It matters far less to an operational plant that it can fix some of these costs as its competitors will be seeing the same price changes (coal or gas prices rise for all) and can adapt its output price accordingly. For smaller developers there is a need to keep as much o the financing based on fixed costs as possible.

If Ofgem and the Government wish to encourage significant new build and new entrants, this alternative offers the best chance of achieving that.

WGAA3

This has a 4 year rolling commitment for post commissioning generators, which we believe is an appropriate commitment given the lack of certainty facing generators at this time. It offers NGC a good background against which to plan system investment and also gives generators greater certainty than WGAA1 that it does not need to take on years of commitment to ensure its access rights. It is therefore a good balance.

In terms of pre-commissioning generators, we believe that the levels of commitment again represent a reasonable level of security against the risks faced by the TO. Our only concern is that none of the money is refundable in the event that the generator pulls out. As TOs are low risk, regulated monopolies who should not be allowed to make money out of companies without providing services, we feel uncomfortable that NGC may choose not to invest in a timely manner and cause a generator to pull out and they get to keep the money. The risks and rewards for the generator are so much more significant for NGC, who carry limited risks of stranded assets, and the knowledge that they will get their rate of return if they have made investments in an efficient manner. Ofgem must be mindful that NGC currently has the right to simply not deliver new capacity on time and pay no compensation to generators.

Welsh Power believes that Ofgem may have concerns that the limit to the liability only arising in the 4 years up to the point of connection will not stop speculative connections in zones where the queue goes out beyond 4 years. While we do not like anyone giving money to the TO when they are undertaking no work we believe an alternative would be possible.

Welsh Power Alternative 3 – is the same as WGAA3, but the user would also pay a one off, non refundable booking fee of say £10,000 (the amount to be considered by the working group). This amount would then be treated as security already lodged at the time that the first year of security becomes due, so the overall costs do not increase under the modification as a whole. The initial charge should be set to deter speculative connections, but not to add significant amounts to the process of development. For smaller users we believe a sum in the region of £10,000 would be sufficient to deter significant speculation.

In return for the upfront commitment, if the generator then withdraws the TO can keep the money spent, plus say 20% up to the limit of the security lodged. This means that where the TO's slow delivery may have caused a project to no longer be viable they cannot keep all of the security they have not spent.

The ability to still keep more than they have spent should balance this risks across the market as a whole, with those projects where the spend is more and those where they spend less balancing out.

Welsh Power Alternate 4 – is the same as WGAA3, but if the TO delivers late it must pay the user compensation of £1/kW for the first 6 months, then £2/kw for the next 6 months, then £3/kW, etc… This compensation would make us more comfortable with the non refundable nature of the generators commitment by keeping the pressure on NGC to deliver on time.

As a general point we do believe that any modification that requires the TO to fix charges is likely to lead to them trying to inflate charges. That is why we have supported fixing charges against a set methodology rather than a TO forecast of costs. That said, we would rather have charges based on a fixed forecast than a floating methodology.

Conclusions

Both WGAA2 and WGAA3 benefit from being simpler for the user than the separation of TAC and LNC, with one simple booking being required. This will make it easier for new entrants to understand the regime. Both were raised by group members who operate on the generation side and their simplicity underlies the wider belief that the market does not want something overly complex. Access to the transmission network should not become the biggest issue in the development of a new power station. To a degree the need for it to be correct in covering risk and securing credit, etc should be seen as secondary compared to having arrangements that give the customer what they want at a reasonable price and in a reasonable timeframe.

If you would like to discuss any of the points raised please contact myself or Lisa Waters on 020 8286 8677.

Yours sincerely

Rebecca Williams
Head of Trading

30 October 2008

Sarah Hall
National Grid Electricity Transmission Plc
UK Transmission Commercial
NGT House
Warwick Technology Park
Gallows Hill, Warwick
CV34 6DA

Dear Sarah,

CUSC Amendment Proposal CAP165: Working Group Consultation Document

Wind Energy is pleased to submit this response to the above consultation document on Connection and Use of System Code ("CUSC") Amendment Proposal ("CAP") 165: Transmission Access – Finite Long-Term Entry Rights. We are writing on behalf of six group companies with wind power projects under development across Scotland with a combined capacity of some 600MW. The principal shareholder in the Wind Energy companies is AES Corp, one of the world's leading independent power producers.

Our responses to the specific questions raised in the Working Group consultation are as follows:

Q: *Is it appropriate for generators' existing transmission access rights to be changed by a CUSC amendment?*

A: We consider that it is not appropriate for existing transmission access rights to be changed by a CUSC amendment if the result materially disadvantages the generators in question. For example, if an existing generator was to have its ability to access the grid removed and potentially re-allocated through a tender process, as is contemplated in CAP166, not only would this materially disadvantage the generator in question but it would also damage investor confidence in the UK as a whole, raising the spectre of regulatory risk as a serious consideration. We would draw a distinction here between removal of rights and a change in the nature of rights – for example by changing notice periods for cancellation – which we consider to be a permissible change.

Q: *Should the appropriate level of security for post-commissioning users be zero or based on one year's worth of TNUoS.*

A: We would not be averse to a requirement for a lengthened level of obligation for post-commissioning users but we would be highly averse to any requirement for security which creates increased cost for generators. This in turn would increase prices for consumers without commensurate benefits. Generation companies owning plant have valuable assets and even an unsecured obligation to NGET has value – additional security is not needed.

Q; *If the appropriate level of security was based on one year's worth of TNUoS, should the security requirements be:*

a) *the remaining balance of the current year's TNUoS;*
b) *one rolling year's worth of TNUoS; or*
c) *six months'worth of TNUoS.*

A: We would favour one rolling year of TNUoS as an unsecured contractual obligation of a generator prior to giving notice of termination of TEC.

Q: Should LCN be a finite or evergreen right?

A: We see no appreciable negative on making them finite although the duration of the rights needs to match the commercial requirements of the generator. In the case of a wind generator the underlying planning consent is usually for a 25 year period and thus the parties should not be materially disadvantaged by having a similar period for the LCN. We note the comments made by conventional generators through the Working Group in relation to plant which might have a much longer operational life and any finite rights would need to correctly reflect the commercial imperatives here.

Q: Would it be more appropriate to include the user commitment amounts in the arrangements for local connections rather than in those for wider transmission access rights?

A: There is a greater argument for a longer user commitment period in respect of sole user or limited user assets than for wider transmission access rights. However we would point out that a generator will have invested a considerable sum in a generating station and once connected, is unlikely to cease production in a short period unless the plant is using a novel technology type, potentially unproven. It is only older generation plant using conventional technology (renewable or otherwise) that is at risk of closure in a normal market. The Working Group may therefore give thought to requirements for greater user commitment later in the life of operating plant rather than throughout its life.

Q: Views on the proposed implementation dates and whether those should be fixed or open-ended.

A: We have no views on this issue.

Aside from the specific questions raised in the Working Group report we would also like to make one other observation. This amendment proposal suggests that pre-commissioning generators should make substantial user commitments along the lines of those suggested in CAP131 in terms of multiple TNUoS sums. It would appear to us that the Working Group should be mindful of the comments made by Ofgem in its response to CAP131 in relation to potential discrimination in favour of incumbents arising from this.

We hope that these comments are useful and would be happy to discuss them further if it would prove useful.

Yours sincerely

Michael Davies
Managing Director

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ANNEX 2 – WG CONSULTATION REQUESTS

This annex contains the Working Group consultation requests. The following table provides an overview of these requests.

Reference	Company	Details of the proposal	Working Group Comments
CAP165-WGCR-01	SSE	Under this consultation request new Users would be required to make a firm commitment to pay for four years fixed TNUoS charges. Users would then have an enduring right as long as TNUoS payments were maintained. A User would also be required to give a minimum of fifteen months notice to reduce TEC.	The group agreed the proposal could make a sensible alternative and put it forward to the Working Group vote as WGCR1. The majority of the Working Group believed WGCR1 was better than the baseline or the original so this proposal is included as one of the formal Working Group Alternative Amendments (WGAA4).
CAP165-WGCR-02	First Hydro	First Hydro's Consultation request has pre-comissioning user commitment based on WGAA2 the key development is that the percentage of the liability which the User is required to secure reduces as the User approaches commissioning. This alternative takes into account the view that a generation project becomes less risky as it approaches commissioning. The post commissioning commitment is base on an 8 year rolling commitment.	The group agreed the proposal could make a sensible alternative and put it forward to the Working Group vote as WGCR2. Half the Working Group believed WGCR2 was better than the baseline or the original and the Chair agreed the proposal should be included as one of the formal Working Group Alternative Amendments (WGAA5).
CAP165-WGCR-03	Centrica	The key feature of this request is that the post-commissioning notice period for relinquishing long term rights is two years. The pre-commissioning user commitment is based on the WGAA3 pre-comissioning user commitment.	The proposal went forward to the Working Group vote as WGCR3. Half the Working Group believed WGCR3 was better than the baseline or the original and the Chair agreed the proposal should be included as one of the formal Working Group Alternative Amendments (WGAA6).
CAP165-WGCR-A	Centrica	The key feature of this request is that the post-commissioning notice period	The group agreed not to take this proposal forward.

		for relinquishing long term rights is two years. The pre-commissioning user commitment is based on the WGAA1 pre-comissioning user commitment.	
CAP165-WGCR-04	Welsh Power	Welsh Power's first request has three key components: • At transition Users have the option to stay on their current User commitment methodology. • No financial commitment should be given more than 3 years out from the trigger date • The cancellation amount can only be a maximum of 20% above National Grid's costs	The three components were reviewed separately • The group applied the transition option to all the WGAAs. • User commitment time limit Included in the vote as WGCR4. • The group reviewed the cancellation amount proposal but did not take it forward
CAP165-WGCR-B	Welsh Power	The key principle of Welsh Power's second request is that the generator has the option of locking in their profile of pre-comissioning commitments when the sign their connection agreement.	The group agreed that this feature would be advantageous and could be included in the current proposals so no alternative was required.
CAP165-WGCR-05	Welsh Power	Welsh Power's request 3 is based on WGAA3 but the pre comissioning user would also pay a one off, non-refundable booking fee.	The group agreed an alternative with a time limit on the user commitment amount should go forward as WGCR5 and was finally developed as WGAA7
CAP165-WGCR-C	Welsh Power	Welsh Power's request 4 is based on WGAA3, the key difference is that if the transmission infrastructure is delivered late the compensation should be given to the generator.	The Working Group decided not to take this proposal forward as part of this amendment.
CAP165-WGCR-06	Fairwind Orkney Ltd.	This Alternative seeks to address the perceived barrier to entry to new users which is due to high demands for securities.	The majority of the Working Group did not consider the proposal was better than the baseline or the original.

CUSC WG CONSULTATION REQUEST FORM

Please send your completed form along with your completed Working Group Consultation Response to ###### by ####.

Please note that any responses received after the deadline may not receive due consideration by the Working Group.

Respondent Name and contact details	*Garth Graham, Electricity Market Development Manager garth.graham@scottish-southern.co.uk*
CAP165 [Finite Long-term Entry Rights]	
Capacity in which the WG Consultation Request is being raised : (i.e. CUSC Party, BSC Party or "National Consumer Council ")	CUSC Party – SSE Generation Ltd

Description of the Proposal for the Working Group to consider *(mandatory by proposer)*:

Our Consultation Alternative Request for CAP165 is modelled on the arrangements that currently apply to the transmission access on the GB Gas Transmission System, as detailed in UNC Modification 195AV "Introduction of Enduring NTS Exit Capacity Arrangements", which is available at:-

http://www.gasgovernance.com/NR/rdonlyres/692F0E31-17E4-4EE6-8363-2F4E641DBD45/25057/0195AVModiificatonProposalv10.pdf

New Users would, upon nominating their (MW) transmission access capacity requirement, be required to make a firm User commitment to pay four years of TNUoS fixed at the time of (signed) commitment.

Users would then have an enduring right to that capacity as long as TNUoS payments were maintained. Users could relinquish their rights to that capacity by giving the GBSO up to fifteen months written notice.

Existing Users would have their existing transmission access capacity grandfathered, based on their current TEC limit, and those rights would be prevailing in the future.

Description of the difference(s) between your proposal compared to Original / Working Group Alternative(s) *(mandatory by proposer)*:

Compared with CAP165 our Consultation Alternative Request provides a more appropriate balance between the certainty, as regards User Commitment, of paying a (pre-known) fixed amount and the risk/cost if such a party were to withdraw (as the amount is sufficient to address a reasonable proportion of the costs that would arise). The existing transmission access rights of CUSC Parties would be maintained (compared with CAP165) with those parties required to give a longer notice period of up to 15 months. This would have the added advantage of aligning the transmission access arrangements between gas and electricity.

Justification for the proposal (*including why the Original proposal / Working Group Alternative(s) does not address the defect*) *(mandatory by proposer)*: **Our Consultation Alternative Request does not remove the existing rights of CUSC Parties transmission access. The removal of such rights is detrimental to investor confidence, harmful to competition in the GB electricity market and significantly increases the potential risk to security of supply.**
Impact on the CUSC *(this should be given where possible)*: **The impact on the CUSC is expected to be similar to that for CAP165 Original.**
Impact on Core Industry Documentation *(this should be given where possible)*: **The impact on the Core Industry Documentation is expected to be similar to that for CAP165 Original.**
Impact on Computer Systems and Processes used by CUSC Parties *(this should be given where possible)*: **The impact on the Computer Systems and Processes used by CUSC Parties is expected to be similar to that for CAP165 Original.**
Justification for the proposal with Reference to Applicable CUSC Objectives* *(mandatory by proposer)*: **Because our Consultation Alternative Request will enhance investor confidence which will lead to more competition in the GB electricity market and significantly improve the security of supply situation. As such we believe it better meets both of the Applicable CUSC Objectives; (a) by virtue of its enhancement of security of supply and (b) by virtue of facilitating effective competition.**

Attachments (Yes/No): **If Yes, Title and No. of pages of each Attachment:**	NO

Notes:

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

CUSC WG CONSULTATION REQUEST FORM

Please send your completed form along with your completed Working Group Consultation Response to Sarah Hall by 31/10/08.

Please note that any responses received after the deadline may not receive due consideration by the Working Group.

Respondent Name and contact details	*Name and contact details*
CAP 165 Transmission Access Finite Long Term Entry Rights	Simon Lord (slord@fhc.co.uk)
Capacity in which the WG Consultation Request is being raised : (i.e. CUSC Party, BSC Party or "National Consumer Council ")	CUSC Party First Hydro Company

Description of the Proposal for the Working Group to consider*(mandatory by proposer)*:

Users pre-commissioning liabilities (PCL) would be based on the methodology described for WGAA2 with the modification that the % that the user is required to secure reduces as the user approaches commissioning. The % required drops from 100% four years prior to commissioning to 25% in the final year prior to commissioning. The reduced level of security (the liability would not change) is conditional on the pre-commissioning generator achieving milestones as detailed in the construction agreement (e.g. financial close, the order and erection of equipment etc)

A post commissioning generator commitment would be based on an eight year rolling commitment. The methodology is as described for WGAA3 post commission commitment but with a rolling 8 year period.

Description of the difference(s) between your proposal compared to Original / Working Group Alternative(s) *(mandatory by proposer)*:

This proposal combines elements of WGA2 and WGA3 with modification to each.

The pre-commissioning element of the modification recognises that as a pre-commissioning generator approaches commissioning, and assets and resources are deployed, the probability that the generator fails to commission reduces and this is reflected in the security required.

The post commissioning element of this proposal is based on an 8 year user commitment. We believe this is the longest commitment that any fossil fuelled power station could give based on its physical ability to run. This is because closure will be primarily driven by environmental legislation. An eight year commitment would also allow the TO sufficient time to plan the system as all offers up to 2018 would be made within the context of a certaint baseline of committed plant..

Justification for the proposal (*<u>including why the Original proposal / Working Group Alternative(s) does not address the defect</u>*) *(mandatory by proposer)*: **The WGA2 does not recognise the reduced security that is needed as plant approaches commissioning, and WGAA2 only allows for a 4 year user commitment based on traded market conditions. This proposal would not prevent users electing a 4 year commitment period but there would be no certainty of obtaining the 5th year if other users requested it.**
Impact on the CUSC *(this should be given where possible)*:
Impact on Core Industry Documentation *(this should be given where possible)*:
Impact on Computer Systems and Processes used by CUSC Parties *(this should be given where possible)*:
Justification for the proposal with Reference to Applicable CUSC Objectives* *(mandatory by proposer)*: **This proposal facilitates effective competition in the generation of electricity and also enables NGET to efficiently discharge the obligations imposed on it by its Transmission Licence.**

Attachments (Yes/No): **If Yes, Title and No. of pages of each Attachment:**	No

Notes:

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

CUSC WG CONSULTATION REQUEST FORM

Please send your completed form along with your completed Working Group Consultation Response to ####### by ####.

Please note that any responses received after the deadline may not receive due consideration by the Working Group.

Respondent Name and contact details	Fiona Navesey - Centrica Fiona.navesey@centrica.co.uk 07789 570884
CAP165	
Capacity in which the WG Consultation Request is being raised : (i.e. CUSC Party, BSC Party or "National Consumer Council ")	CUSC Party

Description of the Proposal for the Working Group to consider*(mandatory by proposer)*:

Centrica would like WG2 to consider the following proposal:

To change the User Commitment element for post-commissioning generators of WGAA1 and WGAA3 into a requirement for post-commissioning generators to provide two years notice to National Grid if they wish to reduce their TEC level (similar to CAP131). If a post-commissioning generator fails to provide this notice, the generator will have to pay two years worth of TNUoS charges. This would result in two alternatives:

Centrica alternative 1: User commitment for pre-commissioning generators (WGAA1) + 2 year notice period for post-commissioning generators

Centrica alternative 2: User commitment for pre-commissioning generators (WGAA3) + 2 year notice period for post-commissioning generators

Description of the difference(s) between your proposal compared to Original / Working Group Alternative(s) *(mandatory by proposer)*:

The main difference between Centrica alternative 1 and the existing WGAA1 is that there is no requirement for post-commissioning generators to nominate the number of years for which they require transmission access rights.

The main difference between Centrica alternative 2 and the existing WGAA3 is that there is no rolling four year commitment period for post-commissioning generators (although the WG may wish to consider a 2 year rolling commitment period as a possible alternative).

Justification for the proposal (*including why the Original proposal / Working Group Alternative(s) does not address the defect*) *(mandatory by proposer)*:

The main justification for Centrica alternative 1 is that it does not require a fundamental overhaul of the current access arrangements (i.e. introduction of finite rights). The alternative is simple and easy to implement and combined with the pre-commissioning element of WGAA1 still addresses the key defects as identified by the original proposal.

The main justification for Centrica alternative 2 – and the explanation for a 2 year notice period under Centrica alternative 1 – is that we believe this alternative is better aligned with the decision making

process for major overhauls of generating stations. In our view a commitment period of 4 years will not provide National Grid with better information with regards to TEC reduction (generators will just continue to pay TNUoS). (It should be noted that a 2 year notice period was also part of National Grid's CAP131 proposal which has been rejected by Ofgem for the wrong reasons). In addition, we do not see the benefit of a rolling commitment over a simple notice period. Combined with the pre-commissioning element of WGAA3, we believe this alternative addresses the key defects identified by the original proposal.

Centrica supports a change to the current FSL methodology, but we have linked our proposal to two different user commitment options for pre-commissioning generators (WGAA1 and WGAA3 or any variation thereof) because at this stage – with further working group discussions – we do not yet want to decide on a specific methodology.

Impact on the CUSC *(this should be given where possible)*:

Similar to CAP165 original and WG alternatives.

Impact on Core Industry Documentation *(this should be given where possible)*:

Similar to CAP165 original and WG alternatives.

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

Similar to CAP165 original and WG alternatives.

Justification for the proposal with Reference to Applicable CUSC Objectives* *(mandatory by proposer)*:

Centrica believes the alternatives better facilitate the CUSC objectives because they will provide National Grid with better signals to enable more efficient network planning. The alternatives will also reduce speculative connection applications and barriers to entry which could have a positive impact on competition in the generation and supply of electricity.

Attachments (Yes/No): **If Yes, Title and No. of pages of each Attachment:**	No

Notes:

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

CUSC WG CONSULTATION REQUEST FORM

Please send your completed form along with your completed Working Group Consultation Response to ###### by ####.

Please note that any responses received after the deadline may not receive due consideration by the Working Group.

Respondent Name and contact details	Rebecca Williams rebecca.williams@carronenergy.com
CAP165 Transmission Access – Finite Long-term Rights	
Capacity in which the WG Consultation Request is being raised : (i.e. CUSC Party, BSC Party or "National Consumer Council ")	CUSC Party (Uskmouth Power & Severn Power)

Description of the Proposal for the Working Group to consider*(mandatory by proposer)*:

Welsh Power proposes two alternates to WGAA1:

WP Alternate 1 - The transition should allow the generator to choose to stay on their current methodology, where connection offers are more than 3 years out from the trigger date no financial commitment should be given and the cancellation amount can be no more than 20% of the money actually spent by the TO.

WP Alternate 2 - The same as WP Alternate 1, but rather than a floating charge against TNUoS, the generator has the option of locking in their profile of charges at the signature date or trigger date. As NGC is trying to calculate the number of years to give a charge of half of the investment cost it seems reasonable to lock in charges at the time of signature, or the trigger date. As we are talking about "wider works" it is still probable that NGC has a variety of users covering half of the costs, so it can still carry multiples of the cost in the form of credit for the same works.

WP Alternate 3 – is the same as WGAA3, but the pre-commissioning user would also pay a one off, non refundable booking fee of say [£10,000] (the amount to be considered by the working group). This amount would then be treated as security already lodged at the time that the first year of security becomes due, so the overall costs do not increase under the modification as a whole. The initial charge should be set to deter speculative connections, but not to add significant amounts to the process of development. For smaller users we believe a sum in the region of £10,000 would be sufficient to deter significant speculation.

In return for the upfront commitment, if the generator then withdraws the TO can keep the money spent, plus say [20%] up to the limit of the security lodged. This means that where the TO's slow delivery may have caused a project to no longer be viable they cannot keep all of the security they have not spent. The ability to still keep more than they have spent should balance this risks across the market as a whole, with those projects where the spend is more and those where they spend less balancing out.

WP Alternate 4 – is the same as WGAA3, but if the TO delivers late it must pay the user compensation of £1/kW for the first 6 months, then £2/kw for the next 6 months, then £3/kW, etc… The group consider the actual value, and a mechanism for review would also be needed. This compensation would make us more comfortable with the non refundable

nature of the generators commitment by keeping the pressure on NGC to deliver on time.

As a general point we do believe that any modification that requires the TO to fix charges is likely to lead to them trying to inflate charges. That is why we have supported fixing charges against a set methodology rather than a TO forecast of costs. That said, we would rather have charges based on a fixed forecast than a floating methodology.

Description of the difference(s) between your proposal compared to Original / Working Group Alternative(s) *(mandatory by proposer)*:

WP Alternate 1 – Differs from WGGA1 as it:
Offers the generator with existing agreements a transition period.
Removes the requirement to put up security a long time out (over 6 years from delivery) in line with the commitment on all other equipment associated with new plants.
Stops the TO being able to keep significant amounts of money that they have no actually spent.

WP Alternate 2 - The same differences as WP Alternate 1, but rather than a floating charge against TNUoS, the generator has the option of locking in their profile of charges at the signature date or trigger date. This means that it is a fixed profile rather than potentially being volatile and unhedgable.

WP Alternate 3 – is the same as WGAA3, but the new user pays a booking to signal their commitment to the connection and try to cut down on speculative application. This amount would then be treated as security already lodged at the time that the first year of security becomes due. If the generator then withdraws the TO can keep the money spent, plus say [20%] up to the limit of the security lodged. This gives the TO a greater commitment upfront, but limited ability to make money for non-delivery or slow delivery, etc.

WP Alternate 4 – is the same as WGAA3, but if the TO delivers late it must pay the user compensation of £1/kW for the first 6 months, then £2/kw for the next 6 months, then £3/kW, etc… This compensation is to balance the non refundable nature of the generators commitment and will help keep the pressure on NGC to deliver on time.

Justification for the proposal (*including why the Original proposal / Working Group Alternative(s) does not address the defect*) *(mandatory by proposer)*:

All of the alternatives aim to try to better balance the risks between the TO and the generator. They also try to fix some of the costs, as we believe this is the only way that the smaller players can reasonably secure finance for large new build. We also wanted to make the arrangements for new grid connections align more with the way that the other contracts (EPC, gas, fuel, etc) operate during the construction period for new plant.

We believe that differences give a better deal to the way that smaller players, or those without significant credit ratings, do and must operate in the current market. While Ofgem has been keen to ensure that NGC covers it risks, we do not believe that TOs carrying no (or limited) risks is actually is in the interests of the customers who will benefit more from new market entry and the enhancing of competition in generation.

Impact on the CUSC *(this should be given where possible)*:
Changes to Sections 3, 6, 9 and 11 – same as the alternates already proposed.

Impact on Core Industry Documentation *(this should be given where possible)*:

Impact on Computer Systems and Processes used by CUSC Parties *(this should be given where possible)*: None
Justification for the proposal with Reference to Applicable CUSC Objectives* *(mandatory by proposer)*: We believe all of the alternates would enhance the originals by better meeting the applicable CUSC objectives: **WP1** More efficient – by better balancing the risk between TO and genco More efficient – by incentivising NGC to deliver in a timely manner More efficient – by not allowing the TO to keep significant funds it has not spent More efficient – transparent, easier to understand and manage risk Enhance competition – by allowing smaller, independent players to finance new build Enhance competition – does not require money to be tied up on projects years out from a delivery date. **WP2** Same as WP1, but also gives greater certainty to the user, therefore improving the efficiency of their risk management and enhance competition by allowing smaller, independent players to finance new build. **WP3** More efficient – by better balancing the risk between TO and genco More efficient – by limiting speculative connection agreements More efficient – by not allowing the TO to keep significant funds it has not spent More efficient – transparent, easier to understand and manage risk Enhance competition – by limiting real projects being blocked by speculative agreements **WP4** More efficient – by incentivising NGC to deliver in a timely manner Enhanced competition – by giving the generator some guarantee that non-delivery results in compensation Enhance competition – by allowing smaller, independent players to finance new build

Attachments (Yes/No): **If Yes, Title and No. of pages of each Attachment:**	Full written response – 8 page letter to Sarah Hall

Notes:

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

CUSC WG CONSULTATION REQUEST FORM

Please send your completed form along with your completed Working Group Consultation Response to ###### by ####.

Please note that any responses received after the deadline may not receive due consideration by the Working Group.

Respondent Name and contact details	*Dennis Gowland* *Horries, Deerness, Orkney, Scotland, UK* *KW17 2QL* Dennis@researchrelay.com
CAP### [Add – Title of the Amendment]	CAP165 (Finite Long-term Entry Rights)
Capacity in which the WG Consultation Request is being raised : (i.e. CUSC Party, BSC Party or "National Consumer Council ")	CUSC party Fairwind Orkney Ltd

Description of the Proposal for the Working Group to consider*(mandatory by proposer)*:
This alternative (to CAP165 WGAA1) acknowledges that a party who has signed agreements for a right and who has paid all dues in connection with that right has every reason to expect that the right would not be summarily curtailed.
The alternative is, however, a reflection of the reasoning behind the finite nature of long –term access to the GB transmission system, and as such it is a valid amendment to CAP165.

This alternative seeks to address 2 defects in the CUSC

1) Connected users giving insufficient notice of reduction or termination of TEC
2) Difficulty of choosing between projects in terms of their likelihood of connecting and barriers to entry onto the transmission system for new users.

Whilst parties with TEC are encouraged to be flexible with the right in so much as sharing and short term transfer are encouraged (by other CUSC modifications) the right to terminate or reduce TEC without adequate notice may affect other users and as such should be actively discouraged. This is a defect to the efficient running of the transmission network.

The connected generating party in this alternative is **not** faced with the withdrawal of TEC as a prerequisite of the modification – instead the generator is offered an option to continue or to give notice of reduction of its TEC at 4 –yearly intervals (similar to WGAA3).

1) Connected Parties

Duration of TEC rights

There would be no 'booking period' – instead, an existing user would be faced with an offer from GBSO to **continue**, every 4 years for a period of 4 more years. The user could elect to continue and be liable for TNUoS for that period or give notice of closure or reduction of TEC at the end of the period.

Options offered by GBSO under 4 year rolling revue (Continuation Notice)

GBSO would, then, contact each user 90 days prior to the financial year-end. The user would be offered 2 options:

1. Continue with the level of TEC for the whole 4-year period (which would lead to the expectation that the period of TEC rights would be further extended beyond 4 years).
2. Continue for the 4-year period and give notice of TEC reduction or termination at the end of the four-year period.

Users would be liable to pay TNUoS for the whole period of the continuation and would be penalised for unplanned reduction in TEC (in the case of option 1) or unplanned remaining on the system (in the case of option 2) by liability to Cancellation Amounts.
Users would secure 1 years TNUoS as all times.

The defect which currently results in new generation experiencing significant barriers to entry, whilst at the same time encouraging long queues of projects looking for connection, is addressed by a 2-tier entry regime.

2) Entering (and Re-powering)

A new user entering could do so in one of 2 **Entry Types**.

Apply to GBSO for a connection as an aspiring generator
Apply to GBSO, having received planning consent for a specific power station

Entry Type A (Preliminary Connection Agreement)
Apply to GBSO for a connection as an aspiring generator

In this case a potential generator (or non-physical party) could apply for an aspirational connection for a given power plant (technology, site location(s) and capacity). The connection date offered by GBSO could never be less than 5 years from the date of the offer (since a project must have planning permission to allow a connection in 4 years or less).
The applicant would pay the normal application fee for connections to the grid.

Liability
The applicant would be liable for UCAM (£1/2/3 per kW ramping up over 3 years) but could terminate and start again (new application) at any point but the whole years UCAM would be forfeit (in case of 1 month – say – into second year then 2 whole years -£2/kW- would be payable). By invoiced payment – thus no security.

Security
None

Entry Type B (Full Construction Agreement)
Apply to GBSO, having received planning consent for a specific power station

Note – it would only be possible to apply for Entry Type B if the **operator had a valid planning consent covering the location and Construction Entry Capacity (CEC) of the proposed power station.**

The applicant would apply for a connection agreement in the normal way. This would result in a Full BCA for Type B as opposed to a Preliminary BCA for Type A.

The applicant would receive a binding BCA (or BEGA if embedded –more than 100MW) with the TEC value requested (set at CEC unless otherwise asked for less). The value of TEC (local or wider as applicable) would then be the basis of any reduction in future with a consequence of capacity reduction charge

Liability (Entry Type B)

The applicant would be liable for 8 times relevant (Local/Wider) TNUoS until connection. Thereafter the operator would be liable to pay TNUoS for periods of 4 years.

Security

The applicant to Entry Type B would put up 4 years TNUoS (based on local or wider) for LCN/Wider as appropriate at point of signature of their Full BCA – provided that the connection date offered is 4 years or less from signature date. This would then step down in equal reductions each of years 3 and 2 until 25% one year prior to connection (provided pre-agreed (with GBSO) milestones had met). The security would fall away on commissioning and be replaced by a 1 year TNUoS (reducing balance model).

Description of the difference(s) between your proposal compared to Original / Working Group Alternative(s) *(mandatory by proposer)*:

Does not remove existing rights but seeks to impose a 4 year period when users must make plain their intentions with regard to remaining on the system.

This Alternative seeks to address the perceived barrier to entry to new users which is due to high demands for securities which are often not justified and are far higher than for connected parties. This modification tries to balance real risk and security. The liability for full Cancellation Amount described in WGAA1 is kept, but the security requirement allows for 50% of this liability dropping to 25% over the 4-year lead-up period.

This alternative is novel in that it proposes a 2 tier application system for new entrants.

Justification for the proposal (*including why the Original proposal / Working Group Alternative(s) does not address the defect*) *(mandatory by proposer)*:

This alternative is fairer to both existing and new users. It respects the right of connected users to maintain their TEC rights but balances this with an imposition of mandatory 4 year continuation intentions allied to penalties for unplanned reductions or change of mind.

The alternative addresses a major defect concerning imposition of high security demands from new users irrespective of real risk and an apparent discrimination against new users when compared to the securities demanded from incumbents.

This alternative seeks to differentiate between prospective users according to likelihood of connection rather then treating all projects equally and then trying to manipulate the inevitable queue by indirect means.

Impact on the CUSC *(this should be given where possible)*:

As CAP165 original and WGAA1

Impact on Core Industry Documentation *(this should be given where possible)*:

As CAP165 original and WGAA1

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

As CAP165 original and WGAA1

Justification for the proposal with Reference to Applicable CUSC Objectives* *(mandatory by proposer)*: This alternative will lead to more efficient use of the system by providing adequate signals for generation leaving or changing capacity on the system. The alternative should reduce barriers to entry of new generation – much of which is renewable – and assist in the management of the GB Queue. The whole effect of which would be to increase competition and to assist in the achievement of UK and EU targets for renewable energy.

Attachments (Yes/No): **If Yes, Title and No. of pages of each Attachment:**	Yes Notes (7 pages)

Notes:

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

CAP165
Fairwind Orkney Ltd Consultation Alternative - Notes

Nature of the defect

A defect identified in the CUSC is that new users seeking to join the transmission system face volatility in their initial liabilities and an inequity (when compared to existing users) in the exposure to securities, which, when added to a lack of transparency, amount to a significant barrier to entry.

A further defect identified in the CUSC is that GBSO receives insufficient notice when existing users leave the transmission system or reduce their TEC. This in turn gives rise to an inefficient system in that new works, triggered by new users, would not need to be built if it was known that other generation was terminating or reducing capacity.

Aims of this Alternative

This alternative (CAP165) acknowledges that a party who has signed agreements for a right and who has paid all dues in connection with that right has every reason to expect that the right would not be summarily curtailed.
The alternative is, however, a reflection of the reasoning behind the finite nature of long –term access to the GB transmission system, and as such it is a valid amendment to CAP165.
Whilst parties with TEC are encouraged to be flexible with the right in so much as sharing and short term transfer are encouraged (by other CUSC modifications) the right to terminate or reduce TEC without adequate notice may affect other users and as such should be actively discouraged.

The generating party in this alternative is **not** faced with the withdrawal of TEC as a prerequisite of the modification – instead the generator is offered an option to continue or to give notice of reduction of its TEC at 4 –yearly intervals (similar to WGAA3).

NOTE - The notion of 4 years is derived from the average time taken for Transmission Owners to build transmission works.

The defect which currently results in new generation experiencing significant barriers to entry, whilst at the same time encouraging long queues of projects looking for connection, is addressed by a 2-tier entry regime.

Entering (and Re-powering)

A new user entering could do so in one of 2 **Entry Types**.

A. Apply to GBSO for a connection as an aspiring generator
B. Apply to GBSO, having received planning consent for a specific power station

Entry Type A (Preliminary Connection Agreement)
Apply to GBSO for a connection as an aspiring generator

In this case a potential generator (or non-physical party) could apply for an aspirational connection for a given power plant (technology, site location(s) and capacity). The connection date offered by GBSO could never be less than 5 years from the date of the offer (since a project must have planning permission to allow a connection in 4 years or less).
The applicant would pay the normal application fee for connections to the grid.

Liability
The applicant would be liable for UCAM (£1/2/3 per kW ramping up over 3 years) but could terminate and start again (new application) at any point but the whole years UCAM would be forfeit (in case of 1 month – say – into second year then 2 whole years -£2/kW- would be payable). By invoiced payment – thus no security.

Security
None

Benefits to Applicant

The project would be part of the planning background to the grid and would give visibility to investors that connection was feasible. It would also give an advantage (queue) when compared to other projects, which did not have planning consents and which did not have an aspirational connection agreement.

Benefits to GBSO and system users

The project would be visible to GBSO, TO s, the Regulator and system users and would be part of the grid planning and contractual background.

Entry Type B (Full Construction Agreement)
Apply to GBSO, having received planning consent for a specific power station

Note – it would only be possible to apply for Entry Type B if the operator had a valid planning consent covering the location and Construction Entry Capacity (CEC) of the proposed power station.

Applicants could progress from an Entry Type A position – and aim to maintain an unbroken line to connection date from Type A agreement start date. In which case, provided there had been no significant change to the original agreement, there should be no further application fee payable.

Applicants could also go straight to Type B if they had relevant planning permission – the ‘down side’ would be that the project would not have been ‘visible’ to GBSO prior to this stage and may, thus, not achieve a 4 year period to connection date.

The applicant would apply for a connection agreement in the normal way. This would result in a Full BCA for Type B as opposed to a Preliminary BCA for Type A.

The applicant would receive a binding BCA (or BEGA if embedded –more than 100MW) with the TEC value requested (set at CEC unless otherwise asked for less). The value of TEC (local or wider as applicable) would then be the basis of any reduction in future with a consequence of capacity reduction charge

Liability (Entry Type B)

The applicant would be liable for 8 times relevant (Local/Wider) TNUoS until connection. Thereafter the operator would be liable to pay TNUoS for periods of 4 years.

Security

The applicant to Entry Type B would put up 4 years TNUoS (based on local or wider) for LCN/Wider as appropriate at point of signature of their Full BCA – provided that the connection date offered is 4 years or less from signature date. This would then step down in equal reductions each of years 3 and 2 until 25% one year prior to connection (provided pre-agreed (with GBSO) milestones had met). The security would fall away on commissioning and be replaced by a 1 year TNUoS (reducing balance model).

Slippage (connection date) by the generator would be governed by CAP 150 arrangements.
Slippage by GBSO would result in a free variation to BCA and no penalty to the generator. There should be no penalty to the generator in terms of its security provision under these conditions.

Note the reasoning for reducing the **Cancellation Amount** of 8 years TNUoS to 4 years represents a 50% decrease in the risk associated with a project with full planning permission as against none.

CAP150

The arrangements adopted for CAP 150 would cover Entry Types B (since Type A users cannot stand in the way of users with planning consents).

Connected Parties

Duration of TEC rights

There would be no 'booking period' – instead, an existing user would be faced with an offer from GBSO to continue, every 4 years for a period of 4 more years. The user could elect to continue and be liable for TNUoS for that period or give notice of closure or reduction of TEC at the end of the period.

Options offered by GBSO under 4 year rolling revue

GBSO would, then, contact each user 90 days prior to the financial year-end. The user would be offered 2 options:

1. Continue with the level of TEC for the whole 4-year period (which would lead to the expectation that the period of TEC rights would be further extended beyond 4 years).
2. Continue for the 4-year period and give notice of TEC reduction or termination at the end of the four-year period.

The user would then be faced with the following **liabilities and Securities**:

Option 1
Continue with the level of TEC for the whole period (which would lead to the expectation that the period of TEC rights would be further extended beyond 4 years).

Liability - remaining 4 year's of TNUoS. **Security** - for remainder of 1 year's TNUoS
(Effectively GBSO can plan for closure of the station – hence no risk of a stranded asset.)

Penalty for early TEC reduction or termination within the period is Cancellation Amount of based on 8 x TNUoS (of reduction in capacity) stepped increment 25%, 50%, 75%, 100% over the 4 year period.

Option 2
Continue for the 4-year period and give notice of TEC reduction or termination at the end of the four-year period.

If the station terminates as planned at the end of the 4-year period then **liability** is effectively as option 1 – liable for 4 years TNUoS.. **Security** as option 1

Penalty
If the station keeps to its planned reduction or closure then there would be no penalty. If however the user wished to change its mind then CAM would apply (as described in Option 1) – but this time for the amount of TEC held on to. For example if the user decided to change their mind 1 year in then they would face a penalty payment of 25% of cancellation amount. The user would still be liable to pay TNUoS for the period.

Other terms

LCN – definition and description as WGAA1

Wider works – definition and description as WGAA1

Local TNUoS, Wider TNUoS and residual TNUoS all as described in WGAA1

Table of comparison with CAP 165 WGAA1

Issue	WGAA1	FOL alternative	Comments
Long-term access right (TEC) – Wider (Currently as little as 5 days notice of TEC reduction or closure may apply)	Finite and with duration 'booked' by the generator. All connected parties lose TEC at CAP165 go-live and are allocated (default) or have to book a new product.	It is possible for a user to enter into a rolling 4-yearly continuation without recourse to a new application. Connected parties or those with a signed agreement do not lose their TEC rights at CAP 165 go-live. Instead they receive a continuation notice.	
Long Term Access right (TEC) Local Capacity Nomination **(LCN)**	Finite and with duration 'booked' by the generator. New product (LCN) therefore parties cannot 'lose' this right. Default is present allocation of TEC.	As wider.	
Liability for connected parties throughout the period of the Long-Term Access product (True for LCN and Wider)	Liability for TNUoS (Local, Wider, Residual) over the whole period of the booking. Liable for Capacity Reduction Charge	Liability for TNUoS (Local, Wider, Residual) over the continuation period Capacity Reduction Charge (Cancellation Amount) as WGAA1	
Ability to roll on booking period TEC (LCN and Wider) without undertaking a fresh application	No	Yes Would incur an extra penalty based on Cancellation Amounts (8 x relevant TNUoS)	Similar to WGAA3 concept of4 years rolling right. Stronger liability 8 x TNUoS (CAM) as opposed to max 3 year's TNUoS

		Note: Where a penalty is applied the TNUoS is always positive irrespective of negative charging zones.	
Securities for connected parties (Currently none)	1 year's TNUoS based on 1 of 3 models	As WGAA1	
New Users (not yet connected) Background is the GB Queue	New users apply in single application process.	2 tier application for connection Type A (Preliminary BCA) No planning permission required Type B (Full BCA) Planning permission required for at least the level of TEC applied for.	This is an attempt to differentiate between projects currently in or thinking of joining the GB Queue. Together with CAP 150 (which could be used alongside Type B proposals) this modification could allow those projects which were still in pre-planning to have a degree of flexibility to allow for project changes, whilst on the other hand applying discipline to those signalling as ready and willing to connect.
Liabilities Presently final sums (Bi-annual statements)	Plan to go to CAP131 type User Commitment based on initial user commitment based on £1 per kW for each of 3 years followed by Cancellation Amount based on 8 year's TNUoS stepped up 25%, 50%, 75%, 100% in years 4, 3, 2, 1 prior to connection	For Type A User Commitment £1 per kW per year for 3 years (£1/£2/£3) then flat –line For Type B No user commitment – but Cancellation Amount as described in WGAA1	

	date.		
Securities (Currently secure the S curve of final sums through 6-monthly statements) No attempt to align security requirements with actual risk.	Secure Full Cancellation Amount (CAM) but stepped up from year minus 4 to connection date, reflecting liability	For Type A None For Type B Secure 50% of CAM at 4 years prior to connection date then reduce in equal amount to 25% at 1-year prior. Conditional upon meeting previously agreed milestones	UCAM is paid annually up-front Security should reflect risk. Risk of a project not going ahead after receiving full planning consent is 50% less risky than one without consents.

ANNEX 3 - REPRESENTATIONS RECEIVED DURING CONSULTATION

This Annex includes copies of any representations received following circulation of the Consultation Document (circulated on 1 December 2008, requesting comments by close of business on 15 December 2008).

Representations were received from the following parties:

Company	File Number
AEP	CAP165 - CR-01
British Energy	CAP165 - CR-02
British Wind Energy Association	CAP165 - CR-03
Drax Power Limited	CAP165 - CR-04
E.ON UK plc	CAP165 - CR-05
International Power First Hydro	CAP165 - CR-06
Immingham CHP LLP	CAP165 - CR-07
InterGen	CAP165 - CR-08
REA	CAP165 - CR-09
Rio Tinto Alcan	CAP165 - CR-10
RWE	CAP165 – CR-11
Scottish and Southern Energy	CAP165 - CR-12
Scottish Power	CAP165 - CR-13
Welsh Power	CAP165 – CR-14

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ESBI response to CUSC Amendment Proposals 161-165

ESBI welcomes the opportunity to comment on the proposals contained in the consultation issued by National Grid (NGET). This consolidated response forms our views on each of the individual Connection and Use of System Code (CUSC) amendment proposals CAP's 161-165, proposed as part of the ongoing reform to transmission access arrangements. Given the various interdependencies and interactions between the proposals, we have considered them in one consolidated response.

With a background as the principle electricity utility in Ireland and with diverse overseas interests, ESBI has been involved in the GB generation market since 1993 through its 50% ownership and its role in operation and management of the 350MW Corby Power Station. We are a 100% owner of the 400MW Coolkeeragh plant in Northern Ireland and during 2009 will be completing the construction of the 840MW Marchwood plant, of which we were the developer and in which we have 50% ownership. We have also recently announced a new development of 860MW at Carrington which will become operational in 2012/13.

ESBI is actively seeking to expand on this generation portfolio with a view to owning and operating an additional 3GW of primarily gas fired and renewable generation capacity. A significant development activity supports this objective.

As such, the ability to secure transmission access on a timely and certain basis is critical to our business. Indeed, in our view, transmission access currently represents the single greatest barrier to entry into the GB generation market. We have therefore followed the transmission access review closely and are encouraged by recent developments. We consider it imperative that fundamental and wholesale changes are made to transmission access arrangements as quickly as possible if the twin challenges of meeting environmental targets and ensuring security of supply over the medium and long term are to be met.

In our view there are two key issues which any changes need to address:

- *The unduly discriminatory allocation of access rights* – A system which allows incumbents to roll over capacity at zero cost while requiring new entrants to secure the cost (or a proportion of the cost) of new infrastructure and wait for an undefined time until that infrastructure is built is clearly unduly discriminatory, and a major barrier to competition. Moreover it is not fit-for-purpose or capable of meeting the energy challenges GB is currently facing. ESBI supports transparent and non-discriminatory means of allocating capacity;

- *The ambiguity surrounding access rights* – In our view the lack of clarity surrounding the rights associated with Transmission Entry Capacity (TEC) is a key issue. The differing interpretations of the rights and obligations that TEC confers

serves to significantly complicate issues surrounding transferring, trading or sharing capacity and as such requires clarification or reform.

ESBI has carefully considered the various issues raised by the modification proposals and subsequent amendment proposals of CAP161-165. In general, we support the following principles:

- *Fundamental change, implemented quick*ly – The current problems with transmission access are undermining investment in the GB generation market and preventing new capacity coming on stream. This is thwarting the achievement of environmental targets and endangers security of supply. Changes need to be made quickly and proposals that are capable of timely implementation are urgently required, and should be prioritised;

- *Products that optimise use of the network* – The energy policy challenges facing GB are likely to lead to the connection of significant volumes of intermittent generation and cause material changes in the operating patterns of existing generation. In order to make best use of the network, we support a suite of products that reflect the differing operational characteristics of plant;

- *Certainty of capacity delivery* - The current absence of certainty about when a connection can be achieved significantly increases the risk and cost of investment. ESBI strongly supports the delivery of capacity within clearly specified timescales, with appropriate risk placed on National Grid where it fails to deliver that investment.

In light of the above context, the following comments and views are given on the individual proposals contained in NGET's reports on CAP's 161-165.

<u>CAP161 – SO release of short-term entry rights</u>

ESBI supports the introduction of WGAA1.

WGAA1 would allow NGET to release any available capacity through an auction process in blocks of 1 week and 1 day. Although WGAA2 and WGAA3 also provided a more flexible release mechanism, were they to be introduced we are of the view that competition would not be better facilitated as capacity could be better used by different parties in the shorter blocks proposed under WGAA1.

Irrespective of which release mechanism is adopted, we remain of the view that it is important for parties taking part in the auctions and obtaining capacity be required to post appropriate security for the capacity they obtain.

We support the introduction of a capacity release mechanism based on a nodal rather than a zonal basis. This view is formed by the negative impact a zonal approach would have on the constraint costs and the flexibility associated with a nodal approach. We are also of the view that the nodal approach proposed in WGAA1 provides appropriate signals for efficient transmission investment and efficient behaviour on behalf of generators when booking capacity.

<u>CAP162 – Entry overrun</u>

ESBI supports the introduction of the WGAA.

The WGAA of CAP162 would introduce improved flexibility in the commercial choices available to both existing and new generators. In general, we welcome any opportunity to better use capacity that may be available on the transmission system. CAP162 is a welcome improvement; however we remain of the view stated in previous consultation responses that it is not a significant change to the access regime.

Although CAP162 will codify a generator's ability to overrun, the more important developments will be in the associated, and as yet unknown, charging mechanisms. We support the principle of cost-reflective charging; however believe that to charge ex-post for overrun would severely limit its practical use. To this end we would welcome attempts to set an ex-ante value active only when corresponding constraints are active, even though this would inevitably result in less cost-reflective overrun charges. We would not support a charging mechanism which resulted in costs of overrun being socialised over the general charging base. We would also welcome better understanding from Ofgem and NGET on how under or over-recovery of revenue, resulting from overrun, would be dealt with.

CAP163 - Transmission Entry Capacity sharing

ESBI supports the introduction of the WGAA

The proposal contained in the WGAA would bring welcome incremental improvement to the access regime. It would provide generators with further flexibility and may make more efficient use of capacity. We agree that the original, zonal proposal could have a material impact on operational costs which would severely limit the impact and benefits of the modification. As such, we support the nodal approach proposed in WGAA1.

Although we welcome the additional flexibility that the WGAA of CAP163 would bring, we would not welcome any unintended consequential effects that could further exacerbate dominant incumbents' market power. Further we have concerns that adopting the current application and acceptance process used in the interactive allocation of access, could lead to unforeseen problems that we have experienced with the existing process. We would welcome a fair and consistent web-based notification, application and offer process upon which all players had an equal footing.

CAP164 – Connect and Manage

ESBI supports the introduction of the WGAA

We are of the view that CAP164 provides the best opportunity for improving transmission access in the short-term, prior to more enduring solutions being introduced. We recognise that there may be some consequences in terms of operational costs, which could increase due to the measures required to accommodate increases in generation, prior to the completion of the wider transmission works required to provide full enduring access for that generation. However, we feel that these increases could be appropriate in light of the additional generation able to connect.

As stated previously in this response, we feel it is critical that those generators obtaining transmission access do so only following the provision of suitable user commitment and securities. In a prospective connect and manage regime, this would be for the local works required to provide the necessary local access.

The WGAA provides for the introduction of a new access product, Interim TEC (ITEC). ITEC would be used during the period between the completion of a generator's local works and the forecast date for completion of any required wider transmission works. We await further detail on the charging implications of this product but support the principle of its introduction. We are strongly of the view, however, that that TEC granted on the "TEC effective date" should be wholly consistent with existing access rights and compensation mechanisms, irrespective of whether the wider transmission works are complete.

We agree with the proposal that the definition of local works under CAP164 should be consistent with those developed as part of charging modification proposal GB-ECM11. In this case we feel that consistency between the code and charging definition is right and proper and will improve the transparency of both.

CAP165 – Finite long-term entry rights

ESBI supports WGAA7

We welcome the general principle proposed under CAP165 that transmission access rights are not evergreen and as such generators should specify the length of their capacity holding and at the end of this, unless it is specifically extended by the generator, the capacity should be released for reallocation. We are of the view that generators should also provide appropriate security for the capacity they book, irrespective of whether they are new or already connected. To this end there are a number of the proposals under CAP165 that we feel do not deliver appropriate security and user commitment provisions. Indeed, there are a number which appear to unduly discriminate between new and existing parties which we feel is inappropriate.

We support the structure of the user commitment provisions in WGAA3, however prefer the added flexibility that WGAA7 provides to developers, with commitment only being paid in the 7 years prior to construction rather than from the point of signing the connection offer.

We are of the view that the 4 year rolling commitment would provide generators with the appropriate signal to relinquish capacity at the most economic and efficient time. We envisage that this would, in turn, lead to more efficient use of capacity in general and as a result, increased amounts of capacity being released.

We hope these comments and views are useful and assist in the development of an enduring transmission access regime that:

- Will have a significant impact on the major issues currently associated with transmission access;

- Will assist in delivering change as quickly as possible;

- Is consistent with the requirement to only discriminate between users where such discrimination is due and robust to challenge; and

- Is not overly complex.

We look forward to a similar consultation on CAP166 regarding the auctioning of access rights. In the meantime, should you wish to discuss this response further, please do not hesitate to contact Martin Read.

Yours sincerely,

Martin Read
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Scottish and Southern Energy

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Our Reference:
Your Reference:

Date : 12 December 2008

Dear Hêdd,

Company Consultation Documents for CAPs 161, 162, 163, 164 and 165

This response is sent on behalf of Keadby Generation Ltd.; SSE Energy Supply Ltd.; SSE Generation Ltd.; Medway Power Ltd.; Slough Energy Supplies Ltd.; Airtricity Ltd. and Airtricity Generation (UK) Ltd.

We welcome the opportunity to respond to these five CUSC Amendment Proposal Company Consultations. As you may recall we provided comments, via both a covering letter (dated 31st October 2008) and the appropriate pro-forma, for the previous (Working Group) consultation at the end of October. This letter draws upon our previous comments whilst taking account of (a) the Working Group Alternative Amendments (b) the Working Group Recommendations and (c) the initial National Grid view.

General observations

As noted previously, Scottish and Southern Energy (SSE) has supported the Transmission Access Review (TAR) that was initiated by the UK Government and Ofgem last year. Throughout this process, we have argued that the key elements for a successful transmission access regime are clear, proportionate commitment from Users of the GB

transmission system and cost-reflective, stable and predictable charges for access and use of the transmission system. As a consequence, we have favoured the 'Connect and Manage' type of approach for new Users (akin to that proposed under CAP164).

It remains our view that 'Connect and Manage' (be that in the form of the 'original' or the 'alternative') should form the core of any transmission access regime. In exchange for a strong, but proportionate, User commitment from applicants, National Grid should be obliged to provide a firm connection date that is no later than four years after that User commitment. This would provide strong and meaningful investment signals for both new generation and network infrastructure.

In relation to the proposals for short term access products, in general we understand and support the principle that underlies CAPs 161, 162 and 163. These products would supplement those existing short term access products (STTEC, LDTEC, TTECE and TEC Trading). As was illustrated through discussions in the Working Groups, these existing products have been little used and this is an issue that should be addressed upfront in relation to these new short term access products. We note that, by providing access to the GB transmission system within operational timescales, the network capacity utilised through these access products will sit outwith the system planning assumptions. Given this, we expect these new short term access products, if implemented, to be largely used by existing Users, to 'top up' their firm access rights, rather than by new Users.

We lament the fact that the Working Group was unable to undertake an assessment of the possible usage of these short term access products. This would have allowed a meaningful cost benefit analysis and impact assessment to be undertaken. We consider that without this cost benefit analysis, the process of consideration and assessment of the proposals is incomplete. It is important that the potential benefits are assessed before implementation costs are incurred (for example, investment in costly IT systems). This has limited our ability to decide as to whether or not these Amendments better facilitate the CUSC objectives.

In relation to the proposal for new long term access products, we remain unconvinced that there is a meaningful defect to the CUSC that requires the major change to the transmission access regime proposed by CAP165. We note the limited time available to the industry to debate this issue (and support comments made in the Working Group and elsewhere on the impact of the short timescales on the quality of the report). However, based on the evidence presented to date, we continue to believe that existing Users have evergreen rights to use the transmission system so long as they comply with their contractual obligations. This, in our view, means that CAP165 (and CAP166) is not a valid Amendment Proposal.

Notwithstanding our comments above, we note in relation to CAP165 that the debate in the Working Group, up to October, had been over the duration of access rights and was very much focused on providing network investment signals. We believed that this approach was unbalanced and did not give due regard to the potential impact on Users' decisions. In particular, we were mindful of the older plant currently on the system and the number of opted-out units, which prompted our questions, in October, "What would be the commercial decisions made by these Users if they were required to secure a future numbers of years of transmission access?" and "In particular what would the detrimental impact be on security of supply if this Amendment was implemented?". As a consequence, we submitted a Working Group Consultation Alternative Request (for CAP165 only) which became WGAA4.

Comments applicable to CAPs 161, 162, 163, 164 and 165

As noted previously, many of these Amendment Proposals would 'lock-in' the current **TNUoS charging methodology**. We strongly believe that the current charging methodology is undermining UK Government policy by sending a signal not to invest in new generation in those areas with an abundance of natural renewable resource. Developing an access regime that has, at its core, this charging regime is clearly an issue given the extreme price signals of TNUoS at the margins of the system, and the volatility and unpredictability of the methodology. Not only would this reduce the value of the access product in large parts of the country, greater and prolonged exposure to TNUoS would increase risk and hence cost to Users. We are disappointed that the Working Groups were unable to consider the potential impact of this approach on the decisions of Users with respect to the utilisation of these transmission access products.

We continue to have concerns that the proposed changes are not conducive to facilitating the required **investment signals** for both generators and transmission system owners. For example, whilst it is inherently correct that the SO releases any spare capacity in the short term and therefore that CAP161 (SO Release) is a useful product, it cannot provide the necessary longer term certainty for generators or transmission system owners to invest in new capacity. Equally, if a User opted to gain access through short term products (feasible for low load factor plant in unconstrained zones), then this would move that User out of the system planning timescale.

"Spare" capacity is fundamentally driven by the longer term suite of incentives on transmission providers to invest in infrastructure and without proper consideration of how this is supported by additional new shorter term measures, there is significant potential for inefficient outcomes.

Conversely, the intention behind CAP165 of removing the existing transmission access rights of generators (both new and existing) is a hugely damaging development as far as investor certainty is concerned and, at the very least, will increase industry costs by the necessary inclusion of additional risk premia in business plans whilst also being detrimental to the security of electricity supplies.

We are disappointed that the Working Group was unable to fully address the **treatment of negative zones** when considering the impact of these five proposals, rendering both the analysis and consideration incomplete. As we previously noted there is the potential for perverse outcomes, particularly in the use of short term products, in negative zones and this should have been explored by the Working Group. We also noted the evidence presented to the Working Groups that the cost of connection in negative zones can be substantial (for example, around London). It is clearly inappropriate to require no User commitment from Users in these areas requiring, in effect, Users in positive zones to underwrite and cross-subsidise the required network investment in negative (as well as positive) zones. We hoped that this concerned would have been rectified in the Final Working Group Reports issued to the CUSC Panel – it has not.

We continue to believe that it is important that the new transmission access products are both **easily tradable and available in sufficient volumes** to provide the required benefits for Users. If parties are expected to rely on the current (baseline) CUSC arrangements for trading (as per the CAP68/CAP142 arrangements) for the new products then, based on the history to date, this is highly unlikely to happen. We continue to believe that the tradability elements of the five proposals still need to be developed and this will now, unfortunately, have to wait till after they are implemented.

Our concern at the lack of details on how these changes will impact on / consider the implication for **distribution-connected generation Users** remain.

The proposed changes have not fully addressed what will happen at times of **network unavailability**. Notwithstanding our comments on our existing rights, under the proposed new regime transmission access rights will be sold. As such the purchaser will, correctly, expect to be fully compensated if and when those rights are withdrawn.

We are very disappointed that the proposed approach with the five Amendments does not, at present, seem to permit Users the **right to appeal** to the Authority for a determination in the event of the GBSO taking actions, under any of the proposals, which are contrary to the requirements of the CUSC. For the avoidance of doubt, it should be made clear, with all five changes, that applications for these new access products should be treated as variations to connection agreement and that the associated disputes process will apply. Furthermore,

where a User believes that the GBSO has not acted in accordance with the CUSC requirements then it can seek a determination from the Authority. We would therefore urge the Working Group; in accordance with section 8.17.8 of the CUSC; and the Working Group Recommendation (see, for example, paragraph 1.6 of the CAP165 report) to ensure that the final legal text clearly permits a User the right to appeal to the Authority.

We are disappointed that a **cost benefit analysis** has not been completed for all five proposals and that the associated 'Post Implementation Evaluation' criteria have not been set out. This is a significant and fundamental omission from the process, particularly for such radical proposals.

As we have noted previously, discussions were held in the Working Groups as regards the **transmission access rights of existing Users**. For the avoidance of doubt, as both an existing User and a party with considerable 'new' capacity under development (for which we hold rights for transmission access via our signed contractual agreements with the GBSO) we believe we have contractual evergreen rights to use the GB transmission system so long as we continue to pay all the charges associated with our contractual obligations. Nothing in this letter should be taken as either an acceptance of, or support for, the unilateral removal/reallocation of these existing rights by us.

Implementation Date & Arrangements

We have two concerns regarding the proposed implementation of these five Amendment Proposals.

First, we note that the five consultation documents (in discussing Implementation Dates) are based on the publication of a decision from the Authority around June 2009. However, since the publication of these consultation documents the Authority has encouraged the CAP166 Working Group to extend its timetable by two months, which both the Working Group and CUSC Panel acquiesced too. This will, presumably, delay the Authority's June 2009 decision date to September 2009.

Second, whilst we would like to see implementation of CAPs 161-164 as soon as possible, we believe, that the suggested steps outlined in the "Impact on IS Systems and Resources" section of the consultation documents and especially the seventh paragraph of that section of these documents constitute 'developing the Amendment Proposal'.

An example of this would be the suggested step (in paragraph 8.7 '3' [CAPs 161-163] / paragraph 7.6 '3' [CAP164] / paragraph 7.5 '3' [CAP165]) of identifying the combination of CAPs 161-166 that is to be implemented. In our view this work can only proceed once the Authority has issued its final decision on CAPs161-166. Making this information available to

the Authority and CUSC Parties (as proposed in the subsequent paragraph of that section of the report) does not make such work 'acceptable'.

Whilst the Authority, as part of its Regulatory Impact Assessment, may seek views/information from interested parties on each of the individual Amendment Proposals neither the Authority, or any CUSC Party (including National Grid) can develop or in any other respect define / expand / evolve / progress / amplify / elaborate / enhance / grow / advance these five Amendment Proposals over and above what is set out in the Final Amendment Reports sent by the CUSC Panel to the Authority.

For the avoidance of doubt, we do not support any work on developing*[1] any of these Amendment Proposals beyond what is in the Final Amendment Reports issued to the Authority. This is because we believe that if further development* were to occur then the Authority would be opining on an Amendment Proposal which was materially different to that considered and assessed by (i) the Working Group (ii) CUSC Parties and (iii) the CUSC Panel.

In addition to this, as we have noted previously, we are concerned by the suggestion, of approval (by the Authority) for expenditure (incurred by National Grid) being granted prior to the Authority approval of these CAPs161-166 changes. We believe such approval for expenditure, if given, would be tantamount to fettering the Authority's discretion on these CAPs161-166 changes.

It is neither efficient nor economic, either for National Grid or CUSC Parties, for resources to be utilised and costs incurred to further develop* an Amendment Proposal; over and above what is in the Final Amendment Report issued by the CUSC Panel to the Authority; prior to a decision being made on that Amendment by the Authority.

Furthermore, we do not believe there is the vires, under the CUSC, for such a step to be taken. If, despite our comments on this, work were to proceed in this way then we would expect to be able to charge National Grid, on a monthly basis, a reasonable fee (using the "NGC" fee structure/costs set out in Schedule 3 of the Statement of Use of System Charges) along with all associated expenses for all our time, effort, travel etc., on this area of work.

Comments on the Legal Text

In addition to the specific comments on the CAP165 legal text (see below) we have comments on the "Proposed New and Amended Defined Terms" that appear in the documents.

"Donating Sharing User" – no definition provided.

"LCN Transmission Reinforcement Work" – is this correct, noting, for example, the 'white blob' in the third line and "inclusion of substation work a substation"?

"Temporary TEC" – is this correct? "Temporary Donated TEC" is defined under the CUSC in MW terms (over the whole period?) whilst "Temporary Received TEC" appears to be defined under the CUSC in weekly MW terms.

We would therefore urge the Working Group; in accordance with section 8.17.8 of the CUSC; and the Working Group Recommendation (see, for example, paragraph 1.6 of the CAP165 report) to ensure that the final legal text address these points.

Comments on each CAP (161, 162, 163, 164 and 165) as regards the CUSC Applicable Objectives

Our specific comments on each of the five Amendment Proposals (as detailed in our completed pro-formas for each which accompanied our 31st October 2008 letter) remain valid: as these are already included within the 'Volume 2' of each of the five Final Amendment Reports to the Authority we have not repeated them here. However, these pro-formas should be read in conjunction with this letter.

Subject to the limitations imposed upon us (as outlined in this and our previous letter) we have assessed each of the five individual Amendment Proposals against the CUSC Applicable Objectives below.

CAP161

As noted above we welcome, in principle, CAP161 as it has the potential to release transmission access capacity which has, to date, being unavailable to market participants. However, as we have indicated previously, we have concerns regarding the CLDTEC product.

In addition, as with all the short term arrangements, it needs to be recognised that the introduction of short term products, such as CAP161, should not be at the expense of fit for purpose enduring access arrangements such as TEC (which are required to provide investment signals for the actual building of the transmission capacity upon which the short and long term depend).

[1] * Including, but not limited to, defining / expanding / evolving / progressing / amplifying / elaborating / enhancing / growing / advancing

We remain extremely concerned that little (arguably, no) work has been done to assess the potential usage of this short term access product. We are mindful of the perverse consequence of short term auctions at gas entry that, because of the low reserve price, has resulted in users' preferences in unconstrained zones to purchase entry capacity on the day. There are real and significant interactions between users' behaviour and the reserve price. We strongly believe that this issue needs further work and analysis before a decision on CAP161 is made.

We also note the potential costs to National Grid of implementing SO release of short term access. These costs should be subject to the usual regulatory rigorous assessment of efficiency and, furthermore, we believe there is merit in considering the scope to extend the SO incentive scheme to, for example, link expenditure to usage.

In regard to the proposed implementation date, we refer you to our comments above ("Implementation Date & Arrangements"). Given the restrictions imposed by the National Grid IS (IT) issues (plus the delay in the publication of a decision by the Authority from June to September 2009) we can only conclude that CAP161 will be implemented sometime beyond 1st April 2010 (as noted in paragraph 9.4 of the CAP161 document).

In terms of assessing CAP161 (Original and Alternatives) against the CUSC Applicable Objectives we have carefully considered the comments in section 7 of the CAP161 document and we have conclude, with regard to better meeting the CUSC Applicable Objectives, that:-

Original – not better than baseline.

WGAA1 – better than baseline and better than Original.

WGAA2 - not better than baseline and not better than Original.

WGAA3 - not better than baseline and not better than Original.

CAP162

As noted above we welcome, in principle, CAP162 as it has the potential to release transmission access capacity which has, to date, being unavailable to market participants.

In addition, as with all the short term arrangements, it needs to be recognised that the introduction of short term products, such as CAP162, should not be at the expense of fit for purpose enduring access arrangements such as TEC (which are required to provide investment signals for the actual building of the transmission capacity upon which the short and long term depend).

We remain extremely concerned that little (arguably, no) work has been done to assess the potential usage of this short term access product. There are real and significant interactions between users' behaviour and price, particularly in unconstrained zones and negative charging zones. We strongly believe that this issue needs further work and analysis before a decision on CAP162 is made.

Furthermore, given that there has been insufficient time to undertake a load flow modelling it has not been possible for us to assess the financial (and market) impact that CAP162 would have on us (and the wider market) in terms of, for example, BSUoS and RCRC. This has made it very difficult for us to assess, at this stage, what the impact on TNUoS that could arise from CAP162. There remains a real risk that significant under or over recovery may arise which could, in turn, result in (undesirable) cross subsidies from some CUSC Parties to other CUSC Parties.

We also note the potential costs to National Grid of implementing entry access overrun. These costs should be subject to the usual regulatory rigorous assessment of efficiency and, furthermore, we believe there is merit in considering the scope to extend the SO incentive scheme to, for example, link expenditure to usage.

In regard to the proposed implementation date, we refer you to our comments above ("Implementation Date & Arrangements"). Given the restrictions imposed by the National Grid IS (IT) issues (plus the delay in the publication of a decision by the Authority from June to September 2009) we can only conclude that CAP162 will be implemented sometime beyond 1st April 2010 (as noted in paragraph 9.4 of the CAP162 document).

In terms of assessing CAP162 (Original and Alternative) against the CUSC Applicable Objectives we have carefully considered the comments in section 7 of the CAP162 document and we have conclude, with regard to better meeting the CUSC Applicable Objectives, that:-

Original – not better than baseline.

WGAA1 – better than baseline and better than Original.

CAP163

As noted above we welcome, in principle, CAP163 as it has the potential to release transmission access capacity which has, to date, being unavailable to market participants.

As we have noted previously, we are mindful that the current (baseline) CUSC arrangements for trading (as per the CAP68/CAP142 arrangements) have proved to be of very limited use. It is therefore imperative that the new transmission access products are both easily tradable

and available in sufficient volumes to provide the required benefits for Users. CAP163 would, we believe, make a major contribution to the tradability and market liquidity of transmission access in the future. This is a very welcome development. However, we note that to be effective it will be necessary for realistic and timely 'exchange rates' to be provided by the GBSO. Significant variation from a 1:1 rate will undermine, perhaps fatally, the usefulness of CAP163.

Notwithstanding that, as with all the short term arrangements, it needs to be recognised that the introduction of short term products, such as CAP163, should not be at the expense of fit for purpose enduring access arrangements such as TEC (which are required to provide investment signals for the actual building of the transmission capacity upon which the short and long term depend).

We also note the potential costs to National Grid of implementing entry access overrun. These costs should be subject to the usual regulatory rigorous assessment of efficiency and, furthermore, we believe there is merit in considering the scope to extend the SO incentive scheme to, for example, link expenditure to usage.

In regard to the proposed implementation date, we refer you to our comments above ("Implementation Date & Arrangements"). Given the restrictions imposed by the National Grid IS (IT) issues (plus the delay in the publication of a decision by the Authority from June to September 2009) we can only conclude that CAP163 will be implemented sometime beyond 1st April 2010 (as noted in paragraph 9.4 of the CAP163 document).

In terms of assessing CAP163 (Original and Alternative) against the CUSC Applicable Objectives we have carefully considered the comments in section 7 of the CAP163 document and we have conclude, with regard to better meeting the CUSC Applicable Objectives, that:-

Original – not better than baseline.

WGAA1 – better than baseline and better than Original.

CAP164

As noted above we very much welcome, in principle, CAP164 as it has the ability to make a major contribution to the release of transmission access capacity which has, to date, being unavailable to market participants. We also believe that CAP164 would send strong investment signals to both generation users and network businesses, 'freeing up' the current stagnation in the GB Queue.

We note that there has only been a very limited consideration by the Working Group of the Alternative (in the order of one business day by the sub group and less than this by the 'main' group). Notwithstanding this constraint the Alternative appears to be a welcomed enhancement of the 'Connect and Manage' approach which we wholeheartedly support.

We note National Grid's comment on the significant implications of the WGAA for the charging methodologies, and we agree that a transparent, bankable price for accessing the transmission system (prior to the firm access date) is key to the effectiveness of this option. There are also likely interactions between CAP164 and other access products and the operational management of system reinforcements. Further work and analysis is required in this area before a decision is made on CAP164.

In regard to the proposed implementation date, we note that CAP164 original could be implemented within ten business days after the publication of the Authority's final decision. Subject to there being no development of CAP164 from the submission of the Final Amendment Report to the Authority decision (see our comments above under "Implementation Date & Arrangements") we agree with this implementation date.

Concerning CAP164 Alternative, and the proposed implementation date, we refer you to our comments above ("Implementation Date & Arrangements"). Given the restrictions imposed by the National Grid IS (IT) issues (plus the delay in the publication of a decision by the Authority from June to September 2009) we can only conclude that CAP164 will be implemented sometime beyond 1st April 2010 (as noted in paragraph 8.8 of the CAP164 document).

In terms of assessing CAP164 (Original and Alternative) against the CUSC Applicable Objectives we have carefully considered the comments in section 6 of the CAP164 document and we have conclude, with regard to better meeting the CUSC Applicable Objectives, that:-

Original – better than baseline.

WGAA1 – better than baseline.

CAP165

As noted above we do not support CAP165 (either the original or WGAAs 1, 2, 3, 4, 5, 6 and 7) as we believe that they do not better meet the CUSC Applicable Objectives when compared with the current (CUSC) baseline.

However, WGAA4, which is aligned with the timescales for the similar product in the GB gas transmission access arrangements, does in our view better meet the CUSC Applicable Objectives when compared with the Original

Notwithstanding that, as we have noted previously, the unilateral removal of a property right (which is what the current TEC transmission access rights are) without full compensation is, we believe, illegal.

Furthermore, such a step would be hugely damaging to investor confidence. Generators, having signed their BCA etc., commit many hundreds of millions of pounds investment in their new power plant. It should be noted that this financial commitment, vis a vis the power station, dwarfs the financial commitment (underwritten in no small part by the generator) made by the GBSO. Over the next ten years or so it has been suggested that circa £100Bn of investment will be needed in new power station assets.

If, as is suggested with CAP165 (and 166) the transmission access rights of generators can, unilaterally, be removed (via a CUSC change) and reallocated via another means then there is nothing (in either the CUSC, Licence or Act) that prevents this happening in the future.

History has taught us; with, for example, the way the transmission access rights work within the GB gas market; that once this area is opened up for change it will be subject to 'tinkering' for many years to come. Such 'tinkering' causes increased uncertainty for investors leading to (i) reduced investment and (ii) increased risk premiums being applied to those investments that are made.

In regard to the proposed implementation date, we refer you to our comments above ("Implementation Date & Arrangements"). Given the restrictions imposed by the National Grid IS (IT) issues (plus the delay in the publication of a decision by the Authority from June to September 2009) we can only conclude that CAP165 will be implemented sometime beyond 1st April 2010 (as noted in paragraph 8.3 of the CAP165 document).

We have some concerns with respect to the proposed legal text and have provided some revised wording that we would urge the Working Group; in accordance with section 8.17.8 of the CUSC and the Working Group Recommendation (see, for example, paragraph 1.6 of the CAP165 report); to address, namely:-

> "the term "**Agreed TEC Period**", shall mean a **TEC Period** which is different to the **Default TEC Period** and which has been nominated by the **User** and which is no greater than [●] years and which when added to the period which the **User** has been connected to the **GB Transmission System** is not less than 8 years;"

In terms of assessing CAP165 (Original and Alternative) against the CUSC Applicable Objectives we have carefully considered the comments in section 6 of the CAP165 document and we have conclude, with regard to better meeting the CUSC Applicable Objectives, that:-

Original – not better than baseline.

WGAA1 – not better than baseline not better than Original.

WGAA2 – not better than baseline not better than Original.

WGAA3 – not better than baseline better than Original.

WGAA4 – not better than baseline better than Original.

WGAA5 – not better than baseline not better than Original.

WGAA6 – not better than baseline better than Original.

WGAA7 – not better than baseline better than Original.

Non physical players (CAP165)

Discussions were held within the Working Group on the possible involvement of **non physical players** with respect to these new access products (as recorded in section 4.6 of the CAP165 report). As the CUSC is currently constituted we do not believe it is permissible for non physical players to be involved in booking or holding transmission access rights. We understand that Ofgem and DECC (formerly BERR) have recently provided some comments on the issue as outlined in paragraph 4.6.2 of the CAP165 report. We note that, as drafted, CAP165 does not propose to change the CUSC to include for the involvement of non physical players. We agree with this for the reasons detailed in our 31st October 2008 letter.

Conclusion

We believe that CAP161 WGAA1, CAP162 WGAA1, CAP163 WGAA1 and either CAP164 Original or CAP164 WGAA1 are all better than the current (CUSC) baseline, in terms of better meeting the Applicable CUSC Objectives and should be recommended for approval by the CUSC Panel.

We believe that both the CAP165 Original and the Alternatives do not better meeting the Applicable CUSC Objectives when compared with the current (CUSC) baseline and therefore should not be recommended for approval by the CUSC Panel. However, CAP165

WGAA4, when compared to the Original, is better at meeting the Applicable CUSC Objectives.

I hope these comments will assist the Company and the CUSC Panel in their future deliberations.

Yours sincerely,

Garth Graham

Electricity Market Development Manager

Energy Strategy

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FAO Bali Virk
National Grid
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CV34 6DA

12th December 2008

Dear Bali,

Company Consultation Response for CAP161 System Operator Release of Short-term Entry Rights, CAP162 Entry Overrun, CAP163 Entry Capacity Sharing, CAP164 Connect and Manage and CAP165 Finite Long-term Entry Rights

1. Drax Power Limited is the operating subsidiary of Drax Group plc and the owner and operator of Drax Power Station in North Yorkshire. We are pleased to have the opportunity to respond to the aforementioned consultations regarding CAP161-165.

2. To date, our responses have been provided on the basis that we do not have enduring transmission access rights. As you know, we do not accept that this is correct, and our right to raise this very important aspect is reserved.

3. The Government has committed to challenging targets for the connection of renewable generation by 2020; a challenge that requires substantial new investment by both current industry parties and new entrants. Drax has recently announced its intentions to invest in three new biomass plants that will provide a combined total of 900MWs of renewable generation capacity; these investments will count towards meeting the Government's renewable targets. Drax shares the concerns of other industry parties that the changes proposed as a result of the Transmission Access Review are on a par to the scale of NETA. However, the industry has only been allocated a very short timescale in which to consider potential solutions that address the issues highlighted in the joint report developed by Ofgem and BERR earlier this year.

4. Drax acknowledges that there are serious issues regarding the GB Queue in terms of the timely provision of access for serious investors, whose connection dates have been substantially delayed due to the volume of speculative connection requests. However, we note that the recently approved CAP150 amendment, which aims to address these GB Queue management issues, has not been given the time required to test its effectiveness. It is of grave concern that persistent changes to the access arrangements only serve to provide further uncertainty for investors, particularly at a time when the Government is striving to encourage investment on an unprecedented scale.

CAP161-163 Short-term Access Proposals

5. Whilst Drax understands the rationale behind the short-term access proposals in CAP161-163, we still remain very sceptical as to whether the release of short-term entry rights would aid the connection of new generation as an enduring access product. It is our belief that when investing in new generation plant, a developer requires certainty of market access over the term of the investment; whilst the use of short-term products provides a new route to gaining transmission access, it is unlikely that a business would invest based upon short-term access arrangements alone.

6. Drax believes that there may be benefits in using short-term access products to aid early connection to the system whilst wider upgrade works take place. However, such products must be highly flexible and work over reasonable distances of the transmission system (i.e. the capacity sharing proposals will only be beneficial to parties if they are offered reasonable exchange rates). Whilst capacity sharing appears to be a good concept that provides greater optimisation of the transmission system, the benefits may be more easily used by portfolio players with multiple sites rather than new entrants, thereby making the wholesale market less competitive.

7. We remain concerned over the potential for greater costs being socialised across the system, especially due to the consequences of an overrun style product. Whilst we see the benefit of an overrun product in terms of avoiding breaches of the CUSC in situations where generators share access capacity and have the potential to generate at the same time, we still have reservations regarding its use as a general purpose short-term access solution. Greater targeting of costs towards the source of the constraints may help to reduce the burden of socialised constraints, but may also limit the practicality of the product for the User concerned.

8. Short-term auctions under CAP161 also have serious short-falls for certain Users, particularly wind farms. For any User to be able to use short-term auctions, they would need to know the periods in which they wish to operate by the time the auction takes place. For conventional peaking plant, this may not be such a problem, as they will have a number of indicators that will dictate how they operate and, presumably, their fuel will be on standby. Wind farms do not have the luxury of accurately predicting there fuel availability until much closer to the period in which they will generate. In order for wind farms to use this product effectively, it would suggest that the auctions would have to take place as close to real-time as possible. This in itself is no small task, as it is not just the System Operator that would have to ensure there is adequate resource available to provide the auction, but the operators of the wind farms themselves will also require the resource to partake. For smaller operations, this would potentially be a large undertaking given the scale of the project.

9. Overall, short-term products may provide alternative routes to markets for Users, but they do not offer the certainty of market access that long-term products provide. Certainty of market access is crucial for any investor, whether new or existing, but it is particularly crucial when attempting to secure finance for a project.

10. Further to this, it is essential that any short-term entry product is transparent, as users must be able to understand the processes involved and have good access to information in order to understand the potential risks of using such products.

CAP164 Connect and Manage

11. It is our opinion that this amendment would be the most useful in helping new Users to gain access to the transmission system sooner. Shorter connection times, due to local connection occurring prior to the completion of wider works, would mean that only serious developers could apply for transmission connections. In the longer term, there would be no need to make speculative applications as there would be, at the very least, a much reduced queue.

12. The nature of the current access arrangements, and those described under the CAP164 proposal, appear reasonably consistent. This would suggest that when compared to other options (such as CAP165 and CAP166), CAP164 would provide greater stability for (a) existing Users, (b) those in the process of constructing new plant, and (c) those that are at earlier points in the planning and application processes.

13. It is clear that system constraints could increase under a Connect and Manage approach, meaning it is probable that the task of balancing the system will become more difficult for National Grid. Further to this point, the socialisation of related constraint costs under CAP164 Original may be problematic, in terms of an unpredictable increase in BSUoS costs with a more “spiky” profile. However, the Working Group has attempted to address this issue in the CAP164 WGAA, where costs are targeted towards those that cause them due to such early connections.

14. We recognise that National Grid does not receive better investment signals with CAP164, as plant could still give very little notice to relinquish their entry access rights. However, Drax believes that a combination of a Connect and Manage approach with the four year rolling rights proposal under CAP165 WGAA3 would provide a much more robust solution. We address this in our "Potential Solution" section (below).

CAP165 Finite Long-term Entry Rights

15. Neither CAP165 Original nor any of the CAP165 alternatives would release more entry capacity than the current baseline. Under the CAP165 Original, WGAA1 and WGAA2 proposals, Users can only secure long-term access to the system if they commit to long commitment periods, although this would in-turn subject generators to a high commitment payment should market economics change and they wish to exit the market.

16. Although it is argued that securitisation is only for one year, User "commitments" are likely to relate to periods much further out than market liquidity, which is a very risky position for a new (or existing) investor to take.

17. Users are only certain of being able to generate in the years that they gain an access booking, i.e. they cannot be guaranteed extensions beyond the booking period unless access is still available. This encourages Users to commit to long booking periods. It should be noted that barriers to exit will only compound the issues associated with barriers to entry; obstructing old plant from disconnecting (due to potentially high commitment costs incurred when leaving the market) will mean lower volumes of access rights are released for new plant to utilise.

18. Committing to longer commitment periods only works for larger cash-rich companies, as a downturn in market prices / change in legislation may force smaller companies to abandon projects. The commitment alone may force such parties into default / administration, thereby causing them to default on their commitment, which in turn may lead to the socialisation of defaulted payments across the industry.

19. Whilst it is recognised that CAP165 would provide National Grid with better investment signals, it is important to recognise that the amendment introduces further substantial risks (above the current baseline) to the generator, at a time when the encouragement of new generation is vital. In order to encourage investment, such risks must be manageable in a way that correlates to the risks of the market in which the investor intends to operate. For example, the arrangements must enable an investor to respond to economic signals and changes in legislation.

20. As mentioned earlier, Drax believes that a combination of a Connect and Manage approach with the four year rolling rights proposal under CAP165 WGAA3 would provide a more robust solution. We address this in our "Potential Solution" section (below).

Potential Solution

21. Drax believes that when comparing the CAP164 proposals against the CAP165 and CAP166 proposals, the CAP164 proposals would be the most useful in terms of ensuring new generators can connect in a timely manner, whilst also ensuring that the integrity of the system is maintained from a security of supply perspective. However, Drax acknowledges that CAP164 does not aid the improvement of investment signals for Transmission Owners.

22. Drax considers that a more robust solution may be a combination of the CAP165 four year rolling rights solution (CAP165 WGAA3) with a Connect and Manage approach. Such a combination would:

    a) Ensure new plant could connect in a timely manner;

    b) Provide greater commitment to National Grid from generators, in the form of guaranteed transmission access revenue over the rolling period;

c) Provide enhanced investment signals to National Grid, as the longer notice periods for decommissioning plant would help National Grid avoid a high proportion of costly, unneeded wider infrastructure investment;

d) Allow generators to make decisions based upon the current economic indicators in the market, for example forward power, fuel and carbon curves; and

e) In terms of changes to the CUSC, this approach is more akin to the current arrangements than the other available options.

23. This solution would provide certainty of access for both new and existing generators, whilst allowing the economics of the wholesale market to determine which generators remain on the system.

Summary

24. In summary, Drax remains very sceptical as to whether short-term entry access products could constructively provide earlier connection of new generation on the scale required. The key to resolving the issues surrounding the GB Queue is to find an enduring access regime that fits the needs of *both new and existing generators*, which will facilitate faster connections and ensure security of supply whilst allowing market forces to decide which generators remain on or leave the system. Therefore, Drax does *not* believe that CAP161, CAP162 nor CAP163 provide adequate solutions.

25. Drax currently believes that neither CAP165 Original nor any of the alternatives would aid the connection of new plant to the transmission network, as no new entry capacity is created. Therefore, the CAP165 proposals would not aid more timely connections for new Users. The proposal purely provides greater investment signals to National Grid, whilst simultaneously increasing the risk to the User, who must effectively gamble their new investment on either:

    a) Locking into long-term entry capacity with a huge commitment that could potentially bankrupt them in an economic downturn; or

    b) Not locking into long-term entry capacity and facing the risk of losing the ability to gain access to the system, which could potentially place the investment in jeopardy.

26. From an enduring access perspective, Drax believes that when comparing the CAP164 proposals against the CAP165 and CAP166 proposals, the CAP164 proposals would be the most useful in terms of ensuring new generators can connect in a timely manner, whilst also ensuring that the integrity of the system is maintained from a security of supply perspective.

27. However, Drax acknowledges that a Connect and Manage approach does not aid the improvement of investment signals for Transmission Owners. Drax considers that a combination of a Connect and Manage approach with CAP165 WGAA3 (four year rolling rights) would provide a more robust solution, facilitating network entry whilst providing enhanced investment signals to National Grid.

If you have any queries regarding the comments in this response, please feel free to contact me.

Yours sincerely,

Stuart Cotten

Regulation
Drax Power Limited

AEP Response to the Connection and Use of System Code Amendment Proposals CAP161-165

1. Thank you for the opportunity to respond to the consultations on the Connection and Use of System Code Amendment Proposals CAP161-165. The Association of Electricity Producers represents generating companies in the UK with our membership comprising a wide range of technologies utilising fossil, nuclear and renewable sources of energy. A large number of our members have interests in generating stations using renewable energy or plan to build new, more carbon efficient plant, in future and are therefore in the process of either seeking investment, planning permission, or await connection to the Transmission System. Between them, members will undertake a vast majority of the investment needed to meet the Government's targets for renewable energy for 2010 and 2020. Members also include a number of non-generators. Members operate in a competitive electricity market and they have a keen interest in its success, not only in delivering power at the best possible price, but also in meeting environmental requirements.

2. As you are aware many of our members have actively participated in the development of the five proposals you are currently consulting on since they were initially raised in April this year. For those who were unable to participate directly we have provided regular updates through our association committees. Our members remain concerned about the relatively short timescale allowed for assessment of proposals and lack of cost benefit analysis undertaken to date. Members also raise concerns that important recent innovations delivered by CAP150 – Capacity Reduction proposal have yet to be tried and tested. We do not believe that Security of Supply issues around increased numbers of intermittent generators connecting to the System have yet been fully assessed. In addition we would reiterate the need for improved transparency around the process for re-allocation of released Transmission Entry Capacity with reassurance of timely reallocation going forward.

3. With regard to the individual proposals CAP161 – System Operator Release of Short-term Entry Rights, CAP162 – Entry Overrun and CAP163 – Entry Capacity Sharing attract general support from association members and should, in theory, enable connection of additional generation. We agree with

National Grid Electricity Transmission (NGET) that for CAP161 and CAP162 there is no merit in pursuing implementation of the original proposals due to the issues identified by the Working Group associated with the zonal definition of access rights. In addition we agree that due to the issues associated with unlimited sharing of access rights at a 1:1 exchange rate within pre defined zones the CAP163 original proposal should also not be implemented.

4. Member views were supportive but split on the over the merits of the CAP161 alternatives. The CAP162 working group alternative attracted general support for what this proposal is trying to achieve as did the working group alternative for CAP163.

5. Association members agree with NGET that the costs associated with the CAP164 – Connect and Manage proposal is of concern. There is tentative support amongst our membership for the working group alternative proposal for CAP164 pending the outcome of further work on the charging methodologies and revenue flows.

6. In our 31st October 2008 submission we stated that our members believe that they have secured evergreen transmission access rights and that NGET has no ability to remove those rights without legislation and significant compensation. This view has not been changed by debate on the CAP165 – Finite Long-term Entry Rights proposal. We remain disappointed in the fact that Ofgem continues to refuse to enter further dialogue on this issue within the Working Groups. We have still to debate the issue of removal of rights and transition to a new regime despite the fact that we know that there are a great many Bilateral Agreements between NGET and individual power stations that will have to be unravelled should the Authority approve implementation of this proposal. We remain unconvinced that it is within the scope of this suite of amendments to change them.

7. Having considered the matter we do not think that CAP165 would increase the efficiency of planning and operation of the Great Britain electricity system. It would make planning of the transmission system easier but in general the financial impact of power stations being less able to optimise their closure decisions would have a greater impact on both the cost of operation and the security of supply. Allowing power stations to make closure or mothballing decisions at short notice, whilst making it harder to plan the transmission system, maximises security of supply and minimises the cost of providing any given level of security of supply. Changing the rules so that generators had to commit a number of years ahead would result in either an increased probability of there being insufficient plant available or plant being kept open unnecessarily, with the costs of so doing ultimately falling on the electricity consumer.

8. In conclusion our members propose the following:

CAP161 – System Operator release of Short-term Entry Rights	
Reject the original	Split views on the merits of the alternatives
CAP162 – Entry Overrun	
Reject the original	General member support for the alternative
CAP163 – Entry Capacity Sharing	
Reject the original	General member support for the alternative
CAP164 – Connect and Manage	
Reject the original	Tentative member support for the alternative pending further work
CAP165 – Finite Long-term Entry Rights	
The Association does not support this proposal or any alternative	

9. If you wish to discuss any aspects of our response further please contact Barbara Vest, Head of Electricity Trading on 07736 107 020

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12 December 2008

Dear Bali

Connection Use of System Code Amendment Proposals CAP161-165

Welsh Power welcomes the opportunity to comment on these CUSC modification proposals. As the owners of an existing coal fired plant, Uskmouth Power, and the developers of a new CCGT power station, Severn Power, Welsh Power believes that transmission access is vital to securing the GB electricity market in both the short and longer term.

For the record, Welsh Power would like to state that we believe that we currently have rights of access to the transmission system that are ours, subject to the payment of the associated charges, until such time as we chose to hand those rights back to NGC. In the case of our new development, Severn, we believe that our construction and connection agreement is very clear in that we are underwriting the costs of securing a new connection and access to the transmission system, again on the basis of a long term firm right. We do not think Ofgem has made a robust case that these rights were not firm right and could at any time be removed from us.

Welsh Power believes that there are potential benefits with regards to these new access products of CAP161 – System Operator (SO) Release of Short-term Entry Rights, CAP162 – Entry Overrun and CAP163 – Entry Capacity Sharing. These products could lead to additional generation on the transmission system within the short-term.
With regards to CAP161, Welsh Power supports WGAA1, nodal 5 week and 2 day head auction, provides access to the system in the short-term whilst not unduly increasing operational costs borne by other Users. The SO has greater knowledge of potential constraints on the system as a consequence of Users applying for short-term capacity 5 weeks ahead.

Similar to the rational of supporting the nodal approach for CAP161, we believe for practical reasons it is only possible to support the implementation of CAP162 WGAA1, implementation of overrun with rights defined and settlement based on a Power Station level. Working group 3 clearly highlighted the significant problems associated with the zonal approach of entry overrun. The access product CAP163 will also require implementation on a node to node basis and therefore Welsh Power supports the WGAA. This alternative shall facilitate the implementation of sharing entry capacity rights on both a short-term and long-term basis without leading to excessive socialised constrain costs.

The original CAP164 – Connect and Manage proposal is not supported by Welsh Power. However, we do support the WGAA which seeks to mitigate the additional costs associated with the original connect and manage imposed on third parties but provides firm access at an ex ante price in fixed timescales. We believe that this alternative should be further developed, focusing on the charging methodology and the implications on the revenue flows.

For CAP 165 Welsh Power does not support the modifications as we do not believe that they better facilitate the CUSC objectives. However, compared to the original modification Welsh Power supports WGAA4 as we agree a 15 month notice period strikes a better balance between notice to the TO and generator flexibility in deciding when to close plant. We also support WGAA7, again compared to the original modification, as it aimed to strike a better balance of risk between the generator and the TO. Had the group had more time we could have considered merging some of the alternates to make one better overall modification. While this can be done with subsequent modifications this would not have been our preferred route.

Welsh Power would note that the modifications do not overcome the fundamental problem of getting the TOs to deliver firm connection rights in a timely manner. Welsh Power does not believe that the existing arrangements are perfect, but they seem to have delivered much of what CAP165 aims to achieve. What Ofgem needs to consider is how much reinforcement work TOs should make on a more speculative basis without firm signals, but based on reasonable forecasting of where new build generation is likely to appear. At the present time the forecast need for new build would appear to make some advanced investment a prudent rather than speculative activity. Access to the transmission network should not have become the biggest issue in the development of a new power station.

If you would like to discuss any of the points raised please contact myself or Lisa Waters on 020 8286 8677.

Yours sincerely

Rebecca Williams
Head of Trading

Hêdd Roberts
UK Transmission Commercial
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15th December 2008

Dear Hêdd,

CUSC Amendment Proposal CAP 165: Finite Long-term Entry Rights

InterGen welcomes this opportunity to respond to the consultation on *CUSC Amendment Proposal CAP 165*. InterGen has developed one third of the UK's new installed thermal electricity generating capacity in the last ten years, investing £1.4 billion. This document sets out our response to the consultation in the light of this experience.

InterGen is committed to the UK and seeks to build on its historical investment. InterGen supports the Government's commitment to address Transmission Access and Renewable Deployment, and appreciates the efforts of the Working Groups, particularly in light of the limited time available to develop the proposals.

NGET wishes to have clear signals on plant retirements and have the ability to reallocate entry capacity as it deems appropriate. However, InterGen and other generators have secured contractual evergreen transmission access rights and NGET cannot remove those rights without the introduction of primary legislation. InterGen, therefore, considers that the proposals set out in CAP 165 – Finite Long Term Entry Rights are impermissible. Ofgems refusal to explain their contrary legal position on this issue has made it difficult for both InterGen and the Working Groups to make progress on appropriate access reform.

NGET desires more certainty than is currently provided under the existing arrangements on the retirement of existing plant. InterGen therefore sees merit in the notion of a rolling commitment period for new post-commissioning generators. However, there is the risk that under CAP 165 capacity could be 'over-booked' by cash-rich generators, resulting in misleading investment signals and excluding smaller-scale generators, including renewable

players. This could threaten the underlying principles of the TAR, and would steer the UK further away from its 2020 targets.

In addition, it is difficult to accurately predict the lifetime of a power station in an environment of regulatory uncertainty and constantly moving targets, as well as significant market volatility. Even the rolling 4-year commitment period as proposed in Working Group Alternative Amendment 3 (WGAA3) seems lengthy in today's climate, particularly in light of the significant regulatory change in the industry in the last few years.

InterGen agrees that whilst large amount of renewable generation will need to commission to meet the UK's 2020 obligation, there is also an additional demand for new thermal generation in the UK to bridge the forecast supply gap during the next decade. InterGen believes that Transmission Access Reform should retain the flexibility to address that gap and acknowledge that managing connections in the future in light of these issues will call for improvements to the existing process. However, InterGen does not believe that the proposals set out in CAP 165 will meet the energy challenges that the UK currently faces. InterGen takes the opportunity here to reiterate its previously expressed concerns that important recent innovations delivered by the CAP 150 – Capacity Reduction amendment have had insufficient time to be fully tried and tested. The mechanism established by the GB Queue Management Committee may successfully address current Transmission Access issues and the impact of CAP 150 must be fully assessed before further change is considered.

InterGen believes that the liberalised market principles under-pinning the British Electricity Trading and Transmissions Arrangements (BETTA) should be preserved. InterGen believes whatever the outcome of the Transmission Access Review clear, long-term investment signals should remain to avoid the introduction of a distortion into the UK's liberalised energy market. A stable regulatory transmission access environment is essential in order to encourage continued investment in the sector.

The short timescale in which participants have had to respond to not only CAP 165, but all six of the TAR proposals has hindered our detailed analysis due to allocation of time resource. We understand we are not alone in this frustration. The Transmission Access Reform could alter the landscape of the UK generation industry in a way not seen since the introduction of NETA in 2001. InterGen believes that the time given for participants to assess and respond to the proposals does not reflect their possible impact.

Yours sincerely,

pp Melissa Green

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First Hydro Company is part of a joint venture between International Power plc and Mitsui & Co., Ltd.

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10th December 2008

Sarah.a.hall@uk.ngrid.com

Dear Sarah

CAP 165 Finite Rights

International Power (IPR) is responding to your consultation on behalf of First Hydro Company, Saltend Cogeneration Company Ltd, Rugeley Power Ltd, Deeside Power Development Company Ltd and Indian Queens Power Ltd.

We have reviewed our response to the initial consultation submitted on the on the 31st October 2008 and wish it to be carried forward to this consultation. We believe that it covers all of the substantive issues and don't wish to make any further points other than to re-iterate our support for the working group alternative WGAA5 which we believes better meets the CUSC relevant objective.

The summary WGAA5 is :-

- Rolling 8 year commitment for new and existing users
- New users security based initial on 100% of pre-commission liabilities dropping to 25% of liabilities in final year prior to commissioning
- No security should be required from existing users.

We hope that these comments are useful.

Yours sincerely,

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Transmission Services Manager

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12 December, 2008

Dear Bali,

CAP165 - Transmission Access – Finite Entry Rights

Thank you for the opportunity to respond to the above consultation. This response is made on behalf of E.ON UK plc. The views that we made in our last consultation response remain and we would direct you to that document for more detail. Our comments in this response will focus on each of the alternatives proposed.

The rationale that has been made for a finite definition of access right, with the associated user commitment, is to ensure that the transmission companies have sufficient information about generators' intended usage of the transmission system in order for them to plan their networks. Therefore, knowledge about the length of a generator's rights will only be of use if it can affect future investment in the system. If the transmission companies only plan their networks 6 to 7 years out then we would question whether they should be interested in the information that a generator wants transmission access for a significant number of years beyond this.

We are therefore sceptical of a solution to CAP165 that requires a booking of finite rights for a significant number of years out. We do not believe that generators can provide certainty about the life of their stations this far into the future. This means that we do not support the original amendment, WGAA1, WGAA2 and WGAA5 which all incorporate significant periods of user commitment in excess of the period required by National Grid for planning timescales and far higher than can be predicted by generators with any certainty.

Our detailed comments on each option are as follows:

Original Proposal

This requires a the generator to commit to its access right over a significant period of time which is not realistic or useful for planning purposes as mentioned above. It also is based on a zonal right. As we have seen from the work of Working Group 3 that the risks associated with defining zonal rights, interchangeable on a one to one basis, are too high.

We do not support this option.

WGAA 1

Although this option removes the zonal nature of rights under the original proposal, the unrealistic level of commitment is the same.

We do not support this option.

WGAA 2

This is essentially WGAA 1 with generic final sums replaced with final sums based on the forecast expenditure. Although we do not object to the final sums proposals, the level of commitment is unacceptable as with the above two options.

We do not support this option.

WGAA 3

This option has the more realistic aim of trying to balance the requirements of the transmission companies when planning the system, with the ability of generators to give notice of closures of power stations. A 4 year notice period represents a reasonable compromise.

We support this option.

WGAA 4

This proposal is similar to WGAA 3, but with a 15 month notice period. Although this is more acceptable to generators we accept that transmission companies will be less supportive.

We support this option.

WGAA 5

This option has an 8 year rolling notice period which is unrealistically long in terms of expectations of a generator's ability to give notice of closure of its station. It appears to be based on one generator's view of closure based on the limited circumstances of the effects of environmental restrictions. Although this is one element that influences a

closure decision, the physical state of equipment at the power station along with forward power prices and expected fuel costs are all elements that can alter in much faster timescales. A generator will ascertain whether it is worthwhile undertaking essential maintenance to plant in the context of the returns it can obtain as a result. If they are not sufficient then they will decide to close. It is unrealistic to assume they can do this 4 years ahead. However, WGAA 3 represents a compromise position. Eight years is totally unacceptable.

Additionally, we are unclear why a generators security cover should step down in the manner indicated as the liability steps up.

We do not support this option.

WGAA 6

This proposal is similar to WGAA 3, but with a 2 year notice period. Although this is more acceptable to generators we accept that transmission companies will be less supportive.

We support this option.

WGAA 7

This option is similar to WGAA 3 but only requires pre commissioning liabilities to be incurred from 7 years before the due connection date. This is similar to the provisions of CAP131 that ensured that liabilities were not incurred well before commitments to invest on the transmission system were actually made. This is a useful addition to WGAA 3.

We support this option and on balance believe it is the best one.

I hope the above comments prove helpful.

Yours sincerely

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Trading Arrangements

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11 December 2008

Dear Bali

Response to National Grid's Consultations re CAP161-CAP165

Rio Tinto Alcan welcomes the opportunity to respond to National Grid's consultations in relation to CUSC Amendment Proposals CAP161-CAP165.

Rio Tinto Alcan undertakes aluminium smelting activities at sites connected to the Northern Electric Distribution and Scottish Hydro-Electric Distribution Ltd networks. We have only a peripheral role in the electricity market and we are not CUSC parties. In this context, our primary concern is the security of electricity supply to our smelters. However, these proposals have the potential to affect this and so to impact upon our operations considerably. Therefore, Rio Tinto Alcan's specific and unique position must be considered during the evaluation of these proposals.

We are concerned that the changes to the transmission access arrangements proposed under CAP161-CAP165 may undermine Rio Tinto Alcan's property rights in relation to firm access to the transmission and distribution system. We believe that our sites must have their rights recognised and preserved in the context of any reforms to the transmission access arrangements. Considerable investment has been undertaken at these sites on the basis of the present arrangements, delivering benefits to the system as a whole without imposing any quantifiable cost on the transmission system. In order to maintain this situation, we believe that the enduring arrangements should ensure that our rights are maintained. We consider that this is justifiable as due discrimination, as the unique nature of our operations means that our situation is sufficiently distinct from that of other parties to warrant different treatment.

Whenever, as is the case with the CAP161-CAP165 proposals, there is the potential for the transmission access arrangements to be revised, the specific impact upon Rio Tinto Alcan, given the unique nature of its sites, must be specifically assessed in a careful and thorough manner. Therefore, we would expect explicit consideration to be given to the impact of these proposals (and of any subsequent proposals in relation to transmission access arrangements) upon Rio Tinto Alcan's position.

We are keen to work with National Grid and the electricity industry in developing appropriate transmission arrangements for our sites following the conclusion of the Transmission Access Review. To that end, we would welcome the opportunity to participate further in the process to ensure that our needs are taken fully into account in the development of the enduring arrangements.

Rio Tinto Alcan

Bob Nicholson
Power Commercial Manager

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15 December 2008

Dear Bali

British Energy response to the company consultation for CUSC amendment proposal 165

The British Energy group of companies welcomes the opportunity to respond to the above consultations. British Energy own and operate eight nuclear power stations as well as Eggborough Power Station (a large coal plant with two units fitted with FGD) and four small embedded gas generator sites. Two of our nuclear stations are located in Scotland accounting for approximately 2300MW of capacity. We also have interests through a joint venture in developing an island windfarm in Scotland.

It is important to note that during our contribution to the CUSC working groups we put aside our belief that we have enduring transmission access rights in order to facilitate the Transmission Access Review (TAR) process. As you know we do not accept that this is correct and our right to raise this very important aspect is reserved.

In our submission to the working group consultation we raised particular concerns over the requirement for a solid cost benefit analysis of the proposals in CAP165 regarding generator entry and exit from the transmission system. It has not been possible for a robust analysis to be presented to industry in the timescales and without it we cannot offer any support to CAP165 or any of the Working Group Alternative Amendments.

For each of the transmission access CUSC amendments we agree that the issues associated with the zonal definition of access rights are too great to allow us to support the original proposal. It is this aspect of the original proposal that is unworkable and has therefore skewed the manner in which alternatives have been put forward by the working group. The working group considered whether the proposals were better than the baseline and if they were better than the original. The voting which favours the alternatives against the original is not a reflection of the alternatives but merely demonstrates that the original is an unworkable modification. The measure against the baseline is therefore the only relevant vote and there was no overwhelming support from the working group members for either the original or any of the alternatives.

We would now like to take the opportunity to reiterate our concerns with this proposal.

General Views on Modification

The economic operation of the electricity system requires generators to have the ability to exit and enter the system efficiently. Efficient exit from the system is facilitated by the current transmission access scheme which allows generators to leave the system with 5 days notice. However, it has been suggested that the current flexibility could result in stranded transmission system assets. CAP165 seeks to reduce this risk by providing National Grid with more information about exit decisions.

British Energy has participated fully in the CAP165 working group. However we still do not understand the extent to which stranded assets on the system is a real issue. On several occasions the working group requested information on the historic cost of stranded assets, but this information was not provided. In

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addition, given the volume of generation which wishes to connect to the system and the proposed CUSC amendments to improve the use of capacity in the short-term, British Energy is not convinced that the issue of stranded assets in the future will be significant. Without knowledge of the potential cost of stranded assets it is impossible to carry out a cost benefit analysis of the proposed modification. In order to understand the true impact on customers, any cost benefit analysis should consider the electricity system as a whole rather than simply the efficiency of network investment. For example, if an improvement in network investment is outweighed by increased costs due to a reduction in the efficient exit of generators from the system, this will result in higher costs for customers. It is our view that any benefit of CAP165 remains unproven unless a cost benefit analysis of the type described above is performed.

Even if it is demonstrated that improving the information provided to National Grid is beneficial to system efficiency, British Energy does not believe that finite rights are the best means of providing this information. CAP165 would require generators to book rights initially for a period, with the opportunity to extend these rights at a later date if rights are available. If no rights are available then the generator must purchase rights from another user or cease generating (if CAP 162 is introduced then the generator could also choose to overrun). It is our view that CAP165 would initially lead to a hoarding of rights by generators due to the asymmetric nature of the risks which they face. Consider a generator which books access for a period which is less than they actually require. If this generator cannot extend their rights or purchase rights from another counterparty they must cease generating when their finite rights end, losing all generation income. Alternatively, a generator may book access for a period which is more than they actually require. If the generator cannot subsequently trade the rights on, the loss is limited to the cost of the access; this will be much lower than the cost of lost generation which occurs in the case of under-booking.

The asymmetry in the risk is reduced if there is a liquidly traded secondary market in access. However, no such market currently exists and CAP165 does not propose improvements on the current approach for access trading. Initially it was envisaged that CAP165 could be implemented on a zonal basis and that trading could take place within zones without the requirement for National Grid to be involved. However, the work on defining zones demonstrated that creating large stable zones was not possible. CAP165 is now envisaged to be a nodal allocation of rights and so under current access trading, National Grid would need to provide an exchange rate. At present this process takes between 3 weeks and 3 months and so a liquid secondary market is unlikely to develop unless the process is altered dramatically.
It is therefore the view of British Energy that under CAP165 an economically rational generator will over-book capacity if there is uncertainty over the closure date of plant. This will lead to inaccurate information being provided to National Grid regarding closure decisions.

Under CAP165 generators are required to commit to paying for rights for a fixed number of years without knowing what the cost of rights will be in those years. A fixed duration commitment should ideally be matched by a fixed price. British Energy understands the issues with fixing the price and we do not believe it is appropriate to do so. We therefore question whether it is appropriate to require generators to commit to paying for rights for a number of years when it is not possible to fix the costs. Under the original and other alternatives, generators will purchase access rights for a finite period which may exceed 20 years. It is our view that information on plant closures 20 years in the future is not particularly helpful in planning the system. We believe that the rolling notice period for exit from the system in WGAA3-7 aim to provide a compromise between the flexibility of access that generators require and the need for National Grid to have better information regarding generator closures for network planning.

Ideally a generator would like the flexibility to exit the system in the timescales over which it makes its economic decisions. This timescale is largely driven by liquidity in the electricity market. The market in baseload power is generally liquid for about 2 years and so it is possible for a baseload generator to lock in over this period. Beyond this horizon it is not possible to lock in a sizeable portfolio and so the economics of the plant is uncertain. For peaking plant the horizon is shorter because the peak market is generally only liquid within year. In addition, generation plant is subject to regulatory changes such as LCPD which can dramatically alter the economics of the plant. Although the existence of such legislation is often known well

in advance, the details which impact plant economics and therefore closure decisions are often finalised very late in the process.

The 4 year rolling window proposed in WGAA3 is a compromise by generators taking into account both the risks that they can manage and the pattern of investment spend by National Grid. It is our view that risks should sit with those that are best placed to manage them but it is important to note that some risks cannot be managed. By asking generators to increase their notice period to exit the system, the economic risk for generators increases. As the risk cannot be fully managed by generators it is our view that the cost of the risk will be passed onto customers in the form of a risk premium on the wholesale price.

Security

Existing generators are not currently required to post security for access payments. It is our view that these security arrangements should remain under CAP165. We believe that a generator should be liable for payments for the duration of an access booking. The security on this liability should reflect the risk faced by National Grid that they will not receive the payment. The risk of an existing generator in a positive charging zone defaulting on access payments without another generator stepping in within the same financial year is close to zero. No historic examples of this issue can be found. Due to their credit rating any of the non-vertically integrated players would have to post security in the form of cash which is particularly onerous for smaller, independent generators.

British Energy believes that differential treatment between pre-commissioning and post-commissioning generators is appropriate as the risks posed by the two classes of generators are different. Every pre-commissioning project will have a different risk profile but we do not believe that it is possible to calculate security on a project by project basis. It is our view that any security amount should be based on the liability that the generators face. Under CAP165 the liability is to pay TNUoS charges for a number of years. It is therefore appropriate that pre-commissioning security is based on a multiple of TNUoS and we do not support the final sums methodology of WGAA2.

LCN and user commitment

Local connections are a critical supporting factor for all of the short-term access right proposals. The LCN relates to a physical connection, not a financial access product and consequently it should not be defined as a finite right. For the avoidance of doubt, it was not the conclusion of Working Group 3 that LCN should be finite rather the view was that the issue should be consulted on. Indeed, Working Group 2 later concluded that LCN should be enduring (see CAP166 working group report, section 4.2.4).

As we have already stated, CAP165 creates additional uncertainty for generators by obliging them to choose an end date for wider access rights. This may mean that wider access rights end 'too soon' for a generator, i.e. the generator may still be economical both for its owner and therefore for the UK electricity market but will have lost its firm access rights. In this situation, it would be desirable if the generator had enduring local access rights so that it could make use of the useful short-term measures for access (entry capacity sharing, SO release and entry overrun). However, if LCN is defined as finite then this option may not be available. This would not be a good result for the generator, consumers or the SO who may wish to use that generator to maintain security of supply.

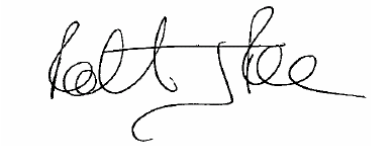
Whilst it would seem unlikely that a generator would require an LCN of less than their installed capacity there may be occasions when generators would wish to share an LCN. If all parties are comfortable with local access through the sharing arrangement then this is something which should be facilitated.

In terms of transition we would prefer the third option, where generators would notify National Grid of its desired LCN in advance of a predefined date. This would ensure that all pre and post-commissioning plants were able to choose an LCN which is acceptable (and less than CEC) or be given a default LCN equal to their TEC holding. If a generator chose a higher LCN which meant that additional local works were required then arrangements should be consistent with the current construction agreement process.

As it is feasible that a generator applying for a new connection might require LCN but not a wider access right (or apply on different timescales) it would seem appropriate for user commitment for a local connection be specified separately from the user commitment for wider access rights.

If you have any comments or questions relating to our responses please contact me on 01452 653170.

Yours sincerely



Rob Rome
Head of Transmission & Trading Arrangements

SCOTTISHPOWER
Energy Wholesale

Electricity Charging & Access Development
National Grid Electricity Transmission plc
National Grid House
Warwick Technology Park
Gallows Hill
Warwick

15 December 2008

Dear Sirs,

Response to the Company Consultation Document
CAP165 Transmission Access – Finite Long-term Entry Rights

Thank you for the opportunity to respond to this Company Consultation Document. This response is submitted on behalf of ScottishPower Energy Management Ltd, ScottishPower Generation Ltd and ScottishPower Renewable Energy Ltd.

ScottishPower does not support the original amendment or any of the seven Working Group Alternative Amendments (WGAAs) and does not consider that it is appropriate for a generator's existing transmission access rights to be changed by a CUSC amendment. We do not accept that our "evergreen" transmission access rights under the CUSC are unclear and we reserve our right to raise this very important issue in the future.

Across all the proposed amendments (CAP161-165) ScottishPower would have preferred to see a zonal approach adopted as this would facilitate greatest use of the existing transmission system and greatly simplify the access products available to users.

ScottishPower challenges the assertion that the current notice period can lead to inefficient investment signals for transmission assets and requests that National Grid or Ofgem provide evidence of historic levels of inefficient investment as a result of short-notice plant closures and how this is expected to change in the future. In the absence of evidence of such a defect, there is no requirement for this proposed amendment.

Reducing the ability of generators to make closure decisions in short timescales removes their ability to make optimal economic decisions and leads to reduced efficiency in the electricity market. It may also have significant impact on the security of supply if power stations affected by the Large Combustion Plant Directive have to make decisions on the use of their remaining running hours while facing increased user commitment requirements.

Security Level Pre-Commissioning

In order to avoid the need for developers of new generation to refinance their projects, we agree that any proposal should allow users to stay on their current user commitment methodology. ScottishPower supports the use of a generic calculation of pre-commissioning user commitment (based upon the wider TNUoS charge) which would provide stable and predictable security levels that could be incorporated in a user's economic assessment of the viability of a project.

Cathcart Business Park, Spean Street, Glasgow G44 4BE
Tel: 0141 568 4469 Fax: 0141 568 4939
www.scottishpower.com

SCOTTISHPOWER
Energy Wholesale

Security Level Post-Commissioning

We believe that the level of security required from post-commissioning generators should be zero. No evidence of a significant historical or future risk from the lack of provision of security by post-commissioning generators has been provided to support the claim that a defect exists in the current arrangements. As stated in the Report, there has only been one instance where an insolvent generator's assets have not been acquired within the same charging year (and that was in a negative charging zone).

User Commitment Amounts

ScottishPower believes that there is a significant difference in the risk profile of a generator pre and post-commissioning as evidenced by the consistent past ability of insolvent generator assets to be sold on without a break in the payment of TNUoS charges. Pre-commissioning, however, projects face a number of additional planning, technical and financial risks which may result in the asset not being completed and the associated connection works being abandoned.

In the event that a significant risk of "stranded assets" can be demonstrated, it would be appropriate for post-commissioning generators to provide a level of user commitment not exceeding 4 years (i.e. a 4 year rolling notice period). This represents an acceptable conjunction between the System Operator's timescale for committing to significant expenditure on additional infrastructure and the period over which an existing generator can make a reasonable economic assessment of the remaining life of its plant.

I hope you find these comments useful. Should you have any queries on the points raised, please feel free to contact us.

Yours faithfully,

James Anderson
Commercial and Regulation Manager

National Grid Company
National Grid House
Warwick Technology Park
Gallows Hill
Warwick
CV34 6DA

bali.virk@uk.ngrid.com

15th December 2008

Dear Sir,

Response to consultation on CAP 165

The Renewable Energy Association is pleased to be able to offer its comments on your consultation on CAP 165. As you are aware our members work on all types of renewable power and heat projects and obtaining more timely access to the transmission system is one of the key issues that if achieved would help our aim and that of the Government of reducing CO_2 emissions.

As you are aware we responded to the Working Group Consultation and although there has been some refinement to the proposed amendment as well as some additional Working Group Alternatives proposed, the principles remain essentially the same and our views on it are therefore unchanged. For ease of reference for the Authority when considering the final report and submissions on it we will repeat these views here.

Having considered the matter we do not think that either the CAP 165 original or any of the alternatives would increase the efficiency of planning and operation of the Great Britain electricity system. It would make planning of the transmission system easier but in general the financial impact of power stations being less able to optimise their closure decisions would have a greater impact on both the cost of operation and the security of supply. Allowing power stations to make closure or mothballing decisions at short notice, whilst making it harder to plan the transmission system, maximises security of supply and minimises the cost of providing any given level of security of supply. Changing the rules so that generators had to commit a number of years ahead would result in either an increased probability of there being insufficient plant available or plant being kept open unnecessarily, with the costs of so doing ultimately falling on the electricity consumer.

There is of course an argument that the current position discriminates between new and existing generators as existing generators essentially have an option to renew their transmission access every year and because of this can block or at least delay significantly the connection of new generators. We agree that this is discriminatory

but take the view that the way to rectify this is to implement CAP 164, so that new generators could always, providing their local connection could be built, enjoy firm transmission access after 4 years. If CAP 164 is implemented the discrimination between new and existing generators argument, that is said to support CAP 165, disappears.

As National Grid itself says in the report, whilst it would like a notice period of at least six years of power station closure in order to optimise transmission network investment, it recognises that there may be financial benefits associated with shorter notice periods for generators. This is indeed the case and in general the overall system costs of providing the customer a given level of security are minimised by maintaining the maximum flexibility on closure decisions for generators. Doing otherwise may not only increase costs, it may also decrease the level of security of supply as generators are forced into making non optimal decisions.

For these reasons we do not regard the implementation of CAP 165 or any of the alternative proposals as being better able to facilitate the CUSC applicable objectives than the status quo.

Please let us know if you would like to discuss any aspects of this letter further.

Yours faithfully,

Gaynor Hartnell
Director of Policy,
REA.

bali.virk@uk.ngrid.com

Dear Bali

Transmission access review – Company consultations on CAPs 161-165

Immingham CHP LLP welcomes the opportunity to respond to National Grid's consultations on the first five of the six Transmission Access Review change proposals to Cusc raised by National Grid.

Our views remain unchanged since responding to the working group consultations, which closed at the end of October. We therefore take this opportunity to reiterate and stress some key points, both the respect of general comments and in regard to the individual proposals.

In terms of the approach being adopted:

- It is essential that existing transmission access rights are respected in any changes made. Generators with bilateral connection agreements with National Grid have evergreen rights to use transmission capacity in return for securing the necessary investment and guaranteeing usage payments, and National Grid has no ability to remove these without legislation or our agreement and appropriate compensation. This issue has not yet been explicitly addressed by the assessment processes and needs immediate consideration;
- The process for such a significant industry change has been profoundly inadequate. Insufficient time has been allowed for development and proper assessment of the proposals and we remain concerned about the assessments' overall robustness and thoroughness, particularly in respect of alternative proposals. Most crucially, there still has been little meaningful cost/benefit analysis conducted, with this focussed on direct costs to National Grid and even this is at a very high level. This lack of necessary detail, exacerbated by the short consultation timescales, means that it is essential that Ofgem should carry out full impact assessments on all these proposals before it is able to make any decisions; and
- The rushed process to meet an arbitrary external timetable has meant that only large integrated players have had the resources to influence the proposals through populating the working groups and to properly assess them, and educational sessions for the wider industry have been limited, late and very superficial.

In respect of the individual proposals:

- We support the principle behind *CAP161 Short-term entry rights,* but we still consider that more focussed analysis is required to more fully define the solution and demonstrate the benefits, especially on the interaction with more robust solutions than the current short-term access products available to the market. To deliver real benefits more consideration is needed of how incremental release can be facilitated up to the day or week of release. We would also prefer to see an alternative whereby rights holders are encouraged to release unused rights, rather than one that relies solely on the judgement of the system operator that surplus rights may exist;
- We support the principle behind *CAP162 Entry overrun* provided that it does not compromise the "ticket-to-ride" principle. Holders of existing rights should not be adversely impacted in the event of aggregate zonal rights being exceeded and, if they are, full economic compensation should be provided where the holder intended to use those rights. The

charging mechanism should be kept as simple as possible and avoid interaction with the BSC arrangements and systems, which would introduce a significant level of unnecessary complexity and cost;

- We support the principle behind *CAP163 Capacity sharing*. We consider that National Grid may have to assist in matching parties, and the alternative involving the open sharing model may also have merit provided the right holder is agreeable to trading the rights or does not use them;
- We consider that *CAP164 Connect and manage* offers **the best short-term option** for meeting the Government's objectives, optimising existing capacity and expediting clearance of the queue. We think that the consultation report understates the increased efficiency that would arise from more efficient, low-carbon plant getting onto the system sooner and the greatly increased certainty this proposal would bring to developers, with real benefits to security of supply going forwards;
- Unlike CAP161-163, CAP164 would facilitate developers with greater investment certainty because it permits the offer of bankable capacity and would also deliver firmer connection dates; and
- We strongly oppose *CAP165 Finite long-term entry rights*. This proposal is driven by ideology and the defect has still not been properly defined. We consider that requiring grid users to resubscribe to rights they already hold under contract is unlawful and entails misappropriation of existing property rights held by connected parties and does not include an appropriate compensation mechanism. It is a "sledge-hammer to crack a nut" and as such is not proportionate, and obvious alternatives to incentivise the release of unused TEC—such as administering an under-use charge—have not been considered.

If you have any questions on this response or require further views, please do not hesitate to contact me.

Kirsten Elliott-Smith

Virk, Bali

From: Helen Snodin [helen.snodin@xeroenergy.co.uk]
Sent: 14 December 2008 13:44
To: Virk, Bali
Cc: 'Gordon Edge'; 'Robert Longden'
Subject: Company consultations CAPs 164 and 165

Dear Bali

I am writing on behalf of the British Wind Energy Association (BWEA) with regards the company consultations on CAPs 164 and 165. BWEA would simply like to refer to their previous responses to the Working Group consultations. In addition, BWEA is supportive of the CAP 164 Alternative going forward for consideration by Ofgem.

I note that the deadline for the company consultations on CAPs 161 to 163 closed on Friday. If it helps, BWEA would also have referred you to its previous responses.

If you have any questions please do not hesitate to ask

Kind Regards

Helen Snodin

Xero ENERGY

Helen Snodin

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RWE npower

Hedd Roberts
Development Manager,
Electricity Charging & Access
National Grid House
Warwick Technology Park
Gallows Hill
Warwick
CV34 6DA

Email: **bali.virk@uk.ngrid.com**

Name David Mannering
Phone 01793 89 2172
E-Mail david.mannering@rwenpower.com

1~~2~~5th December, 2008

CUSC Amendment Report - CAP165 Transmission Access Finite Long-term Entry Rights, Working Group Reports, October 2008

Dear Hedd,

Please find attached our response to the report for CUSC Amendment Proposal 165. This response is provided on behalf of the RWE group of companies, including RWE Npower plc, RWE Supply and Trading GmbH and Npower Renewables, a wholly owned subsidiary of RWE Innogy GmbH.

We note that National Grid considers that all of the proposed alternatives and also the original amendment to CAP 165 would better facilitate the applicable CUSC objectives when compared against the current baseline and that the initially favoured option is therefore WGAA1.

We are disappointed with the conclusions reached by National Grid in relation to WGAA2. In particular, whilst we recognise that there is a risk of under recovery in applying fixed cost reflective final sums, this risk and materiality of any under recovery is substantially lower when compared with the other proposed pre-commissioning approaches based on multiples of TNUoS. To illustrate this point, we note that there is an explicit under recovery risk associated with the 50% sharing factor together with a risk ofover recovery associated with non refundable final sums in the event that parties terminate their agreements and only limited works have been completed. We therefore believe that the National Grid's conclusions should make reference to these elements when determining the relative merits of the proposals.

If you wish to discuss any aspect of our response, please do not hesitate to contact me.

Yours sincerely,

By email so unsigned

Bill Reed

RWE npower
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Windmill Hill Business Park
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Market Development Manager

ANNEX 4 - REPRESENTATIONS RECEIVED UPON THE DRAFT AMENDMENT REPORT

This Annex includes copies of any representations received following circulation of the Draft Amendment Report (circulated on 19/12/2008, requesting comments by close of business on 07/01/2009).

Representations were received from the following parties:

Number	Respondent	Reference
1	Barbara Vest (CUSC Panel Member)	CAP165-AR-01
2	Dave Wilkerson (CUSC Alternate Member)	CAP165-AR-02
3	Garth Graham (CUSC Panel Member)	CAP165-AR-03

Duffield, Mark

From: Duffield, Mark

Sent: 22 December 2008 18:22

To: Wilkerson, Dave; bvest@aepuk.com; robert.brown14@tiscali.co.uk; garth.graham@scottish-southern.co.uk; hughconway@carlectra.demon.co.uk; Jonathan.Dixon@ofgem.gov.uk; paul.jones@eon-uk.com; Paul.Mott@edfenergy.com; slord@fhc.co.uk; Tony.Dicicco@npower.com; David.Jones@elexon.co.uk; Kathryn.coffin@elexon.co.uk; Roberts, Hedd; Kay, Alison

Cc: .Box.Cusc.Team; Carr, Emma J; Ripley, Mark G; Quinn, Angela - UK Legal; Virk, Bali; Hynes, Patrick

Subject: FW: Draft CAP165 Amendment Report

Dear All

Some further comments from Barbara on the CAP165 Amendment report are attached for information.

Regards

Mark

Mark Duffield
Senior Commercial Analyst
Electricity Charging and Access Development
UK Transmission – Commercial
National Grid
National Grid House
Warwick Technology Park
Gallows Hill
Warwick CV34 6DA
Internal: 7474 4971
External: +44 (0)1926 654971
Mobile: +44 (0)7881 903184

From: Barbara Vest [mailto:Bvest@aepuk.com]
Sent: Sunday, December 21, 2008 1:24 PM
To: Duffield, Mark; slord@fhc.co.uk
Cc: Hall, Sarah
Subject: RE: Draft CAP165 Amendment Report

Mark, comments below as per 161 - 164. The only other observation is that a minority (I mean me) wasn't convinced that any of them were better than the baseline as I hadn't seen real evidence/proof that they CUSC specifies the opposite to be true. In addition I think that the bilaterals between Grid and the individual power stations probably don't state that they aren't enduring either. The way the voting is laid out here it looks like we all voted in favour of some form of change and actually I didn't

Could you forward this email to the wider group please so they can see my comments

Thanks

Barbara

13.4 A number of Panel Members expressed concerns about the process that had been followed for the transmission access review. The Panel agreed that a discussion covering these concerns, along with lessons learned and consideration of how the conclusions are best communicated to the wider industry will take place at the Panel meeting in February. This will align with

the completion of CAP166 and consideration of the interaction between

modifications. The conclusions of this discussion will be forwarded to Ofgem

such that they can feed into their assessment of the modifications.

From: Duffield, Mark [mailto:mark.duffield@uk.ngrid.com]
Sent: Fri 19/12/2008 16:06
To: Barbara Vest; slord@fhc.co.uk
Cc: Hall, Sarah
Subject: FW: Draft CAP165 Amendment Report

Hi Barbara, Hi Simon

Apparently the AEP and First Hydro fire-walls have blocked the previous attachment as it was too large. Attached is a further reduced version of the latest draft CAP165 Amendment Report incorporating the CUSC Panel's vote from this morning. I have temporarily removed Annex 7 – Working Group Presentations from this version (as well as the Legal Text and Consultation responses which we hadn't repeated in the previous version).

<<CAP165 Amendment Report Volume 1 v0.2 (no Presentations).pdf>>

Regards

Mark

Mark Duffield

Senior Commercial Analyst

Electricity Charging and Access Development

UK Transmission – Commercial

National Grid

National Grid House

Warwick Technology Park

Gallows Hill

Warwick CV34 6DA

Internal: 7474 4971

External: +44 (0)1926 654971

Mobile: +44 (0)7881 903184

From: Hall, Sarah
Sent: Friday, December 19, 2008 3:46 PM
To: bvest@aepuk.com; robert.brown14@tiscali.co.uk; dave.wilkerson@centrica.co.uk; garth.graham@scottish-southern.co.uk; hughconway@carlectra.demon.co.uk; Jonathan.Dixon@ofgem.gov.uk; paul.jones@eon-uk.com; Paul.Mott@edfenergy.com; slord@fhc.co.uk; Tony.Dicicco@npower.com; David.Jones@elexon.co.uk; Kathryn.coffin@elexon.co.uk; Roberts, Hedd; Kay, Alison
Cc: Carr, Emma J; Ripley, Mark G; Quinn, Angela - UK Legal; Virk, Bali; Hynes, Patrick; Duffield, Mark
Subject: Draft CAP165 Ammendment Report

Dear Panel Members,

Following the CUSC Panel today please find attached the latest draft of the CAP165 Amendment Report including the results of this morning's Panel vote in sections 1 and 13. If you have any comments on these updates only please send your comments to CUSC.team@uk.ngrid.com by close of business on 7th January 2009.

For your information the legal text and the responses to the consultation are not included in this copy of the report in order to reduce the size of the document. These sections can be found in the amendments area on the National Grid website:

http://www.nationalgrid.com/uk/Electricity/Codes/systemcode/amendments/currentamendmentproposals/

Have a great Christmas and a Happy New Year,

Sarah Hall
Commercial Analyst

Tel: 01926 654196

nationalgrid
Electricity Charging and Access Development

Duffield, Mark

From: Wilkerson, Dave [Dave.Wilkerson@centrica.com]

Sent: 22 December 2008 16:55

To: bvest@aepuk.com; robert.brown14@tiscali.co.uk; Wilkerson, Dave; garth.graham@scottish-southern.co.uk; hughconway@carlectra.demon.co.uk; Jonathan.Dixon@ofgem.gov.uk; paul.jones@eon-uk.com; Paul.Mott@edfenergy.com; slord@fhc.co.uk; Tony.Dicicco@npower.com; David.Jones@elexon.co.uk; Kathryn.coffin@elexon.co.uk; Roberts, Hedd; Kay, Alison

Cc: .Box.Cusc.Team; Carr, Emma J; Ripley, Mark G; Quinn, Angela - UK Legal; Virk, Bali; Hynes, Patrick; Duffield, Mark

Subject: RE: Draft CAP165 Ammendment Report

A few changes suggested in red/bold as below

Dave

A number of Panel Members expressed concerns about the process that had **been** followed for the **suite of modifications related to the** transmission access review. The Panel agreed that a discussion covering these concerns along with lessons lea**r**ned and consideration of how the conclusions are best communicated to the wider industry will take place at the Panel meeting in February. This will align with the completion of CAP166 and consideration of the interaction between modifications **and the associated changes to the Charging Methodologies**. The conclusions of this discussion will be forwarded to Ofgem such that they can feed into their assessment of the modifications**, and potentially their wider work on Codes Governance.**

From: Hall, Sarah [mailto:sarah.a.hall@uk.ngrid.com]
Sent: 19 December 2008 15:46
To: bvest@aepuk.com; robert.brown14@tiscali.co.uk; Wilkerson, Dave; garth.graham@scottish-southern.co.uk; hughconway@carlectra.demon.co.uk; Jonathan.Dixon@ofgem.gov.uk; paul.jones@eon-uk.com; Paul.Mott@edfenergy.com; slord@fhc.co.uk; Tony.Dicicco@npower.com; David.Jones@elexon.co.uk; Kathryn.coffin@elexon.co.uk; Roberts, Hedd; Kay, Alison
Cc: Carr, Emma J; Ripley, Mark G; Quinn, Angela - UK Legal; Virk, Bali; Hynes, Patrick; Duffield, Mark
Subject: Draft CAP165 Ammendment Report

Dear Panel Members,

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<<CAP165 Amendment Report Volume 1 v0.2.pdf>>

For your information the legal text and the responses to the consultation are not included in this copy of the report in order to reduce the size of the document. These sections can be found in the amendments area on the National Grid website:

http://www.nationalgrid.com/uk/Electricity/Codes/systemcode/amendments/currentamendmentproposals/

Have a great Christmas and a Happy New Year,

Sarah Hall
Commercial Analyst

Tel: 01926 654196

nationalgrid
Electricity Charging and Access Development

Duffield, Mark

From: Garth.Graham@scottish-southern.co.uk

Sent: 23 December 2008 17:12

To: Wilkerson, Dave

Cc: Kay, Alison; Quinn, Angela - UK Legal; Virk, Bali; bvest@aepuk.com; .Box.Cusc.Team; Wilkerson, Dave; David.Jones@elexon.co.uk; Carr, Emma J; Roberts, Hedd; hughconway@carlectra.demon.co.uk; Jonathan.Dixon@ofgem.gov.uk; Kathryn.coffin@elexon.co.uk; Duffield, Mark; Ripley, Mark G; Hynes, Patrick; paul.jones@eon-uk.com; Paul.Mott@edfenergy.com; robert.brown14@tiscali.co.uk; slord@fhc.co.uk; Tony.Dicicco@npower.com

Subject: RE: Draft CAP165 Ammendment Report

Folks,

I agree with the comments provided already by Barbara/Dave W.

Looking at the composition of the five reports I notice that the CAP165 report has the Panel comments in the "Industry View/Representation" part of the report whereas CAPs 161-164 have them following on from the "Working Group Recommendation" but prior to the "National Grid Recommendation". Should the CAP165 report reflect the approach in the other reports?

On a more general point should this approach (of the Panel recommendation following the Working Group but coming before NG's recommendation) be altered to show that; from a process point of view; the steps followed was:-

1) the Working Group made its recommendation then
2) National Grid made its recommendation; and then finally
3) the Panel made its recommendation

This more faithfully reflects what actually happened.

regards

Garth

"Wilkerson, Dave" <Dave.Wilkerson@centrica.com>

22/12/2008 16:54

To <bvest@aepuk.com>, <robert.brown14@tiscali.co.uk>, "Wilkerson, Dave" <Dave.Wilkerson@centrica.com>, <garth.graham@scottish-southern.co.uk>, <hughconway@carlectra.demon.co.uk>, <Jonathan.Dixon@ofgem.gov.uk>, <paul.jones@eon-uk.com>, <Paul.Mott@edfenergy.com>, <slord@fhc.co.uk>, <Tony.Dicicco@npower.com>, <David.Jones@elexon.co.uk>, <Kathryn.coffin@elexon.co.uk>, "Roberts, Hedd" <hedd.roberts@uk.ngrid.com>, "Kay, Alison" <alison.kay@uk.ngrid.com>

cc <CUSC.team@uk.ngrid.com>, "Carr, Emma J" <emma.j.carr@uk.ngrid.com>, "Ripley, Mark G" <mark.g.ripley@uk.ngrid.com>, "Quinn, Angela - UK Legal" <angela.quinn@uk.ngrid.com>, "Virk, Bali" <bali.virk@uk.ngrid.com>, "Hynes, Patrick" <patrick.hynes@uk.ngrid.com>, "Duffield, Mark" <mark.duffield@uk.ngrid.com>

Subject RE: Draft CAP165 Ammendment Report

A few changes suggested in red/bold as below

Dave

A number of Panel Members expressed concerns about the process that had **been** followed for the **suite of modifications related to the** transmission access review. The Panel agreed that a discussion covering these concerns along with lessons lea**r**ned and consideration of how the conclusions are best communicated to the wider industry will take place at the Panel meeting in February. This will align with the completion of CAP166 and consideration of the interaction between modifications **and the associated changes to the Charging Methodologies**. The conclusions of this discussion will be forwarded to Ofgem such that they can feed into their assessment of the modifications**, and potentially their wider work on Codes Governance.**

From: Hall, Sarah [mailto:sarah.a.hall@uk.ngrid.com]
Sent: 19 December 2008 15:46
To: bvest@aepuk.com; robert.brown14@tiscali.co.uk; Wilkerson, Dave; garth.graham@scottish-southern.co.uk; hughconway@carlectra.demon.co.uk; Jonathan.Dixon@ofgem.gov.uk; paul.jones@eon-uk.com; Paul.Mott@edfenergy.com; slord@fhc.co.uk; Tony.Dicicco@npower.com; David.Jones@elexon.co.uk; Kathryn.coffin@elexon.co.uk; Roberts, Hedd; Kay, Alison
Cc: Carr, Emma J; Ripley, Mark G; Quinn, Angela - UK Legal; Virk, Bali; Hynes, Patrick; Duffield, Mark
Subject: Draft CAP165 Ammendment Report

Dear Panel Members,

Following the CUSC Panel today please find attached the latest draft of the CAP165 Amendment Report including the results of this morning's Panel vote in sections 1 and 13. If you have any comments on these updates only please send your comments to CUSC.team@uk.ngrid.com by close of business on 7th January 2009.

<<CAP165 Amendment Report Volume 1 v0.2.pdf>>

For your information the legal text and the responses to the consultation are not included in this copy of the report in order to reduce the size of the document. These sections can be found in the amendments area on the National Grid website:

http://www.nationalgrid.com/uk/Electricity/Codes/systemcode/amendments/currentamendmentproposals/

Have a great Christmas and a Happy New Year,

Sarah Hall
Commercial Analyst

Tel: 01926 654196

nationalgrid
Electricity Charging and Access Development
