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Direct Dial: 020 7901 7335

7 December 2005

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

Our Ref: IND/COD/CUSC/CAP105

Dear Colleague,

Amendment to the Connection and Use of System Code (“CUSC”) - Decision and Notice in relation to Proposed Amendment CAP105: “National Grid’s name change”.

The Gas and Electricity Markets Authority (the “Authority”¹) has considered the issues raised in the Amendment Report² in respect of Amendment Proposal CAP105, “National Grid’s name change”.

The National Grid Electricity Transmission Company plc (“NGET”) recommended to the Authority that Proposed Amendment CAP105 be approved with an implementation date of 10 Business days after the Authority’s decision.

Having considered the Amendment Report and NGET’s recommendation and 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 Consultation Alternative Amendment (C).

A separate letter contains the direction to NGET to modify the CUSC in accordance with Consultation Alternative Amendment (C) as set out in the Amendment Report.

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

² CAP105 Amendment Report dated 3 November 2005.

³ The Applicable CUSC Objectives are contained in Standard Condition C10 of the licence to transmit electricity treated as granted to NGC 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 include amongst other things a duty to have regard to social and environmental guidance provided to Ofgem by the government.

This letter explains the background to Amendment Proposal CAP105, and sets out the Authority's reasons for its decision. This letter constitutes notice by the Authority under section 49A of the Electricity Act 1989 in relation to the direction.

Background

A motion was submitted to the Annual General Meeting of "National Grid Transco plc" on 25 July proposing to change the group company name to "National Grid plc". This motion was approved by shareholders and took effect legally on 27 July 2005.

Due to similarities between the new group company name and that of its transmission licence holder, the transmission licence holder also changed its name, from "National Grid Company plc" to "National Grid Electricity Transmission plc".

The CUSC contains numerous references to "NGC", which is defined in relation to the old transmission licence holder name.

In order to rectify this situation, National Grid Electricity Transmission plc submitted Amendment Proposal CAP105, "National Grid's name change" for consideration at the Amendments Panel meeting on 25 August 2005.

The Amendments Panel determined that CAP105 was ready to proceed to a wider consultation, which closed on 3 October 2005. It prompted three further Alternative Amendments: one proposed by NGET; with the remaining two proposed by Centrica.

A further consultation was conducted to assess the merits of the Alternative Amendments as compared to the Proposed Amendment, closing on 20 October 2005.

The final Amendment Report was submitted to the Authority on 3 November 2005

The Proposed Amendment

The Proposed Amendment would alter the CUSC in three ways.

Firstly, it would amend the definition of the term NGC to reflect the change to NGET. Similarly all existing CUSC references to NGC would be altered to NGET.

Secondly, a new clause would be added to section 6 of the CUSC allowing any references to NGC within any related documents, such as Bilateral Agreements and Construction Agreements, to be taken to mean NGET. This is intended to give effect to the company name change in these documents without the need to specifically amend each of them.

Finally, the Proposed Amendment proposes the introduction of an additional clause to allow any existing Proposed Amendment that was with the Authority for decision at the time of

implementation of CAP105 to be altered such that any references to NGC instead reflect NGET. This is intended to ensure that references to NGC are not inadvertently added back in to the CUSC by any future decision on a Pending Amendment Proposal.

The Proposer considers that CAP105 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 [the Transmission] licence', by ensuring that the name of the licensed entity was clear throughout the CUSC.

Alternative Amendments

Three Alternative Amendments were proposed in response to the initial consultation on CAP105.

Consultation Alternative Amendment (A)

Consultation Alternative Amendment (A) was put forward by NGET. In common with the Proposed Amendment it seeks to revise the definition of NGC and replace existing references to NGC with NGET in the CUSC, whilst allowing references to NGC in related documents to be taken as meaning NGET.

It omits the final component of the Proposed Amendment: the facility to alter references to NGC to NGET in any Amendment Proposals that are already with Ofgem for decision.

This omission was prompted by concerns raised at the Amendments Panel, and by Centrica in its response to the initial consultation, suggesting that this aspect of the Proposed Amendment might cause procedural difficulties as it sought to alter the content of other Amendment Proposals that were already within the regulatory decision making process.

As with the Proposed Amendment, the Proposer considers that Consultation Alternative Amendment (A) would better facilitate Applicable CUSC Objective (a) by ensuring that the name of the licensed entity was clear throughout the CUSC.

Consultation Alternative Amendment (B)

Consultation Alternative Amendment (B) was put forward by Centrica. In common with the Proposed Amendment and Consultation Alternative Amendment (A) it seeks to revise the content of the definition of NGC, but unlike those proposals it would not rename the defined term itself. That would still refer to NGC.

Centrica considered that this approach would:

- minimise any changes to documentation now;
- allow consistency between the CUSC and Bilateral Agreements that still referred to NGC; and

- avoid any procedural problems that might arise from an approach that altered the legal text of separate Amendment Proposals that were already with Ofgem for decision.

Centrica considered that the minimisation of documentary changes would mean that this approach would be more efficient than either the Proposed Amendment or Consultation Alternative Amendment (A), and therefore that it would better facilitate Applicable CUSC Objective (a) to a greater degree than those approaches.

Consultation Alternative Amendment (C)

Consultation Alternative Amendment (C) was also put forward by Centrica. In common with all the other approaches it seeks to revise the content of the definition of NGC. It would also rename this definition, but rather than renaming it to NGET it would instead rename it to “the Company”. All references to NGC within the CUSC would be changed to “the Company”.

Unlike the Proposed Amendment but in common with the other Consultation Alternative Amendments, no changes to the legal text of Amendment Proposals already with Ofgem would be required.

Centrica considered that this approach would allow the CUSC to reflect the existing name change of NGET, whilst minimising the scale of any changes required were its name to change again in future because only the definition of “the Company” would need to change rather than all references to it in the body of the CUSC.

Centrica considered that this would be more efficient than either the Proposed Amendment or Consultation Alternative Amendment (A), and therefore that it would better facilitate Applicable CUSC Objective (a) to a greater degree than those approaches.

Respondents’ views

NGET issued a consultation paper on 26 October 2005 inviting responses from CUSC Parties and interested parties.

NGET received two responses to the consultation in respect of Amendment Proposal CAP105. One considered that all four approaches would better facilitate the Applicable CUSC Objectives, but believed that greatest facilitation would result from Consultation Alternative Amendment (C). The other, from the Proposer of Consultation Alternative Amendments (B) and (C), considered that both of those approaches would better facilitate the Applicable CUSC Objectives, without expressing an opinion on which of the two was better.

One respondent noted NGET’s comments in the Amendment Report that the Proposed Amendment and Consultation Alternative Amendment (A) were consistent with the approaches taken to re-brand the Grid Code and System Operator Transmission Owner Code (“STC”) but was not persuaded that this inferred the best solution for the CUSC. The respondent rejected the suggestion that Consultation Alternative Amendments (B) or (C) would result in confusion as to

the identity of NGET, noting that NGET itself uses a different version of its name (“National Grid”) on its CUSC reports following its re-branding.

The other respondent echoed the view that the approach taken on the Grid Code and STC should not necessarily dictate the approach to be taken on the CUSC. The respondent concluded that Consultation Alternative Amendment (C) would be the clearest and most transparent approach.

The respondents’ views are summarised and contained in the Amendment Report in respect of Proposed Amendment CAP105.

Amendments Panel Members’ views

No responses to either of the consultations on CAP105 were received from Panel Members.

NGET’s recommendation

NGET considers that both the Proposed Amendment and Consultation Alternative Amendment (A) 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 [the Transmission] licence’*, by ensuring that the name of its licensed entity was clear throughout the CUSC.

Of the two, NGET considered the Proposed Amendment more efficient; highlighting that it would avoid the need for a subsequent housekeeping amendment to correct any references to NGC introduced by Amendment Proposals that are still with Ofgem for decision.

In the event of an approval decision, NGET recommended that implementation be 10 Business Days after an Authority decision.

Ofgem’s view

Having considered the Amendment Report, Ofgem considers, having regard to its statutory duties and the Applicable CUSC Objectives, that Consultation Alternative Amendments (A), (B) and (C) would all better facilitate the achievement of the Applicable CUSC Objectives. Of these, Consultation Alternative Amendment (C) is optimal, and is therefore approved for implementation.

The Proposed Amendment is the only one of the options brought forward that would not better facilitate the Applicable CUSC Objectives. Ofgem shares the concern of one consultation respondent that it would not be appropriate for a Proposed Amendment to alter the content of Amendment Proposals already with the Authority for decision. It is imperative that the merit of all Amendment Proposals may be considered on a standalone basis and that the CUSC amendment processes do not deliver Amendment Reports on independent Amendment Proposals whose content is contingent on each other. This would reduce transparency in the exact content of Amendment Proposals with Ofgem for decision at any given time, which would

be likely to have a detrimental impact on market confidence in these arrangements and therefore on competition (Applicable CUSC Objective (b)).

Ofgem considers that 'the efficient discharge by the licensee of the obligations imposed upon it under the Act and by this [the Transmission] licence' (Applicable CUSC Objective (a)) will be better facilitated by ensuring that the name of the licensed entity is clear within the CUSC.

Consultation Alternative Amendment (B) would go some way to achieving this. It would require the most minimal changes to the CUSC of all the alternatives, as well as maintaining consistency between the CUSC and related documents through its continued use of "NGC" within the body of the CUSC. Nonetheless, given that the intention of CAP105 is to reflect that the transmission licensee's name is no longer NGC, Ofgem concludes that Consultation Alternative Amendments (A) and (C), which remove all references to NGC in the CUSC, would result in a CUSC baseline that more cleanly identifies NGET.

Consultation Alternative Amendment (C) best achieves this. In common with Consultation Alternative Amendment (A) it would replace all outdated references to NGC in the CUSC, but unlike Consultation Alternative Amendment (A) it would do so in a manner that would only require the definition of the transmission licensee to be altered were NGET to be re-named again in future, rather than a wholesale overhaul of all the references to it throughout the CUSC. Consultation Alternative Amendment (C) is therefore more future-proof than (A).

The Authority's Decision

The Authority has therefore decided to direct that Consultation Alternative Amendment (C), as set out in the Amendment Report, should be made and implemented. An attached letter contains this direction.

If you have any queries in relation to the issues raised in this letter, please contact Richard Hall on 020 7901 7335.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'N. Simpson', written over a horizontal line.

Nick Simpson
Director, Modifications

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