



*Promoting choice and
value to customers*

National Grid Electricity Transmission plc
CUSC Signatories and Other Interested Parties

Our Ref: blm/I06 001
Direct Dial: 020 7901 7080

19 January 2006

Dear Colleague,

**Amendment Proposal to the Connection and Use of System Code ("CUSC") -
Decision in relation to Proposed Amendment CAP093: "Enabling the Flow of
Electricity from Distribution Systems into the Transmission System at Grid
Supply Points"**

The Gas and Electricity Markets Authority ("the Authority"¹) has considered the issues raised in the Amendment Report² in respect of Amendment Proposal CAP093, "Enabling the Flow of Electricity from Distribution Systems into the Transmission System at Grid Supply Points".

National Grid Electricity Transmission plc ("NGET") recommended to the Authority that Proposed Amendment CAP093 should not be approved. NGET further recommended that should the Authority approve the Proposed Amendment CAP093 or either of the Alternative Amendments, an Implementation Date of 10 Business Days after the Authority's decision would be appropriate.

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

² CAP093 Amendment Report dated 5 December 2005,
http://www.nationalgrid.com/NR/rdonlyres/B572A7CB-D038-4EEE-A93F-3C5C4BC62E6C/5101/CAP093_FinalARv10.pdf

Having considered the CAP093 Amendment Report and NGET's recommendations and having regard to the Applicable CUSC Objectives³ and Ofgem's wider statutory duties⁴, the Authority has decided to reject the Proposed Amendment and the Alternative Amendments.

This letter explains the background to Amendment Proposal CAP093 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 decision.

Background

Each distribution licensee has statutory and licence obligations to offer terms to generators seeking connection to its distribution system. A distribution licensee has raised concern about the absence of correspondingly clear obligations on NGET to receive exports from distribution systems onto the transmission system.

Central Networks submitted Amendment Proposal CAP093 which aims to recognise the flow of electricity from distribution systems to the transmission system at Grid Supply Points, for consideration at the Amendments Panel meeting on 24 June 2005. The Amendments Panel determined that the issue should be considered by a Working Group.

The CAP093 Working Group Report which included details of a proposed Working Group Alternative Amendment was submitted to the Amendments Panel meeting on 23 September 2005. The Amendments Panel determined that CAP093 was ready to proceed to a wider consultation, which closed on 31 October 2005. Eleven responses were received. This consultation prompted one further Alternative Amendment proposed by EDF Energy.

A further consultation was conducted to assess the merits of the Consultation Alternative Amendment which closed on 18 November 2005. Four responses were received to this consultation.

The final Amendment Report was submitted to the Authority on 5 December 2005.

The Proposed Amendment

The Proposed Amendment would alter the CUSC in two ways.

Firstly, it would amend that definition of Grid Supply Point to explicitly recognise that points of connection between the transmission system and a distribution system ("Connection Sites") may deliver power to the GB transmission system.

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.

Secondly, it would amend the definition of Distribution System to recognise that electricity may also be delivered to the transmission system at a Grid Supply Point.

The Proposer considers that Proposed Amendment CAP093 would rectify a CUSC deficit by altering the CUSC definitions to explicitly permit flows of electricity from distribution systems to the transmission system at Grid Supply Points. The Proposer believes that Proposed Amendment CAP093 would better facilitate Applicable CUSC Objective (b) – facilitate effective competition in generation of electricity – as it would pave the way for the connection of significant amounts of generation to distribution networks. The Proposer further considers that Proposed Amendment CAP093 would improve the alignment of definitions between the CUSC, BSC⁵ and the MRA⁶.

During its consideration of Amendment Proposal CAP093, the Working Group acknowledged that:-

- It is unclear whether the CUSC allows for export from distribution systems to the transmission system irrespective of whether the embedded generator has Transmission Entry Capacity (“TEC”).
- There are currently a small number of Grid Supply Points which at times export onto the transmission system.
- The volume of export from distribution systems to the transmission system is expected to increase in the future.
- It is desirable that CUSC definitions are consistent with definitions in the licences.

Some members of the Working Group noted concern about potential discrimination issues between directly connected and embedded generators that may arise if Proposed Amendment CAP093 were implemented without changes to other sections of the CUSC. However, the majority of the Working Group did not consider that Proposed Amendment CAP093 required other consequential CUSC amendments. The Working Group did not consider that Proposed Amendment CAP093 was necessarily the best method of resolving the issues identified by the Proposer.

Alternative Amendments

The CAP093 Working Group proposed an Alternative Amendment and a further Alternative Amendment was proposed in response to the initial consultation on Amendment Proposal CAP093.

Working Group Alternative Amendment (“WGAA”)

A WGAA was submitted by CE Electric UK that proposed a change to the definition of Distribution System in Proposed Amendment CAP093 to provide additional clarity. The proposer of the WGAA considered that the definition of Distribution System needed to clarify that:-

- Power flows across Grid Supply Points could be bi-directional.
- Distribution licensees can connect generators at Grid Supply Points and that such generation will be treated as embedded.

⁵ Balancing and Settlement Code

⁶ Master Registration Agreement

Consultation Alternative Amendment (“CAA”)

A CAA was submitted by EDF Energy which was intended to be similar in substance to the Proposed Amendment CAP093. The proposer of the CAA considered that the simplified legal text provided a more efficient solution to the perceived CUSC deficit and therefore better facilitated the Applicable CUSC Objectives than Proposed Amendment CAP093.

Respondents’ Views

NGET issued a consultation paper on 29 September 2005 inviting responses from CUSC Parties and interested parties. NGET received 11 responses to the consultation in respect of Amendment Proposal CAP093, 8 of which expressed support for CAP093 with the majority supportive of the WGAA. 3 respondents were opposed to both Proposed Amendment CAP093 and the WGAA. One respondent proposed a CAA and NGET issued a further consultation paper on 4 November 2005. NGET received 4 responses to this consultation. None of the respondents were supportive of the CAA.

The views presented by the respondents to the initial NGET consultation who support the CAP093 Amendment Proposal are:-

- NGET's refusal to offer terms to a distribution licensee seeking a Connection Site which may export onto the GB Transmission System frustrates that distribution licensee from providing offers for distribution connections which frustrates competition in generation.
- The changes to the CUSC definitions would remove a barrier to entry for smaller players in the generation market.
- The existing CUSC definitions are not in line with the definitions in the transmission and distribution licences.
- In practice there are a number of existing Distribution System Connection Sites that currently export onto the GB Transmission System.
- NGET's concerns about the possible impact of the CAP093 charges on its charging methodology are misplaced.

The views presented by the respondents to the initial NGET consultation who oppose the CAP093 Amendment Proposal are:-

- Implementation of either Proposed Amendment CAP093 or the Alternative Amendment would introduce a cross-subsidy in favour of embedded generators which is likely to have a harmful effect on competition in generation.
- Existing CUSC arrangements do not prevent generators connecting to the transmission or distribution systems provided that relevant agreements are in place.
- Amendment Proposal CAP093 would introduce discrimination between users of the transmission system, specifically between directly connected and embedded generators and between DNOs and Non-Embedded Customers.

The views presented by respondents to NGET's subsequent CAP093 consultation are:-

- Acknowledgement of the merits of simplifying legal drafting.
- Concern about the extension of scope from Proposed Amendment CAP093 (to include boundaries between the transmission system and non-embedded customers) that was not discussed by the Working Group.

A copy of the responses NGET received to both consultations is appended to the Amendment Report for CAP093.

Amendments Panel Members' Views

No responses to either of the consultations on CAP093 were received from Panel Members in that capacity.

Core Industry Document Owners' Views

No responses to either of the consultations on CAP093 were received from Core Industry Document Owners in that capacity.

NGET's Recommendation

NGET does not believe that Proposed Amendment CAP093 or either of the Alternative Amendments better facilitate either of the Applicable CUSC objectives. NGET considers that Amendment Proposal CAP093 raises significantly broader issues than it explicitly addresses.

NGET recommended that CAP093 is not implemented and that no change is made to the CUSC with respect to this matter. NGET further recommended that if the Authority should approve Proposed Amendment CAP093 or either of the Alternative Amendments, implementation should be 10 business days after the Authority decision.

Ofgem's View

Ofgem, having considered the Amendment Report and having regard to its statutory duties and the Applicable CUSC Objectives, does not consider that Proposed Amendment CAP093 or either of the Alternative Amendments would better facilitate the achievement of the Applicable CUSC Objectives.

Ofgem acknowledges that the current CUSC definition of Grid Supply Point is consistent with the definition of that term in the electricity licences. Ofgem recognises that Amendment Proposal CAP093 and both Alternative Amendments propose a definition for Grid Supply Point that is not consistent with the definition of that term in the electricity licences. Ofgem considers that the introduction of this type of inconsistency between the transmission licence and the CUSC would increase the risk that NGET would be unable to fulfil its licence obligations. In particular, Ofgem is concerned by the CAA which proposes a definition for Grid Supply Point that would include Connection Sites that did not at any time deliver electricity from the transmission system to a distribution system. Ofgem does not consider that any of these proposed amendments better facilitate the Applicable CUSC Objectives.

Ofgem considers that the current CUSC definition of Distribution System is not consistent with the definition of that term in the electricity licences. In particular, Ofgem is concerned that the current CUSC definition does not include Connection Sites where electricity flows from a distribution system to the transmission system. The licence definition of Distribution System recognises such boundary points may exist and provides for them specifically. Ofgem considers that the definition of Distribution System proposed in Amendment Proposal CAP093 and the Alternative Amendments is narrower than that in the electricity licences as it classes all Connection Sites as Grid Supply Points. Ofgem considers that Amendment Proposal CAP093 and the Alternative Amendments propose definitions of Distribution System which use the term Grid Supply Point to describe a Connection Site that does not at any time deliver electricity from the transmission system to a distribution system. Ofgem considers that this type of usage of

Grid Supply Point is inconsistent with usage in the electricity licences and therefore does not consider that any of these proposed amendments better facilitate the Applicable CUSC Objectives. However Ofgem further notes that it would be beneficial if the CUSC definition of Distribution System better reflected the definition of that term in the electricity licences.

Ofgem recognises that the scope of the CAA is broader than that of Amendment Proposal CAP093. Ofgem acknowledges the concern raised by one respondent to NGET's consultation, that the full impact of the CAA was not assessed by the CAP093 Working Group.

Ofgem understands that there are circumstances where a customer may be able to choose between a connection to the transmission system or a distribution system. In such cases, Ofgem considers that the arrangements should allow for the customer to be in a position to make that choice. Ofgem recognises that NGET's transmission licence requires it to enter into agreement with a customer seeking a connection subject to defined exemptions. Ofgem notes that each distribution licensee has statutory and licence obligations relating to the offer of terms for connection to its distribution system. Ofgem further notes that in some circumstances the distribution licensee would not be able to connect a customer to its distribution system without changes to the transmission system. Ofgem acknowledges that such changes to the transmission system would usually require the receipt and acceptance of an NGET offer by the distribution licensee.

Ofgem is unclear about the specific parts of the CUSC that NGET considers prevent it from making an offer to a distribution licensee for a Connection Site which may deliver electricity to the transmission system. Ofgem understands that the CUSC requires a party seeking a Connection Site to apply to NGET providing specified details and notes that an application for connection from a distribution licensee is not specifically for a Grid Supply Point. Ofgem recognises that NGET needs to consider each application on its individual merits and make an offer substantially in the form of the CUSC. Ofgem notes that Exhibit C of the CUSC provides a basis for an offer for the connection of a distribution system to the transmission system. Ofgem accepts that Exhibit C does not specifically provide for Connection Sites that deliver electricity to the transmission system. Ofgem notes that the transmission licence requires NGET to offer to enter into a bilateral agreement with an applicant seeking a connection to the transmission system. Ofgem further notes that there is flexibility within the form of Bilateral Connection Agreement set out in the CUSC framework to cater for non-standard types of customer requests.

Ofgem does not consider that the arrangements preclude Connection Sites that deliver electricity to the transmission system. Ofgem notes that the Working Group identified 21 Connection Sites across GB which at times export onto the transmission system. Ofgem also acknowledges the general view of the Working Group that this number is expected to significantly increase in the future. Ofgem expects that the CUSC exhibits should adequately reflect the type of connections that customers require.

Ofgem has not identified a general restriction which it considers prevents NGET from offering terms to a distribution licensee for a Connection Site which may export onto the transmission system. However, Ofgem recognises that there may be specific connection applications where NGET is exempt from its transmission licence obligation to offer terms for connection.

Ofgem acknowledges that NGET and a number of respondents to NGET's consultations referred to Ofgem's "Enduring transmission charging arrangements for distributed generation: A discussion document" consultation. Ofgem's review of the enduring transmission charging arrangements for distributed generation is ongoing. Ofgem is hosting two industry seminars on the subject in January 2006 and intends to publish a further thoughts paper in February 2006. Ofgem recognises that changes to the transmission charging arrangements and/or other aspects of the regulatory framework may be proposed as a consequence of its consultation. However, Ofgem does not consider that its decision on Amendment Proposal CAP093 is dependent on possible future developments to the regulatory framework.

Ofgem does not consider that Amendment Proposal CAP093 would change the CUSC provisions in relation to the offer of terms for connection to the transmission system. However, Ofgem considers that further clarity is required in the CUSC (and potentially other parts of the regulatory framework) about the arrangements available for the types of connection that customers require, in particular the arrangements for connections between the transmission system and a distribution system. As such Ofgem considers that it would be advantageous for NGET and CUSC parties to consider whether the CUSC arrangements could be further developed.

The Authority's Notice

The Authority has therefore decided not to direct an Amendment to the CUSC as set out in the Amendment Report.

If you have any queries in relation to the issues raised in this letter, please contact Bridget Morgan on 020 7901 7080.

Yours sincerely

A handwritten signature in black ink that reads "John Scott". The signature is written in a cursive style with a horizontal line underneath the name.

John Scott
Technical Director

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