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| Amendment proposal: | Connection and Use of System Code (CUSC) CAP143: Interim TEC | | |
| Decision: | The Authority¹ has decided to reject this proposal | | |
| Target audience: | National Grid Electricity Transmission PLC (NGET), Parties to the CUSC and other interested parties | | |
| Date of publication: | 11th October 2007 | Implementation Date: | N/A |

Background to the Proposed Amendment

Connection and Use of System (CUSC) Amendment Proposal (CAP) 143: Interim Transmission Entry Capacity (TEC), the 'proposal', raised December 2007 by Scottish and Southern Energy (SSE) Generation Limited, seeks to introduce a new short term access product that will allow generators to connect to the GB transmission system in advance of all necessary transmission reinforcement works being complete. This product will provide generators, who meet a number of eligibility criteria, the right to generate up to their TEC allowance providing they accept to be constrained from the system for a given period of 'X' hours without compensation.

Applicants for TEC are assessed against the planning criteria set out in the GB Security and Quality of Supply Standards (GBSQSS). This identifies any reinforcements of the network that maybe made contingent upon completion before the connection of a new generator. Once these reinforcements are complete, the generator may export power up to the limit set by TEC at any given period. Any interruptions are subject to compensation as set out in 5.10 of the CUSC.

The existing allocation of TEC is provided on a first-come-first-served basis. Generators can only generate up to their TEC once all necessary transmission network reinforcements have been completed for their connection. Hence if infrastructure reinforcement works are needed and are out of step with a generator's build programme, either because of the length of time needed to build the reinforcements or because of planning delays, situations can arise where a generator is ready to export but the system is not sufficiently reinforced to allow it to.

At present there is a very large queue of generators seeking connection to the GB transmission system. Following the transition to the British Electricity Trading Transmission Arrangements (BETTA), connection offers were made by National Grid as GB System Operator to over 165 projects, of which around 140 (comprising 12.3 GW of capacity) have now accepted those offers. Indicative connection dates are based on all of these 140 projects proceeding to connection. More recently we have seen growing numbers of connection applications in England and Wales. At present a queue of around 9GW of generation has formed in southern Wales, whilst further connections of gas, nuclear and offshore wind further create problems for the transmission access arrangements. CAP143 is one of many proposals that are seeking to facilitate earlier connection given the large number of generators awaiting connection, termed the 'GB Queue'.

In terms of our role, Ofgem has an interest in the transmission access arrangements because they can impact on new entry (and therefore, the effectiveness of competition) in the generation market². Furthermore, because the transmission access arrangements affect the

¹ The terms 'the Authority', 'Ofgem' and 'we' are used interchangeably in this document. Ofgem is the Office of the Gas and Electricity Markets Authority.

² The Authority's principal objective and general duties, in so far as they relate to the electricity industry, are set out in sections 3A to 3D of the Electricity Act 1989, as amended by the Utilities Act 2000 and Energy Act 2004.

type and quality of information generated on the long term demand for transmission capacity, the arrangements also impact on the efficiency of investment by the transmission companies. We also have a role in the context of our sustainable development duty in facilitating the integration of renewable generation into the market.

The Proposed Amendment

The proposal seeks to change the way in which TEC is allocated. CAP 143 proposes to introduce a new transmission access product, Interim TEC (ITEC) that allows connection to the GB transmission system with restrictions to the number of hours a generator may generate. For a defined number of hours, 'X', generators who hold ITEC will not be able to generate, and they will not be entitled to any compensation. The number of X would be inserted into the CUSC.

Generators holding ITEC would be allowed to generate before transmission system reinforcements required for their connection have been completed. However, only those generators who meet defined eligibility criteria³ will be entitled to use this access product.

As mentioned above, the GBSQSS planning criteria sets out that the transmission system needs to be built to accommodate system conditions at peak demand. On this basis there will theoretically be periods where the system has some spare capacity and generators could access this capacity without triggering wider reinforcements. Therefore ITEC attempts to create a product which can be used in those periods where the system is likely to have spare capacity. The lack of compensation associated with constraining off a generator with ITEC should it be necessary, reflects the intention that the use of the product should not impact on other users of the system, as compensation would in usual circumstances be recovered from all users.

ITEC will only be limited to generators that meet a number of pre-defined conditions to limit the uptake of ITEC and to avoid adverse impacts on other users. If granted, ITEC will be available to the user until the completion date of their project, upon which time they will be entitled to full TEC.

The proposer considers that ITEC has advantages over other current short-term access products such as Short Term TEC (STTEC) and Limited Duration TEC (LDTEC) because it provides certainty over the number of hours that a generator will have access which may improve the ability of a project to receive finance. The perceived uncertainty in when STTEC and LDTEC could be utilised results from the requirement that these products can not be used if they create or exacerbate a constraint on the transmission system.

Alternative Amendments

During the Working group meetings one Working Group Alternative Amendment (WGAA) was developed whereby the number of hours of restriction was to be determined on a generator-specific basis and not an absolute figure applicable to all placed into the CUSC as in the original amendment. During consultation, two Consultation Alternative Amendments, CAA1 and CAA2 were submitted which proposed minor changes to the WGAA.

³ For more information on the eligibility criteria please see paragraph 3.14 of the Amendment Report, available at the following link:

<http://www.nationalgrid.com/NR/rdonlyres/1C4FB479-EEDC-40BB-8490-E78D8B4CB8CA/19847/CAP143AmendmentReportv10.pdf>.

CAA1 which was raised by First Hydro Company, proposed that minor changes were made to the legal drafting of the amendment for the purposes of transparency. This was to make it clear that a plant using ITEC would be constrained down by NGET ahead of another plant with TEC behind a constraint.

CAA2 which was raised by Scottish and Southern Electricity, again for the purposes of transparency, proposed revised drafting that would allow a user to apply for 'staged' ITEC. This would allow more transparency in the application and offer process.

Recommendation of the CUSC Amendments Panel⁴ (the CUSC Panel)

The CUSC Panel undertook a vote on the 11th September 2007 on the amendment proposal and each alternative amendment proposal compared to the CUSC baseline, then a vote on which amendment they considered best facilitates the applicable CUSC objectives. The outcome of the vote concluded that the majority of the panel considered that the original amendment, WGAA, CAA1 and CAA2 did not better facilitate the applicable CUSC objectives.

The majority of the panel considered that the current CUSC baseline is better than the original amendment proposal for CAP143 as well as the working group and consultation alternatives.

The Authority's decision

The Authority has considered the issues raised by the amendment proposal and the final Amendment Report (AR) dated 11 September 2007. The Authority has considered and taken into account the responses to NGET's consultation on the amendment proposal which are attached to the AR⁵.

The Authority has concluded that implementation of the Original Amendment Proposal, or WGAA, CAA1 and CAA2 would not better facilitate the achievement of the objectives of the CUSC⁶. In view of this conclusion, it was unnecessary to address the issue of whether the proposals would be consistent with the Authority's principal objective and general duties.

Reasons for the Authority's decision

Having carefully considered the Amendment Report, respondents' views and the recommendation of the Panel, the Authority does not consider that the Original Amendment Proposal, WGAA, CAA1 and CAA2 in respect of CAP143 better facilitate achievement of the applicable CUSC Objectives (a) efficient discharge of licence obligations or (b) facilitating effective competition in the generation and supply of electricity. However, the Authority notes that much of the analysis conducted during the Working Group stage is useful for informing the debate on the Transmission Access Review (TAR) in the long term.

The Authority notes that no party at the working group was supportive of the original Amendment Proposal as it was based on the assumption that the number of restricted hours, X, would be defined in the CUSC. It was considered inappropriate by the working group to define the value of X within the CUSC and that it would lead to more efficient allocation if a

⁴ The CUSC Panel is established and constituted from time to time pursuant to and in accordance with the section 8 of the CUSC.

³ CUSC amendment proposals, amendment reports and representations can be viewed on the NGET website at <http://www.nationalgrid.com/uk/Electricity/Codes/systemcode/amendments/>

⁶ As set out in Standard Condition C10(1) of NGET's Transmission Licence, see: http://62.173.69.60/document_fetch.php?documentid=5327

specific value of X was calculated for each generator based on relevant factors such as location and prevalence of constraints. Placing an arbitrary value of X was considered inefficient by the working group for these reasons. It was also agreed by the working group that an arbitrary value of X would be more difficult to change to reflect movements in the transmission access arrangements as it would require amendment to the CUSC.

However, the WGAA was developed on the basis that there would be variable values of X defined for each generator that applies for ITEC. On this basis, all parties considered that the WGAA provided incremental benefits over the original. Ofgem agrees with this view and considers that the Original Amendment Proposal would not better facilitate the applicable CUSC objectives, and in particular, applicable objective b. Our rationale for this position is that there would not be an improvement in competition through new entry into the market. Given that the CUSC would define a number for X and that the associated interruptions by the system operator could take place at any point during the year (theoretically at least, although more likely in periods of high demand), the potential to use spare capacity would be undermined by the uncertainty associated with when the product could be utilised. We therefore do not think that this approach would provide additional impetus for new entry. This is especially the case given the range of high numbers for X that were considered by the working group.

Ofgem notes that the majority of the respondents to the consultation on the 13th August 2007 were not supportive of the WGAA or alternatives linked to this amendment, CAA1 and CAA2. In addition, 4 parties out of 18 supported the WGAA, only one supported CAA1 and none for CAA2. The reasons given by parties for their support of the WGAA and CAA1 were that ITEC would provide a 'bankable' transparent access product, despite the increase in costs to other users. However, the large majority of respondents did not support the proposals mainly for the reason that it would increase the costs of constraints to other users of the transmission system. The increase in these costs was considered by the group to be difficult to quantify, but some parties felt they could be substantial.

Assessment Against applicable objective (a): the efficient discharge by National Grid of the obligations imposed on it by the Act and the Transmission Licence;

The Authority notes that the proposals could expose all system users, and ultimately consumers, to a risk of greater costs (via Balancing and Use of System Charges (BSUoS) charges) in the event that the value of X is set at a level below the number of periods in which the network is constrained to facilitate ITEC. Ofgem notes that this risk is difficult to quantify but will be dependent on the accuracy of the value of X and the period for which reinforcements are delayed (i.e. the period of time for which ITEC rather than TEC is available). Ofgem further notes that there is a trade-off between the value of X and the extent to which the proposals will prove attractive to generators. In an extreme case, fully mitigating (or nearly fully mitigating) the risk of constraint costs would lead to the creation of a product which was of no use to a developer as the value of X could be high. For this reason, Ofgem does not consider that the proposed amendment would better facilitate applicable objective (a).

We also note the views of several parties in the working group, that the proposal could be argued to increase non-compliance with the GBSQSS. To the extent that this is the case, the amendment proposal may be expected to work to the detriment of the transmission licence requirements 9(2)(b) to operate the transmission system in an efficient, economic and non-discriminatory manner, and would not better facilitate applicable objective (a).

Assessment Against CUSC Applicable 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.

An assessment of the impact of the amendment proposals on applicable CUSC objective (b) facilitating effective competition is difficult. While facilitating earlier entry into the market may be expected to stimulate competition, the possibility of exposing all users to a disproportionately greater level of costs (which in effect amount to a subsidy to the new entrant) could have an adverse impact on competition. Accurately assessing this trade-off in the absence of any evidence is difficult. The Authority is also mindful of the risk that the proposal may create a product which is only of value to a relatively small number of generators in specific locations (e.g. close to the Southern end of the Beaulieu – Denny line) or a product which is so restricted as to be of no practical use.

As mentioned above, Ofgem notes that there are relatively few generators that may be expected to have a request for ITEC granted. Although the Authority recognises that this may change over time, we consider that there is a need to address the problems of delays in securing transmission access in the short-term. On balance, the Authority is not convinced that ITEC is the most efficient, economic and non-discriminatory way of addressing this problem. Other initiatives currently being developed by industry may provide greater benefits, but would be hindered if CAP143 was approved.

A specific concern of the Authority relates to the current transmission access arrangements and the relative disadvantage which new entrants face (relative to incumbents) in securing transmission access. We have concerns that CAP143 may perpetuate this disadvantage and may fail to facilitate competition in the longer-term, as the rights new entrants would be granted under ITEC would be more restrictive than those afforded to incumbents, therefore not better facilitating objective (a) or (b).

Ofgem notes that there is a balance to be struck in the transmission access arrangements between advancing connections and the associated costs of doing so. It is important to mitigate increases in operational costs, while noting the potential for benefits to accrue through increases in competition in the energy market (and reductions in carbon emissions where new entrants are renewable). Ofgem also notes that arrangements should be open, transparent and non-discriminatory. We consider that much of the work undertaken by the CAP143 working group has shed light on these trade-offs and is therefore valuable in steering the wider debate on transmission access.

Other Developments

Work in relation to non-firm access products has already been taken forward by the Transmission Access Standing Group (TASG). TASG has explored products where non-firm access is allowed on the basis that the costs imposed on the system operators are targeted back to the party causing those costs. In general Ofgem is supportive of work undertaken in this area.

However, Ofgem also considers it is important that all parties are able to secure access on a non-discriminatory basis. Ofgem notes that, at present, incumbents are able to renew capacity holdings having provided a minimum of 5 days notice under the CUSC, while new entrants must often wait years for a connection to be provided. Ofgem considers it vital that these, perhaps more fundamental, issues are considered alongside the development of proposals for incremental change to the existing access arrangements.

A handwritten signature in black ink, appearing to read 'R Hull', is centered at the top of the page. The signature is written in a cursive style.

Robert Hull
Director of Transmission

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