Direct Dial: 020-7901-7412

6 February 2003

The National Grid Company, CUSC Signatories and
Other Interested Parties

Your Ref: CAP043
Our Ref: IND/COD/CUSC/CAP043

Dear Colleague,

Amendment to the Connection and Use of System Code ("CUSC") - Decision in relation to the original Amendment Proposal and Alternative Amendment Proposal CAP043: "Transmission Access - Definition" and Direction in relation to the Alternative Amendment Proposal

The Gas and Electricity Markets Authority (the "Authority"[1]) has carefully considered the issues raised in the Amendment Report[2] in respect of the original Amendment Proposal and Alternative Amendment Proposal CAP043 "Transmission Access - Definition".

The National Grid Company plc ("NGC") recommended to the Authority that the Alternative Amendment Proposal should be made and implemented on 1 April 2003 provided that the Authority's decision is made before 1 March 2003.

The Authority has decided to direct that the Alternative Amendment Proposal CAP043 be made to the CUSC.

This letter explains the background to original Amendment Proposal and Alternative Amendment Proposal CAP043, as set out in the Amendment Report, and sets out the Authority's reasons for its decision. In addition, this letter contains a direction to NGC to modify the CUSC in respect of Alternative Amendment Proposal CAP043. This letter constitutes the notice by the Authority under section 49A of the Electricity Act 1989 in relation to the direction.

[1] Ofgem is the office of the Authority. The terms "Ofgem" and "the Authority" are used interchangeably in this letter.
[2] CAP043 Amendment Report dated 23 December 2002, Issue 1.0.

Background

Transmission access arrangements have been under consideration for a number of years. Following Ofgem's consultation document in February 2002[3], the CUSC Amendments Panel (the "Panel") established the Transmission Access Standing Group ("TASG") to provide a forum in which issues associated with transmission access could be examined.

Arising out of the work undertaken by the TASG, NGC raised Amendment Proposal CAP043, which was submitted for consideration at the Panel Meeting on 20 September 2002.

NGC suggested that, through the TASG discussions, it had emerged that there is ambiguity in the CUSC in regard to transmission "capacity" products and the rights and obligations that flow from each transmission capacity product. NGC also suggested that the terminology associated with transmission capacity products needs clarification. Under the present arrangements in the CUSC the right of an existing generator to export onto the transmission system (the "System") is defined in terms of Maximum Export Capacity. Existing generators can notify a change to the Maximum Export Capacity with no limitations. The term Maximum Export Capacity is not defined under the Grid Code. In addition, under the present arrangements in the CUSC the capacity of existing generators is defined as Registered Capacity and the definition for Registered Capacity is given in the Grid Code. The process for existing generators to change their Registered Capacity is contained within the Grid Code and existing generators can notify a change with no limitations.

NGC considered that the present arrangements were unclear to the extent that, once a generator had established connection to the System, an existing generator can unilaterally vary its export capacity on to the System from year to year. Under the present arrangements existing generators can decide the level at which they wish to generate in any financial year and notify this value to NGC as late as 31 March of the preceding financial year. NGC was concerned that this uncertainty could have the following effects:

- inefficiencies in the level and allocation of costs on the System so that charges may be too high over a period and may not be cost-reflective;

- existing generators may have unused capacity which could be utilised by a new entrant and this may represent a barrier to entry; and

- unforeseen congestion costs if NGC re-allocates capacity to a new entrant which is then unexpectedly used by the existing generator, which will tend to deter NGC from making such allocations and hence, in general, reduce the efficiency with which the System is operated.

[3] Transmission access and losses under NETA, Revised Proposals, February 2002.

The Panel determined that a Transmission Access Working Group (the "Group") should be established to consider the Amendment Proposal.

The original Amendment Proposal

The original Amendment Proposal seeks to define clear and unambiguous annual transmission entry capacity products and their associated terminology in the CUSC to ensure that it is clear what rights generators have for transmission entry capacity from 1 April 2003. The original Amendment Proposal seeks to provide clear links between the volume of rights held by a generator to access the System, the obligation on NGC to provide firm[4] access for that volume, and the associated payment from the generator to NGC for the right.

Two new products would be introduced within CUSC[5], Connection Entry Capacity ("CEC") and Transmission Entry Capacity ("TEC"), which would replace Registered Capacity and Maximum Export Capacity. CEC and TEC are intended to provide consistent treatment of generation in terms of connection and access rights to the System.

The CEC defines the physical capacity of the generator at the connection point[6] in line with what the connection point has been designed to accept. NGC proposed to allocate connection assets to generators on the basis of their CEC should the associated Connection Charging Methodology modification proposal be approved[7]. NGC proposed that the CEC would be defined both on a unit basis and a station basis so that a connection site can be designed in line with what a generator has contractually requested.

The TEC defines a generator's maximum allowed export onto the System in a financial year. NGC proposed to use TEC in its planning studies to determine the wider System infrastructure requirements and as the basis for Transmission Network Use of System ("TNUoS") charges should the associated Use of System Charging Methodology modification proposal be

[4] Ofgem does not consider that firm in this context means contractually (financially) firm. In particular under the current arrangements the price for access to the System can vary on an annual basis. There is additional uncertainty surrounding the compensation for transmission faults.

[5] NGC highlighted to the Grid Code Review Panel that if CAP043 were approved it would be appropriate to modify the Grid Code to include the terms CEC and TEC in the Planning Data. However, NGC considered that the implementation of the original Amendment Proposal or Alternative Amendment Proposal CAP043 is not dependent on the Grid Code changes occurring coincidentally.

[6] Defined in the Grid Code as "A Grid Supply Point or Grid Entry Point, as the case may be."

[7] On15 January 2003 the Authority vetoed modification proposal CCM-M-05 to the Connection Charging Methodology. The Authority was not sure it would be in a position to approve or reject CUSC Amendment Proposal CAP043 before the expiry of the 28 day period by which NGC must implement modification proposal CCM-M-05 unless directed otherwise by the Authority. The Authority considered that it would be inappropriate for it not to veto modification proposal CCM-M-05 before the Authority had made a decision to approve or reject CUSC Amendment Proposal CAP043. This is because to allow modification proposal CCM-M-05 to be made may have fettered the Authority's discretion in respect of CUSC Amendment Proposal CAP043 or alternatively, subject to the outcome of the Authority's decision with regard to CUSC Amendment Proposal CAP043, the Connection Charging Methodology change could have become inappropriate. NGC can resubmit the modification proposal in accordance with the procedures in Condition C7B of the transmission licence.

approved[8]. NGC proposed that the TEC used for calculating generators TNUoS charges will be the highest TEC prevailing in the financial year.

The Group considered whether TEC should be defined on a station or a unit basis and therefore whether access rights would be defined on a nodal or sub-nodal basis. NGC considered that defining the TEC on a station basis would remove some of the flexibility for the System Operator to use access buy-back (purchasing TEC) as a tool for resolving constraints. If such a unit specific tool was not provided then other existing contractual tools would have to be used to resolve these constraints such as unit specific Balancing Services contracts or acceptance of bids or offers in the Balancing Mechanism. However, the Group considered that a station-based definition of TEC provides flexibility for the generator to choose which of its units to operate and would allow a wide range of different site configurations to be accommodated. In addition, the Group considered that a station definition allows power station related demand to be incorporated such that the TEC relates to the export from the power station as a whole (i.e. the output of all its generating units net of station demand and, in the case of trading sites, any additional trading site load). The Group supported a station-based definition of TEC whilst noting the constraints it imposes.

The original Amendment Proposal enables generators to apply to increase and decrease CEC and TEC and outlines the process and timescales. Under the original Amendment Proposal NGC would in most circumstances be required to provide an offer of the terms for Connection and Use of System associated with those CECs and TECs indicating what infrastructure works would be necessary as well as the construction programme within three months.

Process of acquiring and modifying TEC/CEC in the original Amendment Proposal

	Process and timescales
New generators acquiring CEC/TEC	For Directly Connected Generators NGC would be required to provide an offer within three months and the applicant would have three months to consider the offer. For Embedded Generators, NGC would indicate within 28 days if there would be any works necessary to guarantee the TEC. The applicant would have three months to consider the offer.
An existing generator Decreasing CEC	In circumstances where an existing generator applies to decrease its CEC to a positive (non-zero) value NGC would provide an offer within three months. To terminate an agreement an existing generator would be required to issue a disconnection notice, which is required at least six months before it comes into effect.

[8] On15 January 2003 the Authority vetoed modification proposal UoSCM-M-06 to the Use of System Charging Methodology for the same reasons it vetoed modification proposal CCM-M-05 to the Connection Charging Methodology. NGC can resubmit the modification proposal in accordance with the procedures in Condition C7A of the transmission licence.

	Process and timescales
An existing generator Increasing CEC	NGC would be required to provide an offer within three months and the existing generator has three months to consider the offer.
An existing generator Decreasing TEC	A three month notice period is required to notify a reduction in TEC. This means that an existing generator would have to notify a reduction in TEC three months before the 1 April for the reduced TEC to be used for TNUoS charging purposes in the following financial year.
An existing generator Increasing TEC	NGC would be required to provide an offer within three months and the existing generator would have three months to consider the offer[9].

The TEC cannot exceed the capacity of the station CEC to ensure that the connection site was capable of supporting the export to the System. If a generator were to exceed their CEC or TEC they could potentially be found to be in breach of the CUSC and therefore in breach of their generation licence. A generator's TEC would be expected to be able to accommodate their output when providing ancillary services to NGC.

The original amendment proposes that if a generator decreases its TEC it cannot reserve the TEC for future use. Therefore existing generators with an established connection, for example 1000MW, that "mothball"[10] a unit of say 500MW and decrease their TECs by 500MW would be in the same position as new entrants seeking access to the System when the existing generator applies to increase TEC by 500MW to return the mothballed unit to the System. If, on application, the increased rights can be accommodated, the existing generator would be able to increase its access to the System. However, should the capacity have been released to another generator or withdrawn then there may be a delay before the increased capacity can be made available. Therefore existing generators and new entrants would be treated equivalently with regard to release of additional TECs.

The initial values of the CEC for existing generators will be the existing values set out in the relevant Bilateral Agreements. The initial values of TEC (for 1 April 2003 to 31 March 2004) for existing generators will be calculated by reference to the sum of all existing Registered Capacities for the Generating Units comprising the power station less the station demand and any additional demand, each as notified under the Grid Code. NGC suggested that these values represent the best estimate of the CEC/TEC figures. However, they do not preclude the

[9] The offer for the increased TEC may require transmission infrastructure to be established before the increased TEC can be provided. This could have implications for the date from which the generator could be given the increased TEC. Where infrastructure works are required the generator would be required to enter into a Construction Agreement. This would amongst other things require the generator to provide financial security in respect of these System infrastructure works during their construction.

[10] The term "mothballed" is used to refer to a power station that has decided not to make use of some or all of its plant.

generator from seeking different figures to reflect their forecast future use of their plant and therefore their connection and System access requirements. Therefore if an existing generator presently had a unit mothballed and it wanted to guarantee its access rights after the original Amendment Proposal had been implemented, it could seek a CEC/TEC at the level at which it wanted to be able to operate the plant during the period 1 April 2003 –31 March 2004.

The process for the initial allocation of TEC and CEC for existing generators is based on NGC and the generator agreeing to vary the existing Bilateral Agreements to incorporate figures for CEC and TEC.

Under Clause 10.2 of the Bilateral Agreement, NGC and the generator have to effect any amendment to a Bilateral Agreement required by the Authority as a result of a change in CUSC. Should the original Amendment Proposal be approved by the Authority, NGC and the generator will be required to effect the necessary amendment by varying the existing Bilateral Agreements. Consequently, NGC will issue appropriate agreements to vary the Bilateral Agreements, with the changes being effective from the implementation date of the CUSC amendment. If generators will not voluntarily enter into the agreements to vary the Bilateral Agreements then, on the basis that the amendments to the Bilateral Agreements are required by the Authority as a result of the change to the CUSC, Clause 10.2 of the Bilateral Agreements authorises NGC to make such amendment on its behalf.

Should NGC and the generator not agree on the figures for CEC and TEC, NGC or the generator will be able to refer the issue of the initial CEC and TEC to the Authority. In such cases, it will be necessary for default values to be available for use until such time as any outstanding issues have been resolved.

The Group submitted its report for consideration at the Panel Meeting on 25 October 2002. The Panel determined that the original Amendment Proposal should proceed to wider consultation by NGC. Accordingly, NGC issued a consultation paper on 8 November 2002 with responses invited by 4 December 2002.

Respondents' views

NGC received 12 responses to the consultation in respect of original Amendment Proposal CAP043, of which one supported the original Amendment Proposal and five did not support the original Amendment Proposal. The other six respondents were not clearly in support of or against the original Amendment Proposal but they all raised a number of issues.

The respondent that supported the original Amendment Proposal considered that clearly defined access rights would enable NGC to plan investment in the System better. The respondent also considered that clearly defined access rights are a necessary precondition to enable the potential

future development of fully tradable access rights so the original Amendment Proposal introduces competitive benefits.

Some respondents considered that the proposed changes should go further. It was suggested that access rights should be created for both demand and generation participants. One respondent considered that the present charging rules for TNUoS should be changed to allow for sub-annual charging, to reflect the ability introduced by the original Amendment Proposal to decrease TEC within a year. In addition, it was suggested that TECs should be fully tradable.

In general, respondents considered that in the original Amendment Proposal the three month notice period to change TECs is too long and would severely restrict the ability of generators to respond to the market. It was suggested that the original Amendment Proposal does not provide adequate flexibility for generators to mothball plant. One respondent considered that reducing the flexibility of generators to mothball plant could lead to problems with security of supply.

As part of the consultation, NGC suggested that the process for decreasing CEC and TEC would supersede the present decommissioning arrangements. Several participants agreed with NGC.

Three respondents considered that existing generators should not lose reserved transmission capacity in the event that they reduce their TEC and Connection Charges are still being paid in full. It was suggested that it is not appropriate for mothballed plant to have to pay TNUoS charges to reserve transmission capacity, as they are not using the System. One respondent suggested that a generator applying to increase its TEC should not be treated the same as a new entrant requiring a new TEC because new entrants would not have been paying Connection Charges.

One respondent suggested that where two parties trade access rights under the current provisions in the CUSC, then unless this transaction were aligned with the financial year then both parties would incur TNUoS charges on the traded capacity and the capacity would be double counted which is not appropriate. This respondent also suggested that there could be circumstances whereby parties incur TNUoS charges for TEC which they have applied for but which has not yet been made available to them.

One respondent considered that more information should be made available by NGC about whether a request for increased transmission capacity by an existing generator or a new connection was likely to affect the ability of other participants to increase their TECs.

Some respondents considered that the proposed implementation date (1 April 2003) is too early. It was suggested that there are details that have not been fully addressed and that it would be better to wait for the development of the British Electricity Trading and Transmission Arrangements ("BETTA"). In addition, it was considered that time should be allowed for parties to properly budget for, and mitigate the risk associated with, the changes resulting from this

Amendment Proposal. One respondent considered that time would be needed to change Bilateral Agreements if the proposed changes were implemented. Three respondents suggested that Bilateral Agreements should not be changed unilaterally and this would be open to legal challenge.

Alternative Amendment Proposal

Following the industry consultation for original Amendment Proposal CAP043 and in the light of responses received, NGC developed an Alternative Amendment Proposal that it considered better facilitated achievement of the Applicable CUSC Objectives[11] as compared to the original Amendment Proposal.

The Alternative Amendment Proposal introduces changes to the timescale for notifying a decrease in TEC and applying for an increase of TEC. A request to decrease a TEC should be made in writing not less than five Business Days before the intended date of effect in any financial year. An offer by NGC to a generator seeking to increase a TEC will take a maximum of three months and an offer will be made as soon as practicable, often within 28 days. In addition, the Alternative Amendment Proposal makes clearer that a generator's TEC would be expected to be able to accommodate their output when providing ancillary services to NGC. The Alternative Amendment Proposal also removes the decommissioning section of the CUSC and associated references because the process for registering CEC and TEC to zero supersedes the present decommissioning arrangements within the CUSC.

NGC considers that the Alternative Amendment Proposal better facilitates the achievement of the Applicable CUSC Objectives as compared to the original Amendment Proposal since it is clearer and more flexible than the original Amendment Proposal. However, if the Authority chose not to adopt the Alternative Amendment Proposal NGC recommend that the original Amendment Proposal also better facilitates the achievement of the Applicable CUSC Objectives as compared to the current CUSC, albeit not to the same extent.

Amendments Panel Members' views

The Panel met on 13 December 2002 and considered the original Amendment Proposal, the Alternative Amendment Proposal and the consultation responses received. The majority of Panel members did not support the original Amendment Proposal or the Alternative Amendment Proposal. The Amendment Report did not contain reasons why the majority of the Panel

[11] 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.

considered that the original Amendment Proposal and the Alternative Amendment Proposal did not better facilitate the achievement of the Applicable CUSC Objectives.

NGC's recommendation

NGC considers that the original Amendment Proposal and Alternative Amendment Proposal establish a clearly defined entry access capacity product, which establishes the rights generators have to access the System and provides a clear and consistent method by which parties can request increases or decreases in transmission capacity. NGC believes that this removes the existing lack of clarity over the rights generators have to access the System and the extent to which they can vary them unilaterally through time.

As explained previously in this letter, NGC identified that the ambiguity in the present arrangements could have three potential effects: non-cost reflective charging, barriers to entry, and inefficiencies on the System. NGC considers that the original Amendment Proposal and the Alternative Amendment Proposal address these issues and therefore would better facilitate achievement of Applicable CUSC Objectives (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.

NGC recommended to the Authority that the Alternative Amendment Proposal should be made as it better facilitates the achievement of the Applicable CUSC Objectives. NGC recommended that the Alternative Amendment Proposal should be implemented on 1 April 2003 provided that the Authority decision is made before 1 March 2003.

Ofgem's view

Having had regard to its statutory duties, the Applicable CUSC Objectives and the consultation responses, Ofgem is of the view, that the Alternative Amendment Proposal CAP043 would better facilitate the achievement of the Applicable CUSC Objectives.

Ofgem agrees with NGC that the proposed changes rationalise the different capacity terminology used throughout the CUSC, making it clear what rights and obligations flow from each capacity product. Ofgem also considers that the proposed CUSC terminology changes would help provide clarity to market participants as compared to the present capacity definitions.

Applicable CUSC Objective (a) the efficient discharge by the licensee of the obligations imposed upon it under the Act and by this licence.

NGC has a range of statutory duties and licence obligations which include ensuring the efficient, economic and co-ordinated operation of the System, the facilitation of competition[12] and non-discrimination[13]. Ofgem considers that the Alternative Amendment Proposal will enhance NGC's discharge of these obligations. NGC considers that the present arrangements could result in congestion costs, if NGC re-allocates capacity to a new entrant which is then unexpectedly used by the existing generator. The potential for such congestion costs is likely to reduce the economic and efficient operation of the System whether NGC chooses to make capacity available or not. Therefore requiring existing generators to pay TNUoS charges to reserve capacity on the System would improve the economic and efficient operation of the System. NGC has additionally stated the present arrangements may not be cost reflective, which implies that there may be some degree of discrimination. Again, the Alternative Amendment Proposal would address this issue and thus better facilitate the discharge by NGC of its licence obligations. The reasons why Ofgem considers the Amendment Proposal will better facilitate competition are outlined below.

For the reasons outlined above, Ofgem considers that the Alternative Amendment Proposal would better facilitate Applicable CUSC Objective (a) the efficient discharge by the licensee of the obligations imposed upon it under the Act and by this licence.

Applicable CUSC 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.

The treatment of new entrants on the same basis as existing generators clearly promotes competition. Ofgem considers that this is particularly important in light of the changes that might occur over the coming years as a consequence of the Government's environmental initiatives amongst other factors.

NGC has stated that the present arrangements may act as a barrier to entry. To the extent that unused capacity is not currently released, Ofgem agrees that this could act as a barrier to entry and hence restrict competition. This will particularly be the case if the existing generator is not paying TNUoS charges for its unused capacity, which can occur if plant is mothballed for prolonged periods. For example, new entrants can be prevented, in certain circumstances, from gaining access to the System until NGC has completed reinforcements to the System. The Alternative Amendment Proposal should reduce this barrier and hence would better facilitate competition by ensuring that all capacity that is not reserved and paid for is made available to other participants.

[12] Section 9 (2) (b) of the Electricity Act 1989.

[13] Condition C7C of the Transmission Licence.

Thus, Ofgem considers that the Alternative Amendment Proposal would better facilitate Applicable CUSC 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.

As previously explained, the Alternative Amendment Proposal contains a commitment that an offer to increase TEC will be made by NGC to the applicant by a maximum of three months and as soon as practicable, often within 28 days. Also in the Alternative Amendment Proposal a request to decrease TEC should be made by the applicant not less than five Business Days before the intended date of effect in any financial year. Ofgem considers that the Alternative Amendment Proposal better facilitates the achievement of the Applicable CUSC Objectives as compared to the original Amendment Proposal as the arrangements are more flexible. In addition, the Alternative Amendment Proposal removes the decommissioning section of the CUSC and associated references. Ofgem agrees with NGC that the process for registering CEC and TEC to zero supersedes the present decommissioning arrangements within the CUSC and that the Alternative Amendment Proposal will provide further clarity.

Respondents highlighted a number of problems with the present arrangements that the original Amendment Proposal and the Alternative Amendment Proposal do not address. However, it is important to note that, in deciding upon any amendment, Ofgem has to consider not whether the amendment represents the best possible method for achieving the Applicable CUSC Objectives but merely whether the amendment would better facilitate their achievement. That is, Ofgem can only consider the impact of the amendment that comes to it for determination. Consequently, it would not be appropriate to reject an Amendment Proposal because it did not address all aspects of an issue, if the issues that are addressed would lead to the better facilitation of the Applicable CUSC Objectives. As outlined above, Ofgem considers that the Alternative Amendment Proposal does better facilitate the achievement of the Applicable CUSC Objectives.

Ofgem notes some respondents' views that the notice period for changing TECs under the original Modification Proposal is too long and would restrict the flexibility of generators, particularly when making mothballing decisions, and this could impact upon the security of supply. Ofgem considers that it is important that generators have flexibility in varying their System access requirements. However, NGC have identified that the ability of generators to unilaterally vary their transmission capacity can impose congestion costs. Ofgem does not consider that the Alternative Amendment Proposal, which treats existing generators the same as new entrants, would impact upon security of supply. NGC states that the return of mothballed plant would only be delayed if there were inadequate transmission capacity and/or a competing application to access the System. NGC considers that the original Amendment Proposal and the Alternative Amendment Proposal do not reduce flexibility, but rather add clarity to the rights generators will have and by encouraging new entry they actually enhance the security of supply. Ofgem agrees with NGC that the Alternative Amendment Proposal provides clarity and certainty

to existing generators and new entrants on the timescales to which they can receive transmission capacity. In addition, the Alternative Amendment Proposal contains a commitment by NGC that an offer will be made to a generator seeking to increase TEC by a maximum of three months and an offer will be made as soon as practicable, often within 28 days.

Ofgem notes respondents' views that the transmission access arrangements could be further improved in a number of areas. In particular: increased flexibility for changing CEC and TEC, the development of a sub-annual product for TNUoS charging, arrangements for exit rights, increased information transparency and fully tradable transmission access rights. Ofgem considers that the Alternative Amendment Proposal helps provide a clear framework for any further developments of the transmission access arrangements, as a result of parties, including NGC, raising any Amendment Proposals that they consider appropriate, for consideration by Ofgem.

One respondent suggested that there could be circumstances when a traded TEC is double counted for TNUoS charging purposes and whereby parties incur TNUoS charges for TEC which they have applied for but which has not yet been made available to them. Ofgem sought confirmation from NGC that these circumstances would not occur. NGC confirmed that they would not double count a traded TEC for TNUoS charging purposes and that a party would not incur TNUoS charges for TEC which they have applied for but which has not yet been made available to them.

Ofgem notes that the Alternative Amendment Proposal introduces new definitions in to the CUSC which will only be effective if consequential changes are made to the Bilateral Agreements of generators. As a result Ofgem considers that the changes to the Bilateral Agreements are required to give full effect to the Alternative Amendment Proposal from the implementation date (1 April 2003). Ofgem notes that NGC has undertaken that, where a dispute regarding the value of a TEC has not been resolved prior to that date NGC will plan and operate the System on the basis of the worst case value to the System until the determination process was completed. Ofgem considers that NGC is able to amend the Bilateral Agreements in line with the Alternative Amendment Proposal if a party does not voluntarily accept the agreement to vary and the variation is required to give effect to a CUSC amendment. Ofgem is of the view that the changing of contractual rights, in line with an Amendment Proposal to the CUSC that has followed the appropriate Section 8 Consultation process, is a necessary element of CUSC. When parties become CUSC signatories this is on the basis that the CUSC can be subject to change following due process.

In making the decision to approve the Alternative Amendment Proposal to the CUSC, the Authority has decided not to conduct a consultation upon GB issues in relation to the Amendment Proposal. Ofgem issued a letter on 17 January 2003, which explains the consultation process for amendments to the CUSC prior to and during the course of legislation to introduce BETTA.

The Authority's Decision

The Authority has therefore decided to direct that Alternative Amendment Proposal CAP043, as set out in the Amendment Report, should be made and implemented.

Direction under Condition C7F.7(a) of NGC's Transmission Licence

Having regard to the above, the Authority, in accordance with Condition C7F.7(a) of the licence to transmit electricity treated as granted to NGC under Section 6 of the Electricity Act 1989 as amended (the "Transmission Licence"), hereby directs NGC to modify the CUSC in respect of Alternative Amendment Proposal CAP043, as set out in the Amendment Report.

The Alternative Amendment Proposal is to be implemented and take effect from 1 April 2003.

In accordance with Condition C7F.7(b) of NGC's Transmission Licence, NGC shall modify the CUSC in accordance with this direction of the Authority.

Please contact me on the above number if you have any queries in relation to the issues raised in this letter. Alternatively, contact Richard Ford on 020 7901 7411.

Yours sincerely,

Sonia Brown
Director, Electricity Trading Arrangements
Signed on behalf of the Authority and authorised for that purpose by the Authority