AMENDMENT REPORT VOLUME 1

Urgent CUSC Amendment Proposal CAP168

Transmission Access
Under-use and reallocation of TEC

The purpose of this report is to assist the Authority in their decision of whether to implement Amendment Proposal CAP168

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I DOCUMENT CONTROL

a National Grid Document Control

Version	Date	Author	Change Reference
0.1	08/05/09	National Grid	Draft for Industry Comment
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1.0	20/05/09	National Grid	Final Version

b Distribution

Name	Organisation
The Gas and Electricity Markets Authority	Ofgem
CUSC Parties	Various
Panel Members	Various
National Grid Industry Information Website	

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1.0 SUMMARY AND RECOMMENDATIONS

1.1 Executive Summary

1.1.1 CAP168 Transmission Access – Under-use and reallocation of TEC was proposed by ConocoPhillips and submitted to the CUSC Amendments Panel for consideration at their meeting on the 27th February 2009. CAP168 was given Urgent status to ensure it could be assessed by the Authority along side the other Transmission Access Amendment Proposals (CAP161-CAP166).

1.1.2 The CAP168 Original Proposal includes the following main features:

- The introduction of an under-use charge for Transmission Entry Capacity (TEC);
- Offering TEC to the market or System Operator (SO);
- A "use it or lose it" mechanism (Feasibility test);
- User commitment; and
- A capacity reduction charge

1.1.3 Through consideration of CAP168 by the Working Group the Original proposal has been developed. One Working Group Alternative Amendment known as Working Group Alternative Amendment One (WGAA1) has also been developed. This Alternative is the same as the Original except that the dead-band allowance for the under and over-use charges is 5MW rather than the greater of 10% of TEC or 5MW.

1.1.4 CAP168 has been developed against the background of the other Transmission Access Amendment Proposals (CAP161-CAP166). Given the timescales and make up of the Working Group it did not seem appropriate to repeat previous work from the Transmission Access Working Groups considering that CAP168 was given Urgent status in order to be assessed along side these other Amendment Proposals. Against the current baseline it is envisaged that CAP168 would incentivise Users to trade TEC under the CAP142 arrangements. However, should CAP168 be approved the Working Group recommends that CAP161-CAP163 should also be approved.

1.2 Working Group Recommendation and Vote

1.2.1 The Working Group has developed the Amendment Proposals (Original and WGAA1) to the extent possible given the Urgent timetable. Several substantial developments have been made to the Original Proposal through the discussions of the Working Group. However, the tight timescales have limited the ability of the Working Group to fully incorporate some aspects of the Original Proposal, in particular two day ahead notifications.

1.2.2 The Working Group recommended to the CUSC Panel at their meeting on 3rd April 2009 that:

- A Consultation Report containing the CAP168 Original Amendment and WGAA1 should proceed to wider Industry Consultation as soon as possible.
- The Working Group Report is accepted by the CUSC Panel and the Working Group is disbanded.

1.2.3 The Working Group voted on whether they believed the Amendment Proposals (Original and WGAA1) better, than the current baseline, facilitates the Applicable CUSC Objectives. The results of the vote are described in the following table:

Proposal	Better	Not better	Abstained
Original	0	13	1
WGAA1	1	11	2

1.2.4 The Working Group also voted on which version of CAP168 (Original and WGAA1) they believed best facilitates the Applicable CUSC Objectives. The results of the vote are described in the following table:

Proposal	Best
Original	4
WGAA1	1
Abstained	9

1.2.5 Four members of the Working Group voted that the Original was the best. It should be noted that these members also voted that the Original was not better than the baseline. One Working Group member voted that WGAA1 was best. This member also believed that WGAA1 was better than the baseline.

1.2.6 Nine Working Group members abstained. One of these Working Group members abstained as they would have another opportunity to vote as they were on the CUSC Panel. One member abstained as given the precedent set under CAP170 they were concerned that the Alternative (WGAA1) should not have been raised under an Urgent CUSC Amendment. One member pointed out that the Alternative (WGAA1) would potentially free up more capacity but puts more of a risk on generators. This member abstained as the balance of impact of these two aspects is difficult to assess at this stage. Some members abstained because they believed neither the Original nor the Alternative (WGAA1) better facilitated the CUSC Objectives.

1.3 Amendment Panel Recommendation

1.3.1 The CUSC Amendment Panel voted on whether they believed the Amendment Proposals (Original and WGAA1) better, than the current baseline, facilitates the Applicable CUSC Objectives. The results of the vote are described in the following table:

Proposal	Better	Not better
Original	0	9
WGAA1	0	9

1.3.2 The CUSC Panel voted that neither the Original nor the Alternative Proposals are better than the current baseline. The reasons why CUSC Panel members voted they way they did are outlined in the minutes of the 15th May 2009 CUSC Panel meeting. In light of the vote the CUSC Panel therefore recommends to the Authority that both CAP168 Original and WGAA1 are

rejected. For the avoidance of doubt, if the Authority were to approve the implementation of either Amendment Proposal (Original or WGAA1) then this could be subject to Appeal to the Competition Commission by a party to the CUSC (if they so wished).

1.3.3 One member of the Panel did not believe that the report provided enough quality reasoning and analysis to demonstrate that either was better than the baseline. Some Panel members considered that in some aspects the Proposals ran counter to the Applicable CUSC Objectives.

1.3.4 The CUSC Panel voted on which of the proposals they believe best facilitates the applicable CUSC Objectives. The result of this vote is described in the following table:

Proposal	Best
Original	3
WGAA1	1
Abstained	5

1.3.5 Three Panel members considered that of the two proposals the Original Amendment Proposal was the least worst. One member considered that the Original gave Users more flexibility over WGAA1. One Panel member considered that the 5MW dead-band proposed under WGAA1 was discriminatory. One Panel member noted that whilst both would potentially have a negative impact on the energy market the Original would have the least impact. One member voted that WGAA1 was the best. This member considered that WGAA1 would free up more TEC. Five members of the Panel abstained from the vote. These members disliked both proposals and could not describe either of the proposals as best.

1.4 National Grid Recommendation

1.4.1 National Grid has several concerns regarding this proposal. These are discussed in section 12 of this report. National Grid recommends that the Original Amendment Proposal and WGAA1 are rejected.

2.0 PURPOSE AND INTRODUCTION

2.1 This Amendment Report has been prepared and issued by National Grid under the rules and procedures specified in the Connection and Use of System Code (CUSC) as designated by the Secretary of State.

2.2 Further to the submission of Amendment Proposal CAP168 (see Annex 1) and the subsequent wider industry consultation that was undertaken by National Grid, this document is addressed and furnished to the Gas and Electricity Markets Authority ("the Authority") in order to assist them in their decision whether to implement Amendment Proposal CAP168.

2.2 CAP168 was proposed by ConocoPhillips and submitted to the CUSC Amendments Panel for their consideration on 27th February 2009. The CUSC Amendment Proposal Form can be found in Annex 1 of this report.

2.3 The proposer requested Urgent status so that the proposal could be assessed along side the other Transmission Access related Amendment

Proposals. The Amendment Panel agreed that the proposal should have Urgent status and submitted a request for Urgent status. Ofgem agreed with the Urgent recommendation and the proposed timetable.

2.4 Due to the urgency of this proposal, time did not allow for a Working Group consultation. In order to have some wider industry input National Grid published a pre-consultation on the 10th March 2009 based on the Original Amendment Proposal. Seven responses were received and these were considered during the Working Group discussions. Whilst not a formal Working Group consultation, these responses can be found in Volume 2 of this report.

2.5 The Working Group met on the 13th March 2009, and the members accepted the Terms of Reference for CAP168 with minor amendments. A copy of the agreed Terms of Reference is provided in Annex 2. Two further meetings were held on the 19th and the 24th of March 2009. The Working Group considered the issues raised by the Amendment Proposal and considered whether the Proposal better facilitated the Applicable CUSC Objectives.

2.6 The CAP168 Working Group Report was submitted to the CUSC Amendments Panel meeting on 3rd April 2009. The Amendments Panel determined that CAP168 was appropriate to proceed to wider industry consultation by National Grid.

2.7 This document outlines the discussions held by the Working Group and the nature of the CUSC changes that are proposed. It incorporates National Grid's recommendations to the Authority concerning the Amendment. Copies of all representations received in response to the consultation have been also been included and a 'summary' of the representations received is also provided. Copies of each of the responses to the consultation are included in Volume 2 of this report.

2.8 The Amendment Proposals (Original and WGAA1) aim to incentivise Users to release TEC. Against the current baseline it is envisaged that CAP168 would incentivise Users to trade TEC under the CAP142 arrangements. However, should CAP168 be approved the Working Group recommends that CAP161-CAP163 should also be approved.

2.9 This Amendment Report has been prepared in accordance with the terms of the CUSC. An electronic copy can be found on the National Grid website, along with the Company Consultation, Working Group Report for CAP168 and the Amendment Proposal form:

http://www.nationalgrid.com/uk/Electricity/Codes/systemcode/amendments/

3.0 PROPOSED CAP168 ORIGINAL AMENDMENT

This section describes ConocoPhillips' Original CAP168 Amendment Proposal and includes several clarifications and developments that have resulted from Working Group discussions. The Working Group discussions are summarised in section 4. The full text of the Original Amendment Proposal can be found in Annex 1.

3.1 Defect

3.1.1 This Amendment Proposal seeks to address a number of defects which, in the view of the proposer of CAP168, exist with the current entry access arrangements.

3.1.2 Under the existing transmission access arrangements a long queue of applications for new connection capacity has developed. There is significantly more demand for access than available unallocated capacity, and some generators may be constrained or delayed or even not able to develop owing to lack of secure transmission access in usable timescales. To compound matters there is presently little incentive for existing transmission access right holders to release TEC when it is not being used.

3.1.3 Although there is already scope for securing additional access (under CAP70 and CAP94) and for limited trading (CAP142) within-year, the proposer considers the current rules are deficient to deliver robust trading of TEC rights. There is currently no incentive for Users to give up TEC within year as the TNUoS charge for TEC is an annual charge and therefore a sunk cost within year. Consequently TEC holders can be unwilling or unable to give up TEC they know they will not use in the short to medium term but which they expect to need in the medium to long term as they could lose all future rights to that released capacity, hence no liquidity has developed in the TEC trading market. As a result the System Operator (SO) has an inaccurate picture of available system capacity and any local surplus.

3.2 Description of CAP168 Original Amendment Proposal

TEC Feasibility Test

3.2.1 As soon as practicable after each charging year each generator would need to show to the SO that it could meet a feasibility test. Demonstration of this would be in the first instance on the basis of historic output. Up to the previous five years of output would be reviewed. The test would be failed if the holder could not demonstrate their TEC (MW) has been used (or assigned to another user) in the previous two consecutive financial years, or three financial years in the previous five.

3.2.2 In the event that a TEC holder did not meet the test, the generator would be able to provide a rationale for reduced operation due to either (a) exceptional factors historically (e.g. long-term outage) or (b) change in future output due to remedial plans or new investment works such that it would be able to use its TEC (MW) in future years.

3.2.3 If the rationale provided by the TEC holder is not sufficient, the SO may require the production by the TEC holder of an engineering report at the TEC holder's cost. If there were still a dispute, there would then be an appeal to the Authority.

3.2.4 If after due process the Authority upholds the SO's assessment and the SO decided to reduce the TEC (MW) level then an adjustment would be made to the relevant bilateral contract.

Firm Weekly TEC Notification

3.2.5 The TEC holder would be required to provide a weekly TEC (MW) level notification. This would oblige them to submit to the SO their expected maximum MW capacity in any one settlement period in a given week. This notification should be provided five weeks ahead of the week in question. The notification would be provided on a weekly basis in accordance with the following timetable:

Week 1							Week 2							Week 3						
M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S
	A																			
								A												
Week 4							**Week 5**							**Week 6**						
M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S
														B						
Week 7							**Week 8**													
M	T	W	T	F	S	S	M	T	W	T	F	S	S							
C																				
B							**C**													

A – Generators submit Weekly TEC Nomination by 16:00hrs
B – Week starts from 05:00hrs
C – Week ends at 04:59hrs

3.2.6 The TEC holder would also provide indicative maximum TEC estimates for the ensuing three subsequent weeks but these would be for information only. Details of Users weekly TEC notifications and estimates would be confidential.

TEC Trading Arrangements

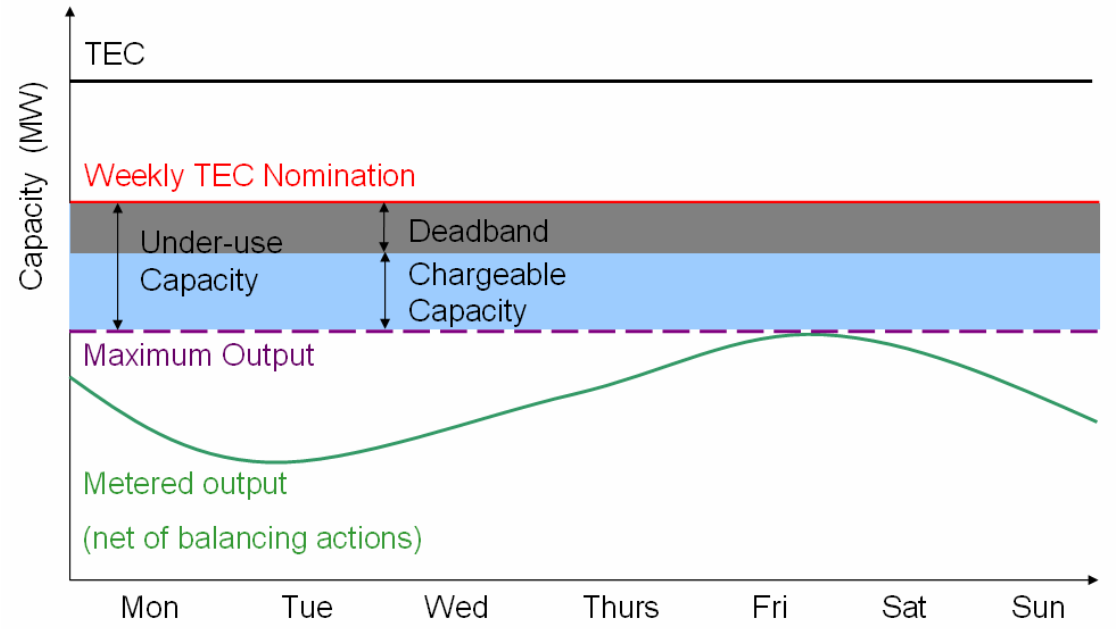
3.2.7 To ensure that other Users have the ability to use the capacity released CAP161-CAP163 would need to be approved alongside this Amendment.

Calculation of Under-use and Over-use Capacity

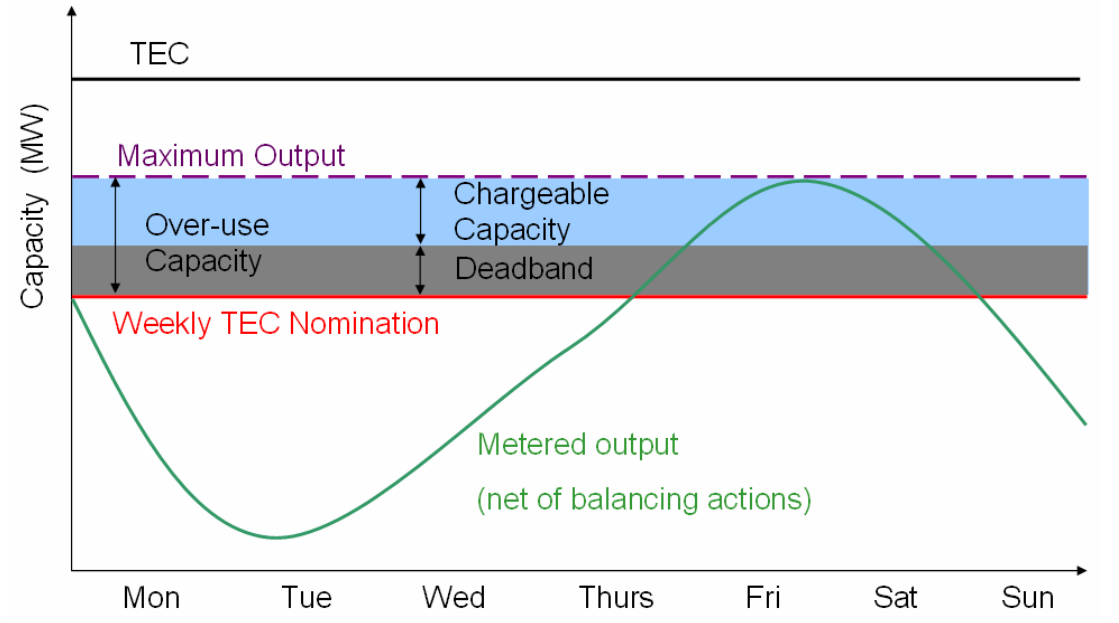
3.2.8 The under-use and over-use capacities shall be calculated as the difference between the firm weekly TEC MW notification (expected maximum MW capacity in any one settlement period in a given week) and the actual maximum capacity in any settlement period (MW average over a whole settlement period) in the given week net of any balancing service. Users who provided Balancing Services or provide BM actions (reserve or response) would have their under/over-use charge adjusted to take account of the capacity contracted to the System Operator. The proposal makes no allowance for plant that has modified TEC requirements due to short term trading to cover plant or demand shortfalls in the market.

3.2.9 Under-use occurs where the actual output (MW) is less than the notification (MW) and over-use occurs where the actual output (MW) is more than the notification (MW). For the avoidance of doubt Entry Overrun for output in excess of TEC held within a Users Bilateral Connection Agreement and described in CAP162 would be in addition to over-use under CAP168.

Under-use Capacity



Over-use Capacity



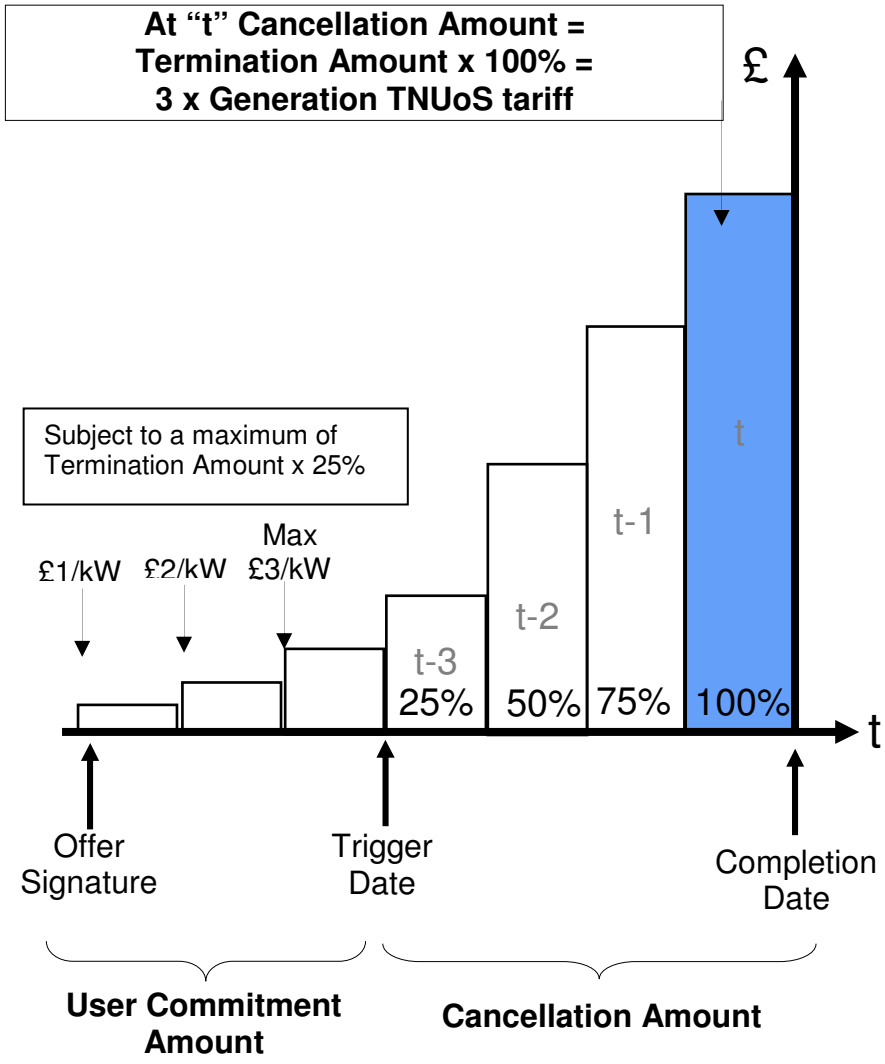
Calculation of Under-use and Over-use Charge

3.2.10 Under-use and over-use charges would be in addition to existing use of system payments and be developed under charging governance.

3.2.11 The under-use charge shall be applied as a function of any under-use (MW) capacity above a dead band of the greater of 5MW or 10% of the generators TEC (MW) holding.

Pre-commissioning User Commitment

3.2.12 Pre-commissioning Users would be required to provide the following profile of pre-comissioning liabilities and securities. Further details regarding user commitment can be found in Annex 7.



Post-commissioning User Commitment

3.3 Users would be required to give two full years notice of TEC (MW) capacity reduction. Where two years full notice has been given no transmission charges would be incurred once the plant has closed. If two years' full notice was not give the User would be liable for two years' worth of TNUoS charges in addition to the existing year.

4.0 SUMMARY OF WORKING GROUP DISCUSSIONS

4.1 Introduction of an Under-use Charge for TEC

4.1.1 Although the introduction of an under-use charge would need to be taken forward as a modification to the Charging Methodology, the under-use charge is a fundamental part of the Original CAP168 Amendment Proposal. Due to the fundamental nature of the under-use charge as part of the proposal the Working Group gave the matter consideration.

Negative Zones

4.1.2 The Working Group considered whether the charge should apply in negative charging zones. During its pre-consultation National Grid provided some analysis to show where capacity was being under used. This analysis can be found in Annex 5. In negative zones around 10% of TEC was unused. This was broadly the equivalent to Scotland (11%) but substantially more than positive zones in England and Wales (3%). This suggested to some Working Group members that there was a problem with User's overbooking TEC in negative zones.

4.1.3 In negative zones Users are incentivised to hold the correct level of TEC on an annual basis because the TNUoS model uses the TEC they hold to calculate their annual charge. If they hold more TEC than they require their tariff will be less negative, so when they come to be charged based on their output over winter they would be paid less. One member of the Working Group argued that this was similar to the incentive on Users in positive zones where a User's TNUoS charge was based on the TEC they had booked. If they held more TEC than they required then the charge calculated by the charging model would be greater. One member of the group noted that TNUoS did not incentivise Users to hold the correct level of TEC in the short term.

4.1.4 Some members of the Working Group were concerned about what would happen to Users whose charge changed from positive to negative or vice versa over a number of charging years. It was agreed this would not be a problem if positive and negative zones were treated similarly under CAP168.

4.1.5 On balance the Working Group agreed an under-use charge (based on the absolute (or modulus) of the charge) should be applied in negative zones on a similar basis to its application in positive zones. Further discussion regarding the level of the charge can be found in later in this report.

Plant Operation

4.1.6 Some members of the Working Group noting the technical aspects of power station operations believed that the MW capacity that the under-use charge was based on should allow a margin for headroom. This would mean that a User would not be charged for under-use if they had only used slightly below their TEC holding. The Working Group considered that giving each power station a margin (or dead-band) over the whole network would add up to a large amount of capacity but that this may be more relevant a concern for the feasibility test/"use it or lose it" arrangements than for charging.

4.1.7 A deminimis level of 5MW was proposed for the under-use charge. If applied to both the under and over-use charges this would lead to a total 10MW dead-band around the TEC notification. Some members of the Working Group suggested that having a dead-band level of 5MW on the under-use charge was not great enough for large generators. These members suggested that 10% of total TEC would be a more appropriate dead-band level. Other members of the Working Group suggested that having a 10% allowance may disadvantage smaller players. There was also some concern that having a level of 10% of TEC could dilute the intention of the amendment.

4.1.8 Following a vote the majority of the Working Group considered the dead-band level should be the greatest of 10% of TEC or 5MW. This would mean if a 500MW generator under used by 57MW the under-use charge would be a function of 7MW.

4.1.9 One Working Group member suggested that there should be a Working Group Alternative based on a 5MW dead-band only (in other word no '%' allowance as described in 4.1.7-4.1.8). This became the basis of WGAA1. Further details of this Alternative can be found in section 5 of this report.

4.1.10 Respondents to the pre-consultation (see Volume 2) and some members of the Working Group highlighted the unique operation of some generation plant types. The Working Group considered that some Users may need their full TEC but may not use it very often because they are peaking plant or held in reserve. The Working Group considered whether some Users should be exempt from the under-use charge.

4.1.11 Working Group members were concerned with the interaction between the shorter term energy market and ability to provide energy and reserve services to either the System Operator or other market players. One Working group member pointed out that some 3-6 GW is traded base load day ahead. This results in the potential re scheduling of a significant number of BMU's. Plant that ultimately delivers this energy will only be able to know its full TEC (MW) requirement after trading has taken place. Trading can take place up until gate closure. The CAP168 Amendment Proposal would significantly affect the operation of this section of the market with a significant reduction in short term liquidity. Any changes to the plant availability or demand after the five week ahead TEC (MW) nomination would not be able to be catered for without the addition of over/under use costs.

4.1.12 One Working Group member suggested that the introduction of CAP168 would not reduce short-term liquidity. This Working Group member suggested that if unused TEC is reallocated it might increase liquidity.

4.1.13 Some Working Group members thought that the modification was designed for plant that has very predictable running patters such as base load CCGT. One Working Group member voiced concern that the proposed under/over use charges should be levied based on weekly actual TEC (MW) use against forecast TEC (MW) use will inevitably seriously penalise windfarms whose output is difficult to predict on anything other than a very short term basis. This member was concerned that the CAP168 Amendment Proposal, as drafted, would most probably prompt windfarms to forecast their weekly TEC (MW) requirement equal to the windfarm installed (MW) capacity which would mean that for every week where the wind has been insufficiently strong to generate at full (MW) capacity then the windfarm would incur an under use charge on top of its regular TNUoS charges. This Working Group member

suggested that the granularity for applying these under/over use charges should be over a whole year for windfarms in recognition of the special nature of this form of generation and believed that windfarms should be treated as an exemption in this respect in view of their inability to accurately forecast output.

4.1.14 Some Working Group members considered the CAP168 Amendment Proposal was not suitable for a market where changes in demand and generation need to be catered for after the week ahead period. There was a discussion as to whether plant that operates in the short term (after week ahead) would be catered for. The proposer suggested that peaking plant could be excluded from the under and over-use charges. Peaking plant would be defined as plant that runs for less than 500 hours in a charging year. Some members believed this exemption was necessary to ensure security of supply. Other members considered that 500 hours was not well defined enough.

4.1.15 The Working Group agreed Users providing Balancing Services to the SO would have the MW capacity associated with those services netted with their actual output MW so would avoid the charge where appropriate i.e. if the System Operator instructed reduced output this should not incur a charge.

4.1.16 Some Working Group members considered that National Grid took into account the type of plant being connected when they planned the network according to the GBSQSS. It was considered that National Grid would make conservative assumptions. If Users made decisions about how much TEC (MW) they required National Grid would have firmer information. The Working Group considered the charge could be seen as an information imbalance charge. It was noted that if approved CAP162 (overrun) in combination with TNUoS charges would already incentivise Users to better optimise TEC holding as Users could opt to pay for less TEC in the long-term and use over-run.

Level of Charge

4.1.17 The Working Group had some concern that introducing an under-use charge changes the nature of the generators holding of TEC from, currently, a right to access the system to having an obligation to run. There is an important difference between an obligation to run and an incentive to make available unused TEC. The Working Group considered that any under-use charge should aim to incentivise users to give up TEC but not compel them to give it up. This would mean that Users could choose to pay the charge therefore meaning that they were not obliged to generate.

4.1.18 The Working Group discussed what a cost reflective basis would be for the under-use charge. Some members of the group considered that Users had already paid for the capacity through TNUoS so no additional costs were being caused by a User not generating. It was argued that paying TNUoS based on TEC already incentivised Users to book the correct amount of TEC they required. Users who did not generate up to their TEC had made a commercial decision to pay for that additional TEC.

4.1.19 One Working Group member considered that a generator who pays for 27% of investment but then does not use it should pay for the other 73% which demand Users would normally pay for. It was pointed out that this was correct overall but that the differentials between generator TNUoS tariffs

aimed to be 100% cost reflective, and therefore an under-use charge based on paying the other 73% was not a robust.

4.1.20 One member noted that in the short term under usage reduced real time cost and so conceivably the charge should be negative. Therefore a cost reflective basis for the charge could not be established. The Working Group focused on the effect of the charge and choosing a charge level that would produce the desired results.

4.1.21 The Working Group discussed the rationale behind having an under-use charge. The purpose of the charge would be to incentivise users to give up TEC which they are not using in weekly blocks, 5 weeks ahead of time. Some working group members argued that this could lead to a more efficient allocation of capacity if CAP161 was approved with this CAP168 Amendment.

4.1.22 The Working Group considered if the under-use charge should be based on TNUoS. The Working Group considered that the locational differences that were represented by the TNUoS charge were not relevant to the cost of under-use as they were asset based. Basing the charge on TNUoS would also cause problems in negative TNUoS zones. The Working Group concluded that a flat £/MW charge for all generators would be more appropriate.

4.1.23 The Working Group concluded it could not find a cost reflective basis for the charge, and therefore it was considered that the charge should be set at a level that would give a proportionate incentive to give up TEC which Users did not need. The charge would need to be justified on the basis that it facilitates effective competition. The group considered a number of values and concluded that basing the charge on £5/kW/year appeared to be an appropriate level to incentivise Users to give up TEC. Converted to a weekly based regime this represented approximately 10p/kW/week.

4.1.24 As noted above, the development of charges for over and under-use will be taken forward under Charging Governance. The Working Group noted that the charges would need to be justified against the relevant charging objectives, which include a need to develop charges which reflect, as far as reasonably practicable, the costs incurred by transmission licensees in their transmission businesses and facilitate effective competition.

4.1.25 Some Working Group members were concerned that without a cost reflective basis for the charge, it appeared to be a penalty. These Working Group members were further concerned that a cost-reflective long-term access regime together with the introduction of a cost-reflective short-term access regime (developed under CAP161, 162 and 163) should correctly incentivise generators to book an efficient level of long-term access rights (or TEC) and that the introduction of additional charges would tip the balance in favour of the short-term, leading to an inefficient outcome.

Charged Under-use Capacity

4.1.26 The Group considered what measure of capacity the under-use charge should be based on. One member suggested it should be based on the difference between TEC in a User's bilateral agreement and their maximum output during the year. Another member suggested that the maximum output maybe a suitable measurement to see how much TEC Users are using in the

long term so may be a suitable basis for the capacity measured for use it or lose it. It was considered this would be too weak a test to encourage users to release capacity within year. The Original proposal had suggested taking into account the three maximum outputs over the year. Some Working Group members also considered this may be too weak to encourage users to release TEC within year.

4.1.27 Analysis was performed by National Grid to look at how much TEC capacity was currently under-used. The following table shows how many GW of TEC in Users' bilateral agreements was not used when output is measured on the following basis: during the maximum output, 3rd maximum daily output and up to the 80th maximum daily output. This is the capacity which would be charged for under-use depending on how strong the test was. This analysis can be found in more detail in Annex 6.

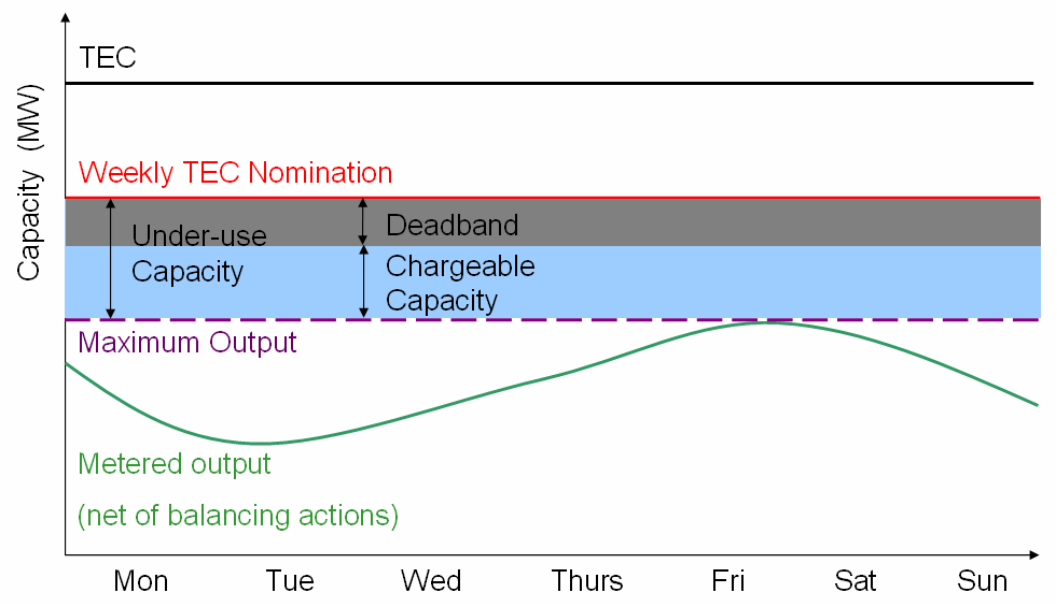
4.1.28

X	**1**	**3**	**10**	**20**	**40**	**80**
Difference (GW)	5.9	6.7	7.8	8.7	10.5	14.3

4.1.29 The Working Group considered that a year period was too large a granularity for under-use if the proposal sought to incentivise the release of capacity within year. The proposer put forward a further proposition to consider under-use based on a monthly period. After further discussions in the Working Group it was considered that weekly measurements of under-use capacity would be most appropriate. A week long block is consistent with one of the periods of short-term capacity release developed under CAP161.

4.1.30 The under-use capacity shall be calculated as the difference between the firm weekly TEC (MW) notification and the actual maximum average (MW) capacity achieved in any one settlement period in the given week net of any Balancing Services to the SO. Under-use occurs where the actual (MW) output is less than the notification (MW).

4.1.31 The Working Group debated whether Users' weekly TEC nominations should be published. Some members of the Working Group voiced concerns that the transparency of this data would have an impact on the energy market. Other Working Group members noted that if you publicised the information Users would have more information about what to bid into the SO release auction. One member pointed out that availability declarations are already an integral part of BMRS. The group considered publishing the information zonally although as some zones only have minimal Users in the information may still be too transparent. After a vote the Working Group agreed the information would be confidential.

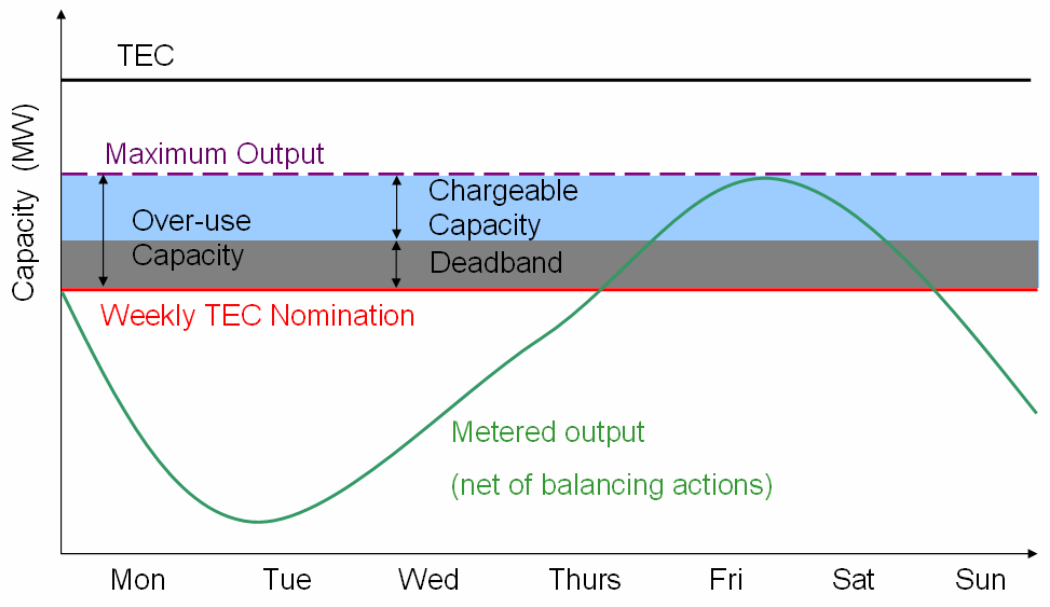


4.1.32 The Working Group recommends the charge for this under-use capacity would be £5/kW/year. It was considered that this charge would provide an incentive to give up TEC which was not needed without being penal. As the charge would be calculated on a weekly basis the charge would be 9.62p/kW/week (£5 divided by 52 weeks in a year). Again, the basis for this charge would be consulted on under the Charging Governance.

Charging for Over-use

4.1.33 The Working Group considered that being asked to provide a maximum output (MW) would be meaningless unless there was some consequence of generating above the maximum. If there was no consequence for going above the maximum, Users would be incentivised to notify a low maximum output (MW) to avoid an under use-charge, in the extreme leading to a zero notification.

4.1.34 To ensure Users were incentivised to provide a correct notification of maximum output, some Working Group members believed that the charges and dead-band for over and under-use should be equal. The Working Group decided that the charge for over-use should be based on the same principles as under-use. The over-use capacity shall be calculated as the difference between the firm weekly TEC notification (MW) and the actual maximum average capacity (MW) in any one settlement period in the given week net of any balancing actions. Over-use occurs where the actual output (MW) is more than the notification (MW). Overrun under CAP162 is independent to CAP168 and is not altered by this CAP168 proposal.



4.1.35 The Working Group recommends the charge for this over-use capacity would be £5/kW/year. As the charge would be calculated on a weekly basis the charge would be 9.62p/kW/week (£5 divided by 52 weeks in a year). The basis for this charge would be consulted on under the Charging Governance.

4.1.36 The proposer indicated that any money recovered from the under and over-use charge should flow back to Users through BSUoS. Some members of the Working Group were concerned that this was not a logical path for the revenue flows. This issue would be covered further during consultation under the charging governance however, revenue flow is a licence issue and this may necessitate a licence change.

4.2 Offering TEC to the System Operator and the Market

4.2.1 The Working Group considered it was important for a User to be able to show that they were willing to give up TEC within year in order to avoid the under-use charge. Users may be willing to give up the TEC to avoid an under-use charge and in some cases offering it to the market or giving it up to the SO would be the most efficient way to do this.

4.2.2 If a User offered TEC to the System Operator they would still be liable to pay for their TNUoS charge but they would not incur any under-use charges during the period which they had offered the TEC.

4.2.3 It was proposed that TEC holders would be obliged to provide the SO with an annual non-binding notification of any major planned works intended for the site in the subsequent year and their expected impact on the export capability and timing. The Working Group considered that this already takes place as part of the OC2 data submission hence it is not necessary to include as part of CAP168, its presence should however be noted when evaluating the suite of usage nominations under this proposal.

4.2.4 It was considered that if a User were offering to the market or giving to the System Operator blocks of TEC (MW) of at least one week duration and at up to a maximum of one year duration five weeks ahead then this would fit in with the timescales considered under CAP161 (SO release). Matching the

timescales would help these two mechanisms to work together (if both were to be implemented).

4.2.5 The Working Group considered whether two day ahead notifications should be considered. The Working Group agreed there was merit in the idea but there was insufficent time to explore this further under the Urgent timescales.

4.2.6 The Working Group considered that once a User had offered TEC to the SO, that same User would have the same right to it as any other User so would have to go through the SO release mechanism to get it back if CAP161 were approved.

4.2.7 The Working Group discussed the process for offering capacity to the Market. They agreed that where a User had advertised a volume of TEC (MW) on the bulletin board, on the 'standard' CUSC terms, priced only at its prevailing TNUoS price that this would be deemed, for the purposes of CAP168, to have met the requirements of 'offering the TEC to the market' even if no other User came forward and purchased some or all of the offered TEC.

4.3 TEC Trading Arrangements

4.3.1 The Working Group considered the current TEC trading arrangements. A number of members of the Working Group and respondents to National Grid's pre-consultation (see Volume 2) had had experience of the current trading arrangements. It was felt there was room for improvement in the current trading arrangements. One respondent to the pre-consultation had suggested that the trading arrangements should be changed so that only one member of the trade was liable for TNUoS charges. This option had been considered during the development of CAP142 and had been ruled out at the time. The Working Group also noting that the arrangements put forward under CAP163 for capacity sharing have only one party liable for the wider TNUoS charge.

4.3.2 The Working Group also discussed the other Transmission Access Amendment Proposals (CAP161-CAP166). CAP168 has been give Urgent status to ensure that it can be assessed along side the other Transmission Access Amendment Proposals. Transmission Access Working Groups One and Three spent much time discussing moving and trading TEC between points on the system. Some members of the CAP168 Working Group also noted that the potential for poor TEC exchange rates might effectively preclude the trading of TEC. The CAP168 Working Group agreed it would be inappropriate to repeat any previous work done on trading.

4.3.3 Given the timescales to develop CAP168 the Working Group concluded that new TEC trading arrangements could not be developed. As the ability for other Users to have access to the TEC released by CAP168 in the short term is fundamental to the proposal it would be desirable for CAP161-CAP163 to be approved if CAP168 were to be fully effective.

4.4 Feasibility Test

4.4.1 The Working Group considered how usage would be tested. One member suggested the maximum output (MW) of a Power Station during each financial year should be measured. The difference between the User's TEC in that year and their maximum output (MW) would be calculated. The historic profile of these differences would be reviewed at the end of each financial year. If the User has consistently not use a portion of their TEC for two years in a row or three years in five this TEC would be removed from the User. Some Working Group members believed that this was an appropriate test to see if Users were holding TEC which they were incapable of using. The Working Group noted that TEC (MW) is allocated on a station basis and that metered output would be measured from a BM unit and that therefore consideration should be made of an aggregate (MW) output to ensure that TEC has been reached.

4.4.2 The Working Group gave consideration to the ability to control output with sufficient accuracy to meet a TEC (MW) level and noted that without CAP162 in place, this CAP168 proposal could increase the likelihood of Users breaching their TEC. The SO would need to consider the materiality of the breach in such a case. One Working Group member did not consider this to be an issue.

Process

4.4.3 During discussions, the proposer submitted a further proposition for the process surrounding the feasibility test. The Working Group reviewed the process and agreed that it was appropriate. The final process can be found in paragraph 3.2 of this report.

Retrospection

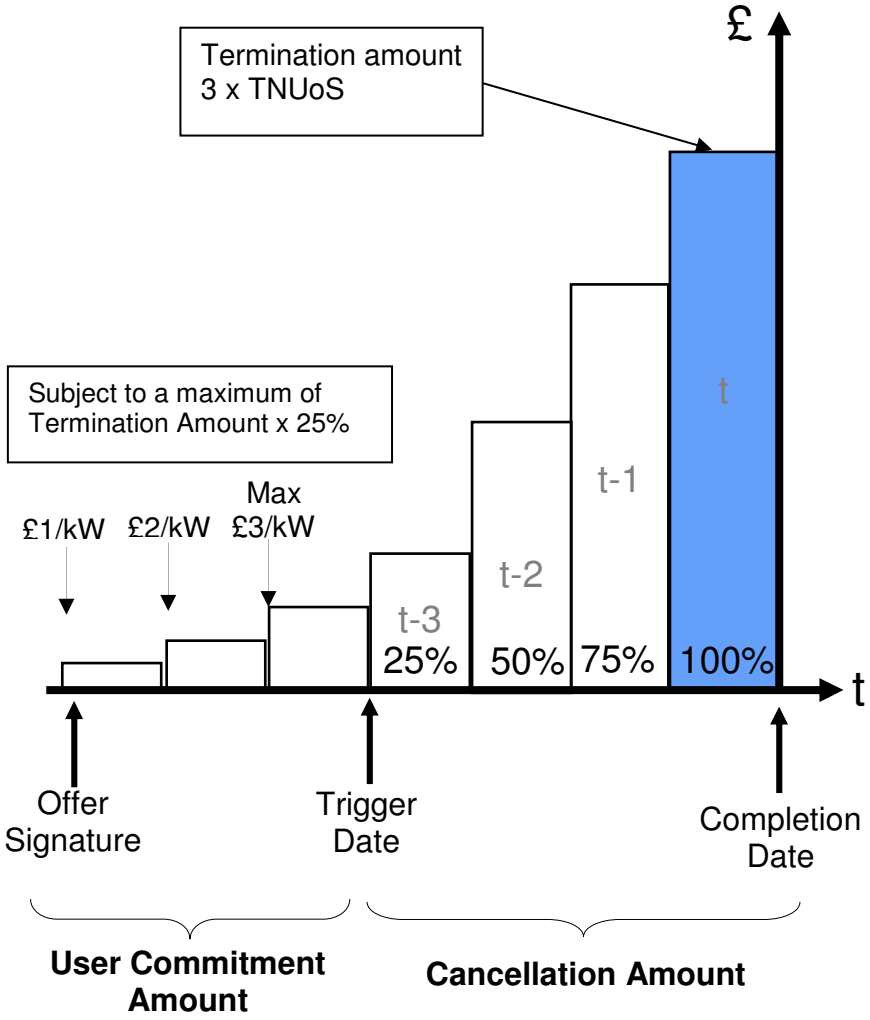
4.4.4 The Working Group considered if the feasibility test should be applied retrospectively. If the mechanism was applied retrospectively it would immediately free up TEC which was not being used. Some members of the Working Group argued that introducing an amendment which looked retrospectively introduced more regulatory uncertainty into the industry. It was also argued that it was not right to apply the mechanism to a period of time where Users were not aware of the incentive to generate and therefore have not had an opportunity to react to it.

4.4.5 The Working Group agreed that the feasibility test mechanism should not be applied retrospectively.

4.5 User Commitment

Pre-commissioning User Commitment

4.5.1 The amendment proposal suggested that new Users should be liable for three years worth of TNUoS. During Working Group Two discussions of CAP165 the following profile had been developed:



4.5.2 This profile was adopted for pre-comissioning liabilities and securities under CAP168. However, under the CAP168 proposal the termination amount would be three years worth of TNUoS rather than the eight years proposed under CAP165. Further details regarding this profile can be found in Annex 7.

4.5.3 The Working Group noted that under CAP165 several different Alternative Proposals were put forward for User Commitment. Some members of the Working Group argued we should include these as Alternatives under CAP168. The Working Group agreed that given the tight timescales these should not be included in CAP168.

Post-commissioning User Commitment

4.5.4 The Original CAP168 Amendment Proposal suggested that Users should provide two years full notice of it's intention to close. Where two years notice is given, no transmission charges should be incurred once the plant has closed. However, where only one year's notice was given, the plant would pay 50% of the transmission charges it would have incurred.

4.5.5 The Working Group considered if you had a two year notice period you should be liable for the full charges in those years rather than 50% of the charge. Users would be required to give two full years' notice of capacity

reduction. Where two years full notice has been given no transmission charges would be incurred once the plant has closed. If two years' full notice was not give the User would be liable for two years' worth of TNUoS charges in addition to the existing year.

4.5.6 As with pre-commissioning, the Working Group noted that under CAP165 several different Alternative Proposals were put forward for the length of the notice period. The Working Group agreed that given the tight timescales these should not be included in CAP168.

4.5.7 During the consideration of CAP165 securities for pre-comissioning Users were discussed. The CAP165 Working Group agreed that there should be no security post-comissioning. One member of the Working Group suggested that there should be provisions for post-commissioning security in CAP168. The CAP168 Working Group considered that as the CAP165 decision on security had been made recently and the Working Group was working under Urgent timescales we should not reconsider this decision at this stage. The Working Group agreed there would be no security post-comissioning in CAP168.

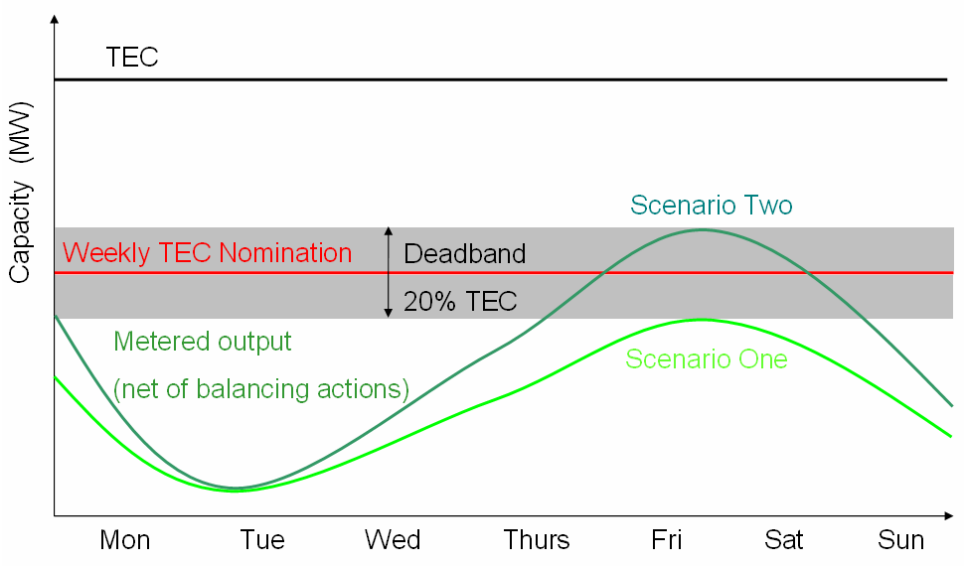
4.5.8 The Working Group agreed that Users would be required to give two full years' notice of capacity reduction. Where two years full notice has been given no transmission charges would be incurred once the plant has closed. If two years' full notice was not given the User would be liable for two years' worth of TNUoS charges (in addition to their current year's TNUoS liability). Further details regarding User commitment can be found in Annex 7.

5.0 WORKING GROUP ALTERNATIVE AMENDMENTS

5.1 Working Group Alternative Amendment 1 (WGAA1)

5.1.1 WGAA1 was proposed by ConocoPhillips and is the same as the CAP168 Original Proposal in all respects except that the dead-band for the under-use and over-use charges would be set at 5MW only and not the greater of 5MW or 10% of TEC (as outlined in 3.2.12 and 4.1.6-4.1.8 above for the Original). This gives a total dead-band of 10MW around the TEC notification.

5.1.2 Some members of the Working Group suggested that having a 10% allowance may disadvantage smaller players. There was also some concern that having a dead-band level of 10% of TEC could dilute the intension of the CAP168 Amendment Proposal.



5.1.3 The proposer of WGAA1noted that to have a 10% deadband for both under and over-use would lead to a 20% band of error surrounding the Weekly TEC nomination. This is demonstrated in the above diagram. Therefore the dead-band would be 200MW for a 1000MW generator. A user could generate at any level between the maximum in scenario one and scenario two and avoid a charge. The proposer noted this would effectively take away the incentive to give up TEC envisaged by CAP168.

5.1.4 A majority of the Working Group did not support the Working Group Alternative Amendment raised by ConocoPhillips. Following a discussion at the CUSC Panel meeting on 3 April, 2009, the Working Group Chairman utilised the provisions set out in CUSC 8.17.15 to develop this Working Group Alternative Amendment despite a lack of support from the majority of the Working Group. This decision was taken due to the Working Group Chairman's concern about the Proposer essentially losing control of the Amendment Proposal during the Working Group phase to the extent that the Proposer no longer believed that the Amendment Proposal met the original intent.

6.0 ASSESSMENT AGAINST APPLICABLE CUSC OBJECTIVES

6.1 The Working Group performed an assessment of CAP 168 Original against the Applicable CUSC Objectives;

(a) the efficient discharge by the Licensee of the obligations imposed upon it by the act and the Transmission Licence; and

(b) facilitating effective competition in generation and supply of electricity and facilitating such competition in the sale, distribution and purchase of electricity.

The following table does not describe the agreed view of the entire Working Group but summarises views made by Working Group members for and against the proposal in terms of the Applicable CUSC Objectives.

Efficient discharge of licence conditions	
Promotes	**Demotes**
	Introduces a charge which is not based on cost reflectivity and could therefore be considered to be a penalty. Introduces double charging for access. Cost-reflective long-term and short-term access regimes should incentivise efficient TEC bookings. The introduction of arbitrary charges on long-term rights holders tips the balance and would cause inefficient outcomes in terms of TEC bookings and ultimately levels of transmission investment. Power stations will be forced to run at full output to prove TEC requirement each year even if this is not the most efficient course of action (economically or environmentally). Information forthcoming from weekly declarations are only another source of information for SO, over and above outage information provided under OC2 etc. It does not "free up" the equivalent amount of capacity. Benefits are overstated. Deadband and running hours exemption will restrict additional capacity that can be released further. Latter provides incentive to keep hours below arbitrary limit of 500 hours.

Facilitates competition	
Facilitates	**Frustrates**
	Additional administration, including associated risk assessment required in making declarations, will demote competition. This will affect operators with less/smaller plant more as they cannot benefit from economies of scale. Creating timescales for capacity requirements will impact energy markets and could significantly reduce short term liquidity. Proposal does not include sufficient investment certainty for new connections. The proposal is only workable for those plants with predictable generation patterns. May have implications for security of supply. Arbitrary costs mean a penalty for those who cannot provide accurate estimate 5 weeks out. As this is arbitrary and not based on underlying costs caused or saved, it gives these parties an unfair competitive disadvantage. Limited additional capacity will be released as for the reasons stated under licence obligations above. Therefore, it will not facilitate the trading of short term access in the manner suggested.

6.2 The Working Group performed an assessment of CAP 168 WGAA1 against the Applicable CUSC Objective(s);

(a) the efficient discharge by the Licensee of the obligations imposed upon it by the act and the Transmission Licence; and

(b) facilitating effective competition in generation and supply of electricity and facilitating such competition in the sale, distribution and purchase of electricity.

The following table does not describe the agreed view of the entire Working Group but summarises views made by Working Group members for and against the proposal in terms of the Applicable CUSC Objectives.

Efficient discharge of licence conditions	
Promotes	**Demotes**
Gives Users an extra incentive to release TEC which they do not require.	Introduces a charge which is not based on cost reflectivity and could therefore be considered to be a penalty. Introduces double charging for access. Cost-reflective long-term and short-term access regimes should incentivise efficient TEC bookings. The introduction of arbitrary charges on long-term rights holders tips the balance and would cause inefficient outcomes in terms of TEC bookings and ultimately levels of transmission investment. Power stations will be forced to run at full output to prove TEC requirement each year even if this is not the most efficient course of action (economically or environmentally). Information forthcoming from weekly declarations are only another source of information for SO, over and above outage information provided under OC2 etc. It does not "free up" the equivalent amount of capacity. Benefits are overstated. Running hours exemption will restrict additional capacity that can be released further and provides incentive to keep hours below arbitrary limit of 500 hours.

Facilitates competition	
Facilitates	**Frustrates**
Gives Users an extra incentive to release TEC which they do not require. Facilitates the trading of short-term access. Facilitates the connection of new Users.	Additional administration, including associated risk assessment required in making declarations, will demote competition. This will affect operators with less/smaller plant more as they cannot benefit from economies of scale. Creating timescales for capacity requirements will impact energy markets and could significantly reduce short term liquidity. Proposal does not include sufficient investment certainty for new connections. The proposal is only workable for those plants with predictable generation patterns. May have implications for security of supply. Arbitrary costs mean a penalty for those who cannot provide accurate estimate 5 weeks out. As this is arbitrary and not based on underlying costs caused or saved, it gives these parties an unfair competitive disadvantage.

7.0 PROPOSED IMPLEMENTATION

7.1 The Working Group propose CAP168 Original or WGAA1 should be implemented on the 1st April 2010 if an Authority decision in received by 1st December 2009 or 1st April 2011 if a decision is received after 1st December 2009 but before 1st December 2010. This implementation date is consistent with CAP161-CAP163. CAP168 only becomes fully effective when these are in place. IS changes would also be required to accommodate over usage and under usage. For the purposes of this report it has been assumed these would be completed in the same timescales as those for CAP161-CAP163.

8.0 IMPACT ON NATIONAL GRID IS SYSTEMS AND RESOURCES

8.1 Due to the Urgent timescales National Grid has not had time to perform a full assessment of the impact of CAP168 (Original and WGAA1) on IS systems and resource. We recognise that there would be similarities between the requirements for CAP168 and CAP161-CAP163. As we do not recommend that the Amendment is made we have not initiated further investigation. If the Authority requires further information this could be provided on request given a suitable lead time.

9.0 IMPACT ON THE CUSC

9.1 CAP168 (Original and WGAA1) requires amendments to Section 3, Section 5, Section 6, Section 9, Section 10 and Section 11 of the CUSC. New schedules would be needed for the Pre commissioning cancellation charge, capacity reduction charge, in lieu of notice charge and security provisions.

10.0 IMPACT ON INDUSTRY DOCUMENTS

Impact on Core Industry Documents

10.1 CAP168 (Original and WGAA1) has an impact upon the STC as a process for amending agreements will need to be developed.

10.2 CAP168 (Original and WGAA1) has an impact upon the Grid Code as the information exchange for CAP168 is operational and so should be submitted under the Grid Code.

Impact on other Industry Documents

10.3 It is envisaged the revenue flows should be passed through BSUoS. There may be changes required to a number of documents to facilitate this.

10.4 The charge for over and under-use will be contained in the charging statements.

11.0 WORKING GROUP VIEW / RECOMMENDATION

11.1 The Working Group has developed the Amendment Proposals (Original and WGAA1) to the extent possible given the Urgent timetable. Several substantial developments have been made to the Original Proposal through the discussions of the Working Group. However, the tight timescales have limited the ability of the Working Group to fully incorporate some aspects of the Originals Proposal, in particular two day ahead notifications.

11.2 The Working Group recommended to the CUSC Panel that:

- A Consultation Report containing the CAP168 Original Amendment and WGAA1 should proceed to wider Industry Consultation as soon as possible.
- The Working Group Report is accepted by the CUSC Panel and the Working Group is disbanded.

11.3 The Working Group voted on whether they believed the Amendment Proposals (Original and WGAA1) better, than the current baseline, facilitates the Applicable CUSC Objectives. The results of the vote are described in the following table:

Proposal	Better	Not better	Abstained
Original	0	13	1
WGAA1	1	11	2

11.4 The Working Group voted on which version of CAP168 (Original and WGAA1) they believed best facilitates the Applicable CUSC Objectives. The results of the vote are described in the following table:

Proposal	Best
Original	4
WGAA1	1
Abstained	9

11.5 Four members of the Working Group voted that the Original was the best. It should be noted that these members also voted that the Original was not better than the baseline. One Working Group member voted that WGAA1 was best. This member also believed that WGAA1 was better than the baseline.

11.6 Nine Working Group members abstained. One of these Working Group members abstained as they would have another opportunity to vote as they were on the CUSC Panel. One member abstained as given the precedent set under CAP170 they were concerned that the Alternative (WGAA1) should not have been raised as an Urgent CUSC Amendment. One member pointed out that the Alternative (WGAA1) would potentially free up more capacity but puts more of a risk on generators. This member abstained as the balance of impact of these two aspects is difficult to assess at this stage. Some members abstained because they believed neither the Original nor the Alternative (WGAA1) better facilitated the CUSC Objectives.

12.0 NATIONAL GRID INITIAL VIEW

12.1 Creation of an additional charge will have a negative interaction with the efficient long run charge (based on incremental asset costs) and short run charges (based on incremental operational cost). Effectively this will adjust the balance of holdings to an inefficient level. This interaction will result in suboptimal decisions by network operators and generation companies, with the ultimate risks and costs borne by end consumers.

12.2 Considering the transportability of access National Grid believes that most new developments will seek assurance in the form of long term rights. A functioning secondary market can provide an efficient counter to long term access, and can provide an efficient route to market for aging plant and a useful economic product for low load factor plant with a flat profile. However, it is not desirable to force a secondary market, parties should chose to operate in the market based on the true costs and opportunities.

12.3 The proposal fails to address the divergence between the cost and the value of transmission on a constrained network. In order to encourage parties to release rights the incentive needs to be comparable to the value which users place on them. Furthermore, under the current regime new parties would essentially be distressed buyers, with the potential for incumbents to extract value from transmission.

12.4 More accurate information available to the System Operator on the usage of access, rather than the availability of generation (which is already a Grid Code and therefore licence requirement), would have additional value. However, we are not convinced that under the currently wholesale trading arrangements that it would be efficient for portfolio players to nominate which plant was likely to be operating several weeks in advance of gate closure.

This will introduce additional risk and complexity and lead to the need for additional hedge arrangements. This issue was discussed in the Working Group with general agreement that access released close to real time would have much less value to either the System Operator or new entrants.

12.5 Whilst the exchange of information and managing information imbalance risk may be a manageable for larger portfolio players, the proposals introduces a potentially inefficient burden on small parties and therefore could be considered a barrier to entry.

12.6 The application of an arbitrary charge with reference to a date whilst the normal energy market is still trading will create inefficiencies in the energy market. Whilst the date on which the charge is applied is logical, in relation to a proposed process in CAP161, this does not detract from its potential consequences on energy trading. This will create a disjoint in energy trading due to solely to this process and introduce additional risks in the wholesale market arrangements.

12.7 National Grid recommends that the Original Amendment Proposal and WGAA1 are rejected.

13.0 INDUSTRY VIEWS AND REPRESENTATIONS

13.1 Responses to the National Grid Pre-Consultation

13.1.1 Due to the period for Working Group development and assessment being shorter than usual the Working Group was unable to have a Working Group consultation. To ensure that the wider industry had the opportunity to provide input into the Working Group development and assessment National Grid conducted a pre-consultation on the Original Amendment Proposal as written. National Grid provided the responses to this pre-consultation to the Working Group for further consideration. A copy of the pre-consultation responses is available in Volume 2 of this report.

13.1.2 The following table lists the responses:

Reference	Company
CAP168-NGPC-01	EDF Energy
CAP168-NGPC-02	Immingham CHP LLP
CAP168-NGPC-03	Rio Tinto Alcan
CAP168-NGPC-04	RWE
CAP168-NGPC-05	Scottish and Southern Enegry
CAP168-NGPC-06	Sembcorp
CAP168-NGPC-07	Uskmouth Power

13.2 Responses to the National Grid Consultation

13.2.1 The following table provides an overview of the representations received on the Company Consultation. Copies of the representations are contained in Amendment Report Volume 2.

No.	Company	View	File Number
1	**BWEA**	**Unsupportive**	**CAP168-CR-01**
BWEA does not think this is the time to be bringing forward under-developed proposals that do not have a clearly defined objective, such as CAP168. The proposal had changed in the Working Group. It seems to be acting as an information imbalance charge which will penalise less predictable generators. BWEA fails to see how this bears any resemblance to the original intent of CAP168 and this raises serious questions of the governance process.			
2	**Centrica**	**Unsupportive**	**CAP168-CR-02**
Centrica are concerned that generators may be able to avoid the under-use charge and TEC reduction by increasing their output at relevant times even though this may not be the most economic and efficient way to run their power station. TEC is not a commodity that can be freely traded. Short term TEC products are unlikely to be bankable for developers. Different generators have different abilities to provide an accurate forecast of their weekly TEC MW. As relevant factors are outside the control of the generator the proposal would give some generators an unfair competitive advantage. Further justification and/or development may be required in a number of areas. Centrica is not convinced the circumstances surrounding CAP168 warrant urgent status. Urgent status makes it difficult for a Working Group to properly assess a modification proposal.			
3	**ConocoPhillips / Immingham CHP LLP**	**Unsupportive of Original Supportive of WGAA1**	**CAP168-CR-03**
ConocoPhillips believe the merits primarily arise under applicable objective (b) and better facilitate competition. This is because CAP168 Alternative: ▪ removes TEC from parties that cannot or will not be able to use it; ▪ incentivises users to release TEC which they are not likely to use on a medium-term basis (such as commissioning delays or planned outages); ▪ stimulates secondary trading of TEC, which is an important objective; ▪ should enable the more efficient use of access by both existing users and by connecting parties in the queue, thereby stimulating competition; ▪ given many imminently connecting parties utilise lower carbon technologies, should help reduce emissions; and ▪ would lower BSUoS charges as under-use payment will be offset against it. Other benefits occur under applicable objective (a), because the proposal: ▪ enables more efficient use of existing transmission capacity; ▪ in doing so should reduce risks of asset stranding and customers incurring unnecessary costs; and ▪ should also create more efficient investment signals for new capacity. ConocoPhillips are disappointed these benefits are not set out in the report. The CAP168 Original fails to capture the intention of the high level change proposal. The Original disproportionately favours scale players. ConocoPhilips believe CAP168 has merit without CAP161-CAP163. Explicit criticisms of the current TEC trading arrangements should be included in the report.			

If effective secondary markets can be created, more fundamental higher risk changes to the TEC regime could be avoided. Access rights made available through reallocation and resale would be bankable and would stimulate new entry.

Concerned about the procedures of the Working Group, which in effect mean, a core group of members with strong opinions can take-over the change proposal. The timetable was poorly structured.

4	**E.ON**	**Unsupportive**	**CAP168-CR-04**

The rational for the TEC feasibility test too closely links the rights that generators hold with the system that the transmission company build to accommodate them. The test would incentivise generators to run for one period during the year, this does not seem economically or environmentally efficient. If a generator purchases an access product but does not use it, then it loses out in that it paid for something it didn't need. This in itself should be an incentive not to buy too much TEC. There are good reasons why a generator may run at lower than its full TEC. The weekly TEC notification would provide minimal additional information to the System Operator. If the charge does not reflect an underlying cost caused, then it will represent a penalty. The declaration will also add further to participants costs of operating in the market.

5	**EDF Energy**	**Unsupportive**	**CAP168-CR-05**

Any charging mechanisms for under-use of TEC turn this right of access into an obligation to generate which we view as a fundamental and undesirable shift from the baseline. Users are already sufficiently incentivised to book the correct level of TEC; a feasibility test introduces an unnecessary administrative burden for no benefit to transmission planning or system operation. Charging for under-use of TEC is arbitrary and penal, as it is not possible to determine a cost reflective charge. The proposal will impact on the energy market; in particular, it is likely to significantly reduce short term liquidity. The proposer identifies a defect in TEC trading arrangements, which in EDF Energy's view could be addressed by CAP161-163 or by a simple amendment to charging arrangements for Temporary TEC transfer (CAP142). The short time available to the Working Group to develop this proposal is particularly concerning.

6	**GDF Suez**	**Unsupportive**	**CAP168-CR-06**

The additional administration cost, both on generators and the System Operator implicit in these proposals needs to be fully assessed against benefits. Generally the penalties associated with under-run would seem to provide an incentive to generate inefficiently to satisfy the test criteria. The proposal is detrimental to competition in that it does not properly consider the variety of generation assets within the GB infrastructure and merit order related contributions from all plant to security of supply. The proposal seems to disproportionately benefit plant with predictable generation patterns. It would seem that CAP168 would introduce a perverse incentive with regards to generator's environmental obligations.

7	**InterGen**	**Unsupportive**	**CAP168-CR-07**

InterGen agrees there is presently little incentive for existing transmission holders to release TEC when it is not being used. However, InterGen does not agree that the current CAP168 proposal will effectively address this. Since users already pay for their full TEC capacity it does not appear appropriate to introduce an under-use charge since this will effectively charge twice for the same capacity. There are legitimate reasons why a generator may hold extra TEC (above an average generation level). The urgent status has hampered proper development of this proposal.

8	**International Power / First Hydro**	**Unsupportive**	**CAP168-CR-08**
The proposal does not recognise the true nature of TEC. TEC is tradable only at a very local level. Some 3-6 GW is traded base load day ahead and International Power believes this proposal will damage liquidity in this area. Demand forecasts change significantly from the week ahead stage to real time and this changing demand is met by suppliers fine tuning their contract book to meet the expected supply requirement. Wind power plant will be penalised by the proposal. The costing of under/over run has no justification. The fact that there are no costs associated with under running undermines the premise of the proposal. TEC released on a short term basis is un likely to be bankable and is unlikely to lead to additional generation being able to connect.			
9	**Scottish Power**	**Unsupportive**	**CAP168-CR-09**
Scottish Power does not accept this proposal should have been granted urgency. Adoption of the urgent process severely restricted the time for the Working Group to develop and assess the proposal. CAP161-CAP163 if approved should be given time to demonstrate their effectiveness before the requirement for further action is considered. The introduction of a method for removing transmission access would increase the uncertainty faced by generators. Generators are currently incentivised to hold the optimum level of TEC through the TNUoS charges. Aspects of the proposal change the nature of TEC from a right to generate to an obligation. The under–use charge would result in users paying twice for their access (TNUoS plus under-use charge).			
10	**Scottish and Southern Energy**	**Unsupportive**	**CAP168-CR-10**
SSE do not accept that CAP168 should have been granted urgency or that it is possible to have an alternative to CAP168. There are legitimate reasons why power stations have TEC holdings above their short term usage. Users five weeks out are highly unlikely to know what their firm weekly TEC level is going to be. TEC parties may not be able to freely trade and “extra” TEC they hold due to poor exchange rates. This issue could be further compounded if the GBSO is incentivised to further frustrate the trading of “extra” TEC between parties. It is a serious deficiency with CAP168 that a cost reflective charge has not been developed.			
11	**Uskmouth Power**	**Unsupportive**	**CAP168-CR-11**
Predictable base load generators would gain a competitive advantage if CAP168 or WGAA1 were implemented. Short term liquidity would be destroyed due to the introduction of the TEC nomination process. Uskmouth Power dislikes the introduction of double counting for access which this proposal creates. As a consequence of CAP168 receiving urgent status and being fast tracked through the Working Group greater assessment shall be required under the impact assessment.			

13.3 Views of CUSC Panel members

13.3.1 The CUSC Amendment Panel voted on whether they believed the Amendment Proposals (Original and WGAA1) better, than the current baseline, facilitates the Applicable CUSC Objectives. The results of the vote are described in the following table:

Proposal	Better	Not better
Original	0	9
WGAA1	0	9

13.3.2 The CUSC Panel voted that neither the Original nor the Alternative Proposals are better than the current baseline. The reasons why CUSC Panel members voted they way they did are outlined in the minutes of the 15th May 2009 CUSC Panel meeting. In light of the vote the CUSC Panel therefore recommends to the Authority that both CAP168 Original and WGAA1 are rejected. For the avoidance of doubt, if the Authority were to approve the implementation of either Amendment Proposal (Original or WGAA1) then this could be subject to Appeal to the Competition Commission by a party to the CUSC (if they so wished).

13.3.3 One member of the Panel did not believe that the report provided enough quality reasoning and analysis to demonstrate that either was better than the baseline. Some Panel members considered that in some aspects the Proposals ran counter to the Applicable CUSC Objectives.

13.3.4 The CUSC Panel voted on which of the proposals they believe best facilitates the applicable CUSC Objectives. The result of this vote is described in the following table:

Proposal	Best
Original	3
WGAA1	1
Abstained	5

13.3.5 Three Panel members considered that of the two proposals the Original Amendment Proposal was the least worst. One member considered that the Original gave Users more flexibility over WGAA1. One Panel member considered that the 5MW dead-band proposed under WGAA1 was discriminatory. One Panel member noted that whilst both would potentially have a negative impact on the energy market the Original would have the least impact. One member voted that WGAA1 was the best. This member considered that WGAA1 would free up more TEC. Five members of the Panel abstained from the vote. These members disliked both proposals and could not describe either of the proposals as best.

ANNEX 1 –CAP168 CUSC Amendment Proposal

CUSC Amendment Proposal Form	CAP: 168

Title of Amendment Proposal:

Transmission Access – Under-use and reallocation of TEC

Description of the Proposed Amendment *(mandatory by proposer)*:

In summary the proposed arrangement would work as follows.

CAP168 centres on the introduction of an under-use charge for transmission entry capacity (TEC).

Incentivised by an **under-use charge** (additional to TNUoS payments) based on a pre-set multiple of TNUoS payments, parties would make available TEC they do not require by assigning the right to use such TEC to third parties on a bilateral basis. This might be on either a temporary basis within-year or for longer-term blocks of a year (or both). In the case of within-year provision already exists under CUSC 6.34 for CUSC parties to offer unwanted TEC to other grid users but only in certain defined circumstances, and this has not been utilised. Consequently CAP168 would introduce a daily and a weekly access product. Annual blocks could also be sold individually or in multi-year bundles under this proposal.

The assignee would assume the TNUoS liability (proportionate if within-year) and the associated liability for any subsequent under-use in respect of the assigned TEC.

Alternatively usage rights could be returned to National Grid, who could facilitate the market in access rights as part of the proposed incremental capacity release mechanism (CAP161).

In the event of under-use charges being incurred for a period of time (say, two years) as a result of a TEC holder failing to assign or return unused capacity, a further **"use it or lose it" mechanism** would be introduced. This would require the return of that capacity to National Grid unless the TEC holder is able to evidence a requirement for its use in the subsequent year or to confirm that it has offered to sell the unused capacity on reasonable terms into the market.

Rights would continue to be defined **nodally**, so provisions would be needed to establish exchange rates for annual or forward TEC trades. The CAP142 bulletin board could be developed to allow willing buyers and sellers to meet and trade if CAP161 were not implemented. However if CAP161 were implemented there would be interaction between this proposal and SO incremental release.

All TEC holders would be obligated to provide surety in the form of a **user commitment amount** over the period prior to the trigger date and a cancellation amount between the trigger date and the completion date. This would be structured in the same way as under the relevant elements of CAP165, which would replace the existing final sums regime. Similarly, user commitment charges and cancellation charges would be applied.

A **capacity reduction charge** would also be introduced to incentivise orderly notification of withdrawal of generation from the system in the event such notice is not given. Other aspects of the user commitment principles as proposed by CAP165 would also be adopted.

Fuller notes on how the proposal would work are attached.

Description of Issue or Defect that Proposed Amendment seeks to Address *(mandatory by proposer)*:

Under the existing transmission access arrangements a long queue of applications for new connection capacity has developed. There are significantly more applications than available unallocated capacity, and some generators may be constrained or delayed or even not able to

develop owing to lack of secure transmission access. Much of this generation "in the queue" is low carbon. This situation has arisen at a time when the UK requires connection of significant amounts of new generation capacity due to its ageing generation fleet, to deal with expected plant withdrawals to comply with environmental regulations and to meet demanding renewables and CHP targets.

To compound matters there is presently little incentive for existing transmission access right holders to release TEC when it is not being used. Such instances include::

- planned or unplanned outages
- when there is uncertainty around the timing of commissioning of new plant
- where an operator considers there is potential for increasing future output beyond current expected operating conditions
- where an operator wishes to come off the system for a period of time for commercial reasons, perhaps because of operating limits imposed by the Large Plant Combustion Directive (LCPD), and
- where an operator considers there are strategic reasons to preserve unused capacity perhaps because it has future plans for additional generation.

Although there is already scope for securing additional access (under CAP70 and CAP94) and for limited trading (CAP142) within-year, the proposer considers the current rules are deficient to deliver robust trading of TEC rights. Consequently TEC holders can be unwilling to give up TEC they know they will not use in the short to medium term but which they expect to need in the medium to long term as they could lose all future rights to that released capacity, and as a result the system operator has an inaccurate picture of available system capacity and any local surplus.

The proposal entails the introduction of a mechanism––an under-use charge––that will foster the more efficient use of TEC and "enhanced access rights trading" for TEC holders and those looking to increase TEC to provide greater flexibility during periods of under-utilisation of transmission capacity. It is designed to:

- encourage more efficient use of existing network capacity, by
  - causing currently unused TEC to be released to make spare transmission capacity available to other grid users, including those in "the queue"
  - freeing up TEC when maintenance or other prolonged outage occurs or where an operator's view of likely operating or commodity pricing parameters changes
  - providing financial incentives to encourage users to better manage their TEC to reflect the level of expected usage
- in so doing stimulate TEC trading
- through freeing up access to the grid, enable the execution of more efficient balancing actions by the system operator, potentially reducing total balancing costs
- use any additional monies arising from under-use or resale of TEC by the system operator to offset total balancing costs.

Additionally proposals already in process also have merit in terms of encouraging more efficient allocation of TEC. However CAP168, especially if implemented with some combination of CAP161-164 (but not either CAP165 or CAP166), would provide:

- much stronger incentives for existing TEC holders to release unused or surplus capacity on the

transmission grid, and

- a more orderly, enduring approach for making available unused transmission access rights in a timely manner.

Consequently by implementing CAP168 in combination with CAP161-164 DECC and Ofgem objectives for TAR can be achieved without a disproportionate upheaval to the current transmission access arrangements. Such an approach would therefore mitigate unnecessary risks and delays to new investment.

CAP168 also takes on board the fundamental requirement that generators need to have certainty over their access to the system in order to ensure a route to market for their power. To achieve this, they already commit significant monies to guarantee the necessary investment on the network to accommodate their expected production, and a developer already provides significant funding for the local works needed to connect it. It has also led to the development of final sums liability arrangements whereby the generator also underwrites investment in the wider system in return for TEC—that is, rights to capacity and its use—that are in effect renewable annually.

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

The impact on the CUSC would include, but may not be limited to, changes in Section 2 (Connection), 3 (Use of System), 6 (General Provisions) and 9 (Interconnectors). There would also be consequential changes required to Section 11 (Interpretation and Definitions), and potentially to the CUSC Schedules and Exhibits.

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

No impact on Core Industry Documentation has been identified, but it is suggested that potential impacts would be reviewed during the assessment of the proposed amendment.

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

CUSC parties' models of the financial viability of new existing power stations and interconnectors would need to take into account the revised arrangements. Any necessary system, process and operational changes would need to be assessed. If CAP161 in particular but also CAP163 were implemented, the additional requirements arising from implementation of CAP168 should be minimal.

Details of any Related Modifications to Other Industry Codes *(where known)*:

The interaction with the current charging mechanism has been addressed in the proposal. It is recognised that many of the issues identified in the various GB ECM pre-consultations that closed late 2008 would apply equally. Further there would need to be additional changes to the charging methodology statement to implement under-use charges.

Justification for Proposed Amendment with Reference to Applicable CUSC Objectives** *(mandatory by proposer)*:

The proposal has real merit under the CUSC applicable objectives on its own (that is, without implementation of any or all of CAP161 -164).

The proposed amendment would better facilitate the achievement of Applicable CUSC Objective (a), the efficient discharge by the licensee of the obligations imposed upon it under the Act and by the licence, in that the more efficient use of transmission capacity will create more efficient investment signals. In turn this would result in consequentially reduced risk of transmission asset

stranding, and would better allow National Grid as the relevant licensee to discharge its obligation under the Act to develop and maintain an efficient, co-ordinated and economical system of electricity transmission.

The proposed amendment would also better facilitate the achievement of Applicable CUSC Objective (b), facilitating effective competition in the generation and supply of electricity, and (so far as consistent therewith) facilitating such competition in the sale, distribution and purchase of electricity as:

- existing and new generators would be required to provide equivalent levels of user commitment thereby ensuring the equitable treatment of the two groups, and
- existing unused capacity could be reallocated with certainty to new entrants permitting earlier connection in some instances boosting competition and removing a barrier to entry.

More generally the mechanism would facilitate creation of an efficient access capacity trading market that would increase use of the existing grid, facilitate the flow of new projects onto the system and their earlier timing thus helping tackle the queue and reinforcing other measures underway, and therefore deliver significant competitive benefits.

Given these impacts CAP168 would also facilitate progress against politically critical low carbon targets (further reinforcing beneficial efficiency impacts). It would create strong incentives on capacity hoarders to release capacity and enable unused capacity to be released into the market or returned to the SO. It would also add a more orderly, certain process than allowing over-run without securing the underlying access right, with particular benefits for new entrants who would not be able to rely on the proposed overrun arrangements under the proposed CAP162.

By introducing CAP168 in combination with other changes—notably incremental system operator release (CAP161) and capacity sharing (CAP163)—it would deliver additional benefits to those listed above under the applicable objectives.

Details of Proposer: Organisation's Name:	ConocoPhillips
Capacity in which the Amendment is being proposed: (i.e. CUSC Party, BSC Party or "energywatch")	CUSC Party
Details of Proposer's Representative: Name: Organisation: Telephone Number: Email Address:	Maureen McCaffrey ConocoPhillips 020 7408 6785 maureen.mccaffrey@conocophillips.com
Details of Representative's Alternate: Name: Organisation: Telephone Number: Email Address:	Nigel Cornwall Cornwall Energy 01692 407865 nigel@cornwallenergy.com
Attachments—Yes **If Yes, Title and No. of pages of each Attachment:** Further detail on proposal—4 pages.	

Notes:

1. Those wishing to propose an Amendment to the CUSC should do so by filling in this "Amendment Proposal Form" that is based on the provisions contained in Section 8.15 of the CUSC. The form seeks to ascertain details about the Amendment Proposal so that the Amendments Panel can determine more clearly whether the proposal should be considered by a Working Group or go straight to wider National Grid Consultation.

2. The Panel Secretary will check that the form has been completed, in accordance with the requirements of the CUSC, prior to submitting it to the Panel. If the Panel Secretary accepts the Amendment Proposal form as complete, then he will write back to the Proposer informing him of the reference number for the Amendment Proposal and the date on which the Proposal will be considered by the Panel. If, in the opinion of the Panel Secretary, the form fails to provide the information required in the CUSC, then he may reject the Proposal. The Panel Secretary will inform the Proposer of the rejection and report the matter to the Panel at their next meeting. The Panel can reverse the Panel Secretary's decision and if this happens the Panel Secretary will inform the Proposer.

   The completed form should be returned to:
   Bali Virk
   Panel Secretary
   Commercial Frameworks
   National Grid
   National Grid House
   Warwick Technology Park
   Gallows Hill
   Warwick
   CV34 6DA

   Or via e-mail to: bali.virk@uk.ngrid.com

   (Participants submitting this form by email will need to send a statement to the effect that the proposer acknowledges that on acceptance of the proposal for consideration by the Amendments Panel, a proposer which is not a CUSC Party shall grant a licence in accordance with Paragraph 8.15.7 of the CUSC. A Proposer that is a CUSC Party shall be deemed to have granted this Licence).

3. 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.

Attachment – further description

Incentivised by an under-run charge, access rights trading needs to accommodate a range of possible outcomes where a TEC holder may wish to:

- release unused TEC for a period less than a year[1]
- release unused TEC on a longer-term, annual basis, and/or
- in some circumstances divest unused TEC rights where they are no longer required.

Further, in the interests of open access, the proposer believes there should be a mechanism to deal with situations where a TEC holder retains capacity despite incurring under-use charges for a period of time and where the TEC holder might not be able to demonstrate a certain future requirement for its use.

The methodology proposed by CAP168 incorporates the following key features:

- all existing TEC holders maintain their existing TEC rights in circumstances where they are being used
- all TEC holders with a connection agreement (that is connecting and operating parties) would be obligated to provide surety in the form of a user commitment amount over the period prior to connection (that is, when they are in the queue), and such surety would be structured as per the proposed user commitment principles under CAP165
- post commissioning the TEC holder would pay TNUoS "in the usual way"
- there would be a new under-use charge (in essence an access imbalance charge) that would be levied on the difference between a generator's reported maximum demand on at least three separate days across the year (and not just over the triad period) in a given year and its booked TEC reflected in the bilateral connection agreement
- the under-use charge would apply in positive charging zones[2] and should be based on a multiple of the sum of the relevant zonal TNUoS charge (the locational charge plus the residual element) foregone by not using the full booked TEC
- the multiple would be not less than one and a half times the applicable TNUoS charge but a more cost-reflective rationale could be examined[2]
- TEC holders would be able to assign TEC for a minimum of a day[3] on either a fixed duration or in multiple annual strips to third parties seeking increased or new TEC
- to facilitate liquidity and flexibility within-year a daily and weekly access product would be available
- standard contracts would be established as a CUSC exhibit for assignment of TEC
- extra monies above expected TNUoS payments received by the system operator from under-use charges or from the resale of TEC assigned to it would also be used to help offset BSUoS
- alternatively the monies could be ring-fenced and used by the system operator to invest in operational enhancements

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[1] There is a consensus that existing within-year products (which concern only unallocated TEC), namely Short-term TEC and Limited Duration TEC, have not created the necessary flexibility, and have seen limited use. The Temporary TEC Exchange introduced under CAP142 has not been used.

[2] No additional mechanism is needed for generation in negative zones as there is already an incentive to generate to achieve TNUoS payments.

[2] To incentivize the release of genuinely unused TEC, this multiple or charge could be scaled up over time (for instance to two times in year two).

[3] There would need to be a mechanism to ensure that a user could not sell a single day's capacity to avoid one year's under-run charges.

- if an operator were exposed to under-use charges in excess of a defined level of TEC for more than two consecutive years [or three years in five], procedures would be initiated to compel the TEC holder to release the unused capacity into the market or reassign the TEC on a permanent basis to the system operator unless the TEC holder could evidence a clear requirement for it in the third [or a subsequent] year
- all existing holders of TEC would be required to give two years' notice of their intention to reduce or withdraw capacity (other than through the TEC assignment mechanism outlined above)
- the CAP142 bulletin board would be used to enable willing buyers to transact with willing sellers[4] and could also be extended to publicise both unused TEC and closure declarations[5]
- developers or new generation schemes would be able to subscribe for new TEC "in the usual way", subject to meeting user commitment requirements.

The detailed rules would depend on whether the offer of assignment of TEC rights was:

- within-year or for annual rights
- triggered by sustained under-utilisation.

In more detail:

Short-term (within-year)

- to the extent an operator does not require it, it can already under CAP142 offer this to the market but only on a temporary basis, and a third party purchaser could be identified and the access right for the defined period sold
- an alternative option under CAP168 would be to offer the TEC back to the system operator
- if CAP161 were approved blocks would be made available in one week or one day blocks
- if CAP161 were not approved, TEC for a period of four weeks to fifty one weeks would be offered but CAP168 would extend this facility to daily or weekly blocks[6]
- under either approach an exchange rate mechanism for trades would need to be applied
- the TNUoS charges payable by the assignee in relation to the transferred TEC should be calculated on the same basis that the initial holder would have faced on the transferred TEC over the relevant part of the year covered by the assignment
- a mechanism would be required to establish proportionate charges where daily and weekly blocks were traded
- the purchaser would be subject to any under-use in the same way as the seller would have been (again taking into account any daily or weekly availability)
- the under-use charge would be calculated relative to the three highest demands recorded by the user across the year *during the period for which it holds the TEC* irrespective of whether they occurred over the triad period
- this charge should be based initially on a multiple of one and a half times the appropriate TNUoS charge.

Annual strips

- an operator may make available to the market their excess TEC to any other operator who requires TEC (at which time TEC and all its rights and obligations will be transferred) in annual "strips"[3]

[4] Consideration should be given to broadening the scope of the exchange to cover all unbooked capacity.
[5] Alternatively CAP161 mechanisms could be used for release of TEC assigned back to the SO if that change were approved.
[6] In other words anything less than a year and anything prescribed as the minimum under CAP142.

- as within-year an option would be to offer the TEC back to the system operator
- the TNUoS charge payable by the assignee in relation to the transferred TEC should be the same that the initial holder would have faced on the assigned capacity
- for annual traders there would be no need to provide for part usage of the capacity within year
- there would need to be an under-use charge applied in the event the reallocated TEC was not used by the purchaser, again levied in the same way that the charge would have applied to the initial TEC holder
- this charge should also be based on a multiple of one and a half times the appropriate TNUoS charge.

Use it or lose it

- if the same TEC is not used or assigned for two years continuously [or three years in five] and the operator cannot provide evidence to the system operator that it will use the capacity in the third year [or a subsequent relevant year] and has taken reasonable steps to offer the unused TEC to the market, the operator could be required to offer that TEC back to the system operator or to other grid users on a permanent basis
- further if any plant incurs under-use charges for at a defined level in any two year period [or any three years in five] its TEC could be reduced to the level where the under-use would not have incurred
- to the extent an operator holds TEC that has been assigned by another operator under the reallocation mechanism, the assignee would pay the TNUoS liability and be charged for any under-use on the transferred TEC holding.

Closing Plant

Closing plant shall be required to give two years' full notice of its intention to close. Where two years' notice is properly given, no transmission charges should be incurred once the plant has closed. However where only one year's notice is given, the plant will pay 50% of the transmission charges it would have incurred. These charges would be incurred even if the associated TEC were subsequently sold to the system operator or into the market.

New Plant

All operators commit to pay three years' worth of TEC going forward; this aggregate sum shall be subject to the existing CUSC security arrangements, but with the amounts adjusted in the event that any TEC is reassigned. The trigger point and other definitions would be as proposed under CAP165. TEC reservations may not exceed that that the plant of the owner could physically produce and would be a value less than the contracted CEC.

SO buy-back

The CAP168 proposal has assumed that unused rights are sold bilaterally or returned to the SO to avoid under-use charges. Options involving SO buy-back could also be addressed during the assessment.

[3] CAP142 applies only to within-year trades.

ANNEX 2 – CAP168 Working Group Terms of Reference

Working Group Terms of Reference and Membership

TERMS OF REFERENCE FOR CAP168 WORKING GROUP

RESPONSIBILITIES

1. The Working Group is responsible for assisting the CUSC Amendments Panel in the evaluation of CUSC Amendment Proposal CAP168 tabled by ConocoPhillips at the Amendments Panel meeting on the 27th February 2009.

2. The proposal must be evaluated to consider whether it better facilitates achievement of the applicable CUSC objectives. These can be summarised as follows:

   (a) the efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission Licence; and

   (b) facilitating effective competition in the generation and supply of electricity, and (so far as consistent therewith) facilitating such competition in the sale, distribution and purchase of electricity.

3. It should be noted that additional provisions apply where it is proposed to modify the CUSC amendment provisions, and generally reference should be made to the Transmission Licence for the full definition of the term.

SCOPE OF WORK

4. The Working Group must consider the issues raised by the Amendment Proposal and consider if the proposal identified better facilitates achievement of the Applicable CUSC Objectives.

5. In addition to the overriding requirement of paragraph 4, the Working Group shall consider and report on the following specific issues:

   -Introduction of an under-use charge for TEC

   -TEC trading arrangements

      -Facilitation of TEC trading

      -Exchange rates

      -Within-year trading

      -Annual trading

   -Process for offering TEC to SO

   -"Use it or lose it" mechanism

   -User commitment

   -Capacity reduction charge

   -Reserve

-Interaction with other proposals

6. The Working Group is responsible for the formulation and evaluation of any Working Group Alternative Amendments (WGAAs) arising from Group discussions which would, as compared with the Amendment Proposal, better facilitate achieving the applicable CUSC objectives in relation to the issue or defect identified.

7. The Working Group should become conversant with the definition of Working Group Alternative Amendments which appears in Section 11 (Interpretation and Definitions) of the CUSC. The definition entitles the Group and/or an individual Member of the Working Group to put forward a Working Group Alternative Amendment if the Member(s) genuinely believes the Alternative would better facilitate the achievement of the Applicable CUSC Objectives. The extent of the support for the Amendment Proposal or any Working Group Alternative Amendment arising from the Working Group's discussions should be clearly described in the final Working Group Report to the CUSC Amendments Panel.

8. There is an obligation on the Working Group Members to propose the minimum number of Working Group Alternatives where possible.

9. All proposed Working Group Alternatives should include the proposer(s) details within the Final Working Group Report, for the avoidance of doubt this includes Alternative(s) which are proposed by the entire Working Group or subset of members.

10. The Working Group is to submit their final report to the CUSC Panel Secretary on the 1st April 2009 for circulation to Panel Members. The conclusions will be presented to the CUSC Panel meeting on 3rd April 2009.

MEMBERSHIP

11. It is recommended that the Working Group has the following members:

Chair	Hêdd Roberts
National Grid	Patrick Hynes
Industry Representatives	James Anderson
	Bob Brown
	Michael Dodd
	Richard Ford
	Garth Graham
	Paul Jones
	Robert Longden
	Simon Lord
	Deborah MacPherson
	Maureen McCaffrey
	Rekha Patel
	Bill Reed
	Louise Schmitz
	Merel van der Neut Kolfschoten
	Barbara Vest
	Charles Williams

Authority Representative	Konrad Keyserlingk
Technical Secretary	Sarah Hall

NB: Working Group must comprise at least 5 Members (who may be Panel Members)

12. The Chair of the Working Group and the Chair of the CUSC Panel must agree a number that will be quorum for each Working Group meeting. The agreed figure for CAP168 is that at least 8 Working Group members must participate in a meeting for quorum to be met.

13. A vote is to take place by all eligible Working Group members on the proposal and each Working Group Alternative, as appropriate, as to whether it better facilitates the CUSC Applicable Objectives and indicate which option is considered the BEST with regard to the CUSC Applicable Objectives. The results from the vote shall be recorded in the Working Group Report.

14. Working Group Members or their appointed alternate is required to attend a minimum of 50% of the Working Group Meetings to be eligible to participate in the Working Group vote.

15. The Technical Secretary is to keep an Attendance Record, for the Working Group meetings and to circulate the Attendance Record with the Action Notes after each meeting. This will be attached to the Final Working Report.

16. The membership can be amended from time to time by the CUSC Amendments Panel.

RELATIONSHIP WITH AMENDMENTS PANEL

17. The Working Group shall seek the views of the Amendments Panel before taking on any significant amount of work. In this event the Working Group Chairman should contact the CUSC Panel Secretary.

18. The Working Group shall seek the Amendments Panel advice if a significant issue is raised during the Consultation process which would require a second period of Consultation in accordance with 8.17.17.

19. Where the Working Group requires instruction, clarification or guidance from the Amendments Panel, particularly in relation to their Scope of Work, the Working Group Chairman should contact the CUSC Panel Secretary.

MEETINGS

20. The Working Group shall, unless determined otherwise by the Amendments Panel, develop and adopt its own internal working procedures and provide a copy to the Panel Secretary for each of its Amendment Proposals.

REPORTING

21. The Working Group Chairman shall prepare a final report to the 3rd April 2009 Amendments Panel responding to the matter set out in the Terms of Reference.

22. A draft Working Group Report must be circulated to Working Group members with not less than five business days given for comments.

23. Any unresolved comments within the Working Group must be reflected in the final Working Group Report.

24. The Chairman (or another member nominated by him) will present the Working Group report to the Amendments Panel as required.

ANNEX 3 – WORKING GROUP ATTENDANCE REGISTER

Name	13/03/09	19/03/09	24/03/09
Hêdd Roberts	✓	✓	✓
Sarah Hall	✓	✓	✓
James Anderson	✓	✓	✓
Bob Brown	✓	✓	✓
Micheal Dodd	✓	×	✓
Richard Ford	✓	×	✓
Garth Graham	✓	✓	✓
Patrick Hynes	✓	✓	✓
Paul Jones	Peter Bolitho	✓	✓
Robert Longden	✓	✓	✓
Simon Lord	✓	✓	×
Deborah MacPherson	×	×	×
Maureen McCaffrey	✓	✓	✓
Rekha Patel	×	✓	✓
Bill Reed	✓	✓	✓
Louise Schmitz	James Evans	✓	✓
Merel van der Neut Kolfschoten	Dave Wilkerson	✓	×
Barbara Vest	✓	×	×
Charles Williams	✓	×	×

Observers	13/03/09	19/03/09	24/03/09
Nigel Cornwall	✓	✓	×
Ricky Hill	✓	×	×
Konrad Keyserlingk	✓	✓	✓
Paul Mott	✓	×	×

ANNEX 4 – RESULT OF WORKING GROUP VOTE

The Working Group voted on whether they believed the CAP168 Amendment Proposals (Original and WGAA1) better, than the current baseline, facilitates the Applicable CUSC Objectives. The results of the vote are described in the following table:

Proposal	Better	Not better	Abstained
Original	0	13	1
WGAA1	1	11	2

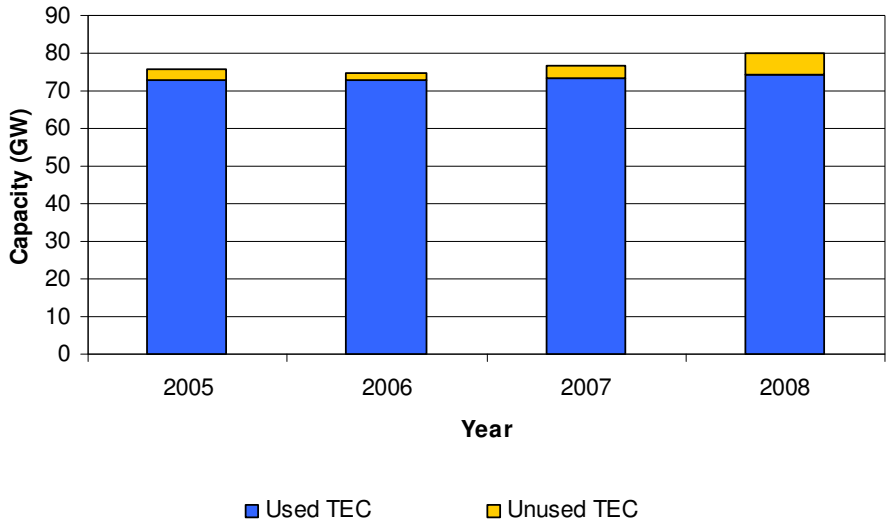
The Working Group voted on which version of CAP168 (Original and WGAA1) they believed best facilitates the Applicable CUSC Objectives. The results of this vote are described in the following table:

Proposal	Best
Original	4
WGAA1	1
Abstained	9

ANNEX 5 – ANALYSIS FROM NATIONAL GRID PRE-CONSULTATION

To aid the consideration of this amendment National Grid has provided some initial analysis to give an indication of the historic levels of capacity which could have been subject to an under-use charge.

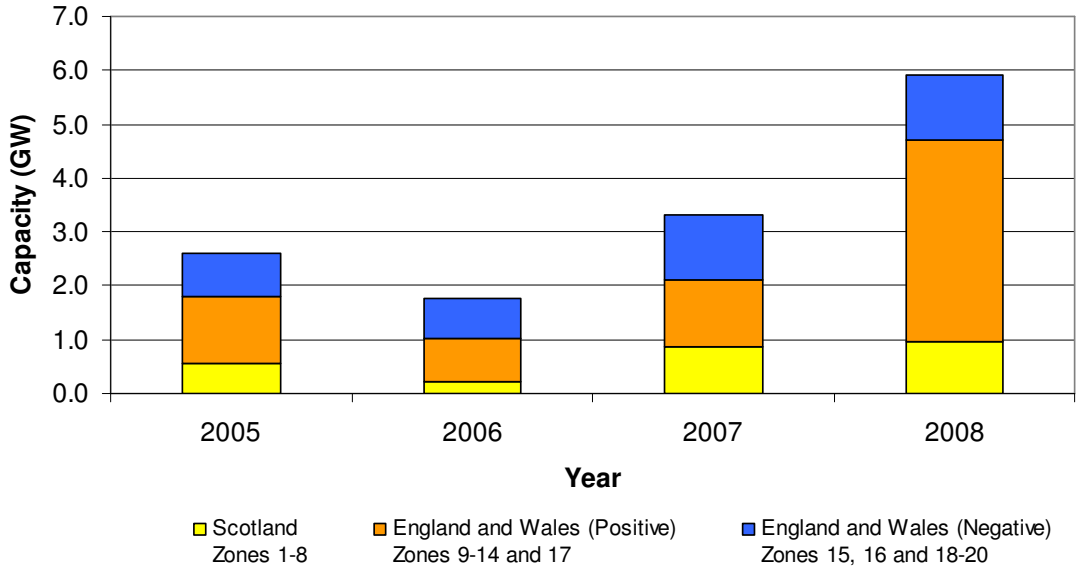
This initial analysis compares the maximum metered output of each generator in a year with their booked TEC. The difference between the metered output and the TEC has been used to calculate the level of unused TEC for each generator. The used TEC of all generators has been summed together and the unused TEC of all generators has been summed together to give the following graph.



Capacity (GW)	2005	2006	2007	2008
Unused TEC	2.6	1.8	3.3	5.9
Used TEC	70.3	71.1	70.0	68.4
Total TEC	72.9	72.9	73.3	74.3

This analysis shows that in previous years between 1.8 and 5.9 GW could potentially have been charged for under-use if no action was taken to release this capacity to other users. The proposal suggests using the three maximum outputs. Using three maximum outputs would potentially make more capacity chargeable under the new arrangements.

The following graph shows the amount of unused TEC since 2005 in GW. The information is split into three categories. The Scotland category includes those generators currently in TNUoS tariff zones one to eight. England and Wales has been split to show how much of the unused TEC is in TNUoS tariff zones with a negative tariff and how much is in positive zones.



Capacity (GW)	Zones	2005	2006	2007	2008
Scotland	1-8	0.6	0.2	0.9	0.9
England and Wales (Positive)	9-14, 17	1.2	0.8	1.2	3.8*
England and Wales (Negative)	15,16, 18-20	0.8	0.8	1.2	1.2

*The trebling in unused TEC between 2007 and 2008 in positive zones in England a Wales is due to two large generators being on outage during 2008.

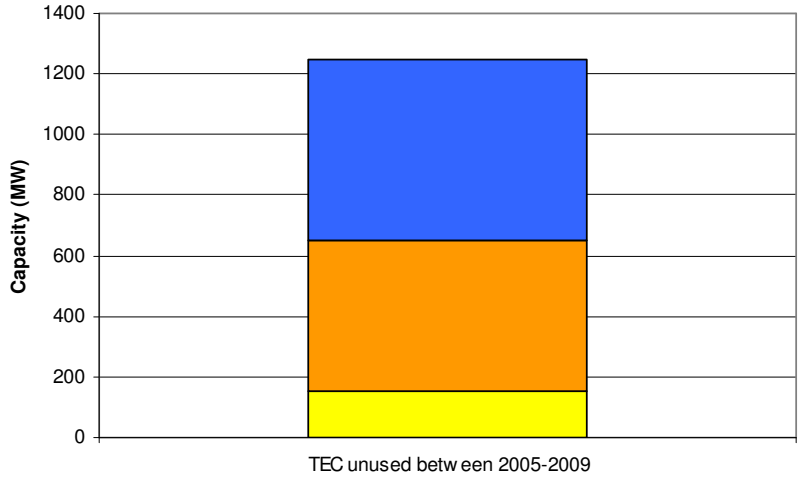
The majority of unused TEC is in positive zones in England and Wales as this is where the majority of generation is situated. The unused TEC is approximately 3% on average of the total TEC in positive zones in England and Wales. Although less TEC is unused in Scotland and the negative zones in England and Wales a greater percentage of TEC is unused. In Scotland 11% of TEC is unused and 10% is unused in negative zones in England and Wales.

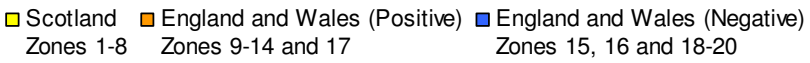
ANNEX 6 – FURTHER ANALYSIS

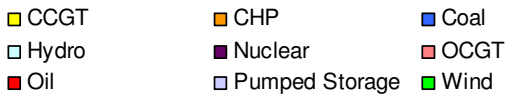
Consistent Under-use

At the CAP168 Working Group meeting on the 13th March 2009 National Grid took an action to analyse how much TEC was consistently not being used.

Data from 88 generators between January 2005 and February 2009 was reviewed. The amount of TEC which had consistently not been used during this period was approximately 1.25 GW. This is calculated by looking at the difference between the maximum metered output of each generator since January 2005 and their booked TEC. The following graphs show how this is distributed zonally and by plant type.





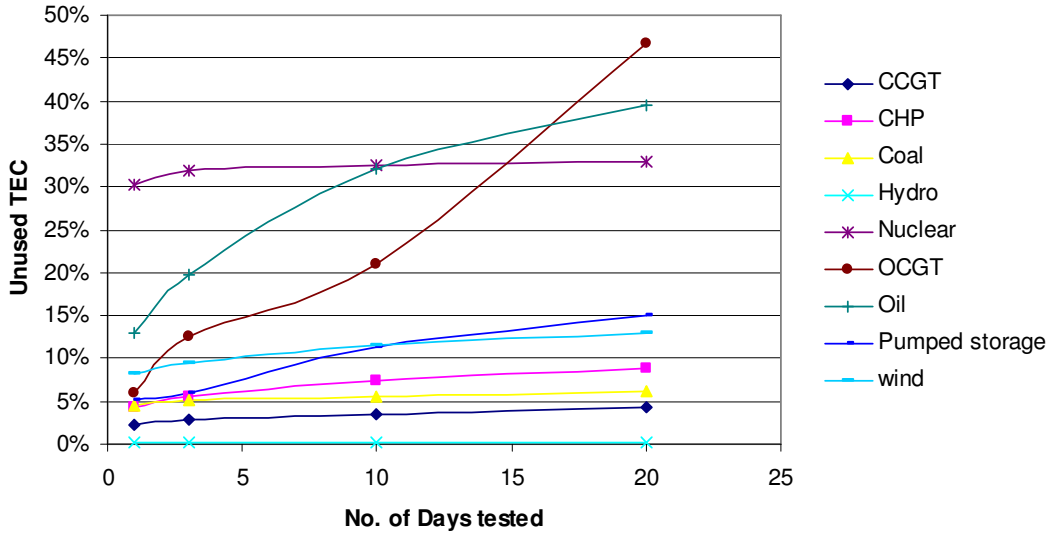


Under-use Capacity

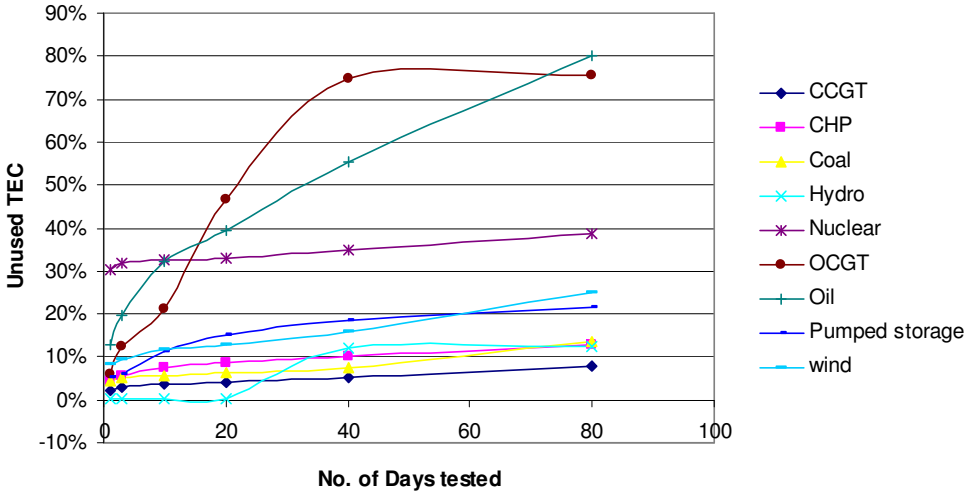
It was suggested at Friday's Working Group meeting that considering a Users output on three days may not be a severe enough test to measure the capacity which the under-use charge should be levied upon. The following analysis looks at the maximum, the third greatest daily output to the 80th greatest daily output. In 2008 the difference between TEC and the X greatest daily output was:

X	1	3	10	20	40	80
Difference (GW)	5.9	6.7	7.8	8.7	10.5	14.3

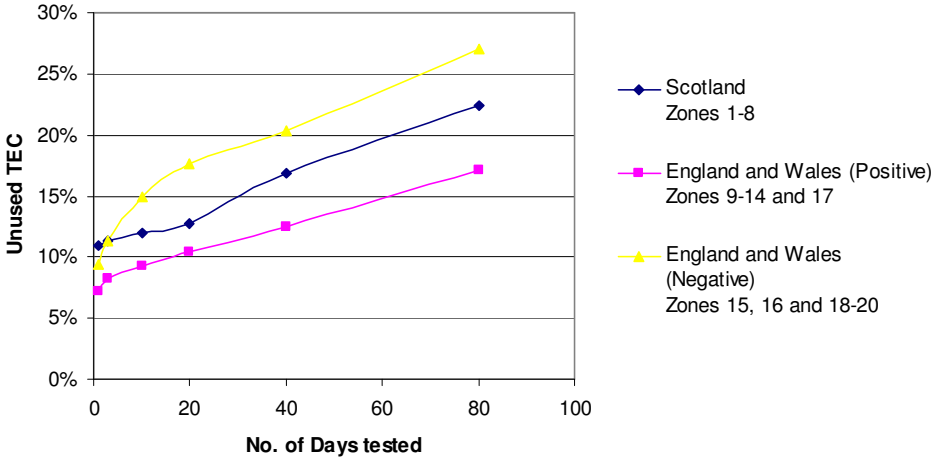
The following graph shows the percentage of TEC in Users' bilateral agreements not used during the maximum output, the third greatest daily output, the 10th greatest daily output and the 20th greatest daily output by different plant types.



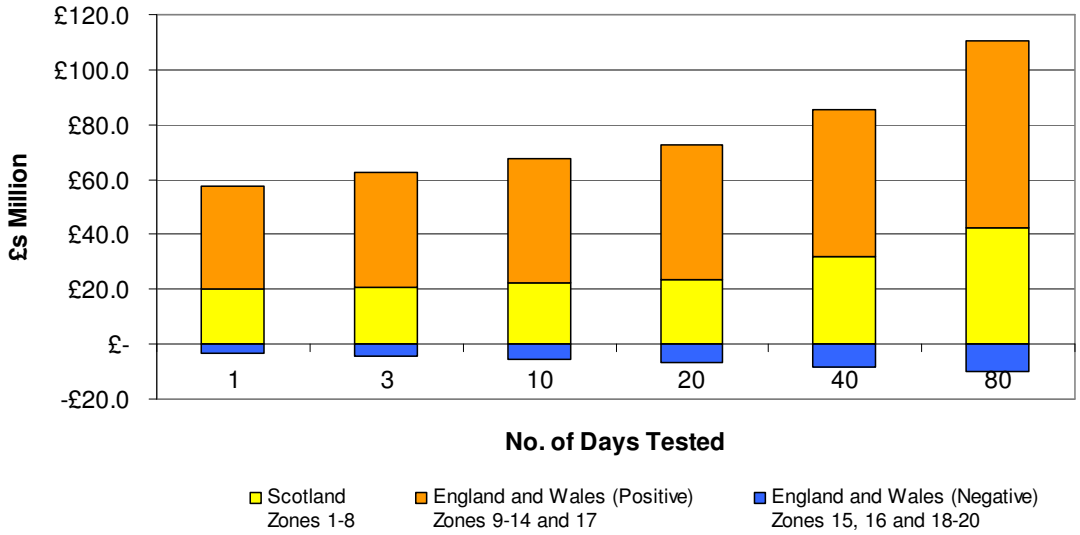
An additional two data points were measured at 40 an 80 to provide the group with further information.



This graph shows data from 2008. During this year two nuclear plants had outages. This has bought the average up for nuclear plants.



After seeing the first draft of this analysis a further request was made to see the level of money which would have been recovered had an under-use charge of 1.5 x TNUoS been in place.



ANNEX 7 – FURTHER DETAILS OF USER COMMITMENT

Pre-Comissioning User Commitment

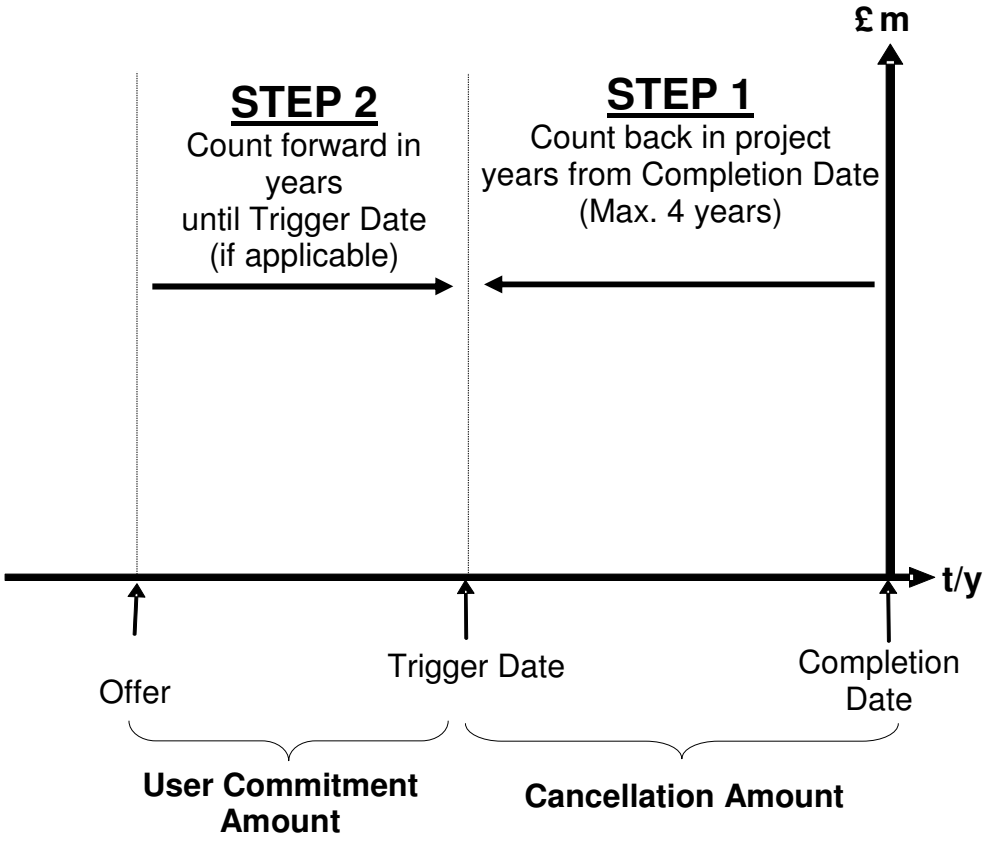
The CAP168 proposed arrangements for pre-commissioning generators (and for post-commissioning generators that request additional wider entry access rights) requiring transmission works seek to replace the current liabilities for cost reflective final sums with non-refundable generic liabilities. An aim would also be to share the risk of inefficient investment associated with generation termination between the generators that introduce risk, and all other Users.

The generic liabilities incurred would be a non-refundable termination charge equal to three times the relevant generation TNUoS tariff. Under CAP168, this multiplier would set not just the termination liability pre-commissioning but also the minimum number of years of wider entry access rights to the transmission system that a newly commissioned User would be liable for. Therefore, under CAP168 the potential termination liability immediately prior to commissioning and immediately post commissioning would be equivalent (at three years' worth of TNUoS). Further details regarding the post commissioning User commitment are considered later in this annex.

These arrangements would only apply to wider transmission entry access rights. Separate, but similar, arrangements would apply to infrastructure comprising generators' local connections to the wider system. Additionally, for parties not booking entry access rights (e.g. DNOs), the current cost reflective final sums arrangements will continued to be applied for transmission reinforcement works.

The offer will set out two types of payments that would be due in the event of termination: User Commitment Amounts before the Trigger Date, and Cancellation Amounts between the Trigger Date and the Completion Date. The process is illustrated in the diagram below:

Calculation of timescales for pre-commissioning termination payments



It can be expected that following the Trigger Date, the majority of applications for new or increased wider entry access rights will result in a Completion Date within four years. It should be noted that under the CAP168 arrangements, National Grid will retain the right in the Construction Agreement to delay the Completion Date owing to unforeseen circumstances beyond its control.

User Commitment Charge
Between the Offer Date and Trigger Date, termination of wider transmission entry access rights requested would result in the levying of a User Commitment Charge based on User Commitment Amounts. The User Commitment Charge will be non-refundable.

User Commitment Amounts would be calculated using a generic methodology, based on a value of £1/kW commencing upon signature of the Construction Agreement. This would increase by £1/kW following each full year up to the Trigger Date, subject to a cap of £3/kW. Should a User terminate its Construction Agreement prior to the Trigger Date the User's User Commitment Charge would therefore be calculated as follows:

$$\textit{User Commitment Charge} = TEC_r \times UCAM_t$$

Where:

- TEC_r is the reduction in wider entry access rights in kW.
- $UCAM_t$ is the relevant User Commitment Amount which varies according to the number of full years from the Offer Date:

- In the first year (i.e. t =1) *$UCAM_t$ = Min (£1/kW, TA x 25%)*, where TA is the Termination Amount (see below);
- Where t = 2, *$UCAM_t$ = Min (£2/kW, TA x 25%)*; and
- Where t ≥ 3, *$UCAM_t$ = Min (£3/kW, TA x 25%)*.

In negative TNUoS charging zones or zones with marginally positive charges 25% of the Termination Amount described below will be less than £3/kW. In such zones User Commitment Amounts would be capped to 25% of the Termination Amount. This would lead to User Commitment Amounts being zero in negative charging zones.

User Commitment Amounts where they are calculated by reference to TNUoS tariffs will be calculated and fixed at the time the connection offer is signed. The actual TNUoS tariff used will be that TNUoS tariff that would have prevailed on the last day that that offer could have been signed.

Cancellation Charges

Under CAP168 once the Trigger Date has been reached, termination of wider transmission entry access rights requested would result in the levying of a Cancellation Charge based on Cancellation Amounts. The Cancellation Charge will be non-refundable.

The Cancellation Amount in each year is a percentage of the Termination Amount, which is the higher of zero and three times the relevant TNUoS charges. The Cancellation Charge would therefore be calculated as follows:

Cancellation Charge = TEC_r x CAM_t

Where:

- *TEC_r* is the reduction in wider transmission entry access rights in kW.
- *CAM_t* is the relevant Cancellation Amount which varies according to the number of full years from the Completion Date:
  - In the year prior to the Completion Date (i.e. t) *CAM = TA x 100%)*, where TA is the Termination Amount;
  - Where t=-1, *CAM = TA x 75%*;
  - Where t=-2, *CAM = TA x 50%*; and
  - Where t=-3, *CAM = TA x 25%*.

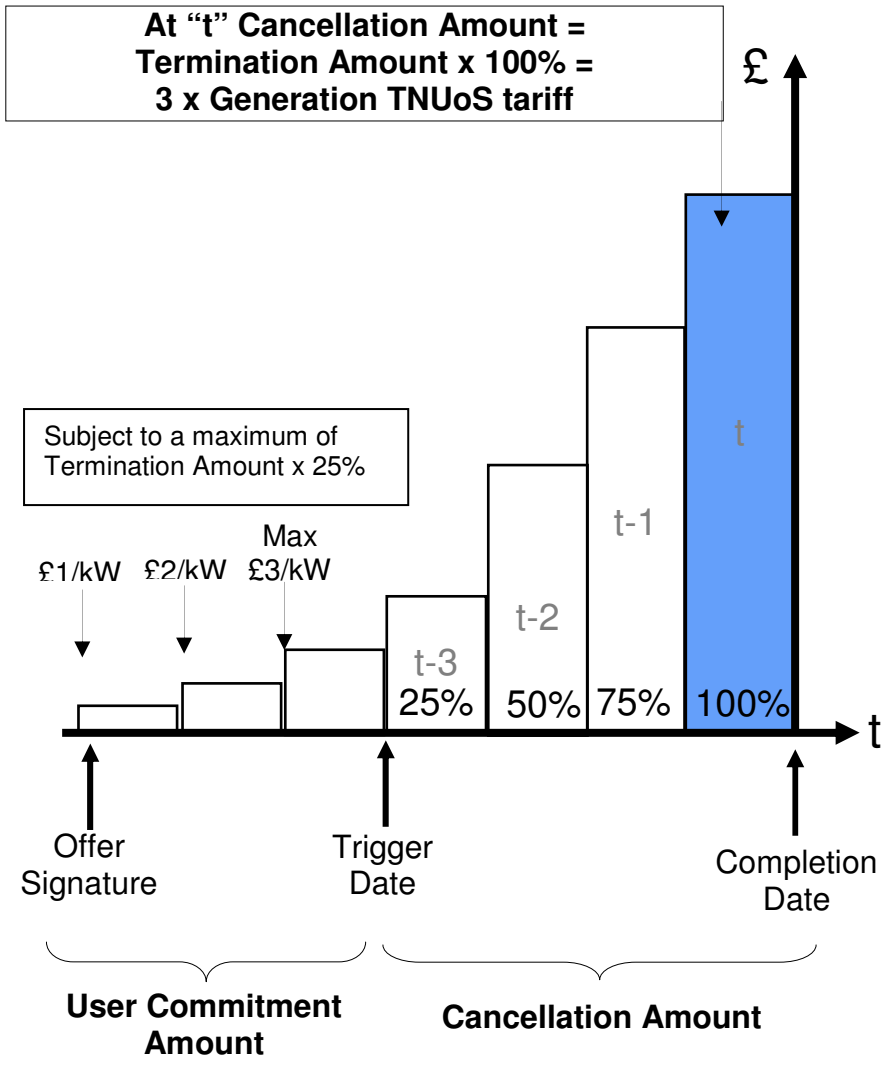
Termination Amount = Max (0, ($GenTNUoS_z$ x X))

Where:

- *$GenTNUoS_z$* is the relevant zonal Generation TNUoS tariff calculated and fixed at the time the connection offer is signed. The actual TNUoS tariff used will be that TNUoS tariff that would have prevailed on the last day that that offer could have been signed. If a project is not located in a Generation TNUoS Charging Zone, then the appropriate Generation TNUoS tariff will be calculated by National Grid as part of the application process in accordance with the Charging Methodology.
- *X* is a multiplier, initially taking the value three, although it may be appropriate that this be amended in subsequent transmission price control periods.

The liabilities described above can be summarised in the diagram below:

Generic capacity reduction Liabilities for new or increased wider entry access rights



Charges based on User Commitment Amounts and Cancellation Amounts would not apply to projects where there are no transmission asset works.

Capacity Reduction Charges

In addition to the above charges applicable at termination of a User's Construction Agreement, Capacity Reduction Charges will also become liable if the User reduces its wider transmission access rights prior to the Completion Date or Trigger Date.

Should a User reduce its wider transmission access rights prior to the Trigger Date it shall become liable to pay the following Capacity Reduction Charge:

$$\textit{Capacity Reduction Charge} = UCAM_t \times (TEC - TEC_r)$$

- *Where* $UCAM_t$ is the relevant User Commitment Amount which varies according to the number of full years from the Offer Date:
  - In the first year (i.e. t =1) $UCAM_t = Min$ *(£1/kW, TA x 25%)*, where TA is the Termination Amount (see below);
  - Where t = 2, $UCAM_t = Min$ *(£2/kW, TA x 25%)*; and
- Where t ≥ 3, $UCAM_t = Min$ *(£3/kW, TA x 25%)*.TEC is the TEC figure (expressed in kW) stated in Appendix C to the Users Bilateral

Agreement effective immediately prior to the requested reduction in TEC; and,

- TEC_r is the revised TEC figure (expressed in kW) following the TEC reduction

Should a User reduce its wider transmission access rights on or after the Trigger Date but before the Completion Date it shall become liable to pay the following Capacity Reduction Charge:

$$\textit{Capacity Reduction Charge} = CAM_t \times (TEC - TEC_r)$$

- CAM_t is the relevant Cancellation Amount which varies according to the number of full years from the Completion Date:
  - In the year prior to the Completion Date (i.e. t) *CAM = TA x 100%)*, where TA is the Termination Amount;
  - Where t=-1, *CAM = TA x 75%*;
  - Where t=-2, *CAM = TA x 50%*; and
  - Where t=-3, *CAM = TA x 25%*.
- TEC is the TEC figure (expressed in kW) stated in Appendix C to the Users Bilateral Connection Agreement or effective immediately prior to the requested reduction in TEC
- TEC_r is the revised TEC figure (expressed in kW) following the TEC reduction

Security

The introduction of generic User Commitment Charges and Cancellation Charges defined in the CUSC, to replace the existing final sums regime defined in Construction Agreements, will also require the introduction of provisions to define the level of financial security that should be held in relation to these potential liabilities.

In the event a Capacity Reduction Charge becomes payable, the amounts secured in respect of the User Commitment Charge or Cancellation Charge will be re-calculated by reference to the new TEC level, post-reduction.

Transition

If CAP168 is approved, existing Users will have the choice to remain in their existing security and liability arrangements or to move across onto the new CAP168 arrangements. Users applying for a new connection or an increase in wider transmission access rights post any implementation of CAP168 will be subject to the CAP168 arrangements.

Should existing Users choose to migrate to the new CAP168 arrangements this will require a Trigger Date to be set, and the calculation of User Commitment Charges or Cancellation Charges (as applicable), for all pre-commissioning projects in progress at implementation. The security required for each User will be calculated in accordance with the revised Section 3 of CUSC, and therefore additional Security Cover may be required. Equally, in situations where less cover is required, security will be returned to Users.

Changes to the Trigger Date or Completion Date – Impact on Pre-Commissioning Liabilities

Where the Construction Programme or the Construction Works or Transmission Entry Capacity subsequently change from that in the original Construction

Agreement the following principles will apply in respect of reassessing the Trigger Date and the Cancellation Charge.

Where such change is as a result of The Company's exercise of its rights under the Construction Agreement then:

- Where there is a delay to the Completion Date, and the Trigger Date has not passed there will be a corresponding delay to the Trigger Date and the profile of the User Commitment Amount and the Cancellation Amount revised accordingly in line with the above principles. If the Trigger Date has already passed, the profile of the Cancellation Amount will be revised accordingly on the basis of the above principles by reference to the number of full 12-month periods from the new Completion Date.
- Where there is no delay to the Completion Date, but the Construction Works change, The Company will review the appropriateness of the Trigger Date and if appropriate, change this. The profile of the User Commitment Amount and Cancellation Amount will be revised on the principles set out above to reflect the change in Trigger Date.
- Where there is a reduction in a User's Transmission Entry Capacity the Cancellation Charge shall be revised to reflect the reduced MWs.

A revised Appendix R to a User's Construction Agreement will be issued by The Company to the User showing the new profile.

Where such change is as a result of the User's request a revised Appendix R to a User's Construction Agreement will be issued by the Company to the User. Notwithstanding any change in the Construction Works or Completion Date:

- Where the revised Construction Programme alters the period of full years between the date of signature of the original Construction Agreement and the Trigger Date the User Commitment Amount will remain at the amount at the time the user requested the change until it is due to rise based on the revised Appendix R reflecting the revised Construction Programme; or
- The Cancellation Amount will be frozen at the prevailing level and remain at that level for the period of the slippage.

Post-commissioning User Commitment

It is proposed, under CAP168, that new Users would be liable for a minimum three years worth of TNUoS charges. Under CAP168, post-commissioning User commitment would be given by a liability on all Users to pay TNUoS for a Commitment Period. This commitment period would be two years.

By the 31 March (or prior working day if this falls on a non-working day each year, each generator would have to decide whether to:

(a) Remain on the system for another two years
- No action would be required by the generator
- National Grid would receive TNUoS for the generator for at least the following two years
- National Grid would have a signal that further investment is viable in the applicable area; or

(b) Decide to leave the system after the next two years
- The generator would submit a "Commitment Notice"

- National Grid would receive TNUoS from the generator each year for the next two years only
- The generator would leave the system at the end of the two years. For clarity, an example would be:
  - Generator submits a Commitment Notice on 31 March 2011
  - Generator does not have the option to remain on the system beyond the second year of the notice period (31st March 2013), unless they successfully reapply for new TEC capacity
- At the end of the Notice period, the generator would relinquish their wider transmission access rights and would have to reapply (just as a new User would) for wider transmission access rights in the future. For the avoidance of doubt the generator would reapply at any point up to (and beyond) the two year notice period. In the example they could reapply from the 1st April 2011 for wider transmission access up and matching (but not exceeding) their LCN.

A generator could choose to relinquish their long term wider transmission access rights early at any time. However, the generator would have to pay National Grid the greater of:

(a) Any outstanding commitment for the current year, plus either:
- If no Commitment Notice has been received, the relevant commitment for the next two years
- If a Commitment Notice has been received, the relevant commitment for the remainder of the notice period; or

(b) Zero

A generator relinquishing their wider transmission access rights would have to reapply for a connection if they wish to obtain such rights in the future.
- They can only rejoin if there is capacity available
- All Users wishing to obtain wider transmission access rights will have equal priority (as between new Users and previous Users)

ANNEX 8 – LEGAL TEXT TO SUPPORT THE PROPOSAL