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Direct Dial: 020-7901-7335

6 July 2004

The National Grid Company, CUSC Signatories and
Other Interested Parties

Our Ref: IND/COD/CUSC/CAP072

Dear Colleague,

Amendment to the Connection and Use of System Code (“CUSC”) - Decision and Notice in relation to Proposed Amendment CAP072: “Generation Reconciliation Statements”.

The Gas and Electricity Markets Authority (the “Authority”¹) has carefully considered the issues raised in the Amendment Report² in respect of Proposed Amendment CAP072 “Generation Reconciliation Statements”.

The National Grid Company plc (“NGC”) has recommended to the Authority that Proposed Amendment CAP072 be implemented, and has proposed an implementation date of 10 days after the Authority’s decision.

Having carefully considered the Amendment Report and NGC’s recommendation and having regard to the Applicable CUSC Objectives and Ofgem’s wider statutory duties,³ the Authority has decided to direct a modification to the CUSC in line with Proposed Amendment CAP072.

A separate letter contains the direction to NGC to modify the CUSC in accordance with Amendment CAP072 as set out in the Amendment Report.

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

² CAP072 Amendment Report dated 14 June 2004.

³ 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.

This letter explains the background to Proposed Amendment CAP072, and sets out the Authority's reasons for its decision. This letter also constitutes notice by the Authority under section 49A of the Electricity Act 1989 in relation to the direction.

Background

On 18 September 2003 a number of 'housekeeping' Amendment Proposals- CAP056 through to CAP066 were submitted by NGC to the CUSC Panel (the "Panel"). One of these Amendments was CAP065 "Removal of Provisions relating to NETA Go-Live", which was intended to remove references to NETA Go-Live from the CUSC, by deleting a number of paragraphs containing such references. One of the paragraphs listed for deletion was 3.12.2. This paragraph stated that:

*"As soon as reasonably practicable, and in any event by 31 March 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 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** 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."*

CAP065 was implemented on 2 January 2004. As a result, paragraph 3.12.2 was deleted from the CUSC.

At the Panel meeting on 26 March 2004, it was agreed that CAP065 had mistakenly deleted this paragraph, and NGC agreed to bring forward an Amendment Proposal to re-instate the paragraph. This Amendment Proposal, CAP072 was therefore submitted by NGC ("the Proposer") to the CUSC Amendments Panel meeting held on 23 April 2004.

At that meeting the CUSC Panel determined that it was not necessary for a Working Group to consider Proposed Amendment CAP072, and that the Proposed Amendment should proceed directly to industry consultation by NGC.

A Consultation Document in relation to CAP072 was issued on 27 April 2004 with responses invited by 28 May 2004. Three responses were provided to the consultation. The final Amendment Report was submitted by NGC to the Authority on 14 June 2004.

The Proposed Amendment

Proposed Amendment CAP072 seeks to re-insert the paragraph formerly described as paragraph 3.12.2 (in CAP065) into the CUSC. Because of the implementation of CAP055 in April 2004 (which, in part, introduced a new paragraph numbered 3.12 into the text of the CUSC), CAP072 proposes that the deleted paragraph be re-inserted as number 3.13.2. The Proposed

Amendment also seeks (following the adjustment of the Proposed Amendment by the Proposer prior to the submission of the Amendment Report) to re-number all subsequent sub-paragraphs in 3.13 and update references to paragraph numbers within 3.13 of the CUSC to account for the insertion of the new paragraph as 3.13.2.

The Proposer has suggested that the Proposed Amendment will rectify the inadvertent deletion of the paragraph formerly numbered as 3.12.2 caused by CAP065. The Proposer has suggested that Proposed Amendment CAP072 will enable National Grid to more easily and efficiently discharge its obligations under the Act and the Transmission Licence, which is Applicable CUSC Objective (a)⁴.

Respondents' views

NGC issued a Consultation Paper on 27 April 2004 inviting responses from CUSC Parties and interested parties by 28 May 2004.

NGC received 3 responses to the consultation. Two of these supported the Proposed Amendment and one did not support the Proposed Amendment.

One of the two respondents who supported the Proposed Amendment suggested that the internal processes used for housekeeping amendments required review to prevent a recurrence of such an error. This respondent also stated that NGC had not fully achieved the preparation and issue of Generation Reconciliation Statements by 31 March 2004, and so would have been in breach of the CUSC if this paragraph 3.12.2 had not been deleted. The respondent therefore suggested that while paragraph 3.12.2 should be replaced in its original form, there was a need to review the date of 31 March contained in that paragraph once the paragraph had been replaced.

The second respondent who supported Proposed Amendment CAP072 agreed with National Grid that re-instatement of paragraph 3.12.2 into the CUSC would better facilitate the achievement of Applicable CUSC Objectives.

The respondent who did not support the Proposed Amendment stated that there was already a clause 3.13.2 in the CUSC, and that the Proposed Amendment to re-instate 3.12.2 as 3.13.2 did not take account of the existing clause 3.13.2 in the CUSC.

In the Amendment Report for Amendment Proposal CAP072 NGC addressed the comments provided in response to consultation and said that it had believed it was helpful to refer to the original numbering of the paragraph. In this Final Report NGC also accepted that the legal text submitted with CAP072 was deficient in that it did not indicate that paragraph re-numbering

⁴ The Applicable CUSC Objectives are contained in Standard Condition C7F 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.

would be required after the insertion of the new paragraph. NGC therefore stated that it had made an adjustment by inserting a note before the legal text of the Proposed Amendment CAP072 to explain that subsequent paragraph re-numbering would be required after the insertion of the new paragraph 3.13.2.

The respondent who did not support the Proposed Amendment also identified some consequential concerns regarding the Proposed Amendment. One such concern related to the possibility of NGC introducing a Consultation Alternative Amendment to amend the original text of the deleted paragraph. The second concern was whether Proposed Amendment CAP072 would fulfil the intention of CAP065 (CAP065 had intended to remove all obsolete references to NETA Go-Live in the CUSC).

A summary of the respondents' views and the complete text of their responses are contained in the Amendment Report in respect of Proposed Amendment CAP072.

NGC's recommendation

NGC recommended to the Authority that Proposed Amendment CAP072 be implemented. NGC further recommended that implementation take place with effect from 10 days after the Authority's decision.

Ofgem's view

Having carefully considered the Amendment Report, Ofgem considers, having regard to its statutory duties and the Applicable CUSC Objectives that Proposed Amendment CAP072 would better facilitate the achievement of the Applicable CUSC Objectives.

Ofgem considers that the implementation of Proposed Amendment CAP072 will facilitate the achievement of Applicable CUSC Objective (a):

"the efficient discharge by the licensee of the obligations imposed upon it under the Act and by this licence"

because the re-insertion of this paragraph into the CUSC will require NGC to prepare Generation Reconciliation Statements in respect of generation related Transmission Network Use of System Charges, and to send these Statements to Users. Ofgem considers that the preparation and provision of such Statements will better facilitate NGC's discharge of its obligations under the Electricity Act 1989 and its licence, and will particularly facilitate the discharge of those obligations relating to Use of System Charges.

The Authority's Decision

The Authority has therefore decided to direct that Proposed Amendment CAP072, as set out in the Amendment Report, should be made and implemented 10 days after the Authority's decision (which is 10 days after the date of this letter). A separate letter contains this direction.

If you have any queries in relation to the issues raised in this letter, please feel free to contact Georgina Lawrence on 0207 901 7335.

Yours sincerely,

A handwritten signature in black ink, appearing to read "John Neilson". The signature is written in a cursive style with a prominent initial "J".

John Neilson

Managing Director, Corporate Affairs

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