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| Title of the CUSC Modification Proposal |
| Arrangements for Relevant Distributed Generators Under the Enduring Generation User Commitment |
| Submission Date |
| 16.09.2013 |
| Description of the Issue or Defect that the CUSC Modification Proposal seeks to address |
| <p>This CUSC modification seeks to address an unintended consequence of the application of CMP192 and related terms under Section 15 of the CUSC. As a consequence of the rules described below, distribution connected generators deemed to have an impact on the transmission network are faced with undue discrimination in the way that liability and security terms and conditions are set and how the sums are calculated and passed on.</p> <p>The CMP192 methodology separates the liability (“termination amount”) from the associated security amount (to take into account the reduced likelihood of termination – and therefore stranded assets – as project certainty increases). Once developers have reached pre-determined stages of project development their securities reduce relative to the liability in recognition of the reduced risk of termination as a project nears completion.</p> <p>Overall, the new methodology for setting liabilities and securities under CMP192 has been a welcome improvement for renewable energy projects. However, the rules for the application of CMP192 in CUSC Section 15 ‘User Commitment Methodology’ appear to have created new issues for Distribution Network Operators (DNOs) and their generation customers. The resulting treatment of generators that are directly transmission connected is contrasted to the treatment of distribution connected generators below:</p> <p><u>CMP192 treatment of generators which are directly transmission connected</u></p> <p>Generators seeking to directly connect to the transmission network only have to provide security to National Grid for the reduced security amount (although they remain liable for 100% of the termination amount). Generally, a pre-consented project secures 42% of its CMP192 liability from the “Trigger Date” until the point that it achieves consent, then after consent until energisation, it secures only 10% of its CMP192 liability.</p> <ul style="list-style-type: none">• Recovery mechanism for stranded assets: NGET has an adjustment mechanism in its licence (Special Licence Condition: 6F) which permits it to recover the value of stranded generation connections spend, subject to satisfying certain conditions, in the event that it is unable to recover 100% of a generator’s liability following a termination of its connection agreement. <p><u>CMP192 arrangements – impact on distribution connected generators</u></p> <p>For clarification, currently most distribution connected generators in the majority of DNO areas are not deemed to have an impact on the reinforcement needs for the transmission network. In instances where they are considered to have an impact, DNOs will enter a Construction Agreement with NGET in respect of any</p> |

construction works required as a result of their connection. Where this occurs these generators - referred to henceforth as 'relevant distributed generators' - are indirect recipients of NGET's security and liability requirements as described below.

DNOs are defined as 'Users' under S15 of the CUSC and have a direct contractual relationship with NGET. Thereby DNOs are liable to NGET for the full costs of the "attributable" (and in some cases the "wider") transmission works required for relevant distributed generators, in the same way that transmission connected generators are liable for the cost of those transmission works. (I.e. The relevant distributed generators have no direct relationship with NGET in relation to the reinforcement works).

- Recovery mechanism for stranded assets:

If a relevant distributed generator fails to proceed and terminates its contract with the DNO (the contracted 'user'), the DNO will terminate its agreement with NGET, who would in turn seek to recover the full liability amount from the DNO rather than from the relevant distributed generator. In the absence of a suitable recovery mechanism (such as NGET has), some DNOs are seeking to cover the risk that they will have to pay termination charges to NGET by seeking security from the relevant distributed generator for the entire CMP192 liability amount at all times and passing on much more onerous contractual terms and conditions compared to NGET's.

The treatment of embedded generation projects with Bilateral Embedded Generation Agreements (BEGAs) is slightly different. An embedded generator with a BEGA would be exposed directly to NGET under CMP192 for liability and security requirements associated with *wider* works. In this case the generator would benefit from the milestone-related reduced security requirements under CMP192 for the wider works costs *but not for the attributable works costs*, as the DNO would require them to secure their full liability (as again, this would be the amount that the DNO would have to pay to NGET in the event of an agreement being partially or fully terminated).

Undue discrimination

DNOs are undoubtedly left exposed under the arrangements and some are managing the risk by requesting 100% securities throughout the development period and insisting on more onerous terms and conditions – while this is rational it unfortunately creates a large barrier to the connection of relevant distributed generators. Providing cash security, letters of credit or parent company guarantees to secure 100% of the liability sum has cash-flow implications and is not a viable option for many companies and communities, threatening the ability to sustain their distributed generation projects.

The relevant distributed generators would be treated differently directly under NGET's terms and conditions. The DNO methodologies for liability and security apportionment are not always transparent, the forecast period for the liabilities can be shorter than that provided by NGET exposing relevant distributed generators to volatility. We also note that because different DNOs are taking different approaches to how their liability and security exposures are passed through and there is a lack of consistency in terms of market access for distribution connected generators from one part of the country to the next.

CMP192 original objectives not being met

Treating generators that are connected to the distribution system in a less beneficial manner to those connected directly to the transmission system - with respect to pre-commissioning security requirements - creates a barrier to market entry for relevant distributed generators. This is contrary to the original objectives of CMP192¹ which sought to address the following defects in the User Commitment regime:

1. The methodology for calculating user commitment requirements is not defined in the existing commercial framework, and as such is non-transparent to users.
2. The level and volatility of liabilities, and hence the level of security, determined through the existing

methodology can represent a barrier to entry for new power stations.

3. Any difference in treatment of pre- and post-commissioning users should be objectively justified.

4. The existing arrangements do not take into account the perceived risk profile associated with cancellation and closure that changes throughout a power station's lifetime

Without NGET and the DNOs addressing the issues highlighted, relevant distributed generators will continue to face undue discrimination and the development of competition in the UK energy market will be impeded.

Description of the CUSC Modification Proposal

Key Objectives

This CUSC modification proposal seeks to achieve a fair and transparent treatment of relevant distributed generators in terms of transmission system securities and liabilities. At the same time, the solution must not lead to distributed generators becoming party to/ needing to become compliant with the wider terms of the CUSC – after all the primary relationship for connection and use of the network for distributed customers is with a DNO.

Issue to be resolved

As set out above, the application of CMP192 via CUSC section 15, the 'User Commitment Methodology' effectively compromises Applicable CUSC Objective 4(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. Although the relevant distributed generators have the same type of impact on the transmission network as generators that are directly transmission connected, there is a stark difference in the way that liability and security terms & conditions are set, how charges are calculated and passed on. Currently, under CUSC S15 DNOs have been defined as 'Users' in relation to the cancellation charge and the pass-through of the payment profiles to the relevant distributed generators is at their discretion. The fact that the DNO has been elected as a middle man without having been provided with an allowance for the recovery of stranded assets in the Electricity Distribution Licence is the root cause of the problems experienced by relevant distributed generators.

Suggested Approach

One way of resolving the problem would be to cut out the DNO acting as middle man. This modification proposes to create a direct relationship between the relevant distributed generators and NGET so that the terms and conditions for securities and liabilities can be passed on in the same way as they are to other 'users' specified in CUSC S15.

This modification suggests defining 'relevant distributed generators', distributed generation that would normally be associated with a Construction Agreement between NGET and a DNO as a class of 'User' exclusively under CUSC Section 15 'User Commitment Methodology'. These relevant distributed generators must not be named as parties to other sections of the CUSC (in section 1).

Thereby this CUSC modification could remove the risks that a DNO is forced to take on, on behalf relevant distributed generators. Relevant distributed generators would thus be apportioned cancellation charges and security requirements directly by NGET in the same way as if they were transmission connected. In order to work some form of simple agreement specifically covering security and liability arrangements may have to be in place between NGET and the relevant distributed generators. In the event of a relevant distributed generator terminating NGET would pursue this party directly for the cancellation charge. In the event of stranded assets NGET would be able to make use of the recovery mechanism set out under Special License Condition 6F.

Finally, we request that a de minimis threshold for passing through securities should be considered. Smaller parties are affected by the arrangements disproportionately as they are usually the most cash constrained investors. We suggest that Sub 1MW generators should be exempt from security downpayments.

Impact on the CUSC

The proposal suggests changes to CUSC Sections 1 'Applicability Section' and/or 15 'User Commitment Methodology'.

Do you believe the CUSC Modification Proposal will have a material impact on Greenhouse Gas Emissions? Yes / No

No.

Impact on Core Industry Documentation. Please tick the relevant boxes and provide any supporting information

BSC

Grid Code

STC

Other
(please specify)

This is an optional section. You should select any Codes or state Industry Documents which may be affected by this Proposal and, where possible, how they will be affected.

Urgency Recommended: Yes / No

No – Due to the complexity of how the defined issue could be resolved a working group will be needed. However, the impacts are being acutely felt by relevant distributed generators today and projects at risk of falling through and therefore a solution is required ASAP.

Justification for Urgency Recommendation

N/A

Self-Governance Recommended: / No?

No.

This is an optional section. You should state whether you believe this Proposal should be treated as Self-Governance.

Justification for Self-Governance Recommendation

If you have answered yes above, please describe why this Modification should be treated as Self-Governance.

A Modification Proposal may be considered Self-governance where it is unlikely to have a material effect on:

- Existing or future electricity customers;
- Competition in generation or supply;
- The operation of the transmission system;
- Security of Supply;

- Governance of the CUSC
- And it is unlikely to discriminate against different classes of CUSC Parties.

Should this CUSC Modification Proposal be considered exempt from any ongoing Significant Code Reviews?

Yes, there is no interaction with the Electricity Balancing SCR.

Impact on Computer Systems and Processes used by CUSC Parties:

Possible..

If the solution favoured by the working group is to define relevant distributed generators (Distributed Generation that would normally be associated with a Construction Agreement between NGNET and a DNO) as a class of 'User' then a simple new contract covering solely the cancellation charge and the security amounts between NGNET and the DG user may be necessary.

This is an optional section. Include a list of any relevant Computer Systems and Computer Processes which may be affected by this Proposal, and where possible, how they will be affected.

Details of any Related Modification to Other Industry Codes

This is an optional section. You should list any other simultaneous modifications being proposed to other Industry Documents and Codes that you are either aware of or have raised.

Justification for CUSC Modification Proposal with Reference to Applicable CUSC Objectives:

Please tick the relevant boxes and provide justification:

(a) the efficient discharge by The Company of the obligations imposed upon it by the Act and the Transmission Licence

(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.

The current situation with CMP192 compromises Applicable CUSC Objective ('B'): facilitating effective competition in the generation of electricity by unintentionally, unduly discriminating against generators that are directly distribution system connected and deemed to have an impact on the National Electricity Transmission System. These generators have the same impact on the security of the transmission network as generators that are directly transmission connected – as such, there appears to be no justification for the difference in the way that liability and security charges are calculated and passed on to these users.

(c) compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency.

These are defined within the National Grid Electricity Transmission plc Licence under Standard Condition C10, paragraph 1.

Objective (c) was added in November 2011. This refers specifically to European Regulation 2009/714/EC. Reference to the Agency is to the Agency for the Cooperation of Energy Regulators (ACER).

This section is mandatory. You should detail why this Proposal better facilitates the Applicable CUSC Objectives compared to the current baseline. Please note that one or more Objective must be justified.

Additional details

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| Details of Proposer: (Organisation Name) | Carnedd Wen Onshore Wind Farm Ltd |
| Capacity in which the CUSC Modification Proposal is being proposed: (i.e. CUSC Party, BSC Party or "National Consumer Council") | CUSC party |
| Details of Proposer's Representative: Name: Organisation: Telephone Number: Email Address: | Fruzsina Kemenes Carnedd Wen Onshore Wind Farm Ltd 01793 474463 Fruzsina.kemenes@rwe.com |
| Details of Representative's Alternate: Name: Organisation: Telephone Number: Email Address: | Diana Chklar Carnedd Wen Onshore Wind Farm Ltd +44 7584580327 diana.chklar@rwe.com |
| Attachments (Yes/No): If Yes, Title and No. of pages of each Attachment: | |