



AMENDMENT REPORT

CUSC Proposed Amendment CAP150

Capacity Reduction

The purpose of this report is to assist the Authority in their decision of whether to implement Amendment Proposal CAP150

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1.0 SUMMARY AND RECOMMENDATIONS

Executive Summary

- 1.1 CAP150 – Capacity Reduction was proposed by National Grid at the CUSC Amendments Panel on the 29 June 2007. CAP150 seeks to address the issue of Users that have a contracted transmission capacity figure that is inconsistent with their project details (e.g. planning consent).
- 1.2 National Grid proposed to amend the CUSC to enable National Grid to ascertain whether a User's power station project (Project) will be capable of utilising the transmission capacity figure provided for in its Bilateral Agreement. If the User is unable to provide satisfactory evidence that this is the case then National Grid would have the right to propose changes to the User's Bilateral Agreement and Construction Agreement to reduce the transmission capacity figure to an appropriate level and revise the Construction Works as necessary to reflect this. In addition, National Grid would have the ability to recover the cost from the User of any abortive works (or relevant User Commitment Charges) as a consequence of this reduction in the User's transmission capacity figure and for National Grid's costs associated with processing such changes (as if the changes were requested by the User) on same basis as Modification Application fees.
- 1.3 The Working Group Alternative is based upon the Original principles but proposes that National Grid should have the right of termination, rather than enforcement action, for failure by a User to fulfil its obligations under its Construction Agreement.
- 1.4 Following the consultation period by National Grid which concluded on 27th December 2008, three Consultation Alternatives were raised. Consultation Alternative A is proposed by Heysham Offshore Wind Ltd and proposes to amend the Original proposal to prevent inconsistent treatment of Users who hold a BEGA compared to User who hold a BELLA.
- 1.5 Consultation Alternative B is proposed by Gunfleet Sands Ltd and proposes to amend the Working Group Alternative to meet the expressed aims of the Alternative regarding termination for BELLA's.
- 1.6 Consultation Alternative C is proposed by Gunfleet Sands II Ltd and proposes to amend the Working Group Alternative to include both amendments as detailed in Consultation Alternative A and B.

National Grid Recommendation

- 1.7 National Grid, as the proposer of CAP150 is supportive of Consultation Alternative A believing that the additional clauses remove any potential for discrimination between Users and therefore better facilitates the Applicable CUSC Objectives over and above those of the Original Amendment.

Amendment Panel Recommendation

- 1.8 The Panel undertook a vote on the Original and each alternative compared to the CUSC baseline as to whether they facilitated better the Applicable CUSC Objectives, then a vote as to which they considered to be the best overall. The result of the Panel Recommendation Vote is follows:

CAP150 – Capacity Reduction

Original	- Yes unanimously
WGAA	- No majority
CAAA	- Yes unanimously
CAAB	- Equal split - 4 voted Yes, 4 voted No
CAAC	- Equal split - 4 voted Yes, 4 voted No
BEST	- CAA by a majority of 7 out of 8

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 CAP150 (see Annex 2) 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 CAP150.
- 2.3 CAP150 was proposed by National Grid and submitted to the CUSC Amendments Panel for consideration at their meeting on 29th June 2007. CAP150 Working Group Report was submitted to the CUSC Panel meeting on 26th October 2007. Following evaluation by the Working Group the Amendments Panel determined that the issue should proceed to wider industry consultation by National Grid. Consultation and invited views on CAP150 concluded on 27th December 2007. Three Consultation Alternatives were raised and a further period of Consultation was undertaken and concluded on the 13th February 2008.
- 2.4 This document outlines 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 as Annex 3 to this document.
- 2.5 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, at www.nationalgrid.com/uk/Electricity/Codes/.

3.0 PROPOSED AMENDMENT

- 3.1 At present National Grid is aware of Projects throughout Great Britain that have a transmission capacity figure in their Bilateral Agreement that is considerably in excess of the Project's apparent needs.
- 3.2 This presents a number of issues for National Grid:
- It causes uncertainty over the volume of transmission capacity necessary
 - It creates the potential risk of over investment
 - The release of this capacity could permit other Projects to connect earlier than their current contracted date and present opportunities for new Projects.
- 3.3 The proposed amendment seeks to address the issue of Users that have a contracted transmission capacity figure that is inconsistent with their Project details (e.g. planning consent) or the construction programme. Whilst there are remedies available where a User does not progress or complete a project, the nature of these remedies (i.e. termination) may not be proportionate in all cases. This means that a User can hold onto the transmission capacity figure (in their Bilateral Agreement) until very close to or after their contracted Connection Date. National Grid are required under the Planning Code to utilise the transmission capacity figure from the Bilateral Agreements together with other data held by National Grid relating to the Transmission System when considering new applications to connect to and use the GB Transmission System. This requirement, together with Users holding contracted capacity against Projects that are not being progressed (in a manner consistent with that capacity) can lead to inefficient investment and delays in connecting new Projects with a consequent adverse impact on competition.
- 3.4 It is proposed to amend the CUSC to enable National Grid to ascertain whether a User's Project will be capable of utilising the transmission capacity figure provided for in its Bilateral Agreement. If the User is unable to provide satisfactory evidence that this is the case then National Grid would have the right to propose changes to the User's Bilateral Agreement and Construction Agreement to reduce the transmission capacity figure to an appropriate level and revise the Construction Works as necessary to reflect this. In addition National Grid would have the ability to recover the cost from the User of any abortive works (or relevant User Commitment Charges) as a consequence of this reduction in the User's transmission capacity figure and for National Grid's costs associated with processing such changes (as if the changes were requested by the User) on same basis as Modification Application fees.
- 3.5 It should be noted that Annex 5A details the process of the proposal in a diagrammatic form to support the following paragraphs.
- 3.6 CAP150 specifically proposes in addition to the quarterly reports provided by the User on its Project under the Construction Agreement the right for National Grid to request information from a User regarding their Project such as the planning consents applied for.
- 3.7 The Construction Programme would identify dates for particular events (milestones) associated with the User's works e.g. grant of Section 36 planning consent.
- 3.8 Where National Grid becomes aware (e.g. Section 36 planning consent is granted for a lower capacity than is reflected in the relevant Bilateral Agreements) that there might be a discrepancy with the transmission capacity figure in the Bilateral Agreement or the User fails to meet the

milestones such that it is reasonable to question whether the User can complete their Project by the Backstop Date, then National Grid would notify the User and seek an explanation from the User regarding the inconsistency between the transmission capacity figure within their Bilateral Agreement (contracted position) and the available Project information.

- 3.9 If the inconsistency is not resolved, then National Grid would be entitled to vary the bilateral agreement to reduce the User's transmission capacity figure (TEC or power station capacity in relation to a BELLA) to a figure that National Grid considered was appropriate based upon the information available and make any other necessary consequential contractual changes including changes to the Construction Agreement to reflect any changes to the works or programme. The agreement to vary would also provide for recovery from the User of any costs of abortive works resulting from the capacity reduction.
- 3.10 This change would be applicable to all users who are not yet connected or are awaiting an increase in TEC. In addition it would only apply to TEC not CEC, as CEC is not a product and a User could obtain TEC via a commercial agreement with another User (TEC Trade or Temporary TEC Transfer) or seek LDTEC, STTEC products from National Grid.

4.0 ALTERNATIVE AMENDMENT

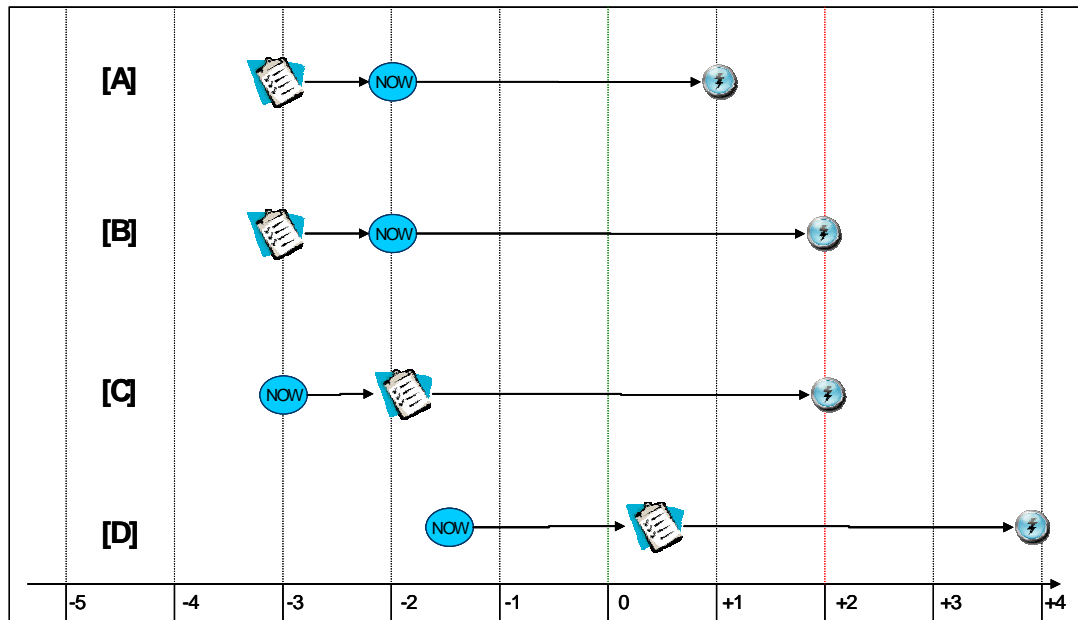
Working Group Alternative

- 4.1 A member of the Working Group proposed a Working Group Alternative Amendment (WGAA): Termination upon failure to modify agreements.
- 4.2 If CAP150 Original is implemented, National Grid would have:
- [1] The right to allow the Project to progress even if delayed, enforcing termination upon the backstop date. (Existing rights).
 - [2] After being notified of a significant delay, the right to notify the User to submit a modification application for a later connection. (Existing rights)
 - [3] After being notified of having an incorrect transmission capacity figure against the plant likely to be commissioned, the right to notify the User to submit a modification application and if this is not done, use enforcement action to reduce the transmission capacity figure in Appendix C of the User's BCA.
- 4.3 [1] & [2] are existing rights for the GBSO, through clauses, 4.8 Backstop date and 3.3 Delays. [3] is a new right, provided by implementation of CAP150.
- 4.4 The Working Group member who proposed the Alternative Amendment considered there to be an asymmetry between [2] and [3] above, where the incorrect transmission capacity figure is proposed to have enforcement action and a delay in the construction programme does not. The proposer believes this is inappropriate and would represent a defect in the code if CAP150 were implemented.
- 4.5 WGAA proposes that National Grid should have the right of termination, (rather than enforcement action), for failure by the User to fulfil obligations of the CUSC Construction Agreement. Therefore the WGAA will:
- Include a further clause to ensure the User is developing a power station in accordance with the Transmission Entry Capacity and Connection Entry Capacity specified in Appendix C of the Bilateral Connection Agreement. As such, it follows the intention of CAP150).

- Update the existing clause in the Construction Agreement, pertaining to delays, such that there is consistency between arrangements in the new (aforementioned) clause and existing clauses.
 - Rather than introduce enforcement action, as proposed under CAP150 Original, the WGAA intends to provide National Grid with the contractual right to terminate the agreement, should the User not request a modification to their agreement.
- 4.6 It should be noted that Annex 5B details the process of the proposal in a diagrammatic to support the following paragraphs.
- 4.7 CAP150 WGAA introduces a Notice of Termination which can be issued to Users failing to fulfil the requirements of Appendix C of the BCA and Appendix J of the Construction Agreement. The Notice of Intended Termination will follow an informal process initiated by the GBSO, (when the GBSO is concerned the User will not satisfy the requirements of Appendix C of the BCA and Appendix J of the Construction Agreement), which should give the chance for a User to justify their project's progression through the submission of revised Quarterly Report (and Grid Code DRC) data or the User can submit a Modification Application to align the Appendices with the project's actual progression.
- 4.8 The Notice of Termination is intended to provide an incentive for CUSC Users to behave properly with regard to their CUSC obligations. It also provides an efficient process for National Grid to penalise Users acting improperly, without the legal implications associated with notifying the Authority the User is in breach of the CUSC.
- 4.9 With regard to embedded generators, it is expected the DNO will be served with a Notice of Termination. This is because the DNO holds the Construction Agreement with National Grid; the generation Project the DNO is representing is bringing the DNO into breach of the CUSC.
- 4.10 The DNO will not be exposed to the termination of the Construction Agreement as (although it will have to pay National Grid Final Sums upon termination); it will have required the generator to secure the Construction works being completed on its behalf. Therefore all BELLA agreements will be affected by the WGAA. Those generators being managed by DNOs, yet considered to be Relevant Embedded Power Stations will also be affected as it is expected the DNO will ensure the generator is fulfilling its agreements to connect the correct capacity in a timely manner.
- 4.11 Upon termination of the DNO's Construction Agreement, in order for a BELLA to be terminated, there needs to be a clause inserted into the BELLA. This will ensure when the DNO's Construction Agreement is terminated all generator agreements directly associated with the terminated DNO Construction Agreement are terminated. This would be consistent with the treatment of Bilateral Connection Agreements.
- 4.12 The proposer of the WGAA believes that notice of termination for failure to progress the Project would interact with clause 4.8 backstop date. The proposer believes National Grid would aim to use the backstop date rather than the notice of termination if a generator is delayed, but likely to connect within the backstop date. An example would be where a CCGT developer has committed to plant and construction, however the equipment delivery and installation timescales prevent it connecting at the completion date. In this case National Grid can allow the developer to accept the risk of the

backstop date and connect within two years. On the other hand, if the generator is not consented and has no equipment on order, it cannot accept the risk of the backstop date (i.e. it is delayed by 2 or more years). In this case National Grid would be inclined to issue the notice of termination. The proposer considered it would be unreasonable for National Grid to enforce the notice of termination clause introduced by the WGAA should it be more reasonable for the Backstop Date clause to be enforced.

4.13 The following diagram considers the relationship between the notice of termination and the backstop date. The number sequence represents the Project timeline, with the Connection Date being year 0 and +2 being the backstop date. The clip board represents power station consents, the “now” symbol places today’s date upon the year sequence and the electrification symbol represents the developer’s anticipated Connection Date.



4.14 Project [A] has a consented Project has two years before the agreed Connection Date, yet expects to complete construction in Y+1. It would have reasonable certainty over the delay after securing delivery / installation contracts and should therefore not be too concerned in passing the backstop date. In this instance it would be reasonable for the GBSO to exercise the backstop date rather than the Notice of Termination. On the other hand, example [B] is expecting to connect on or around the backstop date after confirming the construction programme with contractors. For Project [B] there is a great risk that if it should not modify the Connection Date with the GBSO, it will pass the backstop date. In this case, the GBSO would be more inclined to utilise the notice of termination rather than the backstop date as it realises the assets it is building are likely to remain unused for over two years. For [B] the backstop date is clearly inappropriate for both parties.

4.15 Project [C] has yet to obtain consents but expects (should the Project run to plan), to connect on or around the backstop date. Project [C] is at risk of the backstop date being enforced without it connecting, so it should look to modify its agreements. For the GBSO there is a high likelihood that transmission works will be stranded unless it reconfigures the reinforcements needed to connect Project [C] and other applicants. In this case the Notice of

Termination, rather than the backstop date is appropriate should the developer not modify its agreements willingly.

- 4.16 Project [D] has not yet gained consents, yet remains with a Connection Date four years in advance of when it can connect. The developer is clearly negligent in managing the construction agreement and has not progressed the Project in the manner agreed under Appendix J: Construction Programme. In this case the Notice of Termination is more suitable than enforcing the backstop date when the generator does not connect in Y+2.

Consultation Alternative Amendment A

- 4.17 Consultation Alternative A is proposed by Heysham Offshore Wind Ltd and proposes to amend the Original CAP150 proposal to prevent inconsistent treatment of Users who hold a BEGA compared to Users who hold a BELLA.
- 4.18 In the view of the proposer CAP150 discriminates between Users who hold a BELLA and those with a BEGA that are of a similar size. Pursuant to the arrangements at "BETTA" a Large Embedded Exempt Power Station in Scotland either contracted via a BEGA or a BELLA. Consequently, if the TEC reduction as proposed by CAP150 was applied to a User with a BEGA the User would not have any material impact other than alignment of its export capacity rights and this is not the case for BELLA's. Therefore, the best way in which to highlight this issue is via an example.
- 4.19 If a User's 35MW project in Scottish Power's Distribution licensed area with a TEC of 35MW was reduced to 20MW of TEC due to planning consent misalignment, in accordance with the proposed process. The User would be required to meet the costs of reducing the capacity but would still proceed as planned with the original connection date subject to programming of any revised works.
- 4.20 In the case of the same User with a 35MW project with a BELLA, the reduction in capacity to 20MW would result in the project no longer being classified as Large; therefore the BELLA would no longer be the appropriate agreement. In effect the project changes from a Large Embedded Exempt Power Station to an Embedded Small Power Station and subject to the provisions of CUSC 6.5. Scottish Power Distribution (in this example) would need to follow the Request for a Statement of Works process in accordance with CUSC 6.5.5.
- 4.21 Due to scarcity of transmission capacity in Scotland the proposer believes that this would be classed as a "significant system effect" and Scottish Power would need to submit a Request for a Statement of Works and a Modification Application would follow assuming the User wished to continue with their project. As a consequence the Modification Offer would include all the current reinforcement works and the User would have an Offer at a later connection date (in the words of the proposer the User would be placed at the back of the "queue").
- 4.22 The proposer believes that this discriminates between User with BEGA's and BELLA's and the User would not have anticipated such an issue when their application was first made.
- 4.23 The proposer considered a number of approaches to address this defect and suggested an additional clause within section 6.5.5. However, after detailed considerations with National Grid's legal team it is proposed to include additional clauses to Schedule 2 Exhibit 3 – the Construction Agreement and

Schedule 2 Exhibit 5 – the BELLA. The new clauses are additional to those within the Original Proposed Amendment and cater for the situation described above to ensure BELLA's and BEGA's are treated in a consistent manner.

Consultation Alternative Amendment B

- 4.24 Consultation Alternative B is proposed by Gunfleet Sands Ltd and proposes to amend the Working Group Alternative to meet the expressed aims of the Alternative regarding termination for BELLA's.
- 4.25 CAP150 Working Group Alternative creates a right for National Grid to terminate the applicable agreement rather than enforcement action for failure by a User to fulfil obligations in its Construction Agreement. The proposer believes that the termination rights are wholly disproportionate but if the amendment were to be approved by the Authority, the drafting for Embedded Power Station's termination is inconsistent with the drafting and intent of the Consultation Document.
- 4.26 In section 5.11 of the Consultation Document, it is stated that "Upon termination of the DNO's Construction Agreement, in order for a BELLA to be terminated, there needs to be a clause inserted into the BELLA" In the view of the proposer they believe that if the DNO's Construction Agreement was terminated the BELLA would also be terminated. However, the proposed drafting with Schedule 2 Exhibit 5 paragraph 8 proposes that the BELLA is terminated upon termination of the Distribution Agreement. However, it is possible that the termination of the DNO's Construction Agreement may lead to the termination of the Distribution Agreement but this does not always occur.
- 4.27 In addition, the proposer believes that this issue regarding the termination of Distribution Agreements and the relationship with BELLA is outside the scope of CAP150 and requires further industry debate in a separate CUSC proposal.
- 4.28 Consequently, Consultation Alternative B proposes a new paragraph 8 which refers to the Construction Agreement rather than the Distribution Agreement.

Consultation Alternative Amendment C

- 4.29 Consultation Alternative C is proposed by Gunfleet Sands II Ltd and proposes to amend the Working Group Alternative to include both amendments as detailed above in Consultation Alternative A and B.

5.0 ASSESSMENT AGAINST APPLICABLE CUSC OBJECTIVES

Proposed Amendment

- 5.1 CAP150 would better facilitate the 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.*
- 5.2 CAP150 will improve the level of certainty over the actual capacity connecting, reduces the amount of short term attrition and removes any potential risk of over investment. Also by facilitating release of capacity from a Project that is manifestly unable to use it National Grid can release this capacity to other Projects.
- 5.3 In addition CAP150 will provide a process to challenge, review and, if appropriate, revise the connecting capacity stated in a Users bilateral agreement with National Grid. The process includes checks and balances including the right of appeal to ensure a User's capacity cannot be revised inappropriately.
- 5.4 National Grid has stated that at present it believes a number of future connections are possibly over-stating the level of connecting capacity and that this could occur for a variety of reasons (although National Grid has not provided any figures as to the likely materiality of any over-statements due to the difficulties in undertaking such an assessment without this tool, other than to say it believes a number of connections could be reviewed).
- 5.5 National Grid believes if the connection information more accurately reflected the likely connecting capacity then this would allow more efficient management of future connections. In areas where transmission capacity is constrained National Grid expects that CAP150 would facilitate the release of capacity and offer the potential for earlier connection to the system of queued Users. In other areas of the system accurate connecting capacity information will help to facilitate efficient transmission investment. Consequently this would better facilities both the competition and efficiency objectives.

Working Group Alternative Amendment

- 5.6 The majority of the Working Group believed that CAP150 Working Group Alternative did not better facilitate the CUSC Objective(s). The group believed CAP150 WGAA solution was too severe and inappropriate with a number of members indicating that it would place additional risk on their Projects.

Consultation Alternative Amendment A

- 5.7 In the view of the proposer Consultation Alternative A over and above the Original better facilitates both Applicable Objective (a) and (b) by preventing any possible discrimination against Users with a BELLA.

Consultation Alternative Amendment B

- 5.8 In the view of the proposer Consultation Alternative B over and above the Working Group Alternative better facilitates both Applicable Objective (a) and (b) by preventing the introduction of unwarranted BELLA termination provisions and correctly links the termination of the BELLA with the termination of the DNO's Construction Agreement.

Consultation Alternative Amendment C

- 5.9 In the view of the proposer Consultation Alternative C over and above the Working Group Alternative better facilitates both Applicable Objective (a) and (b) by preventing any possible discrimination against Users with a BELLA and preventing the introduction of unwarranted BELLA termination provisions and correctly links the termination of the BELLA with the termination of the DNO's Construction Agreement.

6.0 PROPOSED IMPLEMENTATION

- 6.1 The Working Group and National Grid with Industry support propose CAP150 and all Alternatives should be implemented 10 Business Days after an Authority decision.
- 6.2 This change would be applicable to all Users who are not yet connected or are awaiting an increase in TEC.
- 6.3 Following the implementation National Grid will issue agreements to vary the relevant Bilateral Agreements as soon as is reasonably practical. These are anticipated to come into legal effect immediately.

7.0 IMPACT ON THE CUSC

- 7.1 CAP150 Proposal and the Alternatives require amendments to:
- CUSC Section 11.3 – Definitions New definitions,
 - Schedule 2 – Exhibit 1 (Bilateral Connection Agreement),
 - Schedule 2 – Exhibit 2 (Bilateral Embedded Generation Agreement),
 - Schedule 2 – Exhibit 3 (Construction Agreement), and
 - Schedule 2 – Exhibit 5 (BELLA).
- 7.2 The text required to give effect to the Original Proposal is contained as Part A of Annex 1 of this document.
- 7.3 The text to give effect to the Working Group Alternative Amendment is attached as Part B of Annex 1 of this document.
- 7.4 The text required to give effect to the Consultation Alternative A is contained as Part C of Annex 1 of this document.
- 7.5 The text required to give effect to the Consultation Alternative B is contained as Part D of Annex 1 of this document.
- 7.6 The text required to give effect to the Consultation Alternative C is contained as Part E of Annex 1 of this document.

8.0 IMPACT ON CUSC PARTIES AND OTHER PARTIES

- 8.1 CAP150 and the Alternatives may have an impact upon CUSC Parties whose connection Projects are not proceeding in a manner which is consistent with their connection agreement with National Grid.
- 8.2 CAP150 and the Alternatives may also have an impact upon parties who are not CUSC parties directly but are affected via the Statement of Works processes via the Distribution Networks. Consequently, Relevant Medium and Small Power Stations may be impacted if their connection Projects are not proceeding in a manner which is consistent with their connection agreement with the Distribution Network.
- 8.3 In both cases the impact of CAP150 would be that the parties' connection Project could be subject to the CAP150 process.

9.0 IMPACT ON INDUSTRY DOCUMENTS

Impact on Core Industry Documents

- 9.1 CAP150 and all the Alternatives have no impact on Core Industry Documents.

Impact on other Industry Documents

- 9.2 CAP150 and all the Alternatives have a minor impact upon the STC under STCP18-1. The STC Committee will be informed of the potential consequential impact on the STC in the event of CAP150 Amendment Proposal being approved by the Authority and subsequently implemented within the CUSC. The STC Committee will be requested to review the impact of CAP150 and any associated STC changes will be proposed and progressed in line with the STC Amendment Proposal process in accordance with Section B, paragraph 7.2

10.0 IMPACT ON INDUSTRY COMPUTER SYSTEMS OR PROCESSES

- 10.1 CAP150 and all the Alternatives have no impact on computer systems or processes.

11.0 VIEWS AND REPRESENTATIONS

- 11.1 This Section contains a summary of the views and representations made by consultees during the consultation period in respect of the Proposed Amendment and the Alternative Amendment.

Views of Panel Members

- 11.2 No views or representations were made by Panel Members in their capacity as Panel Members during the Consultation

View of Core Industry Document Owners

- 11.3 No views or representations were made by Core Industry Document Owners

Working Group

- 11.4 A majority of the Working Group believes that the Original Proposal is BETTER than the baseline. A minority believed that the Working Group Alternative Amendment (“WGAA”) is BETTER than the baseline but a majority believed that the Working Group Alternative Amendment is WORSE than the baseline. Overall a majority of the Working Group believed that the Original Proposal is BEST.

Responses to Consultation

- 11.5 The following table provides an overview of the representations received during the first period of Consultation which concluded on the 27th December 2007. Copies of the representations are attached as Annex 3.

Reference	Company	Supportive	Comments
CAP150-CR-01	Centrica	Original proposal	Centrica is broadly supportive of the original proposal however they have a number of concerns regarding how the process will be applied. Centrica do not support the Working Group Alternative.
CAP150-CR-02	EDF Energy	Working Group Alternative	EDF supports the WGAA and not the original amendment, believing the Notice of Termination will provide an incentive for developers to act in an appropriate manner with regard to their CUSC obligations.
CAP150-CR-03	E.ON	Original Proposal	E.ON supports the original but has concerns regarding transparency and the contentious nature of the amendment. If implemented E.ON suggest a consequential amendment.
CAP150-CR-04	Falck Renewables	Not supportive	Falck does not support CAP150 original or WGAA believing that it may discriminate against some Users.
CAP150-CR-05	Highlands and Islands Enterprise	Original proposal	Highlands and Islands support the original believing it will aid the development of renewable projects in northern Scotland.
CAP150-CR-06	RWE	Original proposal	RWE support the original but raised concerns regarding Mod apps, standard Construction Agreement and clarification how TEC in a bilateral contributes to the sterilising of capacity

CAP150-CR-07	Scottish Renewables	Not supportive	Scottish renewables do not support original or WGAA and raises a number of issues. Firstly what constitutes a material change, lack of understanding from National Grid regarding the development process and cost of any abortive works.
CAP150-CR-08	Welsh Power	Original proposal	Welsh Power supports the original with some concerns believing that this should be one of a raft of measures including the adoption of CAP131 to address capacity shortages.
CAP150-CR-09	West coast energy	Not supportive	West coast energy do not support the original or WGAA and believe the proposals raise a number of issues and concerns.
CAP150-CR-10	Wind Energy	Not supportive	Wind energy do not support the original or WGAA and believe National Grid already has the necessary powers to manage the GB "queue" .
CAP150-CR-11	British Energy	Original proposal	BE support the original proposal but have reservations regarding the potential for a large number of referrals to Ofgem.
CAP150-CR-12	Scottish and Southern Energy plc, for and on behalf of Southern Electric, Keadby Generation Ltd, Medway Power Ltd and SSE Energy Supply Ltd	Original proposal	SSE supports the original proposal and believes it better facilitates the CUSC Applicable Objectives. SSE do not support the WGAA
CAP150-CR-13	InteGen UK	Original proposal	InterGen support the original proposal with two concerns regarding Ofgem's obligations and timescales for the referral are not set out and confidentiality assurance.
CAP150-CR-14	Scottish Power on behalf of ScottishPower Energy Management Ltd, ScottishPower Generation Ltd and ScottishPower Renewable Energy Ltd.	Original proposal	SP support the original proposal with clarifications and guidance on materiality, interaction with other User offers if referred and supported by a methodology for reallocating the capacity which is released.
CAP150-CR-15	Dong Walney, SeaScape, Gunfleet	Not supportive	Raised the Consultation Alternatives

Response to Consolation respondents

- 11.6 A number of consultation responses commented on the process proposed by CAP150 and related issues within the CUSC in line with those debated at the Working Group. The issues have been grouped into themes and shall be discussed in turn below:
- 11.7 Firstly, a number of responses commented on the potential impact and additional risk they believe this process poses to a connection project, the potential contentious nature of the process and concerns regarding materiality and sources of information. National Grid believes that the process will create an additional tool for the efficient management of capacity, which is particularly important where transmission capacity is scarce. The safeguards developed by the Working Group aim to provide appropriate checks and balances within the process. In addition, National Grid would highlight that this would be a legal process under the CUSC with right of appeal to Ofgem and National Grid would not be expected to start the process without having clear grounds based on reliable accurate information. Consequently, National Grid does not believe this would place any additional undue risks upon Projects and National Grid would not commence this process lightly.
- 11.8 National Grid agree with the Panel that, if CAP150 is implemented, a post implementation review should be undertaken to ensure the process is efficient and the concerns expressed within consultation responses have not materialised.
- 11.9 Secondly, a number of points were raised regarding the Modification Application process at the Working Group and in a number of responses. In National Grid's view these do not impact upon the assessment of CAP150 but we will be reviewing these comments in due course with regard to possible further developments to the CUSC.
- 11.10 One respondent raised a concern regarding confidentiality on the commencement and progression of the CAP150 process due to the potential impact on project financing. National Grid confirms that the confidentiality provisions of CUSC 6.15 will apply to the process within CAP150 and the Alternatives.
- 11.11 Finally, a number of consultation responses raised issues outside the scope of CAP150 regarding the "GB queue" management process. It should be noted that these queries will be directed to the relevant department within National Grid and will be addressed via the industry seminars and the queue methodology document.

11.12 The following table provides an overview of the representations received during the second period of Consultation which concluded on the 13th February 2008. Copies of the representations are attached as Annex 3.

Reference	Company	Supportive	Comments
CAP150-CAA-01	EDF Energy	Working Group Alternative	EDF do not support the original or the consultation alternatives.
CAP150-CAA-02	E.ON	CAA A	E.ON support the original and CAA A with CAA A as best. E.ON do not support WGAA, CAA B or C
CAP150-CAA-03	Dong Walney, SeaScape, Gunfleet	CAA A	Dong supports CAA A
CAP150-CAA-04	Scottish and Southern Energy plc, for and on behalf of Southern Electric, Keadby Generation Ltd, Medway Power Ltd and SSE Energy Supply Ltd	CAA A	SSE believes Consultation Alternative 'A' is the BETTER and BEST of the three Consultation Alternatives and better facilitate the achievement of the Applicable CUSC Objectives.
CAP150-CAA-05	Scottish Power on behalf of ScottishPower Energy Management Ltd, ScottishPower Generation Ltd and ScottishPower Renewable Energy Ltd.	CAA A	ScottishPower supports Consultation Amendment A and believes that it will better meet CUSC objectives than the original proposal as it ensures equitable treatment for Users who hold a BELLA.

12.0 COMMENTS ON DRAFT AMENDMENT REPORT

12.1 National Grid received no responses following the publication of the draft Amendment Report.

13.0 AMENDMENT PANEL RECOMMENDATION

13.1 The Panel undertook a vote on the Original and each alternative compared to the CUSC baseline as to whether they facilitated better the Applicable CUSC Objectives, then a vote as to which they considered to be the best overall. The result of the Panel Recommendation Vote is follows:

CAP150 – Capacity Reduction

Original	- Yes unanimously
WGAA	- No majority
CAAA	-Yes unanimously
CAAB	- Equal split - 4 voted Yes, 4 voted No
CAAC	- Equal split - 4 voted Yes, 4 voted No
BEST	- CAA by a majority of 7 out of 8

14.0 NATIONAL GRID RECOMMENDATION

- 14.1 National Grid, as the proposer of CAP150 is supportive of Consultation Alternate A believing that the additional clauses removes any potential for discrimination between Users and therefore best facilitates the Applicable CUSC Objectives over and above those of the Original Amendment.
- 14.2 National Grid believes Consultation Alternate B better facilitates the Applicable Objectives however to a lesser extent as it only addresses one to the defects raised by the Consultation Alternatives.
- 14.3 National Grid believes that Consultation Alternate C also better facilitates the Applicable Objectives over and above those in the Working Group Alternative by preventing the potential for discrimination and correctly links the termination provisions of the BELLA with the Construction agreement.
- 14.4 With regard to all the Alternatives, National Grid believes that CAP150 will provide the necessary process and tools to maintain accurate information from User's regarding their Projects. This information will allow National Grid to obtain increased certainty over the amount of capacity connecting to the Transmission System and should facilitate efficient and timely connection of new Projects where there is a scarcity of transmission capacity.
- 14.5 In conclusion, National Grid believes Consultation Alternative A is the best because it provides a complete solution taking into account User's concerns as the outcome of this proposed process is an adjustment to capacity and not termination.

11.6 ANNEX 1 – PROPOSED LEGAL TEXT TO MODIFY THE CUSC

Part A - Text to give effect to the Original Proposed Amendment**1. Users in the capacity of a Directly Connected Power Station or Embedded Power Station (other than those who are a BELLA)**

Amend Schedule 2 Exhibit 3 (the Construction Agreement) as follows:

Add the following as Clause 7.4 in the Construction Agreement

Users in the capacity of a Directly Connected Power Station or Embedded Power Station (other than those who are a BELLA) insert the following

[7.4 Transmission Entry Capacity Reduction

7.4.1 If, at any time prior to the **Completion Date The Company** reasonably believes from data provided by the **User to The Company**, the reports provided by the **User** pursuant to Clause 2.8 and Clause 5 of this **Construction Agreement**, the commissioning process under the **Construction Agreement** or otherwise that the **User's Equipment** will be such that it will not be capable of exporting power onto the **GB Transmission System** at the level of the **Transmission Entry Capacity The Company** shall advise the **User** accordingly in writing setting out its reasons for this belief, the source of the information giving rise to the concern and seeking clarification from the **User**.

7.4.2 The **User** shall respond to **The Company** within 15 **Business Days** of the date of the **Preliminary Request** providing such information or data as is necessary to satisfy **The Company's** concerns set out in the **Preliminary Request** and making any amendments necessary to the report provided by the **User** pursuant to Clause 2.8 and / or data provided by the **User to The Company** to reflect this.

7.4.3 In the event that **The Company** is satisfied from the information provided in accordance with Clause 7.4.2 by the **User** that the **User's Equipment** will be such that it will be capable of exporting power onto the **GB Transmission System** at the level of the **Transmission Entry Capacity The Company** shall notify the **User** accordingly.

7.4.4 In the event that the **User** does not respond to the **Preliminary Request** or, notwithstanding the **User's** response, **The Company** remains of the view that the **User's Equipment** will be such that it will not reasonably be capable of exporting power onto the **GB Transmission System** at the level of the **Transmission Entry Capacity The Company** shall inform the **User** in writing that it intends to amend Clause 7 and Appendix C to the **[Bilateral Connection Agreement] [Bilateral Embedded Generation Agreement]** to reflect the **Transmission Entry Capacity** that it reasonably believes to be the level of power that the **User's Equipment** will be capable of exporting .

7.4.5 The **User** shall respond to the **Notice of Intent** within 15 **Business Days** of the date of the **Notice of Intent** explaining why it still reasonably believes that its **User's Equipment** will be capable of exporting power onto the **GB Transmission System** at the level of the **Transmission Entry Capacity** or at more than the MW figure proposed by **The Company** in the **Notice of Intent** or providing a reasonable explanation as to why this is not the case.

- 7.4.6 In the event that **The Company** is satisfied from the information provided in accordance with Clause 7.4.5 by the **User** that the **User's Equipment** will be such that it will be capable of exporting power onto the **GB Transmission System** at the level of the **Transmission Entry Capacity** **The Company** shall notify the **User** accordingly.
- 7.4.7 Where notwithstanding the **User's** response to the **Notice of Intent** **The Company** remains of the view that the **User's Equipment** will be such that it will not reasonably be capable of exporting power onto the **GB Transmission System** at the level of the **Transmission Entry Capacity** or at more than the MW figure proposed by **The Company** in the **Notice of Intent** or the **User** does not provide a response that is satisfactory to **The Company** within the timescale specified in 7.4.5 above **The Company** will issue the **Notice of Reduction** to the **User** and will send a copy of the same to the **Authority**.
- 7.4.8 Unless during such period the matter has been referred by the **User** to the **Authority** for determination by the **Authority** under the provisions of Standard Condition C9 Paragraph 4 of the **Transmission Licence**, the **Notice of Reduction** shall take effect on the day 15 **Business Days** after the date of the **Notice of Reduction** and Appendix C of the [**Bilateral Connection Agreement**] [**Bilateral Embedded Generation Agreement**] shall be amended on that date in the manner set out in the **Notice of Reduction**. Where the matter has been referred the amendments to Appendix C of the [**Bilateral Connection Agreement**] [**Bilateral Embedded Generation Agreement**] and the date they take effect shall be as set out in the Authority's determination.
- 7.4.9 After a **Notice of Reduction** has taken effect **The Company** shall be entitled to make such amendments to this **Construction Agreement** as it requires as a result of the reduction in **Transmission Entry Capacity** effected by the **Notice of Reduction** and as a consequence to the [**Bilateral Connection Agreement**] [**Bilateral Embedded Generation Agreement**]. **The Company** shall advise the **User** as soon as practicable and in any event within 3 months of the date of the **Notice of Reduction** (or if the matter has been referred by the **User** to the **Authority** for determination, the date of determination) of such amendments by way of offer of an agreement to vary the **Construction Agreement** and [**Bilateral Connection Agreement**] [**Bilateral Embedded Generation Agreement**]. This agreement to vary will also provide for payment by the **User** of the **Capacity Reduction Charge** and **Reduction Fee** where applicable. The parties acknowledge that any dispute regarding this variation shall be referable to and determined by the **Authority** under the provisions of Standard Condition C9 Paragraph 4 of the **Transmission Licence.**"]

Amend Clause 15.3 of Schedule 2 Exhibit 3 (the Construction Agreement) to include reference to Clause 7.4

- 15.3 **The Company** has the right to vary Appendices in accordance with Clauses 2.3, ~~and~~ 2.11 and 7.4 and Paragraph 6.9 of the **CUSC**.

Add the following definitions to Clause 1 of Schedule 2 Exhibit 3 (the Construction Agreement)

Users in the capacity of a Directly Connected Power Station or Embedded Power Station (other than those who are a BELLA) insert the following

[Capacity Reduction Charge	<p><i>[where on interim methodology a sum equal to the difference between a) the Cancellation Charge that would have been payable by the User had this Construction Agreement terminated in the Financial Year (or part of Financial Year) in which the User reduced its Connection Entry Capacity and/or Transmission Entry Capacity as appropriate and the User had not reduced its Connection Entry Capacity and/or Transmission Entry Capacity as appropriate and b) the Cancellation Charge that would have been payable in such Financial Year (or part of Financial Year) if such charge was calculated on the basis of the reduced Connection Entry Capacity and/or Transmission Entry Capacity.]</i> or</p> <p><i>[where on final sums -"Final Sums and as such subject to the provisions of Clauses [9.2 and 9.3 -if user meets credit rating] [9.6 and 9.7 - if user does not meet credit rating] of this Construction Agreement except that the Final Sums will be assessed by reference to those elements of the Construction Works no longer required as a result of a Notice of Reduction taking effect rather than on termination of this Construction Agreement"]]</i></p>
Notice of Intent	the notice issued by The Company pursuant to Clause 7.4.4
[Notice of Reduction	the notice issued by The Company pursuant to Clause 7.4.7 including a revised Appendix C specifying the revised Transmission Entry Capacity .]
Preliminary Request	the request issued by The Company pursuant to Clause 7.4.1
[Reduction Fee	the fee payable by the User to The Company in respect of the agreement to vary issued pursuant to Clause 7.4.9 such fee being calculated on the same basis as that set out in the Charging Statements as payable on a payment of actual costs basis in respect of a Modification Application .]

2 Users in the capacity of a Directly Connected Distribution System where works are required in respect of a BELLA or a Relevant

Embedded Medium Power Station or a Relevant Embedded Small Power Station

Amend Schedule 2 Exhibit 3 (the Construction Agreement) as follows:

Add the following as a new Clause 7.4 in Schedule 2 Exhibit 3 (the Construction Agreement)

Users in the capacity of a Directly Connected Distribution System where works are required in respect of a BELLA or a Relevant Embedded Medium Power Station or a Relevant Embedded Small Power Station insert the following

[7.4 Developer Capacity Reduction

7.4.1 If, at any time prior to the **Completion Date The Company** reasonably believes from the reports provided by the **User** pursuant to Clause 2.8 and Clause 5 of this **Construction Agreement** [*in the case of relevant embedded small/medium power stations – and/or CUSC Paragraphs 6.5.8 or 6.5.5.11*], the commissioning process generally or otherwise that the **Developer's Equipment** will be such that it will not be capable of generating at the **Developer Capacity**, **The Company** shall advise the **User** accordingly in writing setting out its reasons and seeking clarification of the position from the **User**.

7.4.2 The **User** shall respond to **The Company** within 15 **Business Days** of the date of the **Preliminary Request** providing such information or data as is necessary to satisfy **The Company's** concerns set out in the **Preliminary Request** and making any amendments necessary to the report provided by the **User** pursuant to Clause 2.8 and /or data provided by the **User** to **The Company** to reflect this.

7.4.3 In the event that **The Company** is satisfied from the information provided in accordance with Clause 7.4.2 by the **User** that the **Developer's Equipment** will be such that it will be capable of generating at the **Developer Capacity** **The Company** shall notify the **User** accordingly.

7.4.4 In the event that the **User** does not respond to the **Preliminary Request** or, notwithstanding the **User's** response, **The Company** remains of the view that the **Developer's Equipment** will be such that it will not reasonably be capable of generating at the **Developer Capacity** , **The Company** shall inform the **User** and the **Developer** in writing that it intends to amend the **Developer Capacity** in this **Construction Agreement** [and the associated **BELLA**] to reflect the whole MW figure that it reasonably believes the **Developer's Equipment** will be capable of generating at.

7.4.5 The **User** shall respond to the **Notice of Intent** within 15 **Business Days** of the date of the **Notice of Intent** explaining why it still reasonably believes that the **Developer's Equipment** will be capable of generating at the **Developer Capacity** or at more than the MW figure proposed by **The Company** in the **Notice of Intent** or providing a reasonable explanation as to why this is not the case.

7.4.6 In the event that **The Company** is satisfied from the information provided in accordance with Clause 7.4.5 by the **User** that the **Developer's Equipment** will be such that it will be capable of generating at the **Developer Capacity** **The Company** shall notify the **User** accordingly.

- 7.4.7 Where notwithstanding the **User's** response **The Company** remains of the view that the **Developer's Equipment** will be such that it will not be capable of generating at the **Developer Capacity** or at or at more than the MW figure proposed by **The Company** in the **Notice of Intent** or the **User** does not provide a response that is satisfactory to **The Company** within the timescale specified in Clause 7.4.5 above **The Company** will issue the **Notice of Reduction** to the **User** and the **Developer** and will send a copy of the same to the **Authority**.
- 7.4.8 Unless during such period the matter has been referred by the **User** to the **Authority** for determination by the **Authority** under the provisions of Standard Condition C9 Paragraph 4 of the **Transmission Licence**, the **Notice of Reduction** shall take effect on the day 15 **Business Days** after the date of the **Notice of Reduction** and the **Developer Capacity** in this **Construction Agreement** [and Appendix A of the associated **BELLA**] shall be amended on that date in the manner set out in the **Notice of Reduction**. Where the matter has been referred the amendments to Appendix A of the associated **BELLA** and the date they take effect shall be as set out in the **Authority's** determination.
- 7.4.9 After a **Notice of Reduction** has taken effect **The Company** shall be entitled to make such amendments to this **Construction Agreement** as it requires as a result of the reduction in the **Developer Capacity** effected by the **Notice of Reduction** and as a consequence to the [**Bilateral Connection Agreement** or **Agreement to Vary**] [and **BELLA**]. **The Company** shall advise the **User** as soon as practicable and in any event within 3 months of the date of the **Notice of Reduction** (or if the matter has been referred by the **User** [and **BELLA**] to the **Authority**, the date of determination) of such amendments by way of agreement(s) to vary. The agreement to vary will also provide for payment by the **User** of the **Capacity Reduction Charge** and **Reduction Fee**. The parties acknowledge that any dispute regarding this variation shall be referable to and determined by the **Authority** under the provisions of Standard Condition C9 Paragraph 4 of the **Transmission Licence**.”]

Amend Clause 2.8 of the Construction Agreement as follows

Users in the capacity of a Directly Connected Distribution System where works are required in respect of a BELLA or a Relevant Embedded Medium Power Station or a Relevant Embedded Small Power Station insert the following

[“2.8 *The parties shall continuously liaise throughout the **Construction Programme** and **Commissioning Programme** and each shall provide to the other all information relating to its own **Works** reasonably necessary to assist the other in performance of that other's part of the **Works**, and shall use all reasonable endeavours to coordinate and integrate their respective part of the **Works**. There shall be on-site meetings between representatives of the parties at intervals to be agreed between the parties. **The User** shall also provide to **The Company** such information as **The Company** shall reasonably request and which the **User** is entitled to disclose in respect of the **Developer's Project**. Each party shall deliver to the other party where requested a written report of progress during each calendar quarter (including in the case of the **User** progress on the **Developer's Project** to the extent that the **User** has such information and is entitled to disclose it) within 7 days of the end of that quarter.”]*

Amend Clause 15.3 of Schedule 2 Exhibit 3 (the Construction Agreement) to include reference to Clause 7.4

15.3 **The Company** has the right to vary Appendices in accordance with Clauses 2.3, ~~and~~ 2.11 **and** 7.4 and Paragraph 6.9 of the **CUSC**.

Add the following definitions to Clause 1 of Schedule 2 Exhibit 3 (the Construction Agreement)

Users in the capacity of a Directly Connected Distribution System where works are required in respect of a BELLA or a Relevant Embedded Medium Power Station or a Relevant Embedded Small Power Station insert the following

[Developer Capacity]	the MW figure [for export] specified in the Developer's Data.
[Capacity Reduction Charge]	the fees, expenses and costs (whether external or internal) paid, payable or incurred by The Company in respect of those elements of the Construction Works no longer required when a Notice of Reduction takes effect.]
[Developer]	<i>Insert name address and registered number</i> who is party to a BELLA with The Company or the subject of the Request for a Statement of Works.]
[Developer's Data]	the information provided by the [Developer-BELLA] [User] in respect of the Developer in the Request for a Statement of Works-relevant embedded medium\small power station] and set out in Appendix [P].
[Developer's Project]	the connection of a [xMW wind farm\power station to the User's Distribution System at []]
Notice of Intent	the notice issued by The Company pursuant to Clause 7.4.4
[Notice of Reduction]	the notice issued by The Company pursuant to Clause 7.4.7 revising the Developer's Capacity for this Construction Agreement and Appendix A to the BELLA.]
Preliminary Request	the request issued by The Company pursuant to Clause 7.4.1
Reduction Fee	the fee payable by the User to The Company in respect of the agreement to vary issued pursuant to Clause 7.4.9 such fee being calculated on the same basis as that set out in the Charging Statements as payable on a payment of actual costs basis in respect of a Modification Application.

Attach a new Appendix P to Schedule 2 Exhibit 3 (the Construction Agreement) - Appendix **[P]** (Developer's Data) and amend Contents Page accordingly

Appendix **[P]**

Developer's Data

Power Station

Location of Power station

Connection Site (GSP)

Site of Connection

Agreement Reference

[Insert details equivalent to data listed in part 1 of the planning code]

Anticipated date when Power Station's connection to use of the Distribution System will be energised.

Amend Schedule 2 Exhibit 5 (the BELLA) as follows:

Add the following definitions to Clause 1

User's Capacity	the MW [<i>export</i>] figure specified in the User's Data .
DNO	<i>name address and registered number of owner/operator of the distribution network to which user is to connect.</i>
DNO Construction Agreement	the agreement between The Company and the DNO for Transmission Reinforcement Works as a consequence of the User's connection to the Distribution System .
Notice of Reduction	the notice of that name given by The Company to the DNO and the User pursuant to Clause 7 of the DNO Construction Agreement .
Notice of Reduction Effective Date	the date the amendments proposed by the Notice of Reduction take effect.
User's Data	the data submitted by the User and set out in Appendix A to the BELLA against which the effect on the GB Transmission System of the User's connection to the Distribution System has been assessed.

The following shall be added as a new Clause 9.4 of Schedule 2 Exhibit 5 (the BELLA) and reference to Clause 9.4 added to Clause 9.1.

“9.1 Subject to Clause 9.2, ~~and 9.3~~ **and 9.4**, no variation to this **BELLA** shall be effective unless made in writing and signed by or on behalf of both **The Company** and the **User**.”

“9.4 Appendix A shall be automatically amended to reflect any **Notice of Reduction** on the **Notice of Reduction Effective Date**.”

Amend Appendix A to Schedule 2 Exhibit 5 (the BELLA) as attached

APPENDIX A

THE SITE OF CONNECTION AND USER'S DATA

SITE[s] OF CONNECTION

Company:

Site[s] of Connection:

Size of Power Station:

Owner[s] / Operator[s] of Distribution System:

[Insert details equivalent to data listed in part 1 of the planning code]

Anticipated date when Power Station's connection to use of the Distribution System will be energised.

Part B - Text to give effect to the Working Group Alternative Amendment**1. Users in the capacity of a Directly Connected Power Station or Embedded Power Station (other than those who are a BELLA)****Construction Agreement**

Add the following as new clause 2.x in section 2 of the Construction Agreement.

Users in the capacity of a Directly Connected Power Station or Embedded Power Station (other than those who are a BELLA) insert the following

[2.x Power Station

The **User** shall be responsible for designing building and installing the **Power Station** and the **User's Equipment** shall be such that it will be capable of generating at the **Transmission Entry Capacity** [*directly connected power stations only* - and of a type and size that matches the **Connection Entry Capacity**].

Add the following as new clauses 2.y and 2.z in section 2 of the Construction Agreement.

Users in the capacity of a Directly Connected Power Station or Embedded Power Station (other than those who are a BELLA) insert the following

["2.y Power Station Build

- 2.y.1 If, at any time prior to the **Completion Date** **The Company** reasonably believes from the reports provided by the **User** pursuant to Clause 2.8 and Clause 5 of this **Construction Agreement**, the commissioning process generally or otherwise that the **User** is not meeting its obligations under Clause 2.x **The Company** shall advise the **User** accordingly in writing setting out its reasons and seeking clarification of the position from the **User**.
- 2.y.2 The **User** shall respond to **The Company** within 15 **Business Days** of the date of the **Preliminary Request** providing such information or data as is necessary to satisfy **The Company's** concerns and making any amendments necessary to the report provided by the **User** pursuant to Clause 2.8 to reflect this.
- 2.y.3 In the event that the **User** does not respond or, notwithstanding the **User's** response, **The Company** remains of the view that the situation set out in the **Preliminary Request** is correct, **The Company** shall issue a written notice to the **User** advising of its intention to terminate this **Construction Agreement**.
- 2.y.4 Once a **Notice of Intended Termination** has been issued **The Company** shall be entitled to terminate this **Construction Agreement** forthwith in the event that:-
- a) the **User** does not submit a **Modification Application** requesting the appropriate changes to the **User's Works** and **Transmission Entry Capacity** [*directly connected power stations only* - and **Connection Entry Capacity**] such as to satisfy **The Company** that it can fulfil its obligations under 2.x within 15 **Business Days** of the date of the **Notice of Intended Termination**; or
 - b) if a **Modification Application** as required under (a) above has been made but the **User** does not accept the resulting **Modification Offer**

within the period specified by **The Company** as such period might be extended if the **Modification Offer** is referred to the **Authority** for determination,

and upon such termination the provisions of Clause 11 shall apply.

2.z **User's Progress**

2.z.1 If, at any time prior to the **Completion Date** **The Company** reasonably believes from the reports provided by the **User** pursuant to Clause 2.8 and Clause 5 of this **Construction Agreement**, the commissioning process generally or otherwise that the **User** will not complete its **User's Works** in accordance with the **Construction Programme** **The Company** shall advise the **User** accordingly in writing setting out its reasons and seeking clarification of the position from the **User**.

2.z.2 The **User** shall respond to **The Company** within 15 **Business Days** of the date of the **Preliminary Request** providing such information or data as is necessary to satisfy **The Company's** concerns and making any amendments necessary to the report provided by the **User** pursuant to Clause 2.8 to reflect this.

2.z.3 In the event that the **User** does not respond or, notwithstanding the **User's** response, **The Company** remains of the view that the situation set out in the **Preliminary Request** is correct, and the **User** has not exercised its rights under Clause 3.2, **The Company** shall issue a written notice to the **User** advising of its intention to terminate this **Construction Agreement**.

2.z.4 Once a **Notice of Intended Termination** has been issued **The Company** shall be entitled to terminate this **Construction Agreement** forthwith in the event that:-

- a) the **User** does not submit a **Modification Application** requesting the appropriate changes to the **Construction Programme** within 15 **Business Days** of the date of the **Notice of Intended Termination**; or
- b) if a **Modification Application** as required under (a) above has been made but the **User** does not accept the resulting **Modification Offer** within the period specified by **The Company** as such period might be extended if the **Modification Offer** is referred to the **Authority** for determination,

and upon such termination the provisions of Clause 11 shall apply.”]

Amend Clause 12.1 of the Construction Agreement to refer to Clauses 2.y and 2.z.

The following new definitions shall be added to Clause 1 of the Construction Agreement.

Users in the capacity of a Directly Connected Power Station or Embedded Power Station (other than those who are a BELLA) insert the following

Notice of Intended Termination	the notice issued by The Company to the User pursuant to Clause 2.y.3 and/or Clause 2.z.3
Power Station	the [] power station as set out in the User's Works .
Preliminary Request	the request issued by The Company to the User pursuant to Clause 2.y.1 and/or Clause 2.z.1

2 Users in the capacity of a Directly Connected Distribution System where works are required in respect of a BELLA or a Relevant Embedded Medium Power Station or a Relevant Embedded Small Power Station

A Construction Agreement

Add the following as new clause 2.x in section 2 of the Construction Agreement.

Users in the capacity of a Directly Connected Distribution System where works are required in respect of a BELLA or a Relevant Embedded Medium Power Station or a Relevant Embedded Small Power Station insert the following

[2.x Developer's Data

The **User** shall notify **The Company** in the event that it becomes aware of any changes to the **Developer's Data**.”]

Add the following as a new Clause 2.y in section 2 of the Construction Agreement

[“2.y Change in Developer's Data

2.y.1 If, at any time prior to the **Completion Date** **The Company** reasonably believes from the reports provided by the **User** pursuant to Clause 2.8 and Clause 5 of this **Construction Agreement**, notification from the **User** under Clause 2.x of this **Construction Agreement** [*in the case of relevant embedded small/medium power stations – and/or CUSC Paragraphs 6.5.8 or 6.5.5.11*], the commissioning process generally or otherwise that there are changes to the **Developers Data** **The Company** shall advise the **User** accordingly in writing setting out its reasons and seeking clarification of the position from the **User**.

2.y.2 The **User** shall respond to **The Company** within 15 **Business Days** of the date of the **Preliminary Request** providing such information or data as is necessary to satisfy **The Company's** concerns and making any amendments necessary to the report provided by the **User** pursuant to Clause 2.8 to reflect this.

2.y.3 In the event that the **User** does not respond or, notwithstanding the **User's** response, **The Company** remains of the view that the situation set out in the **Preliminary Request** is correct, **The Company** shall issue a written notice to the **User** advising of its intention to terminate this **Construction Agreement**.

2.y.4 Once a **Notice of Intended Termination** has been issued **The Company** shall be entitled to terminate this **Construction Agreement** forthwith in the event that:

[In the case of a BELL A

- a) the **Developer** does not submit a **Modification Application** requesting the appropriate amendments to the **Developer's Data** within 15 **Business Days** of the date of the **Notice of Intended Termination**; and
- b) the **User** does not submit a **Modification Application** requesting the corresponding amendments to the **Developer's Data** for the purposes of this **Construction Agreement** within 15 **Business Days** of the date of the **Notice of Intended Termination**; or
- c) if the **Modification Applications** as required under (a) and (b) above have been made but the **Developer** and/or the **User** does not accept the resulting **Modification Offer** within the period specified by **The Company** as such period might be extended if the **Modification Offer** is referred to the **Authority** for determination,]

[in the case of relevant embedded medium\small power stations

- a) where either **The Company** requires a revised **Request for a Statement of Works** and the **User** does not submit the same within 15 **Business Days** of the date of the **Notice of Intended Termination**; or
- b) the **User** does not accept the resulting **Modification Offer** within the period specified by **The Company** as such period might be extended if the **Modification Offer** is referred to the **Authority** for determination,]

and upon such termination the provisions of Clause 11 shall apply.]

Amend Clause 2.8 of the Construction Agreement as follows.

Users in the capacity of a Directly Connected Distribution System where works are required in respect of a BELL A or a Relevant Embedded Medium Power Station or a Relevant Embedded Small Power Station insert the following

*“2.8 The parties shall continuously liaise throughout the **Construction Programme and Commissioning Programme** and each shall provide to the other all information relating to its own **Works** reasonably necessary to assist the other in performance of that other's part of the **Works**, and shall use all reasonable endeavours to coordinate and integrate their respective part of the **Works**. There shall be on-site meetings between representatives of the parties at intervals to be agreed between the parties. The **User** shall also provide to **The Company** such information as **The Company** shall reasonably request and which the **User** is entitled to disclose in respect of the **Developer's Project**. Each party shall deliver to the other party where requested a written report of progress during each calendar quarter (including in the case of the **User** progress on the **Developer's Project** to the extent that the **User** has such information and is entitled to disclose it) within 7 days of the end of that quarter.”]*

The following new definitions shall be added to Clause 1 of the Construction Agreement.

Users in the capacity of a Directly Connected Distribution System where works are required in respect of a BELLA or a Relevant Embedded Medium Power Station or a Relevant Embedded Small Power Station insert the following

[Developer	<i>name registered address and co number]</i>
[Developer's Capacity	the MW figure <i>[for export?]</i> specified in the Developer's Data.]
[Developer's Project	the connection of a <i>[xmw wind farm\power station]</i> to the User's Distribution System at <i>[.].</i>
[Developer's Data	the information provided by the [Developer-BELLA] [User in respect of the Developer in the Request for a Statement of Works-relevant embedded medium\small power station] and set out in Appendix [P].]
Notice of Intended Termination	the notice issued by The Company to the User pursuant to Clause 2.y.3.
Preliminary Request	the request issued by The Company to the User pursuant to Clause 2.y.1.

Attach a new Appendix - Appendix [P] (Developer's Data) and amend Contents Page accordingly

Appendix [P]

Developer's Data

Power Station

Location of Power station

Connection Site (GSP)

Site of Connection

[Insert details equivalent to data listed in part 1 of the planning code]

Anticipated date when Power Station's connection to\use of the Distribution System will be energised.

B BELLA

Add the following new definitions at Clause 1 of the BELLA.

User's Data	the information provided by the User in its application and set out in Appendix A against which the effect on the GB Transmission System has been studied.
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Amend Clause 8 (Term) of the BELLA as follows

“Subject to the provisions for earlier termination set out in the **CUSC**, this **BELLA** shall continue until all of the **User's** equipment is **Disconnected** from the relevant **Distribution System** as provided in Section 5 of **CUSC** or earlier if the **Distribution Agreement** is terminated prior to the issue by **The Company** of the **Operational Notification**.

Amend Appendix A to the BELLA as follows

APPENDIX A
THE SITE OF CONNECTION AND USER'S DATA

SITE[s] OF CONNECTION

Company:

Site[s] of Connection:

Size of Power Station:

Owner[s] / Operator[s] of Distribution System:

[Insert details equivalent to data listed in part 1 of the planning code]

Anticipated date when Power Station's connection to use of the Distribution System will be energised.

Part C – Text to give effect to the Consultation Alternative Amendment A

The text below amends the Original CAP150 Proposal by inserting the coloured and struck through text.

1. Schedule 2 Exhibit 3 (the Construction Agreement)
2. Users in the capacity of a Directly Connected Distribution System where works are required in respect of a BELLA or Relevant Embedded Medium Power Station or a Relevant Embedded Small Power Station

In addition to changes in text, add new clause 7.4.10

[for use in construction agreement with associated BELLA only

7.4.10 Where as a result of the reduction in the **Developer Capacity** effected by the **Notice of Reduction** the **Developer** is no longer an **Embedded Exemptable Large Power Station** and as a result the **BELLA** is to be terminated as provided for in the **BELLA** then the following provisions shall apply:

7.4.10.1 The agreement to vary referred to in Clause 7.4.9 above shall also provide for such amendments as are necessary to the **Construction Agreement** and **[Bilateral Connection Agreement or Agreement to Vary]** to reflect the fact that the **Developer** is no longer to be party to a **BELLA** but is a **Relevant Embedded Small Power Station**.

7.4.10.2 Where **The Company** determines that the reduction in the **Developer Capacity** effected by the **Notice of Reduction** is such that if a **Request for a Statement of Works** had been made by the **User** on the basis of that reduced **Developer Capacity** on the same date as, but instead of, the **Developer's** application for the **BELLA** then no works would have been required on the **GB Transmission System** then **The Company** shall be entitled to terminate this **Construction Agreement** and the provisions of Clause 11 shall apply. In such case **The Company** shall be entitled to make such amendments as are necessary to the **[Bilateral Connection Agreement or Agreement to Vary]** to reflect the fact that the **Developer** is no longer party to a **BELLA** but is a **Relevant Embedded Small Power Station**.

7.4.10.3 **The Company** and the **User** shall treat the **Developer** as if it had been a **Relevant Embedded Small Power Station** at the time of its application for a **BELLA** and for the purposes of **CUSC** Paragraph 6.5 as if a) the **Developer's** application for the **BELLA** had been a **Request for a**

Statement of Works under **CUSC** 6.5.5, b) this **Construction Agreement** had been entered into as a result of the **Modification Application** referred to in **CUSC** Paragraph 6.5.5.5, c) the **Notice of Reduction** is a revised **Request for a Statement of Works** from the **User** under **CUSC** Paragraph 6.5.5.8 by reference to the reduction in the **Developer Capacity** effected by the **Notice of Reduction** and d) the agreement to vary referred to in Clause 7.4.10.1 or 7.4.10.2 as **The Company's** response to the **User's** revised **Request for a Statement of Works** and the provisions of **CUSC** Paragraph 6.5 shall apply on that basis.

2. Edits to Schedule 2 Exhibit 5 (the Bella)

Amend Clause 8 (term) of Bella as follows

8. Term

8.1 Subject to the provisions for earlier termination set out in **CUSC** and **Clause 8.2 below**, this **BELLA** shall continue until all of the **User's** equipment is **Disconnected** from the relevant **Distribution System** at the site of **Connection** as provided in Section 5 of **CUSC**.

8.2 This **BELLA** shall terminate on the earlier of

- (a) the **Notice of Reduction Effective Date** where as a result of the **Notice of Reduction** the **User** is no longer an **Embedded Exemptable Large Embedded Power Station**.
- (b) termination of the **DNO Construction Agreement** pursuant to Clause 7.4.10.2 of the **Construction Agreement** and provided that the **Bilateral Connection Agreement** between the **DNO** and **The Company** has, where required by **The Company**, been amended to reflect the fact that the **Developer** is no longer party to a **BELLA** but is a **Relevant Embedded Small Power Station**

Part D – Text to give effect to the Consultation Alternative Amendment B

The text below amends the CAP150 Working Group Alternative by inserting the coloured and struck through text.

2 **Users in the capacity of a Directly Connected Distribution System where works are required in respect of a Bella or a relevant embedded medium Power Station or a relevant Embedded Small Power Station**

B BELLA

Edits to Schedule 2 Exhibit 5 (the Bella)

Add the additional following new definitions at Clause 1

DNO *name address and registered number of owner/operator of the distribution network to which user is to connect.*

DNO Construction Agreement the agreement between **The Company** and the **DNO** for **Transmission Reinforcement Works** as a consequence of the **User's** connection to the **Distribution System**.

Replace amended Clause 8 (Term) of the BELLA as follows

“Subject to the provisions for earlier termination set out in the **CUSC**, this **BELLA** shall continue until all of the **User's** equipment is **Disconnected** from the relevant **Distribution System** as provided in Section 5 of **CUSC** or earlier if the **DNO Construction Agreement** is terminated prior to the issue by **The Company** of the **Operational Notification**.”

Part E – Text to give effect to the Consultation Alternative Amendment C

The text below amends the CAP150 Working Group Alternative by inserting the coloured and struck through text.

2 **Users in the capacity of a Directly Connected Distribution System where works are required in respect of a Bella or a relevant embedded medium Power Station or a relevant Embedded Small Power Station**

A Construction Agreement

Add the following as new clause 2.y.5

[in the case of a BELLA

2.y.5 Where as a result of the reduction in the **Developer Capacity** [specified in the **Notice of Intended Termination**] the **Developer** is no longer an **Embedded Exemptable Large Power Station** and as a result the **BELLA** is to be terminated as provided for in the **BELLA** then the following provisions shall apply:

2.y.5.1 **The Company** and the **User** shall treat the **Developer** as if it had been a **Relevant Embedded Small Power Station** at the time of its application for a **BELLA** and for the purposes of **CUSC** Paragraph 6.5 as if a) the **Developer's** application for the **BELLA** had been a **Request for a Statement of Works** under **CUSC** 6.5.5 and b) this **Construction Agreement** had been entered into as a result of the **Modification Application** referred to in **CUSC** Paragraph 6.5.5.5 and the provisions of **CUSC** Paragraph 6.5 shall apply on that basis.

2.y.5.2 Clause 2.y.4 shall be deleted and replaced as follows

“2.y.4 Once a **Notice of Intended Termination** has been issued **The Company** shall be entitled to terminate this **Construction Agreement** forthwith in the event that either:

c) **The Company** requires a revised **Request for a Statement of Works** and the **User** does not submit the same within 15 **Business Days** of the date of the **Notice of Intended Termination**; or

d) the **User** does not accept the resulting **Modification Offer** within the period specified by **The Company** as such period

might be extended if the **Modification Offer** is referred to the **Authority** for determination,

and upon such termination the provisions of Clause 11 shall apply.”

2.y.5.3 The **Modification Offer** referred to in Clause 2.y.5.2(b) shall also provide for such amendments as are necessary to this **Construction Agreement** and the [**Bilateral Connection Agreement** or **Agreement to Vary**] to reflect the fact that the **Developer** is no longer to be party to a **BELLA** but is a **Relevant Embedded Small Power Station**.

B BELLA

Edits to Schedule 2 Exhibit 5 (the Bella)

Add the additional following new definitions at Clause 1

DNO	<i>name address and registered number of owner/operator of the distribution network to which user is to connect.</i>
DNO Construction Agreement	the agreement between The Company and the DNO for Transmission Reinforcement Works as a consequence of the User's connection to the Distribution System .
Notice of Intended Termination	a notice given by The Company to the DNO pursuant to Clause 2.y.3 of the DNO Construction Agreement .

Replace amended Clause 8 (Term) of the BELLA as follows

“8.1 Subject to the provisions for earlier termination set out in the **CUSC** and **Clause 8.2 and Clause 8.3 below**, this **BELLA** shall continue until all of the **User's** equipment is **Disconnected** from the relevant **Distribution System** as provided in Section 5 of **CUSC**.

8.2 This **BELLA** shall terminate where the **User** is no longer an **Embedded Exemptable Large Embedded Power Station** as a result of a revised **Request for a Statement of Works** made by the **DNO** following a **Notice of Intended Termination** and provided that the **DNO** has accepted the

Modification Offer as required pursuant to Clause 2.y.4 of the **DNO Construction Agreement**.

- 8.3 This **BELLA** shall terminate if the **DNO Construction Agreement** is terminated prior to the issue by **The Company** of the **Operational Notification**.

ANNEX 2 – AMENDMENT PROPOSAL FORM AND CONSULTATION ALTERNATIVE AMENDMENT FORMS

CUSC Amendment Proposal Form	CAP:150
Title of Amendment Proposal:	
Capacity Reduction	
Description of the Proposed Amendment (mandatory by proposer):	
<p>In summary, it is proposed to amend the CUSC to enable The Company to ascertain whether a User's power station project (Project) will be capable of utilising the transmission capacity provided for in its Bilateral Agreement by the Completion Date. If the User is unable to provide satisfactory evidence that this is the case then The Company would have the right to propose changes to the User's Bilateral Agreement and Construction Agreement to reduce the capacity to an appropriate level and revise the Construction Works as necessary to reflect this. In addition The Company has the ability to recover the cost from the User of any abortive works (or relevant User Commitment Charges) as a consequence of this reduction in capacity and for The Company's costs associated with processing such changes (as if the changes were requested by the User) on same basis as Modification application Fees.</p> <p>It is proposed:</p> <ol style="list-style-type: none"> 1. In addition to the quarterly reports provided by the User on its Project under the Construction Agreement The Company has the right to request information from a User regarding their Project such as planning consents applied for 2. The Construction Programme will identify dates for particular events (milestones) associated with the User's works e.g. grant of Section 36 consent 3 Where the Company becomes aware (e.g. Section 36 planning consent is granted for a lower capacity than is reflected in the relevant bilateral agreements) that there might be a discrepancy with the capacity in the Bilateral Agreement or the User fails to meet the milestones such that it is reasonable to question whether the User can complete their Project by the completion date, then The Company would notify the User and seek an explanation from the User regarding the inconsistency between the transmission capacity within their bilateral agreement (contracted position) and the available Project information. 4. If the inconsistency is not resolved, then The Company would be entitled to vary the bilateral agreement to reduce the User's capacity (TEC or power station capacity in relation to a BELLA) to a figure that The Company considered was appropriate based upon the information available and make any other necessary consequential contractual changes including changes to the Construction Agreement to reflect any changes to the works. The agreement to vary would also provide for recovery of any costs of abortive works resulting from the capacity reduction. <p>This proposal would require amendment to the standard forms of the Bilateral Connection Agreement as set out in Exhibit 1 to Schedule 2 of the CUSC, the Bilateral Embedded Generation Agreement as set out in Exhibit 2 to Schedule 2 of the CUSC, the Construction Agreement as set out in Exhibit 3 to Schedule 2 of the CUSC and the BELLA as set out in Exhibit 5 to Schedule 2 of the CUSC</p> <p>This change would be applicable to all existing and future Users with one of the agreements described above prior to completion of the User works.</p>	
Description of Issue or Defect that Proposed Amendment seeks to Address (mandatory by proposer):	
<p>There has recently been an unprecedented level of applications for connection to and use of the GB Transmission System. In several locations this level of applications has resulted in many Users' receiving offers for connection dates later than their aspirational connection date. This is particularly relevant in Scotland where as a consequence of the transition to BETTA a "queue" of 168 Projects totalling some 13.5GW of capacity exists. The Company's offers of connection in some cases are 10 years in future. The Company is also aware of connection "queues" in parts of England and Wales such as the Thames Estuary and South Wales.</p> <p>At present The Company is aware of Projects throughout Great Britain that have a capacity in their Bilateral Agreement that is considerably in excess of the Project's apparent needs (e.g. based on planning consent applications, planning consent approvals etc) or where the User's Works required to utilise this capacity are unachievable by the Completion Date but nevertheless the User refuses to reduce their contracted position or seek a delay to their Completion date.</p> <p>This presents a number of issues for The Company:</p>	

- It causes uncertainty over the volume of transmission capacity necessary
- It create the potential risk of over investment
- The release of this capacity could permit other Projects to connect earlier than their current contracted date and present opportunities for new projects.

The proposed amendment seeks to address the issue of Users that have a contracted position that is inconsistent with their Project details (e.g. planning consent) or the construction programme. Whilst there are remedies available where a User does not progress or complete a Project, the nature of these remedies means that a User can hold onto TEC or capacity until very close to their connection date. Consequently, The Company is unable to utilise this capacity for other Users in a timely manner or review the works required, which has an adverse impact on competition. In addition the current remedies of termination may not be proportionate in all cases.

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

As a minimum, the following changes are expected:

- New definitions in CUSC Section 11.3 – Definitions.
- Schedule 2 – Exhibit 1 (Bilateral Connection Agreement).
- Schedule 2 – Exhibit 2 (Bilateral Embedded Generation Agreement).
- Schedule 2 – Exhibit 3 (Construction Agreement).
- Schedule 2 – Exhibit 5 (BELLA).

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

The proposed amendment may require a minor consequential changes to the STC (in particular the procedures relating to connection offers, STCP-18). In addition charging methodology changes may also be required for abortive works and deemed application fees.

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

None.

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

None

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

The proposed amendment better facilitates the achievement of the Applicable CUSC Objectives as follows:

(a) the efficient discharge by the licensee of the obligations imposed upon it under the Act and by this licence

National Grid has a range of statutory duties and licence obligations which include ensuring the efficient, economic and co-ordinated operation of the GB Transmission System, the facilitation of competition and non-discrimination. The proposed amendment better facilitates the efficient discharge by National Grid of these obligations and, in particular, it is observed that:

- Existing arrangements allow Users to hoard capacity until the backstop date.
- The new arrangements would allow The Company to release capacity to Projects that are able to use it and thereby facilitate competition.
- It improves the level of certainty over the actual capacity connecting, reduces the amount of short term attrition and removes any potential risk of over investment

For these reasons, the proposed amendment would better facilitate Applicable CUSC Objective (a) the efficient discharge by the licensee of the obligations imposed upon it under the Act and by this licence.

(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

- By facilitating release of capacity from a Project that is manifestly unable to use it The Company can release this capacity to other Projects that are able to use it.
- The present arrangements may act as a barrier to entry to new Users to the extent that capacity is being

hoarded.

- The connection process may be prolonged; this may deter new entrants to the generation market.

For this reason, the proposed amendment would better facilitate 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.

Details of Proposer:	
Organisation's Name:	National Grid Electricity Transmission plc
Capacity in which the Amendment is being proposed: (i.e. CUSC Party, BSC Party or "energywatch")	CUSC Party
Details of Proposer's Representative:	
Name:	Philip Collins
Organisation:	National Grid
Telephone Number:	01926 656143
Email Address:	Phil.collins@uk.ngrid.com
Details of Representative's Alternate:	
Name:	Andy Balkwill
Organisation:	National Grid
Telephone Number:	01926 655988
Email Address:	Andy.balkwill@uk.ngrid.com
Attachments (No):	

CUSC Consultation Alternative Amendment Proposal Form	
CUSC working title of the Amendment Proposal and corresponding CAP reference CAP150: Capacity Reduction	
Description of the Proposed Consultation Alternative Amendment (mandatory by proposer): CCA (A): Consistency of treatment of holders of BELLAs and BEGAs	
Description of differences between the proposed Consultation Alternative Amendment compared to Original proposal / Working Group alternative (mandatory by proposer): New provision in CUSC 6.5.5 to ensure such consistency	
Justification for the proposal of the Consultation Alternative (<u>including why the original proposal / Working Group alternative does not address the defect</u>) (mandatory by proposer): Avoids discrimination as more fully set out in covering letter	
Impact on the CUSC (this should be given where possible): New provision CUSC 6.5.5.12	
Impact on Core Industry Documentation (this should be given where possible): None	
Impact on Computer Systems and Processes used by CUSC Parties (this should be given where possible): None	
Justification for Proposed Consultation Alternative Amendment with Reference to Applicable CUSC Objectives** (mandatory by proposer): (a) the efficient discharge by the Licensee of the obligations imposed upon it by the act and the Transmission Licence; By avoiding discrimination against BELLA holders (b) facilitating effective competition in generation and supply of electricity and facilitating such competition in the sale, distribution and purchase of electricity. By avoiding discrimination against BELLA holders	

Details of Proposer of Consultation Alternative Amendment: Organisation's Name:	Heysham Offshore Wind Ltd
Capacity in which the Amendment is being proposed: (i.e. CUSC Party, BSC Party or "energywatch")	CUSC Party
Details of Consultation Alternative Proposer's Representative: Name: Organisation: Telephone Number: Email Address:	Anthony Cotton c/o DONG Energy 01473 780 933 xanco@dongenergy.dk
Details of Representative's Alternate: Name: Organisation: Telephone Number: Email Address:	Ivan Christiansen DONG Energy 0045 2540 2186 ivach@dongenergy.dk
Attachments (Yes/No): If Yes, Title and No. of pages of each Attachment:	No, CUSC text below

Illustrative amendments to the CUSC changes proposed in CAP150 Amendment Proposal:

In addition to the changes proposed in the Consultation Document, add the following new clause to section 6.5.5 of the CUSC:

"6.5.5.12 Where the developer of a Power Station that is the subject of the Request for a Statement Works is a User that holds a BELLA for that Power Station, then provided the User consents to the termination of that BELLA, no Transmission Reinforcement Works shall be included in the Modification Offer or Construction Agreement made as a result of the Request for a Statement of Works which would delay Energisation of the Power Station or use of the Distribution System beyond the date of such as would have been caused by the original Construction Agreement prepared in relation to the BELLA."

CUSC Consultation Alternative Amendment Proposal Form
CUSC working title of the Amendment Proposal and corresponding CAP reference CAP150: Capacity Reduction
Description of the Proposed Consultation Alternative Amendment (mandatory by proposer): CCA (B): Correction to BELLA termination provisions
Description of differences between the proposed Consultation Alternative Amendment compared to Original proposal / Working Group alternative (mandatory by proposer): Variation to BELLA clause 8 to refer to DNO's Construction Agreement rather than the Distribution Agreement
Justification for the proposal of the Consultation Alternative (<u>including why the original proposal / Working Group alternative does not address the defect</u>) (mandatory by proposer): Correctly deals with this issue as more fully set out in covering letter
Impact on the CUSC (this should be given where possible): Change to pro-forma BELLA clause 8
Impact on Core Industry Documentation (this should be given where possible): None
Impact on Computer Systems and Processes used by CUSC Parties (this should be given where possible): None
Justification for Proposed Consultation Alternative Amendment with Reference to Applicable CUSC Objectives** (mandatory by proposer): (a) the efficient discharge by the Licensee of the obligations imposed upon it by the act and the Transmission Licence; Does not introduce unwarranted BELLA termination provisions and correctly relates termination of BELLA to termination of DNO's Construction Agreement (b) facilitating effective competition in generation and supply of electricity and facilitating such competition in the sale, distribution and purchase of electricity. Does not introduce unwarranted BELLA termination provisions and correctly relates termination of BELLA to termination of DNO's Construction Agreement

Details of Proposer of Consultation Alternative Amendment: Organisation's Name:	Gunfleet Sands Ltd
Capacity in which the Amendment is being proposed: (i.e. CUSC Party, BSC Party or "energywatch")	CUSC Party
Details of Consultation Alternative Proposer's Representative: Name: Organisation: Telephone Number: Email Address:	Anthony Cotton c/o DONG Energy 01473 780 933 xanco@dongenergy.dk
Details of Representative's Alternate: Name: Organisation: Telephone Number: Email Address:	Ivan Christiansen DONG Energy 0045 2540 2186 ivach@dongenergy.dk
Attachments (Yes/No): If Yes, Title and No. of pages of each Attachment:	No, CUSC text below

Illustrative amendments to the CUSC changes proposed in CAP150 WGAA:

Instead of making the proposed amendment to Clause 8 (Term) of the BELLA, this should be amended as follows:

"Subject to the provisions for earlier termination set out in the CUSC, this BELLA shall continue until all of the User's equipment is Disconnected from the relevant Distribution System as provided in Section 5 of CUSC or earlier if the Construction Agreement (as entered into between The Company and the owner/operator of the Distribution System in relation to the Transmission Reinforcement Works) is terminated prior to the issue by The Company of the Operational Notification."

CUSC Consultation Alternative Amendment Proposal Form
CUSC working title of the Amendment Proposal and corresponding CAP reference CAP150: Capacity Reduction
Description of the Proposed Consultation Alternative Amendment (mandatory by proposer): CCA (C): (1) Correction to BELLA termination provisions and (2) Consistency of treatment of holders of BELLAs and BEGAs
Description of differences between the proposed Consultation Alternative Amendment compared to Original proposal / Working Group alternative (mandatory by proposer): (1) Variation to BELLA clause 8 to refer to DNO's Construction Agreement rather than the Distribution Agreement and (2) new provision in CUSC 6.5.5 to ensure such consistency
Justification for the proposal of the Consultation Alternative (<u>including why the original proposal / Working Group alternative does not address the defect</u>) (mandatory by proposer): (1) Correctly deals with this issue as more fully set out in covering letter (2) Avoids discrimination as more fully set out in covering letter
Impact on the CUSC (this should be given where possible): Change to pro-forma BELLA clause 8 and New provision CUSC 6.5.5.12
Impact on Core Industry Documentation (this should be given where possible): None
Impact on Computer Systems and Processes used by CUSC Parties (this should be given where possible): None
Justification for Proposed Consultation Alternative Amendment with Reference to Applicable CUSC Objectives** (mandatory by proposer): (a) the efficient discharge by the Licensee of the obligations imposed upon it by the act and the Transmission Licence; Does not introduce unwarranted BELLA termination provisions and correctly relates termination of BELLA to termination of DNO's Construction Agreement By avoiding discrimination against BELLA holders (b) facilitating effective competition in generation and supply of electricity and facilitating such competition in the sale, distribution and purchase of electricity. Does not introduce unwarranted BELLA termination provisions and correctly relates termination of BELLA to termination of DNO's Construction Agreement By avoiding discrimination against BELLA holders

Details of Proposer of Consultation Alternative Amendment: Organisation's Name:	Gunfleet Sands II Ltd
Capacity in which the Amendment is being proposed: (i.e. CUSC Party, BSC Party or "energywatch")	CUSC Party
Details of Consultation Alternative Proposer's Representative: Name: Organisation: Telephone Number: Email Address:	Anthony Cotton c/o DONG Energy 01473 780 933 xanco@dongenergy.dk
Details of Representative's Alternate: Name: Organisation: Telephone Number: Email Address:	Ivan Christiansen DONG Energy 0045 2540 2186 ivach@dongenergy.dk
Attachments (Yes/No): If Yes, Title and No. of pages of each Attachment:	No, CUSC text below

ANNEX 3 – REPRESENTATIONS RECEIVED DURING CONSULTATION

This Annex includes copies of any representations received following circulation of the Consultation Document (circulated on 29th November 2007, requesting comments by close of business on 27th December 2007).

Representations were received from the following parties:

Reference	Company
CAP150-CR-01	Centrica
CAP150-CR-02	EDF Energy
CAP150-CR-03	E.ON
CAP150-CR-04	Falck Renewables
CAP150-CR-05	Highlands and Islands Enterprise
CAP150-CR-06	RWE
CAP150-CR-07	Scottish Renewables
CAP150-CR-08	Welsh Power
CAP150-CR-09	West coast energy
CAP150-CR-10	Wind Energy
CAP150-CR-11	British Energy
CAP150-CR-12	Scottish and Southern Energy plc, for and on behalf of Southern Electric, Keadby Generation Ltd, Medway Power Ltd and SSE Energy Supply Ltd
CAP150-CR-13	InteGen UK
CAP150-CR-14	Scottish Power on behalf of ScottishPower Energy Management Ltd, ScottishPower Generation Ltd and ScottishPower Renewable Energy Ltd.
CAP150-CR-15	Dong Walney, SeaScape, Gunfleet



taking care of the essentials

By Email
Beverley Viney
Amendments Panel Secretary
Electricity Codes
National Grid
National Grid House
Warwick Technology Park
Gallows Hill
Warwick
CV34 6DA

Centrica Energy
Millstream East,
Maidenhead Road,
Windsor,
Berkshire SL4 5GD

Tel. (01753) 431000
Fax (01753) 431150
www.centrica.com

Our Ref.
Your Ref.
20th December 2007

Dear Beverley,

CUSC Amendment Proposal CAP150 – Capacity Reduction

Centrica welcomes the opportunity to comment on National Grid's proposal to address the inconsistency between project details and a User's contracted position.

Centrica is broadly supportive of this proposal and believes that it will provide greater opportunities to release capacity currently tied up in the so-called GB Queue, enabling more viable projects to proceed to completion. However, there are a number of concerns that Centrica would like to raise.

1. It is important for National Grid to retain a certain level of flexibility in its treatment of developers. Users should be able to amend the progress milestones which are requested by National Grid under the revised connection application forms (if CAP152-155 receive Authority approval). The quarterly reports should be reflective of moving project details as plans are firmed up and amended, i.e. developers should not be held to their initial indicative views. In the event of a change in capacity, we believe it is appropriate for the capacity reduction (CAP150) process to be implemented. However, for example, changes to the timeline for gaining consents for example, should be movable without penalty so long as the deemed connection date is within the allowance of the backstop date.
2. Where a developer only requires a percentage of its capacity by the completion date, but requires the remainder at a later date, a staged connection should be available providing the full TEC can be utilised on or prior to the backstop date.
3. Centrica has concerns regarding the proposed use of "hearsay" and believes it is not a sufficient basis for determining whether or not a developer is falsely declaring capacity. If there are doubts, National Grid should contact the developer to discuss the matter in full and request evidence of the projected capacity. If, as a result of this exchange, planned capacity is deemed to be lower than the contracted background, the developer should be requested to submit a modification application. The request to submit a modification application.

A *centrica* business

Centrica plc - The group includes British Gas Trading, British Gas Services and Accord Energy
Registered in England No.3033654. Registered Office: Millstream, Maidenhead Road, Windsor, Berkshire SL4 5GD

4. Centrica believes that it is appropriate for the User to absorb the costs of National Grid's abortive works, in line with the relevant user commitment model. This will prevent any incentive for developers to delay the release of capacity until such time that National Grid intervenes under the proposed CAP150 process. To take account of administration costs, a standard modification application fee should also be payable by the user.
5. The Working Group Alternative Amendment (WGAA) is not supported by Centrica. Where a developer will not comply with National Grid's request to submit a modification application or to reduce the capacity currently stated in their bilateral agreement, an Ofgem determination is believed to be a sufficient procedure. Whilst it could be a quicker solution to reducing the number of parties hoarding TEC in the GB Queue, it is not necessarily the most efficient method and could lead to potentially viable projects being left without a connection date.
6. Centrica acknowledges that introducing a "Notice of Termination" where project delays are evident could place unnecessary risks on a project. Project delays could be reconciled in a separate phase of the project and should not give reason enough for National Grid to terminate the contracts for viable projects. Such action will not incentivise developers to build renewable generation as the risks introduced via the WGAA could impact project economics.
7. Finally, it is recognised that whilst this modification goes part-way towards addressing the issues outlined in the current transmission access review, queue management only forms a small part. A wider industry review is required to deliver substantive change to connect a large volume of generation. It is important to note that the removal of additional capacity, albeit unused capacity, could have implications on the viability of future short-term TEC trading products (using non-firm or interruptible TEC), currently being discussed through the TAR process.

In summary, Centrica agrees that CAP150 better facilitates CUSC objectives a) and b) but that the WGAA proposal is too draconian and will place undue risks on viable projects.

If you have any questions or comments relating to this response, please contact me on the number above or at laura.jeffs@centrica.com

Yours sincerely,

Laura Jeffs
Commercial Manager

A *centrica* business

Centrica plc - The group includes British Gas Trading, British Gas Services and Accord Energy
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Beverley Viney
Amendments Panel Secretary
Electricity Codes
National Grid [National Grid House]
Warwick Technology Park
Gallows Hill, Warwick
CV34 6DA

21 December 2007



Dear Beverley,

CAP150 Capacity reduction

EDF Energy is pleased to have the opportunity to comment on CAP150.

We have been disappointed by:

1. The behaviour of some developers not fulfilling the obligations of the bilateral connection agreement (BCA) and construction Agreement (CONSAG);
2. National Grid's conservative approach when enforcing contracts by not bringing developers into breach of the CUSC.

As a result, developers that have fulfilled CUSC obligations have been placed at a clear disadvantage in gaining timely grid connection. This is unacceptable.

We fully support the intention of CAP150 as National Grid does not have any contractual power to reduce the capacity it is contracted to build for a developer. However the **Original amendment should not be implemented** as it is overly bureaucratic and would create inconsistent treatment upon developers' projects being delayed or being of different capacity than agreed in the CUSC BCA.

We believe the **WGAA should be implemented** as the Notice of Termination will provide an incentive for developers to behave properly with regard to their CUSC obligations. It also provides an efficient process for National Grid to penalise Users acting improperly, without the legal implications associated with notifying the Authority the User is in breach of the CUSC.

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If CAP150 Original is implemented, National Grid would have:

[1] The right to allow the Project to progress even if delayed, enforcing termination upon the backstop date.

[2] After being notified of a significant delay, the right to notify the User to submit a modification application for a later connection.

[3] After being notified of having an incorrect transmission capacity figure against the plant likely to be commissioned, the right to notify the User to submit a modification application and if this is not done, use enforcement action to reduce the transmission capacity figure in Appendix C of the User's BCA.

[1] & [2] are existing rights for the GBSO, through clauses, 4.8 Backstop date and 3.3 Delays.

However [3] would be a new right, provided by implementation of CAP150.

There is an asymmetry between [2] and [3] above, where the incorrect transmission capacity figure is proposed to have enforcement action and a delay in the construction programme does not. This inconsistency is overly bureaucratic will only serve to confuse developers.

We hope that you will find these comments helpful. If you have any queries please do not hesitate to contact me.

Yours sincerely,

David Scott
Electricity Regulation, Energy Branch



Beverley Viney
Amendments Panel Secretary
Electricity Codes
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Ben Sheehy
024 7618 3381

Friday 21 December 2007

Dear Beverley,

Response on CAP150, Capacity Reduction

Our view

CAP150 represents a very significant development in the industry's effort to find a solution to the GB transmission queue. At E.ON UK we have substantial concerns that the capacity reduction process outlined in the original proposal is, firstly, insufficiently transparent and, secondly, potentially too contentious. However despite these concerns we support the intention of the original and conclude that if implemented, it would better facilitate the applicable objectives. We think it would be feasible to then improve the process with a second, and consequential, CUSC amendment.

In contrast, the alternative proposal would inappropriately increase the risk inherent in developing generation projects by denying a developer reasonable flexibility. It should be rejected.

Page 1 of 5

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Manage and Connect

Our consistent view is that it is better to take a 'Manage and Connect' approach where companies are having to wait a long time for transmission access: meaning that delays could be relieved if National Grid was given the power to connect projects that have completed essential milestones ahead of those clearly holding a speculative place in the queue. This would maintain the current development process used for the transmission system and, unlike the concept of 'Connect and Manage', would allow new generation to be connected more quickly without inflicting large associated costs onto other Users and consumers.

We note National Grid's Queue Management Conclusion Document published in June 2007, which established the principle of prioritising those projects that are able to use the system soonest. We also keenly anticipate the publication of the Queue Management Methodology, which we expect will improve the transparency of the supporting processes and project milestones underpinning the intention of CAP150.

Applicable CUSC Objectives

CAP150 original takes the Manage and Connect approach by allowing National Grid to reduce a project's transmission capacity to zero on the basis of evidence that there is no chance of it being ready to generate by the backstop date. This new power would better facilitate both objective a), by making it possible to release capacity earlier to projects ready to use it, and objective b), by creating a fairer process where advanced-stage projects would not face delays caused by developers who are less willing to commit investment.

Although CAP150 alternative advocates the same approach, it proposes that National Grid manages the queue with a much more severe set of sanctions. Specifically, there are 3 elements that would unduly increase risk for developers:

1. The backstop date is an essential feature that provides the flexibility needed to deliver what are typically large-scale and complex construction schemes. Under the alternative, whether or not National Grid honours the backstop date is up to its own discretion (Consultation Document 5.12). It would have the right to terminate a project on evidence that it would not

be ready to generate on the completion date. Although we accept in practice that National Grid would act reasonably, the addition of this discretionary feature would certainly create unwarranted due diligence problems.

2. By allowing "enforcement action" to be taken if a developer has a construction delay, even if that delay is unlikely to prevent the project taking up its capacity before the backstop date, the alternative essentially requires the developer to submit a modification application for every change to its schedule (Consultation Document 5.4). The working group understood that a project is exposed to risk every time someone 'lifts the lid' on a construction agreement. The specific concern was that National Grid has to plan investment to optimise its transmission building programme overall: so it cannot consider the needs of a single project in isolation. This could quite feasibly lead to a scenario where a developer submits a modification application for a brief delay, only then to receive a new connection date several years later than the original offer.
3. The designated product for transmission access is Transmission Entry Capacity (TEC). The alternative would allow the termination of a construction agreement to be linked to Connection Entry Capacity (CEC) (Consultation Document 5.5). This is contrary to the aims of the proposal and unnecessary. There are several reasons why a project's CEC could be greater than its TEC: it is technically prudent to size physical connection assets slightly larger than commercial expectation, to allow for plant variability and upgrade during the life of the generation assets; for a staged scheme it is more efficient to build a substation of sufficient size for the final project at the outset; for a generator needing additional CEC where its maximum capable output is reduced by on-site demand, for example a CHP plant providing steam; or for a generator who has the potential for output in excess of its TEC and who may want to purchase short-term products to increase generation.

In summary, the alternative proposal lacks realism and fails to acknowledge the legitimate difficulties that major projects will encounter. By unduly increasing risk it makes investment in new generation less attractive and, as such, is worse than the baseline.

Improving the capacity reduction process

Having accepted the principle of the original proposal, we think that if it was implemented a further CUSC amendment would be required to ensure the process was effective in the long run. From the original's process diagram (Consultation Document p.41) our concern centres on the white box immediately after the 'Process Trigger'. Here the reduction process is subject to a very general: "Review by The Company to confirm that the generator would not be capable of generating the contracted capacity at the completion date".

Firstly, it is unfortunate that we have to point out that this specific text still contains a mistake. It should say: "...that the generator would not be capable of generating the contracted capacity at the *backstop date*". If National Grid could reduce capacity to zero because it believes that the project will not be ready by the completion date, the original would include timing issues, rather than solely capacity issues as stated. This error was discussed at the CUSC Panel meetings in October and November 2007 and the minutes show that it was assumed to have been corrected.

More importantly, the evidence available to National Grid in the 'White Box' to trigger the process is not explicitly defined. The working group considered a scenario where a project's capacity could be reduced on the grounds that a rare bird sighting threatened to disrupt the planning process. Clearly that the trigger is a matter of broad judgement rather than specific fact demonstrates that a crucial component of the connection process is insufficiently transparent to new projects at the outset.

Furthermore, without explicitly defined evidence in the White Box, every reduction decision made by National Grid will be highly contentious. This could mean that the Authority is regularly required to make difficult arbitration judgements; and also raises the prospect of frequent litigation between parties.

The solution would be to make the White Box an explicitly defined test, to be simply passed or failed with little room for disagreement. We envisage a 'tick-box' trigger, where capacity could be reduced to zero if failure to achieve, for example, 3 key milestones indicates that a project will not be ready to use its capacity by the backstop date: local consent, Section 36 consent and a Financial Investment Decision.

Our suggestion was not upheld at the working group and is clearly too big to be a consultation alternative. Yet we raise it earnestly because we believe that CAP150 offers a real improvement in transmission access management. It should be considered as significant to the ongoing Transmission Access Review; and it would be helpful if National Grid would provide an assessment of how much capacity could be freed-up if it was implemented.

We hope that you will find these points helpful to your assessment.

Yours sincerely,

Ben Sheehy
Trading Arrangements
Energy Wholesale

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21 December 2007

Ms Beverley Viney
Amendments Panel Secretary
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Consultation on CUSC Amendment Proposal CAP150 – Capacity Reduction

Falck Renewables are pleased to offer their comments on the consultation for capacity reduction. Falck Renewables currently own 6 windfarms in the UK with a total capacity of 221MW, of which two are in construction and four are operational. We also have a number of projects which we are jointly developing with RDC in the planning process.

We welcome any initiative by NGC and the wider electricity industry to help alleviate grid constraints which are hampering the early connection of wind projects in the UK. We support the concept of seeking early connection for projects which are permitted and have access to turbines. However, we have concerns about the methodology proposed to do this within the CAP150 consultation and we are concerned that the powers sought by NGC to terminate User's connection offers may discriminate against some Users.

The following comments are offered in regard to the consultation document:

Executive Summary

The Consultation Document assumes that a project's required connection capacity gets fixed at the time that planning is obtained. Planning permission typically fixes the number of turbines and the tip height of those turbines – it doesn't fix the capacity. The current turbines of choice on shore have a capacity in the range 2MW-3MW with a tip height of around 115m to 125m. By way of example this means that when a 10 turbine project is permitted it is likely that the capacity installed will be in the range 20MW-30MW. The capacity installed won't be known until turbines are ordered which necessarily will be at least 6 months after planning permission is granted and possibly significantly longer.

One of the issues with the current system is that it encourages developers to seek connection offers for the maximum capacity they are likely to require because there is no flexibility to increase TEC after a connection offer is made. It can be seen from the



previous paragraph that developers need to request connection offers of potentially up to 50% more than they need to cover the possibility that they will install the maximum capacity machine within the tip height permitted. We have experience of a project which is now operational where we requested an increase in capacity of 2.5MW (7% increase in TEC) over the connection offer capacity and were told that we could not have this additional capacity other than if we joined the back of the queue for capacity (post 2016). We believe that if NGC worked flexibly with developers in situations like this it would help move away from a situation where developers are forced to apply for the maximum connection capacity they are likely to need. In a similar vein the current structure discourages developers to request modifications to their connection offers firstly because of the threat that any modifications which adversely affects other Users will result in the connection offer date being delayed to the back of the queue and secondly because of the high cost of Modification Applications.

Another reason why developers often connect less turbine capacity than the TEC they originally requested is because the planning process tends to be an attritional process and the number of turbines permitted for a project are often less than originally applied for and therefore less than the TEC applied for. Again because there is no flexibility to increase TEC so developers are incentivised to apply for the maximum number of turbines that may get consented.

Our experience is that we have consistently seen the number of turbines reduced during the planning process as a result of objections raised about the location of specific turbines. We often have the option of moving these turbines to alternate locations but this adds significant delay into the planning process as it requires a revised application. For this reason we have tended to opt to simply remove such turbines from our application knowing that we can reapply for planning permission for these turbines in a revised location, if the original application is successful. We would strongly argue that TEC should not be reduced after the connection of the first phase by NGC in such cases of a phased connection. We would argue this because projects should not be penalised just because they are being constructed in phases and the planning strategy of developers (the choice of whether to relocate turbines or remove them and reapply) should not be dictated by connection offer policy. The quarterly reports provide NGC information about developers activities in such cases and providing that developers can demonstrate that they are actively seeking to progress phasing of the project, rather than speculatively holding excess TEC in case an opportunity to commercially exploit that TEC arises in the future, then they should be able to retain that TEC.

We have discussed the possibility with NGC of lending TEC on a short term basis (say 3 years) while planning permission and additional turbines are constructed in the case of phased connections. In such cases where the first phase is installed and connected another developer, who is in a position to make early use of their connection, may be interested in advancing their connection date by 3 years and effectively swapping their place in the queue with the second phase of the connected project. Clearly this would require a good fit between the circumstances of the two projects but if this exists then this is potentially a win win situation and from the phased developers point of view it is preferable to having TEC reduced and having to

reapply for connection as is being proposed. NGC ruled out this option in our discussions but we believe it may warrant further consideration.

Proposed amendment

We note National Grid's comment that they are aware of Projects with TEC that is considerably in excess of the Project's apparent needs. We have noted above that the current system of handling connection applications encourages this and it should be at least as important that this issue is addressed as providing NGC powers to dispossess developers of TEC that they hold. As the Consultation Document notes developers are sometimes being labelled as capacity hoarders but in reality they are acting in a rationale manner in response to the structure in place. We have also noted above that developers may be pursuing a phased connection strategy particularly as a result of changes in windfarm design during the planning process and we believe that projects should not have their TEC reduced in these circumstances. Where NGC are aware of Projects that have excess TEC and no plans in place to use that TEC then we would support a reduction of TEC within the constraints of the connection offer.

We note the proposal to amend the CUSC to obtain more information from developers about their projects, including whether a planning application has been made. Given the current quarterly reporting requirements and the research that NGC indicate they do from publicly available information about project planning applications and other matters, it would seem that NGC should already have information that they require. We are happy to provide information that NGC require but we would caution against creating unnecessary information provision burdens.

We are concerned about National Grid having the right to reduce User's TEC, to recover costs from the User of abortive costs and to recover NGC's costs of processing the modification, in a situation where the developer may be using their best efforts to develop that project. From a developer's point of view the exercise of these powers in circumstances where they may have spent several hundred thousand pounds or potentially more than a million pounds on development is a major concern. To add more costs, as proposed within the consultation, where a developer has the opportunity to avoid those costs by successfully developing a project given additional time is clearly unreasonable. We would hope that NGC would not penalise developers who are acting reasonably in trying to expedite the development of their project but the process proposed doesn't indicate this. We note that provisions are proposed for such decisions to be appealed to Ofgem, which potentially provides some protection to developers.

Summary of Working Group Discussions

There is a reference in para 4.9 about developers who do not obtain their consents in time to complete their projects in time by the Completion Date having their TEC reduced to zero. Our experience with connection offers where the connection has recently been built out, is that milestone dates were included in connection offers without a lot of thought and without any consultation with us. As a result some of the dates were inappropriate or wrong. We believe that it is very important that NGC needs to be flexible with changing these dates to help match the construction of the windfarm rather than dogmatically insisting that milestone dates have to be met by the

developer or else the connection offer may effectively be withdrawn. Our experience is that there are no penalties on NGC if their milestone dates are missed or the connection date is delayed which is clearly unequal compared to the penalty proposed for the user. The aim of the working group is to free up TEC which is effectively not being utilised within the timeframe envisaged. There is a risk that in trying to achieve this aim some users who are developing their projects in a reasonable manner may become casualties of strict rules and inflexible and inequitable enforcement of those rules.

Working Group Alternate Amendment

We disagree with the proposals set out in Para 5.5. Specifically we're concerned about the proposal to include a requirement to develop a project in accordance with the TEC/CEC since as we have stated above the capacity to be installed won't be known until after planning permission is granted and a turbine supply contract is signed. We are also concerned about the proposal to give NGC the contractual right to terminate connection agreements for the reasons stated previously.

In clause 5.7 we would note again that our experience is that dates in Appendix J have historically not been particularly well considered and have been incorrect on occasions. The requirement to submit a modification application to amend dates in Appendix J is expensive and time consuming and inequitable since NGC do not require to go through the same process or cost if they wish to change dates.

In clause 5.9 there is a proposal that NGC can serve a termination notice on a DNO with respect to the connection offer for an embedded generator. At present the embedded generator has no visibility of the agreement between NGC and the User and it is clearly important that the generator needs to be involved in a 3 way dialogue in such instance.

We hope that this response is helpful in highlighting what we believe are some of the practical concerns with the CAP150 proposal.

Yours faithfully



Charles Williams
Business Development Director
Falck Renewables Limited



Highlands and Islands Enterprise
Iomairt na Gaidhealtachd 's nan Eilean

Beverley Viney
Amendments Panel Secretary
Electricity Codes
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20 December 2007

Dear Ms Viney

Response to National Grid consultation document on CUSC Amendment Proposal CAP150, Capacity Reduction

As you are aware, Highlands and Islands Enterprise (HIE) is the Government's agency responsible for economic and community development across the northern half of Scotland. Along with its local partners (Shetland Islands Council, Orkney Islands Council, Comhairle Nan Eilean Siar, Highland Council, Moray Council and Argyll & Bute Council), HIE has taken a considerable interest in, and has responded to a number of consultations on, issues affecting development, access and management of grid infrastructure. We are also working closely with Scottish Government in relation to a wide range of regulatory issues and are supporting its efforts to challenge the barriers currently blocking renewables development across Scotland. HIE and its partners are particularly interested in this proposal given the importance to projects in the North of Scotland of being able to secure timely and cost effective transmission access.

HIE welcomes the opportunity to respond to the consultation on CAP150. HIE believes the current proposal from National Grid provides a positive proposal which will go some way to resolving a significant problem.

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Careers Scotland in the Highlands and Islands is part of the HIE network.



HIE also welcomes the recognition, within the consultation document, of benefits which do not strictly fall within the CUSC Applicable Objectives, and encourages National Grid and other CUSC Working Groups to continue to take such benefits into account when considering other Amendment Proposals.

Original Proposal

HIE supports CAP150, as it is likely to result in faster development of the renewable generation resource in northern Scotland. The process proposed appears fair and robust.

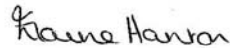
WGAA

HIE prefers the Original Proposal over the WGAA. The WGAA may have an unduly drastic effect on a small number of projects.

Further, on a practical basis, the Original Proposal is less contentious and is more likely to be adopted rapidly.

We hope you find these comments helpful.

Yours sincerely



Elaine Hanton
Head of Renewables

On behalf of a Highlands & Islands partnership comprising:-
Highlands & Islands Enterprise
Shetland Islands Council
Orkney Islands Council
Comhairle Nan Eilean Siar
Highland Council
Moray Council
Argyll & Bute Council

RWE Trading



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18th December 2007

Dear Beverley

Consultation Document – CUSC Amendment Proposals CAP150 Capacity Reduction

Thank you for the opportunity to comment on the above consultation. The following response is provided on behalf of the RWE group of companies, including RWE Trading GmbH and RWE Npower plc.

RWE considers that the change proposed under the Original Proposed Amendment would better facilitate the Applicable CUSC Objectives in that it would ensure that the Transmission Entry Capacity (TEC) identified in User's bilateral agreements would more closely align with the capacity of generating plant which the User intends to connect. We do not support the Working Group Alternative Amendment, which introduces a termination provision to the Original Proposed Amendment. Such termination provision was not included in the Amendment Proposal and would create an unacceptable and unnecessary risk for new generation projects.

RWE was pleased to participate in the working group which considered the above proposed amendment. We are satisfied that most of our comments raised in the working group have been reflected in the working group report and consultation document. However, in responding to this consultation, we would make the following comments: -

1. We believe that the underlying problem that has given rise to this proposal is the deficiency of the construction agreements to recognise that construction delays and changes in capacity will always occur with large construction schemes. In our view, the construction agreements fail to provide a built process for these changes to be managed by the parties efficiently; the only route available to the User is to submit a Modification Application to National Grid. Utilising the modification application process for such changes introduces a risk for Users that the resulting offer will not meet their requirements and may also include other contractual changes, e.g. enhanced credit requirements and/or technical specifications.

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HR B 14327

2. The basic purpose of this amendment would seem to be to ensure that the TEC specified a User's bilateral agreement with National Grid closely aligns with the capacity of generating plant which the User intends to connect. Whilst we can understand the administrative difficulties for National Grid brought about by a misalignment of TEC, it is not clear what is meant by the suggestion that such reduction would enable the "release of this capacity" to other projects. Given the acknowledgement in the consultation that National Grid is required to consider other data as part of the background conditions when assessing new connection applications, we would welcome further clarification of the role that excess TEC specified in bilateral agreements contributes to sterilising transmission capacity.
3. We note that this consultation proposes changes to the text of certain exhibits to the CUSC. We have previously highlighted our concern that the CUSC exhibits, particularly Schedule 2 Exhibit 3 (Construction Agreement), bear little resemblance in detail to the current "standard" agreements being issued by National Grid as part of the offer process. It therefore seems inefficient to consult on changes to CUSC exhibits that are themselves outdated and obsolete. As a matter of urgency, we would urge National Grid to initiate the necessary changes to align the text of the CUSC Exhibits with the "standard" offer documents in order to maintain transparency in the form of agreements that Users are currently required to enter into.

Regarding the legal text of the Original Proposed Amendment, we suggest the following changes: -

Part A – Text to give effect to the Original Proposed Amendment

1. Users in the capacity of a Directly Connected Power Station or Embedded Power Station

- Clause 7.4.1 To assist the reader insert "(the Preliminary Request)" at the end of this clause.
For clarity, substitute "concern" with "apparent data anomaly" (line 9)
- Clause 7.4.4 Insert "maximum" before "level of power" (last line)
To assist the reader insert "(the Notice of Intent)" at the end of this clause.
- Clause 7.4.9 For clarity, substitute "as it requires" with "as is reasonably necessary" (2nd line).
Clarify whether an "offer of an agreement to vary" (line 9) will be issued or an "agreement to vary" (line 11).
Substitute "variation" with "agreement to vary" (line 14)
- Definitions Capacity Reduction Charge – amend as follows to recognise shared works:
"Final Sums of this Construction Agreement will be assessed calculated by reference to the attributable share of those elements of the Construction Works no longer required...."
- Reduction Fee – For consistency with the terminology used in the charging statements, substitute "on payment of actual costs" with "for a variable price application".

2. Users in the capacity of a Directly Connected Distribution System where works are required in respect of a BELLA or a Relevant Embedded Medium Power Station or a Relevant Embedded Small Power Station

- Clause 7.4.1 To assist the reader insert "(the Preliminary Request)" at the end of this clause.
For clarity, substitute "position" with "apparent data anomaly" (line 8).
- Clause 7.4.4 Insert "maximum" before "whole MW figure" (7th line)
To assist the reader insert "(the Notice of Intent)" at the end of this clause.

Clause 7.4.9 For clarity, substitute "as it requires" with "as is reasonably necessary" (2nd line).
Substitute "variation" with "agreement to vary" (line 14)

Definitions Reduction Fee – For consistency with the terminology used in the charging statements,
substitute "on payment of actual costs" with "for a variable price application".

I trust you will find the above comments helpful. If you wish to discuss our response further please do
not hesitate to contact me.

Yours sincerely

By e-mail

John Norbury
Network Connections Manager



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Amendments Panel Secretary
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21 December 2007

Dear Ms Viney

Scottish Renewables Response: CUSC Amendment Proposal CAP150

Many thanks for the opportunity to respond to the National Grid Electricity Transmission (NGET) CUSC Amendment Proposal, CAP150.

Scottish Renewables supports the principles associated with CAP150, namely moving projects through the 'grid queue' by gaining clarity of developer intentions and encouraging a better match between project capacity (as defined perhaps in the planning submission) and TEC, however there are issues of detail which lead us to conclude that further deliberation may be required.

Scottish Renewables is the trade body for the industry in Scotland and we have over 220 members involved in the renewable energy sector, many of which have a direct interest in electricity network issues. Scottish Renewables also benefits from the support of its Grid & Regulation Work Group, made up from the members of Scottish Renewables.

Needless to say, if you have need for clarification on any of the issues we raise please get in touch.

Scottish Renewables would like to express its appreciation for the effort that NGET and the CUSC Working Group has put into considering this issue.

Scotland, and the development of renewable electricity projects, is key to the delivery of the Renewables Obligation and the UK's commitment to significantly cutting carbon emissions. These projects also have a significant role in the development of Scotland's economy and in particular 'local' or rural economies where otherwise vulnerable communities see an opportunity in renewables to reverse population decline and tackle fuel poverty through its



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development. Therefore, given the environmental and economic benefits, any identified obstacles to the development of this industry should be tackled quickly and any potential opportunities delivered in a similarly timely manner.

Scottish Renewables recently published a report on grid issues in Scotland called *Making Connections*. *Making Connections*¹ called for new thinking and reform of the way networks are managed. Whilst we are concerned that the CAP process may not be best suited to delivering fundamental reform of transmission access arrangements we do accept that the CAP process is one way to affect that change.

The CUSC Working Group considered a number of issues with regard to CAP150 and we would like to comment on these in turn:

- There needs to be clarity about what constitutes material change in a project so that unnecessary legal disputes or referrals to the Authority are avoided;
- There is perhaps a need for greater understanding from NGET about the development process, which is in the hands of third parties, and the necessarily imprecise capacity expectations of planning applications when compared against agreed TEC, especially where cost of modifications can be expensive and developer is considering phased project development;
- The cost of any abortive works, FSL / cancellation amounts and details of the revised works should be provided to the User at the at the "Notice of Reduction" stage otherwise the User will be forced to refer the Notice until they know the impact of these changes

We hope this submission is useful.

Yours sincerely



Jason Ormiston
Chief Executive
Scottish Renewables

¹ You can download a copy of *Making Connections* from our website www.scottishrenewables.com.



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19th December 2007

Dear Ms Viney

CAP150: Capacity Reduction

Welsh Power is the owner of Uskmouth Power, Haven Power and Severn Power. Welsh Power welcomes the opportunity to comment on the consultation document of CUSC amendment proposal CAP150. Welsh Power shares many of the concerns about the hoarding of capacity by potential developers, but we would be concerned that the focus on allocation of limited capacity does not distract from the more important issue that the transmission companies should be able to deliver the transmission capacity that parties desire and are willing to pay for.

While Welsh Power supports the general thrust of the modification we believe that the parties must be comfortable that the right of appeal any decision by NGC to reduce their capacity is robust and will be dealt with in a timely manner. We are well aware, following our development of Severn Power, that it is easy for NGC to have concerns about the probability of a plant going ahead and smaller independent players, early in the planning process may find it difficult to offer reassurance. It is also difficult for developers to know exactly how much capacity their plant will require until an EPC contract is in place. Manufacturers can offer plants with quite significantly different rated values which will not be known until the EPC contract is in place.

It must also be considered that where a site has a Section 36 for permission for say 400MW, but capacity booked for 450MW that may be due to commercial plans to develop a smaller scale generator on the same site. As some areas are subject to 5

year delays in getting capacity delivered, the company may have deliberately made the booking even though its business plan is to develop one plant after the other rather than in parallel. To share that business plan with NGC may not be prudent, but it may be willing to tell an independent party, such as Ofgem. It is however vital that Ofgem respond to any appeals in a timely manner and that NGC cannot alter the agreement until a decision is reached by Ofgem.

Welsh Power feels that the working group alternative may go too far in allowing for a termination of the agreement. It seems better that NGC goes down the enforcement route rather than simply terminating an agreement. This may however be something to keep under review if the original modification does not work. If NGC does not believe that parties are abiding by the rules of the CUSC they should raise the issue with Ofgem.

Welsh Power believes on balance that the modification does better facilitate the applicable objectives as we do believe that there may be parties effectively sterilising capacity by keeping capacity slots they will not use. However, this should be one of a raft of measures, including adoption of CAP 131, that would make the process of connection more equitable and better focus NGC's resources on delivering capacity to those most likely to use it first.

Yours sincerely,



Rebecca Williams

Head of Trading



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19th December 2007

Ms Beverley Viney
CUSC Panel Secretary
National Grid House
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Dear Beverley

Consultation CUSC Amendment Proposal 150 –Capacity Reduction

West Coast Energy Ltd welcomes the opportunity to comment on the CUSC Amendment Proposal CAP150 on Capacity Reduction. West Coast Energy have acted as consultants to a number of major windfarm projects throughout Great Britain and have obtained consent for over 400MW of projects with a further 1000MW either going through planning or with a planning application being prepared. We have also been active participants in various electricity industry fora including the Transmission Arrangements for Distributed Generation (TADG), Transmission Access Standing Group (TASG) and in the Active Networks project team of the Distribution Working Group (DWG).

The CUSC Amendment Proposal seeks to address the issue of Users having a contracted transmission entry capacity (TEC) inconsistent with other project parameters such as planning consents, by giving National Grid the right to reduce the TEC to 'an appropriate level'. There is also a Working Group Alternative Amendment (WGAA) proposal dealing with the related issue of connection dates. While we have sympathy with both the proposal and the WGAA there are a number of practical issues which require addressing; among these are:-

- 1) CAP 150 treats projects as if they are constant and well defined. In practice projects inevitably evolve from inception, via submission of Planning Applications (and associated Environmental Assessments) liaison with planning authorities, discussions with electricity network operators, MOD, radar operators etc. These various interactions invariably result in changes to major project parameters for a windfarm such as number of turbines, size of turbines and position of turbines. This project evolution can sometimes lead to phased project applications and electrical connections.



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One of the key factors is the fact that electrical connection applications to the relevant network operator are made in terms of MW (or MVA) whilst planning applications are made in terms of number of turbines and height. It is sometimes difficult to ensure these different parameters are compatible.

- 2) The consultation reflects the one sided nature of the existing Construction and Connection Agreements. National Grid can change connection dates at will but for the user this is difficult and the ever present threat is that any change in capacity and connection date will for example put the project to the back of the transmission grid access queue in Scotland. To a large extent this Consultation imposes a large responsibility on National Grid and in particular its judgement for a particular project on the appropriate connection capacity and a realistic connection date.
- 3) While the principle of making modification applications to update changes in TEC is laudable the costs involved in a modification application are prohibitive. It is difficult to see how National Grid and the Transmission Owner (TO)s can justify charges of £61,000 for modifications in the Scottish & Southern area for projects of less than 100MW and £51,000 for the Scottish Power area. It would be of great interest to us to see how these exorbitant costs can be justified for capacity reductions and these costs are a major inhibitor to users requesting capacity reductions.
An associated issue is the time taken in modification process; not only in preparing the modification application but also the three months the TO /National Grid have to process the application.
- 4) This leads to another major issue with the Consultation and the connection process in general. There is a need for more openness between the user, National Grid and the Transmission Owners. This should be on the basis of tripartite meetings held on a confidential basis but also it is difficult to understand why the agreements between the participants are not mutually available, again on a confidential basis. Why for example cannot the users see the agreement (TOCA) between the TO and National Grid?
- 5) Another issue not addressed in the consultation is materiality; when is it necessary to notify National Grid of a capacity reduction;- 1MW,5MW,5%,10% ?. Similarly with the connection date;- 1month, 6months, 1 year?
- 6) Under the consultation the threat is made that the costs of any abortive works carried out as a consequence of any forced capacity reduction will be recovered by National Grid. This needs careful consideration especially for projects where User Commitment is in place either from the Interim Generic Final Sums methodology or CAP131, to ensure payments are not made twice for the same works.
- 7) Further work and consideration is required on the issue of Connection Entry Capacity (CEC) because we are not convinced the case has been adequately made for reducing CEC at the same time as TEC and we would agree that CEC should be held outside the present consultation.
- 8) Similarly the point is well made in paragraph 4.20 that the treatment of embedded generation requires further detailed consideration and we believe this should be carried out prior to CAP 150 being submitted to OFGEM.



9) In many ways the issue of connection date is even more fraught than that for connection capacity since for the latter a number if not the majority of the determination of the connection date is in the hands of third parties, namely planning authorities, turbine manufacturers. While there may be no excuse for projects which have not submitted a planning application; those that have, are often in the hands of planning authorities not least the relevant Government for Section 36 applications and it is delays due to these planning authorities which are largely responsible for the slow progress of renewable energy projects. A move to connect and manage obviates to a large degree the issue of connection date as the connection date will be set by the progress of the planning application and any local works.

In summary while we are sympathetic to the ideas behind the consultation we consider that the practical issues involved in its implementation have been insufficiently developed at this stage.

If you wish to discuss any aspect of this submission please do not hesitate to contact me.

Kind regards

A handwritten signature in black ink, appearing to read "David Walker".

(Dr) David Walker
Head of Grid & Regulatory Affairs



19 December 2007

Beverley Viney
Amendments Panel Secretary, Electricity Codes
National Grid Electricity Transmission Plc
National Grid House
Warwick Technology Park
Gallows Hill, Warwick
CV34 6DA

Dear Beverley,

CUSC Amendment Proposal CAP150: Consultation Document

Wind Energy is pleased to submit this response to National Grid's consultation document on Connection and Use of System Code ("CUSC") Amendment Proposal ("CAP") 150: Capacity Reduction. We are writing on behalf of seven group companies with wind power projects under development across Scotland with a combined capacity of some 600MW. The principal shareholder in the Wind Energy companies is AES Corp, one of the world's leading independent power producers.

While we understand the rationale for the proposal and consider that intervention to address situations where generation projects hold Transmission Entry Capacity (TEC) which has little or no prospect of being used in timescales consistent with their connection offer may deliver benefits, we do not consider that, on balance, CAP 150 facilitates the achievement of the relevant CUSC objectives. This is because:

- CAP150 seeks to duplicate powers that National Grid currently has, failing to better facilitate objective (a); and
- Given National Grid is able to take the action which CAP150 would formalise, it is at best neutral against objective (b).

More generally we have concerns about the resources taken to develop this proposal, potential unintended consequences and the failure by National Grid or the Authority to address this issue through existing powers to date. Whilst further codifying existing powers may be argued to be increasing certainty of interpretation and avoiding dispute, we feel that in the current circumstances, with other CAP's in progress such as CAP131 and CAP148 which, if approved, would have significant impacts upon the regulatory documentation, CAP150 is not a change which is required. We expand on each of these issues below.



Key principles

Wind Energy is broadly supportive of attempts to reduce incentives to hold transmission capacity where there is no credible prospect of that capacity being used. In what we understand to be the limited number of cases where generators have capacity holdings which are greater than have been sanctioned by or sought from planning authorities, removing surplus capacity from the contracted background may be expected to promote competition. More generally, a clear and transparent method of identifying demands for transmission capacity is likely to enable Transmission Licensees to invest efficiently and reduce risk for investors.

National Grid's existing obligations and powers

In our view, National Grid is able to take – and arguably should already have taken – the actions proposed by CAP150 under its existing obligations and should already have the information necessary to support those actions. National Grid's transmission licence is granted pursuant to the Electricity Act 1989 (as amended). Section 9(2) of the Electricity Act requires the holder of a transmission licence: "to develop and maintain an efficient, co-ordinated and economical system of electricity transmission and to facilitate competition in the supply and generation of electricity". Penalties for breach of the licence are significant, with the Authority able to impose a penalty of up to 10% of Group turnover.

We consider that high levels of certainty in the contracted background, which can be expected to facilitate competition and reduce the risk of stranded assets, are clearly consistent with this obligation. We further note that the Grid Code provides for National Grid to use a degree of discretion in assessing the contracted background.

National Grid, in our experience, maintains close relations with holders of Bilateral Connection Offers ("BCAs"). Furthermore it receives quarterly reports (albeit free-form) and has access to all other documents in the public domain such as planning applications. We are not dealing with a connection queue of thousands of projects – we are dealing with just over 100 where we would expect that the true status of each project is already well known to National Grid. Were that not the case, National Grid would presumably have been unaware that there are parties holding BCAs who are seeking or have been granted planning consents for projects at a lower capacity than the TEC they have been offered. National Grid is therefore, in our view, already in the position of knowing where disparities exist between capacity sought through the planning system and TEC in a BCA.

National Grid's incentives

Taking action against a generator that is perceived to be 'hoarding' capacity could potentially be emotive and it could be argued that there is a reasonable prospect of it leading to dispute or litigation. National Grid may therefore be reluctant to take action – and it has not done so to the best of our knowledge to date. We therefore suspect that National Grid is using CAP150 to both reduce and transfer risk.

By formalising a process in the CUSC (where penalties for breach may be perceived as relatively less severe) the chance of a dispute arising could possibly reduce. Introducing a referral to the Authority will also mean that Ofgem is required to make a decision about the validity of National Grid's actions, further reducing risk.



We do not feel that either of these motives, if indeed they are the motives behind the introduction of CAP150, are adequate justifications for the amendment proposal.

Consequences of the approach

We consider that National Grid's approach has a number of undesirable consequences.

- The time taken to develop and consult on CAP150 has delayed the time at which these important issues can be addressed. National Grid would have been better to have sought to take Users to task where they perceive TEC hoarding under their current powers, rather than take time up with this process.
- The process of reviewing CAP150 imposes an unnecessary cost on the industry through time spent in working groups and consultations. As it does not achieve anything in our view over and above the current powers, it is inconsistent with the principles of better regulation.
- CAP150 (if approved) could create an undesirable precedent to seek to add to the complexity of the current regulations for no identifiably worthwhile reason.

An alternative approach

A developer faces a series of interrelated risks in developing projects. It must secure transmission capacity (which is very constrained in Scotland), obtain various local and national planning consents, source turbines (for which there is a long waiting list), overcome objections from a range of stakeholders, from ornithologists to air traffic controllers, and ensure that finance is in place. It is therefore unlikely that any two projects will be the same.

We consider that National Grid needs to recognise this and take a proactive approach to account management. Understanding the individual circumstances facing a developer and determining actions on a proportionate, case by case basis is likely, in our view, to facilitate compliance with licence obligations to a greater extent than seeking to take additional powers under the CUSC and apply a prescriptive process in all circumstances.

If National Grid considers there is a need to formalise the process, we consider that setting out a series of high-level principles in a guidance document would be more effective than the proposed CUSC amendment route. Thereafter, they should be prepared to use their powers if parties holding BCA's are demonstrably seeking consents for lower levels of installed capacity without good reason.

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

Yours sincerely

Michael Davies
Managing Director

Dear Beverley,

Thankyou for the opportunity to comment on CUSC Amendment Proposal CAP150 'Capacity Reduction'. British Energy was pleased to be able participate in the working group and this response is made on behalf of the British Energy Group of companies. I can confirm that BE is supportive of the intent of this modification but had reservations about the potential for the process to result in a large number of referrals to The Authority if the action is disputed. On balance, the original proposal from National Grid, as developed in the working group, would appear to have sufficient checks and balances to ensure that action would not be taken against legitimate developers who were having a proper and regular dialogue with National Grid on their project.

The working group alternative proposes to extend the powers of National Grid to terminate a project if it is clear that a generator will not be able to fulfil the contractual obligations of its Construction Agreement or Bilateral Connection Agreement. It is felt that as this proposal goes beyond the powers NG was seeking it could result in more disputes although it may release more TEC to be used by others sooner.

On balance BE supports CAP150 Original Proposal and the process of TEC reduction should be allowed chance to deliver results before considering the potentially more serious action of contract termination as suggested in WGAA. It is noted that in the extreme CAP150 Original could trigger a TEC reduction to zero.

Yours Sincerely

John Morris
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Dear Sirs,

This response is sent on behalf of Scottish and Southern Energy, Southern Electric, Keadby Generation Ltd., Medway Power Ltd., and SSE Energy Supply Ltd.

In relation to the consultation concerning CAP 150 "Capacity Reduction" (contained within your note of 29th November 2007) we agree with the view of the Working Group and National Grid that the original Amendment Proposal is BETTER and BEST and therefore would better facilitate the achievement of the Applicable CUSC Objectives.

In coming to this conclusion we have been particularly mindful of the three distinct warnings that CUSC Parties, who maybe subject to a Capacity Reduction, will receive; namely (i) an informal notice (ii) a 'Notice of Intent' and (iii) a 'Notice of Reduction'.

We believe this is an appropriate and worthwhile warning process. What is being proposed with the Original CAP150 proposal could see, in the extreme, a project effectively being terminated; either because all the TEC is removed or sufficient TEC is removed as to make the project financially unviable. Where such a project is being developed by a small organisation then holidays, close family bereavement, hospitalisation etc., might mean that the key decision maker is unable to respond to a single warning from National Grid. The three distinct warnings is a pragmatic way forward as it gives these CUSC Parties plenty of opportunity to respond whilst not unduly delaying the release of the TEC to other CUSC Parties if appropriate.

Finally, we agree with the comments of the Working Group Chair in paragraph 4.12 of the Consultation Document concerning CEC, namely that CEC is not part of CAP150 and, therefore CEC will not be altered by any (TEC) capacity reduction arising from CAP150. This is entirely appropriate given that the CUSC Party concerned has paid for the CEC works and might, as a result, be able to seek additional TEC via (a) a short term product or (b) trading with another CUSC Party. Were CEC to also be reduced (at the same time as TEC) then this would, in our view, be detrimental to competition and would therefore manifestly fail to better facilitate the achievement of the Applicable CUSC Objective.

For the avoidance of doubt, we do not believe that the Working Group Alternative Amendment is BETTER and we therefore conclude that WGAA would not better facilitate the achievement of the Applicable CUSC Objectives.

Regards

Garth Graham
Scottish and Southern Energy plc

Beverley Viney
Amendments Panel Secretary
Electricity Codes
National Grid
National Grid House
Warwick Technology Park
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CV34 6DS

21st December 2007

Dear Ms Viney,

CUSC Amendment Proposal CA150- Capacity Reduction

InterGen welcomes this opportunity to respond to Consultation Document on CAP 150

InterGen UK has considerable experience of developing power stations in the UK, having developed Rocksavage, Spalding and Coryton power stations. An investment of more than £1.4bn, building an installed capacity of over 2.3GW.

InterGen support the principles underlying CAP 150 and the wider attempts through the STAG initiative to find pragmatic solutions to the problem of managing the GB Queue.

We believe that the proposal to require development projects to agree to and adhere to development milestones is appropriate and that the reduction or cancellation of access rights if these milestones are missed is appropriate when considered against the background of the GB Queue. We feel that CAP 150 will enhance competition in the UK electricity market by facilitating access to the Grid for those projects ready and able to use it.

InterGen believes that the trigger factors identified in paragraph 4.8 of the consultation document are correct.

InterGen has two concerns. Firstly, consultation document does not layout OFGEM's obligations with regard to timetables for response or mechanisms for response, if a referral is made to them.

Secondly, we are concerned that confidentially be maintained at all points during the process until a final determination is made. Our concern is that the very process of a notification may be enough to affect investor confidence. This in turn may affect the project's ability to meet its connection obligations. Where the process turns out to be unfounded, or where the project is able to satisfy National Grid that they can meet the milestones we are concerned that public knowledge of the process taking place might unfairly prejudice development projects.

Yours truly,

Dan Sutton
Regulatory Analyst, InterGen

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Amendments Panel Secretary
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27th December 2007

0141 568 4469

Dear Beverley,

Response to the Consultation Document CAP150
Capacity Reduction

Thank you for the opportunity to respond to this Consultation Document. This response is submitted on behalf of ScottishPower Energy Management Ltd, ScottishPower Generation Ltd and ScottishPower Renewable Energy Ltd.

ScottishPower supports the original proposed amendment and believes that it will better meet the CUSC objectives.

The proposed amendment is an essential part of a package of measures required for the management of the GB queue and provides the System Operator with an appropriate level of power to ensure that Users cannot hold capacity against projects that are not being progressed. This ensures that where opportunities for an earlier connection date arise then these should be allocated based on ability to use the system soonest. This maximises use of transmission system assets already in place and facilitates competition.

At present, where projects are not being progressed in line with the timescales in the Bilateral Agreement and Construction Agreement, the only potential remedy is termination. This proposal will facilitate a dialogue between National Grid and the User before action is taken and, if appropriate, enable the more proportionate response of TEC Reduction to be adopted.

We support the “two phase” approach and the ability for the User to refer the matter to the Authority for determination if they are unwilling to accept the change proposed in the “Notice of Reduction”. We agree that the consequential costs of any reduction should be treated as a termination (under Final Sums) or as User Commitment as appropriate.

A key to the implementation of this proposal is the requirement that the criteria for deciding if there is a need to reduce a User’s TEC should be clear and unambiguous. This will avoid the process becoming bogged down in referrals or legal disputes. Whilst acknowledging the unique nature of individual projects, the process should have clear guidelines on the level of materiality of project change (MW, % of TEC) that would trigger the informal request for clarification from the User. The Authority should be ready and able to deal quickly with referrals to avoid unnecessary delays in the process.

Under the process described, the User has to wait up to 3 months until the Agreement to Vary the Construction Agreement is issued by National Grid. The process should define what will happen in respect of User and Other Affected User's works and costs during this period and during any referral.

The cost of any abortive works, FSL / cancellation amounts and details of the revised works should be provided to the User at the "Notice of Reduction" stage otherwise the User will be forced to refer the Notice until they know the impact of these changes.

In order to derive the full benefit from this proposal, it must be supported by a methodology for reallocating the capacity released to Users based on their ability to use the system, including those Users who have previously accepted a non-standard connection pending completion of wider transmission reinforcement works and could now benefit from a firm connection.

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

Yours sincerely,

JAMES ANDERSON
Commercial and Regulation



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27 December 2007

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Dear Beverley

Amendment Proposal CAP150: Capacity Reduction

Thank you for the opportunity to comment on this amendment proposal and the associated Working Group Alternative Amendment ("WGAA"). These comments are made on behalf of Heysham Offshore Wind Ltd, a CUSC party and affiliate of DONG Energy A/S operator and developer of a number of power stations in Great Britain. They are supported by DONG's affiliates DONG Walney (UK) Ltd, SeaScape Energy Ltd, Gunfleet Sands Ltd and Gunfleet Sands II Ltd.

We are aware that there has been debate about whether a CUSC Party may submit more than one Consultation Alternative Amendment in respect of a single Proposed Amendment. If it is believed that each Party may submit only one Consultation Alternative Amendment we would like Consultation Alternative Amendment A to be considered to be made by Heysham Offshore Wind Ltd, Consultation Alternative Amendment B to be considered to be made by Gunfleet Sands Ltd and Consultation Alternative Amendment C to be considered to be made by Gunfleet Sands II Ltd. The attached Consultation Alternative Amendment forms have been completed accordingly.

Original Amendment: Comments and Consultation Alternative Amendment

Our key concern with the proposed amendment is that it discriminates unfairly against holders of BELLAs when compared with similarly sized projects that hold BEGAs. A Large Embedded Exempt Power Station in Scotland will have contracted with NGET either via a BEGA or a BELLA, pursuant to arrangements put in place for "BETTA". The project developer will be affected by CAP150 but in very different ways if the reduction in transmission capacity is such that the station cases to be "Large" (ie below 30MW in the south of Scotland or below 10MW in the north).



In the case of a project contracting by way of a BEGA, a reduction in TEC under the CAP150 process will not have any material impact other than to align its export capacity rights with its permits and/or generating capacity as built – for instance a 35MW project in Scottish Power Distribution's licensed area might be reduced to 20MW due to a planning constraint. Whilst the generator would need to meet the costs of reducing its capacity, it could still be able to proceed as planned with the original connection date, albeit for a smaller capacity.

In contrast, if the same project had contracted by way of a BELLA, a reduction in capacity to 20MW would mean that the station is no longer Large and therefore the BELLA would not be applicable to the station. In fact the station would now be an Embedded Small Power Station and subject to the provisions of 6.5.1(a) of the CUSC. This means that the DNO would now need to follow the "Request for a Statement of Works" process in 6.5.5. Our understanding is that in Scotland today, NGET would invariably regard an embedded station of this size as having a "significant system effect on the GB Transmission System" and therefore require the DNO to submit initially a Request for a Statement of Works and then a Modification Application. Further, the offer associated with the Modification Application would contain substantial reinforcement requirement as this "new" capacity requirement was effectively assessed at the end of the Scottish queue. The developer's station would thus be subject to substantial delays until reinforcements were completed.

In the case of projects who made an application prior to the end of 2004, the effect of this process (where the project reduces its size from "Large" to "Small") would be to move the BELLA-holding project to the back of the "queue", whereas the BEGA-holding project would retain its place in the queue and its original connection date. This is wholly inequitable. It is also an event that could not have been foreseen when in 2005 developers had to choose between BELLA and BEGA as contracting approaches for BETTA.

We considered a number of approaches to remedy this defect, including granting the User the right to switch from BELLA to BEGA without losing its place in the queue, or simply excluding projects that have held BELLAs from the Request for a Statement of Works process. Whilst these seemed reasonable ways forward we were concerned that adopting such an approach may have raised other issues which we could not properly consider in formulating a Consultation Alternative Amendment. Instead we suggest that an additional clause be included in section 6.5.5 of the CUSC to make it clear that the Transmission Reinforcement Works imposed on the DNO as a result of the Request for a Statement of Works cannot be such that they delay the developer's project beyond the date that would have been caused by the original Construction Agreement prepared in relation to the BELLA. Other amendments to could however be considered so long as they address the same defect.

The attached Consultation Alternative Amendment (A), proposed by Heysham Offshore Wind Ltd, contains illustrative wording for the additional CUSC provision needed.



Working Group Alternative Amendment: Comments and Consultation Alternative Amendments

Having reviewed the proposed we agree with the majority view of the CUSC Panel in that the proposed termination rights in this formulation of CAP150 appears wholly disproportionate to what may be a relatively minor mismatch between capacity reserved and capacity being developed. It is unclear how NGET would exercise the judgement indicated in the diagram and text of sections 5.13 to 5.16 of the Consultation Document and this would add greatly to uncertainty in the development process. Indeed, the very presence of these draconian termination rights may cause otherwise viable projects to fail as equity investors and financiers supporting projects would understandably be reluctant to continue where there was a risk that NGET could unilaterally terminate key agreements. For Embedded Power Stations a further problem is that all communications go via the DNO and there is only 15 days to respond to the requesting (including making a full Mod App within 15 days of a Notice of Intended Termination). Whilst this is also a problem for the Original Amendment Proposal, at least in that formulation the ultimate effect is only downsizing of the transmission capacity, whereas in the WGAA the result is termination. There are no additional checks and balances for the Embedded generator reflecting the longer communication chain.

In addition, the proposed CUSC drafting for the WGAA does not fully align with the text of the Consultation Document. In section 5.11 it is stated that "Upon termination of the DNO's Construction Agreement, in order for a BELLA to be terminated, there needs to be a clause inserted into the BELLA". One would therefore expect that the BELLA would state that if the DNO's Construction Agreement was terminated the BELLA would also be terminated. In fact, the proposed drafting is that the BELLA would be terminated upon termination of the Distribution Agreement (that is "an agreement entered into by a User with the owner/operator of the Distribution System for the connection ... and use of such Distribution System"). Whilst the termination of the DNO's Construction Agreement *may* lead to termination of the Distribution Agreement this is not necessarily the case, and in any event termination of the Distribution Agreement and its relationship to the BELLA is a much bigger issue than discussed in CAP150.

It is noted that the Consultation Document did not expressly refer to the termination of the Distribution Agreement, although there was the rather obscure comment "[this new BELLA Clause] will ensure when the DNO's Construction Agreement is terminated all generator agreements directly associated with the terminated DNO Construction Agreement are terminated". This is not how the drafting works and the question of termination of the BELLA for reasons other than the termination of the DNO Construction Agreement needs to be properly debated if that is what is being sought.

Indeed it is known that NGET has been seeking termination of BELLAs where there is a termination or replacement of the Distribution Agreement, although it has been shown that this cannot be done without the User's consent. It therefore seems entirely inappropriate for such a significant provision to be added to existing BELLAs without the matter being properly debated through the CUSC governance process. As proposed the drafting change fails to meet its stated aim and raises significant issues outwith the scope of the proposed amendment.



The attached Consultation Alternative Amendment (B), proposed by Gunfleet Sands Ltd, contains illustrative wording for the proposed change to the BELLA to meet the express aim of CAP150 WGAA as set out in the Consultation Document and to address our concerns above.

We also noted that the WGAA process has the same defect as the Original Amendment in that a BELLA holder, forced by the threat of the "Notice of Intended Termination", may have to reduce its capacity below the "Large" threshold and thus need to have its capacity request reconsidered through the Request for a Statement of Works process.

The attached Consultation Alternative Amendment (C), proposed by Gunfleet Sands II Ltd, combines the illustrative wording for the additional CUSC provisions needed to address both the defects mentioned in Consultation Alternative Amendment (A) and Consultation Alternative Amendment (B).

Yours sincerely

A handwritten signature in black ink, appearing to read "Anthony Cotton".

Anthony Cotton
Signed for on and behalf of Heysham Offshore Wind
Gunfleet Sands Ltd and Gunfleet Sands II Ltd

This Annex also includes copies of any representations received following circulation of the Consultation Alternative Document (circulated on 30th January 2008, requesting comments by close of business on 13th February 2008).

Reference	Company
CAP150-CAA-01	EDF Energy
CAP150-CAA-02	E.ON
CAP150-CAA-03	Dong Walney, SeaScape, Gunfleet
CAP150-CAA-04	Scottish and Southern Energy plc, for and on behalf of Southern Electric, Keadby Generation Ltd, Medway Power Ltd and SSE Energy Supply Ltd
CAP150-CAA-05	Scottish Power on behalf of ScottishPower Energy Management Ltd, ScottishPower Generation Ltd and ScottishPower Renewable Energy Ltd.

Beverley Viney
Amendments Panel Secretary
Electricity Codes
National Grid [National Grid House]
Warwick Technology Park
Gallows Hill, Warwick
CV34 6DA

08 February 2008



Dear Beverley,

CAP150 Capacity reduction – Consultation Alternatives

EDF Energy is pleased to have the opportunity to comment again on CAP150.

We have been disappointed by:

1. The behaviour of some developers not fulfilling the obligations of the bilateral connection agreement (BCA) and construction Agreement (CONSAG);
2. National Grid's conservative approach when enforcing contracts by not bringing developers into breach of the CUSC.

As a result, developers that have fulfilled CUSC obligations have been placed at a clear disadvantage in gaining timely grid connection. This is unacceptable.

We fully support the intention of CAP150 as National Grid does not have any contractual power to reduce the capacity it is contracted to build for a developer. However the **Original amendment and CAA1 should not be implemented** as it is overly bureaucratic and would create inconsistent treatment upon developers' projects being delayed or being of different capacity than agreed in the CUSC BCA.

We believe the **WGAA should be implemented** as the Notice of Termination will provide an incentive for developers to behave properly with regard to their CUSC obligations. It also provides an efficient process for National Grid to penalise Users acting improperly, without the legal implications associated with notifying the Authority the User is in breach of the CUSC.

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If CAP150 Original or CAA1 is implemented, National Grid would have:

[1] The right to allow the Project to progress even if delayed, enforcing termination upon the backstop date.

[2] After being notified of a significant delay, the right to notify the User to submit a modification application for a later connection.

[3] After being notified of having an incorrect transmission capacity figure against the plant likely to be commissioned, the right to notify the User to submit a modification application and if this is not done, use enforcement action to reduce the transmission capacity figure in Appendix C of the User's BCA.

[1] & [2] are existing rights for the GBSO, through clauses, 4.8 Backstop date and 3.3 Delays.

However [3] would be a new right, provided by implementation of CAP150.

There is an asymmetry between [2] and [3] above, where the incorrect transmission capacity figure is proposed to have enforcement action and a delay in the construction programme does not. This inconsistency is overly bureaucratic will only serve to confuse developers. This is why we proposed the WGAA.

We do not believe the WGAA needs to be amended as proposed by CAA2. We do not support CAA2, or CAA3.

We hope that you will find these comments helpful. If you have any queries please do not hesitate to contact me.

Yours sincerely,

David Scott
Electricity Regulation,
Energy Branch



Beverley Viney
Amendments Panel Secretary
Electricity Codes
National Grid

By email: Beverley.Viney@uk.ngrid.com

E.ON UK plc
Westwood Way
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Coventry
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eon-uk.com

Ben Sheehy
024 7618 3381

Friday 8 February 2008

Dear Beverley,

Response on CAP150 consultation alternatives, Capacity Reduction

In our first response we supported the original CAP150 proposal but did not support the working group alternative. We then reasoned that if the original were implemented, a further amendment would have to be raised to tighten up the capacity reduction process; in order to limit the potential for Users, National Grid and Ofgem to be involved in frequent appeals and litigation.

We believe that the problem described in consultation alternative A, arising from the distinction between BEGAs and BELLAs, should be addressed. This alternative improves the original proposal and would therefore better facilitate an efficiently managed transmission queue (objective a) and allow National Grid to prioritise feasible projects over speculative applications, which would develop competition in the sale of electricity (objective b).

Page 1 of 2

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As alternatives B and C build on the working group alternative, which would place unrealistic obligations on project developers and unduly increase risk, they should be rejected. While we agree with Gunfleet Sands Limited that termination rights in the alternative are too severe, we do not think it appropriate to try to improve a fundamentally flawed idea.

Any variant proposal would still inhibit National Grid's ability to discharge its obligations in an efficient way (objective a), as well-planned projects would be denied essential flexibility and could face major delays by having to needlessly re-open construction agreements. Investment in new generation would also become less attractive because of the greatly increased risk profile, which would hinder competition in the sale of electricity (objective b).

In summary, both the original and consultation alternative A better the objectives, with alternative A being the best. The working group alternative and alternatives B and C would not better the objectives.

We hope that you will find these points helpful to your assessment.

Yours sincerely,

Ben Sheehy
Trading Arrangements
Energy Wholesale



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04 February 2008

Beverly Viney
Amendments Panel Secretary
Electricity Codes
National Grid
National Grid House
Warwick Technology Park
Gallows Hill, Warwick
CV34 6DA

Dear Beverly

CAP150 (Capacity Reduction): Consultation Alternative Amendments

Thank you for the opportunity to comment on the Consultation Alternative Document for CAP150.

We support Consultation Alternative A as it retains the essential features of the original amendment proposal but removes potential discrimination between Users holding BELLAs and BEGAs. We do not support the Working Group Alternative Amendment however, were the Authority minded to implement the WGAA, we believe that Consultation Alternative C should be implemented instead as it correctly implements the intent of the Working Group Alternative and also removes the potential discrimination noted above.

This comment is made on behalf of DONG Energy A/S and its affiliate CUSC party members DONG Walney (UK) Ltd, SeaScape Energy Ltd, Heysham Offshore Wind Ltd, Gunfleet Sands Ltd and Gunfleet Sands II Ltd.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ivan Christiansen'.

Ivan Christiansen
Head UK Onshore and UK Offshore NW
Tel +45 2540 2186
ivach@dongenergy.dk

Dear Sirs,

This response is sent on behalf of Scottish and Southern Energy, Southern Electric, Keadby Generation Ltd., Medway Power Ltd., and SSE Energy Supply Ltd.

In relation to the Consultation Alternative consultation concerning CAP 150 "Capacity Reduction" (contained within your note of 30th January 2008) we agree with the view of National Grid that the Consultation Alternative 'A' is the BETTER and BEST of the three Consultation Alternatives detailed in this consultation and therefore would better facilitate the achievement of the Applicable CUSC Objectives.

The points raised in the Dong Energy letter as regards the potential for discrimination to arise in the treatment of BELLAs when compared with BEGAs is one that we have been particularly mindful of in coming to our view.

Regards

Garth Graham
Scottish and Southern Energy plc

Beverley Viney
Amendments Panel Secretary
Electricity Codes
National Grid
National Grid House
Warwick Technology Park
Gallows Hill
Warwick
CV34 6DA

28 March 2008

0141 568 4469

Dear Beverley,

**Response to the Consultation Alternative Consultation Document CAP150
Capacity Reduction**

Thank you for the opportunity to respond to this Consultation Document. This response is submitted on behalf of ScottishPower Energy Management Ltd, ScottishPower Generation Ltd and ScottishPower Renewable Energy Ltd.

ScottishPower supported the original proposed amendment in its response to the Consultation on 7 December.

ScottishPower supports Consultation Amendment A and believes that it will better meet CUSC objectives than the original proposal as it ensures equitable treatment for Users who hold a BELLA.

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

Yours sincerely,

JAMES ANDERSON
Commercial and Regulation Manger

ANNEX 4A – PROCESS FLOW DIAGRAMS

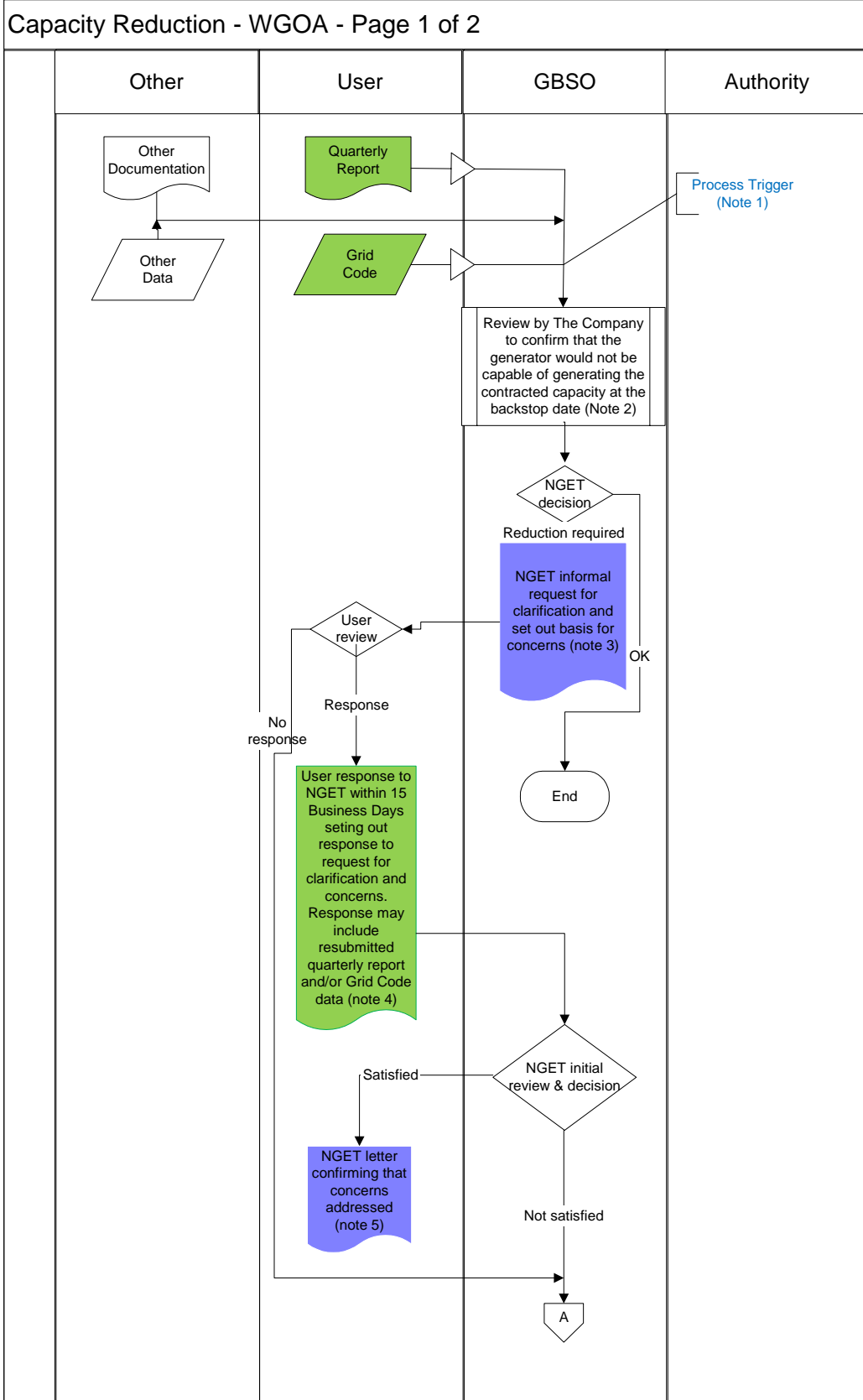
Part A

PROCESS FLOW DIAGRAM TO GIVE EFFECT TO THE ORIGINAL PROPOSED AMENDMENT

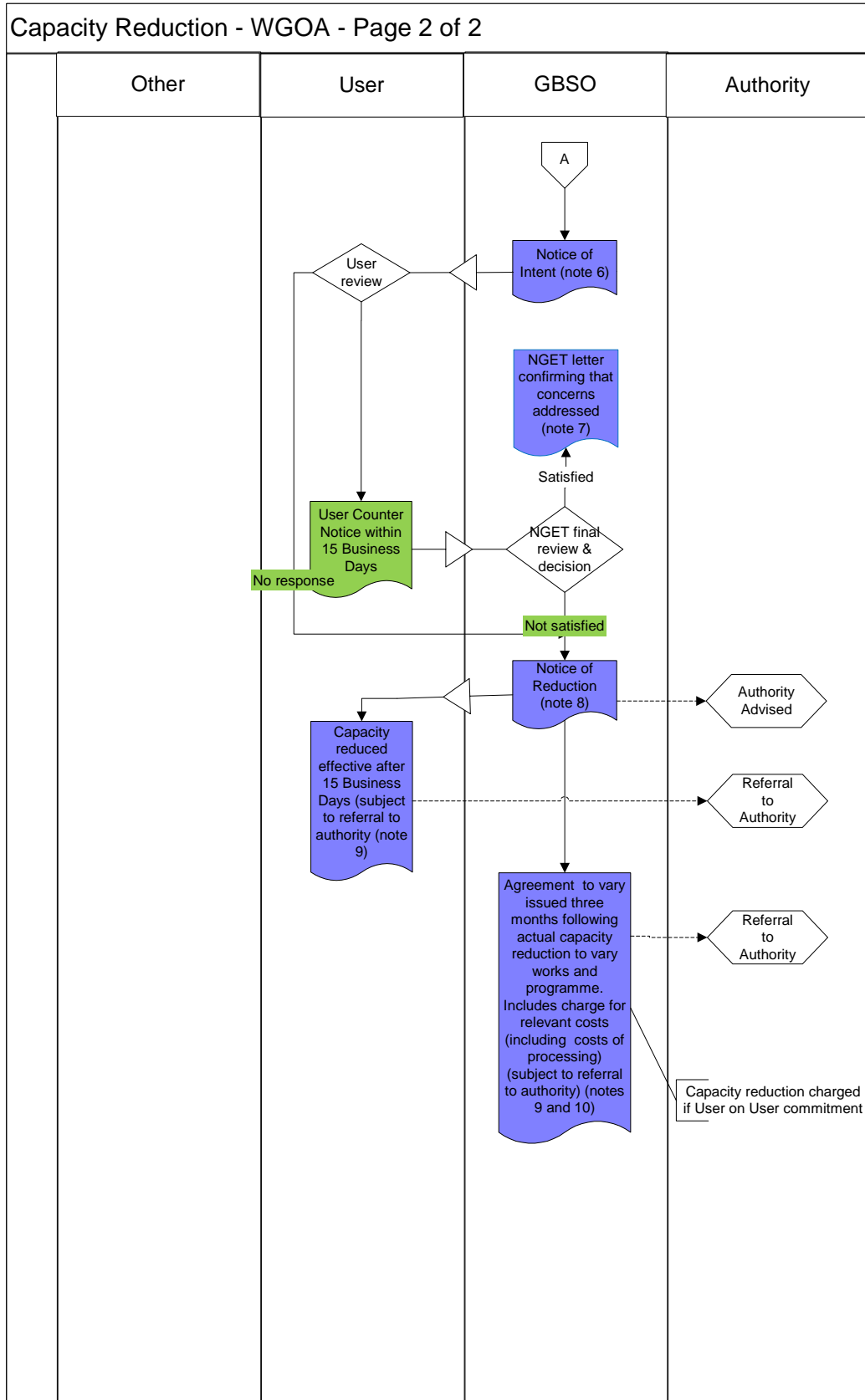
Stage:

1. Information is provided to through the developer's quarterly report (Construction Agreement clause 2.8) or Grid Code submissions (Detailed Planning Data). Information may also be gained from other sources, of which National Grid expects to be of sound legal basis in the pursuing process. Should this information be different from or cause effect to the GBSO to doubt the relevance of the Transmission Entry Capacity in App C of the Bilateral Connection Agreement or BEGA; the User Works set out in Appendix I or the Construction Programme App J of the Construction Agreement, it shall initiate an internal review.
2. The following key criteria would be a good initial list of criteria for National Grid to use when deciding if a reduction is required.
 - Reduction would result in different assets or works
 - Assets are being or could be used by another User
 - If the holding onto the capacity results in inefficient investment
 - If it causes a (significant) cost on a third party
 - Potentially has an affect on charge setting (including TNUOS)
 - Has an affect on the outages required
3. National Grid will issue a letter to the developer requesting clarification over the aforementioned discrepancy, requiring the developer to respond in 15 business days.
4. At this stage the developer has to assuage National Grid's concerns, possibly through submitting a Modification Application or by providing adequate reason as to why the BCA/BEGA and Construction Agreement are not in agreement with the information that initiated this process.
5. If the developer satisfies National Grid's concerns then National Grid will inform the developer in writing.
6. Should the developer fail to satisfy National Grid it shall be served a Notice of Intent, which offers the developer 15 business days before further action is taken.
7. If the developer satisfies National Grid's concerns within this period then National Grid will inform the developer in writing.
8. Upon no adequate response by the developer, a Notice of Reduction will be issued to the developer, stating capacity will be reduced (Transmission Entry Capacity – App C of the BEGA or Bilateral Connection Agreement). The developer has the right to refer this to the Authority, where the notice will be deferred until a determination is made. At this point the Authority is advised.
9. After 15 business days of the Notice of Reduction, National Grid will automatically issue an Agreement to Vary, which will change Appendix C of the BEGA or Bilateral Connection Agreement (TEC). This change is subject to referral to the Authority.

10. Within three months of the change to Appendix C (or A in the case of a BELLA) National Grid will issue an Agreement to carry to make the necessary changes to the construction agreement as a consequence of the reduction in capacity.
11. The developer will be charged by the GBSO for the costs of processing the agreement and revising the programme of works. Upon reduction the developer will be lose the final sums placed with the GBSO (associated with the reduced capacity), which may be refunded should there be reuse of the assets. The developer has the right to refer this Agreement to Vary to the Authority.



Capacity Reduction - WGOA - Page 2 of 2



ANNEX 4B – PROCESS FLOW DIAGRAMS**Part B****PROCESS FLOW DIAGRAM TO GIVE EFFECT TO THE WORKING GROUP
ALTERNATIVE AMENDMENT**

Stage:

1. Information is provided to through the developer's quarterly report (Construction Agreement clause 2.8) or Grid Code submissions (Detailed Planning Data). Information may also be gained from other sources, of which the GBSO expects to be of sound legal basis in the pursuing process. Should this information be different from or cause effect to the GBSO to doubt the relevance of either the Connection Entry Capacity and/or Transmission Entry Capacity figures in App C of the Bilateral Connection Agreement or BEGA; or the Construction Programme App J of the Construction Agreement, it shall initiate an internal review.
2. The GBSO will issue a letter to the developer requesting clarification over the aforementioned discrepancy, requiring the developer to respond in 15 business days.
3. At this stage the developer has to assuage the GBSO's concerns, possibly through submitting a modification application or by providing adequate reason as to why the BCA/BEGA and Construction Agreement are not in agreement with the information that initiated this process.
4. Should the developer fail to satisfy the GBSO, it shall be served a Notice of Intended Termination, which requires the developer to submit a modification application or face termination of the Construction Agreement. At this stage the developer may refer the notice to Ofgem, which would defer the termination until a determination is made by the Authority.
5. Faced with a Notice of Intended Termination, the developer is incentivised to submit a Modification Application which must satisfy the concerns originally expressed by the GBSO. The GBSO will then, in accordance with the CUSC, treat the application in the manner of any other and prepare an offer.
6. The developer has the right to refer this offer to the Authority (as it can with any offer), however if the Authority has already determined on the original Notice of Intended Termination, the developer should not refer the original points of dispute between the GBSO and itself. Should the developer not sign the offer, such that it lapses, the original construction agreement will be terminated. Upon termination the developer will be lose the final sums placed with the GBSO, which may be refunded should there be reuse of the assets.

