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Dear Mike

Authority decision to direct that the modification report on CUSC modification proposal CMP268 'Recognition of sharing by Conventional Carbon plant of Not-Shared Year-Round circuits' be revised and resubmitted

On 23 November 2016, the CUSC Panel submitted a final modification report on CUSC modification proposal (CMP) 268 ("the FMR") to the Authority. The modification states that the current system of charging for conventional generation is not cost-reflective and places an unreasonable level of charges on conventional carbon generators. The modification proposal suggests that different types of conventional generation lead to different needs for investment in areas of high renewable penetration and so different costs, and aims to better recognise this in the methodology. The modification proposes that for conventional carbon generators the Not-Shared Year-Round element of the tariff is scaled by the generator's annual load factor.

On 2 December 2016, Ofgem wrote to you setting out our decision to direct that the FMR be revised and resubmitted. We suggested that the following revisions be made by the workgroup:

1. Further evidence should be presented to allow the CUSC Panel and us to properly consider the merits of the proposal.
2. The potential impacts of the proposed solution, as compared to retaining the current system, should be assessed and described.

We are pleased to inform you that we consider these requirements to have been fulfilled, and note that further analysis and assessment of the impacts has been carried out and properly included in the FMR.

Following our assessment of the revised FMR, which was submitted by the CUSC Panel on 4th July, unfortunately the legal text proposed in the modification report is not effective in bringing about the change to the charging methodology that is set out in the FMR. The intent and impact of the modification is clear from the FMR, and we are minded to believe, based on the information currently available to us, that the modification would further the CUSC objectives¹. However, this clarity is not reflected in the legal text. It is for this reason we have decided that we cannot properly form an opinion on CMP268 based on the

¹ We will set out our full assessment against the CUSC objectives in our final decision on the modification

information submitted and therefore direct that the FMR is revised and resubmitted to us in the shortest possible timeframes, using all reasonable endeavours.

Issues to address

As part of our decision making process for this modification, we have reviewed the proposed amendments to the legal text that would, if necessary, allow this modification to be implemented and its arrangements to be correctly reflected in the CUSC.

Whilst we set out our observations about the legal text, it should be noted that this list should not be considered exhaustive and we would direct a thorough review be carried out on the effectiveness of the legal text and appropriate corrections made, as well as the entire FMR before it is resubmitted. In particular we would ask you to note the following:

1. that the terms "Non Conventional Carbon" and "Conventional Carbon" are not defined and therefore present a potential for ambiguity, as "Non Conventional Carbon" could be interpreted as those plant that are not "Conventional Carbon", or those "Carbon" plant that are "Non Conventional". We consider that it may be useful to define these or use language that is not open to ambiguity.
2. that in section 14.18.7, while new text setting out the formula for "Conventional Carbon" has been inserted, the existing category name for the formula currently assigned to "Conventional" plant has not been updated from "Conventional" to "Non Conventional Carbon" as we would expect (notwithstanding our previous comment). We have concerns that while the intent of the modification is clear from the FMR, the legal text is not sufficiently clear that "Non Conventional Carbon" (which we believe is represented in this section by "Conventional", but has not been updated and so is unclear) and "Conventional Carbon" are mutually exclusive. We fear that there could be ambiguity over which category a generator could fall into, and possibly the risk of a generator seemingly being covered by both "Conventional" and "Conventional Carbon" formulae. This may prevent generators easily and conclusively forecasting their charges, and could lead to disputes.
3. that the numbering for the inserted text does not appear to advance sequentially as would be expected.

It is the licensee's responsibility to ensure that the requirements of the licence are correctly reflected in the code and to ensure that the legal text does this in a simple, clear manner². We would also stress the importance of clarity of the code text, both to eliminate ambiguity and improve accessibility for network users.

We therefore further direct that the FMR be sent back to the CUSC Panel in order for our directions to be promptly addressed and the FMR resubmitted as soon as is reasonably practicable.

We note the next CUSC Panel meetings are scheduled for 25 August 2017 and 29 September 2017 respectively. Given the proximity of the close of the Capacity Market auction prequalification period, any interested party may wish to consider an accelerated or urgent timescale for the changes and communicate any request to the Authority promptly.

Yours sincerely

Andrew Self

Head of Electricity Network Charging, Energy Systems

Signed on behalf of the Authority and authorised for that purpose

² Under National Grid's Transmission Licence Standard Condition C10