



Direct Dial: 020-7901-7050

10 February 2005

National Grid Electricity Transmission plc,
CUSC Signatories and
Other Interested Parties

Your Ref: CAP106
Our Ref: IND/COD/CUSC/CAP106

Dear Colleague,

Amendment to the Connection and Use of System Code (CUSC) - Decision and Direction in relation to Proposed Amendment CAP106: Amendment to revised paragraph 4.5.1 (Indexation – Application) of the CUSC.

The Gas and Electricity Markets Authority (the "Authority"¹) has considered the issues raised in the Amendment Report² in respect of Proposed Amendment CAP106: Amendment to revised paragraph 4.5.1 (Indexation – Application) of the CUSC.

National Grid Electricity Transmission plc ("NGET") recommended to the Authority that Proposed Amendment CAP106 should be approved, and if approved that the Implementation Date should be 10 Business Days after the Authority decision.

Having considered the Amendment Report and NGET's recommendation, as well as having regard to the Applicable CUSC Objectives³ and Ofgem's wider statutory duties,⁴ the Authority has decided to direct a modification to the CUSC in line with the CAP106 Amendment Proposal.

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

² CAP106 Amendment Report dated 25 November 2005

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

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

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

This letter explains the background to CAP106, and sets out the Authority's reasons for its decision. This letter constitutes the notice by the Authority under Section 49A of the Electricity Act 1989.

Background

CAP106 corrects inconsistencies in paragraph 4.5.1 of the CUSC created by an interaction in the legal text and subsequent implementation of CAP076 before CAP047. CAP106 clarifies that the Indexation provisions in paragraph 4.5.1 are mandatory for System to Generator Intertripping Agreements but are optional (to be agreed between the User and National Grid) for any other Balancing Services Agreements.

CAP106 was raised by NGET and submitted for consideration by the CUSC Amendments Panel ("the Panel") on 28 October 2005. The Panel determined that Amendment Proposal CAP106 should proceed to wider industry consultation. A consultation document was published on 31 October 2005; responses were invited by the close of business on 15 November 2005. The final Amendment Report was submitted to the Authority on 25 November 2005.

The Amendment Proposal

On 28 September 2004 the Authority approved CAP047 Alternative Amendment (A) (Introduction of a competitive process for the provision of Mandatory Frequency Response) for implementation on 1 October 2005.

On 10 June 2005 the Authority approved CAP076 original Amendment Proposal (Treatment of System to Generator Intertripping Schemes) for implementation on 15 July 2005.

There was an interaction between the legal text in these two proposals in relation to paragraph 4.5.1 (Indexation – Application) of the CUSC. The precise mechanics of the implementation of CAP047 and CAP076 mean that paragraph 4.5.1 no longer reads clearly.

CAP 106 aims to clarify paragraph 4.5.1 of the CUSC by re-introducing the clarity provided by CAP076 that Indexation where applicable to System to Generator Operational Intertripping Agreements is mandatory whereas in CAP047 Alternative Amendment (A) Indexation is optional for any other Balancing Service Agreements.

Respondents' views

NGET received one response to the consultation in respect of CAP106. The respondent supported the Amendment Proposal but added no further comments.

Amendments Panel Members' views

No responses to the consultation were received from Panel Members acting in that capacity.

NGET's recommendation

NGET considers that CAP106 will better facilitate Applicable CUSC Objective (a) by improving the clarity and removing the uncertainty associated with the current wording of Paragraph 4.5.1 of the CUSC.

NGET recommended that Proposed Amendment CAP104 should be approved, and that if approved that the Implementation Date should be 10 Business Days after the Authority decision.

Ofgem's views

Having considered the Amendment Report, Ofgem considers, having had regard to the Applicable CUSC Objectives and its wider statutory duties that Proposed Amendment CAP106 would better facilitate the achievement of Applicable CUSC Objective (a) compared to the baseline of the CUSC.

Ofgem considers that the Proposed Amendment CAP106 will improve the clarity and remove the uncertainty associated with the current wording of Paragraph 4.5.1 of the CUSC.

The Authority's Direction

The Authority has decided to direct that the Amendment Proposal for CAP106 as set out in the Amendment Report, should be made and implemented.

Having regard to the above, the Authority, in accordance with Condition C10.7(a) of the licence to transmit electricity granted to NGET under section 6 of the Electricity Act 1989 (the "Transmission Licence"), hereby directs NGET⁵ to modify the CUSC in accordance with the Amendment Proposal as set out in the Amendment Report.

The modification is to be implemented and take effect from 24 February 2006.

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

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

Yours sincerely,



Robert Hull
Director, Transmission

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

⁵ During the development of this amendment the body discharging NGET's role with regard to the CUSC was described within the CUSC as National Grid Company plc (NGC). Subsequent to the Amendment Report for CAP106 being sent to Ofgem, CAP105 (an amendment which sought to change the name of NGC to NGET in order to reflect the name change of the Transmission Licence holder for England and Wales) was implemented (on 21 December 2005). On the date of this letter Ofgem directs NGET to modify the CUSC and has therefore used this terminology in its decision letter for CAP106.