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Date: 1 April 2020

Dear Trisha,

**Decision on CUSC Modification Panel's recommendation for CMP337 'Impact of DNO Contributions on Actual Project Costs and Expansion Factors' and CMP338 'Impact of DNO Contributions on Actual Project Costs and Expansion Factors – New Definition of Cost Adjustment' to be treated as Urgent CUSC Modification Proposals**

On 16 January 2020, Scottish Hydro Electricity Power Distribution (SHEPD, the 'Proposer') raised Connection and Use of System Code (CUSC) Modification Proposals CMP337 and CMP338. These proposals prescribe a mechanism to allow distribution network operators (DNOs) to contribute to the cost of new AC subsea and HVDC circuits, and to allow this contribution to be netted off from costs faced by the generators connecting to these circuits.

Following discussion with the Panel, SHEPD requested in March that the proposals are treated as urgent. We have considered both the Panel's and the Proposer's views. We have decided that CMPs 337 and 338 **should be progressed on an urgent basis**. We have set out our reasoning below.

**Background**

SHEPD presented the modifications at the CUSC Modifications Panel's (the 'Panel') on 31 January 2020, suggesting that they proceed straight to Code Administrator Consultation. Panel members asked for clarity on a number of issues before determining whether or not the proposals should proceed to Workgroup or Code Administrator Consultation.

At Panel on 27 February 2020, the Proposer addressed the points made at the 31 January Panel. During that February Panel meeting, a Panel member highlighted a concern that there is a prospect that the relevant Main Integrated Transmission System (MITS) node could move to Shetland, which would affect the extent to which charges faced by connecting generators would be local circuit or wider locational charges.<sup>1</sup> The Panel considered that a workgroup would be needed to ensure the implications of a potential move of the MITS node are fully considered.

Following the Panel's decision that CMPs 337 and 338 should proceed to a workgroup, on 9 March 2020, the Proposer resubmitted CMPs 337 and 338 as Urgent CUSC Modification Proposals. The Panel considered the Proposer's urgency request at its special meeting on

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<sup>1</sup> A MITS node is one with either (i) more than four Transmission Circuits; or (ii) two or more Transmission Circuits and a Grid Supply Point.



18 March 2020. On 23 March 2020, the Panel wrote to inform us of its unanimous view that CMPs 337 and 338 should be treated as urgent because it considered there could be:

- (a) a significant commercial impact on parties, consumers or other stakeholder(s), and
- (b) a significant impact on the safety and security of the electricity and/or gas systems

if CMPs 337 and 338 are not treated as urgent.

## **The proposal**

In December 2019, we published our decision in principle on proposals by SHEPD to contribute financially towards a proposed electricity transmission link to Shetland.<sup>2</sup> In this decision, we confirmed that if we approve the Final Needs Case for the proposed Shetland transmission project, we will approve SHEPD's contribution proposal, subject to it being implemented through standard CUSC modification processes (and modifications to both SHEPD's distribution licence and the transmission owner's (TO) licence).

In response to our December 2019 decision, SHEPD raised CMP337 to allow DNOs to contribute to the cost of new AC subsea and HVDC circuits, and to allow this contribution to be netted off from costs faced by the generators connecting to these circuits. The proposal prescribes the mechanism for how any such contribution would affect charges faced by generators; the contribution value itself would be for the Authority to determine. The proposed legal text aims to affect charges in a way which maintains the exact pro-rating of costs between local circuit and wider locational charges for the connecting generators. CMP338 proposes a new definition of "Cost Adjustment" to give effect to CMP337.

In its urgency request, SHEPD explained why it was requesting a timetable that would enable an Authority decision on these modifications by its original proposed date of 12 May 2020, highlighting two of the three urgency criteria:

- (a) a significant commercial impact on parties, consumers or other stakeholder(s), and
- (b) a significant impact on the safety and security of the electricity and/or gas systems.

With respect to the commercial impact, SHEPD highlighted what it considered to be a series of interdependent steps:

- The necessary contract placement and associated governance are required to be finalised in early summer 2020 to enable the TO and the developer's programmes to meet the contracted connection date of 2024.
- The Authority is expected to require developer commitment to be confirmed as a pre-requisite to its approval of the Shetland link Needs Case. Developers require an appropriate degree of confidence in their transmission network charges before confirming their investment.
- If developer commitment cannot be confirmed because the CUSC modifications remain uncertain, the Authority's requirement for the TO to demonstrate developer commitment as part of the Needs Case will remain unmet, and the Authority can be expected to be unable to make its decision to approve the Shetland link Needs Case.
- If the Authority does not approve the Shetland link Needs Case by June 2020, the TO has confirmed that its programme for delivery by April 2024 is at risk. Any further delay in progress of the Needs Case decision triggers programme delays through missed contract placement, cable manufacturing and construction windows, which in turn will drive delays to the planned energisation date (and additional, potentially substantial costs). Ultimately this will negatively impact all parties which are relying on the link.

SHEPD also highlighted a security of supply risk for the Shetland Isles. SHEPD has a licence obligation to recommend to the Authority an enduring security of supply solution for

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<sup>2</sup> [https://www.ofgem.gov.uk/system/files/docs/2019/12/20191217\\_shepd\\_contribution\\_decision\\_accessible.pdf](https://www.ofgem.gov.uk/system/files/docs/2019/12/20191217_shepd_contribution_decision_accessible.pdf)



Shetland in recognition of the need to reduce reliance on the ageing diesel plant which currently fulfils this role. These proposed modifications form part of its proposed security of supply solution. SHEPD considered that the risk to the progression of the generation development and the transmission link, as a consequence of delays to these proposed modifications, could jeopardise this solution.

## **Panel discussion**

The Panel considered the request for urgency by reference to Ofgem's Guidance on Code Modification Urgency Criteria.<sup>3</sup> The Panel's unanimous view was that CMPs 337 and 338 do meet these criteria and should be treated as Urgent CUSC Modification Proposals.

The unanimous view of the Panel was that there could be a significant commercial impact on parties, consumers or other stakeholder(s) and a possible risk to security of supply if CMPs 337 and 338 are not treated as urgent. The Panel was keen to ensure that the urgent timetable allowed sufficient time for workgroup assessment and consultation to fully consider the issues.

## **Our views**

We have considered the proposal and the Panel's views on urgency. We have assessed the request against the urgency criteria set out in our published guidance, and in particular, whether the proposal is linked to an imminent issue or a current issue that, if not urgently addressed, may cause a significant commercial impact on parties, consumers or other stakeholder(s). We agree this modification meets this criterion.

We recognise the commercial impact identified by SHEPD and consider it to be significant. We agree that there is limited scope for this commercial impact risk to be managed by the generator contractually, due to interdependencies with the TO delivery plan.

We recognise that the generator is likely to require certainty on these proposed modifications to reach its Final Investment Decision (FID). This is because CMPs 337 and 338 would, if approved, prescribe how SHEPD's contribution will affect generator charges. If the generator is unable to make its FID in the summer of 2020, there is a significant risk that the TO will not be able to start work in time to meet its connection date, as it considers our approval of the transmission Needs Case is likely to be conditional on generator FID. If FID is not made until the autumn, then, owing to the weather-dependent nature of this sort of subsea construction, there is a risk that construction cannot start on the transmission link until spring 2021.

We will be consulting on the TO's Final Needs Case submission for the transmission link in the coming weeks.

While we do not consider that an Authority decision is necessary by 12 May 2020, we acknowledge that, without urgency, there is no prospect of the modifications reaching for us for decision by early summer. Currently, owing to the number of existing modifications, new modification proposals that are not considered urgent or of the highest priority are not expected to start workgroups until June 2020. We note that, following the Panel's request for two workgroups before the workgroup consultation, the Final Modification Report is expected to reach us on 2 June 2020.

We consider the proposed urgent timeline should allow sufficient consideration of the issues while being consistent with an Authority decision early in summer 2020. We encourage the workgroup to adopt a considered and robust assessment process, as such we recognise that the timetable may need to be amended to ensure such a robust process, including, but

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<sup>3</sup> [https://www.ofgem.gov.uk/system/files/docs/2016/02/urgency\\_criteria.pdf](https://www.ofgem.gov.uk/system/files/docs/2016/02/urgency_criteria.pdf)



not limited to, the accommodation of potential resourcing impacts related to the Covid-19 pandemic.

While we acknowledge the importance of the link to providing security of supply to Shetland, we do not believe that granting urgency for these modifications will materially affect security of supply, given the planned connection of the link in 2024. If we are unable to issue a decision on this modification by early summer, we consider there should be sufficient time for alternative arrangements to be made to secure supply on Shetland from 2024.

We also note that the issue of the MITS node potentially moving to Shetland could have been raised earlier in the process, allowing parties more time to consider the issue in advance of the second Panel meeting, and to prepare an appropriate response.

For the avoidance of doubt, in granting this request for urgency, we have made no assessment of the merits of the proposal and nothing in this letter in any way fetters our discretion in respect of this proposal.

Yours sincerely,

**Eleanor Wood**

**Head of Electricity Network Charging**

Duly authorised on behalf of the Authority