AMENDMENT REPORT VOLUME 2

CUSC Amendment Proposal CAP166

Transmission Access

Long-term Entry Capacity Auctions

This document contains consultation responses and requests

Amendment Ref	CAP166
Issue	1.0
Date of Issue	12/03/09
Prepared by	National Grid

1.0 INDUSTRY VIEWS AND REPRESENTATIONS

1.1 Responses to the Working Group Consultation

The following table provides an overview of the responses received to the Working Group consultation. These are attached as Annex 1.

Reference	Company
CAP166-WGC-01	Association of Electricity Producers
CAP166-WGC-02	British Energy
CAP166-WGC-03	British Wind Energy Association
CAP166-WGC-04	Centrica
CAP166-WGC-05	Drax Power
CAP166-WGC-06	EdF Energy
CAP166-WGC-07	EON UK
CAP166-WGC-08	ESB International
CAP166-WGC-09	Fairwind (Orkney) Ltd
CAP166-WGC-10	First Hydro Company
CAP166-WGC-11	Fred Olsen Renewables
CAP166-WGC-12	GDF SUEZ
CAP166-WGC-13	Immingham CHP LLP
CAP166-WGC-14	Intergen
CAP166-WGC-15	Magnox North
CAP166-WGC-16	National Grid Electricity Transmission
CAP166-WGC-17	Renewable Energy Association
CAP166-WGC-18	RWE npower
CAP166-WGC-19	ScottishPower Energy Wholesale
CAP166-WGC-20	Scottish Renewables
CAP166-WGC-21	Scottish and Southern Energy
CAP166-WGC-22	Welsh Power
CAP166-WGC-23	Wind Energy
CAP166-WGC-24	Powerfuel Limited

1.2 Working Group Consultation Amendment Requests

The following table provides an overview of the Consultation Amendment Requests. These are attached as Annex 2.

Reference	Company	Details of the proposal
CAP166 WGCR-01	National Grid Electricity Transmission	An Alternative based upon WGAA1 as set out in the report, but with the exception that the auctions are settled according to a Pay as Bid principle and not through a cleared price
CAP166 WGCR-02	National Grid Electricity Transmission	An Alternative whereby the baseline capacity released through the auction is greater than that which currently physically exists on the GB Transmission System, and where a locational reserve price is set in the auction to prevent this over-allocation of capacity allowing the auction prices to collapse towards £0/kW. This request would apply across each of the original and any alternative amendments that are ultimately taken forward
CAP166 WGCR-03	National Grid Electricity Transmission	An Alternative whereby the baseline capacity auctioned is equivalent to the existing physical network capacity only with the proviso that no reserve price would be set. This request would apply across each of the original and any alternative amendments that are ultimately taken forward
CAP166 WGCR-04	Welsh Power	An Alternative whereby the principles put forward by WGAA1 would be largely retained with the caveat that when the incremental capacity release supply function is calculated it should be unconstrained after 5 years.

1.3 Representations Received During Company Consultation

The following table lists the representations received following circulation of the Consultation Document (circulated on 9th February 2009 requesting comments by close of business on 23rd February 2009). These are attached as Annex 3.

Representations were received from the following parties:

No.	Company	File Number
1	AEP	CAP166-CR-01
2	British Energy	CAP166-CR-02
3	BWEA	CAP166-CR-03
4	Centrica	CAP166-CR-04
5	Drax Power	CAP166-CR-05
6	EdF Energy	CAP166-CR-06
7	Eon	CAP166-CR-07
8	ESBI	CAP166-CR-08
9	Fred Olsen Renewables	CAP166-CR-09
10	Immingham CHP LLP	CAP166-CR-10
11	Intergen	CAP166-CR-11
12	International Power / First Hydro	CAP166-CR-12
13	Powerfuel Power Ltd	CAP166-CR-13
14	Renewable Energy Association	CAP166-CR-14
15	RWE	CAP166-CR-15
16	ScottishPower	CAP166-CR-16
17	Scottish Renewables	CAP166-CR-17
18	Scottish and Southern Energy	CAP166-CR-18

1.4 Representations received upon the Daft Amendment Report

No representations were received following circulation of the Draft Amendment Report (circulated on 4th March 2009, requesting comments by close of business on 11th March 2009).

ANNEX 1 – WORKING GROUP CONSULTATION RESPONSES

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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

CUSC WORKING GROUP CONSULTATION – RESPONSE PROFORMA

CAP166 LONG-TERM ENTRY CAPACITY AUCTIONS

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**	**Executive Summary** • British Energy is opposed to allocating transmission access via an auction. • We are concerned that withdrawing rights from incumbent generators in order to auction them will create substantial regulatory risk and may have security of supply implications. • The proposed auction provides very different pricing signals from the current TNUoS approach. This is a fundamental issue which was only discovered late in the process and there has been no industry debate on this matter. We do not believe this issue can be addressed simply by issuing a charging consultation. • We do not believe that an auction is the appropriate way to allocate transmission access as it is not a commodity. Analysis by National Grid has shown that zones for capacity would be very small and so transmission access is a nodal product with little competition at each node. • An auction will be costly and complex. However no cost benefit analysis on auctions has been carried out in order to demonstrate the benefit of this approach. • The proposed auction is by necessity complex. We do not believe that participants will be able to understand the pricing signals from the auction and bid appropriately, resulting in inefficient outcomes. We also believe that this complexity is a barrier to entry for small players. • When introducing an auction it is important that extensive testing is undertaken to ensure outcomes are as expected. This has not been the case with this modification as there has only been minimal testing of a simplified model. The modification is therefore not currently in a form which could be implemented. **Introduction** 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 process. As you know we do not accept that this is correct and our right to raise this very important aspect is reserved.

It is the view of British Energy that CAP166 is not currently in a form which could be introduced without substantial extra work. The design of an auction for transmission entry capacity is extremely complex and the group have not had sufficient time to develop the proposals. The industry asked for 3 months for further work but was only granted two weeks. Despite the fact that members of the working group met on at least 5 occasions over the two week period there were substantial areas of work uncompleted. However, it is important to note that we would not wish industry to commit further time to this process unless a cost-benefit analysis of auctions has been carried out.

In this response we have provided comments given our current understanding of the modification. However, all comments need to be read in the context that we do not believe that there is currently a workable modification on the table.

General Comments on Introducing Auctions

British Energy is concerned that introducing an auction for transmission entry capacity would create substantial regulatory uncertainty in the UK electricity market. At present there is a widespread belief that generators have enduring access rights and any change to this will cause difficulties for developers in raising finance for projects. The UK electricity market is entering a critical period with a need to finance, build and connect large volumes of both wind and conventional plant over the next 10 years as old coal plant closes due to LCPD restrictions and nuclear capacity continues to decommission. At this important time it is essential that we do not introduce regulatory changes of this type which could lead to reduced confidence and investment in the UK electricity market, as this could have serious security of supply implications.

British Energy understands that access is currently scarce in some areas such as Scotland and that an auction can be an appropriate method of allocating a scare resource. Relatively simple auctions have been used successfully to allocate commodity products such as interconnector capacity where all participants are essentially bidding for the same product. However, transmission entry capacity (TEC) is a much more complex product. We do not believe that that transmission access is a commodity as demonstrated by the National Grid analysis which showed that one to one sharing in zones was not feasible without creating a large number of very small zones. Transmission access is essentially a nodal product, with little competition between generators at an individual node. Competition for capacity arises due to the complex interaction between nodes on the network which can be geographically distant from each other. If an auction is to allocate capacity in a meaningful way, it will need to be relatively complex due to the nature of the underlying network. However, if the auction is overly complex then the signals provided may be difficult for participants to interpret and the economic efficiency of the auction may be reduced.

The transmission system is regulated with National Grid having a Maximum Allowable Revenue (MAR) that can be recovered. An

	auction normally discovers the absolute price that participants are willing to pay for a resource, however, because of MAR, any over or under recovery from the transmission auction needs to be returned to participants. The auction is therefore concerned with relative rather than absolute valuation of access. This difference from traditional auctions worries us and we would not wish to proceed with such an approach unless an expert advised that it was appropriate. At present it is proposed that any over or under recovery in the auction is smeared back to participants via the residual charge. However, the residual is paid by all generators, not just those which have obtained long-term access rights in the auction. If for example, all long-term access in the auction is allocated and the resulting income is significantly less than MAR then the residual will be higher than if the auction had recovered more money. This residual is paid by both winners in the auction and those generators which only have short-term access. This will therefore result in a cross-subsidy between short-term and long-term rights holders. The above example highlights the issue of using an auction, which is designed to maximise revenue, under a price control framework. We do not believe this can be solved by smearing the residual in an alternative way; it is a fundamental problem with the proposal. Given the non-commodity nature of transmission access and the issue of MAR, British Energy does not therefore believe that an auction is the most appropriate or economically efficient method of allocating a complex product such as TEC. The literature on auctions is clear regarding the importance of design in delivering the desired outcomes from an auction. Binmore and Klemperer emphasise that an off-the-shelf approach is not appropriate and that the aims of the auction need to be well understood. British Energy is extremely concerned that the guidance in the literature has not been followed by the group. This is not due to a lack of diligence on the part of the working group but to a lack of available time. We proposed early in the process that an expert on auction design should be engaged as a consultant because the group was clearly lacking in experience. However, the extremely tight timescales of the process did not allow this approach and the group has developed the methodology without external support. The proposed auction design of WGAA1 was actually developed by four electrical engineers in the group (including representation from British Energy) without input from economists. It is therefore essential that it is tested thoroughly before considering adopting this approach. British Energy is concerned that there are no examples of other countries using auctions for transmission access allocation from which the group could learn. Gas entry in the UK has been brought up as an example of an auction process for a similar commodity. However, it is our view that gas entry capacity has fundamentally different characteristics compared to electricity entry capacity; there are many fewer entry nodes on the gas system and there is more competition at each of these nodes. Electricity entry capacity shares more characteristics with gas exit capacity, for which there is not currently an auction arrangement. In addition, the gas auction regime has been extremely unstable with a large number of changes to the rules being introduced. It is extremely undesirable for a similar piecemeal approach to change being adopted in electricity as this would

	simply increase regulatory uncertainty. It is our view that if the UK is to be the first country to use auctions for long-term access allocation then the appropriate time and resources need to be spent on understanding why other countries have not adopted this approach. If, after this analysis, we believe that it is appropriate to proceed with developing an auction approach then a project approach such as that used for NETA implementation needs to be adopted as the issues are as complex and the impact on the industry is as great. This would be an expensive and time-consuming approach and so the benefits of auctions need to be well-understood before adopting this approach. **Views on proposed designs** In our view the simple auction described in the original modification is not a credible approach as the outcome of the auction relies too heavily on the initial assumptions of National Grid when developing the zones. This is particularly the case for nested boundaries as described in the working group report. As Scotland through to the Midlands is a series of nested boundaries on the UK system, this is a serious issue which cannot be ignored. We believe that WGAA1 based on the boundary constraint method is the best approach of those proposed as it appears to provide the best balance between the complexity of the methodology and the transparency of signals provided to the participants. However, these observations are based on a simple model with only 17 boundaries for a single year. It is important to note that even under these very simplified conditions, the team who designed the auction still found it difficult to interpret the results. The full auction is likely to have in excess of 50 boundaries and be run across more than 10 years simultaneously. This will result in extremely complex signals for participants and it is our view that companies will need to develop bespoke applications to interpret the signals and propose bids. The complexity of the auction therefore provides an advantage to large generators who have substantial analysis teams and we view this as a barrier to entry for smaller, independent generators. It is important to note that the auction of WGAA1 provides very different pricing signals from the current TNUoS approach. This was only identified by the group in the last week of the analysis. With the auction as proposed, the locational signals to generators will be substantially reduced particularly for generators in the south. These generators are currently paid as they reduce the MWkm of the network. Under the proposed auction generators will only get paid if they are in an importing region where the boundary capacity is less than demand in that region. British Energy is concerned that there has not been a debate within the industry regarding the fundamental principles of system charging. Although we note that there is a charging consultation on this topic, our view is that these issues are so fundamental that a much wider discussion is required. We would be concerned if auctions were introduced without this wider discussion taking place.

	British Energy is extremely concerned by the lack of development time and testing on the auction. It is only possible to gain confidence in an auction process through extensive, thorough testing. As already stated, transmission entry capacity is a complex product and so any auction will be complicated. It is therefore likely that there will be issues which will only come to light over time. Many generators will intend to lock into capacity for a large number of years (>20) in the first auction due to business financing requirements. It is therefore vital that if auctions are implemented it is correct first time and does not reply on subsequent modifications to sort out issues. It is our view that extensive testing of a finalised model must be carried out before any auction can be introduced. Issues such as baseline capacity and closing rules can only be finalised if the auction methodology and dynamics are well-understood. The above discussion provides British Energy's views on the principles of CAP166. We would now like to address the specific questions contained in the consultation report. **Security** Post-commissioning generators are not currently required to post security for access payments. It is our view that these security arrangements should remain under CAP166. We believe that a generator should be liable for payments for the duration of the capacity won in an auction. 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. We therefore do not believe that security for post-commissioning generators better meets the CUSC objectives than the current baseline. 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. **Local Connections** 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. CAP166 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 desirable for the generator, consumers or the SO who may wish to use that generator to maintain security of supply.

	The interaction between local and wider access is an important and difficult issue. This is illustrated by the fact that the group spent almost as much time on this issue as on the actual auction design without solving all the problems. It highlights that introducing auctions does not remove the issue of scarce resources; in part it shifts the problem from wider works to local works. We believe that there are issues with both of the approaches suggested by the working group. Under the proposed suite of TAR proposals there is no requirement to book wider access. The LCN date should not therefore be impacted by auction success, as is currently proposed in Approach 1. However, there are also serious deficiencies with Approach 2. The purpose of TAR is to accelerate the connection of new generation. Introducing an approach which gives generators a date which is worse than that which can actually be achieved, as is the case in Approach 2 is therefore clearly not appropriate. This issue of interaction was only discussed at a late stage in the process and we are sure that if more time is spent on the issue then a better alternative will emerge. **Auction Design** All our comments on auction deign need to be read in the context of our views that there has not been enough time spent on the design and testing of the auction. It is only with thorough testing that we can begin to understand these issues and develop appropriate solutions. British Energy prefers a marginal price auction for capacity. Any auction will be complex for participants and pay as bid introduces the potential for large regret costs for participants who misinterpret the signals. We are not convinced by the arguments regarding bid shading in a marginal price auction. Our view is that participants will have a difficult enough time simply participating in the auction and will not be sophisticated enough to shade bids. A key issue in any auction design is the volume of rights released. It is our view that the auction must release at least the same volume of rights as at present and preferably should release more. Releasing less than the current baseline would not facilitate more rapid connection of new plant. The current baseline requires derogations on certain boundaries and also requires detailed understanding of issues such as peaking plant and short-term ratings of transmission capacity. We believe that further work is required in these areas and that, going forward, any baseline is aligned with the SQSS. British Energy believes that the auction needs to be dynamic if there is to be any possibility of the correct price signals being discovered. A single round auction would not provide participants with the opportunity to learn and the regret costs of poor bidding could be extremely large. Participants must also have the ability to decrease as well as increase prices because multiple years cannot be handled in a single auction. We acknowledge that the development of closure rules will be difficult and believe that extensive modelling and testing of the issue is required. With regard to buy-back costs, British Energy believes that generators need to be suitably compensated if access is not delivered.

	This compensation should cover the lost opportunity of generation in addition to the cost of capacity. Ideally these buy back costs would be signalled in the auction. However, we have not been able to develop an approach for this. **WGAA2** Very little time has been focused on WGAA2 by the working group. It is our view that unless extensive further work is going to be undertaken on the issue of auctions then no further work should be carried out on developing either WGAA1 or WGAA2. No extensive work on auction design should be carried out unless a cost benefit analysis shows that it is worthwhile. The industry has committed extensive resource to this process and incurred considerable expense to date. We should not commit further resource unless we believe auctions are a credible solution. **Governance** Our view is that governance should be within the CUSC. **Timescales** British Energy believes that the proposed timescale of 18 months is extremely challenging. As the auction occurs in September, this only provides 12 months in which to develop and test the full auction systems and conduct industry trials. We believe that the complexity of the auction requires at least another 6 months implementation time.

Do you believe that the proposed original or any of the alternatives better facilitate the CUSC applicable objectives, please state your reasoning?	No, please see comments above
Do you support the proposed implementation, if no please state why and provide an alternative suggestion were possible?	No, please see comments above
Any other comments?	None
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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Sarah Hall
Mark Duffield
National Grid

14th November 2008

Dear Sarah, Mark

Consultation on CUSC Amendment Proposal CAP166: Long term entry capacity auctions – 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 auctions
- The National Grid auction model
- Other solutions

General comments

As you know the renewables industry is opposed to the introduction of auctions. BWEA's position on this is on the basis of:

The auction principle

The presumption in an auction process is that access goes to the highest bidder, and in constrained areas this is expected to over-recover on the actual cost of providing access.

We do not understand the logic of driving a premium on the price of access when at the same time government has mandated that a certain proportion of renewables is delivered to the market. Surely, the objective must be to secure this market share at least cost to the consumer.

The volume of renewable generation coming forward is presently limited by access to the grid. At this point, any addition renewable generation brought forward and generating improves consumer value under the RO. There may be an argument for different renewables generators to compete for access, but at the moment the rigours of the planning process, competing for site leases onshore and offshore, and other technical and non technical challenges significantly rationalise the volumes ready to proceed.

We understand that an auction would offer the opportunity for new users to outbid existing users and hence secure long term access earlier than would otherwise have been possible. However, we feel that an auction of all rights across the system is a wholly disproportionate response to this with no guarantees of an equitable, fair and economic outcome. An auction premised on the removal of all existing rights – which include those of pre-commissioining generators – would affect many of our members where reasonable connection dates have been secured at considerable expense and which underpin investment plans.

BWEA agrees with Ofgem that there are problems with the current system of enduring access rights and that new users should be able to secure long-term access rights on an equal footing. However, we believe that there are other, more proportionate means of levelling the playing field, which we have described later in this response.

The auction practice
We are concerned that Ofgem's preference for auctions is based on an economic text book response to the issue of scarce capacity with scant attention to the reality of auctioning transmission access capacity. Given the stakes, the industry would object in the strongest terms to being forced to participate in what would be, on the basis of evidenece to-date, a rash and expensive experiment.

In forming this position BWEA has been mindful of experiences amongst the gas community and relayed formally and informally in Working Group 2. To summarise, the issues as we understand them have been:

- The added complication of an auction where National Grid needs to recover a fixed revenue and hence re-allocation of under and over recovery further complicates the task of valuing capacity.
- The impression from gas experiences that over recovery from the user community bidding for entry capacity is being re-distributed to a wider community of users i.e. deliberately not to those users that over-paid. This re-inforces the impression that the aim of an auction is to drive up prices for users in constrained areas. We cannot stress enough that this is completely counter-productive when the UK is already struggling to meet its renewable energy targets.
- Some of the auctions have been characterised as a complicated process of trying to second guess National Grid's target price for recovering its revenue.
- Volatility in commodity charges, further exacerbated by being made to serve as under or over-recovery vehicles, therefore making it even more difficult for users to predict their charges.

- Gas auction design has been hugely complicated and users are forced to bid for capacity without a good understanding of what they are bidding for.
- Gas auctions have evolved in an ever-changing manner (with approximately 70 modifications to their design) with significant issues for business stability and their ability to remain appraised of the latest changes.
- Also related to the continual evolution of auction design, which has often served to rectify issues which come to light as auctions have been held, is the issue of sufficient development time for a workable auction. The electricity industry has had just 6 months to develop an auction design in tandem with many other substantive CUSC and charging Amendments.
- Gas can be stored and the technology involved in transmitting and using gas is relatively uniform. Compare and contrast this to an electricity network where electricity cannot be stored, access is 'make-or-break' for generators, and the technology is very diverse, it is obvious that auctioning capacity across the system will be an order of magnitude more complex than for gas. The gas auctions have, as we understand, been beyond the full comprehension of most bidders.

These are very real and very serious concerns and we struggle to understand why auctions are being proposed for the electricity industry in the context of almost universal negative feedback from the gas experiences, and when the primary objective of TAR is to provide more access to the transmission system, not increase uncertainty and risk.

BWEA has also has a general concern that smaller companies would struggle to negotiate the auction process, and will not fare well in competition with better resourced rivals.

The Auction model

Given that our membership does not support a price-based auction on principle, BWEA has reservations on commenting on the detail of the auction model put forward. In the spirit of the Working Group process, which is to develop proposals to the stage where they can be assessed, we have provided some comments below.

We believe that the development of an auction model has been helpful in gaining an appreciation of the practicalities of an auction process. In that respect we have the following comments:

Incremental Capacity

The auction seems to be designed primarily to allocate capacity rather than provide any direct link to the provision of new capacity. That is, there is no link between paying a high price for existing scarce capacity and the amount of new capacity that will be triggered. Rather, any over-recovery is simply recycled – potentially to the benefit of users that did not even bid for capacity in areas where it is scarce.

Incremental capacity is triggered by the relevant user commitment – as it is today – and seems to be unrelated to price paid.

This is somewhat counter-intuitive and doesn't appear to improve on the existing signals for the provision of incremental capacity. However much one re-allocates existing capacity, it doesn't change the fact that many renewable projects are in different locations to existing power stations and that the pressing need is for a long-term re-wiring strategy. Our membership would much rather contribute financially to this re-wiring effort, as opposed to them paying a premium price which served solely to reduce the price of access for other users on other parts of the existing network.

Deepest pockets win?
Whilst an auction could in theory advance projects willing to pay a premium for access, it could also push back projects which cannot afford to do so. If it is always the deepest pockets that win, the smaller, less profitable projects will always be pushed to the back of any "queue" and quite possibly further back than their current connection offer. Perhaps this is a desirable economic solution but it does not sit well with government support for community-based projects or for bringing forward emerging technologies.

Eligibility
The concept is for annual auctions where users will participate when they meet the relevant eligibility criteria – principally they need to be in receipt of a local connection offer.

Like a commitment to a TEC Effective date in Connect and Manage, users are unlikely to want to bid for capacity at a fixed time in the future unless they are very certain they could be generating by that date. Unlike Connect and Manage, if all available capacity is allocated in one year's auction, there may be nothing left for the next year's auction. We are very concerned that an auction would create a one-off opportunity to secure access, with potential future users disadvantaged only by virtue of them not being eligible for, or able to, participate in the first auction.

Complexity
Our understanding is that the boundary constraint model is a trade off between the simplicity and inaccuracy of zonal auctions and the complexity but accuracy of a simultaneously cleared nodal model. We nonetheless remain concerned that bidders will struggle to correctly value capacity for the boundary model where it is difficult to ascertain against whom they are bidding, and where the model has some counter-intuitive outcomes.

Resolution of single years
When access is offered in yearly blocks, we would question whether it is valuing long-term capacity. A year is not a sufficient signal for investment and planning decisions, and is instead a rather arbitrary cut-off between long-term and short-term-priced access bookings.

Furthermore, whilst we understand the rationale for auctioning capacity in years, we believe this to be a fundamental flaw in so far as the majority if not all of our membership would need to secure uninterrupted long (20-25 years) blocks of access. We are also supportive of charges based on utilisation rather than nominated capacity.

Other solutions
Towards the end of the Working Group process, BWEA set up an internal group to consider its response to the CAP 166 consultation. In doing so BWEA has been mindful of Ofgem's challenge to Working Group 2 of finding an equitable solution to allocating scarce capacity. Whilst we accept that this is a reasonable request, we consider that an absolutely fundamental part of any equitable solution must be to respect and honour users investment decisions to-date.

As you know, the majority of our membership are fully supportive of the Connect and Manage approach and we do consider this to be a robust and positive response to Ofgem's challenge. We have also been supportive of Alternatives to Connect and Manage

which seek to address the concerns over the cost of an unfettered Connect and Manage regime.

There has been insufficient time to fully consider and respond on whether there might be what we would call a "third way" of allocating capacity which might meet Ofgem's concerns but would not suffer from the very serious flaws of a price-based auction of all access rights.

Key to assessing the suitability of potential solutions to transmission access is understanding the shared goals for a regulatory regime that we as an industry, Ofgem and the government hold. The main design criteria which we trust we all share are:

1) No unacceptable consequences for electricity consumers;
2) Meeting government's environmental objectives
3) The provision of timely access for interconnection of projects within development timescales;
4) The provision of reasonable certainty of costs for transmission access
5) The provision of cost-reflective charges
6) Allowing investment decisions to be made and financing to be achieved from project conception through to commissioning and operation.
7) No undue discrimination between users;
8) Due account taken of the differential characteristics of users i.e. base load providers, intermittent generators, peaking plant e.t.c.
9) No perverse incentives;
10) Accessible to all parties i.e. complexity does not act as a barrier to entry;
11) Open and transparent
12) Provides the TOs with suitable investment signals;
13) Allows the SO and TOs to recover the operational and constraint costs of the network as well as the capital investment in infrastructure assets;
14) Can be implemented in the near-term.
15) Improves the management of constraint costs

In our view the combination of products being put forward for consideration and resulting from the TAR process have, at their heart, something akin to Connect & Manage. As an example auctions allocate long term capacity from fixed dates, and, taken in conjunction with overrun, could be said to ensure that all users can have a contractual right to export all power when they want. But we believe that the auction proposals fail to meet requirements 1, 2, 5, 6, 7, 8, 9, 10, 11, 14 and 15 and possibly 12 and 13.

Connect & Manage, either in the "vanilla" form proposed by CAP148 or the version within CAP164, has been suggested by Ofgem to give rise to unacceptable constraint costs under some uptake scenarios.

The key differences between the various alternative approaches distill down to the allocation of costs between parties. Furthermore, in all of the TAR access models, access is effectively denied via a price signal.

Also highly relevant to this is the quantum of costs. It is not sufficient to simply allocate constraint costs. They must also be managed. As noted in previous TAR responses, we are extremely uncomfortable with the prospect of some users having constraint costs "targeted" on them when they have absolutely no control over the size of that cost. We are not convinced that regulatory oversight is sufficient to address these concerns.

Furthermore some of our members have expressed interest in managing their constraint costs through a cap on bids in the Balancing Mechanism.

As we are sure you will appreciate, development of an approach which honours existing users commitments and which meets all of our listed criteria is something which is not easily addressed in the short time given to respond to this consultation. We believe that the TAR Working Group process has, collectively across all of the Working Groups, been positive in working through a range of potential access models, and that it should be possible to find a solution which is as close as possible to meeting all of these requirements. We are committed to working constructively over the coming weeks and months to find the best solution, and would very much like this to continue to be a collaborative effort, including Ofgem and the government.

Yours sincerely,

Dr Gordon Edge
Director of Economics & Markets
BWEA

CUSC Working Group consultation response – CAP166 Auctions

Respondent:	Fiona Navesey 07789 570884
Company Name:	Centrica Energy
Please express your views including rational with regard to the Working Group Consultation? **Including any issues, suggestions or queries**	**In summary, Centrica's views on CAP166, and associated alternatives, are as follows:** **1. they do not release more transmission entry capacity than the current baseline,** **2. they will have negative impacts on UK generation (conventional and renewable) investment,** **3. they will require the removal of rights from incumbent generators, resulting in material regulatory risk and may create security of supply issues,** **4. they will be costly, complex and result in inefficient outcomes.** **Issues with long-term capacity auctions** Centrica believes there are serious issues associated with introducing long-term entry capacity auctions as envisaged by CAP166: • Auctions only work if there is a scarce resource and there is a sufficient number of bidders. Under these conditions, auctions can reveal the value of the scarce resource and maximise revenue. However, in reality, GB access transmission capacity is not scarce in every part of the transmission network and in addition, increased investment in the transmission network - as one of the recognised key solutions to the GB Queue - will further reduce scarcity of access capacity. • When access capacity is not scarce and there are a limited number of bidders, the auction price could fall down to zero (or reserve price) which will render the auction mechanism ineffective and will not justify the costs and time associated with implementation. • There is a significant risk that an incorrect baseline capacity will be set and that the auction of both existing and incremental long-term access capacity will not provide the right investment signals to the TOs. The risk of under providing transmission capacity is far greater than over providing of capacity. • The auction design will determine the way the transmission system and the whole energy sector are operated for many years to come. Maximising revenue does not guarantee security of supply or a coordinated network investment approach. The transmission system should be seen in a wider context and its criticality for the GB economy. On this basis alone the development and evaluation of any auction solution must be **fully** considered, together with a robust cost / benefit analysis. Neither of which have been completed to date. • The introduction of an auction regime will increase price risks and access uncertainty for developers and existing generators at a time when significant investment in both renewable and conventional generation is required. This will impact both the delivery of the UK renewables target and security of supply.

- Auctioning long-term capacity, as per the current proposals, will make participation in the first auction critical as new entrants will only be able to place higher values on capacity in either the first auctions or in future auctions, when long term entry capacity is subsequently released or expires. Auctioning does not allow bidders that place a higher value on capacity to enter the market unless more expensive incremental capacity is built and released.

- As a result, the arrangements could be a barrier to new entrants because if a generator is not yet eligible to take part in the first auction, the chances of getting timely, long term access at an acceptable price in the short to medium term are significantly reduced.

- In addition, the level of security to be provided and the unavoidably complex auction mechanism could well deter investment in the UK.

- Long-term capacity auctions result in value based access. What generators pay for access will no longer reflect the cost incurred by the transmission licensees and the charges will no longer be proportionate in relation to the access product. In addition, bidders face the risk that future value of access might be decreased by strategic investment, which we believe is one the key solutions to the GB Queue.

- Auctions could be perceived as discriminatory because generators in similar locations may have access at different prices when they take part in different auctions.

- We question whether long-term capacity auctions will encourage efficient use of the network. If baseline capacity can change auction by auction then this might introduce a significant price risk for short-term access products.

- We are not convinced that the CAP166 proposals have sufficiently taken into account the well known issues associated with the gas entry auction regime.

- Finally, the introduction of long-term capacity auctions requires removal of evergreen rights from existing generators. If the baseline is then set incorrectly, e.g. less capacity than is currently available is auctioned, then existing generators could face even greater issues. Centrica believes its access rights are evergreen and are automatically renewed every year given payment of TNUoS. Without prejudice to these rights, in order to fully participate in the working group and respond to this consultation, we have set aside these views on access rights.

Issues with the Working Group Report

As indicated in the report, there are still many important areas that require further development (auction design, governance, charging, testing, impact on security of supply, and interaction with OFTO regime etc.).

Some of these areas are considered to be outside the CUSC, but we believe it is essential that these areas are fully understood and developed before a decision under the CUSC to approve the introduction of long-term capacity auctions can be justified.

Do you believe that the proposed original or any of the alternatives better facilitate the CUSC applicable objectives, please state your reasoning?	**CUSC Applicable objectives:** o **the efficient discharge by the Licensee of the obligations posed upon it by the Act and the Transmission Licence,** o **facilitating effective competition in generation and supply of electricity and facilitating such competition in the sale, distribution and purchase of electricity.** **Original: Auction of zonal capacity** **WGAA1: Simultaneously cleared nodal auction** **WGAA2: Descending volume/duration auction** Based on our comments above, Centrica believes that the Original, WGAA1 and WGAA2 will not better facilitate the applicable CUSC and is more likely to have a negative impact on investment, security of supply, costs and effective competition.
Do you support the proposed implementation, if no please state why and provide an alternative suggestion were possible?	No. As mentioned above, we do not support long-term entry capacity auctions and therefore do not support the proposed implementation.
Any other comments?	In the limited timescales available, the working group has not been able to sufficiently develop and evaluate the CAP166 original or any of the CAP166 alternative modification proposals. As indicated, there are many crucial areas that require further development. Without proper evaluation, the unintended consequences impacting areas such as new investment (both renewable and conventional), increases in costs to consumers and security of supply, are likely to be significant. Furthermore, we do not believe that the additional work required can be achieved in the short timescale left before submission of the working group report to the CUSC panel. Despite the considerable efforts of WG2 to deliver CAP166, Centrica remains unconvinced that long-term capacity auctions are the right way forward. It is our understanding based on the working group discussions that the majority of the industry also does not support the introduction of long-term capacity auctions. Rather than having the modification proposal referred back to the working group for further analysis, we believe the most sensible way forward is for the proposer to withdraw the CUSC modification. This would allow the proposer and industry to focus on more suitable solutions, for tackling the GB Queue and future connections, by addressing the fundamental need to connect more generation within construction project timescales and at reasonable and predictable costs.
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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FAO Mark Duffield
UK Transmission Commercial
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CV34 6DA

14th November 2008

Dear Mark,

CAP166 Long-term Entry Capacity Auctions 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 CAP166 Long-term Entry Capacity Auctions.

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 CAP166 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 CAP166 proposal nor any of the alternatives would release more transmission entry capacity than the current baseline;

2. The proposed process is flawed when compared against the original auctioning principle outlined in the Ofgem / BERR TAR report, as new users can only place a higher value on capacity in a given area in either (a) the *first* auction after the approval of the amendment, or (b) an auction that provides the new user with a sensible long-term entry rights hedge for the new investment, once the existing commitments in the given area expire; in the meantime, auctioning does not

allow those that place a *higher* value on capacity to enter the market without triggering more expensive incremental capacity (which makes the process discriminatory);

3. Moving to auctions is highly undesirable for all types of investors in the power sector, regardless of where and when they have invested; however, those that are currently in the process of building their projects may never have the chance to repay any of their investment finance if they do not gain access in the *first* auction;

4. The fact remains that both new and existing investors must ensure that they can access the transmission system and sell power to the market *in the long-term*; investments made by generators are not short-term by nature and any such investment should be seen by National Grid as a long-term commitment;

5. 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;

6. Drax believes that for all CAP166 variants, local connection rights (obtained via the purchase of LCN) should be evergreen rather than finite;

7. The consultation fails to provide the user with a number of important parts of the auctioning process, which are required to be able to assess the impact of the proposals on their investment and on the wider industry;

8. Drax has grave concerns over the lack of time set aside for testing such a complex system prior to determination by the Authority.

Overall, Drax currently believes that neither the original CAP166 proposal 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 aims to provide 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 CAP166 amendment proposal to CAP164 and CAP165, the CAP164 amendment would be the most useful in attempting to solve the issues identified in the joint Ofgem and BERR TAR report. A Connect and Manage methodology would force users to reassess their position against their competitors in order to remain competitive in the power market, whilst providing an equal opportunity to both new users without transmission entry rights and existing generation plant with transmission entry rights.

Drax also considers that a combination of CAP164 and CAP165 WGAA3 could provide a more robust solution; we have stated this in our CAP164 and CAP165 Working Group Consultation responses for consideration by the respective working groups.

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
CAP166 LONG-TERM ENTRY CAPACITY AUCTIONS

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 auctioning proposals, Drax believes that neither the original amendment nor any of the alternatives proposed under CAP166 would release more transmission access capacity than the current baseline. The current process described in the consultation document works in a way that effectively takes all of the baseline capacity in the current system and places it into the auction for redistribution. Winners of the first auction (which enables users to bid over the following 40 years from the *current* auction year) lock in their capacity auction costs for the duration of their committed rights (so, if Plant A is successful in bidding for rights over the next 20 years, Plant A will lock in its auction costs for the duration of that period). This means that once the redistribution has occurred in the *first* year, those rights will not become available *until the year in which the associated bid expires*. Assuming the users that bid do not bid for a single year at a time (why would an investor take the risk of securing entry rights for a *£x-million* power station on a year by year basis?), it will be the new users in subsequent auctions that are forced to bid higher in order to trigger the incremental capacity and then wait for the capacity to be built. The auctioning process is flawed when compared against the original principle outlined in the joint Ofgem and BERR TAR report; new users can only place a higher value on capacity in a given area in either: (a) the *first* auction after the approval of the amendment; or (b) an auction that provides the new user with a sensible long-term entry rights hedge for the new investment, once the existing commitments in the given area expire. In the meantime, auctioning does not allow those that place a *higher* value on capacity to enter the market (which makes the process discriminatory). On the other hand, a methodology such as Connect and Manage would force users to reassess their position against their competitors in order to remain competitive in the power market, whilst providing an equal opportunity to both new users without transmission entry rights and existing generation plant with transmission entry rights (i.e. market competitiveness decides who enters and leaves the market, *not the transmission access regime*

	itself). However, the investors that stand to lose the most from an auctioning regime are those that have already committed capital on projects on the basis that they have firm access rights (as prescribed by the current arrangements), but fail to gain access in the *first* auction. Moving to auctions is highly undesirable for all types of investors in the power sector, regardless of where and when they have invested; however, those that are currently in the process of building their projects may never have the chance to repay any of their investment finance if they do not gain access in the *first* auction; such plant have already made a huge capital commitment to access the market. Not only does this proposal have the potential to make plants insolvent as their route to market is removed, but it also has a high potential to strand assets, as other parties are less likely to purchase the stricken plant if there are no access rights associated with the site. Given that the joint Ofgem and BERR Transmission Access Review had the aim of ensuring that serious investors could connect new plant in a timely manner, the fact remains that this proposal may result in *mid-project* investors losing the access rights that they have (a) *already placed security against* with the Transmission Owner and (b) *already committed a large amount of capital* to build the new asset. The fact remains that both new and existing investors must ensure that they can access the transmission system and sell power to the market *in the long-term*. Investments made by generators are not short-term by nature and any such investment should be seen by National Grid as a long-term commitment (again, why would a user take the risk of building a power station for *£x-million* if they did not plan to stay on the system in the long-term?). The working group must further discuss the issues surrounding auctioning and security of supply. There is a real risk that an auction may result in key plant losing long-term access rights, which may force such plant to decommission rather than remain available for times when the system is considered to be at high risk (due to the economics of remaining available being unjustifiable against the likelihood of use). Further to this, Drax believes that LCN should be evergreen rather than finite. As mentioned above, we believe that a key part of the Transmission Access Review is to seek to ensure that investors 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 constantly change 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). Overall, the consultation document does not allow the user to assess the impact of the proposals on their investment nor the wider industry, due to a significant proportion of the proposal being undefined. Such issues include: ▪ A lack of a clear definition of the auction closure criteria; ▪ Uncertainty as to who each user's competitors would be at this stage; ▪ Uncertainty regarding the handling of over / under recovery of revenues; ▪ It is unclear as to how transparent and auditable the incremental investment calculation will be; ▪ More detail is required on structured bidding; ▪ There is no use-it-or-lose-it definition. These are just some of the obstacles encountered when attempting to evaluate the auctioning process described by the consultation document. Drax also has grave concerns over the lack of time set aside for testing such a complex system prior to determination by the Authority; <u>this issue must not be ignored</u>. Finally, with regards to WGAA2, Drax believes that all Working Group Alternative Amendments should be given a reasonable amount of time for development and assessment. However, the working group has been afforded very little time to further develop CAP166 (despite requesting more time); this is an unfortunate set of circumstances and places the working group in a difficult situation. It would seem more appropriate for the working group to focus on WGAA1 in order to aim for a single, more defined solution; otherwise, the final report may result in a document containing two proposals with too little detail for assessment. Further guidance should be sought from Ofgem.
Do you believe that the proposed original or any of the alternatives better	As described above, the current consultation document does not allow the user to assess the impact of the proposals on their investment; nor does it allow the user to assess the impact on the

facilitate the CUSC applicable objectives, please state your reasoning?	wider industry. This is due to (a) a significant proportion of the proposal being undefined and (b) the fact that the working group has not had enough time to perform more in-depth testing of a very basic multi-node model.
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 CAP166 variants), we will remain unable to answer this question.
Any other comments?	Drax agrees with the views of the Working Group on implementation dates. 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. Drax also agrees with the working group that the auctioning framework should form part of the CUSC, thereby modifiable by the CUSC amendments process.
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

7th November, Mark Duffield.

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**	In this response, all comments relate to WGAA1. EDF Energy does not support CAP166 WGAA1 (Long Term Entry Capacity Auctions) as, even though it will provide bankable capacity for investors, this will be at the expense of existing generators. This will ruin the investment climate for power generation in Great Britain. CAP166 WGAA1 (Long Term Entry Capacity Auctions) would be improved if charging and incremental capacity arrangements are revised significantly; In general, EDF Energy believes a successful transmission package will include the following elements under which we have assessed CAP166: **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: CAP166 does not do 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. PASS: CAP166 offers this through the incremental capacity release and buy back

	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. FAIL: CAP166 offers incremental capacity through a incremental capacity function that doesn't vary the depreciation of the asset for the commitment of the generator; this is because it applies a [6] year hurdle test to all bids in the auction; **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. FAIL: CAP166 offers auctioned capacity with either a scarcity premium or a discount on top of the requirement to the remaining allowable revenue through TNUoS charges – this is not a hedge, just a commitment. **Regulating constraints: ability to regulate 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: Capacity auctions do not change the baseline capacity available to what is available now
Do you believe that the proposed original or any of the alternatives better facilitate the CUSC applicable objectives, please state your reasoning?	EDF Energy believes CAP166 WGAA1 (as it is presently drafted) does not better facilitate the CUSC objectives. It does not: • help NGET discharge its functions • encourage competition in the wholesale electricity markets; • help to ensure security of supply.
Do you support the proposed implementation, if no please state why and provide an alternative suggestion were possible?	EDF Energy offers no support to CAP166 WGAA1 as it stands, even though the following design features of WGAA1 (listed below) have tried to ameliorate concerns industry participants had with auctions: • Physical players only; • 40 year capacity allocations, although we would note that 60 years would better reflect the longest plant life;

	• Annual auctions; • Multi-round; • 17 boundaries with cleared price across each boundary; • Firm 'buy-back' arrangements; • Incremental capacity test. EDF Energy does not support CAP166, through the following deficiencies: • Introduces significant risk for generators (existing and new); • It may reallocate capacity between existing and new generators, thus destroying the investment climate; • Damages prospects for new investment in large-scale generation that is essential to UK security of supply (the UK is part of an international market; potential generation developers have a choice as to in which country to invest); • The collection of a surplus through the auctions would lead to the likelihood of political attribution of this surplus for the purpose of the offsetting of general taxation; • Ultimately operators of existing assets would have the commercial incentive to "bid away" almost all of their future profit streams in order to secure access, rather than close. This would however mean that new generation investment in the UK was discouraged. • The bidding playing field is not level because carbon is not priced equitably – subsidised plant would be bidding against non-subsidised plant; • The 50% value in the incremental capacity hurdle calculation is not justified; in the long run this assumption will set the level of payments required by generators that bid successfully in the auction and therefore influences auction prices; • In the WGAA the incremental capacity release test is based on a set depreciation period and corresponding depreciation charge of 50 years (i.e. 2%). This is used in calculating the £/KW hurdle rate that must be exceeded by the bidder in [6] consecutive years to trigger the incremental capacity. This is irrespective of the length of time the generator is bidding for the capacity, thus leaving a generator that may be bidding for 60 years, rather than 20 years of capacity, having to bid above the same incremental capacity hurdle rate for the [6] years. It may be more sensible for the generator bidding for a shorter tenure to have the annuitised value £/kW hurdle rate based on 20 years. • EDF Energy would like the working group to discuss the implications of using a yearly £/KW rate based on a depreciation charge that is linked to the length of the capacity booking rather than the 50 years considered for transmission assets.

	• The cleared auction price is an imperfect hedge to the generator as although it is committed to paying the cleared price, a TNUoS liability remains through the required recovery of allowed revenue. A generator may still have to pay a sizeable UoS charge even after triggering incremental capacity with its bid. This is clearly inappropriate and leads to the conclusion that there should not be any recovery of allowed revenue from generators. • Thus the generation share of the allowed revenue could be reduced from 27% to 0%, leaving only the auction revenues being the liability (charge) for generators for use of the wider system. • Over time, as generators trigger incremental capacity, the revenue recovered from generators would increase. This revenue would depend on the methodology adopted for the triggering of incremental capacity, which could be "deep" or "shallow" rather than the 50% sharing factor envisaged by the amendment.

Any other comments?	WGAA2 (RWE npower) is a sensible "auction" based concept that is closer to current arrangements and more reflective of an asset based charge, rather than a value based charge. It is worthy of further consideration.
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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14 November, 2008

Dear Mark,

CAP166 - Transmission Access – Long Term Entry Capacity Auctions

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

We are not supportive of CAP166 at present. However, any detailed views on why it does not better meet the applicable objectives will be given in our response to the next consultation. This response will focus on answering the questions raised by the working group as a result of developing solutions to the proposal.

The Working Group would welcome industry views on whether they believe that this is an appropriate level of security to be held or whether the additional burden it might place on Users outweighs the benefits it would provide; i.e. is the risk of a long-term access obligation moving into default sufficiently likely as to require the proposed level of security or on the contrary sufficiently unlikely as to not require the proposed level of security?

The level of security proposed for pre commissioning generators is deliberately set at half of the average expected exposure. Therefore, compared with present final sums liabilities there is a significant amount of risk sharing with the wider user community. What is important in this context is not the risk of the generator defaulting, but the risk of costs being incurred unnecessarily should the generator default. This should set the level of cover or liability. The risk of a particular generator defaulting then affects how the cover can be provided, either by an allowance in accordance with an approved credit rating, by the provision of security or by a combination of the two.

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In the context of long term security post commissioning, the risk of stranded costs differs significantly, because if a generator defaults there is a tangible asset that will in the overwhelming number of cases be acquired by another party. Therefore, payments are continued. For a pre commissioning generation project there is a greater probability that costs will be stranded as a new party would not necessarily pick up the project and continue its development. This will not always be the case of course, which is why it seems sensible to set the amount of cover required from pre commissioning generators at half of the potential liability on average.

As the potential stranded cost associated with post commissioning generators is extremely low, it would be possible to make a case for no security requirement. The requirement to cover the residual liability in the relevant current year represents a compromise to those who would wish to see a more stringent regime. It would by no means be appropriate to seek to cover more than this. This would represent a wasted use of capital in order to cover a miniscule risk.

Respondents to this consultation are also invited to respond whether they believe the proposed security rules better facilitate the relevant CUSC objectives.

They do not better facilitate the CUSC objectives than the present baseline as they fail to cover pre commissioning liabilities for wider transmission access rights which are covered by current FSLs.

The Working Group would welcome industry views on whether Local Access Rights should be defined on an enduring basis in line with the Working Groups proposals or whether they should be defined on a finite basis.

We believe that LCN should be an enduring 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 would welcome industry views on the issues raised above with respect to the interaction between local works and the auction for wider long-term access.

The discussion of advantages and disadvantages in the consultation has brought out the main differences between Approaches 1 and 2 in relation to the interaction between LCN

and the auction process. The crucial difference for us is that Approach 2 allocates a date for the provision of local access which is the latest date achievable for projects that interact, even though earlier dates could in reality be accommodated for some of those projects. Approach 1 allows for these earlier dates to be achieved in accordance with the allocation of wider access rights in the auction. It would therefore connect more generation sooner than Approach 2.

Approach 1 is clearly more appropriate than Approach 2 and should therefore be the option that is pursued by the group.

The Working Group would welcome views on the appropriate option for modelling the interaction between generation location and boundary capability.

We do not have a strong preference. However, it is clear that the ex ante assessment of the capability of the network will be crucial. As a general theme greater accuracy appears to come with greater complexity which reduces the ability of bidders to interact in an informed manner. Striking the correct balance between these two conflicting objectives will be a challenge.

The Working Group would welcome industry views on the appropriate option for the definition of baseline transmission access capability, the appropriate treatment of different generation technologies and the importance of the stability of baseline capabilities.

This is a difficult issue to address and would in part appear to depend on whether the other amendments which could increase the intensity of usage of the network are implemented. If such amendments are implemented then setting baseline capacities on the basis of physical boundary capability at peak demand may be more appropriate. Otherwise, using the relevant SQSS planning criteria would seem a better option. It may be possible to leave this decision in the detailed design of the auction methodology which could be firmed up when the Authority's decisions on CAP 161 to 166 are known (of course, assuming that CAP166 is implemented).

If the SQSS approach is chosen then a decision has to be made about whether or not to assume that the system will remain in the non compliant state implied by the implementation of BETTA. We can see the argument for maintaining this situation as offers made to parties that applied before the appropriate deadline at BETTA will still be valid. However, it should be borne in mind that the implementation of an auction regime would remove of rights from all parties who currently hold them and effectively force them to apply for new rights. Maintaining the BETTA arrangements for new applicants could be seen to be the grandfathering of rights for a subset of parties whereas other parties' rights are not, which might be seen as discriminatory.

Notwithstanding this possible problem, an issue of practicality is raised if the post BETTA SQSS background is to be used. That is, what level of non compliance should be assumed in each year and on what boundaries? The present contractual background contains all offers that have been signed by generators. These will have various connection dates over the next 8 years and beyond. It would seem inappropriate to use

this background for setting the baselines as there is widespread acceptance that many of these generation projects will not in fact materialise. Therefore, which projects should be assumed to be in the background and which ones should be assumed to have dropped out? Any view on this would clearly be subjective, but would have profound implications for projects wishing to participate in the auction.

The Working Group would welcome industry views on the relative merits of pay-as bid or cleared price in an auction for long-term wider transmission entry rights.

The benefit with pay as bid is that it will reflect the relative value that parties put on capacity when they bid into the auction. However, we accept that parties that have got it wrong and over bid could end up paying far more for their rights than others who were successful in acquiring capacity in the same area or on the same boundary (ie the 'winners curse'). This is the risk of allocating access rights using an auction, particularly when parties' bids will not necessarily be what they end up paying for access, as an additional tariff is necessary to recover the correct amount of allowed revenue.

The cleared price approach takes some of this risk away from parties. However, as seen from the limited modelling so far, the result is that locational price differentials are effectively removed. This would appear to be a significant issue with the auction approach which will result in cross subsidies between parties and ultimately inefficient decisions to locate power stations. This is likely to have detrimental economic and environmental implications.

We agree with the working group that a dynamic auction would help to reduce the risk of successful bidders being exposed to the winners curse under the pay as bid approach. Therefore, on balance it would appear that pay as bid may have less negative issues associated with it. However, neither would appear to be acceptable to the promotion of an orderly generation market.

The Working Group would welcome industry views on the appropriate closure rules for a dynamic auction.

We agree that a pure 'clock' auction would seem inappropriate. We also note the concerns surrounding the setting of stability criteria whilst allowing participants to adjust their volumes and prices in both directions and the possibility of this extending the duration of the auction for no purpose. However, if a dynamic auction is to provide benefit to participants in terms of price discovery and the avoidance of the winners curse then presumably participants should be free to adjust their bids as necessary. We believe that more modelling and analysis of this important area needs to be undertaken before sufficiently flexible yet robust rules can be derived.

The Working Group would welcome industry views on the appropriate buy-back arrangements associated with capacity allocated by an auction for wider long-term entry access rights.

It would seem appropriate for buy-back to be carried out at a price set by the generator. The SO could choose which generator it was intending to buy back rights from. Of course

if there is limited choice of bid to accept, then the situation could potentially be abused. However, a 'one size fits all' administered price is likely to be highly difficult to achieve with such a wide variety of generation types, sizes and locations. Unfortunately, the problems with buy-back are caused by abandoning the present process where delays to wider infrastructure and generator works are managed together under the construction agreement. This is another limitation of the auction approach.

The Working Group would welcome industry views on candidate Working Group Alternative Amendment 2 and, in particular, whether this should be further developed by the Working Group.

Given the limited time available for the further assessment of the amendment, we do not believe that WGAA2 should be progressed further. There is insufficient time to assess WGAA1 fully and assessing another option would use valuable time that could be better spent.

The Working Group would welcome industry views on the appropriate governance arrangements for the auction.

The auction methodology should come under the governance of the CUSC. Since the consultation was issued this has been discussed further and it is likely that a methodology that is an ancillary document to the CUSC but produced as a requirement of the CUSC is the best way forward.

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

With such an important amendment that can fundamentally alter the whole nature of access to the transmission, regulatory risk is a major issue. Therefore, the implementation date should not be open ended.

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: 14th November 2008

National Grid
National Grid House
Attn Sarah Hall

Dear Sarah,

CAP 166 WG Consultation Response

Long Term Entry Capacity Auctions

Fairwind Orkney Ltd is an independent renewable energy developer based in Orkney, Scotland. We believe that FOL is reasonably representative of small business and community based aspirations to build and connect generation based on some of the highest quality renewable resources in Europe.

To us, access to the UK grid network is an essential part of, both, the future of renewables in the Scottish Islands and the delivery of National and European targets for energy based on renewable sources.

We understand very well the frustrations of developers of generation in remote areas that are faced with connection dates very far into the future and use-of-system -charges which, under the current methodology, are the highest in Britain.

Auctions

The use of auctions in the electricity network is seemingly a radical proposal to try to deal with the competition for access to the transmission system by increasing amounts of new generation – much of it from renewables. The reasons for the competition and constraints that lie behind it is that the Transmission Owners cannot build infrastructure fast enough to accommodate the changes, which have been brought about by Renewable Obligations on the one hand and by the need to renew older (fossil fuel or nuclear) generating plant, on the other.

If the result of an auction regime would free up the system to allow new generation from new locations an opportunity to access the existing system earlier, then there may be clear merit in backing such a move.

One could imagine that a potential generator in a remote –constrained - area facing high charges anyway, could look forward to bidding against incumbents or other new users in areas less remote, with a reasonable chance of success for earlier access. The end result, in theory at least, for such users would be that for little or no extra hike in their use of system charges (under the existing access regime) – they could outbid those accustomed to paying much less.

What can be expected from the Auction?

However, in order for the auction to work for such users the Auction model would need to have the following attributes:-

1) Be relatively uncomplicated and not subject to tinkering or manipulation

2) Be accessible to as many users as possible at the first auction ('big bang')

3) Be fully transparent

Does CAP 166 deliver?

The CAP 166 original and WG Alternatives are deficient in that they fail to deliver on all the above.

1) All variations to a simple auction in some way skew the result. The more it is not possible to compete on the whole system but instead be left with a 'layered onion' of nested boundaries then the skew factor increases. The preliminary model, which was devised and run by some members of the working group, proved that auctions don't work in unconstrained areas. No competition = no motivation to bid above zero.

   The manipulation necessary to ensure that National Grid can achieve MAR could have the effect of further loading costs onto generators with successful bids behind existing constraints – thus adding to the barrier to entry which auctions were meant to address.

2) Before being allowed to join in the first auction a new user would need to have secured a local connection nomination -LCN (or at least have an agreement). However, local connections on the North of Scotland (under the revised local charging methodology) could be very long (in distance) and involve sharing with others. There could, then, be a queue to join the auction – with first come first served.
   Failure to bid in the 'big bang' first auction – when all incumbents would be seeking to get back on the system plus many new users – will probably mean the end of the project. For a true and competitive auction it is imperative that as many parties as possible can partake. Restrictions to entry would tend to skew things from the outset and could be unduly discriminatory.

3) The complexity of the auction models described make it hard to have confidence that the process will be transparent. In order for auction to be fair, participants

must, at least, be able to understand that the product for which they think they are bidding is attainable.

The working group has worked tirelessly under its highly competent Chair, Hedd Roberts, to try to bring forward a useable auction regime – in the inadequate timeframe allowed.

Unfortunately, auctions, with the prospect of causing a fundamental upheaval for existing generators, would do little to advance the prospects for early connection of new users – at least in the way envisaged.

CAP166 and baseline

The defective current baseline, which rations entry by construction agreement connection date, final-sums demands and, in Scotland, the queue, is not, in our opinion, improved by CAP166 original nor its current Working Group Amendments.

New Consultation Request from National Grid

We do note, however, that a Consultation Request from National Grid offers some new options including a pay-as-bid regime 'over-allocate + reserve'. If time permits, it might be interesting to investigate whether inflating the capacity available plus a reserve based on locational TNUoS might make the receipts less chunky. This may at least reduce the chances of successful bidders in the north being saddled with extra, unknowable, residual charges because of significant under-recovery in the south. At the same time intermittent – must run – generation may be able to make use of the 'higher than physical' capacity envisaged.
I think is another reason why much more time is necessary to properly assess this and other potential models.

Securities

We further note that CAP 166, in the latter stages of the Working Group deliberations, moved to a fairer balance in the demand for securities between pre and post commissioning generators, which is to be applauded.

Overall comments to this round of CUSC modification proposals under the TAR

FOL would also like to take the opportunity to comment on the whole of the potential modifications proposed under TAR.

Connect & Manage

From the point of view of new generators and particularly those based on renewable sources in peripheral areas, it is difficult to envisage anything other than a Connect and Manage approach. In such a world, signals to reinforce are unambiguous and there is every motivation for new wires to be built quickly and in the right places. This in turn engenders competition and significantly assists with climate change targets.

CAP148 is still the best option, in our opinion, and has been unfairly tagged with a liability to cause huge constraint payments – whilst underestimating carbon savings and the filtering effect of planning delays to projects. CAP 164 is less likely to be as effective as it is too cautious – but would still be better than all the other TAR modifications for new users in constrained areas..

Movement of TEC

Where incumbent generators are sitting on large TEC allocations, which may not be used efficiently, then it seems that the only way to release capacity to new players may be to provide incentives to open sharing – rather than to penalise or seek to take away the rights in a summary fashion. At the same time it may be worth trying to reduce perverse incentives where older plant hangs on by playing constraints in the Balancing Mechanism.

Short-Term Release

Short-term release products are not likely to be taken up, in exchange for relinquishing long term rights, by incumbent generators where TNUoS payments are low. Uptake of short-term products by new users is likely to be low – as these generators are probably bound by project finance to go for long-term access. Instead, short-term products might facilitate earlier access to the network whilst wider reinforcement takes place.

Capacity Sharing

Sharing remains a viable option between electrically adjacent operators, or where technologies are complementary, and should be encouraged. Though sharing should be as open as possible rather than just within the sites of portfolio players. Innovation should be encouraged in this model and could build on RPZ work being carried out in Orkney. A 'can do' approach would help.

Overrun

Overrun may be useful as a measure for plants that run on a marginal basis and where long-term access is uneconomic. Given overrun and incentives to share long term access (in a series of short term contracts, perhaps) at a profit, it is conceivable that incumbents –including those renewables with headroom in their TEC – may release capacity to new users in constrained areas in an effective manner. However, overrun, in areas where capacity had not been freed, would be a very expensive option for any user and would not be sustainable for anything but the very short-term.

Thank you to all the members of the National Grid team involved in the recent CUSC and charging modifications work, and to all the members of the Working Groups for what has been a professional job done under somewhat unrealistic timeframes.

Regards,

Dennis Gowland (unsigned as e-mailed). Director
14.11.08

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14th November 2008

Sarah.a.hall@uk.ngrid.com

Dear Sarah

CAP 166 Long-term Entry Capacity Auctions

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) has 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

The working group report considers a number of alternatives for the auction of capacity. The initial proposals centred on zonal auctions where generators would bid for capacity in a zone.

As the working group moved forward it became increasingly apparent that zonal interaction reduced this approach to a quasi nodal one.

The report puts forward several methods to facilitate auctions at a nodal level e.g. load flow, boundary flow and ex-ante allocation. Each of these approaches has significant problems in that, from a generator's perspective, it is difficult to establish which stations are the generator's direct competitors; this uncertainty impedes the formulation of a robust bid strategy. The key issues with auctions are:-

- Currently transmission access on the MITS and wider boundaries is shared by generation. The SQSS methodology for main boundary flows assumes a 20 % plant margin and ignores generation above this level for boundary flows. The effect of this is to allow sharing of boundary flows amongst existing plant. An auction will potentially curtail the sharing of these boundary flows even if the 20% plant margin in the SQSS is adopted.

- There is significant complexity associated with all of the auction alternatives. The determination of baseline capacity and incremental build will lead to potentially 100's of boundaries/nodes where capacity could be sold. Market participants would need to understand both the implications of these boundaries/nodes as well as the allocation methodology for multi-round, cleared auctions. The sheer complexity of this is a significant barrier to entry to all but the largest, well resourced companies.

- We believe that, because of the nodal nature of the transmission system (the system is designed for generation in specific locations), transferring these transmission rights to others results in a sub-optimal allocation of the system and reduces the overall volume of rights that can be allocated. The current system has been designed by taking account of the generation type and location; the SQSS, although to large extent deterministic, allows deviation based on specific plant issues. If there were changes to the plant types, increasing the load factor, then this could lead an exacerbation of constraints and a sub optimal systems design. In practice it would be likely that a reduced volume of rights would be allocated as base load generation would be assumed at all locations (the SQSS currently has different allowances for different plant types e.g. wind).

- The specific methods proposed do not deal effectively with multi-year applications. Generation can be successful in one year but unsuccessful in subsequent years, this may appear to have triggered reinforcement but if the 50% of UCA hurdle is not met then the re-enforcement will not be delivered. The possibility that a station will lack firm access to the transmission system for some years will not only increase the investment risks for any new generation asset (at a time when a significant amount of capacity is required) but also act as an impediment to investment in the existing generation fleet.

- New generators who wish to acquire capacity in an auction are likely to only bid post planning consent. If the new capacity requires reinforcement of the TO system then it is probable that planning consent would expire prior to that reinforcement being in place. This would lead to the same issue that currently occurs where generators cannot apply for planning consent prior to grid connection because of the time taken

to reinforce the system. This will not improve the interactions between planning consent and grid connection.

- In different auctions it is likely that capacity will clear at different values. This could mean that once reinforcement has been triggered in one auction the value of the capacity could fall in subsequent auctions. This would mean that subsequent parties pay less for capacity once reinforcement has been triggered. This appears to be an anomaly.

- The revenue recovered from an auction is highly uncertain. Significant competition in an area could lead to significant over recovery whilst lack of competition (if the interaction with planning consent is too onerous) could lead to significant under recover. As the TO revenues are fixed, a methodology will need to be developed to deal with the over recovery / under recovery. It would provide inefficient market signals. Given the volatility of the residual, someone in a constrained zone could pay a lot for access and then be exposed to a high residual charge as well should the rest of the market under-recover.

We do not believe that auctions will lead to any improvement in the allocation of rights as it will remove the current implicit sharing of rights and replace this by a sharing regime (CAP163) that is not capable of allowing sharing of capacity to the extent currently available.

We believe that the working group should consider the effect that the proposed auction could have on the allocation of rights to high merit order plant. This class of plant that is currently excluded from the wider capacity flows as it is deemed to share these flows with low merit order plant but is allocated and pays for TEC. We believe that limiting the current implicit sharing that occurs as part of the SQSS could potentially lead to the situation where plant that would have been brought on to provide margin may not have wider access rights.

We hope that these comments are useful.

Yours sincerely,

Simon Lord,
Transmission Services Manager

Fred.Olsen Renewables

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14th November 2008

Via e-mail:-
sarah.a.hall@uk.ngrid.com

Dear Sarah,

CUSC Amendment Proposal

The Fred.Olsen Group has been involved in wind power since the mid 90's with presence in Norway, Sweden, UK, Ireland and Canada. Fred.Olsen Renewables Ltd (FORL) have 178MW of operational wind projects and a further 273MW consented in the UK. This makes FORL a major player in the wind energy sector. In addition, FORL are BWEA and SRF members and are active on a number of the industry groups and FORL staff has been, and continue to be, involved with numerous industry working groups.

FORL is opposed to the introduction of auctions. We agree with BWEA / SRF's position and have based our response on theirs as I sit on both organisations grid groups.

We are concerned that Ofgem's preference for auctions is based on an economic text book response to the issue of scarce capacity with scant attention to the reality of auctioning transmission access capacity. Given the stakes, FORL would object in the strongest terms to being forced to participate in what would be, on the basis of evidenece to-date, a rash and expensive experiment.

In forming this position FORL has been mindful of experiences amongst the gas community and discussions WG2 has been having and we have very real and very serious concerns and we struggle to understand why auctions are being proposed for the electricity industry in the context of almost universal negative feedback from the gas experiences.

The presumption in an auction process is that access goes to the highest bidder, and in constrained areas this is expected to over-recover on the actual cost of providing access. We do not understand the logic of driving a premium on the price of access when at the same time government has mandated that a certain proportion of renewables is delivered to the market. Surely, the objective must be to secure this market share at least cost to the consumer.

The volume of renewable generation coming forward is presently limited by access to the grid. At this point, any addition renewable generation brought forward and generating improves consumer value under the RO. There may be an argument for different renewables generators to compete for access, but at the moment the rigours of the planning process, competing for site leases onshore and offshore, and other technical and non technical challenges significantly rationalise the volumes ready to proceed.

We understand that an auction would offer the opportunity for new users to outbid existing users and hence secure long term access earlier than would otherwise have been possible. However, we feel that an auction of all rights across the system is a wholly disproportionate response to this with no guarantees of an equitable, fair and economic outcome. An auction premised on the removal of all existing rights – which include those of pre-commissioining – would affect a number of our projects where reasonable connection dates have been secured at considerable expense and which underpin investment plans.

We agree with Ofgem that there are problems with the current system of enduring access rights and that new users should be able to secure long-term access rights on an equal footing. However, we believe that there are other, more proportionate means of levelling the playing field which have been expanded upon in the BWEA response.

Towards the end of the Working Group process, BWEA set up an internal group to consider its response to the CAP 166 consultation. In doing so BWEA has been mindful of Ofgem's challenge to Working Group 2 of finding an equitable solution to allocating scarce capacity. Whilst we accept that this is a reasonable request, we consider that an absolutely fundamental part of any equitable solution must be to respect and honour users investment decisions to-date.

Fred.Olsen Renewables are fully supportive of the Connect and Manage approach and we do consider this to be a robust and positive response to Ofgem's challenge. We have also been supportive of Alternatives to Connect and Manage which seek to address the concerns over the cost of an unfettered Connect and Manage regime.

There has been insufficient time to fully consider with the trade associations and respond on whether there might be what we would call a "third way" of allocating capacity which might meet Ofgem's concerns but would not suffer from the very serious flaws of a price-based auction of all access rights.

We agree with the BWEA/SRF views that the key to assessing the suitability of potential solutions to transmission access is understanding the shared goals for a regulatory regime that we as an industry, Ofgem and the government hold. The main design criteria which we trust we all share are:

1) No unacceptable consequences for electricity consumers;
2) Meeting government's environmental objectives
3) The provision of timely access for interconnection of projects within development timescales;
4) The provision of reasonable certainty of costs for transmission access
5) Allowing investment decisions to be made and financing to be achieved from project conception through to commissioning and operation.
6) No undue discrimination between users;
7) Due account taken of the differential characteristics of users i.e. base load providers, intermittent generators, peaking plant e.t.c.
8) No perverse incentives;

9) Accessible to all parties i.e. complexity does not act as a barrier to entry;
10) Open and transparent
11) Provides the TOs with suitable investment signals;
12) Allows the SO and TOs to recover the operational and constraint costs of the network as well as the capital investment in infrastructure assets;
13) Can be implemented in the near-term.

In our view the combination of products being put forward for consideration and resulting from the TAR process have, at their heart, something akin to Connect & Manage. As an example auctions allocate long term capacity from fixed dates, and, taken in conjunction with overrun, could be said to ensure that all users can have a contractual right to export all power when they want. But we believe that the auction proposals fail to meet requirements 1, 2, 5, 6, 7, 8, 9, 12 and possibly 10 and 11.

Connect & Manage, either in the "vanilla" form proposed by CAP148 or the version within CAP164, has been suggested by Ofgem to give rise to unacceptable constraint costs under some uptake scenarios.

The key differences between the various alternative approaches distill down to the allocation ot costs between parties and by implication, who cannot secure access because the costs are too high.

Also highly relevant to this is the quantum of costs. It is not sufficient to simply allocate constraint costs. They must also be managed. As noted in previous TAR responses, we are extremely uncomfortable with the prospect of some users having constraint costs "targeted" on them when they have absolutely no control over the size of that cost. We are not convinced that regulatory oversight is sufficient to address these concerns.

As we are sure you will appreciate, development of an approach which honours existing users commitments and which meets all of our listed criteria is something which is not easily addressed in the short time given to respond to this consultation. We believe that the TAR Working Group process has, collectively across all of the Working Groups, been positive in working through a range of potential access models, and that it should be possible to find a solution which is as close as possible to meeting all of these requirements. We are committed to working constructively over the coming weeks and months to find the best solution, and would very much like this to continue to be a collaborative effort, including Ofgem and the government.

I hope that our response is useful and if you require clarification of any of the points raised then please get in touch.

Yours sincerely,

G. Cooper

Graeme Cooper
Grid Compliance Manager

cc. Andrew Truswell as proposer - andrew.truswell@uk.ngrid.com

CUSC WORKING GROUP CONSULTATION – RESPONSE PROFORMA

CAP166 – Transmission Access – Long-Term Capacity Auctions

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. Beliefs to the contrary have not been suitably explained and refusal to provide further evidence to back their opinion has been neither sufficient nor satisfactory. There is also evidence within the proposal that it has been hurriedly prepared. As early as paragraph 1.5 it states that *"The Working Group has been unable to develop all of the options fully due to the time constraints imposed on it"* and paragraph 1.7 *"A basic spreadsheet model has been developed to test the approach for WGAA1… there has been very limited time to carry out the such analysis…However this has not been rigorously tested"* and paragraph 1.9*"Althoughy WGAA1 is the option that has been considered most fully, it's assessment remains incomplete"*. This is, however, no reflection on the efforts of the working groups, rather the timescales imposed on them to provide a solution. It has to be pointed out again 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 connected to TAR have the potential for significant impact on the industry. These 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.
Do you believe that the proposed original or any of the alternatives better facilitate the CUSC applicable objectives, please state your reasoning?	We can identify no evidence of benefit against either of the Applicable CUSC Objectives with this proposed amendment.

Do you support the proposed implementation?	No – This is not a valid amendment proposal as we believe our current rights to be evergreen.
Do you wish to raise a WG Consultation Request for the Working Group to consider?	~~YES~~ / NO

Specific questions for CAP166

Q	Question	Rationale
1-12	*Various*	No responses provided to the questions within this amendment as we believe that this amendment is not valid considering the evergreen rights that generators currently hold.

Mark Duffield
National Grid
UK Transmission Commercial
NGT House
Warwick Technology Park
Gallows Hill
Warwick
CV34 6DA

13 November 2008

Dear Mark,

CUSC Amendment Proposals 166

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

- CAP166 – Transmission Access Long-Term Entry Capacity Auctions

This is the final of the CUSC Amendment Proposals originating from the Transmission Access Reforms which have been under discussion for most of the year. Again, as with CAP165, we see no requirement to give up, or risk losing, our evergreen capacity rights.

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

Gaz de France ESS (UK) Ltd
1 City Walk, Leeds, United Kingdom, LS11 9DX,
Tel. +44 (0)113 306 2000 - Fax +44 (0)113 245 1515
Registered Number: 2706333

Patrick Hynes
UK Transmission Commercial
NGT House
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Gallows Hill
Warwick CV34 6DA
patrick.hynes@uk.ngrid.com

Dear Patrick

Transmission Access Review: CAP166

Immingham CHP LLP welcomes the opportunity to comment on the last of the current batch of change proposals to issue under the Transmission Access Review (TAR).

We vigorously oppose this change proposal, the consultation document is incomplete and the amendment proposal not properly assessed. It is also, in our opinion, not permissible. The points we made with regard to the transmission rights we presently hold, which we consider to be evergreen, are set out in our consolidated response to CAP161-165, and they apply here.

The comments we have made previously about the assessment process apply particularly with regard to CAP166, and we would note specifically the Working Group's observation that they have "been unable to develop all the options fully."

Immingham CHP LLP 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, and we consider CAP166 (and also CAP165, which we have previously commented on) represents a considerable backwards step.

From our perspective ill-considered change of this nature rushed through to meet arbitrary externally administered timetables is poor governance even if the change proposals themselves are well-intended. The only parties who have been able to properly engage in this process are the large integrated utilities with abundant resource and who 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

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 strongly oppose the principle behind this change proposal and its alternatives. Immingham CHP believes that we have already committed to and secured evergreen transmission access rights, a view shared by a large number of other physical participants. This interpretation is reinforced by the requirement of parties who wish to be connected to the transmission network to invest significant sums of money in order to obtain a suitable level of connection and any necessary reinforcement works followed by years of TNUoS payments for system use. These monies are specifically securitised by the party triggering the need for investment both locally and within the system. In the case of Immingham phase 2 the investment has not yet been completed, and the proposal effectively envisages expropriating the associated rights before works have been completed. Ofgem's belief that this is not the case has not been suitably explained. No evidence has been presented to back up this opinion. The report has several references that the group has been unable to develop all the options fully "due to time constraints imposed on it". It also notes concerns about the use and definition of zones in the original proposal. It also notes the assessment is incomplete. The document is not a fit basis on which to formally consult. If these proposals are to be developed further it is important that there is an option for parties with existing connections and agreements to be able to stay on their current arrangements and retain their annual renewal option.
Do you believe that the proposed original or any of the alternatives better facilitate the CUSC applicable objectives, please state your reasoning?	Even were the missing detail and analysis to be provided we believe that this amendment would go against CUSC Objective (a) "the efficient discharge by The Company of its obligations". Auctions where National Grid have applied a reserve price will not discover the true value that generators place on their access, and by moving the balance of the auction revenue it will confuse existing locational signals and undermine them. The detrimental impact under the competition objective would be considerable. Any form of auction would impose a significant barrier to entry and tilt the playing further towards the large integrated players who can manage the complexity and influence outcomes owing to their scale and diversity. Zonal auctions in particular would discriminate in favour of large regional players. As an active developer it is very likely that our enthusiasm to invest would be considerably diminished going forward and the proposals would introduce significant additional risk to schemes such as phase 2 presently in train.
Do you support the proposed implementation?	No – This is not a valid amendment proposal as we consider it to be unlawful. At Ofgem's insistence National Grid 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.
Do you wish to raise a WG	~~YES~~ / NO

Consultation Request?	

Mark Duffield
UK Transmission Commercial
National Grid House
Warwick Technology Park
Gallows Hill
Warwick
CV34 6DA

14th November 2008

Dear Mr Duffield,

CUSC Amendment Proposal CAP 166: Long-term Entry Capacity Auctions

InterGen welcomes this opportunity to respond to the consultation on *CUSC Amendment Proposal CAP 166*. InterGen is the largest independent gas fired generator in the UK and has developed one third of the UK's new installed gas-fired electricity generating capacity in the last ten years, investing £1.4 billion. The attached document sets out InterGen's response to the issues raised in the consultation document in light of this experience.

InterGen is committed to the UK and seeks to build on its historical investment. InterGen supports the Governments commitment to address Transmission Access and Renewable Deployment. InterGen appreciates the efforts of the Working Groups that were formed to expand upon the original seminar proposals, particularly in light of the limited time available and urgent need to address the current connection queue stagnation.

While InterGen understands NGET's need to have clear signals on plant retirements so that capacity can be reallocated, InterGen has 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 CAP165 – Finite Long Term Entry Rights or CAP 166 Long-Term Entry Capacity Auctions are impermissible. To address this matter appropriately, reform of the arrangements must take account of the existing generating assets which have been constructed at significant expense and operated on the basis of contracts put in place under the current framework.

InterGen appreciates that a large amount of renewable generation will need to be commissioned to meet the UK's 2020 obligation, and considers that this is best addressed by the Renewable Obligation reforms. There is a recognised demand for new thermal generation in the UK to bridge the forecast supply gap during the next decade as emissions limits are tightened and ageing plant is retired. InterGen believes that Transmission Access Reform should retain the flexibility to address that gap.

The complexity of CAP 166 and the timetable for consultation has hindered our full assessment of the changes in detail and, if adopted in its current state, will undoubtedly delay much needed investment in the UK generation fleet. InterGen reiterates its previously expressed concerns that important recent innovations delivered by the CAP150 – Capacity Reduction amendment have had insufficient time to be fully tried and tested. InterGen believes that new generation projects should be accelerated on the basis of viability and progress through the mechanisms established by the GB Queue Management Committee. To avoid discrimination and market distortion the basis for acceleration should be the same for all participants and should not prioritise specific generation types, especially those that already receive direct support.

Yours sincerely,

PP Andy Taylor
Commercial Director, InterGen
intergeninfo@intergen.com

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

CAP166 - Transmission Access – Long Term Capacity Auctions

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 Mark Duffield at mark.duffield@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**	The NDA believes that it has enduring transmission access rights at all its transmission connected sites (generation sites and demand sites) and reserves the right to raise this very important aspect. We note that the introduction of an auction does not of itself add or release any additional capacity – its effect is only to redistribute capacity between users, and to change the charges that they pay. One of the aims of the proposal seems to be to reduce/avoid the risk of stranded assets on the transmission system; it is not clear that any of the amendments do that, but it is clear that any auction process will increase the risk of stranded assets at generation sites. The NDA's initial view is that an auction is not a sensible and practical way to allocate the majority of long term transmission access rights. This view has been strengthened by the material presented in the working group report for the proposed amendments. There are many reasons that an auction is not sensible: - Transmission access is far from being a single commodity (see below for more details on this). This is the most important overriding point. - Because access is not a single commodity, the method of selecting the winning bids in an auction will necessarily be complicated, and is unlikely to be transparent to users. (Demonstrated in section 4.5 of the report)

- The complexity and lack of transparency will significantly disadvantage small players compared with portfolio players.
- The complexity will also make the auction costly
- An auction will produce very different prices and pricing signals compared with the current TNUoS approach (This is acknowledged in several places in the working group report)
- From the working group report, it appears that an auction can lead to different parties paying very different prices for similar access, which could be regarded a cross-subsidy
- The big change in pricing signals, (and the uncertainly in how they will change for a number of years until the auction process settles down), introduces price risk and uncertainty, which is likely to deter investment in new generation.
- The risk of losing a future auction for capacity introduces a significant risk of stranded assets owned by generators, which does not exist under the current system. This additional risk is also likely to deter investment in new generation
- We are not aware of the use of capacity auctions for allocation of electricity transmission capacity anywhere in the world, so they must be regarded as unproven. (We acknowledge that capacity auctions have been used successfully on a number of interconnectors – but that is to be expected since capacity on an interconnector is close to being a single commodity. This cannot be compared with auctioning access on a strongly meshed network. We also note that capacity auctions on the UK gas network with only a small number of entry points, has been far from trouble-free.)

<u>Access is not a single commodity</u>

In the original amendment proposal, National Grid proposed that access be auctioned on a Zonal basis, but studies they have carried out for the working group suggests that the necessary zones are too small to be practical, so that it is necessary to define access on a nodal basis. That is, a MW of access at one node is not the same as a MW of access at another node and there are potentially hundreds of nodes on the network. Hence in assessing bids National Grid will be faced with comparing bids for access at individual nodes, where a MW of access at one node is not the same as a MW of access at another node.

Transmission access in one year is not the same as access in another year and the temporal requirements of different users is different. A potential new generator is likely to want to bid to secure a reasonable guarantee of access for the full expected life of his plant (probably at least 25 years for wind farms, significantly longer than that for conventional generation). On the other hand an existing generator may only want to secure access for a couple of years in the future. How will the auction process properly compare bids for a few years with a bid for a large number of years? If it is done on a year by year basis, it may offer a user access with gaps which is unlikely to be acceptable to investors in new generation. The report is unclear on how many years ahead are to be auctioned.

Currently, when a new generator makes a connection application, National Grid works out the necessary grid works using the full technical details provide by the applicant. The amount of grid works required may depend on the nature of the new generation (If they do not, why does National Grid require the submission of such technical data?). If proposed changes to the security standards (in particular GSR001) are implemented, then the grid works necessary to connect new generation will definitely depend on the type of generation. What this means is that a MW of capacity at a given node in a given year for a wind farm will not be the same as a MW capacity at the same node in the same year for conventional generation. (As far as we can see, this issue has not

	been addressed at all in the working group report) The net result of the above contributory factors is that the comparison of bids will be a very complicated process, which will somehow have to compare prices for different amounts of access at different nodes for different types of generation in different years. This complexity is apparent in section 4.5 of the report, but no clear solution has emerged.
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 either the original amendment or Working Group alternative amendment 1 (WGAA1) better facilitates the CUSC objectives. They have not been progressed to a complete design and test, and have not been subjected to a cost benefit analysis, so they must be regarded as unproven. Working Group alternative amendment 2 (WGAA2) does not seem to be an auction in the normal sense of the word (participants do not bid prices). It has not been fully worked up, but appears to allow users to nominate their desired long term access for the years ahead, with National Grid calculating the resultant charge using something like the current charging model, and giving users the option to reduce/remove their access requests. Hence it appears similar to the current access and charging arrangements, but requiring existing generators to provide firmness of their future access requirements. It appears this may be a workable model. However, it has not been fully worked up, and not had a cost-benefit analysis. A cost benefit analysis would need to demonstrate significant benefits before we could agree that this better facilitates the CUSC objectives. A desirable feature of a competitive market is ease of exit as well as ease of entry. The working group report does not make clear what the proposed arrangement would be for a generator which has successfully secured future access rights, but no longer needs/wants them (e.g. because of a catastrophic plant failure etc.). The generator needs to be able to sell or revoke his rights in some way. This needs to be clarified. It is unclear to us how any of the proposed amendments properly signal the need for the construction of new transmission capacity. There seems to be a contradiction between a heavily constrained system which will generate a high price for access, and system which has few constraints after suitable investment, which will generate low prices for access. Who pays for this investment?
Do you support the proposed implementation, if no please state why and provide an alternative suggestion were possible?	Since none of the amendments or proposed alternatives has been fully worked up and tested, nor been subjected to a cost benefit analysis, it is premature to propose a date for implementation. Before any more work is done on this amendment or the alternatives, a cost benefit analysis should be undertaken to demonstrate that additional work is worthwhile.
Any other comments?	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 an annual cost that was reasonably stable. Some of this investment

	would not have been made if it had been known that there was a risk that transmission access might be lost at any time because of failing an auction. Withdrawal of existing rights, and replacing them with limited future rights, with a lack of certainty about being able to continue them, would send a message to potential investors in generation that access rights could be lost 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.
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 CAP166

Q	Question	Rationale
1.		
2.		
3.	.	

CAP166-WGC-16 National Grid Electricity Transmission

Working Group Consultation Request form received see Annex 2.

Mark Duffield
UK Transmission Commercial
NGT House
Warwick Technology Park
Gallows Hill
Warwick
CV34 6DA

Mark.duffield@uk.ngrid.com

14th November 2008

Dear Mark,

Response to Working Group consultation on CAP 166

The Renewable Energy Association is pleased to be able to offer its comments on your consultation on CAP 166. 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 achieve the UK's renewables targets.

In summary the Renewable Energy Association does not believe that auctions are an appropriate way of allocating transmission access either for existing generators or for new ones. We therefore do not support the introduction of the changes proposed by CAP 166.

There are two fundamental reasons why we think that auctions are not appropriate as well as some practical considerations. Firstly they price transmission access by value rather than cost, and secondly they are an inefficient way to determine the need for new capacity. Expanding on each in turn:-

Pricing transmission access by value rather than cost

We consider it to be inappropriate for what is essentially a monopoly provider of a service which should be provided at a regulated, cost-reflective charge. We are aware that the revenues of the Transmission Owners would continue to be regulated and the difference between the auction revenue and the allowed regulated revenue would (whether positive or negative) be recovered by a residual charge. However the basic charge in the first instance (the amount bid in the auction) would, where there was a shortage of capacity, be based on the value of the access to the bidder. This would essentially in the first instance transfer the margin from the energy market (where there are multiple buyers and sellers) to transmission access providers, which are monopolies. The subsequent reconciliation to the allowed revenues for the transmission access providers makes the eventual charges unpredictable. It would be unlikely that any individual generator would end up paying a total charge that reflects the costs of providing it with transmission access.

We are aware that it has been argued that it is wrong for generators to be able to trade at value (through subsequent TEC trading) something purchased at cost. Leaving aside any discussion of the veracity of this point of view, we would point out that if CAP161 and CAP 162 (SO release and overrun) are approved there would be alternatives to buying transmission access from a holder at value, which should mitigate some of the market power a holder of TEC might have and therefore make this less of an issue. If CAP 164 is approved then there would be an even more significant counter to a holder of TEC making a windfall profit as it could be obtained after a set delay by anybody wanting it.

An inefficient way to determine the need for new capacity

Under an auction, bidders could follow one of two strategies. They could either bid what the capacity is worth to them – possibly giving up their entire margin or they must guess what the extra capacity will cost and bid an amount they think will trigger that spend.

Clearly generators do not have sufficient knowledge to make a guess as to what a transmission investment will cost. They do not even know the nature of the investment as they are not aware of what other parties are bidding and so what the total demand for access will be. Stating what access a generator would like and then being given a cost-reflective charge for that access, as happens now, is a more efficient way of triggering investment. The second alternative amendment proposal does this and therefore does not, in our view, fail on this point.

There are also two major practical reasons why we do not think that auctions are appropriate. The first is their complexity. Leaving aside any systematic advantage that complexity may give to larger players, the auction process would be a burden to the whole industry which would not be expected to be welcomed by any industry party.

The second practical reason is that we think that an auction process would make marginal decisions on keeping generation capacity available more difficult. This is potentially a threat to security of supply and / or would make the cost of providing a given level of security greater.

Because of our opposition to this proposal we have not answered the detailed questions asked, although we have 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,
REA.

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 original based on pre-defined zonal capacities is a non-starter as the capacity in each zone depends on the take up in other zones. We disagree with the fundamental premise that "The fact that the true value of transmission access rights cannot be discovered from the market compromises transmission licensees' ability to develop an optimally economical system of electricity transmission." The transmission licensees are quite able to develop an optimal system of electricity transmission by granting access to those that request it and charging them for the cost of that access on a cost-reflective basis.
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 either the original, or any of the alternatives, better facilitate the CUSC applicable objectives as it results in: • The transferral of generators' margins to transmission access • More Complicated arrangements for transmission access • Less flexibility for generators exiting from the market It will not improve competition, increase the efficiency of planning and operation of the transmission system or increase security of supply Of all the options the original working group alternative 2 is the least bad option.
Do you support the proposed implementation, if no please state why and provide an alternative suggestion were possible?	If the original or one of the alternatives is to be implemented then we would advocate a fixed date for implementation to reduce uncertainty.

RWE npower

Hedd Roberts
Development Manager,
Electricity Charging & Access
National Grid House
Warwick Technology Park
Gallows Hill
Warwick CV34 6DA

Your ref
Our ref DPM/ef/08/192
Name David Mannering
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14th November 2008

Email: mark.duffield@uk.ngrid.com

CUSC Amendment Proposal CAP166 Transmission Access – Long-term Entry Capacity Auctions

Dear Hedd

Thank you for the opportunity to comment on the Consultation on CUSC Amendment Proposal CAP166 Transmission Access – Long-term Entry Capacity Auctions. This response is provided on behalf of the RWE group of companies, including RWE Npower plc, RWE Supply and Trading GmbH and RWE Innogy.

We recognise and support the imperative to facilitate connection of renewable schemes to the GB transmission system and fully support the Government's objectives to meet the 2020 renewables target. However, we remain unconvinced that the auction proposals as currently developed in the consultation document are capable of delivering enhanced connection of renewable schemes. In particular, the proposals are: too complex, insufficiently developed to be properly assessed at this stage and represent a significant risk for all market participants in relation to costs of using the GB transmission system.

Furthermore, we are concerned that a number of outstanding issues highlighted in the consultation document in relation to testing and trialling a potential solution undermine the validity of any approach to introduce an auction on the basis presented. For example, we believe that there is a glaring omission in relation to consideration of the revenue adequacy of the proposals, particularly in relation to the recovery of the cost reflective locational elements of TNUoS. Consequently we do not believe that sufficient information has been presented to understand the impact on the GB electricity industry or more specifically any generation projects under development.

We are conscious of the timescales required to deliver renewables connections and the overriding timetable imposed by Ofgem and the Government in reaching a decision on reform. Despite this parties should be given sufficient time to understand the changes of the magnitude and scale envisaged under CAP166. Without such an evaluation there may be serious unintended consequences for the

RWE npower

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GB electricity industry with implications for new investment in both conventional and renewable projects together with impacts on costs for customers and the reliability of electricity supply. In this context we would note the significant transfers of value that could occur if the auction is incapable of delivering cost reflective locational signals and the potential for discrimination if the incremental costs of new investment are only recovered from new users seeking connection to the transmission system.

Given the comments outlined in the letter we do not support the implementation of CAP166 or any of its alternatives. However, we would note that the potential working group alternative WGAA2 is capable of further development. This approach could enable generation projects to connect to the transmission system earlier than would otherwise be the case, has the potential to make the transmission network more efficient and flexible for all generators (including renewables) and will ensure that the total cost of the network is recovered on a cost reflective basis.

Our response to the issues and specific questions raised on the consultation is included as an attachment to this letter.

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

Yours sincerely

By email therefore unsigned

David Mannering
Director of Economic Regulation
RWE npower

Attachment 1: General Comments and Response to the Specific Questions Raised in the Consultation Document

General Comment – Network Analysis

Given the wide range of compromises required for the development of a zonal model and the boundary constraints model in relation to the simplifying assumptions required for each, our preference is for a nodal load flow model. We recognise that there may be some elements of increased complexity associated with such an approach, but we believe that this is significantly outweighed by the increased accuracy of the expected outcomes.

We believe that the principles and complexities of calculating capabilities using a given set of arbitrary boundaries and on a nodal basis are broadly the same, but the nodal approach does not make a priori judgements of "boundary capabilities". Moreover, the numeric boundary capabilities used in all the development examples, as derived in the Seven Year Statements, are based on an assumed a network topology, demand background and an Generation disposition. These assumptions are critical to the outcomes in the model.

We are concerned that the boundary constraint model is being promoted as the preferred option in the paper and believe that this view reflects the limited time available to the modification group to analyse properly the outcomes under each different approach. While the boundary constraint model may provide a snap shot representation of the capabilities of the system for a specific topology, demand and generation, this is predicated on the basis of a number of ex ante simplifying assumptions that are inherent in the model. The can lead to outcomes where most existing users can bid for capacity at zero cost and achieve access to the network for a system that is compliant with the GBSQSS and has been built to meet the current disposition of generation.

The boundary constraint model also fails to provide robust outcomes in relation to the future development of the transmission system. In the early years it is assumed that committed and known transmission investments take place and the network expands in line with current contracted generation projects. It is only when new projects come forward without the baseline transmission investment that the cost of access and associated user liabilities increase. Consequently it is only this class of "new" user that are subject to the incremental costs associated with the new investment in transmission assets where such assets are not included in the current investment baseline. We believe that this results in outcomes that are potentially discriminatory.

Furthermore, we note that the modelling has indicated that in certain circumstances there may be no locational revenue recovery, and it appears to be assumed that all the TO revenue is recovered through the residual. We believe that this is a false premise and that further work is required to consider the locational element of revenue recovery. We note that this issue was not discussed in the working group and we are not aware that this issue was discussed in Working Group 3 in the context of the auction outcomes. Consequently, the proposed solution results in inadequate locational signals with implications for efficient and economic investment in transmission assets.

We believe that there may be merits in developing the nodal load flow model since this approach

- will enable users to provide signals as to the appropriate value for transmission access at different locations on the system;
- it better reflects the nature and topology of the transmission networks;
- it allows the physical reality of the network to be reflected in the load flows (including loop flows that actually occur on other network equipment rather than those assumed by the arbitrarily chosen "boundaries");

- it allows the interaction between users on the system to be reflected properly on the value of access at different nodes on the transmission system;
- it should result in efficient and economic signals for investments in transmission assets when compared to an approximate zonal model and the top down approach in the boundary constraints mode; and
- it would recognise the move towards nodal models by network operators in other parts of the world who have tried zonal access and constraint models and discovered that they were too arbitrary, inaccurate, and subject to constant revisions as new users trigger movements of boundaries (for example in the US).

While the nodal load flow model may appear to be more complex to develop and manage when compared with the alternatives we do not believe that these are grounds for rejection of the approach. We would support further work in developing an appropriate solution for the CAP166 proposal so that the alternatives can be properly evaluated. In developing the nodal load flow approach, it would be necessary to ensure that all potential users could be kept informed as to the progress and outcomes expected. Work would be required to ensure that the user interfaces are straightforward and the outcomes predictable so that users can gain confidence in the results.

General Comments – Local Asset definition

The issues associated with the development of local access rights in relation to wider works were discussed late in the CAP166 process. We believe that further work if required to identify whether the proposals are internally robust, provide appropriate locational signals and will result in efficient and economic investment in transmission assets in relation to the property rights as defined under CAP166.

In our view the definition of local assets should be reviewed in the light of the proposed treatment under CAP166. We believe that the starting point for the identification of “local assets” is the charging methodology consultation GB ECM-11 which enables the following definition to be derived:

”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 to a main interconnected transmission system (MITS) substation in compliance with the GBSQSS using local infrastructure assets that are shared or 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”

We believe that the definition outlined above is consistent with the definition of local assets in CAP165 and GB ECM-11 (and GB ECM-08) but importantly captures the nature of a local connection for the purpose of establishing baseline for wider investment, charging and an auction process. In the context of CAP166 we are concerned that a “wider” definition of the boundary between the local and wider assets as proposed in GB ECM-11 could complicate and compromise efficient capacity allocation when associated with signals for significant investment in the transmission system in different auction rounds. In particular there may be circumstances where assets and/or circuits could be defined as local in one round and as wider in other rounds (or vice versa) depending on the load flows. It appears as though the ex ante auction models cannot properly reflect these changes in definition and could therefore result in inefficient outcomes. However, in the case of an ex post load flow model, changes in definition of local or wider works could have a significant on the value of access at different locations and introduce spurious volatility.

Furthermore a clear definition of local connections will help to minimise the impact on users and facilitate efficient entry on the GB transmission system. For example, the definition will reduce the potential for a queue associated with local connection works to be created in areas where there is considerable

demand for local connection. In addition, the definition of local works should be compatible with design variation connections. It should be noted that the process for establishing the charges for local works and design variation connections also required further detailed consideration in an auction context. For the avoidance of doubt we support the use of differential cost reflective local charges for design variation connections.

Specific Question: The Working Group would welcome industry views on whether they believe that this is an appropriate level of security to be held or whether the additional burden it might place on Users outweighs the benefits it would provide. I.e. is the risk of a long-term access obligation moving into default sufficiently likely as to require the proposed level of security or on the contrary sufficiently unlikely as to not require the proposed level of security?

We continue to support security arrangements for generators that reflect the costs that they have caused in relation to new incremental transmission investment. We believe that the current cost-reflective final sums arrangements are an appropriate starting point since this approach effectively precludes the risks of stranded costs falling on all users (both generation and demand) of the transmission system. In this context stranded costs means transmission assets that are built or in the process of construction but which are not shared or potentially shareable. We also believe that the security arrangements should ensure that users are only charged for the investment costs that they have caused are not subject to non refundable security arrangements unrelated to costs incurred on behalf of a party seeking connection.

We recognise that the move to a system of access allocation based on an auction will require the Transmission Owners (TOs) to underwrite investment based on auction revenues and a net present value (NPV) test. In addition, TOs may choose to let the SO incur constraint costs rather than invest if they believe a specific investment is not to their advantage. The key question for CAP166 is whether the outcome is more economic and efficient when compared with the current baseline.

We have concerns that the proposed security arrangements for CAP166 will have a significant detrimental impact on all users of the transmission system. There is an increased risk that transmission investment takes place and generators do not actually complete their power stations. Although liable for the charges associated with period booked in the auction, these generators may have insufficient financial resources to pay for the consequential costs upon termination (liability for the booked period). In such cases, all other users will be liable for any stranded costs. This is a significant transfer of risk for users when compared to the current baseline.

Under the proposed auction arrangements there is no means of linking a specific investment to new generators seeking to use the transmission system. We believe that as a minimum users should be liable for security for the local works, where such works means the specific assets required to connect a user to the main interconnected transmission system (see definition above). We believe an appropriate cost reflective approach towards the wider investment in the transmission system associated with new generation projects requires further detailed consideration.

As an additional comment, we have concerns about the current definition of local connections, which appears to include assets that may be associated with wider (i.e. non local) investment in the transmission system. In particular there may be circumstances where such local works will require certain users to secure wider “local” investment while other users seeking similar connections may not be required to do so. It appears as if the definition of “Local Works” was being considered in one context of users gaining some form of access up to a “local point of reference”, with some other wider access being procured via another route. We believe that these factors may be discriminatory that that further work is required to consider this issue. Our preference is for a detailed methodology for establishing the local works to be considered and developed.

Specific Question: Respondents to this consultation are also invited to respond whether they believe the proposed security rules better facilitate the relevant CUSC objectives.

We do not believe that the proposed security arrangements better meet the CUSC objectives when compared to the current baseline since the current cost reflective final sums ensure that there is little or no risk for all users if a new generator was to terminate a project prior to completion. Under the CAP166 proposal there is an increased risk that wider investment will take place and that all users will be required to underwrite potential stranded costs if a generator was to terminate early and be unable to honour the CUSC commitments.

Furthermore the NPV test introduces new risks for the SO and the TOs in relation to allowable costs in the regulatory asset base. As noted during the modification process there are no known examples of stranded costs in the electricity industry using the cost reflective final sums, while there has been at least one case of stranded costs in the gas industry following the introduction of entry capacity auctions. Consequently we are concerned that the SO and TOs may be more cautious in sanctioning new investment with the risk that constraint costs will rise further.

We are concerned that the interaction between CAP166, the charging methodologies and the price control has been inadequately explored and that further work is required into the incentive properties of the proposals in relation to new investment. This applies in particular to the way that the security arrangements provide appropriate locational signals in relation to investment in power stations and associated transmission infrastructure. We note that the current cost reflective final sums arrangements indicate the incremental costs associated with investment at different locations on the transmission system both for individual projects and through the clustering approach for projects located behind significant investments. We are concerned that these locational signals will be lost under the security arrangements proposed for CAP166.

Specific Question: The Working Group would welcome industry views on whether Local Access Rights should be defined on an enduring basis in line with the Working Groups proposals or whether they should be defined on a finite basis.

We believe that provided the rights associated with local access could be considered to be established on a “long-term” basis related to the lifetime of the “local assets” (e.g. 40-years onshore, 20-years offshore) provided that users are liable for the local charges for the finite duration of these rights. In addition, there may be some merit in providing an option for users to determine the duration of the local rights and associated liabilities (which may be less or greater than 40-years (or 20-years offshore)). We also believe that the local rights should be associated with appropriate liabilities and cost-reflective charges to ensure that there are no stranded local works.

We believe that the approach outlined above ensures that there is consistency of treatment for users in relation to entry capacity liabilities between wider access reserved through an auction and local connections.

Further work is required to identify the process by which local works can be adopted by the TO as part of the main interconnected transmission system. This should include consideration as to whether a user’s local and wider access rights are modified as a consequence of such a change. In this context the approach towards design variations for connections, the charging arrangements, the arrangements for any outages and the implications for various types of user requires detailed analysis.

Specific Question: The Working Group would welcome industry views on the issues raised above with respect to the interaction between local works and the auction for wider long-term access.

We believe that the arrangements under CAP166 should enable the greatest number of projects to connect to the transmission system at the earliest possible connection date and where appropriate at dates that are earlier than in current connection agreements.

We are concerned that allocation approach 1 may be discriminatory in terms of offers and arbitrary in its application. In particular if a large number of projects seek to advance their connection dates, what criteria will the SO/TOs used to prioritise works (first come, first served or first application date, first offer?). In addition, we note that the SO will deal with competing requests for resources in providing offers for earlier dates by ignoring all other works. We believe that this is unrealistic given the potential scale of the local works required (which include some quite “deep” reinforcements). Furthermore, we are concerned if the auction bids are used to prioritise works for users that are unsuccessful in the auction.

Our preference is for approach 2, whereby the SO/TOs will schedule works on a non discriminatory basis taking into account all other parties that have sought earlier connection dates. This will enable the SO/TO to recognise the practical realities of works on the ground and offer parties the earliest possible feasible connection dates. It also enables the SO/TOs to group projects together and offer similar connection dates where they are all affected by particular works or scheduled outages.

Specific Question: The Working Group would welcome views on the appropriate option for modelling the interaction between generation location and boundary capability.

We recognise that the interaction between generation and boundary capabilities is complex and that this represents a significant shortcoming with the boundary constraints model. In particular we would note that the model in some circumstances requires boundaries to be established at individual nodes as a consequence of GBSQSS compliance. At other nodes, the “participation factors” attempt to resolve nodal interaction across boundaries, but this only introduces further complexity and ambiguity into the model which may or may not represent the actual conditions on the transmission system.

We believe that the auction model should properly reflect the value of access at different locations on the system and that, in the absence of smaller zones (perhaps nodes) participation factors are the only means for reflecting the actual disposition on generation and its impact on the various boundaries. However, we remain concerned that the assumptions about differential impact on boundaries for different generators introduce a level of subjectivity in the model that may be difficult to justify.

We believe that the issues associated with the interaction of generation and boundary capability would be better addressed by introducing a nodal load flow model since this approach better reflects the network topology and the disposition of demand and generation which in turn produces a more representative network power flows and would better direct investments.

Specific Question: The Working Group would welcome industry views on the appropriate option for the definition of baseline transmission access capability, the appropriate treatment of different generation technologies and the importance of the stability of baseline capabilities.

The boundary constraint model requires the definition of the baseline capacities both in terms of generation seeking to connect and the network investment in order to generate the appropriate boundary capabilities in the ex ante load flow model.

We believe that the starting point for the construction of the boundary capabilities should be strictly consistent with the current GBSQSS. This reflects the requirements of the current transmission licences.

As a consequence of decisions taken during the transition to BETTA we note that the current network is not compliant with the GBSQSS. In these circumstances the TO should be required to identify the boundaries which are not compliant and seek specific derogations in relation to these boundaries. These derogations should be time limited and indicate the default boundary capabilities to be taken into account in the boundary constraint auction. This approach is also consistent with the assumed characteristics of generators in the GBSQSS in relation to the load factors and associated impact on the transmission system. Some major problems arise with boundary capability interaction which is also dependent on the specific generating units connected to the system. Furthermore, the boundary capability is AC load flow dependent as boundaries maybe constrained by voltage or stability constraints. Under these circumstances, the very simplified zonal load flow indicated by the boundary-constraint model is wholly inadequate.

In relation to the stability of the baseline capabilities we recognise that stable baselines represent a trade off between accuracy and efficiency in transmission investment in developing the model. In the early years of the auction process we would expect the baselines to reflect committed investment and remain accurate, but in later years these inaccuracies will increase with the potential for an increase in inefficient or uneconomic investment. Consequently we believe that a baseline review should take place between auctions and that boundary capabilities should be revised in the light of this review, subject to an open and transparent methodology for undertaking a review. This methodology should indicate the basis for transferring capability from one boundary to any other(s).

The particular problem with any baseline review is that users may have chosen either to acquire long term capacity on the basis of signalled baselines or to use short term products on the basis that there is significant baseline capacity available. In either event if baselines change then users may be paying too much to too little for capacity or may find capacity that was available is no longer available in the short term release process. We believe that the trade off between stability and accuracy of the boundary capabilities under the boundary constraint model requires further evaluation to establish the potential impact of this approach on users.

The problems highlighted in relation to the stability of baselines illustrate the shortcomings of the boundary constraint model. We note that the nodal load flow approach would overcome some of these shortcomings by appropriate reflecting the interaction between nodes in relation to the transmission system providing appropriate long term investment signals.

Specific Question: The Working Group would welcome industry views on the relative merits of pay-as-bid or cleared price in an auction for long-term wider transmission entry rights.

It is difficult to comment on the relative merits of a pay as bid auction compared with a cleared price without detailed understanding of the implication of each approach in the auction design.

Where sufficient information is available to all participants it may be appropriate to adopt a pay as bid approach since the value of access at different nodes should be transparent to all parties. This should result in prices that converge towards the marginal cost of access. However, we note from the consultation document that users may have considerable difficulty in arriving at the marginal value of access at particular nodes given the opacity of modelling the interaction between nodes and zones on the transmission system. We would also note that the auction process is intrinsically linked to the recovery of revenue by the TOs such that there is a feedback loop between the value of access and the over or under recovery of revenue. Consequently the pay as bid approach would seem to have significant shortcomings.

While the cleared approach may appear to solve some of the issues associated with the pay as bid approach it is not without is own problems. In particular the clearing rules need to be open and transparent and users will need to understand how their bids interact with the bids from other users.

Given the complexity of valuing access, it may appear as though the cleared approach ensures that all users at nodes that interact share the same costs of getting their bids wrong. We believe that these comments apply as much to the boundary constraint model as they would to any other model where users are seeking to value transmission access.

Specific Question: The Working Group would welcome industry views on the appropriate closure rules for a dynamic auction.

It is difficult to comment on the closure rules without understanding the nature of the auction process undertaken by the parties and the incentives in relation to bidding and revising bids. We believe that further work is required to establish the basis on which parties would submit revised bids in each round including but not limited to the information supplied between rounds, the ability of users to revise bids upwards or downwards or in terms of duration and the impact on the boundary capabilities or interaction between nodes. This should inform decisions in relation to auction closure.

Specific Question: The Working Group would welcome industry views on the appropriate buy-back arrangements associated with capacity allocated by an auction for wider long-term entry access rights.

We would support buy back by the SO using appropriate economic and efficient market mechanisms as the appropriate short term approach in relation to the non availability of wider access rights, subject to appropriate incentives on the SO and TOs. The non availability of the local connection should be addressed through the current compensation arrangements for planned and unplanned outages (based on CAP48).

The Working Group would welcome industry views on candidate Working Group Alternative Amendment 2 and, in particular, whether this should be further developed by the Working Group.

We believe that WGAA2 represents a valid basis for an alternative. In particular the proposal will ensure appropriate locational signals, recovery of required revenue for the TOs and short term access at known prices that should enable users to advance connection dates while managing the associated risks.

Specific Question: The Working Group would welcome industry views on the appropriate governance arrangements for the auction.

We believe that the auction arrangements should be specified in the CUSC alongside the liabilities to pay the appropriate charges.

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

We would support fixed implementation dates to ensure that parties a capable of designing and building and testing of appropriate systems and associated infrastructure to interface with the auction systems required by the SO and TOs to deliver the CAP166 proposals. In addition we believe that fixed implementation dates would reduce regulatory uncertainty and decrease risk for all users.

SCOTTISHPOWER
Energy Wholesale

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

14 November 2008

Dear Sarah,

Response to the Working Group Report CAP166
Transmission Access – Long-term Entry Capacity Auctions

Thank you for the opportunity to respond to this Working Group Report. 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 either of the 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.

We believe that the introduction of auctions as a method of allocating transmission access capacity would increase the uncertainty faced by generators and make GB less attractive for future investment in generation at a time when significant investment is required both in renewable technologies and replacement of the existing thermal generation fleet.

The Working Group Report on CAP166 very much represents "work in progress" and requires considerably more work to provide sufficient detail of the processes to enable users to model the consequences for their own business. This was clearly evidenced by the Working Group's request to the CUSC Panel for a significant extension to the time allowed for consideration of this proposal, which was rejected by the Ofgem.

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 is significantly undermined.

Although we have provided comments on the specific questions raised in the report this should not be taken as implicit support for either the original proposal or either of the Working Group Alternative Amendments.

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SCOTTISHPOWER
Energy Wholesale

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 Manager

CUSC WORKING GROUP CONSULTATION – RESPONSE PROFORMA

CAP166 Transmission Access – Long-term Entry Capacity Auctions

Respondent:	*James Anderson* *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 or either of the 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. We believe that the introduction of auctions as a method of allocating transmission access capacity would increase the uncertainty faced by generators and make GB less attractive for future investment in generation at a time when significant investment is required both in renewable technologies and replacement of the existing thermal generation fleet If the philosophy of the auction process is that "the cost of the current network is a sunk cost" [2.1.7] then it is counterintuitive that there is a requirement for "reserve prices based on the current TNUoS methodology" [3.3.3]. Under the auction process, in areas where access is unconstrained it should be expected that bid prices would tend towards zero unless there is artificial support from the TNUoS methodology. The balance of allowed revenue should then be recovered through the residual element of the access charge. While recognising the problem of re-circulating any over-recovery within the zone in which it arose, it is clear that to re-circulate an over-recovery to all generation users represents a cross-subsidy from users in zones in which there has been insufficient transmission investment to those benefiting from greater investment. This represents a significant flaw in the original auction proposal.
Do you believe that the proposed original or any of the alternatives better facilitate the CUSC applicable objectives,	We do not believe that the original proposal or either of the working group alternative amendments better meet the Applicable CUSC Objectives.

please state your reasoning?	
Do you support the proposed implementation, if no please state why and provide an alternative suggestion were possible?	We do not support the original proposal or either of the working group alternative amendments and therefore do not support the proposed implementation date.

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.**

SCOTTISHPOWER
Energy Wholesale

Specific questions for CAP166

Q	Question	Rationale
1.	Appropriate level of security?	Prior to completion of the local connection works, it is appropriate that security is based upon a multiple of the local Generation TNUoS Charge. However, where a user has triggered wider works through a successful bid in the incremental entry capacity release mechanism, identical security to that proposed for local works should be applied pre-commissioning to reflect the significant difference in risk profile pre and post-commissioning.
2.	Do proposed security rules better meet applicable CUSC objectives?	We do not believe that the proposed security rules better meet the applicable CUSC objectives. 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 CAP165 Working Group 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). 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.
3.	Should local access rights be defined on an enduring basis?	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.

Q	Question	Rationale
4.	Interaction between local works and auction of wider access rights?	The process described for the application for local connection and the subsequent re-ordering of local access works post auction adds to the uncertainty and lack of certainty faced by developers seeking to finance new projects and is likely to act as a barrier to entry thus reducing competition over time.
5.	Appropriate option for modelling interaction between generation location and boundary capability?	Neither of the approaches identified in the Working Group report satisfactorily deals with the interaction between local and wider access. The complexity of approach 1 (Auction result drives LCN) makes it difficult to plan the rest of a new development in the absence of firm timescales for local and wider connection. Approach 2 discriminates against local connection of users who would be willing to make use of short-term access products.

SCOTTISHPOWER
Energy Wholesale

Q	Question	Rationale
6.	Defining the baseline capacity, treatment of different generation technologies and importance of stability of baselines?	The methodology for defining the baseline capacities between zones will be a key factor in determining the outcome of the auction and it is not clear that any satisfactory compromise can be achieved between the simplicity for bidders ex-ante allocation of capacity to zones and the increased efficiency of an interactive process where users are unclear against whom they are bidding. The nodal load flow model may offer increased accuracy over the ex-ante zonal methodology but is even less transparent to the bidder who will find it difficult to determine who he is bidding against between auction rounds. The boundary constraint model offers a compromise between accuracy and transparency (assuming a low number of boundaries are modelled) but is clear that considerable additional modelling and testing is required before parties could make an informed opinion on the validity of this approach. Auction of baseline and incremental capacity should be treated in the same auction in order to provide a seamless offering of capacity over an extended time period. Baselines should be set consistent with the current long-tem planning criteria (with an over-allocation in Scotland for derogated boundaries) otherwise the existing delay in connections will be exacerbated.
7.	Pay-as-bid vs. cleared auction?	A marginal pricing methodology would result in fairer pricing, with all generators behind a boundary paying the same value for a similar service.
8.	Closure rules for a dynamic auction?	In the absence of detailed testing of a dynamic auction model of scale and complexity similar to that required for the GB transmission access market it is not possible to conclude on appropriate rules for the closure of a dynamic auction.

Q	Question	Rationale
9.	Buy-back arrangements	Where entry access is not provided for reasons other than failure by the generator, arrangements similar to those currently existing should be applied. National Grid should make Balancing Mechanism payments for failure due to wider system constraints and buy back capacity at the auction price where there has been a failure to provide the necessary LCN. There should be no application of administered pricing as this would be discriminatory and lead to a serious distortion of the Balancing Mechanism.
10.	Views on WGAA2. Does it merit further development?	Given our opposition to the introduction of auctions, we see no merit in further development of an alternative auction methodology.
11.	Appropriate governance arrangements for auctions	ScottishPower agrees that governance of the auction process and the supporting methodologies for developing baseline and incremental capacities should be under CUSC governance and subject to the CUSC change process.
12.	Proposed implementation dates; fixed or open-ended?	We believe that implementation dates should be firm to minimise the period during which parties are subject to the extreme regulatory uncertainty posed by the introduction of an auction regime.

14 November 2008

Sarah Hall & Mark Duffield
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Dear Sarah & Mark

CAP 166 Long-term Entry Capacity Auctions

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 auctions
- The National Grid auction model
- Other solutions

General comments

As you know the renewables industry is opposed to the introduction of auctions.

Scottish Renewables' position on this is on the basis of:

The auction principle

The presumption in an auction process is that access goes to the highest bidder, and in constrained areas this is expected to over-recover on the actual cost of providing access. We do not understand the logic of driving a premium on the price of access when at the same time government has mandated that a certain proportion of renewables is delivered to the market. The objective should be to secure this market share at least cost to the consumer.

The volume of renewable generation coming forward is presently limited by access to the grid. At this point, any additional renewable generation brought forward and

generating improves consumer value under the RO. There may be an argument for different renewables generators to compete for access, but at the moment the rigours of the planning process, competing for site leases onshore and offshore, and other technical and non technical challenges significantly rationalise the volumes ready to proceed.

We understand that an auction would offer the opportunity for new users to outbid existing users and hence secure long term access earlier than would otherwise have been possible. However, we feel that an auction of all rights across the system is a wholly disproportionate response to this with no guarantees of an equitable, fair and economic outcome. An auction premised on the removal of all existing rights – which include those of pre-commissioining – would affect many of our members where reasonable connection dates have been secured at considerable expense and which underpin investment plans.

Scottish Renewables agrees with Ofgem that there are problems with the current system of enduring access rights and that new users should be able to secure long-term access rights on an equal footing. However, we believe that there are other, more proportionate means of levelling the playing field, which we have described later in this response.

The auction practice

We are concerned that Ofgem's preference for auctions is based on an economic text book response to the issue of scarce capacity with scant attention to the reality of auctioning transmission access capacity. Given the stakes, the industry would object in the strongest terms to being forced to participate in what would be, on the basis of evidenece to-date, a rash and expensive experiment.

In forming this position Scottish Renewables has been mindful of experiences amongst the gas community and relayed formally and informally in Working Group 2. To summarise, the issues as we understand them have been:

- The added complication of an auction where National Grid needs to recover a fixed revenue and hence re-allocation of under and over recovery further complicates the task of valuing capacity.
- The impression from the gas experience that over recovery from the user community bidding for entry capacity is being re-distributed to a wider community of users (i.e. deliberately not to those users that over-paid). This re-inforces the impression that the aim of an auction is to drive up prices for users in constrained areas. We cannot stress enough that this is completely counter-productive when the UK is already struggling to meet its renewable energy targets.
- Some of the auctions have been characterised as a complicated process of trying to second guess National Grid's target price for recovering its revenue.
- Volatility in commodity charges, further exacerbated by being made to serve as under or over-recovery vehicles, therefore making it even more difficult for users to predict their charges.
- Gas auction design has been hugely complicated and users are forced to bid for capacity without a good understanding of what they are bidding for.
- Gas auctions have evolved in an ever-changing manner (with approximately 70 modifications to their design) with significant issues for business stability and their ability to remain appraised of the latest changes.

- Also related to the continual evolution of auction design, which has often served to rectify issues which come to light as auctions have been held, is the issue of sufficient development time for a workable auction. The electricity industry has had just six months to develop an auction design in tandem with many other substantive CUSC and charging amendments.
- Gas can be stored and the technology involved in transmitting and using gas is relatively uniform. Compare and contrast this to an electricity network where electricity cannot be stored, access is 'make-or-break' for generators, and the technology is very diverse, it is obvious that auctioning capacity across the system will be an order of magnitude more complex than for gas. The gas auctions have, as we understand, been beyond the full comprehension of most bidders.

These are very real and very serious concerns and we struggle to understand why auctions are being proposed for the electricity industry in the context of almost universal negative feedback from the gas experiences, and when the primary objective of the Transmission Access Review (TAR) is to provide more access to the transmission system, not increase uncertainty and risk.

Scottish Renewables also has a general concern that smaller companies would struggle to negotiate the auction process, and will not fare well in competition with better resourced rivals.

The Auction model

Given that our membership does not support a price-based auction on principle, Scottish Renewables has reservations on commenting on the detail of the auction model put forward. In the spirit of the Working Group process, which is to develop proposals to the stage where they can be assessed, we have provided some comments below.

We believe that the development of an auction model has been helpful in gaining an appreciation of the practicalities of an auction process. In that respect we have the following comments:

Incremental Capacity

The auction seems to be designed primarily to allocate capacity rather than provide any direct link to the provision of new capacity. That is, there is no link between paying a high price for existing scarce capacity, and the amount of new capacity that will be triggered. Rather, any over-recovery is simply recycled – potentially to the benefit of users that did not even bid for capacity in areas where it is scarce.

Incremental capacity is triggered by the relevant user commitment – as it is today – and seems to be unrelated to price paid.

This is somewhat counter-intuitive and doesn't appear to improve on the existing signals for the provision of incremental capacity. However much one re-allocates existing capacity, it doesn't change the fact that many renewable projects are in different locations to existing power stations and that the pressing need is for a long-term re-wiring strategy. Our membership would much rather contribute financially to this re-wiring effort, as opposed to them paying a premium price which served solely to reduce the price of access for other users on other parts of the existing network.

Deepest pockets win?
Whilst an auction could in theory advance projects willing to pay a premium for access, it could also push back projects which cannot afford to do so. If it is always the 'deepest pockets that win', the smaller, less profitable projects will always be pushed to the back of any "queue" and quite possibly further back than their current connection offer. Perhaps this is a desirable economic solution but it does not sit well with government support for community-based projects or for bringing forward emerging technologies.

Eligibility
The concept is for annual auctions where users will participate when they meet the relevant eligibility criteria – principally they need to be in receipt of a local connection offer.

Like a commitment to a Transmission Entry Capacity effective date in Connect & Manage, users are unlikely to want to bid for capacity at a fixed time in the future unless they are very certain they could be generating by that date. Unlike Connect & Manage, if all available capacity is allocated in one year's auction, there may be nothing left for the next year's auction. We are very concerned that an auction would create a one-off opportunity to secure access, with potential future users disadvantaged only by virtue of them not being eligible for, or able to, participate in the first auction.

Complexity
Our understanding is that the boundary constraint model is a trade off between the simplicity and inaccuracy of zonal auctions and the complexity but accuracy of a simultaneously cleared nodal model. We nonetheless remain concerned that bidders will struggle to correctly value capacity for the boundary model where it is difficult to ascertain against whom they are bidding and where the model has some counter-intuitive outcomes.

Resolution of single years
When access is offered in yearly blocks, we would question whether it is valuing long-term capacity. A year is not a sufficient signal for investment and planning decisions, and is instead a rather arbitrary cut-off between long-term and short-term-priced access bookings.

Furthermore, whilst we understand the rationale for auctioning capacity in years, we believe this to be a fundamental flaw in so far as the majority if not all of our membership would need to secure uninterrupted (20-25 years) blocks of access. We are also supportive of charges based on utilisation rather than nominated capacity.

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

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Our Reference:
Your Reference:

Date : 14 November 2008

Dear Hêdd,

Working Group Consultation Document for CAP 166

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 this CUSC Amendment Proposal Working Group Consultation. We have provided specific comments, via the completed pro-forma, for the consultation document (see attached). In addition, we have some general comments which are applicable to this proposal. These are set out in this letter which should be considered as a supplementary response to the pro-forma response.

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, as we indicated in our letter to you of 31st October 2008, 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.

As we have indicated previously, we strongly believe that the Working Group should give further consideration and undertake an assessment of the possible usage 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 CAP166 (or 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). We firmly believe that existing Users have evergreen rights to use the transmission system, so long as they comply with their contractual obligations. There has been no evidence presented to date which has affected this position. Indeed, if such a change were to be pursued, we believe that it would undermine the concordat reached between government and investors at the time of the industry's privatisation. This, in our view, means that CAP166 (and CAP165) is not a valid proposal.

Not withstanding our comments above, we note in relation to CAP166 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, and specifically, generation investment/closure 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 its implications considered more widely before this amendment proposal is further progressed.

Comments applicable to CAP 166

Draft legal text has not been provided for this consultation. Without seeing the specific detail of what will actually appear in the CUSC we have been necessarily constrained in our ability to provide full comments on the proposed changes to the CUSC associated with CAP166. 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 must have the opportunity to comment on where this legal text is materially different to their understanding of the proposal (as set out in this consultation) and, if appropriate, further consultation(s) should be conducted before the CUSC Panel submits their reports to the Authority.

The Working Group has 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 assessment of, and response to, this consultation. Crucially, it limits our ability to assess the 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.

We have concerns that the proposed CAP166 changes are inconsistent with facilitating the required **investment signals** for both generators and transmission system owners. For example, as we noted in our letter to you of 31st October, 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 cannot see that it provides any 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, and consistent with, additional new shorter term measures there is significant potential for inefficient outcomes. Perversely, the objective behind CAP166 (and 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 premium in business plans.

The **treatment of negative zones** has still to be fully addressed by the Working Group when considering the impact of this proposal, rendering both the analysis and consideration incomplete. We note that there is the potential for perverse outcomes in negative zones and this should be explored by the Working Group. We also note the evidence presented to the Working Group 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 Report issued to the CUSC Panel.

We believe that it is important that the new transmission access product associated with CAP166 is 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 product then, based on the history to date, this is highly unlikely to happen and will not deliver the putative benefits claimed for the reform. We look forward to reviewing and commenting on the Working Group developments of the tradability elements of this proposal.

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 CAP166 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 which are contrary to the requirements of the CUSC. For the avoidance of doubt, it should be made clear that applications for the CAP166 new access product should be treated as variations to a 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 this proposal 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 CAP166 being implemented the post implementation evaluation should determine if 'x' MW was achieved or not – and the objective reasons why.

Discussions were held in the Working Group 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 Group is still considering what, exactly, the **definition of 'local' and 'wider'** actually means in terms of the legal wording in the CUSC. Whilst the consultation document provides

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 Group should give further consideration to the 'product' that is being purchased by the non-refundable financial commitment.

Non physical players (CAP166)

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 4.9 of the CAP166 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 4.9.2 of the CAP166 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, significantly increase the regulatory uncertainty, and therefore risk, 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 and appropriately balanced incentives 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, it is worth noting that, given the current situation within the global financial community, it is 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. Further, even if sufficient initial interest could be generated there is no guarantee of a stable or reliable contribution from non physical players. We are not aware of any proposals which require non physical players to make enduring commitments to participate in the provision of transmission access, unlike the TOs, who are legally required to do so, via their licences. It is entirely possible that the TOs would be left to "pick up the pieces", following the withdrawal of non physical players. 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.

I hope these comments and those in the attached pro-forma are useful to the Working Group in taking forward the further development of this proposal, and we look forward to the opportunity to provide further comments once the details of the proposed CAP166 access product has been established.

Yours sincerely,

Garth Graham
Electricity Market Development Manager
Energy Strategy

CUSC WORKING GROUP CONSULTATION – RESPONSE PROFORMA

CAP166 [Long-term Entry Capacity Auction]

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".
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 CAP166 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.
Do you support the proposed implementation, if no please state why and provide an alternative suggestion were possible?	Implementation on 1st April 2011 is a reasonable aspiration on the assumption that the Authority makes a decision on this Amendment proposal by 30th September 2009.

Any other comments?	We note that the time permitted by the Authority for the completion of the Working Group deliberations prior to the consultation was severely curtailed (from the six months requested by the group to two weeks). This has significantly hampered not only the work of the group but also our ability to assess the impact that this proposed change might have. Notwithstanding our comments above concerning our acceptance (if CAP166 is approved by the Authority) of an implemented from 1st April 2011 we would be concerned by any suggestion that additional work could, somehow, be undertaken on CAP166 after the Final Amendment Report was issued by the Panel to the Authority. We do not believe there is the vires, under the CUSC, for such a step to be taken. Furthermore, if such work were to proceed then "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" (extract from 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) In addition if approval for expenditure (incurred by National Grid) were to be granted prior to the Authority approval of the CAP166 change then we believe such approval for expenditure, if given, would be tantamount to fettering the Authority's discretion on CAP166. 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. 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. **[Formatting prevents us including all our comments to the Question in the space provided. We therefore include them here for completeness.]**

	Q12. 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?	*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 CAP166 [if required]

Q	Question	Rationale
1.	views on whether they believe that this is an appropriate level of security to be held or whether the additional burden it might place on Users outweighs the benefits it would provide. I.e. is the risk of a long-term access obligation moving into default sufficiently likely as to require the proposed level of security or on the contrary sufficiently unlikely as to not require the proposed level of security?	Given that any physical player with a commissioned power station will have an asset (valued at many times the value of the transmission access) this should be sufficient to act as a security.
2.	whether they believe the proposed security rules better facilitate the relevant CUSC objectives.	No.
3.	views on whether Local Access Rights should be defined on an enduring basis in line with the Working Groups proposals or whether they should be defined on a finite basis.	The LCN should be an evergreen right. This aligns with the existing evergreen nature of the current transmission access rights.
4.	views on the issues raised above with respect to the interaction between local works and the auction for wider long-term access.	It would be prudent for CUSC Parties to be able to 'close' their contractual position with the GBSO for Transmission Access via a single act made up of two elements covering 'local' and 'wider' works. Parties might wish, perhaps because they have agreed, in principle, a sharing agreement, to have the option of accepting their 'local' access. The approach for CAP166 should be to ensure complete flexibility for the generator to choose between seeking/accepting 'local' and/or 'wider' access.

Q	Question	Rationale
5.	views on the appropriate option for modelling the interaction between generation location and boundary capability.	Given the huge number of boundaries shown in Annex 3 it will be extremely difficult for CUSC Parties (and especially smaller parties) to be able to model the interaction between generation location and boundary capabilities. For example a power station in northern Scotland will need to model generation/boundary interactions over ten boundaries stretching down to a line from the Wash to Cardigan Bay.
6.	views on the appropriate option for the definition of baseline transmission access capability, the appropriate treatment of different generation technologies and the importance of the stability of baseline capabilities.	The baseline must be made up of (a) the current TEC register capacity (b) the already contracted (and thus committed to be paid for) capacity (c) any capacity the Authority has already agreed (such as via the Transmission Price Control, RIETS etc.). Generation technology should be treated equally to avoid undue discrimination; especially as CUSC Parties might wish to trade on that capacity at a point in the future.
7.	views on the relative merits of pay-as bid or cleared price in an auction for long-term wider transmission entry rights.	The cleared price approach is most appropriate given the monopoly nature of the product being sold.
8.	views on the appropriate closure rules for a dynamic auction.	We note that the auction closure arrangements have still to be clarified, and therefore we cannot provide further comments at this time.

Q	Question	Rationale
9.	views on the appropriate buy-back arrangements associated with capacity allocated by an auction for wider long-term entry access rights.	It needs to be recognised that in the proposed new world of CAP166 CUSC Parties will be expected to make a long term commitment for transmission access, with all the associated liabilities. Having done so Parties will receive, in return, a firm right to access the system. This gives them a legitimate expectation that they will have that right from the date agreed with the GBSO. Accordingly they will proceed with their project and incur costs/liabilities associated with that project (separate to any costs/liabilities linked to transmission access). If the GBSO were to withdraw those access rights then it is appropriate that the Generator, as the innocent party, receives full compensation to fully cover all the legitimate costs/liabilities that have been incurred by them acting as a reasonable and prudent operator. If this were not to occur then legal issues could well arise.
10.	views on candidate Working Group Alternative Amendment 2 and, in particular, whether this should be further developed by the Working Group.	Whilst there is a lack of detail of the details surround CAP166 we would welcome clarification of the arrangements and would therefore welcome the Working Group developing WGAA2 further.
11.	views on the appropriate governance arrangements for the auction.	The auction arrangements should be fully under direct CUSC governance.
12.	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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Sarah Hall
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Dear Sarah

CAP166 - Transmission Access, Long-term Entry Capacity Auctions

Welsh Power is surprised that the CUSC Panel thought that this CUSC modification proposal should be sent out for consultation in its current state. We recognise the extraordinary work that NGC and the working group have put into trying to develop the proposal, and would like to congratulate them on far they have got, but do not believe that the industry can see this as a robust consultation process given the under developed nature of the proposal.

Welsh Power has raised one alternate in this consultation process, but feel that we may at a later stage want to raise more. However, to do so against an incomplete design would not seen helpful at this stage. We therefore believe that the Panel should consider ways to help people better define the final modifications, possibly via informal consultations at a later stage.

Welsh Power, 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.

Before responding to the details of the modification, 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.

Auction Principles

We believe that auctions can be a valuable tool in allocating scarce resources, but they are an inappropriate response to the transmission issues facing the GB power market. The initial TAR documents stated that the Government key aim was to increase the amount of renewables connecting to the system[1], but auctions seem highly unlikely to do this. The key problems are:

- Auctions are complex
- Unlike most auctions, the volumes auctioned are open to regular change as baselines alter
- The auctions incentivise the monopoly to restrict supply as it increases its value, the very opposite result to the one the industry needs
- Auctions require resources that smaller players are unlikely to have (staff for the auctions, credit, trading, etc)
- Auctions do not always deliver the "right" investment signals (capacity constraints at Eassington prove this)
- Auctions can result in sever over and under recovery issues for monopolies
- Other charges become volatile, or new charges are invented to deal with recovery of allowed revenues[2]
- Rights are not "firm" as the regulator can undermine the buy-back (e.g. capping buy back at Milford Haven)
- The number of modifications[3] that has accompanied gas auctions make the resource burden look significant for years
- The exchange rates, given the system configuration, is likely to lead to limited trading, which smaller players may not be able to take part in due to limited credit with the nearest counter-parties
- Current financing means that longer term commitments via auctions will be difficult, if not impossible, for smaller players to secure financing against for new build
- The incentive regimes surrounding the gas auctions have been so complex that very few understand them
- Bigger players, with multi-sites, will have greater market knowledge than smaller players
- Auctions can lead to two generators paying very different charges for the same capacity, unrelated to TO costs, so creating undue discrimination

[1] TAR – Call for Evidence August 2007
[2] Gas has seen around 15 charging consultation in relation to auctions
[3] In gas modifications to the rules have occurred every year since 1999 with about 70 mods in all.

- The trigger value for new investment is arbitrary and non-cost reflective, creating a variety of problems (recovery, penal charges, uneconomic bidding strategies, etc.)
- The reserve prices are also arbitrary as they are set by NGC to ensure recovery based on asset value, but are determined by forecast flows

Welsh Power therefore believes that NGC should withdraw this modification and allow the industry to put more time and effort into market changes that offer more economic, efficient and robust longer term solutions to the current problem. Auctions will not provide more capacity, at a lower cost than the current arrangements and therefore do not offer an improvement on the baseline position. It does not offer a more efficient allocation, but one that allows the richer players to secure the capacity they need on the basis of financial muscle.

CAP166

The fact that auctions will only be annual will not allow projects to progress faster than under the current base-line and therefore the modification does not actually help with the current problems. The timings associates with the LNCs and the interaction with the auctions will not allow projects to be bought forward in a timely manner and there will not therefore an economically efficient development of the market. It cannot be a better position than the baseline to be only able to book capacity as a new entrant once a year, giving a potential increase in timing to booking of 13 months.

We are unclear why the bidding in the auctions would result in prioritising local work. What would the rules be – a generator bids for 800MW at £1 do I get this before 10MW who bid £800? If they are both successful then both connections should be built. Why could NGC not build them both? We can see that you still need an iterative process so a player who gets 500MW, but needed 800MW can decide how they wish to proceed. If they hand back the capacity can they alter their LNC? If they gave up capacity how does that get back to the rest of the market?

We believe that the two options for LNC and auction interaction serves to highlight the defect with this modification. Under the first proposal the queue could move from local to wider works, but leave assets stranded at a local level. The second option shifts LNC around at a local level post the auction, but the modification does not detail how this would work in terms of giving users what they want in the timescales that they want it. It is possible that the local works may be delivered before wider works and then there will be extra costs, or the converse is true when a generator may have wider access, but not a local connection.

Welsh Power agree with the proposal to auction all current TEC. We assume some of pre-commissioning TEC is due for delivery in future years only so there will be some steps in the Baseline (going up in future). In terms of future release we agree with the group that sales for capacity that cannot be delivered may raise additional costs across the system. However, there should be a point at which ones assumes TOs can deliver.

We agree that separate auctions for separate years makes most sense to allow the users to try to secure the capacity they want. However, as the rules are not yet properly worked up it is difficult to say we would definitely back this option.

The cancellation amount for the LNC works must be fixed at the time that the user signs the agreement. This should fix the amount of credit and the actual cancellation amount. The number of years that the pre-commissioning credit is required for should also be fixed, so that a user cannot be required to put up security without any work commencing. Once the LNC rights are secured these should be enduring rights.

Overall the security arrangements look to be too onerous. It does not seem to be proportional to the risk that the TO will face. There seems to be limited probability that a generator booking capacity would be unlikely to pay for it in the future. The levels of security look too high given the lack of evidence on stranded assets occurring in the past, or analysis on why they may occur in the future. NGC would need to make a robust case as to why tying so much money up in credit is proportionate or necessary. The group should revise these figures so that they are a reasonable reflection of risk. As the proposals stands they would create a significant barrier to entry and it is not obvious that there is any benefit to this.

The over/under recovery issue needs to be pinned down prior to the auctions so that the parties understand the financial impacts that their bidding may result in. NGC must make available a model that would allow the parties to model for themselves the potential impact of various outcomes. The chosen recycling route must be capable of dealing with over and under recovery. We agree that there is a potential to get cross subsidies, but it as auctions have nothing to do with costs this seems irrelevant.

Auction design seems to need a considerable amount of work before a reasonable model can be developed into legal drafting. The nodal load flow model seems to give more accurate results, but simplicity favours zonal. Given that the accuracy of the models becomes less important (it is no longer real world costs we are working with) then simplicity probably has an advantage. This issue is only really important in the shorter term as in the longer term one would assume that the supply is not fixed and if a generator bids enough the work can be done. Whichever option is chosen the problem of complexity remains, especially for smaller players who do not have the teams to analysis of all the capacity interactions between regions.

Welsh Power supports the cleared price approach to try to limit the risk of over recovery. However, we do not support having reserve prices where there is excess capacity as it will skew the signals sent by the auction results. We understand NGC's concerns, but if you are going to use auctions to set prices and send signal it should allow the market to work. It will also encourage older generators, in negative areas, to remain connected as they reach the end of life. Given relatively tight plant margins this will help with security of supply. Allowing bids of zero is a reasonable collar.

We do not like the use of TNUoS to cover the costs of local assets as it will not be cost reflective and generators requiring the same kit in different parts of the country will be treated inequitably for no benefit. This is not economic or efficient and will distort competition between new market entrants. Requiring security for use of system should only occur when the generators goes live and is using the system. Again this looks uneconomic for the market as a whole.

We do not feel in a position to comment on the rules for closure. The way the auctions would work in practice is just not worked up enough to discuss meaningful rules. However, it is important that the rules are very clear and fully understood by all parties before the auctions commenced. The auctions should be dynamic to provide the most economically efficient outcome, but this clearly adds to complexity.

Welsh Power remains concerned about the LNCs will operate in practice. In particular how the timing of the LNC works with the auctions. A generator has to have an offer for September, which means application by June, but in reality a generator probably needs to talk to NGC for a couple of months, so last applications would be around March. Does NGC have the staff to deal with all connection applications coming in March? This cannot be economic of efficient for either the companies who cannot work on more than one project at a time nor National Grid. It will also slower projects coming forward when ready.

What is the definition of what an LNC will cover (how deep is it?). It will be discriminatory if some generators are getting deep connections with low credit and others shallow with too much credit. The removal of the link between security and costs does not seem likely to result in an inefficient outcome, i.e. generators may build in the wrong places. We would therefore favour a form of final sums profile to give equitable, cost reflective treatment of all generators.

If we have an LNC that is not ready when wider rights bought at auction are awarded what the compensation will be paid? What happens to security? If you require LNC to get wider capacity there must be an ability to get compensation if the LNC is not ready. Given this is outside of the control of the generator some form of administered compensation may be required. However, this has to be known before the auction as it will impact the value of capacity.

We believe that the buy-back regimes should be market based. There clearly need to be incentives devised around the mechanism, but NGC must face a considerable exposure. If Ofgem believe that the buyback must be capped, to protect other players and customers, then the cap must be fully understood prior to the auction as it undermines the idea o firm rights. We can see the role of the BM, but if the TO need to buy back rights that are not built then the generator is unlikely to have a BMU under the rules of BSC.

The ancillary services need further consideration in relation to timing. If there are plants that NGC wants to contract with then it may want to give them warning that it wants them to bid for capacity. This will be important for plants reaching the end of their useful lives.

Welsh Power agrees with the working group that more robust modelling is required to better define the rules of the auction and to test that it works. Given the substantial change in the arrangements that this poses, there will also need to be a platform for allowing users to test the arrangements and to learn how to use them. This work is unlikely to be done in enough detail unless Ofgem gives the group significantly more time to commission this work.

We believe that the governance for the auctions and all associated document must sit under the CUSC such that the industry can keep control of their development. If parameters like baselines can be put into the licence then Ofgem and NGC can change them without the industry having any real power to shape them the way they would like.

We agree with the WGAA1 that the zonal basis will not work given the problems uncovered by Working Group 3. We also support the other modifications made as outlined above. We are still concerned about the security associated with the LNC and the fact that “wider rights” are effectively undefined and may be difficult to trade.

WGAA2 needs to be worked into more detail before we can give any meaningful comments. We are however slightly concerned about links to the BM given the volatility and the potential changes in cash-out that will occur in the future. We are also unclear how often he changes would alter, what is longer term as oppose to short term, etc.. We would not however that a generator would want to know, or easily be able to forecast, what he is going to pay at any given time in order to make sure his costs are covered.

On the local works, it is unclear how you can have cost reflective charges that are also related to the auctions. We would therefore propose that the current final sums methodology, or something similar, be maintained.

Given the work that still needs to be done under this modification (outlined in Annex 1) we believe that the timing outlined for implementation is to say the least optimistic. We do not believe that the systems can be built and the users educated in by Autumn 2009 under any circumstances. We feel Autumn 2010 is tight, but would be the earliest achievable date for auctions and the new regime would therefore start in April 2011.

Alternative
As outlined above, Welsh Power believe the modification needs considerable work. We would like to see particular attention paid to the funding of the LNC for pre-commissioning generators. We would therefore ask the group to consider the use of final sums.

The one official alternate we want to raise is the requirement on NGC to make unlimited capacity available in the auctions at the [6]th year and then all subsequent years. We believe that if people are prepared to put up enough money then NGC should be capable of delivering capacity within 6 years. We appreciate planning issues, but the new Planning Act should help address concerns on that front and after planning we think it is a case of prioritising and organising work. By keeping the product constrained for indefinite periods NGC is likely to over recover by creating a perceived shortage. One of the perverse incentives of the auctions is the less the monopoly provides the more people pay for it.

Conclusions
Welsh Power believes that this modification should be withdrawn. The work done to date suggests that it will not meet the requirements of a new transmission access regime, in terms of delivering capacity to those that need it in a timely and efficient manner. It cannot be seen as an improvement on the baseline and it does not better fulfil the objectives of the CUSC.

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

14 November 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 CAP166: 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") 166: Transmission Access – Long-Term Entry Capacity Auctions. 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.

Among the various concepts to come out of the Transmission Access Review process we consider that the auctioning of transmission capacity is the least viable and most poorly considered of all. We are totally opposed to it. More specifically we ask that you note the following:

i) capacity, in the manner envisaged in CAP166, is an inappropriate measure of transmission demand. A 100MW nuclear plant may wish to use 100MW throughout the year but a 100MW wind plant may only wish to use 100MW on isolated occasions. The auction process as described does not reflect this different system usage and is therefore discriminatory;

ii) the idea of removing long term access from existing plant (including plant which has been developed on the basis of having such rights but is not yet in operation) undermines investor confidence and project bankability. A world where generators have no certainty about future access to the transmission network nor cost of any access will not promote investment in new generation and is not in the interests of consumers;

iii) auctioning (or otherwise allocating) capacity at one time amongst existing generators disadvantages parties with projects in the consenting process or at an earlier stage who will be unable to participate from a risk perspective. It does nothing positive to address the queue – quite the opposite in fact.

We note the absence of even a rudimentary analysis of the effect of introducing such a scheme, in large part because Ofgem was not willing to allow the working group more time to better develop this Amendment Proposal. In light of the Proposal's most basic failings however, this may have saved industry more wasted time attempting to make a fundamentally flawed concept marginally less flawed.

As this is the last of the Amendment Proposals flowing from the TAR process, we feel this is an opportunity to recap on the good points and the bad points that have come out of this process. Hopefully more parties will have appreciated, by analysis of the various alternatives, that the fundamental need here is connection in project development time lines and at predictable cost. There has been a degree of polarisation around the emotive phrase of "Connect & Manage" but we would suggest this should be seen as an absolute requirement to Connect and then a debate about how parties (NGET, industry and from an oversight perspective Ofgem) deal with the consequences of parties having contractual connection rights.

Connections before infrastructure is in place to physically handle the power flows will inevitably require parties to be compensated and someone to meet that cost. The view of our company is that defects in the current regulatory system are exacerbating these points. In particular:

i) generation plant without binding power sales obligations can bid into the BM to be constrained off – and receive payments – without any adverse consequences. This is free money to often older plant but adds considerably to consumer costs;

ii) there is a general market sentiment that generation plant bidding to be constrained in the BM often bids higher than the marginal cost because the opportunity exists to exploit constraints, once again adding to consumer costs. This is meant to be policed by Ofgem but we question if that process is effective;

iii) passing constraint payments in any volume through the BM causes short term price fluctuations which can be difficult to predict and problematical for power traders and supply companies. They will therefore naturally resist regulatory changes that exacerbate this problem.

We would ask that NGET and Ofgem focuses more attention on these issues which are outside the CUSC per se but which have a substantial bearing on access mods.

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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SUMMARY RESPONSE TO CONSULTATION ON CUSC AMENDMENT PROPOSAL (CAP) 166 BY POWERFUEL POWER LTD

1. Powerfuel Power Ltd. is a new entrant generator. We are planning investment in a major 900MW coal fired IGCC power project with carbon capture and storage, in two phases, the first phase of which is a natural gas fired CCGT. We have a connection agreement with National Grid Electricity Transmission Plc., by virtue of which Powerfuel Power Ltd is a CUSC party.

2. Our attention has recently been drawn to the series of five major consultations on proposed amendments which are being conducted as part of the Transmission Access Review.

   We are highly concerned at the potential implications for the system, and we are similarly concerned at what we perceive is an unsatisfactory process.

3. The process appears to be characterised by a forced pace and apparent lack of regard for the views of those already consulted within the industry. There seems to be a consensus that inadequate work has been done on the set of proposals. This is explicitly acknowledged in CAP 166. As a consequence the consultation is inevitably unsatisfactory, a problem which is exacerbated by the short period, ca 3 weeks, of the consultation. In our view these factors are not consistent with the principles of Better Regulation, which emphasise the importance of a good quality consultation process for all new regulation. Moreover, we are advised that the current consultations do not contain adequate or meaningful impact assessments nor do they properly develop alternative proposals. Good regulatory impact assessments are a key requirement for better regulation.

4. CAP 166, Transmission Access – Long Term Entry Capacity Auctions, represents a fundamental and radical change for the GB system, and should not be considered by a process suffering from the problems identified in paragraph 3 above.

5. Our view is that the next few years are highly critical for investment decisions in relation to what is acknowledged to be a very major requirement for new generation. In such circumstances it would seem highly undesirable, to say the least, that the TAR process significantly increases risk and uncertainty concerning access arrangements.

6. Moreover, if and to the extent that any future arrangements do operate so as to significantly increase the risk and unpredictability of grid access,

investment in generation will become more difficult and could increase the cost of capital.

7. The foregoing comments are relevant to all generators. Powerfuel Power Ltd is particularly concerned that the practical effect of the proposals could also be anti-competitive. This is because.

   (i) new entrants are much more likely to project finance their investments, and

   (ii) large incumbent generators have an advantage in auctions insofar as they can dominate auction processes, and acquire far greater experience in bid strategies.

   The requirement to avoid discrimination against new entrants and smaller generators is great, not only arising from competition law, but also because new entrants so often lead technological innovation in this industry, as indeed is the case here with Powerfuel Power's project, an IGCC with carbon capture storage.

8. Powerfuel Power Ltd. requests that these points are taken into account. Our view is that a move to an auction process should not be approved at this time. If the process of considering CAP 166 is to continue it must allow proper time for the options, including others which may emerge from the work, to be fully developed, assessed and consulted upon.

Michael J S Gibbons
Director
Powerfuel Power Ltd.
11th November 2008

ANNEX 2 – WORKING GROUP CONSULTATION REQUESTS

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	*Mark Duffield* *National Grid Electricity Transmission Ltd* *01926 654971*
CAP166 [Long Term Entry Capacity Auctions]	CAP166 Long-Term Entry Capacity Auctions
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)*:

National Grid is putting forward three requests for Working Group Consultation Alternatives to CAP166. At a high level these are:

- An Alternative based upon WGAA1 as set out in the report, but with the exception that the auctions are settled according to a Pay as Bid principle and not through a cleared price
- An Alternative whereby the baseline capacity released through the auction is greater than that which currently physically exists on the GB Transmission System, and where a locational reserve price is set in the auction to prevent this over-allocation of capacity allowing the auction prices to collapse towards £0/kW. This request would apply across each of the original and any alternative amendments that are ultimately taken forward.
- An Alternative whereby the baseline capacity auctioned is equivalent to the existing physical network capacity only with the proviso that no reserve price would be set. This request would apply across each of the original and any alternative amendments that are ultimately taken forward.

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

"Pay As Bid"

The existing proposal WGAA1 in the Working Group Consultation Report proposes a boundary constrained cleared auction model as the means to allocate transmission system access. This Alternative request seeks to set up an alternative to that model which (though still relying on a boundary constraint auction model) instead of all parties behind a constrained boundary paying the same (lowest) price so each party would pay the Bid price that they had submitted into the auction.

"Over-Allocate + Reserve Price"

The Working Group Consultation report proposes a model with no reserve price and an allocation model that is set based upon existing GB SQSS rules (which scales generation output by 83% or 60% depending on technology) and allowing for the impact of existing transmission derogations (e.g. those applicable to the GB Transmission System in Scotland). This leads to a starting point of an over-allocated system (paragraphs 4.5.33 to 4.5.38 of the working group consultation report refers) with no reserve price within the auction. Should this arrangement endure then it is likely that the auction will only see true competition for capacity where the number of new generation projects in an

area is sufficient to compete with the existing incumbents. To prevent this National Grid would propose that a locational reserve price is set behind each boundary with that price being derived according to the existing locational TNUoS tariff methodology.

"Exactly Allocate + No Reserve Price"

Under this model the baseline of capacity released behind each zone would be set according to a revised methodology that exactly allocates physical capacity behind each boundary – i.e. the inherent over-allocation included within the existing GB SQSS methodology (through scaling generation) and the impact of any transmission derogations will be removed from the baseline capacity that is auctioned. There would then be no need for a reserve price to be utilised as the volume restrictions would likely see sufficient competition behind boundaries such that a non-zero auction price would emerge.

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

"Pay as Bid"

National Grid believes that utilising a Pay as Bid approach will offer two benefits over a cleared price: The first being that it will be easier for individual users applying to connect a new power station to trigger incremental investment in the GB Transmission System. Under a cleared price model the incremental investment would be triggered only where the cleared price exceeds the incremental investment hurdle price and so any new party would be potentially reliant on the actions of other users to ensure that the cleared price is sufficiently high to surpass the trigger price. Under a Pay as Bid model new users would have the ability to trigger incremental reinforcement themselves, so facilitating competition.

A second benefit is that the auction would be simpler for users to understand and forecast as they would not need to attempt to forecast other bidders' behaviours and so attempt to predict the clearing price. By removing the cleared price element so complexity is reduced and potentially the barrier to entry that this complexity might offer to new entrants again facilitating competition.

National Grid notes the rationale that the cleared price was introduced to allow parties in the same auction to secure the same access at equivalent prices. Moving to a Pay as Bid principle would remove this. However given that the auction is a multi-round model, Users will be able to see other parties' Bids and as such the prices bid by users should converge as the auction progresses removing some of the need for a cleared price.

It is also noted that this price equality given by a cleared price auction will only be specific to a particular auction, parties bidding in subsequent auctions are likely to be locked into a price for the "same" access behind a boundary at a potentially different price.

"Over-Allocate + Reserve Price"

National Grid believes that the by not having a reserve price in an inherently over-allocated system this does not allow the true value of transmission rights to emerge as supply will by definition always exceed demand in an SQSS compliant transmission system. Therefore to ensure that all Users remain on a level playing field (and are best able to compete with each other) should this over-allocation persist in an auction then a locational reserve price should be introduced to reflect the value of access to the Transmission System.

"Exactly Allocate + No Reserve Price"

According to the same rationale detailed above for the "Over Allocate + No Reserve Price" this alternative would offer another means in which to reflect the value of access to the GB Transmission System and thus allow parties behind a boundary to compete with each other on a level playing field.

Impact on the CUSC *(this should be given where possible)*: As WGAA1 in the Working Group Consultation Report
Impact on Core Industry Documentation *(this should be given where possible)*: As WGAA1 in the Working Group Consultation Report
Impact on Computer Systems and Processes used by CUSC Parties *(this should be given where possible)*: As WGAA1 in the Working Group Consultation Report
Justification for the proposal with Reference to Applicable CUSC Objectives* *(mandatory by proposer)*: As noted above National Grid believes that each of the Working Group Consultation proposals would better facilitate 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
CAP166 Transmission Access – Long Term Energy Capacity Auctions	
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 alternative

WP Alternate 1 – [6] years out from the year of the auction the capacity for auction should become unconstrained.

Note – this would have to be backed with associated buy back arrangements and TO/SO incentives.

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

WP Alternate 1 – The proposal suggest that TOs only auction what they can deliver. That definition of delivery is with the TO, as it will be them that will shape the baseline. This alternative would require them to make capacity available in unlimited quantities at a point in the future [6] years to ensure that they remain focussed on delivery.

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

The proposal as it stands will allow the TO to keep the supply of capacity limited and thus the price high. By having a point in time where they may be liable for the delivery of capacity at any volume requested will, we contend, make them more focussed on expanding their networks and delivering in a more efficient timescale.

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

Changes to Sections 3, 6, 9 and 11 – we think!

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

We wonder if Ofgem needs to consider the relationship between DNOs and TOs as one may now want to force the other into more outages to deliver faster.

Impact on Computer Systems and Processes used by CUSC Parties *(this should be given where possible)*: None – except all of those already caused by the modification.
Justification for the proposal with Reference to Applicable CUSC Objectives* *(mandatory by proposer)*: We believe the alternate would enhance the original by better meeting the applicable CUSC objectives: More efficient – by incentivising NGC to deliver in a timely manner More efficient – by not allowing the TO to keep capacity prices high by not delivering new kit Enhance competition – by allowing more new entrants in the longer term

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

ANNEX 3 - REPRESENTATIONS RECEIVED DURING COMPANY CONSULTATION

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SW1Y 4LR
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Fax: 020 7930 9391
enquiries@aepuk.com
www.aepuk.com

19th February 2009

Dear Hêdd

AEP Response to the Connection and Use of System Code Amendment Proposals CAP166 – Transmission Access Long Term Entry Capacity Auctions

Thank you for the opportunity to comment on the Connection and Use of System Amendment proposal CAP166 and its alternatives. As you are aware 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. Many of our members have actively participated in the development of all six transmission access related proposals which you initially raised in April last year. We have provided regular updates through our association committees for those who were unable to participate directly.

We stated in our October 2008 response that the Association policy reflects the lack of support for CAP166, in light of the continued lack of progress to date in understanding the full effect of the proposal and alternates, including overall costs and the impact of the different pricing signals from that of the current TNUoS approach, this remains the case. We would reiterate that our members believe that in order to attract investment in the energy infrastructure we must ensure that the regulatory and legislative climate is inviting, if not, and particularly in the current economic environment, investment in generation projects can and will locate elsewhere. We remain yet to be convinced that the current proposals would assist in reassuring potential investors. We remain convinced that auctions for long term entry capacity are unworkable from a security of supply point of view.

Despite their best efforts, the lack of time afforded to the Working Group has yet again resulted in an incomplete assessment of all elements of this proposal. It is

disappointing that when the CUSC Panel found the original consultation was not fit for release and requested an additional three months assessment time that Ofgem was insistent that the Working Group deliberations were to be completed within a maximum two week, then eight week extension period[1]. Yet again we find that 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 the proposals against the Applicable Connection and Use of System Code (CUSC) Objectives.and respond to this consultation. We believe Ofgem will have the same problem.

In our October 2008 submission we raised particular concerns about whether the industry would have enough information, particularly for those who have not had the time or resource to engage within the Working Groups, to fully appreciate the impact of the proposals for their own businesses. That the negative effect of this lack of development time has manifest most noticeably during progression of the issue of auctions for entry capacity is not surprising as this is a complex issue to understand in terms of rationale and potential long term impact. 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. 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. It is paramount that this occurs as soon as practicable, but definitely prior to the publication of and seminars on Ofgem's Regulatory Impact Assessment on the suite of transmission access related proposals.

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

[1] This was effectively reduced to six weeks due to industry unavailability over the Christmas and New Year period

Bali Virk
Electricity Balancing and Codes
National Grid Electricity Transmission Ltd
National Grid House
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23 February 2009

Dear Bali

British Energy response to the company consultation for CUSC amendment proposal (CAP) 166.

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.

Between the publication of the CAP166 working group consultation and subsequent issue of this company consultation, the proposal for a capacity and duration auction has been developed further by the working group. We believe that the concept of this model is significantly different from those of the Original and working group alternative amendments (WGAA1 and WGAA2). We have previously provided some comment on the Original and WGAA1. Our response here therefore reiterates our concerns with these as well as discussing the capacity and duration model proposed in WGAA3 and the introduction of reserve prices by WGAA2.

Executive summary

- British Energy is opposed to allocating transmission access via an auction.
- We are concerned that withdrawing rights from post-commissioning generators in order to auction them will create substantial regulatory risk and may have security of supply implications.
- The proposals provide very different pricing signals from the current TNUoS approach. This is a fundamental issue which was only discovered late in the process and there has been no industry debate on this matter. We do not believe this issue can be addressed simply by issuing a charging consultation.
- We do not believe an auction is the appropriate way to allocate transmission access as we firmly believe that access is not a commodity. Analysis by National Grid has shown that zones for capacity would be very small and therefore it is clear that transmission access is a nodal product with limited competition at each node.
- An auction will be costly and complex. However no cost benefit analysis on auctions has been carried out in order to demonstrate the benefit of this approach.
- The price based auction models are by necessity complex. We do not believe that participants will be able to understand the pricing signals from the auction and bid appropriately, resulting in inefficient outcomes. We also believe that this complexity is a barrier to entry for small players.

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- Introducing reserve prices into the price based auction model is a 'fix' to ensure that the auction recovers generator Maximum Allowed Revenue (MAR) for transmission and we are concerned that the full implications have not been thought through.
- The capacity and duration auction model seeks to pro-ration firm access at a long run marginal cost and turn a right of access into an obligation. The full consequences of this model have not been adequately considered.
- When introducing an auction it is important that extensive testing is undertaken to ensure outcomes are as expected. This has not been the case with these modification proposals as there has only been minimal testing of a simplified model and none for WGAA3. CAP166 is therefore not currently in a form which could be implemented.

Introduction

It is the view of British Energy that CAP166 is not currently in a form which could be introduced without substantial extra work. The design of an auction for transmission entry capacity is extremely complex and the group have not had sufficient time to develop the proposals. On 3rd October 2008 following a working group request for a six-month extension for further work (the CUSC panel recommended a 3 month extension) the group was only granted two weeks. Following the working group consultation a further extension was granted for the group to specifically consider the capacity and duration model (developed into WGAA3 but identified as WGAA2 and described as a candidate alternative in the working group consultation published on 17 October 2008). Despite the continued commitment from members of the working group we still believe that there are substantial areas of work that remain uncompleted. However, it is important to note that we would not wish industry to commit further time to this process unless a cost-benefit analysis of auctions has been carried out.

In this response we have provided comments given our current understanding of the original proposal and the three working group alternatives. However, all comments need to be read in the context that we do not believe that there is currently a workable modification on the table.

General Comments on Introducing Auctions

British Energy is concerned that introducing an auction for transmission entry capacity would create substantial regulatory uncertainty in the UK electricity market. At present there is a widespread belief that generators have enduring access rights and any change to this will cause difficulties for developers in raising finance for projects. The UK electricity market is entering a critical period with a need to finance, build and connect large volumes of both wind and conventional plant over the next 10 years as older coal plants close due to LCPD restrictions and nuclear capacity continues to decommission. At this important time it is essential that we do not introduce regulatory changes of this type which could lead to reduced confidence and investment in the UK electricity market, as this could have serious security of supply implications.

British Energy understands that access is currently scarce in some areas such as Scotland and that an auction can be an appropriate method of allocating a scare resource. Relatively simple auctions have been used successfully to allocate commodity products such as interconnector capacity where all participants are essentially bidding for the same product. However, transmission entry capacity (TEC) is a much more complex product. We do not believe that transmission access is a commodity as demonstrated by the National Grid analysis which showed that one to one sharing in zones was not feasible without creating a large number of very small zones. Transmission access is essentially a nodal product, with limited competition between generators at an individual node. Competition for capacity arises due to the complex interaction between nodes on the network which can be geographically distant from each other. If an auction is to allocate capacity in a meaningful way, it will need to be relatively complex due to the nature of the underlying network. However, if the auction is overly complex then the signals provided may be difficult for participants to interpret and the economic efficiency of the auction may be reduced.

The transmission system is regulated with National Grid having a Maximum Allowable Revenue (MAR) that can be recovered. An auction normally discovers the absolute price that participants are willing to pay for a

resource, however, because of MAR, any over or under recovery from the transmission auction needs to be returned to participants. The auction is therefore concerned with relative rather than absolute valuation of access. This difference from traditional auctions worries us and we would not wish to proceed with such an approach unless an expert advised that it was appropriate.

At present it is proposed that any over or under recovery in the auction is smeared back to participants via the residual charge. However, the residual is paid by all generators, not just those which have obtained long-term access rights in the auction. If, for example, all long-term access in the auction is allocated and the resulting income is significantly less than MAR then the residual will be higher than if the auction had recovered more money. This residual is paid by both winners in the auction and those generators which only have short-term access. This will therefore result in a cross-subsidy between short-term and long-term rights holders.

The above example highlights the issue of using an auction, which is designed to maximise revenue, under a price control framework. We do not believe this can be solved by smearing the residual in an alternative way; it is a fundamental problem with the proposal.

Given the non-commodity nature of transmission access and the issue of MAR, British Energy does not therefore believe that an auction is the most appropriate or economically efficient method of allocating a complex product such as TEC.

The literature on auctions is clear regarding the importance of design in delivering the desired outcomes from an auction. Binmore and Klemperer emphasise that an off-the-shelf approach is not appropriate and that the aims of the auction need to be well understood. British Energy is extremely concerned that the guidance in the literature has not been followed by the group. This is not due to a lack of diligence on the part of the working group but to a lack of available time. We proposed early in the process that an expert on auction design should be engaged as a consultant because the group was clearly lacking in experience. However, the extremely tight timescales of the process did not allow this approach and the group has developed the methodology without external support. The proposed auction design of WGAA1 was actually developed by four electrical engineers in the group (including representation from British Energy) without input from economists. It is therefore essential that it is tested thoroughly before considering adopting this approach.

We are concerned that there are no examples of other countries using auctions for transmission access allocation from which the group could learn. Gas entry in the UK has been brought up as an example of an auction process for a similar commodity. However, it is our view that gas entry capacity has fundamentally different characteristics compared to electricity entry capacity; there are many fewer entry nodes on the gas system and there is more competition at each of these nodes. Electricity entry capacity shares more characteristics with gas exit capacity, for which there is not currently an auction arrangement. In addition, the gas auction regime has been extremely unstable with a large number of changes to the rules being introduced. It is extremely undesirable for a similar piecemeal approach to change being adopted in electricity as this would simply increase regulatory uncertainty.

It is our view that if the UK is to be the first country to use auctions for long-term access allocation then the appropriate time and resources need to be spent on understanding why other countries have not adopted this approach. If, after this analysis, we believe that it is appropriate to proceed with developing an auction approach then a project approach such as that used for NETA implementation needs to be adopted as the issues are as complex and the impact on the industry is as great. This would be an expensive and time-consuming approach and so the benefits of auctions need to be well-understood before adopting this approach.

Comments relating to the proposals

Having discussed our significant concerns with the fundamental principles of the auction in the original proposal and the working group alternative amendments, WGAA1 and WGAA2 we would now like to

consider some of the features of these models. We believe that WGAA3 which introduces a capacity and duration model is fundamentally different from the other proposals and we will discuss this separately.

Original, WGAA1 and WGAA2
Auction Design
All our comments on auction design need to be read in the context of our views that there has not been enough time spent on the design and testing of the auction. It is only with thorough testing that we can begin to understand these issues and develop appropriate solutions.

In our view the simple auction described in the original modification is not a credible approach as the outcome of the auction relies too heavily on the initial assumptions of National Grid when developing the zones. This is particularly the case for nested boundaries as described in the working group report. As Scotland through to the Midlands is a series of nested boundaries on the UK system, this is a serious issue which cannot be ignored.

A key issue in any auction design is the volume of rights released. It is our view that the auction must release at least the same volume of rights as at present and preferably should release more. Releasing less than the current baseline would not facilitate more rapid connection of new plant. The current baseline requires derogations on certain boundaries and also requires detailed understanding of issues such as peaking plant and short-term ratings of transmission capacity. We believe that further work is required in these areas and that, going forward, any baseline is aligned with security standards (the GB SQSS).

We believe that WGAA1 based on the boundary constraint method is the best approach of those proposed as it appears to provide the best balance between the complexity of the methodology and the transparency of signals provided to the participants. However, these observations are based on a simple model with only 17 boundaries for a single year. It is important to note that even under these very simplified conditions, the team who designed the auction still found it difficult to interpret the results. The full auction is likely to have in excess of 50 boundaries and be run across more than 10 years simultaneously. This will result in extremely complex signals for participants and it is our view that companies will need to develop bespoke applications to interpret the signals and propose bids. The complexity of the auction therefore provides an advantage to large generators who have substantial analysis teams and we view this as a barrier to entry for smaller, independent generators.

Of the choice between a marginal price auction for capacity and pay as bid we prefer the former. Any auction will be complex for participants and pay as bid introduces the potential for large regret costs for participants who misinterpret the signals. We are not convinced by the arguments regarding bid shading in a marginal price auction. Our view is that participants will have a difficult enough time simply participating in the auction and will not be sophisticated enough to shade bids.

Auction process
The auction needs to be dynamic if there is to be any possibility of the correct price signals being discovered. A single round auction would not provide participants with the opportunity to learn and the regret costs of poor bidding could be extremely large. Participants must also have the ability to decrease as well as increase prices because multiple years cannot be handled in a single auction. We acknowledge that the development of closure rules will be difficult and believe that extensive modelling and testing of the issue is required.

Buy-back
With regard to buy-back costs, we believe that generators need to be suitably compensated if access is not delivered. This compensation should cover the lost opportunity of generation in addition to the cost of capacity. Ideally these buy back costs would be signalled in the auction. However, the working group have not been able to develop an approach for this despite several discussions of the issue.

Pricing and charging issues
It is important to note that the auction design of WGAA1 provides very different pricing signals from the current TNUoS approach. With the auction as proposed for WGAA1, the locational signals to generators will be substantially reduced particularly for generators in the south. These generators are currently paid as they reduce the MWkm of the network. Under the proposed auction generators will only get paid if they are in an importing region where the boundary capacity is less than demand in that region.

British Energy is concerned that there has not been a debate within the industry regarding the fundamental principles of system charging. Although we note that there is to be a charging consultation on this topic, our view is that these issues are so fundamental that a much wider discussion is required. We would be concerned if auctions were introduced without this wider discussion taking place.

The main reason WGAA2 was proposed by National Grid was to 'fix' the problem with WGAA1 i.e. the relatively low recovery of revenue from the auction process. WGAA2 introduces reserve prices into the auction model of WGAA1 which avoids most of generator MAR being recovered via the residual tariff. We believe that the full implications of this have not been thought through. WGAA2 uses an economic approach to allocate a scarce product via an auction and then via this 'fix' ensures an allowed revenue amount is recovered. Interestingly the introduction of reserve process provides a revenue floor for participants in the auction which is likely therefore to over recover. The consultation document does not provide the reader with any clarity on how such reserve prices would be calculated, although the supply curve indicates TNUoS as the source of the LRMC. WGAA2 also discusses the application of SRMC into a reserve price but again the report does not describe how these would be calculated. Clearly this part of the proposal would require further analysis and development. We remain uncomfortable with WGAA2 as it is effectively two methods rolled into one without proper consideration and testing.

Working Group Alternative Amendment 3
Auction design
WGAA3 is very different from the other proposals in that it is based on bids for capacity and duration and not the SO providing information on availability of capacity. Where access is behind a constrained boundary the methodology pro-rations the requested firm access right to be charged at a long run marginal cost. The remaining access allocation is made on the basis of a short run marginal cost and charged on utilisation. The development of this proposal to pro-ration access behind constrained boundaries results in a significant proportion of the country being liable for the cost reflective final sums associated with wider system reinforcement. We do not believe that this approach will facilitate competition in the electricity market, indeed it is likely to deter much needed investment, it is therefore not better than the current baseline.

By employing this method of access allocation the working group were concerned about the risks of overbooking a validation test is therefore included to address this concern. We believe that this validation test which ultimately requires proving runs takes a right of access and turns it into an obligation. This is a fundamental shift from the current baseline and we do not believe that this approach to address the risk of overbooking is proportionate.

Auction process
Our earlier considerations as to the auction process are also valid for the capacity and duration model of WGAA3 where restricting participants to descending bids implies that in the first round all participants would put in a large bid knowing that they can only reduce their bid; this incentive will result in very high prices for the first round increasing the likelihood of an inefficient allocation of access. For a dynamic auction (preferred by the working group) extensive modelling and testing will be required if appropriate closure rules are to be agreed.

Buy-back
The concept of buy-back and balancing services was considered in some detail in the context of WGAA3 in order to limit the exposure of the SO and users to the short-term costs of access. Again the group was unable to develop a workable approach for inclusion of a buy-back price and were particularly concerned

about how these considerations would impact the existing market arrangements for system and energy balancing.

Pricing and charging issues
As we have already stated the auction design of WGAA1 provides very different pricing signals from the current TNUoS approach and this is also the case for WGAA3. Furthermore in WGAA3 the effect of pro-rationing access and two tiers of pricing results in generators that procure access in different auctions likely to be paying different prices.

The pricing of short term access in WGAA3 is a highly important aspect of the proposal which in our opinion has not been sufficiently addressed to make this proposal a viable modification. Whilst the proposal to charge £/MWh when a constraint is active has been put forward by the working group they also identified very significant issues including SO incentives, National Grid's allowed revenue recovery and the potential impact on the balancing mechanism. Again we note that there is to be a charging consultation on this topic however our view is that these issues are so fundamental that a much wider discussion is required.

Other considerations
Testing and development
British Energy is extremely concerned by the lack of development time and testing on these proposals. It is only possible to gain confidence in an auction process through extensive, thorough testing. As already stated, transmission entry capacity is a complex product and so any auction will be complicated. It is therefore likely that there will be issues which will only come to light over time. Many generators will intend to lock into capacity for a large number of years (>20) in the first auction due to business financing requirements. It is therefore vital that if auctions are implemented it is correct first time and does not reply on subsequent modifications to sort out issues. It is our view that extensive testing of a finalised model must be carried out before any auction can be introduced. Issues such as baseline capacity and closing rules can only be finalised if the auction methodology and dynamics are well-understood.

Testing of the model for WGAA1 was carried out using very simplified conditions. However it is clear that WGAA3 has not been tested even to this level of detail, rather a few snapshot scenarios have been considered in isolation. This is critical when considering WGAA3 as an option for implementation.

Security
Post-commissioning generators are not currently required to post security for access payments. It is our view that these security arrangements should remain under CAP166. We believe that a generator should be liable for payments for the duration of the capacity won in an auction. 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 these smaller, independent generators. We therefore do not believe that security for post-commissioning generators better meets the CUSC objectives than the current baseline.

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.

Local Connections
Local connections are a critical supporting factor for all of the short-term access right proposals. The Local Capacity Nomination (LCN) relates to a physical connection, not a financial access product and consequently it should not be defined as a finite right.

CAP166 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 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 desirable for the generator, consumers or the SO who may wish to use that generator to maintain security of supply.

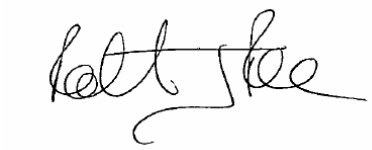
The interaction between local and wider access is an important and difficult issue. This is illustrated by the fact that the group spent almost as much time on this issue as on the actual auction design without solving all the problems. It highlights that introducing auctions does not remove the issue of scarce resources; in part it shifts the problem from wider works to local works. Under the proposed suite of TAR proposals there is no requirement to book wider access. The LCN date should not therefore be impacted by auction success, as is currently proposed. Following the working group consultation this issue has been discussed further but we are concerned that the conditionality on auction results and on other subsequent users introduces further complexity into an area of these access arrangements that is fundamental to the whole regime. The process by which users can secure access to the transmission system (whether local or wider) needs to be both simple and transparent.

Timescales and implementation
British Energy believes that the proposed timescale of 18 months is extremely challenging. As the auction occurs in September, this only provides 12 months in which to develop and test the full auction systems and conduct industry trials. We believe that the complexity of the auction requires at least another 6 months implementation time.

We note that National Grid's assessment of impact on IS systems suggests that the costs of implementing this proposal would be in the region of £1m – £5m for National Grid alone. This does not take into account the costs for industry in responding to such a fundamental change. We do not believe that these changes bring about benefit to the market as a whole and reiterate our view that a full cost benefit analysis is required to show that further development of these proposals is worthwhile. We remain of the view that CAP166 is not currently in a form which could be introduced.

If you have any comments or questions relating to our response please contact me on 01452 653170.

Yours sincerely



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Bali Virk,
National Grid

23rd February 2009

Dear Bali,

CUSC Amendment Proposal 166, Company consultation
BWEA response

Please find following BWEA's response to the CAP 166 company 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 463 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.

BWEA is pleased to respond to this latest consultation on CAP 166. We would, however, wish to note that the timescale of two weeks is quite short for thorough consideration of the new subject matter in the report – namely the development of the volume and duration model.

We have restricted our comments to the volume and duration model. We have no further comments to add on the other price-based auction models and we would refer you to our previous response to the Working Group report consultation in that respect.

BWEA has generally been supportive of the development of alternative access models which are based on accommodating all serious access requests. We have followed the development of the volume and duration model with interest, and believe that elements of its design features do have some merit. However, as it stands we have some serious concerns.

In evaluating the volume and duration model, BWEA has compared it against the BWEA's preferred access product, Connect and Manage. To assist in forming our views we have considered how each product might score against some key criteria. An initial evaluation

reflecting BWEA's views is shown below. Shaded areas indicate where we believe there is more clarification required in understanding the issues and reaching a consensus position. These are explored further below.

	Volume & Duration	**CAP 148/164**
Competition	?	√
Consumer cost	?	√
Simple	X	√√
Connects Renewables	X	√
Discrimination	X	√
Clear Connection Dates	√	√
Investment Signals	√	√
Stranded Assets	?	√√
Network Cost Recovery	√	√

- **Consumer cost**

BWEA notes that the key objection to Connect and Manage is consumer cost. We accept that there are some checks and balances which could ensure that the cost impact of Connect and Manage for consumers is manageable, and have been supportive of bringing forward the Connect and Manage Alternative which seeks to target costs on new users. However, we do share some concerns that this could be discriminatory for new users.

BWEA notes that seeking to provide additional access to an already constrained system will result in additional costs, whatever access arrangements are adopted. The key challenge is the management and allocation of these additional costs. We note that there is further work in developing the charging arrangements for a number of the TAR mods. Given the imperatives of connecting new generation and the uncertainties with regard to asset investment timetables, the risks associated with access based upon volatile and unpredictable short term costs needs to be addressed. BWEA supports some of the charging proposals which seek to provide predictable, stable tariffs.

We accept there are benefits to price signals in the short term (and the long term), provided that they are provided in time for a rational response, and provided that they do not undermine bankability. Our membership is quite diverse and has differing flexibilities in this respect, depending on the size and diversity of their portfolio.

However, we would stress that the best way to enhance consumer value under the Renewables Obligation, and to reduce polluting emissions, is for renewables to both connect and generate power, and to do so at the earliest possible opportunity.

- **Discrimination**

BWEA's principal concern with the volume and duration model is the likelihood of a one-off re-allocation of long-term access, with subsequent rounds just offering short-term access. This appears unduly discriminatory to those not in a position to participate in the first round. Whilst we accept that this is only an issue until such time as new capacity becomes available, and that for any access model this is a difficult quandary to resolve, we continue to believe that a sensible Connect and Manage regime is a fairer solution.

BWEA is also concerned that the volume and duration model is being driven by a desire to re-allocate existing access rights. This is a controversial move for which BWEA has seen no objective justification. We would question whether alternative measures such as a full – open and transparent – review of constraint costs, might not address Ofgem's concerns. We will follow and contribute to the recent developments in that area.

We are also concerned about the step-change in access rights and costs that the first auction could create, especially if the process has the potential to create some unintended consequences and counter-intuitive results.

- **Stranded assets**

The issue of stranded assets has generally been addressed in TAR through the user commitment regime, which has not been fully bottomed out. BWEA is confident that Connect and Manage with suitable user commitment will provide the appropriate level of insurance to minimise the risk of stranded assets.

We have put a question mark against the volume and duration model as we would need to explore further the potential outcomes from such a regime. BWEA would also note that where existing users lose their wider access, there is the potential for stranded local assets if they cannot be re-used elsewhere.

Development of the volume and duration model

We do not consider the volume and duration model to be sufficiently developed or stress tested to allow a decision on its approval or not. BWEA does not believe there is a consensus view amongst its membership on the worth or not of its further development. Those that do support the model have generally been motivated by a desire to reach a compromise with Ofgem. The model is is also quite complex and we are not yet in a position to fully understand and work through all of the implications for our membership.

As noted we do believe that the development of the volume and duration model has generated some good ideas, but it has been somewhat unfortunate that these are packaged together with other aspects which are less appealing. This has made it quite difficult voting in the Working Group where we need to consider different combinations of user commitment, the pricing philosophy of short term and long term access and the actual product on offer.

General comments

BWEA's consensus view is that a sensible Connect and Manage regime offers the best deal all round. We accept that there is no absolutely perfect solution on the table, and that there will be a need to monitor and potentially refine the regime as it moves forward.

Both the volume and duration model and the CAP 164 Alternative deal with constraint costs by targeting them onto specific users. We do not concur with the view that targeted costs are necessarily a better deal for customers. The consumer ultimately pays for new generation and when there is an Obligation for renewables and where competitive pressures are mostly through the development stages, there is potentially very limited scope for competition for access to bring prices down. We are not opposed in principle to cost targeting, but consider that simplicity, timeliness, predictability and bankability are just as important.

We are also concerned that there is an underlying assumption that targeting a cost means that it no longer needs to be managed or mitigated by Ofgem or National Grid. This is absolutely not the case with constraint costs, where those being targeted with the cost will often have very little control over the cost. This is a key point with regard to the debate surrounding cost reflectiveness. Under an asset-based access charging regime, a user's costs can be reflective of the demands that it puts on the network. Under a constraint based mechanism, its access costs are reflective of what *others* choose to do in the *energy* market, over which it has no influence.

I hope you find these comments useful. If you have any queries regarding this consultation response, I am ready to answer them.

Yours sincerely,

Dr Gordon Edge
Director of Economics & Markets

Windsor

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CV34 6DA

23 February 2009

Dear Mark,

Centrica welcomes the opportunity to respond to the latest company consultation on Transmission Access Review - Auction Modification CAP166.

Centrica believes the fundamental issue for transmission access is the urgent need for more transmission to be built and welcomes Ofgem's consultation on incentivising new transmission investment ahead of user commitment. In the meantime, we also agree that the Transmission Owners should be able to start the pre-construction activity to ensure the Government's renewable targets can be met. **Centrica maintains the view that timely new build of transmission negates the case for the introduction of complex and expensive auctions that are unlikely to result in efficient outcomes.**

In November 2008 Centrica responded on the Auctions (CAP166) Working Group Consultation (including WGAA1 and WGAA2) and our position on Auctions remains unchanged. As this is the final response in the Transmission Access Review (TAR) six-modification process we recap on our previous response to CAP166, provide additional comment on WGAA3, (not covered in any previous consultation), and have taken the opportunity to summarise Centrica's overall position on the Transmission Access Review.

In summary, Centrica's views on CAP166, and all associated auction alternatives, are as follows. Auctions:

- do not release more transmission entry capacity than the current baseline;
- have negative impacts on UK generation (conventional and renewable) investment;
- require the removal of rights from existing generators, resulting in material regulatory risk;
- create security of supply issues – as a result of unintended consequences (e.g. early closure of marginal plant);
- will be costly, complex and result in inefficient outcomes;
- compared with the current arrangements do not give better investment signals to TOs.

Issues with long-term capacity auctions (incl WGAA1 and WGAA2)

Centrica believes there are serious issues associated with introducing long-term entry capacity auctions as envisaged by CAP166:

- Auctions are a means of price discovery, given sufficient number of bidders. Under these conditions, auctions can reveal the value of the scarce resource and maximise revenue. However, in reality, GB access transmission capacity is not scarce in every part of the transmission network and in addition, increased investment in the transmission network - as one of the recognised key solutions to the GB Queue - will further reduce scarcity of access capacity.

- There is a significant risk that an incorrect baseline capacity will be set and that the auction of both existing and incremental long-term access capacity will not provide the right investment signals to the TOs. The risk of under-providing transmission capacity is far greater than the risk of over-providing of capacity.

- The auction design will determine the way the transmission system and the whole energy sector are operated for many years to come. Maximising auction revenue does not guarantee security of supply or a coordinated network investment approach. The transmission system should be seen in a wider context and its criticality for the GB economy. On this basis alone the development and evaluation of any auction solution must be **fully** considered, together with a robust cost / benefit analysis. Neither of these have been completed to date. It is impossible to fully assess the impact of an "auction" solution unless the proposal has been fully defined. Centrica does not believe this to be the case.

- The introduction of an auction regime will increase price risks and access uncertainty for developers and existing generators, at a time when significant investment in both renewable and conventional generation is required. This will adversely impact both the delivery of the UK renewables target and security of supply.

- Auctioning long-term capacity, as per the current proposals, will make participation in the first auction critical as new entrants will only be able to place higher values than existing users on capacity in either the first auction or in future auctions when long term entry capacity is subsequently released or expires. Auctioning does not allow bidders that place a higher value on capacity to enter the market unless incremental capacity is built and released. As a result, the arrangements could be a barrier to new entrants because if a generator is not yet eligible to take part in the first auction, the chances of getting timely, long term access at an acceptable price in the short to medium term are significantly reduced.

- The level of security to be provided and the unavoidably complex auction mechanism could well deter investment in the UK. Most investors are international companies and will decide to invest elsewhere, if investment conditions are more favourable.

- Long-term capacity auctions result in value based access. What generators pay for access will no longer reflect the cost incurred by the transmission licensees and the charges will no longer be proportionate in relation to the access product. In addition, bidders face the risk that future value of access might be decreased by strategic investment. In particular the impact of the loss of locational signals needs to be fully understood. In addition, cross subsidies may be introduced, depending on the treatment of over / under recovery of TNUoS.

- We question whether long-term capacity auctions will encourage efficient use of the network. If baseline capacity can change auction by auction then this might introduce a significant price risk for short-term access products.

- We are not convinced that the CAP166 proposals have sufficiently taken into account the well known issues associated with the gas entry auction regime.

- Finally, the introduction of long-term capacity auctions requires removal of evergreen rights from existing generators. If the baseline is then set incorrectly, e.g. less capacity than is currently available is auctioned, then existing generators (and GB transmission system generally) could face even greater issues. For example, is the baseline the physical installed transmission capacity or the GBSQSS adjusted capacity, and / or does any capacity figure include the (BETTA-) derogated access capacity in Scotland?

Issues with WGAA3 Capacity and Duration Auction Model

At the request of Ofgem, the Company Consultation on Auctions (CAP166) now includes the Capacity and Duration Auction (WGAA3). This alternative was not included previously in the Working Group consultation due to lack of time to develop but has since been partially developed for inclusion here.

The Capacity and Duration Auction model has many of the issues and adverse outcomes of a Price-based Auction, as described above. However, it also differs fundamentally from a Price-based Auction in a number of ways and Centrica has some additional comments:

- We have concerns that this model will have unintended consequences in the BM and that insufficient time has been spent evaluating these and any potential remedies, if they exist. For example, it is reasonable that users will price their BM bids/offers based on the assumption that they will pay the short run priced rights when a constraint is active. This could result in pollution of energy prices by system/constraint-related costs, if the unit's bids/offers are accepted for energy reasons, resulting in sub-optimal outcomes.

- We fail to see how any party can support this auction design whilst there are so many unknowns surrounding the process and the charging principles (let alone any detail regarding its charging methodology). For example:

    - Will auctions be "descending" only or "ascending and descending"?
    - Will users be required to provide a buy-back price as part of their bid and will this effective cap on prices lead to a distortion of prices in the BM?
    - Will over recovery be set against BSUoS and what are the implications of this on the market?
    - How will short run access rights be priced? Both Commoditised and Capacity based pricing was discussed but both have significant shortcomings. Whilst we support the principle of an ex-ante price we have particular concerns that there may be unintended consequences for the BM and more analysis is required.

- Where demand exceeds available access this model requires a pro-ration of access rights. Whilst there was much discussion around means of doing this in a fair manner, given the interacting nature of the transmission system, no consideration was given to the particular characteristics of different generation technology and hence capacity allocation may not be optimised.

- We note there was insufficient time to include the "Capacity and Load-Duration Model" in this consultation. Based on the work to date Centrica's preliminary view is that this model further complicates a very complex auction and has no chance of success in the timescales. For example, the uniqueness of each generator's Load-Duration profiles could reduce the opportunities for sharing. Centrica holds the view that neither wind nor conventional generators are able to predict their Load-Duration profiles with sufficient accuracy to avoid significant risks associated with getting this aspect wrong.

Issues with the Working Group Report

- As indicated in the report, there are still many important areas that require further development and were part of the original Working Group terms of reference (auction design, governance, charging, testing, impact on security of supply, and interaction with OFTO regime etc.). In the limited timescales available, the Working Group has not been able to sufficiently develop and evaluate the CAP166 original or any of the CAP166 alternative modification proposals. There are many crucial areas that require further development and without proper evaluation, the unintended consequences impacting areas such as new investment (both renewable and conventional), increases in costs to consumers and security of supply, are likely to be significant.

- Whilst some of the areas are considered to be outside the CUSC, we believe it is essential that these areas are fully understood and developed before a decision under the CUSC to approve the introduction of long-term capacity auctions can be justified.

Conclusions

Auctions do not create any more transmission capacity: Neither the original CAP166 proposal nor any of the alternatives support the connection of new plant to the Transmission system since no new entry capacity is created. Therefore Centrica believes this is a disproportionate interim solution until more capacity is built, and not enduring.

Auctions create a credible threat to future security of supply: The Auction modification attempts to provide NG with greater investment signals by increasing the risks to the generators. Under an auction regime all generators will be required to "gamble" their generation (new and existing) by either locking into a long term entry capacity with huge commitment that is increasingly unattractive in the current credit crisis or face the risk of losing access, placing current or new investment at risk.

This is not an attractive proposition for existing generators who may be forced to close marginal plant prematurely. In addition, auctions significantly increase access uncertainty for all generators, making the UK less attractive for investors, at a time when the replacement of the existing thermal and nuclear fleet is becoming critical and the EU renewable obligations require the UK to build significant volumes of renewable generation.

Auctions do not meet the needs of any generator – large or small, new or existing, renewable, thermal or nuclear: Despite the considerable efforts of WG2 to deliver CAP166, Centrica remains unconvinced that long-term capacity auctions are the right way forward. It is our understanding, based on the Working Group discussions and other generation networks, that the majority of the industry also does not support the introduction of long-term capacity auctions. They will introduce unnecessary costs, complexity, uncertainty and result in inefficient outcomes.

Evergreen rights: Finally, Centrica believes existing users have evergreen rights to use the transmission system, so long as they comply with their contractual obligations. To date, there has been no evidence presented to change this position. Despite these views, and without prejudice to these rights, we have fully participated in the Working Group and responded to consultations. The removal of evergreen rights is a material regulatory risk and is likely to meet strong opposition.

Way forward

Centrica believes the most sensible way forward is for Ofgem and industry to focus on more suitable solutions, for tackling the GB Queue and future connections, by addressing the fundamental need to connect more generation within construction project timescales and at reasonable and predictable costs

Centrica's views are as follows:

- The fundamental issue is the need to build more transmission. This should be addressed as a matter of urgency and we welcome Ofgem's consultation on incentivising new transmission investment ahead of user commitment. In the meantime we feel the Transmission Owners should be able to start the pre-construction activity to ensure both the Government's renewable targets can be met and timely connection of all types of generation.

- The introduction of Short Term products (CAP 161, 162 and 163) is potentially a no regrets decision, although there needs to be some detailed analysis to ensure the solution chosen has benefits that outweigh the implementation costs for both NG and generators and subject to a robust and accurate consideration of impacts on the charging regime.

- Of all the six modifications, Connect and Manage (CAP 164) best addresses the issues identified by the DECC/Ofgem Transmission Access Review report and provides equal transmission entry rights for both new and existing generators. Connect and Manage should form the core of any transmission access regime although we acknowledge more work is needed to understand the scale and duration of any constraint costs. The latter will have a significant impact in the short / medium term but should be resolved in the longer term with the current ENSG led proposed plans for GB reinforcement.

- Whilst there are two Connect and Manage options within CAP 164 consideration needs to be given to other alternatives. This was not possible with the current process due to lack of available time for the Working Group. Centrica would be happy to support additional work in this area.

Yours sincerely,

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23rd February 2009

Dear Bali,

Company Consultation Response for CAP166 Long Term Entry Capacity Auctions

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 National Grid's company consultation regarding CAP166 Long Term Entry Capacity Auctions.

2. To date, our responses regarding CAP161-166 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 participants 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.

4. Drax shares the concerns of other industry parties that industry working groups have only been allocated a very short timescale in which to consider potential solutions that address the issues highlighted by Ofgem and BERR as part of the Transmission Access Review process.

Auctioning Proposals

5. Whilst the industry has placed a significant amount of resource into the development of the auctioning proposals, there have been a number of issues that have proved very difficult to eliminate from the transmission access auctioning process.

6. National Grid has highlighted a need for greater investment signals from users of the transmission system, in terms of user commitment over a number of years; so too are the needs of investors to ensure that they have access to the traded market over the course of their investment. This issue has meant that a pure annual auction methodology (i.e. an annual process to auction capacity for just a *single* year at a time) would be detrimental to investor confidence, given that a power station may find that it is unable to procure access from year to year. This has meant that the auctioning methodologies must be designed in a way that allows a user the option of procuring transmission access for the entire investment lifecycle of a plant (or at least the initial investment repayment period).

7. The auctioning proposals aim to solve perceived inadequacies of the current transmission access regime that act as a barrier to new entrants, whilst simultaneously creating a huge new barrier to

market exit. Although the proposals state that securitisation is only for a single year, the "user commitments" that are imposed on investors wishing to secure the future of their plant are likely to relate to periods much longer than the liquidity available in the traded market. This is an extremely risky position for any investor to find themselves, whether new or existing.

8. The important issue here is that an investment's "projected life" at the time of connection is not necessarily the *absolute* period in which an investor is able to run the plant. A projected lifecycle for a plant will depend upon many factors, including market conditions, which means that a plant may have to close sooner (or later) than its originally projected life as the end of the commitment period approaches. If users are 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 (due to the access being reallocated and the minimum commitment for new investment being too great), even though it could continue to make a profit and contribute to the UK's security of supply with its current access rights arrangements; and

    b) a plant may be forced to generate during a time when it is uneconomical to do so, because paying for the committed rights for the year in question and selling generation at a short-term loss may be more economical than having to pay off the remainder of the user commitment and releasing the access rights.

9. Such a barrier to exit, as described in 7 b), will also act as a barrier to entry for new plant. Plant wishing to leave the system would be forced to hold on to transmission access whilst they reach the most economic position to buy themselves out of their Finite Rights obligation. Whilst a solution to this may be for the generator to trade (sell) the rights, the generator is not guaranteed to find a buyer.

10. The fact remains that both new and existing investors must ensure that they can access the transmission system and sell power to the market in the long-term. Investments made by generators are not short-term by nature and it is unsettling that National Grid would not view such an investment as a long-term commitment.

11. Each of the proposals under CAP166 have the effect of providing 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.

12. The issues surrounding auctioning and security of supply must also be considered very carefully. There is a real risk that an auction may result in key plant losing long-term access rights, forcing such plant to decommission rather than remain available for times when the system is considered to be at high risk (due to the economics of remaining available being unjustifiable against the likelihood of use). Given the volume of intermittent generation that is expected to connect to the system between now and 2020, it is important to ensure that the access arrangements will deliver a system that simultaneously:

    a) encourages investment in new plant to meet government targets on renewable generation by 2020; and,

    b) provides the security of supply required to encourage investment and future growth in the UK economy.

13. Further to this, it must be recognised that a result of the auctioning proposals is that there may be a longer connection process for investors, which may lead to delays in the development of new projects. New users will need to apply for a local connection a number of months in advance of the wider rights auction; however, it is only when the wider rights auction takes place that the user will

discover whether they have successfully secured a connection that allows them to take part in the traded market. If a user were to miss the local connection application deadline, or fail to procure wider transmission access rights in the auction, the associated project would be delayed for at least one whole year, due to the fact that the user would only be able to reinitiate the connection application during the strict annual process.

14. Finally, prior to a change of such magnitude being implemented, it is vital to the continued evolution of the industry that the auctioning models (and their associated procedures) will not distort market competition and create a burden of complexity for players that have limited resources. Producing a regime that works in the favour of dominant, vertically integrated players would only compound the issues faced by smaller investors. There has been a distinct lack of time set aside for testing the models developed under CAP166, despite requests from the working group for such time. Given the potential adverse consequences that these proposals could have on the development and efficiency of the UK transmission network, market competition and, ultimately, the cost to consumers, this should be of great concern to both National Grid and Ofgem.

Price Based Auctioning (Original, WGAA1 and WGAA2)

15. Further to the above, moving to a price based auction methodology is highly undesirable for all types of investors in the power sector, regardless of where and when they have invested and the technology used. However, the most worrying concern is that under three of the auctioning models, those that are currently in the process of building their projects may never have the chance to repay any of their investment finance if they do not gain access in the first auction. Not only does this proposal have the potential to make companies insolvent as their route to market is removed, but it also has a high potential to strand assets as other parties are less likely to purchase a stricken plant if there are no access rights associated with the site.

16. Given that the joint Ofgem and BERR Transmission Access Review had the aim of ensuring serious investors could connect new plant to the transmission system in a timely manner, the fact remains that these proposals may result in mid-construction investors losing their access rights when they have already:

    a) signed construction agreements for and placed security against transmission investments with the Transmission Owner; and,

    b) committed a large amount of capital for the construction of the new asset.

17. The process effectively works in a way that takes all of the baseline capacity in the current system and places it into the auction for redistribution. Winners of the first auction (which enables users to bid over the following 40 years from the first auction year) lock in their capacity auction costs for the duration of their committed rights. This means that once the redistribution has occurred in the first year, those rights will not become available until the year in which the associated bids expire. Assuming the users that bid do not bid for a single year at a time (why would an investor take the risk of securing entry rights for a £multi-million power station on a year by year basis?), it will be the new users in subsequent auctions that are forced to bid higher in order to trigger the incremental capacity and then wait for the completion of wider works.

18. Therefore, the price-based auctioning process is flawed when compared against the original principle outlined in the joint Ofgem and BERR Transmission Access Review report; new users can only place a higher value on capacity in a given area in either:

    a) the *first* auction after the approval of the amendment; or

    b) an auction that provides the new user with a sensible long-term entry rights hedge for the new investment, *once the existing commitments in the given area expire*.

19. In the meantime, auctioning does not allow those that place a higher value on capacity to enter the market, which would, based upon Ofgem's previous comments, make the process discriminatory. On the other hand, a methodology such as Connect and Manage would force users to reassess their

position against their competitors in order to remain competitive in the power market, whilst providing an equal opportunity to new users that do not currently have entry rights and existing / pre-commissioning users that do (i.e. market competitiveness decides who enters and leaves the market, not the transmission access regime itself).

Capacity and Duration Based Auctioning (WGAA3)

20. Further to the issues highlighted in the Auctioning Proposals section (above), the WGAA3 alternative creates its own issues.

21. The SRMC related capacity that a user is allocated is linked to the bids of other users. Any changes a user makes to a bid will have a knock-on effect to the bids of all users behind the constrained boundary, even if such user secures SRMC related capacity that they do not intend to use. This is due to the SRMC costs being linked to an assumed level of usage, and the associated constraints caused as a result of such usage, for each user in a given zone.

22. This makes for an extremely complex system that would ultimately be open to "gaming" if the correct checks and balances are not applied. This is particularly unsettling due to the fact that the calculation behind the process will not be transparent to users. However, the working group has had a distinct lack of time to be able to test the model in order to ensure that it will work in a fair and equitable manner. Certainly one area of testing that is missing from the report is an investigation into the ability of large, multi-site companies to affect transmission pricing in areas of the network where they have a dominant position.

23. A further issue is that if a user is only allocated a small proportion of the capacity that they require at the LRMC cost, they do not have the option to lower the volume of required capacity without the revised bid being subject to the pro-ration process. For example, if a new 1,000MW project (2 x 500MW units) is only allocated 600MWs of LRMC capacity (with the remaining 400MW being subject to SRMC costs), the user does not have the ability to either scrap or postpone the building of the second unit. In the case of scrapping the second unit, the user would be viewed as having a new 500MW bid, which means that, if pro-ration is still required, the new 500MW bid would be subject to a pro-ration of capacity (in a similar way to the pro-ration of the original 1,000MW bid). In the case of postponing the second unit until wider transmission works are complete, the user would not be able to pass the proposed "Validation Run" in order to demonstrate that the 1,000MW capacity holding was capable of being used.

24. This is an inefficient process as it could force the user to either build a unit when it appears uneconomical to run (due to the associated SRMC costs), or postpone the *whole* project until the wider transmission works are complete (which makes the outcome no different to the current baseline). Further to this, the pro-ration of bids may lead to an inefficient use of plant, as units may be forced to run at part-load due to market prices making the SRMC related capacity uneconomic to use. This, in turn, would lead to higher fuel usage in conventional thermal plant, meaning greater volumes of Greenhouse Gasses (including carbon dioxide) being emitted.

25. There is, effectively, an alternative to the CAP166 WGAA3 model that has already been tabled, which (i) ensures access for all users, and (ii) targets constraints costs to those that give rise to them; this is in the form of the CAP164 Working Group Alternative Amendment. In addition to this, the CAP164 Working Group Alternative Amendment also:

    a) provides greater stability for those that have already committed to huge investments (i.e. those currently in the process of constructing new generation plant);

    b) allows plant to run more efficiently by always giving the user the option of running at baseload (as each MW of capacity would have the same transmission access costs);

    c) maintains security of supply by ensuring key generation is not lost as a result of the transmission access regime; and,

d) allows market economics to decide which generators remain on the system, rather than the transmission access regime itself.

In Summary

26. It is of grave concern to Drax 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.

27. 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.

28. It would appear that the key to resolving GB Queue related issues is to find an enduring access regime that:

    a) facilitates faster connections on an enduring basis, not just in the first year of the scheme;

    b) ensures security of supply for consumers;

    c) fits the needs of both new and existing investors; and,

    d) allows market forces, including incentives for new renewable plant, to establish which generators remain on the system, not the access arrangements themselves.

29. Neither the original CAP166 proposal, nor any of the alternatives, provides a robust enduring access mechanism that covers the above criteria. The auctioning proposals also fail to encourage stability during a period when companies are being encouraged to invest in new sustainable (and capital intensive) generation technologies.

30. Drax believes that when comparing the CAP166 proposals against the CAP164 and CAP165 proposals, the CAP164 proposals would be the most useful in terms of ensuring new generators can connect in a timely manner, whilst simultaneously ensuring that the integrity of the system is maintained from a security of supply perspective. To take this one step further, in order to improve the investment signals received by Transmission Owners, Drax considers that a highly robust solution would be the combination of the Connect and Manage approach with a four year rolling rights solution (CAP165 WGAA3). 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.

31. This combined CAP164 and CAP165 WGAA3 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 and which generators shutdown and release their transmission access rights.

32. On this basis, Drax does *not* support the original CAP166 proposal or any of the alternatives.

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

Bali Virk
National Grid Electricity Transmission
Warwick Technology Park

Tuesday, 24 February 2009

Dear Bali,

EDF Energy response: CAP166.

EDF Energy does not support auctioning of transmission capacity. We recommend all the proposals be rejected.

EDF Energy does not support CAP166, due to the following deficiencies:

- It would introduce significant risk for generators (existing and new);
- It would be likely to reallocate capacity between existing and new generators, thus destroying the investment climate;
- It would damage prospects for new investment in large-scale generation that is essential to UK security of supply (the UK is part of an international market; potential generation developers have a choice over which country to invest in);
- It would not provide "bankable" capacity, as the auction commitment is supplemented by an unknown TNUoS liability.
- Ultimately operators of existing assets would have the commercial incentive to "bid away" almost all of their future profit streams in order to secure access, rather than close. This would however mean that new generation investment in the UK was discouraged.
- The bidding "playing field" would not be level, because carbon is not priced equitably – subsidised plant would be bidding against non-subsidised plant;
- The 50% value in the incremental capacity hurdle calculation is not justified; in the long run this assumption will set the level of payments required by generators that bid successfully in the auction and therefore influences auction prices;
- In the WGAA1 the incremental capacity release test is based on a set depreciation period and corresponding depreciation charge of 50 years (i.e. 2%). This is used in calculating the £/KW hurdle rate that must be exceeded by the bidder in [6] consecutive years to trigger the incremental capacity. This is irrespective of the length of time the generator is bidding for the capacity, thus leaving a generator that may be bidding for 60 years, rather than 20 years of capacity, having to bid above the same incremental capacity hurdle rate for the [6] years. It may be more sensible for the generator bidding for a shorter tenure to have the annuitised value £/kW hurdle rate based on 20 years.
- EDF Energy was disappointed that the working group did not discuss the implications of using a yearly £/KW rate based on a depreciation charge that is linked to the length of the capacity booking rather than the 50 years considered for transmission assets.
- The cleared auction price is an imperfect hedge to the generator as although it is committed to paying the cleared price, a TNUoS liability remains

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through the required recovery of allowed revenue. A generator may still have to pay a sizeable UoS charge even after triggering incremental capacity with its bid. This is clearly inappropriate and leads to the conclusion that there should not be any recovery of allowed revenue from generators. Thus the generation share of the allowed revenue could be reduced from 27% to 0%, leaving only the auction revenues being the liability (charge) for generators for use of the wider system. Over time, as generators trigger incremental capacity, the revenue recovered from generators would increase. This revenue would depend on the methodology adopted for the triggering of incremental capacity, which could be "deep" or "shallow" rather than the 50% sharing factor envisaged by the amendment.

- It would be almost inevitable that when the auctions gathered a large revenue surplus, this would not be netted off TNUoS charges but would be appropriated by government for other purposes and hence become a windfall tax. This would be absolutely devastating for investor confidence and hence for the prospects future investment in generation in the UK at just the time of need for major renewal of a very large proportion of the existing UK generation fleet.
- We believe the WGAA1 is better than WGAA2 and, for the reasons noted above, consider a reserve price unnecessary.
- EDF Energy does not support the WGAA3 proposal as there are significant issues surrounding the pro-rating of rights for existing generators.

Yours sincerely,

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23 February, 2009

Dear Bali,

CAP166 - Long-Term Entry Capacity Auctions

Thank you for the opportunity to comment on the above document. It is difficult for us to comment on the full contents of the document in two weeks in full detail as it runs to more than 600 pages in length. Therefore, our comments will address the general principles raised by CAP166 and the models proposed.

Nature of the defect

The proposed defect that CAP166 is seeking to address is set out in section 3.2 of the consultation paper. It can be summarised as follows:

1. Existing rights are renewable year on year for incumbent generators which prevents them being allocated to new entrants who may value them more highly.

2. Because value of rights to users is not determined then National Grid cannot plan the most economic system.

3. The rolling option to renew year on year prevents National Grid from being able to plan an economic system as it does not know when generators are going to cease renewing the rights.

We would argue that the second of these issues is more about the TOs prioritising their investment rather than planning the most economic system. The value of rights does not

influence the design of the most efficient network for any particular scenario of connections. What knowing the value of rights potentially allows is to prioritise new connecting generation in accordance with the value it places on access in a scenario where all new connections cannot be accommodated at once.

Nature of rights and suitability of an auction

To consider whether an auction is an appropriate mechanism for electricity transmission access rights, you need to understand the nature of those rights. Currently, generators apply to National Grid, as GB System Operator (GBSO), for a connection to the transmission system plus the ability to generate up the value of their Transmission Entry Capacity (TEC) at any time. National Grid, with the Scottish Transmission Owners where relevant, plans the network on the basis of the requests for TEC received against the background of existing generation and demand. This takes into account, amongst other factors, the type of generation plant that is connecting and its location which means by their nature access rights are in reality tailored to the particular station. Access rights are therefore not a homogenised product that can be bid for by competing parties in different locations.

This is essentially why the creation of zones for an auction CAP166, or for the other transmission access CUSC proposals, has been impossible to achieve without risking significant system balancing costs. Rights between generators who are located relatively close to each other have proven in reality not to be readily interchangeable. This causes problems for setting zones which is why this hasn't been adopted as a viable option by the group. Therefore, more complicated proposals have been developed which seek to maximise revenue from the auction subject to not breaching certain physical limits on the system. A full nodal approach seeks to do this accurately, but this reduces participants' ability to compete due to the lack of transparency and the complexity it creates. The boundary approach loses some accuracy, but aims to increase the ability of participants to be able to participate.

Nevertheless, doubts remain over the accuracy of the nodal and boundary approaches. Up to now only a relatively simple model has been derived to ascertain whether an auction could be undertaken using the boundary approach. A full network model has not been developed and little time has been available to assess whether or not the results achieved truly represents an efficient outcome. It should be borne in mind that the present process of rights allocation involves a significant degree of network analysis and design work. If a generator changes its planned connection date or capacity requirement subsequent to receiving its connection offer, then this often triggers another round of analysis and planning through the bilateral agreement modification process, often resulting in the system design being altered to arrive at the most efficient outcome. Under the auction process capacity requirements and connection dates are altered day to day as each round of the auction is run and capacity is reallocated amongst participants. This means that this redesign process will have to be represented in a simplified manner in the auction model. Therefore, the accuracy and ultimate efficiency of the network design that is driven in this manner by the auction must be compromised.

It is also questionable whether or not the auction is sensible in the context of a price

controlled settlement where a fixed amount of revenue is recoverable. It will be inevitable that a priced based auction will generate a greater amount of over or under recovery of revenue compared with an administered price which seeks to recover the correct amount. Any over or under recovery will have to be handled through a residual charge. This questions whether the generators have acquired rights at the value that they put on them as the total charge they pay is unlikely to equal the bid they submitted.

A similar issue arises for the volume duration model. Although based on TNUoS prices, the volume duration model introduces fixed prices for wider access rights compared with the present methodology which alters prices year on year to reflect changes in allowable revenue. Therefore, if revenue recovered from holders of wider rights stays constant because it is based on fixed prices, but total allowable revenue changes due to the operation of the price control, then any surplus or deficit has to be handled through a residual charge. This residual charge will undermine the benefit of fixing the charges in the first place (ie any volatility in charges is driven into the residual charge).

Administration

Taking part in the auction process will be administratively more burdensome than the present arrangements which essentially consist of the connection application process plus management of the User's construction project and obligations under the Construction Agreement. This element of the process is unaltered by the CAP166 proposal, but the auction process is layered on top as well. Generators will have to be prepared and resourced to take place in a multi round auction process, assessing outputs from each round and altering their bids accordingly. This will require a significant analysis resource as well as the resource required to interface with the auction process.

As we mention above complexity in the arrangements come from a number of sources including:

- Understanding the interactivity through the auction model of bids at different locations with your own bid.
- Understanding the interaction of your bid and those of other parties and the eventual price you will pay through the residual charging.
- Understanding the length of access rights to go for (how long to fix price and obligation to pay for rights).

This will represent a significant risk assessment exercise.

The analytical burden of dealing with the arrangements as proposed under CAP166 should not be underestimated. Larger companies with a large portfolio of plant to provide access for will be able to put together dedicated analysis and administrative resource in order to deal with the auctions year on year. In dealing with the auctions year on year, these teams will also develop an understanding of the best bidding approaches to adopt. This will not be without cost and it is one of the reasons that we oppose this model particularly as we do not perceive sufficient benefits from the proposals to justify this burden. However, for new entrants such arrangements threaten to provide a significant barrier to entry and unfair disadvantage to smaller new entrants in particular.

Effectiveness of the auction to free up wider capacity for new connecting generators

In respect of the first element of the stated defect, it is important to understand whether an auction will allow new entrants to outbid existing generation and therefore get onto the system more quickly. It would appear that this is only a clear possibility in the first few auctions to be held. In these auctions new entrants and existing generators will compete for rights as any present rights are removed and open to bids from anyone with a local connection, or an offer for a local connection for the year concerned. However, any incumbent generators who were unsuccessful in these earlier auctions and had therefore lost their access rights would be able to reacquire them through incremental release once investment has been made in the system. Thereafter, they will hold firm rights that cannot be taken away by a subsequent auction. For the earlier auctions, in reality there will be a limited number of new entrant generators who can compete as they will require local access rights to be able to take advantage of the wider rights acquired. This cannot simply be provided overnight, but a small number of participants may be able to compete to a limited extent.

As we mention above, the main effect the auction arrangements will have on new entrants will be to create a significant barrier to entry for participants with smaller portfolios of projects, as the auction process will be more complex, risky and costly to participate in than the present arrangements.

Locational and investment signals

We note that the limited testing of the auction models developed show a collapse of locational pricing signals compared with the present TNUoS charging methodology. The present methodology has been determined as being cost reflective by Ofgem and we would largely agree with this view although in fact we believe that differentials are understated. We remain very concerned about the appropriateness of the signals that would be driven by the auction model. This issue resulted in the introduction of reserve prices based on the current TNUoS methodology into the process and the creation of WGAA2.

Therefore, it is clear that the model if left unaltered in this manner cannot provide locational signals as intended and the existing TNUoS mechanisms have to be relied on to do this. Thus the proposal has failed to improve investment decisions as hoped under the second element of the claimed defect with the current arrangements. Instead the existing TNUoS mechanism has to be retained to overcome its shortcomings.

However, the third stated element of the defect also relates to investment signals for the transmission companies, but in the context of the closure decisions of existing generators. The implication is that by making the generator state how long it wants its rights for, say through an auction, and committing financially to that duration of right that an improved closure signal will emerge. However, the reality is that a generator does not know a large number of years out that a station will cease to be economic and should therefore close. There are a number of short term effects that influence this decision so that in reality a

generator is able to give no longer than perhaps two years' notice. This issue led to the compromise alternative solutions to CAP165. Therefore, any signals that the transmission companies take from generators booking more than two years' of rights, for older stations at least, are likely to be questionable.

Volume Duration Model

A number of comments made in this response relate to the price bidding model for auctions and the volume duration model alike. However, we have a number of specific comments we would like to make on the latter.

We do not have an issue with the concept of an ex ante charge for additional balancing costs caused by accommodating generation above the level that be accommodated through long run investment in transmission assets. This is the basis of the alternative approach for connect and manage under CAP164 that we support. However, where the volume duration auction is problematic is all generators are potentially exposed to this element for a proportion of their capacity. Therefore, they will have a mixture of rights, some of which are priced on the basis of a £/kW which represent a sunk cost and others priced per MWh which are avoidable. This will increase the complexity of all generators' running decisions. Indeed the avoidable element may in effect be a disincentive to running the station for this proportion of a station's capacity. There has not been enough time to establish whether this will have any detrimental effects for balancing costs or system security.

The ex ante estimate of costs will have to be recalculated for each round of the auction as the distribution of rights changes in response to changes in bids. How this will be achieved has yet to be determined and is one a number of elements that is missing from the proposal due to the limited amount of time that has been devoted to its definition and assessment. However, given the timescales that will be allowed for its calculation day on day, we would expect that the estimate will be less accurate than under the CAP164 alternative which will allow a more considered approach.

Other Issues

Outstanding issues

A number of issues have yet to be determined in all options. Therefore, views on these amendments can only be given at a high level as much of the crucial detail as to how they might operate is still missing.

As we mention above the models for calculating auction results have only been produced in a relatively crude manner for a simplified transmission system in an Excel spreadsheet. It has not been rigorously tested to any extent for a full scale representation. Further questions remain including:

- How will incremental release work?
- Will it replicate the detailed engineering work undertaken at present or produce a close and accurate proxy?

- How will the TOs interface with this process through the STC?
- How will baseline volumes be set?
- What will the stability criteria and auction closure rules look like?

Without these questions and others being answered, then the Panel will be making a recommendation on, and Ofgem will potentially be approving, a shell amendment with the crucial details to be filled in later. We would question whether this would represent good governance were this to happen.

Buyback Prices

In the context of CAP166 and WGAA3 in particular the reason we believe that the group was correct in not pursuing a buyback price is that it would limit the options open to National Grid to control the balancing costs associated with accepting a bid. This is because the buyback prices of the generators taking part in the auction would be the only prices that would be considered, when other generators may be able to provide a buyback at a cheaper cost. Our preference would be for this type of service to be provided through a tender for balancing services contracts which could be held before or during the auction. This would allow National Grid to assess the full options open to it and to set the price accordingly. This alternative approach to buyback simply maximises the chances of National Grid being able to provide the lowest ex ante balancing price to participants at least risk to other BSUoS payers of cost out turning at a significantly different value. Therefore it provides the benefits that a buyback seeks to provide, but better.

Use of load duration curve

We can see how conceptually it could be beneficial for a generator to limit how it uses an access product by bidding a load duration curve. However, what really needs to be seen is a profile of usage by time slot through the year, not a load duration curve. We also believe that there are significant implementation issues to monitor the usage of such a product. For example, is the product deemed to be used up chronologically until it is depleted, so that the generator is then fully exposed to overrun or short term products? Or can the generator nominate which part of the profile it is using when? Given the time constraints on assessing this amendment there isn't sufficient time to consider these aspects.

I hope the above comments prove helpful. Please contact me on the above number should you wish to discuss any points further.

Yours sincerely

Paul Jones
Trading Arrangements

ESB International

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23 February 2009

Dear Bali,

CUSC Amendment Proposal 166 (CAP166): Consultation Document Version I

ESB International (ESBI) welcomes the opportunity to comment on National Grid's consultation document in respect of Connection and Use of System (CUSC) Amendment Proposal 166 (CAP166): "Transmission Access: Long Term Entry Capacity Auctions".

ESB International (ESBI)

ESBI has been a developer in the GB generation market since the early 1990's and as such effective transmission access is integral to our business activities. We currently have interests in the existing Corby power station, in the 850MW development at Marchwood due for commissioning later this year and have recently announced our latest 850MW development at Carrington, which is expected to commission in 2013. We also currently have a number of live transmission connection applications and offers for CCGT sites at various locations across GB.

In addition to expanding our conventional generation portfolio, we are also seeking to expand our GB portfolio of renewable generation sites. All these developments are set within the context of a €22billion package announced by the ESB Group to facilitate the transition to a low carbon economy.

Summary of views

This response provides our views on the original and Working Group Alternative Amendment Proposals (WGAA) contained within National Grid's consultation document.

In summary, we support many of the principles contained within the variants of CAP166 and consider that the options, to varying extents, represent the kind of fundamental change which is required to address the severe and prolonged problems inherent in the existing transmission access arrangements. In particular, the clear definition of access rights which are able to be traded, the allocation of capacity on a non-discriminatory basis in response to appropriate financial signals

and (in some of the alternatives) the delivery of capacity in defined timescales. These would all represent significant improvements relative to the status quo.

However, we do not underestimate the scale of the challenge that will be involved in developing a proposal of this form. In addition to designing, testing and implementing an auction, we note the importance of the timely development of supporting charging proposals, appropriate incentives and a methodology for triggering new investment. For that reason we consider that it is both appropriate and pragmatic to consider whether the benefits of CAP166 and its variants could be achieved via another, simpler, route or whether an interim approach is needed in order to allow the required development work to take place.

Principles

In our previous responses to both National Grid and Ofgem, we highlighted two key concerns with the existing approach to allocating transmission capacity:

- The absence of clearly defined property rights; and
- The inequitable allocation of access rights between existing users and those wanting access in the future.

We also highlighted four principles which we consider should form the basis of any change to transmission access arrangements.

- Fundamental change, implemented quickly;
- Products that optimise use of the network;
- Certainty of capacity delivery within defined timescales; and
- User commitment for all.

Given that the proposal seeks to directly address both key concerns, we are cautiously supportive of it. We consider that it represents fundamental change and are supportive of proportionate user commitments for all users. However we remain concerned by the scale of the design and implementation challenge and the absence of certainty of capacity delivery in the WGAAs.

Assessing the proposals

Before commenting specifically on each alternative proposal, we make some points which are relevant to each variant:

- We support the clear definition of property rights and the move to a finite rights model. In our view this is crucial to developing a well functioning market for capacity trading.
- We are encouraged by proposals to allocate rights for all parties on a non-discriminatory basis and for those that value access rights most highly to be able to clearly indicate that value. However we do have concerns that any proposal which includes elements of capacity "sharing" could give rise to undue discrimination unless provision is made for all users to share capacity on an equal basis.
- We are supportive of the distinction between the Local Capacity Nomination (LCN) and Transmission Access Capacity (TAC) for the purposes of determining access to and use of the system.
- We consider that there may be merit in giving further consideration to the definition of zonal boundaries. We consider that the definition of the zones will have an important impact on competition and the extent to which information is revealed through auctions.

Original Amendment - Our understanding is that the original amendment proposal has much in common with the existing gas entry arrangements. Parties would participate in auctions on a pay as bid basis. Any unfilled bids above a reserve price would trigger the delivery of capacity within fixed timescales if the Net Present Value of those bids exceeded a given level.

In our view, the original has several beneficial features: The clear specification of a trigger for the release of incremental capacity and the definition of clear timescales in which that capacity will be delivered provides significant benefits in terms of certainty to new entrants, while the pay-as-bid auction provides opportunities for those that value capacity most highly to secure it during the limited constrained periods; It allocates risk to those best able to manage it, by giving the transmission licensees incentives to deliver on time and generators choice over for how much and for how long to bid; and the use of zones is relatively more simple than other approaches and allows auctions to be considered independently. Finally, its similarities with the gas entry arrangements might suggest that parallels can be drawn and lessons learned from the introduction (and subsequent optimisation) of that regime, reducing implementation costs.

WGAA1 – WGAA1 varies from the original amendment in four important ways: The use of a boundary constraint (as opposed to zonal) model, the use of a cleared price (as opposed to pay-as-bid) auction, the absence of a reserve price and the treatment of requests for incremental capacity. Each issue is discussed in turn below:

- *Boundary constraint model* – While we understand the logic for a boundary constraint model, and recognise the trade-offs between accuracy and transparency, we are not convinced that a boundary constraint model necessarily provides a significant improvement over a zonal model. In particular we are concerned that constraint zones and boundaries could change over time, therefore potentially leading to undue differences in treatment between users in similar locations.
- *Cleared price auction*- We are not convinced that a cleared price auction is more appropriate than a pay-as-bid auction in this case or provides any obvious incremental benefit (other than lowering the price paid in some cases). An auction is concerned with revealing the value that a user places on capacity, which will inevitably differ between parties and over time. We would not consider different parties paying different prices to be unduly discriminatory.
- *No reserve price*- While we can understand the rationale for not using a reserve price, we are concerned that it may give rise to greater volatility in charges and, could, lead to capacity being allocated where bids are lower than the cost of providing that capacity. We are concerned that this could give rise to cases of cross-subsidies between users.
- *Treatment of incremental capacity* – In our view a key deficiency of the model is its inability to guarantee the delivery of new investment (subject to an appropriate test having been met) within a clearly defined timescale. As we understand it, while the model may ensure efficient utilisation of the existing network, it is less able to send appropriate signals about the need for new investment.

WGAA2 is substantively similar to WGAA1 but introduces a reserve price based on Long Run Marginal Cost (LRMC) and Short Run Marginal Cost (SRMC). While we consider that WGAA represents an improvement relative to WGAA1, we continue to have concerns about elements of the auction design.

WGAA3 is a substantial departure from the other variants on CAP166 in that it contains no price auction component. Users submit tenders for volume and receive an administered allocation of capacity, part of which will be charged at LRMC and

part at a proxy for SRMC determined ex-ante. In a sense, it has more in common with CAP164 (Connect and Manage) than the other variants of CAP166.

ESBI considers that there is merit to the WGAA3 proposal, particularly in terms of its relative simplicity. However there is a concern that it could effectively recreate the current regime for securing capacity. If existing users are able to bid for capacity earlier than other users (which might be the case if, for example, completion of the LCN was used as the prerequisite for participation) then they may be able to secure capacity at a price based entirely on LRMC while new entrants participating in future allocation rounds could conceivably pay only SRMC for protracted periods prior to NGET making investment. While this may not necessarily be unduly discriminatory, it may detrimentally impact the achievement of the Government's objectives for the Transmission Access Review. In any case, it would be crucial to ensure that there was a clear process for users to trigger investment and for NGET to provide capacity within appropriate timescales.

Complementarities

While we recognise that it is not strictly an issue for the CUSC Panel, we feel that the effectiveness of CAP166 will be influenced by a series of wider industry developments which will need to be developed in concurrent timescales:

- Charging – The way in which prices would be determined under any of the alternative approaches will need further consideration and, potentially, consequential changes made to the charging methodologies.
- Incentives – As we have stressed throughout this response, an appropriate incentive scheme for transmission licensees to deliver capacity in fixed timescales is, in our view, a key component of any regime.
- Incremental Capacity Release – Depending on the proposal chosen, there may be a need to develop an incremental capacity release methodology and specify a mechanism for triggering investment.
- GB SQSS Review - The interaction between the GB SQSS and the setting of baselines arguably increases the importance of the GB SQSS review project. It will be important that any conclusions are capable of feeding into the process of determining baselines.
- Transitional arrangements - A proposal of this sort will not be simple to develop and implement. There is a risk that doing so too quickly could create risks and unintended consequences and, potentially, undermine some of the intended benefits. We therefore consider that it will be important to consider transitional arrangements (i.e. arrangements to apply between a decision on CAP166 and its go-live date), noting that existing arrangements are demonstrably not fit-for-purpose.

Process

We recognise and appreciate the considerable effort that National Grid and several other industry participants have invested in developing what are, necessarily, a complex series of proposals. We also appreciate the opportunity to make further comments on the more developed proposals under CAP166. We would, however, like to express our view to the CUSC panel that there have been practical difficulties involved in usefully responding to a consultation document with well in excess of six hundred pages within a two week timeframe.

Should you wish to discuss this response further please do not hesitate to contact me.

Yours sincerely,

Michael Dodd,
GB Regulation Manager

By e-mail

Fred.Olsen Renewables

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23rd February 2009

Dear Bali,

***Re: Fred.Olsen Renewables Ltd. (FORL) Response* regarding CUSC Amendment Proposal CAP166 Transmission Access Long Term Entry Capacity Auctions**

FORL have been supportive of the development of alternative access models which are based on allocating all serious access requests. As active members of both SRF and BWEA Grid Groups, we have followed the development and debates surrounding the volume and duration model, and believe that some of its features do have some merit but overall we have serious concerns.

FORL prefer the Connect and Manage approach as a potential solution to some of the current access issues and our opinion is based on the comparison of of C&M against CAP166.

The concerns highlighted of which have issue are:-

Cost to the UK Consumer - the key objection to Connect and Manage is cost to the consumer. It is accepted that there are come checks and balances which could make Connect and Manage more palatable, and have supported the bringing forward the Connect and Manage Alternative which seeks to target costs on new users. We are aware of the concerns that this could be discriminatory for new users.

Discrimination - The princpal concern with the volume and duration model is the likelihood of a one-off re-allocation of long-term access, with subsequent rounds just offering short-term access. This approach appears unduly discriminatory to those not in a position to participate in the first round. It is accepted that this is only an issue until such time as additional new capacity becomes available, and that for any access model this is a difficult quandry to resolve, FORL continue to believe that a sensible Connect and Manage regime is a simpler solution.

FORL share the BWEA's concern that the volume and duration model is being driven by a desire to re-allocate existing access rights. This is a controversial move for which we see no objective justification. We would question whether alternative measures such as a full – open and transparent – review of constraint costs, might not better address Ofgem's concerns. We will follow and contribute to the recent developments in that area.

We are also concerned about the step-change in access rights and costs that the first auction could create, especially if the process has the potential to create some unintuitive results.

Stranded assets - The issue of stranded assets has generally been addressed in TAR through the user commitment regime, which has not been fully bottomed out. FORL is confident that Connect and Manage with suitable user commitment is a good deterrent for stranded assets.

FORL are concerned that the volume and duration model could have unforseen impacts, but this is unclear as we do not have a good feel as to whether the regime would encourage new generation and hence provide a steady demand for assets which might offer a back-up to the user commitment regime. BWEA would also note that where existing users lose their wider access, there is the potential for stranded local assets if they cannot be re-used elsewhere.

Development of the volume and duration model - We do not consider the volume and duration model to be sufficiently developed to allow a decision on its approval or not. The model is is also quite complex and we do not yet feel we fully understand all the issues and have yet to work through all of the implications to FORL.

General comments - We are of the opinion that a sensible Connect and Manage regime offers the best deal all round. It is accepted that there is no absolutely perfect solution on the table, and that there may be a need to refine the regime as it moves forward.

Both the volume and duration model and the CAP 164 Alternative deal with constraint costs by targeting them onto specific users. We do not concur with the view that targeted costs are necessarily a better deal for customers. The consumer ultimately pays for new generation and when there is an Obligation for renewables and where competitive pressures are mostly through the development stages, there is potentially very limited scope for competition for access to bring prices down. We are not opposed in principle to cost targeting, but consider that simplicity, expediency and predictability are just as important.

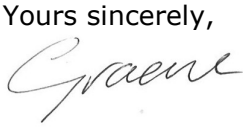
BSUoS is a concern FORL note that Ofgem has initiated a review of this issue. We believe that BSUoS, specifically in relation to Scotland, to be over stated and a short term 'cost' that would be largely resolved by adequate network investment.

We are also concerned that there is an underlying assumption that targeting a cost means that it no longer needs to be managed or mitigated by Ofgem or National Grid. This is absolutely not the case with constraint costs, where those being targeted with the cost will often have very little control over the cost.

Finally, we feel that the best way to enhance consumer value under the Renewables Obligation, and to reduce polluting emissions, is for renewables to connect and generate power.

I hope that our response is useful and if you require clarification of any of the points raised then please get in touch.

Yours sincerely,



Graeme Cooper
Fred.Olsen Renewables Ltd.

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23 February 2009

CAP166 Long-term entry capacity auctions

Immingham CHP LLP welcomes the opportunity to respond to this consultation.

We are strongly opposed to this proposal, which runs contrary to established and legitimate rights and practices, and do not believe that it will facilitate the applicable CUSC objectives. On the contrary it would add significant further complexity in an area of the market that is already difficult for developers, and it will increase risk within the sector which will ultimately adversely impact consumer prices. We also have serious concerns about the process that has been followed to develop it and the consequent robustness of the final product.

These statements are developed further below.

Incompatability with existing contracts

We do not accept the premise that transmission capacity is available for auction in the way set out in the proposal. ICHP considers that it has secured evergreen transmission access rights contractually and that there is no ability to remove these rights without legislation and significant compensation. Generators should not be asked to acquire rights that have already been secured under contract provided they are using those rights. This is not an issue that Ofgem has been prepared to discuss over the life of the working groups, but it is fundamental to the entire proposal.

Contradictions with other changes

Even if the proposal were feasible we do not consider that an auctioning process is an appropriate means of allocating network capacity. Fundamentally the transmission system is nodal in nature and was designed for generation in specific locations. The difficulty of designing meaningful zones within which to operate an auction is a consequence of this and there is a danger that trying to shoehorn the auctioning of capacity will be sub-optimal in terms of allocation. It will also create substantial complexity for participants, benefiting those who are more informed and who have the ability to achieve diversity across large portfolios.

There is a further fundamental problem with the proposal in terms of its implications for charging for transmission use of system. The auction would provide very different pricing signals from the current TNUoS approach, being based on value, rather than on cost. But under the current arrangements transmission system revenues are specifically regulated, with transmission owners having a maximum allowable revenue that they can recover annually. This proposed change would mean that, while the auction discovers the price that participants are willing to pay for capacity, the constraints of the allowed revenue would mean that any under or over-recovery would need to be returned to participants. The two approaches appear to be incompatible, and have created significant distortions in the gas market where a similar approach has been adopted for entry, and there has been as yet been no adequate explanation of how this interaction might be resolved in the specific circumstances of electricity transmission. More generally it highlights the fact that there has been no associated pre-consultation on charging, and without that it is impossible to assess the impacts of the auction proposal.

Further we question why National Grid assumes it needs auction signals to know where it should invest since it has an extensive queue of projects already. There are in effect already clear user commitment arrangements in place in the form of bilateral contracts and final sums liability, and any short-comings could be readily addressed by lower-level changes such as the introduction of a capacity reduction charge. CAP150 has already introduced a mechanism for addressing speculative applications, and it is likely that this will enhance the existing allocation mechanism.

ICHP also notes Ofgem is separately seeking to introduce new investment incentives on transmission companies to permit a more probabilistic approach to investment. We consider that appropriate incentives on National Grid to start investment ahead of obtaining user commitment could be a more effective means of targeting investment where it is needed and with far less disruption and creation of risk.

Undermines achievement of applicable objectives

We also believe that an auctioning process would be costly and resource-intensive and add substantially and unnecessarily to the level of industry complexity faced by participants. It would deter new entry and, from an existing participant's perspective, it will inhibit new investment. The increased complexity and risk will also increase the cost of capital across industry.

These effects would act directly contrary to the stated central objective of the transmission access review to ensure that the transmission system and charging and access arrangements can facilitate the connection of a significant amount of renewable generation to meet the Government's 2020 targets.

Flawed process

The timetable for developing such a major and far-reaching proposal has, at five months, been extremely short given the complexity of the proposed solution and the alternatives, and we have serious reservations about the overall workability and robustness of the proposals that have emerged and about how thoroughly they have been assessed. Early consideration of the charging impacts and a detailed cost benefit analysis should be a pre-requisite for such a development to proceed any further, and these matters should be referred back to the working group.

Given the haste of the assessment process, the scope for unintended risks and consequences is immense. So far we understand that there has only been limited testing of a simplified model, which is quite inadequate for a change of this magnitude. Ofgem has also undermined the process by inhibiting the time available for development of the original then approving an extension for assessment of the alternative. The group has also asked for more time to complete their work, but that has been denied them.

In conclusion, therefore, we do not support the introduction of the changes proposed in CAP166.

Please let me know if you would like to discuss any aspect of these comments further.

Kirsten Elliott-Smith

Mark Duffield
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23rd February 2009

Dear Mr Duffield,

CUSC Amendment Proposal CAP 166: Long-term Entry Capacity Auctions

InterGen welcomes this opportunity to respond to the consultation on *CUSC Amendment Proposal CAP 166*. InterGen is the largest independent gas fired generator in the UK and has developed one third of the UK's new installed gas-fired electricity generating capacity in the last ten years, investing £1.4 billion.

InterGen is committed to the UK and seeks to continue to build on its investment. InterGen supports the Government's commitment to address Transmission Access and Renewable Deployment. InterGen appreciates the efforts of the Working Groups that were formed to expand upon the original six Transmission Access proposals, particularly in light of the limited time available and urgent need to address the current connection queue stagnation.

InterGen appreciates that a large amount of renewable generation will need to be commissioned to meet the UK's 2020 obligation, and considers that this is best addressed by the Renewable Obligation reforms. There is also a recognised demand for new thermal generation in the UK to bridge the forecast supply gap during the next decade as emissions limits are tightened and ageing plant is retired. InterGen believes that it is vitally important that Transmission Access Reform does not jeopardise the ability of investors to address that gap.

Evergreen Access Rights

While InterGen understands NGET's need to have clear signals on plant retirements so that capacity can be reallocated, InterGen has 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 166 are impermissible. To address this matter appropriately, reform of the arrangements must take account of the existing generating assets which have been constructed at significant expense and operated on the basis of contracts put in place under the current framework. InterGen, along with many other generators in the UK, will not be able to unravel current bilateral agreements in place with NGET under this proposal.

Time Constraints

The time allotted to develop this process has always been at odds with its complexity, and Ofgem's refusal to allow the Working Group time to develop the model adequately does not fit with Ofgem's apparent promotion of this proposal. Therefore InterGen cannot determine with any confidence which of the alternatives proposed (WGAA1, WGAA2 or WGAA3) better meets the CUSC objectives, when we have no definition and detail of the boundary constraint models they entail. It would be impossible for InterGen to analyse fully all the options without cost-benefit analysis combined with some expert advice on auction design. The auctions process requires significantly more work before it is developed into a state where generators can effectively model the impact this will have on their business.

InterGen appreciates the efforts of all the Working Groups involved in the TAR process, though time and resource constraints have meant InterGen has not been able to be involved to the extent that the WG members have. This opinion will no doubt be echoed by other independent generators. It is InterGen's understanding that more than one of the groups has met over 30 times since April 2008, a frequency which InterGen could not support. In addition, the small timescales that have been allotted to respond to the consultations have been equally frustrating, particularly as InterGen has not been involved in the WG process and therefore have had to digest the considerable volumes of proposals in a matter of days in order to respond. The volume of information within the consultation documents has been overwhelming and it has not been easy to try to pick out the underlying principles behind each auction design. InterGen fully supports AEP's request for a 'Day in the Life' workshop to demonstrate how the TAR proposals would work alongside each other, and were disappointed that their requests have not been met.

The inherent complexity of any auction process would in itself act as a barrier to entry to smaller, independent generators trying to secure existing or pre-commissioning transmission rights. Larger, integrated players would be better positioned to manage the vagaries of the new regime, be able to allocate more resource to understanding the auction design and be in a better position financially to ensure their capacity could be booked.

Queue Management

Ofgem's factsheet 'Connecting Renewable Generation' (No. 76, 4th November 2008) states that one of the driving forces behind TAR is the Connection Queue, and that 'sometimes, generators who have a realistic chance of being built, have to wait years for a connection'. InterGen believes

that this issue is being addressed by the CAP 150 - Capacity Reduction amendment, which currently has had insufficient time to be fully tried and tested. However, National Grid has started reporting on CAP 150's effectiveness in its Quarterly Connections Update, and states that so far '454MW of consented projects…are able to advance in the Queue' (January 2009). It is worth noting that the majority of these advancements are for renewable generation in Scotland. InterGen believe that there is an urgent need for CAP 150 to be applied rigorously to free up unviable connection dates currently held by proposed nuclear plants and some offshore wind.

Investment Signals

InterGen is concerned about the impact that Capacity Auctions will have on new investment. It is understood that at least 20GW of new generation will need to be built in the UK in order to address the supply gap during the next decade, due to emissions legislation and an aging generation fleet. In its current form, adopting CAP 166 will result in an inability for generators to support investment decisions due to the lack of certainty over long term access to the transmission system. Funding of power projects can be over 20 years and the uncertainty over long term access rights will at best restrict funding and at worst stop it. Currently generators in the UK secure access to the transmission system through a bilateral contract with the Transmission Operator. An asset with no firm long-term TEC has a greatly diminished value. Transmission access rights need to be long term to address this issue. A clear, stable regulatory, market and industrial environment is essential in order to guarantee a significant amount of new build, both new renewable and thermal generation in the UK, particularly in the current global economic climate.

In addition, adding a premium to the transmission system in areas where it is most heavily constrained will drive up the price in the very areas in which new renewable generation would be trying to connect (offshore, North Scotland for example), therefore creating increased barriers to entry for new renewables as well as ultimately driving up the cost to the consumer. In this respect, InterGen does not believe Capacity Auctions will help the government meet its 2020 renewable targets and in addition could greatly exacerbate the current security of supply worries by driving off new investment.

In Conclusion

The complexity of CAP 166 and the timetable for consultation has hindered InterGen's full assessment of the changes in detail and, if adopted in its current state, will undoubtedly delay much needed investment in the UK generation fleet. InterGen reiterates its previously expressed concerns that important recent innovations delivered by the CAP150 – Capacity Reduction amendment have had insufficient time and political support to be fully tried and tested. InterGen believes that new generation projects should be accelerated on the basis of viability and should progress through the mechanisms established by the GB Queue Management Committee. To avoid discrimination and market distortion the basis for acceleration should be the same for all

participants and should not prioritise specific generation types, especially those such as renewable that already receive direct support.

Yours sincerely,

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19th February 2009

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Dear Bali

CAP 166 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 14th November and wish it to be carried forward to this consultation. We believe that it covers all of the substantive issues associated with WGAA1 and WGAA2. WGAA3 was developed by the group following an additional 8 week extension granted by the CUSC panel, and this response relates principally to this alternative.

We do not support WGAA3 and believe that current SQSS approach with the addition of some form of finite rights commitment and specific actions to deal with boundaries that are non-SQSS compliant will lead to the most economic solution. Although we do not support WGAA3 it is significantly better than either of the other working group alternatives.

The alternative is based on a volume duration auction where access is requested at a node. Following an assessment by NGC if access can be delivered without additional infrastructure long term access is granted and charged at TNUoS. If additional infrastructure is required then the existing access is reduced pro-rata behind boundaries and issued as long term access. The volume above the pro-rata reduction is offered as short term access and priced at the short run marginal price to include constraints.

The auction would be run in multiple rounds with participants allowed to increase and reduce volume and duration until stability is achieved. Security would be required for any infrastructure build associated with new LCN connections.

We believe that allocating transmission access based on the current SQSS methodology is the optimum way to allocate and share transmission access. The SQSS shares access by firstly de-rating all generation to meet demand and then using a merit order approach to determine boundary flows. This allows a sharing of transmission rights by all types of generation.

We believe that the SQSS methodology with its implicit sharing of access provides the most economic solution for all boundaries that are SQSS compliant. It allows NGC to run scenarios based on relative fuel merit orders and taking into account plant types (base load, intermittent energy constrained) to arrive at an economic level of investment. This has worked well across SQSS compliant boundaries. Across boundaries that have derogation to the SQSS ,the volume of rights has been seen to exceed the capacity that is available.

We believe that transmission allocation across non-SQSS compliant should be dealt with on an individual basis (possibly by a pro-rated approach if compliance cannot be achieved in a reasonable time via infrastructure construction).

The specific issues associated with WGAA3 that we think still need to be addressed are:-

- With a fully SQSS compliant system WGAA3 will release less TEC than is currently released. This indicates that a solution based on a pro rated approach is sub-optimal as the volume of constraints on SQSS compliant parts of the system is low.

- We believe that the pro-rating should take account of plant characteristics and the overall merit orders in a co-ordinated way. This cannot be achieved by individual generation who require access when the plant is either available to generate (wind) or economic. The economic operate of plant has a direct correlation to demand and relative fuel price. The discussion in WGAAP1 only focused on wind related load duration issues and the wider use of merit orders and demand correlation were not part of the alternative. We believe that the merit order approach should be used prior to any pro-rated approach. The pro-rated approach should only be used to reduce the capacity available on similar types of plant if the merit order approach still results in constraints.

- The pro-rated approach does not deliver an economic solution. For example in a system where Nuclear plant and low load factor plant (Oil plant, Pumped Storage, OCGT etc) are both located behind a boundary, NGC would assume both plants to be running base load and as such pro-rate each station back by the same amount. This would seem to be a sub optimal approach given both plants can be accommodated with minimal constraints.

- We believe that, because of the nodal nature of the transmission system (the system is designed for generation in specific locations), transferring these transmission rights to others results in a sub-optimal allocation of the system and reduces the overall volume of rights that can be allocated. The current system has been designed by taking account of the generation type and location; the SQSS, although to large extent

deterministic, allows deviation based on specific plant issues. If there were changes to the plant types, increasing the load factor, then this could lead an exacerbation of constraints and a sub optimal systems design. In practice it would be likely that a reduced volume of rights would be allocated as it would be assumed that generation at all locations would be base load in nature (the SQSS currently has different allowances for different plant types e.g. wind).

- The specific methods proposed do not deal effectively with multi-year applications. Generation can be successful in one year for longer term rights but unsuccessful or pro-rated in subsequent years. The possibility that a station will lack access at a firm price (the short run price could potentially vary up to real time if it was based on overrun) will not only increase the investment risks for any new generation asset (at a time when a significant amount of capacity is required) but also act as an impediment to investment in the existing generation fleet.

- New generators who wish to acquire capacity in an auction are only likely to bid post planning consent. If the new capacity requires reinforcement of the TO system then it is probable that planning consent would expire prior to that reinforcement being in place. This would lead to the same issue that currently occurs where generators cannot apply for planning consent prior to grid connection because of the time taken to reinforce the system. This will not improve the interactions between planning consent and grid connection.

We hope that these comments are useful.

Yours sincerely,

Simon Lord,

Transmission Services Manager

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14th November 2008

Sarah.a.hall@uk.ngrid.com

Dear Sarah

CAP 166 Long-term Entry Capacity Auctions

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) has 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

The working group report considers a number of alternatives for the auction of capacity. The initial proposals centred on zonal auctions where generators would bid for capacity in a zone. As the working group moved forward it became increasingly apparent that zonal interaction reduced this approach to a quasi nodal one.

The report puts forward several methods to facilitate auctions at a nodal level e.g. load flow, boundary flow and ex-ante allocation. Each of these approaches has significant problems in that, from a generator's perspective, it is difficult to establish which stations are the generator's direct competitors; this uncertainty impedes the formulation of a robust bid strategy. The key issues with auctions are:-

- Currently transmission access on the MITS and wider boundaries is shared by generation. The SQSS methodology for main boundary flows assumes a 20 % plant margin and ignores generation above this level for boundary flows. The effect of this is to allow sharing of boundary flows amongst existing plant. An auction will potentially curtail the sharing of these boundary flows even if the 20% plant margin in the SQSS is adopted.

- There is significant complexity associated with all of the auction alternatives. The determination of baseline capacity and incremental build will lead to potentially 100's of boundaries/nodes where capacity could be sold. Market participants would need to understand both the implications of these boundaries/nodes as well as the allocation methodology for multi-round, cleared auctions. The sheer complexity of this is a significant barrier to entry to all but the largest, well resourced companies.

- We believe that, because of the nodal nature of the transmission system (the system is designed for generation in specific locations), transferring these transmission rights to others results in a sub-optimal allocation of the system and reduces the overall volume of rights that can be allocated. The current system has been designed by taking account of the generation type and location; the SQSS, although to large extent deterministic, allows deviation based on specific plant issues. If there were changes to the plant types, increasing the load factor, then this could lead an exacerbation of constraints and a sub optimal systems design. In practice it would be likely that a reduced volume of rights would be allocated as base load generation would be assumed at all locations (the SQSS currently has different allowances for different plant types e.g. wind).

- The specific methods proposed do not deal effectively with multi-year applications. Generation can be successful in one year but unsuccessful in subsequent years, this may appear to have triggered reinforcement but if the 50% of UCA hurdle is not met then the re-enforcement will not be delivered. The possibility that a station will lack firm access to the transmission system for some years will not only increase the investment risks for any new generation asset (at a time when a significant amount of capacity is required) but also act as an impediment to investment in the existing generation fleet.

- New generators who wish to acquire capacity in an auction are likely to only bid post planning consent. If the new capacity requires reinforcement of the TO system then it is probable that planning consent would expire prior to that reinforcement being in place. This would lead to the same issue that currently occurs where generators cannot apply for planning consent prior to grid connection because of the time taken to reinforce the system. This will not improve the interactions between planning consent and grid connection.

- In different auctions it is likely that capacity will clear at different values. This could mean that once reinforcement has been triggered in one auction the value of the capacity could fall in subsequent auctions. This would mean that subsequent parties pay less for capacity once reinforcement has been triggered. This appears to be an anomaly.

- The revenue recovered from an auction is highly uncertain. Significant competition in an area could lead to significant over recovery whilst lack of competition (if the interaction with planning consent is too onerous) could lead to significant under recover. As the TO revenues are fixed, a methodology will need to be developed to deal with the over recovery / under recovery. It would provide inefficient market signals. Given the volatility of the residual, someone in a constrained zone could pay a lot for access and then be exposed to a high residual charge as well should the rest of the market under-recover.

We do not believe that auctions will lead to any improvement in the allocation of rights as it will remove the current implicit sharing of rights and replace this by a sharing regime (CAP163) that is not capable of allowing sharing of capacity to the extent currently available.

We believe that the working group should consider the effect that the proposed auction could have on the allocation of rights to high merit order plant. This class of plant that is currently excluded from the wider capacity flows as it is deemed to share these flows with low merit order plant but is allocated and pays for TEC. We believe that limiting the current implicit sharing that occurs as part of the SQSS could potentially lead to the situation where plant that would have been brought on to provide margin may not have wider access rights**.**

We hope that these comments are useful.

Yours sincerely,

Simon Lord,
Transmission Services Manager

SUMMARY RESPONSE TO CONSULTATION ON CUSC AMENDMENT PROPOSAL (CAP) 166 BY POWERFUEL POWER LTD

1. Powerfuel Power Ltd. is a new entrant generator. We are planning investment in a major 900MW coal fired IGCC power project with carbon capture and storage, in two phases, the first phase of which is a natural gas fired CCGT. We have a connection agreement with National Grid Electricity Transmission Plc., by virtue of which Powerfuel Power Ltd is a CUSC party.

2. Our attention has recently been drawn to the series of five major consultations on proposed amendments which are being conducted as part of the Transmission Access Review.

   We are highly concerned at the potential implications for the system, and we are similarly concerned at what we perceive is an unsatisfactory process.

3. The process appears to be characterised by a forced pace and apparent lack of regard for the views of those already consulted within the industry. There seems to be a consensus that inadequate work has been done on the set of proposals.

4. CAP 166, Transmission Access – Long Term Entry Capacity Auctions, represents a fundamental and radical change for the GB system, and should not be considered by a process suffering from the problems identified in paragraph 3 above.

5. Our view is that the next few years are highly critical for investment decisions in relation to what is acknowledged to be a very major requirement for new generation. In such circumstances it would seem highly undesirable, to say the least, that the TAR process significantly increases risk and uncertainty concerning access arrangements.

6. Moreover, if and to the extent that any future arrangements do operate so as to significantly increase the risk and unpredictability of grid access, investment in generation will become more difficult and could increase the cost of capital.

7. The foregoing comments are relevant to all generators. Powerfuel Power Ltd is particularly concerned that the practical effect of the proposals could also be anti-competitive. This is because.

(i) new entrants are much more likely to project finance their investments, and

(ii) large incumbent generators have an advantage in auctions insofar as they can dominate auction processes, and acquire far greater experience in bid strategies.

The requirement to avoid discrimination against new entrants and smaller generators is great, not only arising from competition law, but also because new entrants so often lead technological innovation in this industry, as indeed is the case here with Powerfuel Power's project, an IGCC with carbon capture storage.

8 Powerfuel Power Ltd believes that the clear implication of its connection agreement, including as to legitimate expectation and design of the charges, is that the consequent access is for firm, long term rights. Therefore it is unacceptable for these rights to be radically changed and/or without compensation.

8. Powerfuel Power Ltd. requests that these points are taken into account. Our view is that a move to an auction process should not be approved at this time. If the process of considering CAP 166 is to continue it must allow proper time for the options, including others which may emerge from the work, to be fully developed, assessed and consulted upon.

Michael J S Gibbons
Director
Powerfuel Power Ltd.
11th November 2008

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23rd February 2009

Dear Bali,

Response to consultation on CAP 166

The Renewable Energy Association is pleased to be able to offer its comments on your consultation on CAP 166. 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.

We would like to put on record our appreciation of all the work that Working Groups 2 and 3 have undertaken - at over 600 pages without the responses to the Working Group Consultation this must be amongst the longest CUSC amendment reports ever. However our basic view has not changed from that submitted previously. We repeat the key points of our earlier response below for ease of reference.

In summary the REA does not believe that auctions are an appropriate way of allocating transmission access, either for existing generators or for new ones. We therefore do not support the introduction of the changes proposed by CAP 166 nor any of the alternatives.

There are four fundamental reasons why auctions are not appropriate, as well as some practical considerations.

Firstly auctions price transmission access by *value* rather than *cost*. We consider this to be inappropriate for what is essentially a monopoly provider of the service, who should provide it (as now) at a regulated cost reflective charge. We are aware that the revenues of the Transmission Owners would continue to be regulated and the difference between the auction revenue and the allowed regulated revenue would (whether positive or negative) be recovered by a residual charge. However the basic charge in the first instance (i.e. the amount bid in the auction) would, where there was a shortage of capacity, be based on the value of the access to the bidder. This would essentially in the first instance transfer the margin from the energy market (where there are multiple buyers and sellers) to the transmission access providers which are monopolies. The fact that subsequently there is a reconciliation to the allowed revenues for the transmission access providers makes the eventual

charges unpredictable and unlikely unless by chance to turn out for an individual generator to produce a total charge that reflects the costs of providing transmission access for that generator.

We are aware that the comment has been made that it is wrong for generators to be able to trade at value (through subsequent TEC trading) something that has been purchased at cost. Leaving aside any discussion of the veracity of this point of view, we would point out that if transmission access is obtained at cost and subsequently traded via a TEC trade, if CAP161 and CAP 162 (SO release and overrun) are approved there would be alternatives to buying transmission access from a holder at value which should mitigate some of the market power a holder of TEC might have and therefore make this less of an issue. If CAP 164 is approved then there would be an even more significant counter to a holder of TEC making a windfall profit as it could be obtained after a set delay by anybody wanting it.

The second fundamental reason why we feel the proposals are not an acceptable way forward is that the concept of an auction in conjunction with a regulated income for the transmission companies is flawed. If the concept of an auction to discover the value attached to transmission access has merit, then it would only work if the amount offered in the auction (or under WGAA3 the price at which you accepted the offer from NGC) has to signal the maximum that you value transmission access at and are therefore prepared to pay for it. The fact that there will be additional charges in the form of a residual amount that is unknown at the time of bid submission and depends on the outcome of the auction means that you cannot signal in the auction your valuation of transmission access as you may end up paying more than your bid. This makes a complete nonsense of the whole process.

Thirdly we feel auctions are an inappropriate way to allocate transmission capacity as they are an inefficient way of determining the need for new capacity. Essentially parties have either to bid what the capacity is worth to them, giving up their entire margin and then either getting or not getting new capacity, or they must guess what the extra capacity will cost to provide and bid up to the level that will justify that spend according to the rules for triggering new investment. It should not be for generators to try to guess what a transmission investment will cost, particularly as they do not even know what the investment is as they do not know what other parties will be bidding i.e. what the total demand for access will be and therefore what investments may be required. Stating what access a generator would like and then being given a cost reflective charge for that access, as happens now, is a more efficient way of triggering investment. WGAA3 does this and therefore does not in our view fail on this point.

In other words we disagree with paragraph 3.2.3 of the report which maintains that the current arrangements have a defect because "The fact that the true value of transmission access rights cannot be discovered from the market compromises transmission licensees' ability to develop an optimally economical system of electricity transmission…" The transmission licensees are quite able to develop an optimal system of electricity transmission by granting access to those that request it and charging them for the cost of that access on a cost reflective basis.

Finally we disagree with the proposal as it removes the rights of connected generators to have access the market in return for paying charges, unless they are

successful in an auction. Whatever the legal position may be, it is clear that parties that are currently connected to the system genuinely believed that they were guaranteed transmission access for as long as they wanted it, providing they paid the appropriate charges. This includes a significant number of generators that have been constructed since the introduction of the liberalised market. If it is accepted that these rights are only what is set out in the CUSC, and that these can be changed, this undermines confidence. If these rights are altered in such a fundamental way, what confidence will parties will have that this will not be repeated in the future, should it be expedient to do so? In other words even if parties think that they have successfully secured 30 years (say) of access in an auction, what is there to stop that being taken away from them in the future?

We are well aware that there is an issue associated with new players finding it hard to obtain access because of the current evergreen access enjoyed by those already connected. In our view any disadvantage to new entrants can be overcome by offering them access within a set timescale, for example as proposed under CAP 164. If this were adopted the owners of older existing plant would not have to guess when new plant would commission and decide several years in advance when they wished their plant to retire. This would risk a supply gap if the new plant was delayed. Instead they could wait until it was certain that the new plant would successfully enter the market and finalise their retirement decision at that time, based on firm knowledge instead of an assumption of the arrival of new plant made several years in advance.

In other words we think that an auction process would make marginal decisions on keeping generation capacity available more difficult. This is therefore potentially a threat to security of supply and / or would make the cost of providing a given level of security greater.

On the practical front, as opposed to matters of principle, we are not in favour our auctions because of their complexity. Leaving aside any systematic advantage that complexity may give to larger players, the auction process would be a burden to the whole industry which would not welcomed by any industry party.

Much of the report balances increased complexity against increased accuracy in the many variations considered. Just to give two examples it is abundantly clear that an auction based on fixed-in-advance capacity in set zones is a nonsense, as what is available in one zone depends on what is successful in another zone. In order to get anything approaching a superficially efficient result (leaving aside whether it is really efficient at all for the reasons given above) one would have to auction all the capacity simultaneously and the complexity of doing this, particularly if one were to include the cost of providing additional physical capacity, is horrendous. The cost of providing additional physical capacity would depend on what generation configuration you wished to add that capacity to so those costs would depend on the auction itself unless you started by assuming a particular basic outcome, which rather defeats the idea of auctioning all capacity in the first place.

The other area that illustrates the extreme complexity of the proposal is the interaction of the local capacity nominations and the auctions for wider access. If there is competition for local capacity then if who gets that capacity in a particular year is to be subject to the results of the wider capacity auction, then this could introduce uncertainty and potential delay to being able to start work on a project as

well as the offers for local capacity being changed throughout the year as other parties apply for access in the area. This is essentially a function of separating local and wider access combined with not being able to gain certainty about the wider access at the time that the offer for local access is made.

In summary we believe auctions could never be truly efficient. Even if they could, they would have to be extremely complex and opaque. Auctions fail with respect to the four principles given earlier, and do not deliver any improvement in meeting the CUSC applicable objectives.

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

Yours sincerely,

Gaynor Hartnell
Director of Policy, REA.

RWE npower

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Monday 23rd February 2008

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CUSC Amendment Proposal CAP166 Transmission Access – Long-term Entry Capacity Auctions

Dear Hedd

Thank you for the opportunity to comment on the Consultation on CUSC Amendment Proposal CAP166 Transmission Access – Long-term Entry Capacity Auctions. This response is provided on behalf of the RWE group of companies, including RWE Npower plc, RWE Supply and Trading GmbH and RWE Innogy.

As we stated in our previous submission on CAP166 we remain unconvinced that the auction proposals as currently developed in the consultation document are capable of delivering enhanced connection of renewable schemes. Although we do not, in principle, object to auctions, the proposals are insufficiently developed to be properly assessed at this stage. Attempting to implement an auction regime by April 2010 seems unrealistic and would represent a significant risk for all users of the GB transmission system.

While we recognise and support the imperative to facilitate connection of renewable schemes to the GB transmission system we remain concerned about the revenue adequacy of the auction proposals and the recovery of the cost reflective locational elements of the current charging arrangements, which are an indispensable part of any transmission access regime (and a legal requirement on NGC under its licence).

At this stage, our view is that a connect and manage approach based on WGAA1 of CAP 164 – with constraints costs targeted on the parties that give rise to the need for constraint actions - is the most likely to deliver enhanced connection opportunities for renewables in the quickest timescale.

Even though we do not support the implementation of CAP166 or any of its alternatives as presented, we would support further evaluation of the proposals. Of the options contained in the consultation document we consider that WGAA3 has the greatest potential for further development. WGAA3 may enable generation projects to connect to the transmission system earlier than would otherwise be the

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case, has the potential to make the transmission network more efficient and flexible for all generators (including renewables) and should ensure that the total cost of the network is met on a cost reflective basis.

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

Yours sincerely

By email therefore unsigned

David Mannering
Director of Economic Regulation
RWE npower

SCOTTISHPOWER
Energy Wholesale

Bali Virk
UK Transmission Commercial
NGT House
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Warwick CV34 6DA

23 February 2009

Dear Bali,

Response to the Working Group Report CAP166
Transmission Access – Long-term Entry Capacity Auctions

Thank you for the opportunity to respond to this 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 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.

We believe that the introduction of auctions as a method of allocating transmission access capacity would increase the uncertainty faced by generators and make GB less attractive for future investment in generation, particularly in the current economic climate, and when significant investment is required both in renewable technologies and in replacement of the existing thermal generation fleet.

The Working Group Report on CAP166 very much represents "work in progress" and requires considerably more work to provide sufficient detail of the processes to enable users to assess the impact on their own business. In particular, insufficient modelling has been carried out to enable users to determine how the auction may operate and which users will be competing for capacity across individual boundaries and the interaction of multiple boundaries.

ScottishPower continues to challenge 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 is significantly undermined.

ScottishPower provided detailed comments on the original proposal and working group alternatives 1 and 2 in our November response to the working group consultation and therefore we will limit our comments in this response to working group alternative 3, the volume and duration auction model.

SCOTTISHPOWER
Energy Wholesale

WGAA3 Volume and Duration Auction Model

There are a number of flaws with the proposed volume and duration model.

Where there has been insufficient investment in transmission infrastructure, the volume and duration model targets operational costs onto existing generators whose connection has not given rise to those additional costs. Many existing generators connected to the transmission system funded the necessary deep reinforcement at the time of commissioning and may now find those generation assets stranded due to the application of unacceptably high short-run costs. The risk of stranding assets in this way will do little to reassure potential investors in generation in the UK and may compromise security of supply through the early retirement of plant.

The lack of investment in transmission infrastructure has been most evident in those areas of GB which have the greatest renewable resource. By targeting back operational costs upon those areas which have not benefited from investment, the proposal will deter investment in renewable generation and may result in failure to achieve the government's renewable targets.

The volume and duration model, in common with the other auction proposals considered, delivers a one-off reallocation of capacity from existing users to users able to participate in the first auction process. The proposal does not address the issue of potential discrimination against users who are unable to participate in the first auction and face higher charges as all long-term access will have been allocated in the first auction and only short-tem access will be available.

Constraint costs provide an important signal and financial justification to the system operator and transmission owners of the need for further investment in the transmission system. There is a real risk that, by passing constraint costs back to users, the incentive on transmission owners and operators to invest in transmission infrastructure is weakened and that constraints persist for longer than necessary to the detriment of generators, consumers and the UK economy.

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 Manager

14 November 2008

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Dear Bali

CUSC Amendment Proposal CAP166 Transmission Access - Long Term Entry Capacity Auctions

Many thanks for the opportunity to respond to the consultation on CAP166. Scottish Renewables is the trade association for the renewable energy sector in Scotland. We represent more than 240 businesses and organisations all with an interest in successfully utilising Scotland's renewable energy potential. You can find out more by visiting www.scottishrenewables.com.

As you know Scottish Renewables, through Xero Energy, has been involved in all three working groups considering six CUSC amendments (CAP161 to 166). This has given us an insight into the scale of change that is being proposed and the complexity of the amendments.

Summary

Scottish Renewables, following consultation with its membership, does not accept that the original amendment (CAP166), or its alternatives WGAA1 and 2, would deliver an acceptable outcome for new and existing renewable electricity generators in Scotland.

Last year we responded to National Grid explaining our opposition to the auctions model and we would refer you to that more detailed response. We continue to believe that the auctions model as described in the original, and alternatives one and two, would seriously undermine UK climate change objectives because it would weaken signals to invest in new infrastructure; that small and community scale projects would struggle to compete in the auctions process; future auction participants may be hampered because they could not participate in the first auction; and, it is generally complex.

However we believe that WGAA3 (capacity and duration) may benefit from further consideration. We offer some advice on what may be considered by any future working group.

WGAA3 Capacity and Duration

National Grid has provided a short period of time to consider WGAA3 (capacity and duration) and this means that its potential has not been fully explored by Scottish Renewables and that, as drafted, its impacts and benefits are not entirely clear.

In particular a number of Scottish Renewables' members expressed a view that resolving the debate around fundamental issues like finite and enduring rights of access through CAP166 may not be appropriate.

Also the two weeks provided to consider the National Grid consultation document on CAP166 is challenging if a complete industry view is required. Having said that, Scottish Renewables has tried to gather the views of its members and has found that there are mixed views on the 'capacity and duration model' with a number saying that some potentially positive ideas have emerged through its development.

Consequently we have concluded that we should not support a capacity and duration model at this stage and that further development might consider:

- **Discrimination:** The initial reallocation of long term access to transmission and the risk of there being only short term access in subsequent rounds may discriminate unduly against future participants which have not had the opportunity to participate in the first round of auctions;
- **Fairness:** Returning any over-recovery constraints revenue from short-run charges equally across all GB generators may not be equitable and may see congested areas subsidising constraints payments across all of GB. Returning it back to those who have over-paid is the only equitable solution; and,
- **Assets:** If 'capacity and duration' undermines the connection of new generation there is a risk of unused network infrastructure.

BSUoS and the allocation of constraint costs is clearly a key concern and we note that Ofgem has initiated a review of this issue. We believe this issue, in relation to Scotland, has been over stated and is a short term 'cost' that would be largely resolved by necessary network investment. We would be concerned if the modifications emerging from the Transmission Access Review failed to trigger the proactive management of constraint costs through investment in infrastructure.

Scottish Renewables has consistently supported a sensible 'connect and manage' access product. A number of 'connect and manage' products have been brought forward including CAP143, CAP148, CAP164 and its alternative. The 'connect and manage' model provides a connection when a generator needs it and in the case of CAP164 WGAA1 and CAP166 WGAA3 targets the costs of constraints back onto those generators that caused them. We are not opposed to this principle but we feel that the benefits of stability, predictability and simplicity, not to mention the need to connect renewables generation as quickly as possible, are equally important.

We continue to support 'connect and manage' because it is the best option on offer for current and future customers.

If we can help by clarifying any of the points made in this response please get in touch.

Yours sincerely

Jason Ormiston
Chief Executive
Scottish Renewables

Scottish and Southern Energy

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Our Reference:
Your Reference:

23rd February 2009

Dear Hêdd,

Company Consultation Document for CAP 166

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 this CUSC Amendment Proposal Company Consultation for CAP166 (which we mean, in this context, as the Original Amendment Proposal plus the three WGAAs). As you may recall we provided comments, via both a covering letter (dated 14th November 2008) and the appropriate pro-forma, for the previous (Working Group) consultation in November. This letter draws upon our previous comments whilst taking account of (a) the development, in particular, of the third Working Group Alternative Amendment (b) the Working Group Recommendations and (c) the initial National Grid view.

General observations

Scottish and Southern Energy (SSE) has supported the Transmission Access Review (TAR) that was initiated by the UK Government and Ofgem in 2007. 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, as we indicated in our letters to you of 31st October 2008, 14th November 2008 and 12th December 2008, 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 proposal for new long term access products, we have yet to be presented with any coherent argument or evidence that there is a meaningful defect to the CUSC that requires the major change to the transmission access regime proposed by CAP166 (or CAP165). The GB Queue has not been caused by the CUSC, but rather by the late delivery of transmission reinforcement (caused by planning problems etc.,). In this regard there is, therefore, no CUSC defect. However, in going down the suggested CAP166 route there is a real possibility that the opposite will happen; e.g. that a defect will arise if CAP166 were to be implemented. Even if CAP166 were to remove the GB Queue, in doing so it would undermine the 'needs case' for transmission reinforcement

For example, paragraph 3.2.3 of the consultation document, in looking at the 'defect', refers to:-

> "The fact that the true value of transmission access rights cannot be discovered from the market compromises transmission licensees' ability to develop an optimally economical system of electricity transmission"

We are concerned that after nineteen years of the regulatory regime being established (and reviewed/amended from time to time; e.g. NETA and BETTA) by Government that this 'defect' should, now, be seriously considered as a credible defect worthy of a CUSC amendment to rectify.

We firmly believe that existing Users have evergreen rights to use the transmission system, so long as they comply with their contractual obligations. There has been no evidence presented to date which has affected this position. Indeed, if such a change were to be pursued, we believe that it would undermine the concordat reached between government and investors at the time of the industry's privatisation, and on which current and future investment decisions are being made. This, in our view, means that CAP166 (and CAP165) is not a valid proposal.

Not withstanding our comments above, we note in relation to CAP166 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, and specifically, generation investment/closure 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 be the detrimental impact on security of supply if this Amendment was implemented? We believe this significant threat to the security of electricity supply (that would arise if CAP166 were implemented) should be given urgent consideration by the CUSC Panel, the Authority and Government and its implications considered more widely before this amendment proposal is further progressed. This is because we have serious concerns that if CAP166 were to be implemented that it would lead, directly, to the forced removal of otherwise economic and efficient power stations from the GB transmission system with a corresponding increase in the risk to the security of electricity supplies.

Comments applicable to CAP 166 (Original + WGAAs)

As noted previously, CAP166 would 'lock-in' the current **TNUoS charging methodology**. We strongly believe that the current charging methodology is undermining UK Government policy by sending a perverse 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 Group was 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 CAP166 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 this CAP166 proposal, 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 Group 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 concern would have been rectified in the Final Working Group Report 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 transferable/reallocatable 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 implications 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 CAP166 Amendment (Original + WGAAs) 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 CAP166, that applications for the new access product(s) should be treated as variations to a User's 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 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 either the Original or the three Working Group Alternative Amendments 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 Group 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, and meet, 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.

Non physical players and CAP166 (Original + WGAAs)

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 4.1.10 of the CAP166 consultation document). 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 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 last year) by allowing for the involvement of non physical players in the CUSC this would, in addition to undermining CAP150, significantly increase the regulatory uncertainty, and therefore risk, 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 and appropriately balanced incentives 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, it is worth noting that, given the current situation within the global financial community, it is 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. Further, even if sufficient initial interest could be generated there is no guarantee of a stable or reliable contribution from non physical players. We are not aware of any proposals which require non physical players to make enduring commitments to participate in the provision of transmission access, unlike the TOs, who are legally required to do so, via their licences. It is entirely possible that the TOs would be left to "pick up the pieces", following the withdrawal of non physical players. 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.

Buyback

We note the discussion in paragraph 4.1.7.5 of the consultation document regarding buyback arrangements. We do not agree with administered prices being applied in circumstances where access to the wider transmission system has been denied, to the generator in question, through no fault of their own. Recognising the concerns (however spurious) about a potential abuse of market power situation we believe that the Authority has sufficient remedies available to it to address this concern (if it were to arise).

Testing of Auction Design

We note the discussion in paragraph 4.1.9 of the consultation document regarding the extremely limited testing so far undertaken of the auction design (for the Original or WGAAs 1 and 2: with no testing at all for WGAA3). This significantly curbs our ability to meaningfully quantify the potential impact that CAP166 could have on our business. This lack of testing (especially for WGAA3) is, in effect, tantamount to a 'leap in the dark' for industry participants that the eventual auction design will work.

Transmission Access Capacity Baseline

We would find it perverse, in the extreme, if the new auction regime introduced by CAP166 were to see the volume of generation connected to the transmission system across GB falling (not rising) compared with the known volume of generation today that is either already connected to the GB transmission system or has a signed connection agreement (which specify a connection date and an associated transmission access volume). The goal should be not just to connect more (MWs) than we are currently building transmission assets for, but to do so more quicker.

It would appear, from the information in the consultation document that, if CAP166 were to be implemented, there could be a reduction in the total TEC in GB. If this were to occur in reality then it could only be concluded that CAP166 was a complete failure (if it were to be approved) in terms of achieving the aims of the Government's Transmission Access Review For the avoidance of doubt, if the total volume of GB generation connected in 2011/12 (i.e. the first potential implementation date for CAP166) or 2012/13 (i.e. the second potential implementation date) was to fall below both the zonal and total GB (MW) figures stated in the National Grid Forecast of Connected Generation (taken from the December 2008 TNUoS Forecast) as shown in the Table 1 below (which we consider to be the 'baseline' of

transmission access capacity in GB) then CAP166 would (assuming you believe there to be a defect – see our comments above) have resulted in a worse outcome than had it not been raised in the first place.

Table 1

	Connected Generation	
Zone	2011/12	2012/13
Zone 1 - North Scotland	697	923
Zone 2 - Peterhead	1,524	1,524
Zone 3 - Western Highland & Skye	280	280
Zone 4 - Central Highlands	404	404
Zone 5 - Argyll	625	625
Zone 6 - Stirlingshire	2,753	2,753
Zone 7 - South Scotland	5,928	6,124
Zone 8 - Auchencrosh	329	329
Zone 9 - Humber & Lancashire	18,476	18,476
Zone 10 - North East England	3,142	4,461
Zone 11 - Anglesey	1,355	1,625
Zone 12 - Dinorwig	1,644	1,644
Zone 13 - South Yorks & North Wales	16,784	17,508
Zone 14 - Midlands	9,052	9,052
Zone 15 - South Wales & Gloucester	8,055	8,055
Zone 16 - Central London	144	144
Zone 17 - South East	15,984	16,614
Zone 18 - Oxon & South Coast	4,079	4,079
Zone 19 - Wessex	3,500	3,500
Zone 20 - Peninsula	1,045	1,045
Total	95,800	99,165

Working Group Alternative Amendment 3

We note the discussions recorded in section 4.2 of the consultation document as regards the discussions undertaken by the Working Group, during the extension, on "Capacity & Duration Auctions". As has been indicated during the Working Group deliberations there are a host of flaws with this proposed approach from the point of view of both 'new' and 'existing' generators. We do not support the implementation of WGAA3.

For example, with the suggested approach for dealing with the **'pro-rata'** of Long Term transmission access capacity (which is explored in section 4.2.5 of the consultation document) generators could find the % of their TEC costed as 'long term' (e.g. TNUoS) decline over time whilst the corresponding 'short term' (e.g. linked to constraint type costs) increases.

Given that the boundary limitations within GB (as outlined in Annex 3 of the consultation document) are likely to extend northwards from the "B9" boundary line (which runs approximately east-west from The Wash to Cardigan Bay) this implies that the majority of

the generation connected in GB will, with WGAA3, be subject to a proportion of their transmission access capacity being allocated on a 'pro-rata' basis for some period of time.

Whilst, in theory, if a generator does not like the price offered in one round of the auction they can either reduce their nominated volume and/or duration, in a subsequent round, in order to seek to reduce the price, this reduction must be at the expense of reducing the output/operation of their power station. It cannot be economically efficient for existing power stations, which have paid for the transmission system to be built and maintained over many years, to be forced to now reduce their plant output (due to reduced transmission access arising from the auction). It is also not certain, given the requirements of environmental regulations etc., that this plant can operate 'part-loaded' to the new 'pro-rata' level. Notwithstanding the environmental regulation aspects, consideration also need to be given to the negative impacts on the environment that could arise, from part loading etc., if WGAA3 were implemented. We look forward to this being addressed in the Authority's forthcoming Impact Assessment.

On a point of accuracy, it seems that some of the indicative 'pro-rata' analysis in section 4.2.5 of the consultation document as regards the type and volume (MW) of generation in "Z3" maybe inaccurate.

Whilst we do not support WGAA3, in any respect, we believe that the "least worst" implementation would be an **'ascending/descending'** model (allowing generators to increase/decrease their volume and/or duration between auction rounds) as the most pragmatic way forward.

A further detrimental aspect to WGAA3 is that ALL power stations north of "B9" will need to sign new **Construction Agreements** (see, for example, paragraph 5.5.15.2 in the consultation document). This places a huge administrative burden on CUSC Parties who may never have had a Construction Agreement in the past. For example, at this indicative stage, it would seem that we as a company may be required to enter into over sixty of these new agreements (in many cases for power stations that have been connected to the transmission system for over 40 years). Of course, this also places a great burden on National Grid and the associated cost will be levied back to the rest of the industry (who will ultimately recharge this, plus their own associated Construction Agreement costs, through to the end consumers).

In addition to the administrative burden it also exposes, in particular, existing power stations to the real risk that National Grid will seek to impose, retrospectively, via these new Construction Agreements, obligations that these plants were never designed to perform. An example of this would be the unwarranted imposition of inter-trips on power stations north of

"B9" as a result of the auction. There is also the potentially significant burden (for existing power stations) of being required, under WGAA3, to provide security for new build transmission assets. This seems especially iniquitous where, in the past, that same power station has been required to pay for/secure all those transmission works that they were told, at that time, were needed to connected them to the transmission system. Retrospectively changing the commercial/operating arrangements in this substantial way significantly undermines investor confidence in the GB generation market going forward, the implications of which, on the ongoing viability of generation (with associated negative connotations for competition) are likely to be significant.

A further negative aspect of this requirement, to sign a new Construction Agreement, is that all those generators who have an existing Construction Agreements (upon which basis they have obtained, for example, project finance etc.,) but have not been built/commissioned, will find these are 'null & void' under WGAA3 (replaced by the new Construction Agreement). This too, we believe, will significantly undermine investor confidence in the GB generation market and will be (i) detrimental to competition; (ii) endanger the security of electricity supplies; and (iii) increase the risks of doing business in "UK plc" with adverse consequences for investment.

We also have concerns regarding the serious risk of **Short-Run Over - / Under Recovery** arising from WGAA3. This not only undermines the (supposed) auction signal it also impinges on the ability of generators to operate with the certainty they need (which they obtained, to a greater extent than WGAA3, via the current – baseline – arrangements).

As a point of clarity, the justification of CAP166 is, *inter alia*, based on providing long term certainty to the GBSO. Given that, in any event, the GBSO's agreed costs are fully recoverable (from Suppliers and Generators) we do not accept this as a justification for the proposed CAP166 change. It should also be noted that consideration has not been given to providing long term certainty to generators (which would be exacerbated by fluctuations arising from the Short-Run Over / Under Recovery).

With respect to the **Validation Run** aspects, outlined in section 5.5.10 of the consultation document, we question whether it would be legally permissible to remove a property right (TEC) from a CUSC Party for the remaining duration of their booking, without compensation, whilst still (i) charging them for that capacity/duration and/or (ii) selling on that capacity to others. Furthermore, what happens to the additional revenue (under (ii)) that arises from this misappropriation?

We also note the limited time available to the industry to debate the fundamental issues arising from WGAA3 (and support comments made in the Working Group and elsewhere on the impact of the short timescales on the quality of the report).

Working Group Alternative Proposal 1

We note the discussions recorded in section 4.3 of the consultation document as regards WGAP1. We appreciate that this does not constitute CAP166 (either the Original or the three WGAAs). However, for the avoidance of doubt, based on the very limited information outlined we agree with the Working Group that there was insufficient information / clarification / analysis / discussion to take this proposition forward at this time.

Implementation Date

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 CAP166 would, if approved, be implemented sometime beyond 1st April 2010 (as noted in paragraph 7.2.3 of the CAP166 document). In other words the earliest opportunity that the first auction (arising from CAP166) could take place would be the autumn of 2010 for the allocation of transmission capacity from 1st April 2011 onwards. Holding the first auction prior to this date is, in our opinion, infeasible from an industry perspective.

Implementation Arrangements

We have serious reservations that work is being (or will be in the very near future) undertaken by National Grid to further develop CAP166 (Original + the WGAAs) following the work done by the Working Group but prior to a decision by the Authority.

For the avoidance of doubt, we would regard any and all work undertaken by National Grid (towards the implementation of CAP166, prior to an Authority decision) to be done so on a purely speculative basis (on the part of National Grid). If, subsequently, approval were to be received from the Authority for this expenditure then it should only be recoverable for those costs directly related to the Implemented Amendment Proposal(s). Thus, if National Grid had worked on all six proposals, prior to approval, and only one were implemented then only the work on that one (not the other five) would be recovered from industry/end consumers. In this case the work on the other five proposals would be a 'stranded investment' and, as befits the Authority's recent comment on (speculative) strategic investment by TOs, would be

paid by National Grid shareholders alone. Finally, for the one proposal approved (in this example) then those specific National Grid costs incurred, for that proposal alone, should be recovered only after implementation (not following Authority approval) to again reflect the Authority's recent comment on (speculative) strategic investment.

We believe that the suggested steps outlined in paragraph 8.7 (points 1, 2 and 3) of the consultation document constitute 'developing the Amendment Proposal'.

In this respect we believe the opening caveat in paragraph 8.8 ("Without prejudicing the decision of the Authority") to be meaningless. In carrying out the "definition of the business requirements", "confirmation of certain technical assumptions" and "identification of the combination of CAPs….to be implemented" National Grid will have presented, to the Authority, information on CAP166 which is materially different to what is set out in the Final Amendment Report sent by the CUSC Panel to the Authority.

Whilst the Authority, as part of its Regulatory Impact Assessment, may seek views/information from interested parties on the impact of CAP166 (the Original and the three WGAAs) this can only be provided by those interested parties (including National Grid) on the basis of what is in the Final Amendment Report issued by the CUSC Panel. Neither the Authority, nor any CUSC Party (including National Grid) can develop or in any other respect define / confirm / identify / expand / evolve / progress / amplify / elaborate / enhance / grow / advance any aspect of the CAP166 (Original + the three WGAAs) proposal (in whole or in part) over and above what is set out in the Final Amendment Report sent by the CUSC Panel to the Authority.

The proposed actions that National Grid intend to take; as outlined in Section 8 of the consultation document; amounts, in our view, to the development*[1] of CAP166 beyond what was agreed and set out in the Final Amendment Report sent by the CUSC Panel to the Authority.

For the avoidance of doubt, we do not support any work on developing* CAP166 beyond what is in the Final Amendment Report issued by the CUSC Panel 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.

We believe there is a serious risk that such development* work could invalidate the final Authority decision as a question might arise as to whether the Authority was in substance and reality considering the same modification as had been submitted by the CUSC Panel, or

[1] * Including, but not limited to, defining / confirming/ identifying/ expanding / evolving / progressing / amplifying / elaborating / enhancing / growing / advancing

was considering an altogether different modification, putatively predicated on information that the CUSC Panel did not, and could not have, evaluated.

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 the CAP166 (or CAPs161-165) changes. We believe such approval for expenditure, if given, would be tantamount to fettering the Authority's discretion on the CAP166 (or CAPs161-165) change(s).

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 as regards the CUSC Applicable Objectives

As noted above we do not support CAP166 (either the Original or WGAAs 1, 2 and 3) as we believe that they do not better meet the CUSC Applicable Objectives when compared with the current (CUSC) baseline.

In addition, 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. This will have profound implications with regard to the security of electricity supplies in GB. Generators, having signed their BCA etc., commit investments of many hundreds of millions of pounds 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 £100Billion of investment will be needed in new power station assets. The proposed approach (with CAP166) has the potential to jeopardise a significant proportion of that future power station investment.

If, as is suggested by CAP166, 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 (via a new CUSC Amendment Proposal).

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. It has resulted in a significant reduction in participants in the GB gas market (a state of affairs we deplore, but fear could be repeated in the GB electricity market if CAP166 were implemented).

Therefore we have concluded, as regards better meeting the CUSC Applicable Objectives, that neither the (CAP166) Original nor any of the three Working Group Alternative Amendments do so (be that in terms of Objective (a) or (b)) and would summarise our response on this as follows:-

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, not better than Original.

Working Group Recommendation

We agree entirely with the Working Group recommendation that neither CAP166 Original nor any of the three Working Group Alternative Amendments better meet the CUSC Applicable Objectives (or, in the case of the WGAAs, are better than the Original).

We urge the Panel to note this recommendation and vote in a similar fashion to recommend, to the Authority, that none of the CAP166 options (Original or the three WGAAs) be approved for implementation.

National Grid Initial View

Given our comments above we agree with National Grid's initial view that CAP166 Original and WGAA1 should not be supported. However, whilst we would also not support either WGAA2 or WGAA3 we noted that National Grid does support these two options. In this regard we disagree with National Grid.

I hope these comments are useful to the Company and the CUSC Panel in reaching a conclusion on the proposed CAP166 transmission access amendment.

Yours sincerely,

[*via email*]

Garth Graham
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