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22 February 2006

National Grid Electricity Transmission Company Plc,
CUSC Signatories and Other Interested Parties

Our Ref: IND/COD/CUSC/CAP094

Dear Colleague,

Amendment to the Connection and Use of System Code ("CUSC") - Decision and Direction in relation to Proposed Amendment CAP094: "Limited Duration Transmission Entry Capacity".

The Gas and Electricity Markets Authority (the "Authority"¹) has considered the issues raised in the Amendment Report² in respect of Proposed Amendment CAP094 "Limited Duration Transmission Entry Capacity".

National Grid Electricity Transmission Plc (NGET)³ recommended that Working Group Alternative Amendment (WGAA) 3 be approved, noting that all the Working Group Alternative Amendments and Consultation Alternative Amendments developed would better facilitate the Applicable CUSC Objectives when compared to the current baseline. The CUSC Amendments Panel determined that, should any of the options developed under CAP094 be approved, the Implementation Date should be 1 April 2006 if the Authority decision was reached by 31 March 2006, or 10 Business Days after the Authority's decision in the event that the Authority did not make a decision by 31st March 2006.

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

² CAP094 Amendment Report dated 13th December 2005.

³ During the development of this amendment the body discharging National Grid's role with regard to the CUSC was described within the CUSC as National Grid Company plc (NGC). Subsequent to the Amendment Report for CAP94 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 CAP94.

Having considered the Amendment Report and NGET's recommendation as well as having regard to the Applicable CUSC Objectives⁴ and Ofgem's wider statutory duties,⁵ the Authority has decided to direct a modification to the CUSC in line with WGAA 5 for CAP094.

This letter explains the background to CAP094, 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.

Background

Transmission access can be secured by purchasing either long or short term products. Transmission Entry Capacity (TEC) provides a user with the right to export power to the transmission network up to the purchased level at any point during the financial year, subject to the payment of Transmission Network Use of System (TNUoS) charges calculated in accordance with the Statement of the Use of System Charging Methodology. In addition, procuring TEC in one year gives the User a free option to secure the same level of access in the subsequent charging year.

CUSC Amendment Proposal 070 (CAP070): "Short-term firm access service" introduced two within year transmission access products designed to allow generators to access the system, primarily, at system peak. Short Term TEC (STTEC) and Short Notice Short Term Firm (SNSTF) access allow a User to purchase blocks of capacity lasting 28, 35 or 42 days. Blocks may be purchased at any time of the year and any number of times within a Financial Year. Access will be granted by NGET subject to the payment of a non refundable application fee and payment of the relevant charges, calculated in accordance with the Statement of the Use of System Charging Methodology⁶ where capacity is available and no constraint would be created or exacerbated.

In light of the Authority's approval of CAP070, the Proposer of CAP094, First Hydro Company, considered that the available access products did not meet the requirements of Users where:

- transmission capacity is available for the remainder of the Financial Year but NGET is not able to grant enduring Transmission Entry Capacity (TEC) rights either because of the time taken to analyse an application or because future rights are not yet available on the basis of a full planning assessment; and/or
- the generator only requires access for the remainder of the financial year and does not require enduring TEC rights.

⁴ 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.

⁵ 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.

⁶ The charging structure for STTEC and SNSTF were introduced via Use of System Charging Methodology Modification Proposal 12: Introducing a new charge for Short-Term Transmission Access. The Authority published its decision not to veto this proposal in April 2005.

To address this perceived defect, CAP094 was raised and submitted to the CUSC Amendments Panel for consideration at their meeting on 24 June 2005. The Amendments Panel determined that this issue should be considered by a Working Group.

The CAP094 Working Group Report, which included a unanimous view that the Proposed Amendment could not be implemented, on the grounds it provided insufficient time for NGET to assess access requests, and six Working Group Alternative Amendments (WGAA), were submitted to the meeting of the Amendments Panel on 23 September 2005. The Amendments Panel decided that the issue was appropriate to proceed to wider industry consultation.

A consultation document in respect of CAP094 was published by NGET on 4 October 2005⁷. Responses were invited by close of business on 4 November 2005. Three Consultation Alternative Amendments (CAA) were raised by British Energy and, in order to provide Users with an opportunity to comment on the CAAs, NGET published a further consultation paper on 14 November 2005⁸; with responses requested by 28 November 2005.

The final Amendment Report in respect of CAP094 was submitted to the Authority for determination on 13 December 2005⁹.

The Proposed Amendment

CAP094 was proposed in order to introduce a new sub-annual access product, Limited Duration TEC (LDTEC). The proposer considered that this product would supplement the existing sub-annual access products, STTEC and SNSTF. Like these products, LDTEC would confer no access rights in the subsequent year but, unlike STTEC and SNSTF which last for 4, 5 or 6 weeks, LDTEC would provide access until the end of the financial year.

The availability of LDTEC would be assessed against operational criteria and would be progressed according to a pre-defined timetable that would provide access within three weeks from NGET's receipt of an application.

The proposer considered that by addressing 'blindspots' in the existing access regime, the transmission network could be utilised more efficiently and competition in generation stimulated.

CAP094 proposed a uniform, single block of access from a start date to the end of the Financial Year. NGET advised the Working Group that a two-week period to assess LDTEC applications would be too short to allow adequate analysis for access up to the end of the Financial Year.

⁷ <http://www.nationalgrid.com/NR/ronlyres/4F6A42BF-A26D-46AB-B9B9-7F5D0F78155E/3704/CAP094ConsultationvFINAL.pdf>

⁸ www.nationalgrid.com/NR/ronlyres/ED7EC99C-F933-4522-9717-7CD179EAB9A8/4698/ConsultationAlternative_CAP094v10.pdf

⁹ www.nationalgrid.com/NR/ronlyres/EDCAD30E-E866-494F-B2D9-A1F605CEC027/5231/CAP094_FinalARv10_.pdf

The Working Group unanimously agreed that the Original Proposal, as described in CAP094 was unworkable, because it allowed insufficient time for NGET to make an appropriate assessment and was therefore not practicable.

Working Group Alternative Amendments

The Working Group considered a range of alternative options from those involving a simple uniform block of access – Simple Block LDTEC - to options involving firm and indicative profiled blocks of access – Profiled Block LDTEC and Indicative Profiled Block LDTEC. The Group also considered an approach based on amending the CUSC to allow a number of contiguous blocks of STTEC to be applied for in a single application together with a change of the prioritisation rules for STTEC. This was called Multiple Contiguous Blocks of STTEC (MCB STTECC).

Key features of the alternative LDTEC Options

Assessment of applications

The Working Group considered the time required to assess applications for the alternative forms of LDTEC. Following advice from NGET, the Working Group agreed that the assessment timescales should vary according to the total duration of the LDTEC applied for and this would be the same for each of the alternative forms of LDTEC. Specifically, for access periods greater than 9 months NGET would require a six-week assessment period, and this would reduce to two weeks for access periods less than 3 months. NGET noted that a significant reduction in assessment times would require substantial additional resource and hence increased cost.

Capacity limitations

The Working Group considered that there should be a cap on the capacity provided by LDTEC in the same way as TEC and STTEC are capped by Connection Entry Capacity (CEC). In this respect, the Working group considered that the sum of a Generator's acceptances for all access products at any particular time should be capped by CEC:

$$(TEC + STTEC + LDTEC) \text{ acceptances} \leq \text{CEC (summed over the connection site)}$$

Commercial Firmness

The Working Group agreed that once any of the products had been provided to a generator they would all have the same commercial firmness. In the case of Indicative Profile Block LDTEC, capacity would become commercially firm following the weekly notification process. Similarly, when each STTEC Period within an application for MCB STTEC was offered by NGET and accepted by the generator, it would become firm. For the other products, they would become firm once the generator has accepted an offer.

Interaction between new and existing access products

The Working Group considered, but was unable to agree, a rationale for prioritising the assessment and issuing of offers between the various access products within the financial

year. However, within each product type, the Working Group agreed that “first come first served” should generally be used as the deciding factor.

The Working Group agreed that prior to any assessment of STTEC or LDTEC, the background TEC for the given year must be established first. As a result, any interaction between TEC and LDTEC will be limited to TEC increase requests made after the background has been established at the start of the Financial Year.

The Working Group considered the longer period of assessment for LDTEC, combined with its longer duration, would make interaction with TEC, STTEC and other LDTEC applications more likely. The Working Group devised two approaches to prioritising interactive applications:

(a) Prioritisation by Access Product Type: This approach would create a hierarchy of the various access products. Where applications interacted, the assessment and offer made would be progressed in the following order of precedence:

TEC > LDTEC > MCB STTEC > STTEC.

The proponents in the Working Group of this approach believed that larger blocks of access should be settled first, as this would be more likely to result in efficient use of spare capacity. Under this approach, if a TEC application arrived the day before an LDTEC assessment was finished and the two were interactive, the LDTEC process would be halted until the TEC application had been fully processed (which could be up to 118 days for the TEC process plus any time required to re-assess the LDTEC application).

(b) Prioritisation by Date of Application: This approach is effectively a first-come-first-served approach. Where a TEC application arrives after an LDTEC application and the two interact, the LDTEC applicant is informed they are interactive with a TEC application. The TEC application is processed in the normal timescales and two conditional offers are made:

- an offer for TEC on the assumption that the LDTEC offer is accepted; and
- an offer on the basis that the LDTEC offer is rejected.

In parallel, the LDTEC application is assessed in the normal timescale and an offer made accordingly. The TEC applicant is advised of the outcome and could accept one of the offers made. Conversely, if an LDTEC application arrives after a TEC application and the two interact, the LDTEC applicant is informed they are in a queue and given the option to withdraw their application. If the application is not withdrawn, the assessment of the LDTEC application would commence after the TEC application has been fully processed.

Since LDTEC applications can be interactive with other LDTEC applications and TEC applications, the Working Group agreed that the applicants should be informed they are in a queue when this happens. Further, they should have the option of withdrawing or varying the start date of their application.

Alternatives Developed

The Working Group was unable to reach a consensus regarding a single product. Following extensive discussions, four alternative products were developed. The Group considered that all of these in isolation, and two sets of these in combination, would better facilitate achievement of the Applicable Objectives. As such, the Group formulated six Working Group Alternative Amendments (WGAA).

WGAA 1 – Simple Block LDTEC (SB LDTEC)

WGAA 1 proposed the introduction of a simple, uniform block of access. This product would provide access within a Financial Year where the User would specify the start and end dates of the access period, and also the minimum and maximum capacity sought; where the minimum could be zero.

NGET would assess the application and, if no capacity could be offered in the date and capacity range requested, the application would be rejected. Alternatively, if NGET could offer access within the timescale and range requested, they would offer a uniform block of access over the period. As with the Original Proposal, the capacity offered would be limited by minimum capacity available during the period requested. The Working Group proposed that a generator could either reject or accept the offer. If accepted, the user would then have a firm access right up to the level offered.

Parties in favour of the alternative considered that it was superior to the other WGAA's primarily because of simplicity. These parties considered that NGET's assessment process would be simplified and that the short term access market would not be made unduly complex.

Parties with expressed opposition to the WGAA considered that WGAA 2 – Profiled Block (PB) LDTEC could provide the same level of access as SB LDTEC and, as such, it was only a subset of that WGAA and hence superfluous. It was also argued that SB LDTEC could unnecessarily sterilise the granting of capacity were access unavailable for only a small part of the requested period and as such it was unlikely to facilitate competition and effectively utilise the transmission network.

WGAA 2 – Profiled Block LDTEC (PB LDTEC)

WGAA 2 seeks to introduce a firm profiled block of access. As with SB LDTEC, the duration of access would start and end in the same Financial Year with dates specified by the User, and the applicant would specify a minimum and maximum capacity; again, the minimum could be zero.

NGET would assess the application and, if no capacity could be offered in the period and capacity range requested, the application would be rejected. Alternatively, if NGET could offer access within the timescale and range requested, they would offer a profile of firm access over the period.

The generator would have the choice to accept or reject this offer. If a generator wished to accept the offer it could do so in full or up to a capped maximum value within the

profile offered. The Generator would then obtain firm access in the profile offered by NGET limited by any cap provided by the User.

Respondents in favour of the WGAA argued that by providing increased flexibility PB LDTEC would maximise the amount of access offered to applicants, which was likely to facilitate competition in generation. Parties also argued that by providing greater certainty of access than IPB LDTEC the product was more desirable.

Parties that opposed the WGAA argued that the greater complexity introduced by PB LDTEC would require more NGET resource and increase the risk that capacity be provided inefficiently. They also considered that PB LDTEC would require more complex monitoring. Parties also considered that there may be a greater risk of increased balancing costs, which could increase Balancing Services Use of System (BSUoS) charges and fail to facilitate competition.

WGAA 3 – Indicative Profiled Block LDTEC (IPB LDTEC)

As with the previous models, WGAA 3 involves the applicant detailing the access period and a minimum and maximum capacity required. Following NGET's assessment, if no capacity could be offered in the period and capacity range requested the request would be rejected. Alternatively, if the application could be accommodated, NGET would offer the first seven weeks on a firm basis and a profile of non-firm access for the remainder of the access period.

The applicant would have the choice whether to accept or reject the offer. If the generator wished to accept the offer it would do so by indicating a capacity figure less than or equal to the maximum capacity applied for. The generator would then have firm access up to the level offered by NGET for the first 7 weeks, after which the User would have a right to any available capacity up to the figure it stated when accepting the offer. NGET would then notify the User of the capacity available after the seventh week on a weekly basis. Beyond the first seven weeks at the point of Generator acceptance, the capacity notified to the User subsequently might be lower or higher than indicated.

The notification process would commence immediately after the User has accepted the offer. NGET would notify the User of the capacity available in the week starting 8 weeks in the future.

The supporters of WGAA 3 considered that by providing increased flexibility to PB LDTEC the WGAA would maintain the advantages of that option while having the potential for more access to be made available. They considered that this would result from capacity being reserved in order to provide head room to cater for unplanned outages. They also noted that any risk of increased balancing costs would be mitigated under this option. By maximising usage but avoiding risk of increased costs, parties in favour of WGAA 3 considered it would facilitate competition and promote efficient network usage.

Conversely, Users which did not support WGAA 3 considered that the reduced certainty associated with an indicative profile reduced the chance that generators could plan and utilise the access efficiently. Concern was also expressed that the weekly re-assessment of available capacity could impair NGET's ability to efficiently deliver the transmission network.

WGAA 4 – Multiple Contiguous Blocks of STTEC (MCB STTEC)

WGAA 4 proposes to amend the CUSC to allow a number of contiguous blocks of STTEC to be applied for in a single application together with a change of the prioritisation rules for STTEC.

Specifically, each STTEC Period within an application for MCB STTEC would be assessed, and offers made, in the normal STTEC timescales. In the event of an interaction between an application for MCB STTEC and a single STTEC application, the MCB STTEC application would be assessed first.

Working Group members that supported the WGAA considered that the familiarity of the existing STTEC product gave confidence that MCB STTEC would only represent a small enhancement of the access regime; minimising risk. Supporters also noted that there may be small administrative gains for NGET, resulting from single application fees, and that the risk of increased balancing costs would be reduced.

Parties which opposed the WGAA stated that the rationale for raising CAP094 was the lack of certainty associated with the use of STTEC and that developing the STTEC product would do nothing to alleviate these concerns. It was also noted that MCB STTEC would not give the weekly resolution of access provided by PB or IPB LDTEC which could mean that WGAA was less effective in ensuring that all available access was offered. It was also noted that the benefits of the WGAA are marginal but that the full costs of a CUSC Amendment would be required to implement it.

Combinations of options

In proposing WGAA's, the Working Group considered the benefits provided by each combination of two or more single products over and above that provided by each of the products individually. Where there was no additional benefit, the combination was discarded. As such, two further WGAA's were proposed.

WGAA 5 – PB LDTEC & IPB LDTEC

WGAA 5 would bring in both PB LDTEC and IPB LDTEC. These products would co-exist and would have the characteristics identified previously. Users would be able to apply for either an offer for one product or two offers for both products, with the user being able to accept one.

Supporters of WGAA 5 considered that the two products are complementary and would enable NGET to manage available capacity in an efficient manner, while allowing Users to assess the risk associated with firm and non-firm access by comparing offers. Supporters also argued that the availability of both products could mitigate the perceived disadvantages of individual products.

Users which opposed the WGAA considered that by introducing two access products the likelihood that the primacy of TEC would be compromised would increase. The arguments raised against the individual PB and IPB products were also repeated.

WGAA 6 - IPB LDTEC & MCB STTEC

WGAA 6 would establish both IPB LDTEC and MCB STTEC. Again, these products would co-exist and would have the same characteristics to the single products described. However, access would be prioritised by access product type.

Supporters of WGAA 6 considered that this combination of products would allow applicants to use access that each product on its own would be unlikely to allow. These supporters noted a scenario in which an application for IPB LDTEC is made and the applicant's access capped by their acceptance and NGET was then subsequently able to release further capacity as the weekly assessment process rolls forward. As such, a User would be able to gain priority access to this released capacity.

Users which opposed the option repeated their objections to MCB STTEC as an individual product. It was also argued that the rights obtainable via this combination of access products could be achieved through multiple applications for IPB LDTEC, which would also give a finer resolution of capacity.

Respondents' views

NGET issued a consultation paper on 4 October 2005 inviting responses from CUSC Parties and interested parties.

NGET received 8 responses to the consultation in respect of CAP094, of which 5 supported CAP094 in some form and three opposed it. Of those who supported the proposal, three supported WGAA 5, one supported WGAA 3 and one proposed a series of Consultation Alternative Amendments.

The respondents who favoured WGAA5 argued that by combining PB LDTEC and IPB TEC it would offer the most efficient release of capacity and thus promote the most efficient use of the network. The respondent who favoured WGAA3 argued that while WGAA5 initially appealed, the fact that it resulted in the introduction of two new products could cause unnecessary complications.

The three respondents who opposed the proposal expressed concerns over increased complexity and the possibility that the primacy of TEC could be undermined. One respondent considered that the proposal in any form could lead to inefficiency and distort competition. Another respondent questioned whether a defect exists and noted that access could already be achieved using the existing STTEC product.

The respondents' views are summarised and contained in Annex 4 of the Amendment Report in respect of CAP094.

Consultation Alternative Amendments (CAA)

During consultation three Consultation Alternative Amendments (CAA) were raised by British Energy. All three options are based on the MCB STTEC product.

British Energy considers that MCB STTEC should be completely separate from STTEC, rather than be based on the existing STTEC product as is the case with WGAA 4 & 6,

and propose that applications for MCB STTEC should be prioritised by date of application as opposed to type of product. The proposer considers that this prioritisation mechanism would overcome concerns that a product prioritisation approach may be discriminatory. British Energy further considers that the revised MCB STTEC would provide Users with an improved service in the form of a notified access product similar to IPB LDTEC apart from the amount of access firmed up in each notification.

Revised MCB STTEC would exist in the same two forms as STTEC and SNSTF. Users would be able to make a single application for revised MCB STTEC, comprised of a number of contiguous blocks of access with the same characteristics as STTEC. Each block would be progressed according to arrangements that mirror those of the equivalent STTEC product.

Consultation Alternative Amendment 1 – Revised MCB STTEC

CAA 1 would introduce the revised product described above.

Consultation Alternative Amendment 2 – Revised MCB STTEC & IPB LDTEC

CAA 2 would mirror WGAA 6 but introduce IPB LDTEC alongside the revised MCB STTEC product. Interactive applications would be prioritised based on application date.

Consultation Alternative Amendment 3 – Revised MCB STTEC & SB LDTEC

CAA 3 proposes to combine the revised MCB STTEC with SB LDTEC product, as described in WGAA 1. Interactive applications would be prioritised based on application date.

Consultation Alternative Amendment consultation

In order to facilitate consideration of the CAAs, NGET issued an additional consultation for a period of two weeks on 14 November 2005.

NGET received 7 responses in respect of its second consultation. Of these respondents, one supported the CAAs and all others opposed them.

The party which supported CCA1 set out the view that this would address discrimination concerns regarding product prioritisation and would provide an approved service to users in the form of a rolling notified access product. Of the six parties who opposed all of the CCAs two noted that MCB STTEC options would also serve to increase complexity of the arrangements for obtaining access. Three respondents argued that the CCAs offered no advantage over STTEC. Two respondents also noted that MCB STTEC would result in lower levels of capacity being released than is available at peaks and thus that available capacity would remain sterilised.

In relation to all of the options proposed three respondents reaffirmed their support for WGAA 5 and one confirmed their support for WGAA 3. One respondent noted that they remained unsupportive of the proposal in any form while another respondent suggested that any of the WGAA's or CAAs could lead to inefficiency and distort competition.

Responses to NGET's second consultation are contained in Annex 5 of the Amendment report to the Authority.

Views of Panel members

No Panel member commented on the Proposal in their context as Panel members and the Panel provided no recommendation.

Recommendation to Ofgem

NGET recommended that Working Group Alternative Amendment (WGAA) 3 be approved. It set out the view that there are merits in introducing a flexible, sub-annual access product that can provide access over a range of timescales. On this basis NGET noted that all the Working Group Alternative Amendments and Consultation Alternative Amendments developed would better facilitate the Applicable CUSC Objectives when compared to the current baseline. NGET's support for WGAA 3 stemmed for the fact that it would strike the correct balance between maximising the provision of additional access rights and managing the risk of additional constraints. Further, NGET argued that combined products may only provide marginal benefits as they may result in an offsetting increase in the complexity of the access framework, thereby degrading its transparency and impacting upon competition.

Two general approaches were considered for implementation; implementation as soon as possible, and implementation at the start of the next Financial Year. No consensus was reached and, in accordance with paragraph 8.20.2 (g) of the CUSC, the matter was put to the CUSC Amendments Panel for determination. The Panel noted that, even if CAP094 was implemented as soon as possible, due to timing of the Amendment Report and the timescales involved in using the potential products, it would not be possible for Users to apply for the product or products until 1 April 2006 at the earliest. The CUSC Amendments Panel therefore determined that should any of the options developed under CAP094 be approved, that the Implementation Date should be 1 April 2006 if the Authority decision was reached by 31 March 2006, or 10 Business Days after the Authority's decision in the event that the Authority did not make a decision by 31 March 2006.

Ofgem's view

Having considered the Amendment Report and NGET's recommendation, Ofgem considers, having regard to the Applicable CUSC Objectives and its statutory duties, that all the proposed WGAA's and CAAs (but not the Original Amendment Proposal) in respect of CAP094 would better facilitate the achievement of the Applicable CUSC Objectives when compared to the current baseline of the CUSC. However, the Authority considers that WGAA 5: "PB LDTEC and IPB LDTEC" represents the most appropriate option from the range of options considered.

Original Amendment Proposal

Ofgem notes the universal view of the Working Group that the Proposal in its original form was unworkable and would not therefore meet the Applicable CUSC Objectives. Ofgem agrees with respondents on the basis that the original amendment proposal would

not have provided sufficient time for NGET to assess access requests. NGET would neither have been able to efficiently discharge its function of assessing access requests nor therefore would the resulting outcome have better facilitated competition in the generation of electricity. Consequently, Ofgem considers that the original Amendment Proposal fails to better facilitate the achievement of either of the Applicable CUSC Objectives.

WGAA 1 – SB LDTEC

By providing a generator with a block of short term access running until the end of the year, Ofgem considers that the risks associated with purchasing multiple blocks of STTEC will be reduced and, if greater levels of short term capacity are purchased, competition in generation is likely to be enhanced. This may extend further, as noted by respondents and Working Group members, into greater competition for balancing services.

Ofgem additionally notes that the product is likely to lead to more efficient utilisation of the transmission network. Ofgem considers that the existing first come first served mechanism for TEC applications and the granting of the same level of access right to a party in the subsequent year once TEC is purchased, may create circumstances where TEC is reserved at a point in future but where capacity exists for a period prior to that date that cannot be used by other generators. As such, a product such as SB LDTEC, which can provide access for up to 45 weeks of the year, can be expected to allow this capacity to be made available and available transmission network capacity more efficiently utilised. This would enable NGET to better fulfil its statutory duty with regard to developing and maintaining an efficient, co-ordinated and economic transmission system.

However, Ofgem considers that SB LDTEC does not provide any incremental benefits over PB LDTEC. Indeed, Ofgem concurs with the view of respondents that SB LDTEC provides one of a number of profiles that could be purchased under PB LDTEC. Ofgem also notes the relative inflexibility of SB LDTEC compared to other WGAA's and considers that this may reduce the level of additional access provided. Consequently, other options are likely to better facilitate competition in generation.

Ofgem is also not convinced that the benefits associated with the simplicity of the SB LDTEC product are material. While Ofgem considers transparency and proportionality to be relevant criteria against which any access regime should be assessed, it is not convinced that these goals cannot be achieved even where products are relatively complex. On this basis Ofgem is not convinced WGAA any better facilitates the efficient discharge by the licensee of its functions than other options.

Consequently, whilst Ofgem considers that SB LDTEC better facilitates achievement of the Applicable CUSC Objectives compared to the existing arrangements, it does so to a lesser extent than other WGAA's.

WGAA 2 – PB LDTEC

As mentioned above, Ofgem considers that PB LDTEC provides additional benefits when compared to SB LDTEC. Ofgem considers that it is in the interest of consumers for the transmission network capacity to be utilised as efficiently as possible. By providing

generators with the option of accepting a varying profile of firm access rights based on their individual circumstances, Ofgem considers it likely that available capacity will be more effectively utilised under the PB LDTEC approach than under the existing STTEC/SNSTF regime and under WGAA 1. WGAA 2 would therefore enable NGET to better fulfil its statutory duty with regard to developing and maintaining an efficient, co-ordinated and economic transmission system. Further, enabling the most efficient use of capacity will in turn be expected to provide more options for generators in securing access and thus increase competition in generation.

Should PB LDTEC lead to greater administrative costs for NGET, Ofgem would expect this to be addressed via an amendment to the application fees contained within the charging methodologies, consistent with the relevant objectives,¹⁰ in particular the objective requiring that charges reflect costs as far as is reasonably practicable. Ofgem notes the concern of respondents that PB LDTEC could lead to an increase in constraint costs, paid for by all Users. NGET has consistently maintained that short term capacity will only be made available where no constraint may be created or exacerbated. While Ofgem acknowledges that circumstances may result in constraint costs, NGET in its role as GB system operator is incentivised to minimise such costs and would be penalised under its SO incentive scheme¹¹ were they to arise. Therefore, the impact of a change in administrative costs will not impede the development of competition in generation.

On this basis Ofgem considers that PB LDTEC better facilitates achievement of both the Applicable CUSC Objectives than both the existing arrangements and WGAA 1.

WGAA 3 – IPB LDTEC

Ofgem notes that the indicative nature of the product may allow NGET to alter the level of capacity available in response to unanticipated events. As a result IPB LDTEC may be expected to allow more efficient utilisation of the transmission network than both the present arrangements and firm products and as such enable NGET to better fulfil its statutory duty with regard to developing and maintaining an efficient, co-ordinated and economic transmission system.

Another benefit of an indicative product in relation to the ability of NGET to respond to unanticipated events is the potential to mitigate concerns over increased balancing costs. The reduction of risk in this way would be consistent with better facilitating competition in generation.

The counter argument of an indicative product is that its lack of firmness may expose generators to a greater level of risk in seeking access and as such deter usage of the product, reducing benefits associated with increased competition. However, Ofgem considers that the positive impact WGAA 3 would have on competition by increasing the level of capacity available to generators will exceed any issues associated with the firmness of the product.

Ofgem therefore considers that IPB LDTEC better facilitates achievement of both the Applicable CUSC Objectives than both the existing arrangements and WGAA 1. In

¹⁰ As set out in Standard Condition C5 of the electricity transmission licence

¹¹ The current scheme began on 1 April 2005.

allowing NGET to alter the level of capacity available it is arguable that WGAA 3 better facilitates competition in generation than WGAA 2. However, by way of counter argument, the associated risk of an indicative product means WGAA 2 might be considered to better facilitate competition in generation than WGAA 3. On balance WGAA 2 and 3 can be seen to be broadly equal in terms of better facilitating Applicable CUSC Objective (b). Further, by providing access over a range of timescales WGAA 3 can be considered to marginally better facilitate Applicable CUSC Objective (a) than WGAA 2.

WGAA 4 – MCB STTEC

Ofgem considers that MCB STTEC provides a marginal incremental benefit when compared to the existing access arrangements but that it is likely to better facilitate achievement of the relevant objectives to a lesser extent than either WGAA 2 or WGAA 3.

Allowing parties to apply concurrently for blocks of short term access may have administrative benefits to NGET and generators and would involve least change to the existing arrangements. However, Ofgem does not consider that the issues associated with the flexibility of STTEC and SNSTF would be addressed. WGAA 4 would not ensure all available access was offered and therefore lead to the transmission network being more effectively utilised to any great extent. As such it would only marginally better facilitate Applicable CUSC Objective (a) and to a lesser extent than LDTEC options. Further, in relation to competition Ofgem considers that an extension of the existing product would not increase the choice of products available to generators to the same extent as LDTEC options. Consequently, competition in generation would be increased to a lesser extent under WGAA 4 than under other LDTEC options such as WGAA 2 and WGAA 3.

WGAA 5 – PB & IPB LDTEC

As noted previously, Ofgem considers that both PB LDTEC and IPB LDTEC better facilitate achievement of the Applicable CUSC Objectives. Both products provide generators with profiled access and as such provide more flexible within year access products which can be expected to lead to the efficient utilisation of the transmission network and promote competition in generation. However, Ofgem notes that parties expressed concerns regarding increased balancing costs in the case of PB LDTEC and the lack of firmness in the case of IPB LDTEC.

Ofgem considers it likely that a greater level of capacity could be made available via IPB LDTEC than PB LDTEC, as NGET is more able to respond to unexpected events on the network under IPB LDTEC and may be expected to leave less headroom to cope with these events and mitigate the risk of increased balancing costs. Therefore, Ofgem considers that by providing a generator with the option of applying for PB or IPB LDTEC (or both), subject to the payment of appropriate application fees, a generator will be better able to accept a profile which represents individual perceptions of risk and allow them to make efficient commercial decisions. Ofgem considers that this option can be expected to provide the greatest flexibility and promote the most efficient utilisation of the transmission system consistent with NGET being able to best fulfil its obligations under the Electricity Act and its licence, in particular its statutory duty with regard to developing and maintaining an efficient, co-ordinated and economic transmission system.

Further, it should promote competition in generation to the greatest extent relative to the other proposed WGAAAs.

Ofgem is not convinced that any additional complexity associated with the option would represent a barrier to market entry or usage and considers the risk of increased balancing costs as a result of increased constraint payments to be limited. On this basis Ofgem is not convinced that there are any proposed options which better facilitate the efficient discharge by the licensee of its functions.

As such, Ofgem considers that WGAA 5 provides benefits in excess of both WGAA 2 and WGAA 3 in isolation and greater than those provided either by MCB STTEC on its own or combined with other LDTEC products such as in WGAA 6 and the Consultation Alternative Amendments which are considered below. As such, the Authority considers that, of the WGAAAs proposed in regard to CAP094, WGAA 5 best facilitates achievement of the Applicable CUSC Objectives.

WGAA 6 – IPB & MCB STTEC

As noted above, Ofgem does not consider that MCB STTEC provides the same level of flexibility or is likely to promote competition in generation and efficient utilisation of the transmission network to the same extent as other proposed access products.

As such, while Ofgem considers that this combination of options may be expected to better facilitate achievement of the Applicable CUSC Objectives relative to the existing arrangements, it considers that it is likely to do so to a lesser extent than WGAA 5 as discussed above.

Consultation Alternative Amendments

As noted when considering WGAAAs 4 and 6, Ofgem does not consider that MCB STTEC options provide the same degree of flexibility as alternative access products. Ofgem does not consider that this situation is altered by the revised prioritisation method described within the consultation alternative amendments. Consequently, Ofgem continues to consider that MCB STTEC provides only marginal benefits when compared to the Applicable CUSC Objectives. Hence Ofgem considers that other options better facilitate achievement of both of the Applicable CUSC Objectives to a greater extent than any of the MCB STTEC options.

Following a thorough consideration of the options, on balance Ofgem considers that, of all the options proposed, WGAA 5 best facilitates achievement of the Applicable CUSC Objectives. By providing generators with the maximum choice over access, Ofgem considers that the likelihood that the system will be efficiently utilised and competition stimulated is maximised. Ofgem also considers that the two products may allow NGET to mitigate the risk of increased constraint costs.

The Authority's Direction

The Authority has decided to direct that proposed CUSC amendment WGAA 5, 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, hereby directs NGET to modify the CUSC in accordance with WGAA5 as set out in the Amendment Report.

The modification is to be implemented and take effect as of 1 April 2006 subject to charging arrangements having been implemented¹².

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,

A handwritten signature in black ink, appearing to read 'Robert Hull', with a horizontal line underneath.

Robert Hull
Director of Transmission

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

¹² The Authority will shortly publish its decision on Electricity Charging Methodology Modification 03 (ECM-03) which establishes a charging framework to underpin CAP094.