



AMENDMENT REPORT

CUSC Proposed Amendment CAP092

Consistent Generation Use of System Charge Liability Provisions for Transmission Access Products

*The purpose of this report is to assist the
Authority in their decision of whether to
implement Amendment Proposal CAP092*

Amendment Ref	CAP092
Issue	1.0
Date of Issue	11 th November 2005
Prepared by	National Grid

I DOCUMENT CONTROL**a National Grid Document Control**

Version	Date	Author	Change Reference
0.1	02/11/05	National Grid	Draft for internal comment
0.2	02/11/05	National Grid	Draft for external comment
1.0	11/11/05	National Grid	Formal version for submission to the Authority

b Document Location

Nation Grid Website:

<http://www.nationalgrid.com/uk/Electricity/Codes/systemcode/amendments>

c Distribution

Name	Organisation
The Gas and Electricity Markets Authority	Ofgem
CUSC Parties	Various
Panel Members	Various
National Grid Industry Information Website	

II CONTENTS TABLE

I DOCUMENT CONTROL.....	2
a National Grid Document Control	2
b Document Location	2
c Distribution.....	2
II CONTENTS TABLE	3
1.0 SUMMARY AND RECOMMENDATION.....	4
2.0 PURPOSE AND SCOPE OF THE REPORT	5
3.0 THE PROPOSED AMENDMENT	5
4.0 WORKING GROUP DISCUSSIONS	6
5.0 WORKING GROUP ALTERNATIVE AMENDMENT	7
6.0 IMPLEMENTATION AND TIMESCALES	7
7.0 IMPACT ON THE CUSC	7
8.0 ASSESSMENT AGAINST APPLICABLE CUSC OBJECTIVES	8
9.0 IMPACT ON CUSC PARTIES	8
10.0 IMPACT ON CORE INDUSTRY DOCUMENTS	8
11.0 VIEWS AND REPRESENTATIONS	9
12.0 SUMMARY OF PANEL MEMBERS VIEWS.....	13
13.0 NATIONAL GRID RECOMMENDATION.....	13
14.0 COMMENTS ON DRAFT AMENDMENT REPORT.....	14
ANNEX 1 - AMENDMENT PROPOSAL FORM	15
ANNEX 2 – PROPOSED TEXT TO MODIFY CUSC	21
Part A - Text to give effect to the Proposed Amendment.....	21
Part B - Text to give effect to the Alternative Amendment	22
ANNEX 3 - RECONCILIATION OF STTEC & TNUOS CHARGES	
(ILLUSTRATIONS)	24
ANNEX 4 – COPIES OF REPRESENTATIONS RECEIVED TO CONSULTATION	26
ANNEX 5 – COPIES OF COMMENTS RECEIVED ON THE PROPOSED	
AMENDMENT REPORT	40

1.0 SUMMARY AND RECOMMENDATION

- 1.1 Following the implementation of CAP070, which introduced short term access products to the transmission system, E.ON UK considered the potential usage of such products and concluded that, in their view, the charging arrangements for these, when combined with charges for enduring access, was inequitable and a barrier to use.
- 1.2 CAP092 was therefore proposed by E.ON UK and submitted to the CUSC Amendments Panel for consideration at their meeting on 24th June 2005. The Amendments Panel determined that the issue should be considered by a Working Group. The Working Group presented their Final Report to the September Amendments Panel which also contained details of a Working Group Alternative Amendment. The Panel agreed that the Working Group had fulfilled its Terms of Reference and that it was appropriate for CAP092 to proceed to wider industry consultation by National Grid.
- 1.3 The Consultation Paper for CAP092 was published by National Grid on 27th September 2005, placed on the CUSC website and copies sent to Core Industry Document Owners and CUSC Parties. Responses were invited by close of business on 28th October 2005.
- 1.4 National Grid received a total of 9 responses to the consultation for CAP092.

National Grid Recommendation

- 1.5 National Grid believes that CAP092 does not better facilitate the applicable CUSC objectives with regard to enabling National Grid to more easily and efficiently discharge its obligations under the Act and the Transmission Licence. Rather, it has the potential to frustrate them in relation to our management and development of the Charging Methodologies. In National Grid's view, the intention of paragraph 3.9.2 of the CUSC is to make Users liable for charges calculated in accordance with the Use of System Charging Methodology and not to determine the amount of the liability. National Grid would question whether, as a matter of principle, the CUSC is the appropriate place in which to vary the level of a Party's annual liability. We believe that to enable National Grid to discharge its licence obligations regarding charging, any such constraint on the liability for charges should be set out in the charging methodology and not in CUSC. It is primarily for this reason that National Grid does not believe that CAP092 would better facilitates the Applicable Objectives.
- 1.6 National Grid are also concerned that establishing a cap on STTEC and TEC together may not be appropriate, as they are two very different products, operating in different timescales. Given that the liability for charges for TEC and STTEC is, in our view, primarily a charging rather than a CUSC issue, we believe that any charging interaction between the two products can only be considered under the governance of the charging methodologies.
- 1.7 The CAP092 Working Group considered two different implementation dates for CAP092, but were unable to recommend one over the other. The CUSC Amendments Panel therefore determined that, should the Authority approve CAP092, implementation should be at the start of the next charging year (i.e. 1st April 2006). In the event that the Authority made its decision after 1st April 2006, the implementation date should be on the 1st April following the Authority's decision.

2.0 PURPOSE AND SCOPE OF THE REPORT

- 2.1 This Amendment Report has been prepared and issued by National Grid under the rules and procedures specified in the Connection and Use of System Code (CUSC) as designated by the Secretary of State. It addresses issues relating to the introduction of a cap on a User's total annual liability for charges relating to the provision of TEC and STTEC.
- 2.2 Further to the submission of Amendment Proposal CAP092 (see Annex 1) and the subsequent wider industry consultation that was undertaken by National Grid, this document is addressed and furnished to the Gas and Electricity Markets Authority ("the Authority") in order to assist them in their decision whether to implement Amendment Proposal CAP092.
- 2.3 This document outlines the nature of the CUSC changes that are proposed. It incorporates National Grid's recommendations to the Authority concerning the Amendment. Copies of all representations received in response to the consultation have been also been included and a 'summary' of the representations received is also provided. Copies of each of the responses to the consultation are included as Annex 4 to this document.
- 2.4 This Amendment Report has been prepared in accordance with the terms of the CUSC. An electronic copy can be found on the National Grid website, at <http://www.nationalgrid.com/uk/Electricity/Codes/systemcode/amendments>.

3.0 THE PROPOSED AMENDMENT

Background

- 3.1 Following the implementation of CAP070, which introduced short term access products to the transmission system, E.ON UK considered the potential usage of such products and concluded that, in their view, the charging arrangements for these, when combined with charges for enduring access, was inequitable and a barrier to use.

The Proposed Amendment

- 3.2 CAP092 proposes to amend the Use of System liability provisions, contained in paragraph 3.9.2 of the CUSC, to ensure that a User's total liability for charges during any Financial Year due to the granting of Short Term Transmission Entry Capacity (STTEC) and/or Transmission Entry Capacity (TEC) in respect of a Power Station does not exceed the liability which would have been incurred had the relevant export capacity been provided through TEC alone. TEC is an "evergreen" product granted to power stations on an enduring basis, subject to the payment of Transmission Network Use of System (TNUoS) charges. These are calculated on an annual basis (by Financial Year).
- 3.3 STTEC can be granted in 4, 5 or 6 week blocks at any time of the year, and any number of times within a Financial Year. The Statement of the Use of System Charging Methodology states that STTEC shall be charged at a rate that would equate to approximately 270% of the TEC charge over a full year (the premium associated with the more flexible STTEC product is derived from analysis that 90% of the annual charge is linked to the system peak).
- 3.4 There are, therefore, two ways in which the liability in a Financial Year of Users who generate at Power Stations could exceed the liability that would

have been incurred if the relevant export capacity been provided through TEC alone:

- Using STTEC for more than approximately 135 days in one Financial Year
- Using STTEC in addition to TEC in the same Financial Year

3.5 CAP092 therefore seeks to cap the liability that would be incurred by Users in these two situations to the liability that would have been incurred by having TEC for the full Financial Year.

4.0 WORKING GROUP DISCUSSIONS

4.1 The Working Group's considerations were limited to potential changes to the CUSC, as modifications to the Use of System Charging Methodology are subject to a separate governance regime.

4.2 A minority of the Working Group ("The Minority") took the view that STTEC is an inferior product to TEC as it provides no enduring rights to Users. Notwithstanding its perceived inferiority, the present access charging arrangements lead to an additive liability such that a Power Station using a combination of TEC and STTEC can be liable for charges that are higher than the User would have paid had the relevant capacity been provided using TEC alone. Appendix 1 of Annex 1 gives examples of the proposer's view of the inequitable working of the current system, as well as indicating how the CAP092 cap would affect the charging. The Minority considered that differences in the level of liabilities could not be justified simply because one product was shorter term than the other. Instead, they believed that differences in liabilities should reflect fundamental differences in underlying costs of providing the products.

4.3 The majority of the Working Group ("The Majority") did not share this view. They considered that short term access and TEC were different products, used for differing purposes and that there was no reason why charges for these differing products should be linked via a cap. Indeed the structure of charging implemented with CAP070 to set up the current short term access products had reinforced this difference. Therefore, they did not agree that there was a defect.

Reconciliation

4.4 Working Group members were directed by the CUSC Panel to consider how the reconciliation of charges between TEC and STTEC would work in practice.

4.5 In discussing this issue, members agreed that as far as possible the reconciliation process should adhere to the following pragmatic principles: transparency, ease of use, follow existing methods where possible, and minimise the likely outstanding transfer of principal at the year-end reconciliation. It was also recognised that, by its nature, purchase of STTEC could result in larger end of year settlements than the purchase of an equivalent volume of TEC some way through the year.

4.6 National Grid provided some illustrative examples which are included in Annex 3. Members considered two methods for reconciliation: i) end of year reconciliation of STTEC and TEC payments, or ii) rolling monthly reconciliation of TEC and STTEC payments. End of year reconciliation would

have the advantage of transparency and simplicity but might result in large principal transfers at year end from National Grid to the User. Rolling monthly reconciliation would be less transparent and more complicated to administer but would not result in large principal transfers at year end. No member of the Working Group supported rolling monthly reconciliation. Therefore the Working Group recommended the end of year reconciliation method.

5.0 WORKING GROUP ALTERNATIVE AMENDMENT

- 5.1 Working Group Members agreed that additional legal text (beyond the illustrative text supplied by the proposer) would be necessary in order to clarify the reconciliation process that would be required by CAP092. On advice from National Grid, the Working Group agreed that the revised and extended proposed text would form a Working Group Alternative Amendment. National Grid provided such legal text and amended the text provided with the proposal in order to make the amendment consistent. This text allows the end of year reconciliation process to operate.
- 5.2 It should be noted that whilst there is an Original Proposal and a Working Group Alternative Amendment, the Working Group were all of the view that the Original Proposal did not work without further refinements which the Working Group Alternative Amendment introduced.

6.0 IMPLEMENTATION AND TIMESCALES

- 6.1 Two different implementation timescales were considered by the Working Group: implementation during the current year or implementation at the start of the next charging year, subject to adequate notice prior to its start. The Working Group was unable to recommend an implementation date and in accordance with paragraph 8.19.3(b) of the CUSC, respondents' views on the potential implementation dates for CAP092 were requested.
- 6.2 The proposer of CAP092 (E.ON UK) believes that the amendment should be implemented as soon as possible and take full account of all STTEC and TEC payments made in the current financial year (when determining contributions towards the charging liability cap). The majority of other respondents who addressed this issue in their reply preferred an implementation date of the start of the next charging year (please refer to section 11 for further detail).
- 6.3 In accordance with paragraph 8.20.2 (g) of the CUSC, this issue was put to the CUSC Amendments Panel for resolution. The Panel determined that, should the Authority approve CAP092, implementation should be at the start of the next charging year (i.e. 1st April 2006). In the event that the Authority made its decision after 1st April 2006, the implementation date should be on the 1st April following the Authority's decision.

7.0 IMPACT ON THE CUSC

- 7.1 CAP092 requires amendments to Section 3 (Use of System) and to Section 11 (Interpretation and Definitions) of the CUSC.
- 7.2 The text required to give effect to the Original Proposal is contained as Part A of Annex 2 of this document.

- 7.3 The text to give effect to the Working Group Alternative Amendment is contained as Part B of Annex 2 of this document.

8.0 ASSESSMENT AGAINST APPLICABLE CUSC OBJECTIVES

- 8.1 National Grid believes that CAP092 does not better facilitate the Applicable CUSC Objectives with regard to enabling National Grid to more easily and efficiently discharge its obligations under the Act and the Transmission Licence and fulfil its obligations to facilitate competition in the generation and supply of electricity.
- 8.2 In particular, the Transmission Licence requires National Grid to keep the Charging Methodologies under constant review and to progress changes to the methodology where appropriate. Were CAP092 to be implemented, National Grid's ability to develop the charging arrangements could be fettered by the existence of a capping arrangement defined within the CUSC. National Grid believe that in order to discharge its licence obligations regarding charging, any such constraint on the liability for charges should be set out in the charging methodology and not in CUSC. It is primarily for this reason that National Grid does not believe that CAP092 better facilitates the Applicable Objectives. This point is further expanded upon under 'National Grid's View' in section 11 of this document.
- 8.3 In addition, National Grid believes that any interaction between these products, and consequentially the impact on their usage, that stem from the charging arrangements for these products should only be dealt with within the charging methodology. To do otherwise could be viewed as circumventing existing governance arrangements, which would be inconsistent with National Grid's efficient discharge its obligations under the Transmission Licence.

9.0 IMPACT ON CUSC PARTIES

- 9.1 CAP092 and the Working Group Alternative Amendment would introduce a cap on a User's total annual liability for charges relating to the provision of TEC and STTEC, such that Users using STTEC for more than 135 days in one year, or using both STTEC and TEC in the same year, would have their annual liability capped to the level that would have been incurred through the use of TEC.
- 9.2 Where the liability cap has been exceeded, Users would continue to be charged for using each product but the reconciliation process provided by the Working Group Alternative Amendment would return to Users any monies paid throughout the year above the charging liability cap, with interest.
- 9.3 CUSC Parties would need to be particularly aware in the first year following implementation the arrangements for reconciling payments for STTEC and TEC.

10.0 IMPACT ON CORE INDUSTRY DOCUMENTS

- 10.1 Neither the Original Proposal, nor the Working Group Alternative Amendment, will have an impact on Core Industry Documents or other industry documents.

- 10.2 Similarly, CAP092 would not necessitate in any changes to the Use of System Charging Statement or Methodology.

11.0 VIEWS AND REPRESENTATIONS

- 11.1 This section contains a summary of the views and representations made by consultees during the consultation period in respect of the Proposed Amendment and the Alternative Amendment.

Views of Panel Members

- 11.2 No responses to the CAP092 consultation document were received from Panel Members in their capacity as Panel Members

View of Core Industry Document Owners

- 11.3 No responses to the CAP092 consultation document were received from Core Industry Document Owners.

Responses to Consultation

- 11.4 The following table provides an overview of the representations received. Copies of the representations are attached as Annex 4.

Reference	Company	Supportive	Comments
CAP092-CR-01	British Energy	No	CAP092 does not better facilitate Applicable CUSC objectives
CAP092-CR-02	Centrica	No	CAP092 does not better facilitate Applicable CUSC objectives
CAP092-CR-03	Conoco Phillips	No	Not supportive of CAP092
CAP092-CR-04	EDF Energy	No	Not supportive of CAP092
CAP092-CR-05	E.ON UK	Yes	Supportive of CAP092
CAP092-CR-06	Gaz de France	No	Not supportive of CAP092
CAP092-CR-07	RWE/npower	No	CAP092 does not better facilitate Applicable CUSC objectives
CAP092-CR-08	Scottish Power	Yes	Supportive of CAP092
CAP092-CR-09	Scottish and Southern Energy	No	Not supportive of CAP092

- 11.5 The respondent in CAP092-CR-01 (British Energy) absolutely concurs with National Grid that any constraint on the liability for charges should be set out in the charging methodology and not in the CUSC. The respondent believes that CAP092 impedes the relevant CUSC objectives and therefore should be vetoed.

- 11.6 The respondent in CAP092-CR-02 (Centrica) does not believe that CAP092 would better facilitate the Applicable CUSC Objectives and do not support the implementation of the proposal. Centrica does not believe that charges for TEC and STTEC should be linked via a charging cap as it may lead to both an increase in the utilisation of STTEC with a corresponding decrease in utilisation of TEC. In addition, Centrica suggest that any changes to the charges for specific access products should be undertaken within the charging methodology rather than the CUSC.

- 11.7 The respondent in CAP092-CR-03 (Conoco Phillips) does not support CAP092. Conoco Phillips consider that the access regime requires careful consideration and further articulation with a view to making it more complete and therefore does not consider CAP092 an appropriate step forward. In reaching this point, Conoco Phillips emphasise that TEC and STTEC are different products and are not necessarily additive as the change implies and any linkage of products might undermine the primacy of TEC. In the opinion of Conoco Phillips should the Authority approve CAP092, it should not be implemented within year as this could distort competition.
- 11.8 The respondent in CAP092-CR-04 (EDF Energy) does not support CAP092 because they believe that it would undermine the predominance of TEC as the primary transmission access product. The existing charging methodology places a premium on STTEC because 90% of infrastructure investment costs are driven by capacity requirements at system peak conditions which is why TEC is not only the basis of the charge paid by a generator but also its maximum permitted output during any one half-hour. EDF Energy believes that TEC provides a stable charging base which assists National Grid in planning future development of the transmission network. To undermine the primacy of TEC would be to undermine the efficiency of the transmission network. In the opinion of EDF Energy should the Authority were to approve CAP092 it should be implemented at the start of the next charging year. Generators will have made any decision to apply to STTEC during this charging year on the basis of the current methodology (current premium may have impact decision) and as such were CAP092 introduced within this year, in the opinion of EDF Energy, these generators would be disadvantaged.
- 11.9 The respondent in CAP092-CR-05 (E.ON UK) believes that CAP092 better facilitates the efficient operation of the transmission system and this would result in more effective competition in generation. It is the view of the respondent that if the liabilities associated to STTEC dissuade parties from using the product then generation may not be available which would increase competition both in energy and balancing services. E.ON do not agree that it is appropriate to have different liabilities simply because STTEC and TEC have been defined as two different products as this would imply that the underlying costs of providing the products would be very different (the cost of providing STTEC must be far higher than providing than equivalent level of TEC which is not the case). E.ON agree that TEC should continue to be the primary access products but does not believe that the liabilities with STTEC should be punitive in order to achieve this. In addition the respondent does not believe that generators will attempt to “game” the levels of transmission charges by opting out of TEC and using STTEC, as a generator would risk being unable to access the system at all.
- 11.10 E.ON acknowledge National Grid’s concern that charges should not be set outside of the charging methodology. However the respondent reiterates its belief that the amendment proposal does not affect the level of charges for the product. In E.ON’s view, the proposal sets an underlying principle which states that a user will not have a greater liability from using STTEC, or a combination of STTEC and TEC, than would have arisen had the access been provided using TEC alone. They believe that this is no different in concept than stating in CUSC that TEC and STTEC charges will be levied separately, as paragraph 3.9.2 presently does. E.ON also provide, in their opinion, a similar example in paragraph 3.11.2 which allows the level of demand charges to be adjusted if a User’s demand forecast changes. The respondent highlights that both of these clauses affect the level of User’s

liabilities but do not affect the level of charges themselves which remains the remit of the charging methodology.

- 11.11 E.ON believe that the amendment should be made as soon as possible and have effect for all STTEC and TEC payments made this financial year. The respondent does not believe that this represents a retrospective change as the present charging principles require a reconciliation process at the end of the year. This amendment, in E.ON's view, sets the principles for the forthcoming reconciliation process at the end of this financial year. E.ON do not accept the argument that implementation of CAP092, within financial year, would negate access decisions other parties took in respect of this year.
- 11.12 The respondent in CAP092-CR-06 (Gaz de France) does not support CAP092 as they do not believe that there is a code defect that requires correcting. Gaz de France believes TEC and STTEC to be different products, introduced to satisfy different purposes and for this reason they cannot support a linkage via a price cap for the two products. In addition the respondent believes that implementing a price cap would introduce an element of discrimination against the generation plant that is unable to utilise the STTEC product.
- 11.13 The respondent in CAP092-CR-07 (RWE/npower) does not believe that CAP092 further the relevant CUSC objectives and that if implemented could comprise the cost reflectivity of transmission charges and the efficient operation of the transmission system. In their view, the proposal (under certain conditions) would reduce the information available to National Grid for planning the transmission system and decrease the cost reflectivity of transmission charges.
- 11.14 The respondent in CAP092-CR-08 (Scottish Power) acknowledges that STTEC charges should be altered via a charging methodology change but see no reason why the total charge liability for access products contracted for under the CUSC cannot be limited by a CUSC provision. Scottish Power believes that CAP092 better facilitates the Applicable CUSC Objectives as a generator using STTEC is clearly increasing competition in generation and the removal of excessive liability for charges associated to STTEC usages would encourage generators to make use of any spare capacity within the transmission system. Furthermore, Scottish Power believes that the liability cap is a CUSC issue and that the CUSC should protect users from the consequence of inappropriate interactions of separate provisions of the charging methodology.
- 11.15 The respondent in CAP092-CR-09 (Scottish and Southern Energy) does not believe that CAP092 better facilitates the achievement of the Applicable CUSC Objectives. Referring to the specific point of a User exceeding their annual TEC bill by using multiple STTEC, Scottish and Southern Energy respond by stating that Users are free to make a commercial decision each year whether they wish to pay the annual TEC or whether they wish to pay an 'ad-hoc' STTEC fee i.e. the User is not compelled to use STTEC. In addition Scottish and Scottish Energy refer to other markets were a similar approach is used whereby users can freely choose an annual 'season ticket' paying less than those who choose to take a product on a short term payment basis. Scottish and Southern Energy believe that short term access and TEC are different products and there is no reason why charges for these differing products should be linked via a cap. The respondent does not believe that there is inconsistency or inequitable treatment between Users of the transmission system as each User is free to make their own commercial choice (from the opinions available). Concerns were also expressed that

CAP092 would destabilise the arrangements for cost reflective charging for TEC and result in less annual bookings of primary TEC products, if implemented. Furthermore Scottish and Southern Energy believes that if CAP092 were to be approved it would undermine the use of TEC as the primary charging products resulting in the dilution of longer-term investment signals. In the opinion of Scottish and Southern Energy, should the Authority approve CAP092 it should only be implemented at the beginning of TEC 'year' and that the market was given sufficient notice of any implementation date as failure to do so would lead to a distortion and confusion in the market.

National Grid's View

- 11.16 National Grid's chief concern is that the Amendment Proposal would, if implemented, frustrate its ability to effectively discharge its obligations under the Transmission Licence. In particular, the Transmission Licence requires National Grid to keep the Charging Methodologies under constant review and to progress changes to the methodology where appropriate. Were CAP092 to be implemented, National Grid's ability to develop the charging arrangements could be fettered by the existence of a capping arrangement defined within the CUSC.
- 11.17 National Grid believes the purpose of the CUSC is to make users liable for charges that are determined in accordance with the Transmission Network Use of System Charging Methodology and not to determine the magnitude of the liability itself. We believe Standard Condition C10 of the Transmission Licence ("Connection and Use of System Code") makes such a distinction by excluding from the CUSC matters relating to Standard Condition C5 ("Use of System Charging Methodology") i.e. the principles and methods through which use of system charges are determined. Accordingly, National Grid would question whether, as a matter of principle, the CUSC is the appropriate place to alter a User's liability to pay transmission charges. National Grid believes the Authority's decision on CAP092 could usefully clarify this point.
- 11.18 National Grid notes similar discussions have been had by the Amendments Panel on whether the CUSC is the appropriate place to vary such liabilities. However, the Amendments Panel has very limited discretion in determining the validity of a particular Amendment Proposal and therefore whether such a proposal should be considered under the CUSC governance arrangements. In addition, the assessment of an Amendment Proposal by CUSC Parties is necessarily limited to consideration as to whether the Amendment Proposal would better achieve the relevant objectives, as described in the Transmission Licence. However, the Authority is not constrained by this requirement and is able to take across view across a number of governance areas, to make determinations that satisfy broader objectives.
- 11.19 Notwithstanding these issues, National Grid believes that STTEC and TEC are different products and it would therefore be inappropriate to link these products via a charging cap, as described in CAP092. National Grid considers that any interactions between the charging arrangements for these access products should be considered under charging governance arrangements.
- 11.20 National Grid holds these views regardless of whether the introduction of CAP092 would, if implemented, undermine the use of TEC. Nevertheless, were TEC to be ultimately undermined by this Amendment Proposal, CAP092 would also potentially negate seeking an effective remedy within the charging methodology.

12.0 SUMMARY OF PANEL MEMBERS VIEWS

- 12.1 The Panel considered CAP092 at its meeting on 23rd September 2005 and agreed the Proposal should proceed to industry consultation. However, a number of important points arose during the discussion of the proposal, which were highlighted to the industry through the consultation process. A Panel Member highlighted that, whilst not explored in detail by the Working Group, the Amendments Panel had previously discussed the issue as to whether the CUSC was the appropriate place to vary a party's annual liability. The Panel Member requested that this issue be highlighted in the Consultation document.
- 12.2 A Panel Member asked National Grid to draw particular attention to the fact that the Working Group believed that the Original Proposal did not work, without the further refinements which were introduced in the Working Group Alternative Amendment (which National Grid did in the introduction to the Consultation Document).
- 12.3 In accordance with paragraph 8.20.2 (g) of the CUSC, and given that the Working Group was unable to recommend an implementation date, the Amendments Panel was required to determine the appropriate implementation date for CAP092. At an extraordinary meeting of the Panel on 9th November 2005, the Panel decided to recommend implementation at the start of the next charging year as opposed to implementation immediately after the Authority's decision. In the event that the Authority made its decision after 1st April 2006, the implementation date should be on the 1st April following the Authority's decision.

13.0 NATIONAL GRID RECOMMENDATION

- 13.1 National Grid is of the view that neither the Original nor Alternative Amendment better facilitates the achievements of the Applicable CUSC Objectives. Rather it has the potential to frustrate them in relation to our management and development of the Charging Methodologies. In our view, the intention of paragraph 3.9.2 of the CUSC is to make Users liable for charges calculated in accordance with the Use of System Charging Methodology, and not to determine the amount of the liability. We would question whether, as a matter of principle, the CUSC is the appropriate place in which to vary the level of a Party's annual liability. We believe that to enable National Grid to discharge its licence obligations regarding charging, any such constraint on the liability for charges should be set out in the charging methodology and not in CUSC. It is primarily for this reason that National Grid does not believe that CAP092 would better facilitate the Applicable Objectives.
- 13.2 While National Grid does not support either the Original CAP092 Proposal or the Working Group Alternative Amendment, it should be noted that the Working Group were all of the view that the Original Proposal did not work without further refinements which the Working Group Alternative Amendment introduced, and therefore if the Authority were to approve CAP092, National Grid would recommend approval of the Working Group Alternative Amendment.
- 13.3 Should CAP092 be approved by the Authority, then the amendment should be implemented on the 1st April 2006, in accordance with the decision of the Amendments Panel. In the event that the Authority made its decision after 1st

April 2006, the implementation date should be on the 1st April following the Authority's decision.

14.0 COMMENTS ON DRAFT AMENDMENT REPORT

14.1 National Grid received two responses following the publication of the draft Amendment Report, including one from a Panel Member in his capacity as a Panel Member. The following table provides an overview of each representation. Copies of the representations are attached as Annex 5.

Reference	Company	Summary of Comments
CAP092-AR-01	Scottish and Southern Energy	Comments expressed as a Panel Member
CAP092-AR-02	Scottish Power	Reiterated support for CAP092

Annex 1 - Amendment Proposal Form**CUSC Amendment Proposal Form****Title of Amendment Proposal:**

Consistent Generation Use of System Charge Liability Provisions for Transmission Access Products.

Description of the Proposed Amendment (mandatory by proposer):

An amendment to the existing Use of System Charge liability provisions, contained in 3.9.2 of the CUSC, to ensure that a User's total liability for charges during any Financial Year due to the granting of STTEC and/or Transmission Export Capacity (TEC) in respect of a Power Station, does not exceed the liability which would have been incurred had the relevant export capacity been provided through TEC alone.

Description of Issue or Defect that Proposed Amendment seeks to Address (mandatory by proposer):

The present Use of System Charges liability provisions in 3.9.2 of the CUSC, in connection with the Statement of the Use of System Charging Methodology, can lead to liabilities which are inconsistent. Due to the additive nature of the liabilities described in 3.9.2, Users who generate at Power Stations using STTEC over a number of STTEC Periods or using a combination of STTEC and TEC, can be liable to charges which are far higher than the User would have paid had the relevant capacity been provided using TEC alone.

STTEC is an inferior product to TEC as it provides fewer rights to Users. For example, TEC provides rights to use the transmission system in future years at the same level of capacity, as long as the User continues to pay the relevant Use of System charges, whereas STTEC provides no such option. STTEC is only available at short notice and over short timescales. There is also a fixed non-refundable application fee associated with each STTEC period. Therefore, given its lower value, it is not clear why the present liability provisions should lead to Users paying more.

Such inconsistency leads to Users being treated inequitably thereby preventing some Users from competing on an equivalent basis within the generation market to others. This proposal would ensure that Users are not disadvantaged as a result of using STTEC, or a combination of TEC and STTEC, compared with others who use TEC alone.

Attached in appendix 1 is an example illustrating how the provision of the similar levels of transmission capacity can lead to different liabilities. It also shows how the provision of lower levels of access can lead to higher liabilities. It should be noted that this is not meant to illustrate all instances where this is the case, rather than to illustrate clearly the inadequacy of the present liability provisions.

Impact on the CUSC (*this should be given where possible*):

It is anticipated that a simple change can be made to paragraph 3.9.2 of the CUSC to correct the defect. The suggested change to the legal text is attached in Appendix 2.

Impact on Core Industry Documentation (*this should be given where possible*):

None anticipated.

Impact on Computer Systems and Processes used by CUSC Parties (*this should be given where possible*):

No or minimal changes are anticipated.

Details of any Related Modifications to Other Industry Codes (where known):

None

Justification for Proposed Amendment with Reference to Applicable CUSC Objectives**

(mandatory by proposer):

Objective (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.

This amendment will remove the potential for the liability provisions to act in a discriminatory manner and thereby will better facilitate effective competition in the generation of electricity.

Details of Proposer:

Organisation's Name:

Paul Jones
E.ON UK plc**Capacity in which the Amendment is being proposed:**

(i.e. CUSC Party, BSC Party or "energywatch")

CUSC Party

Details of Proposer's Representative:

Name:

Organisation:

Telephone Number:

Email Address:

Paul Jones
E.ON UK plc
024 7642 4829
paul.jones@eon-uk.com

Details of Representative's Alternate:

Name:

Organisation:

Telephone Number:

Email Address:

Neil Smith
E.ON UK plc
024 7642 4369
neil.c.smith@eon-uk.com

Attachments: Yes

Title and No. of pages of each Attachment:

Appendix 1 – Examples of the inconsistent and discriminatory nature of present Use of System liability provisions (4 pages)

Appendix 2 – Proposed change to the legal text (1 page)

Appendix 1 – Examples of the inconsistent and discriminatory nature of present Use of System liability provisions

Paragraph 3.9.2 states that Users will be liable to pay both Transmission Network Use of System charges (TNUoS) and STTEC charges, where appropriate. In certain circumstances where STTEC is used to provide an additional short term increase in capacity over a base level of TEC, this requirement to pay both charges is necessary to ensure that the correct level of capacity is paid for. However, in other circumstances it results in a liability disproportionately higher than would accrue using TEC alone.

The following example illustrates how this can happen. Imagine a generator wants 100MW of capacity for the period of one charging year. In one scenario it is granted the TEC from the beginning of the year, as shown in Fig 1 below.

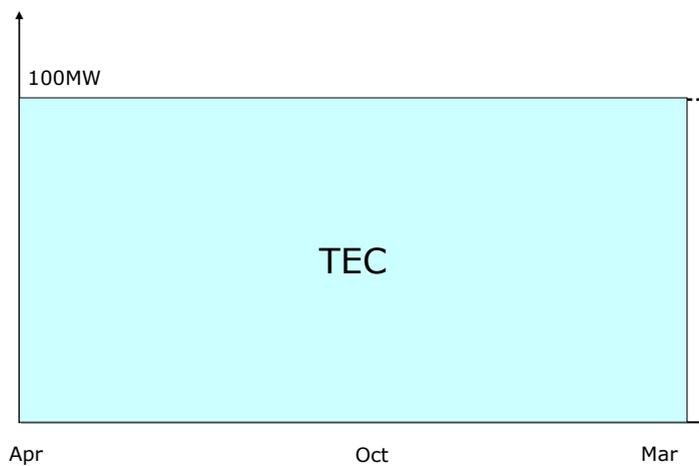


Fig 1: Scenario 1 – TEC for the whole year

In the second scenario full TEC is not available until half of the year has expired. Thereafter, it can be accommodated. However, it is possible to accommodate the generator for some of the earlier months through the use of STTEC. This is available in 4 slots of the 6 week STTEC product as illustrated below in Fig 2 (this could alternatively be 6 slots of 4 week product).

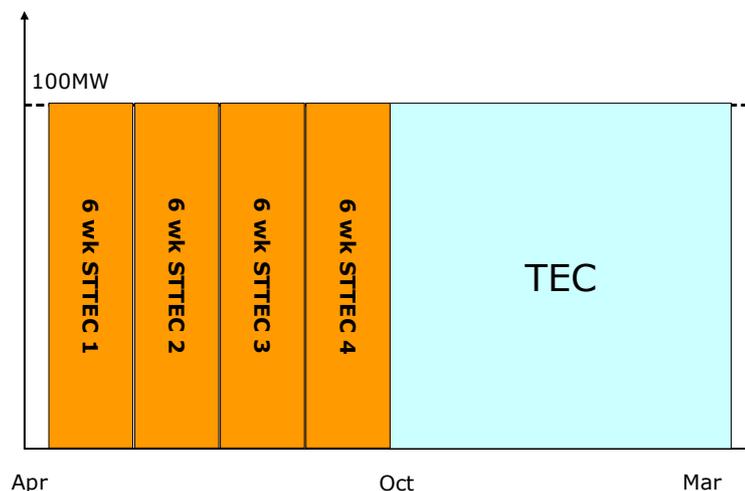


Fig 2: Scenario 2 – STTEC until TEC can be delivered

Under the present charge liability provisions of the CUSC the generator in the first scenario would be liable for charges at the TNUoS rate for the relevant zone. In the second scenario the generator would be liable for 2.26 times this amount.

Imagine a third scenario where the generator cannot obtain TEC for that year at all, but is able to obtain 4 slots throughout the year as in Fig 3 below.

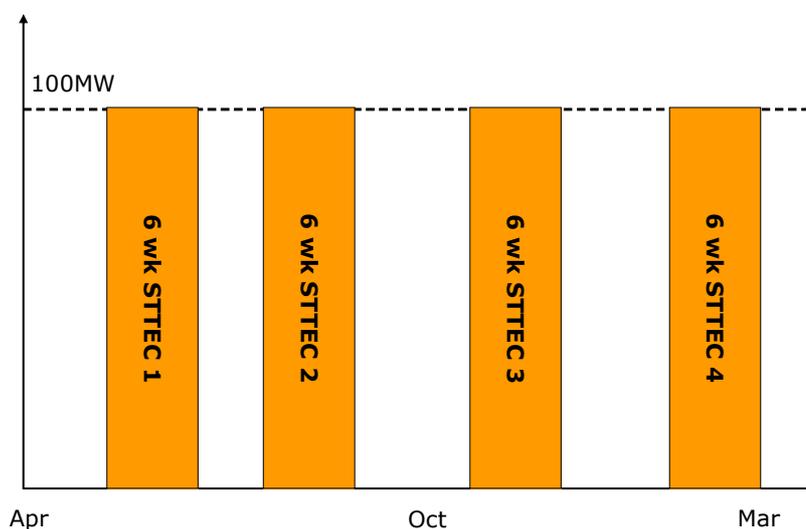


Fig 3: Scenario 3 – STTEC only

In this instance the generator would be liable for 1.26 times the charge in the first scenario even though it obtained less than half of the total access rights. In addition, under the first scenario the generator would have first refusal on 100MW of access rights for the next year. No such option would be available under the third scenario.

The requirement to pay far higher charges for a lower standard of access has to be discriminatory and results in some Users paying a disproportionately high level of charges. Due to the regulatory formula any instance of overpayment also results in a cross subsidy as the surplus is reallocated to all Users. The following table illustrates how much the generator would overpay on an annual basis in the second and third scenarios compared with the first scenario, based on 2004/05's charges for a range of positive charging zones (this is not an issue in negative zones who would opt for TEC to maximise income). It should be noted that the use of STTEC is most likely to be required in the higher priced zones to reflect the greater scarcity of available TEC capacity. Therefore, the potential for discrimination is higher.

Zone no	Zone name	Tariff £/kW	Over-payment on 100MW	
			2 nd Scenario	3 rd Scenario
3 (Highest positive zone)	Skye	23.095483	£2,910,031	£600,483
8 (Median positive zone)	Stirlingshire	12.610665	£1,588,944	£327,877
15 (Lowest positive zone)	Midlands & South East	1.322966	£166,694	£34,397

Another way to illustrate the inconsistent nature of these charges is as follows. Imagine, instead of using STTEC a generator acquired short term access rights by adjusting its TEC through the year as in Fig 4 below. Although it is unlikely that a generator would want to do something as complex as this with TEC, it serves to illustrate the point further.

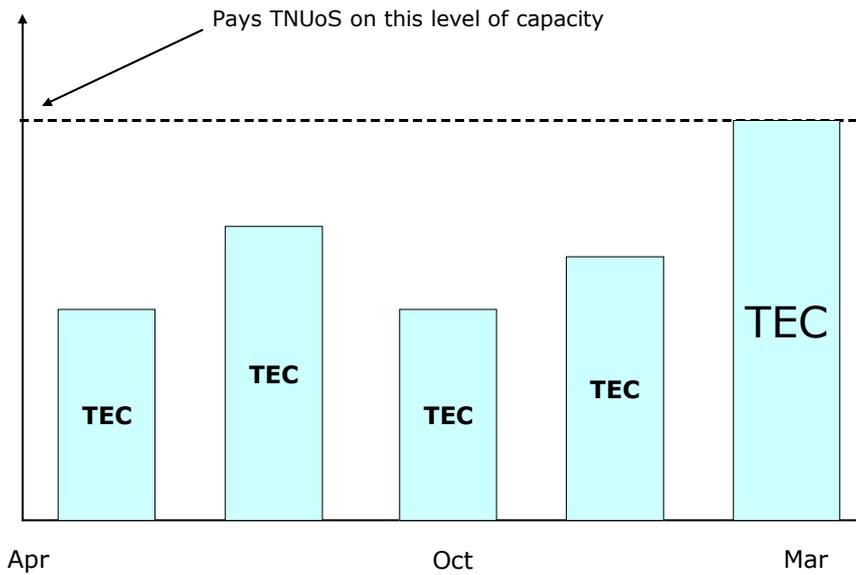


Fig 4: Intermittent capacity provided by changes in TEC

Through the CUSC liability provisions and the TNUoS charging methodology, the generator would be liable to pay TNUoS at the maximum level of TEC provided in the year.

If instead, it acquired the same access rights through STTEC and TEC as below, the generator's liability would be completely different.

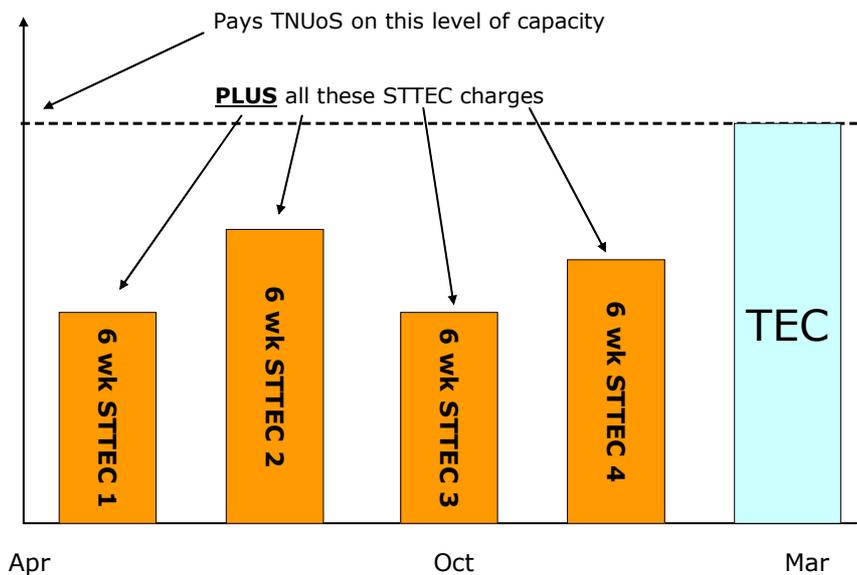


Fig 5: The same capacity provided by STTEC and TEC

As well as paying the same level of TNUoS for the maximum (or only in this case) value of TEC in the year, each of the individual STTEC charges would be added too, meaning yet again a higher charge for the same amount of access.

It has been claimed that having different charges for STTEC and TEC is justified because they are different products. Firstly, it should be noted that they are not radically different products. STTEC is basically allowing access to the system for a shorter period than TEC. In this way STTEC should be seen simply as a smaller quantity of access than is provided by TEC. Secondly, those differences which exist serve to make STTEC a worse product than TEC. Therefore, they are not an appropriate reason for higher charges.

Conclusions

Due to the inconsistent nature of TEC and STTEC liabilities, some Users are being unduly disadvantaged by being overcharged compared with other Users who are provided a better level of access. This distorts competition in generation.

The nature of NGC's revenue recovery means that this overcharge will be smeared across other Users providing a cross subsidy. This distorts competition further.

Appendix 2 – Proposed change to the legal text.

- 3.9.2 Each **User** shall, as between **NGC** and that **User**, in accordance with this Part II and Paragraph 6.6, be liable to pay to **NGC** (or **NGC** shall be so liable to pay to the **User**) the **Transmission Network Use of System Charges** and (if appropriate) the **STTEC Charge** in respect of its use of the **GB Transmission System** applied and calculated in accordance with the **Statement of Use of System Charges** and **Statement of the Use of System Charging Methodology** and Standard Condition C13 of the **Transmission Licence**, provided that no **User's** aggregate liability in respect of any **Financial Year** relating to **Transmission Network Use of System Charges** and/or **STTEC Charges** at any **Power Station** shall exceed the **Transmission Network Use of System Charges** that the **User** would have been liable to pay for such **Financial Year** had the **User** been granted a **Transmission Entry Capacity** equal to the highest capacity that applied at any time during that **Financial Year** under the relevant **Bilateral Agreement** (as revised as the case may be).

Annex 2 – Proposed Text to modify CUSC

Part A - Text to give effect to the Proposed Amendment

The proposed changes to the CUSC text are shown in colour and marked up against the current version of the CUSC. The text will be amended by inserting the coloured underlined text and deleting the text which is coloured and struck out.

Amend paragraph 3.9.2 as follows:

- 3.9.2 Each **User** shall, as between **NGC** and that **User**, in accordance with this Part II and Paragraph 6.6, be liable to pay to **NGC** (or **NGC** shall be so liable to pay to the **User**) the **Transmission Network Use of System Charges** and (if appropriate) the **STTEC** Charge in respect of its use of the **GB Transmission System** applied and calculated in accordance with the **Statement of Use of System Charges** and **Statement of the Use of System Charging Methodology** and Standard Condition C13 of the **Transmission Licence**, provided that no **User's** aggregate liability in respect of any **Financial Year** relating to **Transmission Network Use of System Charges** and/or **STTEC Charges** at any **Power Station** shall exceed the **Transmission Network Use of System Charges** that the **User** would have been liable to pay for such **Financial Year** had the **User** been granted a **Transmission Entry Capacity** equal to the highest capacity that applied at any time during that **Financial Year** under the relevant **Bilateral Agreement** (as revised as the case may be).

Part B - Text to give effect to the Alternative Amendment

The proposed changes to the CUSC text are shown in colour and marked up against the current version of the CUSC. The text will be amended by inserting the coloured underlined text and deleting the text which is coloured and struck out.

Amend paragraph 3.9.2 by inserting after the words "Standard Condition C13 of the Transmission Licence" the following text:

, provided that where such charges are from a User to NGC, a User's aggregate liability in respect of any Financial Year relating to generation Transmission Network Use of System Charges and/or STTEC Charges (as the case may be) under a Bilateral Agreement shall not exceed the Liability Cap Amount

Amend paragraph 3.13.1 as follows:

3.13.1 On or before 30 June in each **Financial Year**, **NGC** shall promptly calculate in accordance with the **Statement of the Use of System Charging Methodology** and the **Statement of Use of System Charges** the **Demand** related or generation related **Transmission Network Use of System Charges** (as the case may be) and (if appropriate) **STTEC Charges** that would have been payable by the **User** during each month during the preceding **Financial Year** (the "**Actual Amount**"). **NGC** shall then compare the **Actual Amount** with the amount of **Demand** related or generation related **Transmission Network Use of System Charges** (as the case may be) and (if appropriate) **STTEC Charges** paid each month during the preceding **Financial Year** by the **User** (the "**Notional Amount**").

Insert new paragraphs 3.13.2 and 3.13.3:

3.13.2 For the purposes of 3.13.1, the liability for **STTEC Charges** payable in a month shall be the **STTEC Charge** invoiced to that **User** in that month.

3.13.3 If the aggregate **Notional Amount** in a **Financial Year** exceeds the **Liability Cap Amount** then, for the purpose of 3.13, the **Actual Amount** in each month shall be the generation **Transmission Network Use of System Charges** the **User** would have been liable to pay in each month of the **Financial Year** had the **User** had a **Transmission Entry Capacity** at 1 April in that **Financial Year** equal to the **Capacity Cap Amount**.

Amend present paragraph 3.13.2 as follows, and renumber all subsequent paragraphs:

3.13.4 As soon as reasonably practicable and in any event by 30 April in each **Financial Year** **NGC** shall prepare a generation reconciliation statement (the "**Generation Reconciliation Statement**") in respect of generation related **Transmission Network Use of System Charges** and (if appropriate) **STTEC Charges** and send it to the **User**. Such statement shall specify the **Actual Amount** and the **Notional Amount** of generation related **Transmission Network Use of System Charges** and (if appropriate) **STTEC Charges** for each month during the relevant **Financial Year** and, in reasonable detail, the information from which such amounts were derived and the manner in which they were calculated.

Amend references in subsequent paragraphs as follows:

Existing Para No.	New Para No.	Existing Ref.	New Ref.
3.13.3	3.13.5	3.13.6	3.13.8
3.13.5	3.13.7	3.13.6	3.13.8
3.13.6(a)	3.13.8(a)	3.13.3	3.13.5
3.13.6(a)	3.13.8(a)	3.13.5	3.13.7
3.13.6(a)	3.13.8(a)	3.13.8(b)	3.13.9(b)
3.13.7(a) (i)	3.13.9(a) (i)	3.13.4	3.13.6
3.13.7(a) (iii)	3.13.9(a) (iii)	3.13.6	3.13.8
3.13.7(b)	3.13.9(b)	3.13.6	3.13.8
3.13.7(c)	3.13.9(c)	3.13.7(b)	3.13.9(b)
3.13.7(c)	3.13.9(c)	3.13.8(c)	3.13.9(c)

Introduce the following new definitions into Section 11:

"Capacity Cap Amount" the highest sum of coincident **Transmission Entry Capacity** and **STTEC** in a **Financial Year** under a **Bilateral Agreement**;

"Liability Cap Amount" the generation **Transmission Network Use of System Charges** calculated in accordance with the **Statement of Use of System Charges** and **Statement of the Use of System Charging Methodology** and Standard Condition C13 of the **Transmission Licence** that a **User** would have been liable to pay under a **Bilateral Agreement** for such **Financial Year** had the **User** had a **Transmission Entry Capacity** equal to the **Capacity Cap Amount** in that **Financial Year**;

Annex 3 - Reconciliation of STTEC & TNUoS Charges (Illustrations)

Reconciliation – Existing Provisions

CUSC (Section 3.13)

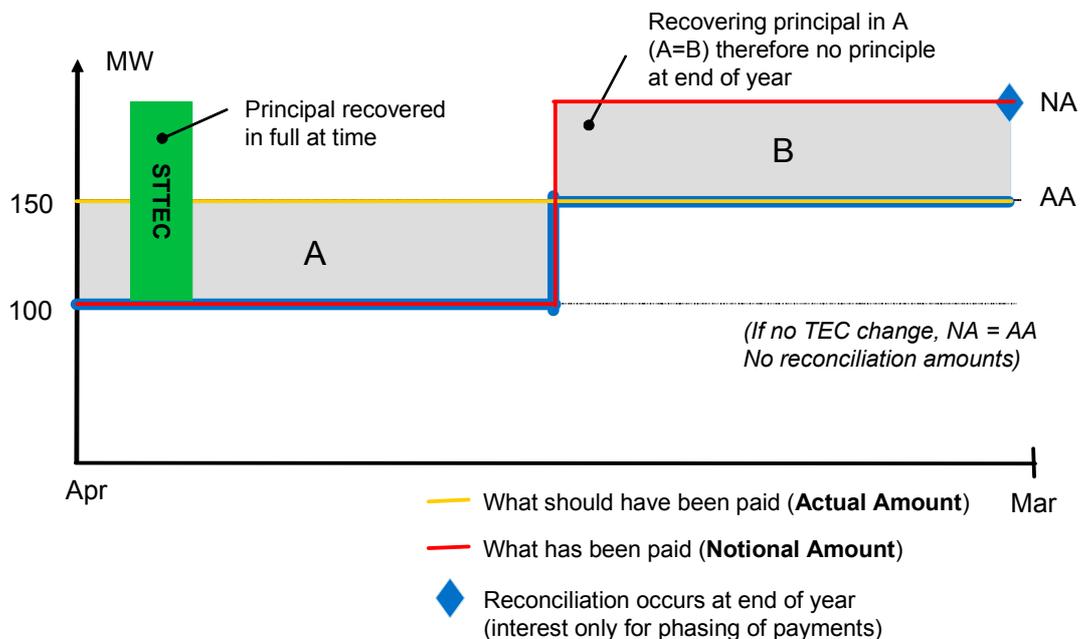
- Done once per year in April (t+1)
- Compare what the user would have paid (the “Actual Amount”) and what was paid (the “Notional Amount”) on a monthly basis
 - determined by applying the Use of System Charging Methodology
- Issue each user an annual Generation Reconciliation Statement
- Interest payable on any sums shown in the Generation Reconciliation Statement to be due to User or NGC
- Provides credit / invoice payment terms for reconciled amounts

Statement of the UoS Charging Methodology (Chapter 5)

- Provides basis for Actual Amount and Notional Amount
- TEC paid in 12 equal monthly instalments (Actual Amount)
- If no TEC changes, Actual Amount and Notional Amount equal
- If TEC increases within year TNUoS charges set to recover a year of TEC at the higher level over the remaining months (Notional Amount)
 - TNUoS is set to recover the principal amount by the end of the year regardless of when any TEC changes might have been made
- Users invoiced for STTEC Charges for each STTEC Period approved
 - no principal outstanding for STTEC Charges at end of year
 - (no concept of Actual Amount or Notional Amount for STTEC Charges)

TEC & STTEC

No principal owed at end of year

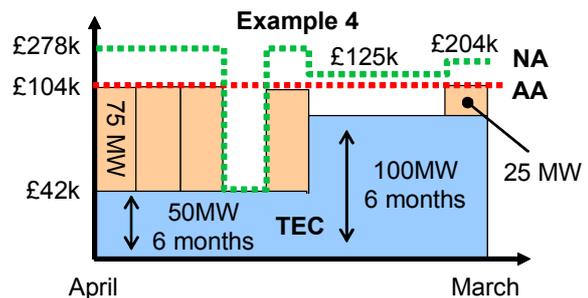
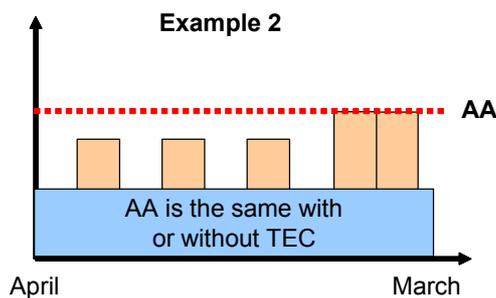
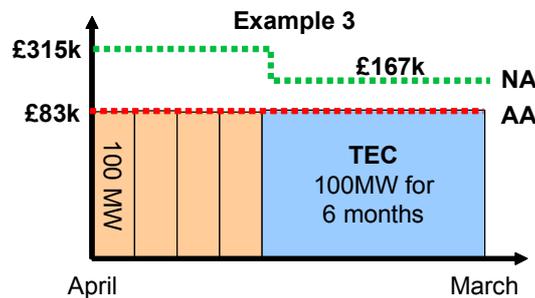
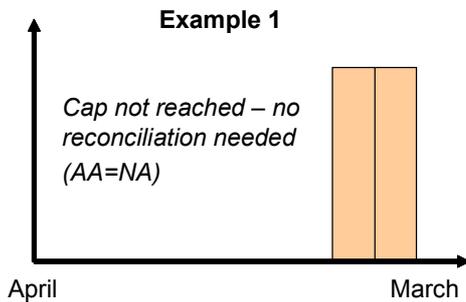


- Revised reconciliation process in CUSC needs to cater for any ad-hoc payments of STTEC Charges made throughout year. Need clarity in
 - how TEC and STTEC payments will be treated
 - definition of Actual Amount and Notional Amount
 - the Actual Amount (what should have paid) if the cap is exceeded
- Depending on the usage of TEC and STTEC (quantities and timing) the cap and therefore the principal may change throughout the year
- The cap and principal amount is only known at the end of the year
- Uncertain as to remaining number of STTEC Periods in the year
- Only at the end of the year can NGC determine what the User should have paid (i.e. the Actual Amount for the reconciliation process)
- Reconciliation (and billing) timings and process remain unchanged
- Definitions of Actual Amount and Notional Amount need to be revised to consider the contributions from any TNUoS Charges and STTEC Charges that may have been made in any given month
- STTEC Charges will be attributed to a single month – that in which the invoice for the STTEC Period was issued
- If the liability cap is reached, the Actual Amount is defined as the monthly TNUoS amount that would have been payable in 12 equal monthly instalments had the User purchased TEC at the capped level

Proposal for CAP092 Brief Examples

TNUoS tariff is £10/kW
All STTEC purchased for 6wk @ £3.15/kW

NOT TO LINEAR SCALE



In examples 2,3, and 4 NA is the monthly sum of STTEC Charge and TNUoS Charge payments

Annex 4 – Copies of Representations Received to Consultation

This Annex includes copies of any representations received following circulation of the Consultation Document (circulated on 27th September 2005 requesting comments by close of business on 28th October 2005)

Representations were received from the following parties:

No.	Company	File Number
1	British Energy	CAP092-CR-01
2	Centrica	CAP092-CR-02
3	Conoco Phillips	CAP092-CR-03
4	EDF Energy	CAP092-CR-04
5	E.ON UK	CAP092-CR-05
6	Gaz de France	CAP092-CR-06
7	RWE/npower	CAP092-CR-07
8	Scottish Power	CAP092-CR-08
9	Scottish and Southern Energy	CAP092-CR-09

Reference	CAP092-CR-01
Company	British Energy



30th September, 2005

Lindsey Paradine
Transmission Commercial
National Grid
NGT House
Warwick Technology Park
Gallows Hill
Warwick

CV34 6DA

Dear Lindsey,

**CAP092 : Consistent Generation Use of System Charge Liability Provisions for
Transmission Access Products**

Thank you for the opportunity to comment on the above consultation.

Having been present at the working group and considered the arguments set out in the consultation paper British Energy absolutely supports the statements made by NGET in paragraphs 8.1 and 8.2. This proposal does impede the relevant objectives and should be vetoed.

If you have any questions regarding these comments please do not hesitate to contact me.

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

Gayle Cairns

**Trading Consultant
British Energy Power and Energy Trading**

☎ 01452 653860
☎ 07709 458951
✉ gayle.cairns@british-energy.com

Reference	CAP092-CR-02
Company	Centrica



Lindsey Paradine
Transmission Commercial
National Grid
NGT House
Warwick Technology Park
Gallows Hill, Warwick
CV34 6DA
By email
lindsey.paradine@ngtuk.com

Centrica Energy

**Millstream East,
Maidenhead Road,
Windsor,
Berkshire SL4 5GD**

Tel. (01753) 431052
Fax (01753) 431150
www.centrica.com

Our Ref.
Your Ref.
28 October 2005

Dear Lindsey,

CUSC Amendment Proposal CAP092 - Consistent Generation Use of System Charge Liability Provisions for Transmission Access Products

Centrica welcomes the opportunity to provide views on the above proposal.

We do not believe that CAP092 would better facilitate the applicable objectives and as such we do not support the implementation of this proposal.

We suggest that the STTEC product was developed as, and is, a short-term product that allows generators to increase their access volume for a brief period without incurring annual charges. We do not believe that charges for TEC and STTEC should be linked in this way and think this may lead to both an increase in the utilisation of STTEC with a corresponding decrease in utilisation of TEC. In addition, we suggest that this modification may cause access to be sterilised: if enough periods of STTEC are purchased within a year, the user will not incur charges for similar volumes for all the periods up to the end of the financial year, even if these are not required.

Notwithstanding these comments, we suggest that any changes to the charges for specific access products should be undertaken within the charging methodology rather than the CUSC.

I hope you have found this response useful. Please contact me if you have any queries regarding these views.

Yours sincerely,

Sarah Owen
Commercial Manager
Centrica Energy

A centrica business

Centrica plc - The group includes British Gas Trading, British Gas Services and Accord Energy
Registered in England No.3033654. Registered Office: Millstream, Maidenhead Road, Windsor, Berkshire SL4 5GD

Reference	CAP092-CR-03
Company	Conoco Phillips



Immingham CHP LLP
Portman House
2 Portman Street
London W1H 6DU
Tel: 020 7408 6000
Fax: 020 7408 6723

Lindsey Paradine
Transmission Commercial
National Grid
NGT House
Warwick Technology Park
Gallows Hill
Warwick
CV346DA

28th October 2005

Dear Lindsey,

Consultation response CAP092: Consistent Generation Use of System Charge Liability Provisions for Transmission Access Products.

Immingham CHP welcomes the opportunity to comment on the CAP092 consultation document.

We support the initial view expressed by National Grid in the consultation report, and do not consider the amendment proposal should be approved. We consider that the access regime requires careful consideration and further articulation with a view to making it more complete therefore ICHP does not consider CAP092 an appropriate step forward.

In reaching this view, we would highlight the following points:

- TEC and STTEC are different products and are not necessarily additive as the change proposal implies.
- Linking the products might undermine the primacy of TEC.

In the event the Authority were to approve CAP092 (or its alternative) it should not be implemented within year as this could distort competition.

Please do not hesitate to contact me on 020 7408 6233 if you have any questions regarding this submission.

Yours sincerely,

Rekha Patel
Power Regulatory Analyst

Registered in England No. OC300980. Registered Office: Portman House, 2 Portman Street, London W1H 6DU

Reference	CAP092-CR-04
Company	EDF Energy

Our Ref
Your Ref CAP092

Lindsey Paradine
Transmission Commercial
National Grid
NGT House
Warwick Technology Park
Gallows Hill
Warwick
CV34 6DA



Date 28 October 2005

Dear Lindsey,

**EDF Energy Response to CUSC Amendment Proposal CAP092 –
“Consistent Generation Use of System Charge Liability Provisions for
Transmission Access Products”.**

EDF Energy is pleased to have the opportunity to comment on CUSC Amendment Proposal CAP092. We note that this is a CUSC consultation but we do not believe it is possible to assess this issue without consideration of the transmission charging implications.

We do not support this amendment proposal because we believe that it undermines the predominance of TEC as the primary transmission access product. The existing charging methodology places a premium on STTEC because 90% of infrastructure investment costs are driven by capacity requirements at system peak conditions which is why TEC is not only the basis of the charge paid by a generator, but also its maximum permitted output during any one half-hour.

Thus, TEC currently provides a stable charging base and assists National Grid in planning future development of the transmission network. To undermine the primacy of TEC would be to undermine the efficiency of the transmission network.

Should this Amendment Proposal be implemented then the implementation date must be from the start of the next charging year. Generators will have made any decision to apply for STTEC during this charging year on the basis of the current methodology, therefore some may have decided not to apply during the summer because of the premium charged. Were CAP092 introduced within this year then those generators would be disadvantaged.

If you have any queries, please do not hesitate to contact me on 020 7752 2524 or Rupert Judson on 020 7752 2526.

40 Grosvenor Place Victoria London SW1X 7EN

EDF Energy plc
Registered in England and Wales
Registered No. 2366852
Registered Office:
40 Grosvenor Place Victoria
London SW1X 7EN
www.edfenergy.com

Yours sincerely



Stephen Moore
Energy Market Strategy
EDF Energy



Reference	CAP092-CR-05
Company	E.ON UK



Lindsey Paradine
Transmission Commercial
National Grid
NGT House
Warwick Technology Park
Gallows Hill
Warwick
CV34 6DA

E.ON UK plc
Westwood Way
Westwood Business Park
Coventry
CV4 8LG
eon-uk.com

Paul Jones
024 7642 4829

paul.jones@eon-uk.com

28 October, 2005

Dear Lindsey,

CAP092 - Consistent Generation Use of System Charge Liability Provisions for Transmission Access Products – Consultation Document

I am responding on behalf of E.ON UK to the above consultation. As the proposers of CAP092 we continue to believe strongly that it should be implemented.

We raised CAP092 as we believe that the present liability for charges associated with TEC and STTEC is inequitable in two circumstances. These have been accurately described in section 3.4 of the consultation document. Firstly, STTEC liabilities accrue in respect of each slot of STTEC acquired. This in connection with the charging methodology means that for prolonged usage of STTEC the liability becomes far higher than that for equivalent levels of TEC. Secondly, when STTEC and TEC are acquired consecutively in the same year, then the liabilities are added together so that the total level of liability is higher than would have been paid had an identical level of capacity been achieved through the use of TEC alone.

Therefore, it is not the level and duration of access which drives a generator's liabilities to NGC, rather than the combination of products used to achieve it. This means that different generators can be exposed to different costs for identical levels of access to the system. This results in an unfair competitive advantage for some generators which is

E.ON UK plc
Registered in
England and Wales
No 2366970
Registered Office:
Westwood Way
Westwood Business Park
Coventry CV4 8LG

detrimental to competition. As the total pot of money to be recovered from generators does not change then this also results in a cross subsidy. The reason for this is because the revenue surplus generated by overcharging a generator for STTEC is smeared across generators as a whole, resulting in a reduction in their charges. Therefore, the affected party pays more and others pay less.

STTEC is a product which utilises spare capacity on the system. If the liabilities associated with its use dissuade parties from using it, then generation may not be available which would have increased competition both in energy and balancing services. Additionally, if network capacity is not made available which otherwise could be, it is arguable that the transmission system is not being operated as efficiently as it could be.

This modification simply ensures that the liabilities for STTEC and TEC are aligned. We believe that this is a totally reasonable thing to do. We do not agree that it is appropriate to have different liabilities simply because STTEC and TEC have been defined as two different products. For such a difference to be justified, then the underlying costs of providing the products must be very different. Specifically, the cost of providing STTEC must be far higher than providing the equivalent level of TEC. This is not the case.

We agree with the view of some others that TEC should continue to be the primary access product. However, we do not believe that the liabilities associated with it should be punitive in order to achieve this. As far as we know we are the only company who has used STTEC. Its drawbacks, such as uncertainty as to whether the capacity is going to be available and the lack of option for future access rights, make it far less attractive an option for a generator than TEC. However, in the constrained system we presently have, TEC is not always available even if network capacity is.

We also do not believe that generators will attempt to "game" the levels of transmission charges by opting out of TEC and using STTEC. A generator who does this risks being unable to access the system at all, as another generator is likely to be allocated the relinquished TEC. The only place where this may not be the case is in a negative zone where there is plenty of spare capacity. However, in these zones the incentive to game charges in this way does not exist. Therefore, this is an unrealistic concern.

We therefore do not believe that this modification will lead to TEC being undermined.

We understand NGC's nervousness that charges should not be set outside of the charging methodology. However, this amendment proposal does not affect the level of charges for the products. What it does do is set a fundamental underlying principle which states that a user will not have a greater liability from using STTEC, or a combination of STTEC and TEC, than would have arisen had the access been provided using TEC alone. This is no different in concept than stating in the CUSC that TEC and STTEC charges will be levied separately, as paragraph 3.9.2 presently does. Another example of a similar provision is paragraph 3.11.2 which allows the level of demand charges to be adjusted if a User's demand forecast changes. Both these clauses affect the level of Users' liabilities, but do not affect the level of charges themselves. This remains the remit

of the charging methodology. Therefore, we do not agree that this proposal undermines NGC's ability to set charges in the charging methodology.

We believe that the amendment should be made as soon as possible and have effect for all STTEC and TEC payments made this financial year. We do not believe that this represents a retrospective change. The present charging principles require a reconciliation process at the end of the year. This amendment simply sets the principles for the forthcoming reconciliation process at the end of this financial year.

We do not accept the argument that implementation of this amendment in this way would negate access decisions other parties took in respect of this year. They could not have made business decisions assuming that E.ON was paying STTEC charges, as they would not have been aware that we were acquiring STTEC. All this amendment would do is remove a windfall gain that they were previously unaware they were going to receive. Additionally, there have been no examples forthcoming from parties that they would have opted to use STTEC rather than TEC had this amendment been in place in April and, as we mention above, we believe it would have been risky to do so as someone else may have been allocated their relinquished TEC. What a failure to implement this year is likely to do, is limit the continuing usage we can make of STTEC for the remainder of the year. This will restrict our ability to compete in the market on an equal basis to other generators.

In short this amendment will better facilitate the efficient operation of the transmission system and will result in more effective competition in generation. We therefore believe that it should be implemented as soon as possible with effect for this current year.

Yours sincerely

Paul Jones
Trading Arrangements

Reference	CAP092-CR-06
Company	Gaz de France



30 October 2005

Lindsey Paradine
Transmission Commercial
National Grid
NGT House
Warwick Technical Park
Gallows Hill
Warwick
CV34 6DA

GAZ DE FRANCE ESS (UK)
LTD

1 City Walk
Leeds
LS11 9DX
United Kingdom

tel: +44 (0)113 306 2000
fax: +44 (0)113 245 1515

www.gazdefrance.co.uk

REGISTERED IN ENGLAND
NO. 2708333

Dear Lindsay

**RE: Connection and Use of System Code Amendment Proposal
CAP092 – Consistent Generation Use of System Charge Liability
Provisions for Transmission Access Products**

Thank you for the opportunity to respond to this consultation document on the merits of the above amendment proposal.

Gaz de France ESS does not support this proposal as we do not agree that there is a code defect in relation to Short Term Transmission Entry Capacity (STTEC) to be corrected, in accord with the views of National Grid and the majority of the working group members. We believe Transmission Entry Capacity (TEC) and STTEC to be different products, introduced to satisfy different purposes and therefore cannot support a linkage via a price cap for the two products. We believe that the introduction of a price cap would introduce an element of discrimination against the generation plant that is unable to utilise the STTEC product.

If you require any further information then please do not hesitate to contact me on 0113 306 2122 or 07736 107 020.

Yours sincerely

Barbara Vest

**Regulatory Affairs Manager
Gaz de France ESS**

GAZ DE FRANCE ESS (UK) LTD, trading as Gaz de France ESS, a subsidiary company of the Gaz de France Group in the United Kingdom

Reference	CAP092-CR-07
Company	RWE/npower

RWE npower



Lindsey Paradine
Transmission Commercial
National Grid
Warwick Technology Park
Gallows Hill
Warwick CV34 6DA

Your ref
Our ref
Name Daniel Jefferson
Phone 01905 340456
Fax
E-Mail Daniel.Jefferson@npower.com

28th October 2005

■ **CUSC Amendment Proposal 092: Consistent Generation Use of System Charge Liability Provisions for Transmission Access Products**

Dear Lindsey

Thank you for the opportunity to respond to the above consultation.

RWE npower's view is that both the proposed amendment and alternative do not further the relevant CUSC objectives, and that, if implemented, could compromise the cost reflectivity of transmission charges and the efficient operation of the transmission system.

The current transmission charging methodology works on the basis that TEC is the primary means for generation to gain access to the transmission system. If STTEC charges were to be capped in the manner proposed in the amendment, the use of TEC rather than STTEC could be greatly reduced in positive charging zones.

The assessment procedure for STTEC applications is less rigorous than that for TEC applications. If there were no financial penalty associated with using STTEC rather than TEC, STTEC could be used as a means of bypassing the TEC assessment procedure.

The use of STTEC for this purpose would reduce the information available to National Grid for planning the transmission system, and decrease the cost reflectivity of transmission charges. Both of these consequences would be detrimental to the fulfilment of the applicable CUSC objectives.

If you wish to discuss any aspect of our response please do not hesitate to contact me.

Yours Sincerely

Daniel Jefferson
Transmission Charging Analyst
npower

RWE npower
Trigonos
Windmill Hill Business
Park
Whitehill Way
Swindon
Wiltshire SN5 6FB
T +44(0)1793/87 77 77
F +44(0)1793/89 25 25
I www.rwenpower.com

Registered office:
RWE Npower plc
Windmill Hill Business
Park
Whitehill Way
Swindon
Wiltshire SN5 6FB
Registered in England
and Wales no. 3892782

Reference	CAP092-CR-08
Company	Scottish Power



Lindsey Paradine
Transmission Commercial
National Grid
NGT House
Warwick Technology Park
Gallows Hill
Warwick
CV34 6DA

Ref CAP092
Date 28th October 2005

Tel No. 01355 845209
Email: ukelectricityspoc@saic.com

Dear Lindsey

CUSC Amendment Proposal CAP092, Consistent Generation Use of System Liability Provisions for Transmission Access Products

Thank you for the opportunity to comment on CUSC Amendment Proposal CAP092 regarding consistent generation use of system charges liability provisions for transmission access products. This response is submitted on behalf of ScottishPower's Energy Wholesale Business which includes ScottishPower Generation Ltd and ScottishPower Energy Management Ltd.

ScottishPower's Wholesale Business believes that the problem which the Amendment Proposal seeks to address is caused by the misguided method of charging for STTEC. Whilst the problem stems from the charging methodology, and we believe that the charge for STTEC should be altered in the charging methodology, this does not mean that the problem highlighted by the proposer is incapable of remedy in the CUSC. We see no reason why the total charge liability for access products contracted for under the CUSC cannot be limited by a provision in the CUSC.

A generator which is using STTEC is not causing costs to be incurred in the provision of incremental transmission capacity and to charge for STTEC on the basis of the ICRP methodology cannot be considered to be cost-reflective. To allow the total liability from the use of STTEC to accumulate to a sum larger than the charge which would be incurred for firm annual capacity based on the provision of infrastructure assets is illogical.

We believe that the CAP092 better facilitates the CUSC objective to facilitate effective competition. A generator using STTEC is clearly increasing competition in generation; it is important that the access charges payable by that generator allow that competition to be fair competition. To load the STTEC generator with unjustifiable charges does not facilitate effective competition.

We also believe that the proposal facilitates the efficient discharge by the licensee of the obligations imposed by the transmission licence. Use of STTEC should increase the efficient utilisation of the transmission system by ensuring that available capacity does not lie unused while generators wait for access. The removal of the excessive liability for charges which accompanies the use of STTEC would encourage generators to make use of that spare capacity.

Overall we believe that the removal of the excess charge liability from generators using STTEC facilitates both applicable CUSC objectives. We believe that the liability cap is a CUSC issue and that the CUSC should protect users from the consequences of inappropriate interactions of separate provisions of the charging methodology.

Yours sincerely

John W Russell

SAIC Ltd.
For and on behalf of: of ScottishPower's Energy Wholesale Business which includes ScottishPower Generation Ltd and ScottishPower Energy Management Ltd.

Registered Office: SAIC Ltd, 8-9 Stratton Street, Mayfair, London W1J 8LF
Registered in England Reg No: 1396396
www.saic.com

Reference	CAP092-CR-09
Company	Scottish and Southern Energy

-----Original Message-----

From: Garth.Graham@scottish-southern.co.uk [mailto:Garth.Graham@scottish-southern.co.uk]

Sent: 27 October 2005 16:28

To: GoldIC, Industry Codes

Subject: Re: Consultation Document for CAP092

Dear Sirs,

This response is sent on behalf of Scottish and Southern Energy, Southern Electric, Keadby Generation Ltd., Medway Power Ltd., and SSE Energy Supply Ltd.

In relation to the consultation concerning the report associated with CUSC Amendment Proposal CAP092 "Consistent Generation Use of System Charge Liability Provisions for Transmission Access Products" (contained within your note of 27th September 2005), we have the following comments to make.

First, we wish to note some of our comments with respect to CAP070 (which introduced STTEC) namely that:-

"We do not believe that either the original CAP070 or the alternative amendment better meet the applicable CUSC objectives as both are none cost reflective and introduce a discriminatory costing regime that favours one class of generator over all other generators. In particular these proposals would permit certain Users to avoid paying their annual TNUoS costs (as at present)."

Second, with respect to the points made in paragraphs 3.3 and 3.4 of the consultation document regarding the possibility of a User exceeding their annual TEC bill by their use of multiple STTEC we would note:-

a) Users are free to make a commercial decision each year whether they wish to pay the annual TEC or whether they wish to pay an 'ad-hoc' fee by virtue of them freely choosing to use STTEC (rather than use, and pay for, TEC on an annual basis): the User is not compelled to use STTEC; and

b) in many other markets a similar approach is used of users who freely choose an annual 'season ticket' paying less than those who choose to take a product (rail, tube & bus fares, parking etc., etc) on a short term payment basis; e.g. if you use a bus so many times that it would have been more sensible for you to have chosen to take a 'season ticket' you have no access to some form of capping of liability.

Third, with respect to the point made in paragraph 4.2 of the consultation document regarding the STTEC being an "inferior product to TEC" we note that if this were the case that Users are not required to take this 'inferior' product and, furthermore, if it is 'inferior' why not abolish just it and continue with what is, presumably, the 'superior' product namely TEC?

Fourth, with respect to the point made in paragraph 4.3 of the consultation document we agree with the majority of the Working Group that short term access and TEC are different products, used for differing purposes and that there are no reasons why charges for these differing products should be linked via a cap. Therefore we do not believe that there is a defect that warrants correcting by way of CAP092.

Fifth, with respect to the point made in paragraph 4.5 of the consultation document we do not believe that there is either inconsistency or inequitable treatment between Users of the transmission system as each User is free to choose between:-

a) making use of TEC entirely; or

b) utilising STTEC entirely; or

c) a combination of TEC and STTEC.

Whichever of these are chosen the point is that the User is free to make that commercial choice and therefore no inconsistency or inequitable situation arises.

Sixth, with respect to the point made in paragraph 4.11 of the consultation document, whilst we do not support the implementation of CAP092, if it were to proceed then we agree with the Working Group recommendation of using a year end (rather than monthly) reconciliation approach.

Seven, with respect to the point made in paragraph 6.4 of the consultation document, whilst we do not support the implementation of CAP092, if it were to proceed then we believe it could only be implemented at the beginning of the TEC 'year' and that, furthermore, the market would need to be alerted to its implementation some time prior to them having to submit their annual TEC requests/requirements to National Grid. To do otherwise would lead to a distortion and confusion in the market.

Eight, we believe that if CAP092 were to be approved (noting the comments in the Authority's Decision Letters for CAP070 and the associated UoSCM-M-13) that:-

- a) it would "undermine the use of TEC as the primary charging product...[which would result in]...dilution of longer-term investment signals based upon annual TEC requests";
- b) it would not ensure "that arrangements for the cost reflective charging of TEC are not destabilised" (e.g. we believe CAP092 would destabilise the arrangements for cost reflective charging for TEC);
- c) it would "result in less annual bookings of primary TEC products";
- d) it would remove "a natural check on excessive use of STTEC"
- e) it would see "STTEC... used as a price manipulation tool";
- f) it would give "the ability [to] generators to distort effective use of the transmission system or effective competition"; and
- g) it would result in National Grid not achieving "it's licence obligations with respect to non discrimination";

In conclusion, with respect to the 'original' proposal we do not believe that it better facilitates the achievement of any of the Applicable CUSC Objectives when compared to the existing baseline version of the CUSC. We note the comments made in paragraph 5.2 of the consultation document and, for the avoidance of doubt, whilst we have considered the Working Group Alternative Amendment we do not believe that it better facilitates the achievement of any of the Applicable CUSC Objectives when compared to the existing baseline version of the CUSC, although we acknowledge it is 'better' than the 'original'.

Regards

Garth Graham
Scottish and Southern Energy plc

Annex 5 – Copies of Comments received on the Proposed Amendment Report

This Annex includes copies of any representations received following circulation of the Draft Amendment Report (circulated on 2nd November 2005, requesting comments by close of business on 9th November 2005).

Representations were received from the following parties:

No.	Company	File Number
1	Scottish and Southern Energy	CAP092-AR-01
2	Scottish Power	CAP092-AR-02

Reference	CAP092-AR-1
Company	Scottish and Southern Energy

-----Original Message-----

From: Garth.Graham@scottish-southern.co.uk [mailto:Garth.Graham@scottish-southern.co.uk]

Sent: 07 November 2005 17:27

To: GoldIC, Industry Codes

Subject: Re: CAP092 (Consistent Generation Use of System Charge Liability Provisions for Transmission Access Products): Draft Amendment Report

Dear Sirs,

With regard to your email of 2nd November 2005 concerning CAP092 (Consistent Generation Use of System Charge Liability Provisions for Transmission Access Products) and the Draft Amendment Report, and in particular the comment:-

Secondly, the Authority have specifically requested views from Panel Members on CAP092, in their capacity as Panel Members, and the Amendments Panel have previously agreed that such views will be sought at this stage.

In my capacity as an Amendments Panel Member I believe that neither the Original or the Working Group Alternative Amendment better facilitate the Applicable CUSC Objectives. In coming to this conclusion I have read the Draft Amendment Report and have been mindful, in particular, of the comments contained in paragraphs 1.5, 1.6, 4.3, 8.1, 8.2, 8.3, 9.3 and 13.1 of the Draft Amendment Report.

In addition I've also taken account of the comments contained within all the consultation responses recorded in the Draft Amendment Report and have been particularly persuaded by a number of the arguments put forward by respondents, which are summarised in paragraphs 11.5, 11.6, 11.7, 11.8, 11.12, 11.13, 11.15, 11.16, 11.17 and 11.19.

Finally, these comments are given without prejudice to comments that I may make on Wednesday 9th November with regarding specifically to the Implementation Date for CAP092.

Regards

Garth Graham

Reference	CAP092-AR-2
Company	Scottish Power



Lindsey Paradine
Transmission Commercial
National Grid
NGT House
Warwick Technology Park
Gallows Hill
Warwick
CV34 6DA

Ref CUSC CAP092 Amendment
Report
Date 09 November 2005

Tel No. 01355 845207
Email: ukelectricityspoc@saic.com

Dear Lindsey,

CUSC CAP092 Amendment Report: Consistent Generation Use of System Liability Provisions for Transmission Access Products.

ScottishPower welcomes the opportunity to provide a response to CUSC CAP092 Amendment Report: Consistent Generation Use of System Charges Liability Provisions for Transmission Access Products. This response is submitted on behalf of ScottishPower's Energy Wholesale Business which includes ScottishPower Generation Ltd and ScottishPower Energy Management Ltd.

ScottishPower do not agree to the proposed recommendation in this Draft Amendment Report. We would like to re-iterate our position regarding our previously submitted comments for inclusion in the Draft Amendment Report (DAR).

ScottishPower believe that the charge for STTEC should be altered in the charging methodology, yet this does not mean that the problem highlighted by the proposer is incapable of remedy in the CUSC.

A generator which is using STTEC is not causing costs to be incurred in the provision of incremental transmission capacity and to charge for STTEC on the basis of the ICRP methodology cannot be considered to be cost-reflective.

We believe that the CAP092 better facilitates the CUSC objective to facilitate effective competition. A generator using STTEC is clearly increasing competition in generation; it is important that the access charges payable by that generator allow that competition to be fair competition. To load the STTEC generator with unjustifiable charges does not facilitate effective competition.

The removal of the excessive liability for charges which accompanies the use of STTEC would encourage generators to make use of that spare capacity.

We believe that the liability cap is a CUSC issue and that the CUSC should protect users from the consequences of inappropriate interactions of separate provisions of the charging methodology.

I trust that you will find these comments helpful. Nonetheless, should you require further clarification of any of the above, please do not hesitate to contact me.

Yours sincerely,

Man Kwong Liu
SAIC Ltd.
For and on behalf of: ScottishPower Energy Management Ltd.; ScottishPower Generation Ltd;
ScottishPower Energy Retail Ltd.