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Direct Dial: 020-7901-7491

27 June 2006

National Grid Electricity Transmission Company (NGET),
CUSC Signatories and Other Interested Parties

Our Ref: IND/COD/CUSC/CAP121

Dear Colleague,

Amendment to the Connection and Use of System Code ("CUSC") - Decision and Direction in relation to Proposed Amendment CAP121: "Amendment to Outturn Reconciliation".

The Gas and Electricity Markets Authority (the "Authority"¹) has considered the issues raised in the Amendment Report² in respect of Proposed Amendment CAP121: "Amendment to Outturn Reconciliation".

The CUSC Amendments Panel (the Panel) recommended to the Authority that the Amendment Proposal should be made. As there was no disagreement as to the appropriate Implementation Date for CAP121 The Company (NGET) recommended that should the Authority approve CAP121 that the Implementation Date should be ten Business Days after the Authority decision.

Having considered the Amendment Report and the CUSC Amendment Panel's recommendation, as well as having regard to the Applicable CUSC Objectives³ and Ofgem's wider statutory duties,⁴ the Authority has decided to direct a modification to the CUSC in line with the Amendment Proposal for CAP121.

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

² CAP121 Amendment Report dated 1 June 2006.

³ The Applicable CUSC Objectives are contained in Standard Condition C10 of the licence to transmit electricity treated as granted to NGET under Section 6 of the Electricity Act 1989 (the "Transmission Licence") and are:

(a) the efficient discharge by the licensee of the obligations imposed upon it under the Act and by this licence;
and
(b) facilitating effective competition in the generation and supply of electricity, and (so far as consistent therewith) facilitating such competition in the sale, distribution and purchase of electricity.

⁴ Ofgem's statutory duties are wider than the matters that the Panel must take into consideration and are explained in sections 3A – 3D of the Electricity Act 1989.

This letter explains the background to CAP121, and sets out the Authority's reasons for its decision. This letter constitutes notice by the Authority under section 49A of the Electricity Act 1989.

Background

Section 2.14.3 of the CUSC provides that NGET may issue estimated invoices for Connection Charges on the basis set out in the Statement of Connection Charging Methodology. The current version of the CUSC provides that as soon as practicable after the Completion Date, and in any event within one year, NGET shall provide the user with a Cost Statement specifying the relevant Connection Charges. The date on which the Cost Statement is provided is often described as the reconciliation date. To the extent that the Cost Statement shows the User to have over or underpaid against NGET's estimated invoice the appropriate amounts must be transferred between NGET and the User in accordance with the provisions of the CUSC.

The proposer suggested that it would be appropriate to build more flexibility into the CUSC by enabling parties to agree a reconciliation date that is best suited to the individual requirements of a particular project. The proposer suggested that the addition of this flexibility would better facilitate the achievement of Applicable CUSC Objective (a).

CAP121 was raised by NGET and considered by the CUSC Panel on 31 March 2006. The Panel determined that CAP121 should proceed to wider consultation by NGET. A consultation paper was issued on 4 Apr 2006 with responses invited by 26 April 2006. The final Amendment Report was submitted to the Authority on 1 June 2006.

The Proposed Amendment

CAP121 seeks to amend the provision in the CUSC which requires that NGET shall provide the user with a Cost Statement specifying the relevant Connection Charges as soon as practicable after the Completion Date, and in any event within one year. The amendment would enable the Cost Statement to be issued later than one year from the Completion Date if the parties agreed that this was appropriate.

Respondents' views

NGET received three responses to the consultation in respect of CAP121 all of which supported the implementation of the Amendment Proposal.

The respondents' views are summarised and contained in the Amendment Report in respect of CAP121.

CUSC Amendment Panel's recommendation

The CUSC Amendments Panel (the Panel) recommended to the Authority that the Amendment Proposal should be made. As there was no disagreement as to the appropriate Implementation Date for CAP121 The Company (NGET) recommended that should the Authority approve CAP121 that the Implementation Date should be ten Business Days after the Authority decision.

Ofgem's view

Having considered the Amendment Report, Ofgem considers, having regard to the Applicable CUSC Objectives and its statutory duties, that the Amendment Proposal CAP121 would better facilitate the achievement of Applicable CUSC Objective (a). CAP121 achieves this by allowing the Company and Relevant User to agree the timing for the provision of the Cost Statement that is most suitable to a specific project. Ofgem notes that this will be particularly helpful to parties involved with development of large projects requiring connection to the network, or those which take place in a number of stages.

Ofgem notes that the introduction of this flexibility does not remove the 12 month backstop within which the Cost Statement should be provided unless NGET and the User agrees that to do so would be appropriate. As such, Ofgem does not consider that the introduction of this flexibility reduces the overall certainty of the arrangements, which could have had a negative impact on Applicable CUSC Objective (a).

The Authority's Direction

The Authority has decided to direct that CAP121, as set out in the Amendment Report, should be made and implemented.

Having regard to the above, the Authority, in accordance with Condition C10.7(a) of the licence to transmit electricity granted to NGET under Section 6 of the Electricity Act 1989 (the "Transmission Licence"), hereby directs NGET to modify the CUSC in accordance with the Amendment Proposal for CAP121 as set out in the Amendment Report.

The modification is to be implemented and take effect on 11 July 2006.

In accordance with Condition C10.7(c) of NGET's Transmission Licence, NGET shall modify the CUSC in accordance with this direction of the Authority.

If you have any queries in relation to the issues raised in this letter, please feel free to contact me on the above number.

Yours sincerely,

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

Nick Simpson
Director, Modifications

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