



## **WORKING GROUP REPORT**

### **CUSC Amendment Proposal CAP092**

#### **Consistent Generation Use of System Charge Liability**

#### **Provisions for Transmission Access Products**

**Prepared by the CAP092 Working Group  
for submission to the Amendments Panel**

|               |                                   |
|---------------|-----------------------------------|
| Amendment Ref | CAP092                            |
| Issue         | 1.0                               |
| Date of Issue | 14/09/05                          |
| Prepared by   | Malcolm Taylor<br>CAP092 Chairman |

## **I DOCUMENT CONTROL**

### **a National Grid Document Control**

| <b>Version</b> | <b>Date</b> | <b>Author</b>  | <b>Change Reference</b> |
|----------------|-------------|----------------|-------------------------|
| 0.1            | 06/09/05    | Malcolm Taylor | Draft for comment       |
| 1.0            | 14/09/05    | Malcolm Taylor | Final Version           |

### **b Distribution**

| <b>Name</b>                                | <b>Organisation</b> |
|--|---------------------|
| The Gas and Electricity Markets Authority  | Ofgem               |
| CUSC Parties                               | Various             |
| Panel Members                              | Various             |
| National Grid Industry Information Website |                     |

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## **1.0 SUMMARY AND RECOMMENDATIONS**

### **Executive Summary**

- 1.1 Amendment proposal CAP092 Consistent Generation Use of System Charge Liability Provisions for Transmission Access Products. (see Annex 3) was proposed by E.ON on 24/06/05. The CUSC Amendments Panel determined that a working group should be established to consider the proposal, prior to industry consultation. The Terms of Reference were determined (see Annex 1) with a requirement to report back to the September 2005 Panel meeting.
- 1.2 The Working Group (WG) has evaluated the proposal against the Applicable CUSC objectives in accordance with its Terms of Reference.
- 1.3 The WG focussed assessment onto two important aspects of the proposal: i) the mechanics of reconciliation of TNUoS and STTEC charges consistent with the proposed cap, and ii) the impact of the cap on the relative importance and attractiveness of TEC and STTEC.
- 1.4 Whilst recognising that CAP092 must be considered against the current CUSC as a baseline, WG members were aware of and separately considering CAP094. The WG determined that there was no linkage between the two amendments.
- 1.5 The WG decided that a Working Group Alternative Amendment (WGAA) would be recommended by the WG for wider consultation. The original proposal contained no legal text to cover the reconciliation process. It was recognised by the Working Group that such text would be needed for the intent of the proposal to be achieved practically. Therefore the WGAA contains the legal text describing the cap on liabilities and legal text to amend the process of reconciliation.
- 1.6 The majority of the WG, except the proposer and one other, did not support the amendment. Throughout the report, the majority of the working group are referred to as the 'Majority' and the proposer and one other are referred to as the 'Minority'

### **Working Group Recommendation**

- 1.7 The WG proposes that the original CAP092 proposal and the Working Group Alternative are taken forward for wider consultation and asks that the consultation report highlights that the WGAA contains all the legal text necessary for CAP092 to work, whilst the original proposal does not. Under the rules of the CUSC, parties who respond to the consultation are free to propose consultation alternatives.

### **Acknowledgements**

- 1.8 As chairman of the WG, it is with pleasure that I record my thanks to the group members for their good humour, hard work and thoughtful contributions to the assessment process.

## 2.0 INTRODUCTION

- 2.1 Subsequent to the implementation of CAP070 introducing the short-term access products for the transmission system, E.ON considered the potential usage of short term access products and concluded that the charging arrangements for these products, when combined with the charges for TEC, was inequitable and a barrier to their appropriate use. Therefore they introduced CAP092.

## 3.0 PURPOSE AND SCOPE OF WORKING GROUP

- 3.1 The simplicity of the proposal meant that the work of the group was limited to a consideration of the defect identified, the applicable objectives, the reconciliation process for charges, and the implementation timescales. The Working Group did not consider any changes to the Use of System Charging Methodology, as this would be outside its terms of reference.

### Identification of Defect

- 3.2 The Minority View: The Minority view is that STTEC is an inferior product to TEC as it provides fewer rights to Users. Notwithstanding its 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 far higher than the User would have paid had the relevant capacity been provided using TEC alone. Annex (4) 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.
- 3.3 The Majority View: 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.

## 4.0 ASSESSMENT AGAINST APPLICABLE CUSC OBJECTIVES

- 4.1 The WG considered CAP092 and how it would stand up to the tests of the Applicable Objectives.
- 4.2 Facilitate Competition: *'Facilitating effective competition in the generation and supply of electricity, and (so far as consistent therewith) facilitating such competition in the sale, distribution and purchase of electricity.'*
- 4.2.1. The Minority considered that the present arrangements led to inconsistency and inequity of treatment between Users of the transmission system. Therefore they prevent some Users from competing on an equivalent basis to others within the generation market. The Majority disagreed with this, commenting that, subject only to the normal process of assessment of availability of access by

National Grid, all users had the opportunity to use all of the access products that were available.

- 4.2.2. The Majority were concerned that linking the liabilities in the way proposed could shift the balance of attractiveness between TEC and STTEC so as to undermine the primacy of TEC. This would impact the basis of the access charging model and distort locational signals for access. This would thereby distort competition in generation. The Minority did not agree with these points, stating that there was a significant risk associated with giving up TEC rights that capacity would not be available as either TEC or STTEC, as the capacity could be allocated to another User. The only place where the User would be assured that capacity would be available was in negative zones where the incentive would be to obtain TEC anyway in order to receive the 'negative TNUoS'. Therefore, the Minority did not consider the proposal would undermine TEC.
  - 4.2.3. The WG discussed the interaction between Users who might have only obtained TEC for part of a year and those who might purchase STTEC and have obtained TEC for the same part of the year. Under the proposed CAP092 arrangement the STTEC plus TEC purchaser would probably have a greater volume of access over the year for the same payment in the end. Some members of the WG believed this was unduly discriminatory. Other members commented that a similar situation pertained at the moment with TEC, where a user would pay for 12 months TEC, regardless of when in the year they obtained the TEC. Overall members could not agree as to whether CAP092 was unduly discriminatory or not.
  - 4.2.4. Another argument put forward by the Majority was that effective usage of STTEC was only available to certain generation technologies and hence improving the relative attractiveness of STTEC would give undue discrimination against those technologies that could not take advantage of STTEC. The Minority believed that this was an inherent feature of STTEC and hence not affected by the liability provisions.
  - 4.2.5. The Majority also argued that an implementation date part way through a charging year would also hinder competition (see Section 5). The Minority disagreed with this.
- 4.3 Efficient Provision of the Transmission Network: 'the efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission Licence
- 4.3.1. The Minority considered that encouraging the use of STTEC in appropriate circumstances would ensure that the access that was available in operating timescales would be used to its optimum level. Therefore National Grid would be ensuring the network was being used with high efficiency. Even if CAP092 were to be implemented, the effect of STTEC would be marginal compared with TEC usage. The Majority did not agree. They suggested that the potential undermining of the usage of TEC, particularly in positive charging zones would lead to National Grid having inadequate information on which to determine TNUoS charges and to operate the network efficiently in the operational twelve month cycle. This would in turn lead to greater inefficiency in long term development of the

transmission network. {Chairman's note: In discussion National Grid had commented that TEC numbers are pre-eminent in National Grid's strategic development of the network, whilst TEC plus information supplied under the Grid Code (OC2) informs the within-year assessment of the network and access}

#### 4.4 Reconciliation

- 4.4.1. Members had been directed by the CUSC Panel to consider how the reconciliation of charges between TEC and STTEC would work in practice.
- 4.4.2. In discussion members became concerned that there might be an issue between the principles set out in the CUSC and the practice as set out in the charging methodology even at the moment. National Grid provided the relevant excerpts from the two documents (see Annex (6)). National Grid are content that the use of System Charging Methodology clarifies and makes practical the principles set out in the CUSC. Therefore there is no conflict.
- 4.4.3. In discussing the principles of how the reconciliation between STTEC and TEC charges would work under CAP092, 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 minimize the likely outstanding transfer of principle at the year-end reconciliation. It was also recognised that by its nature, that 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.
- 4.4.4. National Grid provided some illustrative examples which are included as Annex (5). 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 WG supported rolling monthly reconciliation. Therefore the WG recommended the end of year reconciliation method.
- 4.4.5. Members agreed that some additional text (beyond the illustrative text supplied with the CAP) would be required to clarify the reconciliation principles within the CUSC. National Grid provided such legal text and amended the text provided with the CAP in order to make the amendment consistent (see Annex 2). This text allows the end of year reconciliation process to operate.

## 5.0 **ALTERNATIVE AMENDMENT**

### **Description of Alternative Amendment**

- 5.1 The WG members had agreed that additional legal text in the area of reconciliation was required for the CAP092 process to be practicable. On advice from National Grid the WG agreed that the revised and extended proposed text would form a Working Group Alternative. As this additional text

was necessary to make the amendment work, the WG agreed that they would recommend that those consulted should consider the WGAA, not the original amendment proposal. It should be noted that CUSC Parties are free to raise further alternatives during the consultation process, should they wish.

## 6.0 PROPOSED IMPLEMENTATION AND TIMESCALES

- 6.1 Members had differing views on the implementation timescales. Two general approaches were considered: implementation during the current year, or implementation at the start of the next charging year, subject to adequate notice prior to its start.
- 6.2 Implementation during this year: If CAP092 were to be implemented part way through the year, a decision would be required on how any payments towards TEC and STTEC earlier in the year would be dealt with under the proposed cap. The WG identified three options: i) all previous payments for STTEC in that charging year would be ignored for the purposes of calculating the cap, ii) previous payments from the date when the report was delivered to the CUSC Panel would be taken into account, or iii) all previous payments would be taken into account. No WG member was supportive of either option i) or ii). These options would have also required different reconciliation text. Hence of the options for implementation this year, the only one supported by a WG member was implementation this year with all previous payments taken into account in determining whether or not a cap comes into play.
- 6.3 Some members queried if an implementation part-way through the year was consistent with Section 3.14.3 of the CUSC which requires '**NGC shall give the User not less than two months prior written notice of any revised Transmission Network Use of System Charges,**' National Grid responded that CAP092 introduces an annual liability cap on the sum of STTEC Charges and TNUoS Charges rather than change the level of these charges or the methodology upon which these are determined. Therefore, section 3.14.3 is not relevant to CAP092 and National Grid does not need to provide notice to Users under 3.14.3. Therefore option (iii) is allowed under the CUSC.
- 6.4 The proposer supported option iii) that CAP092 should be implemented as soon as possible and certainly before winter 05/06 so that the beneficial effect of the CAP could be in effect as soon as possible. Other members of the WG disagreed, citing that implementation part way through the year, particularly with all previous payments towards STTEC or TEC being taken into account in determining whether or not the cap was in effect for the year, would lead to retrospective amendment to Users' liabilities, and hence would undermine competition.
- 6.5 All WG members agreed that if the CAP were implemented for the start of a future charging year with appropriate notice, consistent with the timescales for application for TEC, then all Users would start on common point.
- 6.6 The WG is unable to recommend an implementation date.

## 7.0 IMPACT ON INDUSTRY DOCUMENTS

### Impact on Core Industry Documents

- 7.1 The WG did not identify any impact on Core Industry Documents or on the BSC.



- 7.2 Although not a Core Industry Document, the WG suggests that the possible impact on the National Grid's Use of System Charging Methodology and the STC should be considered.

## **Annex 1 – Working Group Terms of Reference and Membership**

### **RESPONSIBILITIES**

1. The Working Group is responsible for assisting the CUSC Amendments Panel in the evaluation of CUSC Amendment Proposal CAP's 092 and 094 tabled by E.On (CAP092) and First Hydro (CAP094), at the Amendments Panel meeting on 24<sup>th</sup> June 2005.
2. The proposal must be evaluated to consider whether it better facilitates achievement of the applicable CUSC objectives. These can be summarised as follows:
  - (a) the efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission 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.
3. It should be noted that additional provisions apply where it is proposed to modify the CUSC amendment provisions, and generally reference should be made to the Transmission Licence for the full definition of the term.

### **SCOPE OF WORK**

4. The Working Group must consider the issues raised by the Amendment Proposal and consider if the proposal identified better facilitates achievement of the Applicable CUSC Objectives.
5. In addition to the overriding requirement of paragraph 4, the Working Group shall consider and report on the following specific issues:
  - Billing and Reconciliation aspects of the new product and existing products
6. The Working Group is responsible for the formulation and evaluation of any Working Group Alternative Amendments (WGAAs) arising from Group discussions which would, as compared with the Amendment Proposal, better facilitate achieving the applicable CUSC objectives in relation to the issue or defect identified.
7. The Working Group should become conversant with the definition of Working Group Alternative Amendments which appears in Section 11 (Interpretation and Definitions) of the CUSC. The definition entitles the Group and/or an individual Member of the Working Group to put forward a Working Group Alternative Amendment if the Member(s) genuinely believes the Alternative would better facilitate the achievement of the Applicable CUSC Objectives. The extent of the support for the Amendment Proposal or any Working Group Alternative Amendment arising from the Working Group's discussions should be clearly described in the final Working Group Report to the CUSC Amendments Panel.
8. The Working Group is to submit their final report to the CUSC Panel Secretary on or before 15 September 2005 for circulation to Panel Members.

The conclusions will be presented to the CUSC Panel meeting on 25<sup>th</sup> August 2005.

## **MEMBERSHIP**

9. It is recommended that the Working Group has the following members:

|                          |   |
|--------------------------|---|
| Chair                    | Malcolm Taylor<br>(Association of Electricity Producers)  |
| National Grid            | Adam Brown  |
| Industry Representatives | Gayle Cairns (British Energy)<br>Paul Jones (E.ON)<br>Simon Lord (First Hydro Company)<br>Steve Moore (EDF Energy)<br>Sarah Owen (Centrica)<br>Frank Prashad (RWE npower)<br>Russell Reading (Gaz De France)<br>Shona Watt (RWE npower) |
| Authority Representative | Mariusz Hubski/Dipen Ghadia   |
| Technical Secretary      | Lindsey Paradine/Lilian MacLeod   |

10. The membership can be amended from time to time by the CUSC Amendments Panel.

## **RELATIONSHIP WITH AMENDMENTS PANEL**

11. The Working Group shall seek the views of the Amendments Panel before taking on any significant amount of work. In this event the Working Group Chairman should contact the CUSC Panel Secretary.

12. Where the Working Group requires instruction, clarification or guidance from the Amendments Panel, particularly in relation to their Scope of Work, the Working Group Chairman should contact the CUSC Panel Secretary.

## **MEETINGS**

13. The Working Group shall, unless determined otherwise by the Amendments Panel, develop and adopt its own internal working procedures and provide a copy to the Panel Secretary for each of its Amendment Proposals.

## **REPORTING**

14. The Working Group Chairman shall prepare a final report to the September 2005 Amendments Panel responding to the matter set out in the Terms of Reference.

15. A draft Working Group Report must be circulated to Working Group members with not less than five business days given for comments.
16. Any unresolved comments within the Working Group must be reflected in the final Working Group Report.
17. The Chairman (or another member nominated by him) will present the Working Group report to the Amendments Panel as required.

## Annex 2 – Proposed Text to modify CUSC

### Text to give effect to the Proposed Working Group Alternative Amendment

**Note:** Originally suggested Legal text for Original Proposal is contained in Annex3, Appendix 2. Post the WG assessment the revised text is below.

#### Change Marked Version

#### Section 11 - Insert the following new Definitions

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

**"Liability Cap Amount"** is 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**.

#### Section 3 - Use of System Charges

*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**".

#### Section 3 - Reconciliation

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** and (if appropriate) **STTEC Charges** that would have been payable by the User during each month during the preceding **Financial Year** ("**Actual Amount**"). **NGC** shall then compare the **Actual Amount** with the amount of **Demand** related or generation related **Transmission Network Use of**

**System Charges** and (if appropriate) **STTEC Charges** paid each month during the preceding **Financial Year** by the User (the “**Notional Amount**”).

**Insert after 3.13.1 and renumber subsequent paragraphs**

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**.

**Revise present 3.13.2 as below:**

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.

**Consequential changes to references in subsequent paragraphs**

| 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) |

## Annex 3 – Amendment Proposal Form

|   |                 |
|---|-----------------|
| <b>CUSC Amendment Proposal Form</b>   | <b>CAP: 092</b> |
|   |                 |
| <p><b>Title of Amendment Proposal:</b><br/>Consistent Generation Use of System Charge Liability Provisions for Transmission Access Products.</p>  |                 |
| <p><b>Description of the Proposed Amendment</b> <i>(mandatory by proposer):</i><br/>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.</p>  |                 |
| <p><b>Description of Issue or Defect that Proposed Amendment seeks to Address</b> <i>(mandatory by proposer):</i><br/>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> |                 |
| <p><b>Impact on the CUSC</b> <i>(this should be given where possible):</i><br/>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.</p>   |                 |
| <p><b>Impact on Core Industry Documentation</b> <i>(this should be given where possible):</i><br/>None anticipated.</p>   |                 |
| <p><b>Impact on Computer Systems and Processes used by CUSC Parties</b> <i>(this should be given where possible):</i><br/>No or minimal changes are anticipated.</p>  |                 |

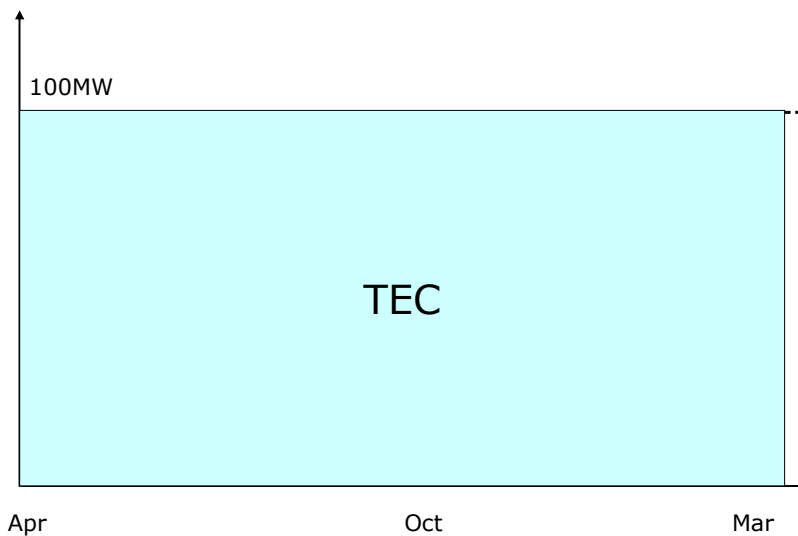
|   |  |
|---|--|
| <b>Details of any Related Modifications to Other Industry Codes</b> (where known):  |  |
| None  |  |
| <b>Justification for Proposed Amendment with Reference to Applicable CUSC Objectives**</b><br>(mandatory by proposer):  |  |
| Objective (b) facilitating effective competition in 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.                      |  |
| <b>Details of Proposer:</b><br>Organisation's Name:   | Paul Jones<br>E.ON UK plc  |
| <b>Capacity in which the Amendment is being proposed:</b><br>(i.e. CUSC Party, BSC Party or "energywatch")  | CUSC Party   |
| <b>Details of Proposer's Representative:</b><br>Name:<br>Organisation:<br>Telephone Number:<br>Email Address:   | Paul Jones<br>E.ON UK plc<br>024 7642 4829<br><a href="mailto:paul.jones@eon-uk.com">paul.jones@eon-uk.com</a>     |
| <b>Details of Representative's Alternate:</b><br>Name:<br>Organisation:<br>Telephone Number:<br>Email Address:  | Neil Smith<br>E.ON UK plc<br>024 7642 4369<br><a href="mailto:neil.c.smith@eon-uk.com">neil.c.smith@eon-uk.com</a> |
| <b>Attachments: Yes</b>   |  |
| 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.

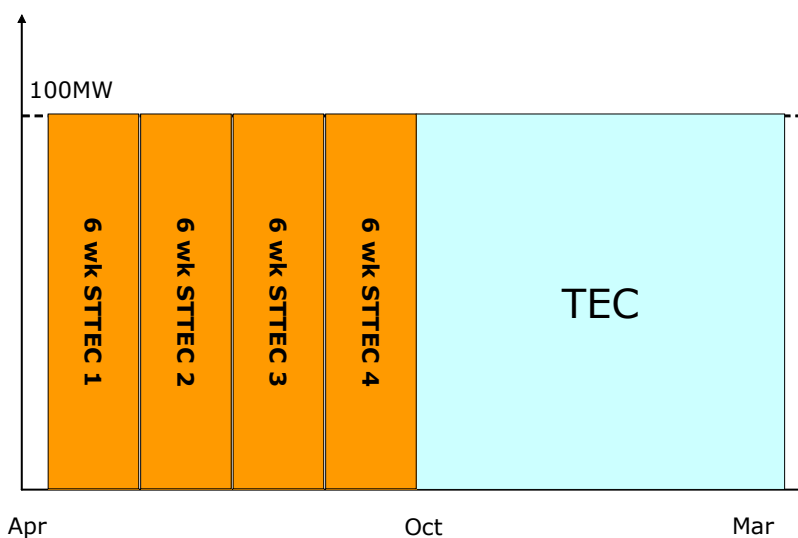
The following example illustrates how this can happen. Imagine a generator wants 100MW of capacity for the period of one charging year. In one scenario it is granted the TEC from the beginning of the year, as shown in Fig 1 below.





**Fig 1: Scenario 1 – TEC for the whole year**

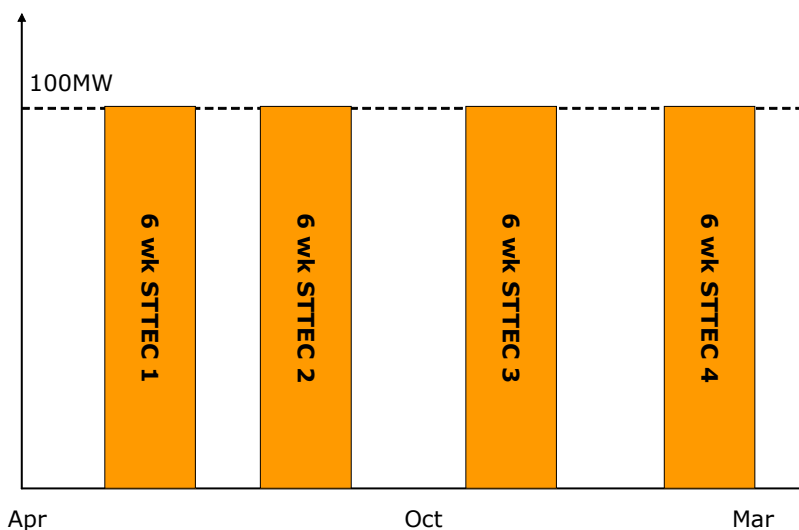
In the second scenario full TEC is not available until half of the year has expired. Thereafter, it can be accommodated. However, it is possible to accommodate the generator for some of the earlier months through the use of STTEC. This is available in 4 slots of the 6 week STTEC product as illustrated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



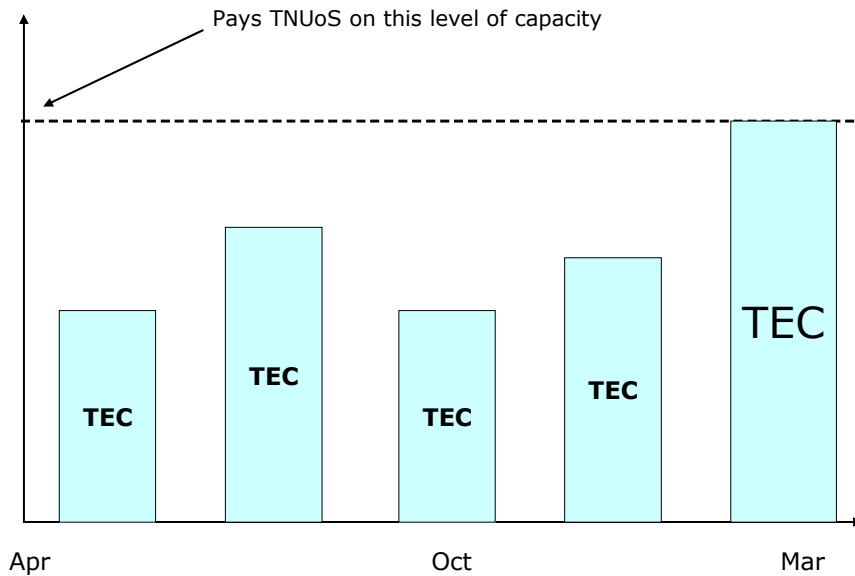
**Fig 3: Scenario 3 – STTEC only**

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 <sup>nd</sup> Scenario | 3 <sup>rd</sup> 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                  |

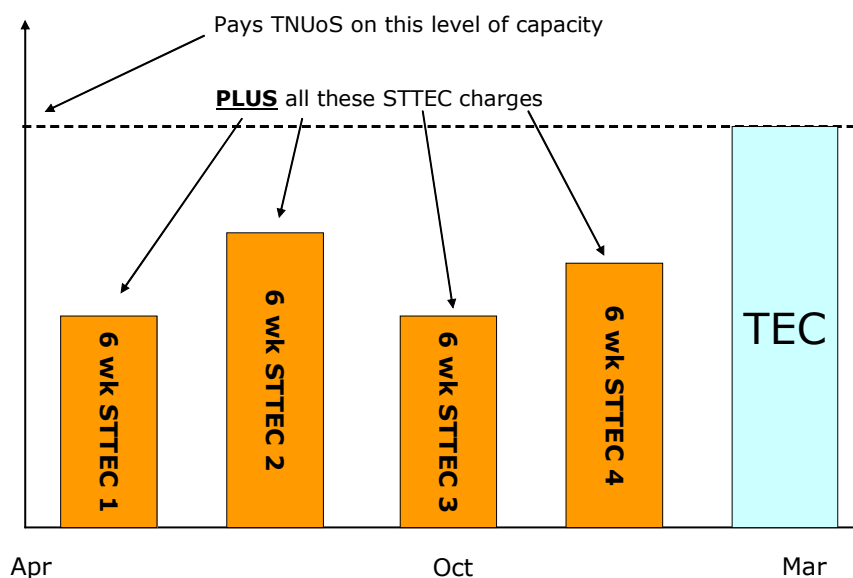
Another way to illustrate the inconsistent nature of these charges is as follows. Imagine, instead of using STTEC a generator acquired short term access rights by adjusting its TEC through the year as in Fig 4 below. Although it is unlikely that a generator would want to do something as complex as this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

### **Consistent Generation Use of System Charge Liability Provisions for Transmission Access Products & Limited Duration Transmission Entry Capacity**

#### **INTERNAL WORKING PROCEDURES**

1. Notes and actions from each meeting will be produced by the Technical Secretary (provided by National Grid) and circulated to the Chairman and Working Group members for review.
2. The Meeting notes and actions will be published on the National Grid CUSC Website after they have been agreed at the next meeting or sooner on agreement by Working Group members.
3. The Chairman of the Working Group will provide an update of progress and issues to the Amendments Panel each month as appropriate.
4. Working Group meetings will be arranged for a date acceptable to the majority of members and will be held as often as required as agreed by the Working Group in order to respond to the requirements of the Terms of Reference set by the Amendments Panel.
5. If within half an hour after the time for which the Working Group meeting has been convened the Chairman of the group is not in attendance, the meeting will take place with those present.
6. A meeting of the Working Group shall not be invalidated by any member(s) of the group not being present at the meeting.

## Annex 5 – Reconciliation of STTEC & TNUoS Charges (Illustrations)

### Reconciliation – Existing Provisions

#### CUSC (Section 3.13)

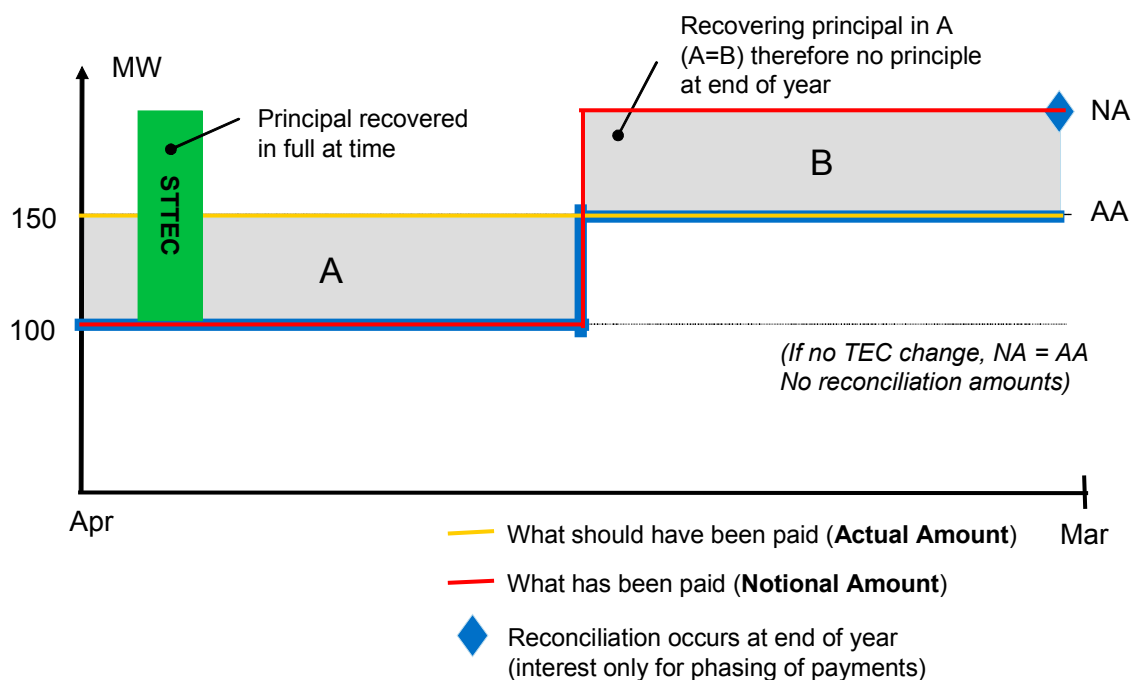
- Done once per year in April (t+1)
- Compare what the user would have paid (the “Actual Amount”) and what was paid (the “Notional Amount”) on a monthly basis
  - determined by applying the Use of System Charging Methodology
- Issue each user an annual Generation Reconciliation Statement
- Interest payable 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*

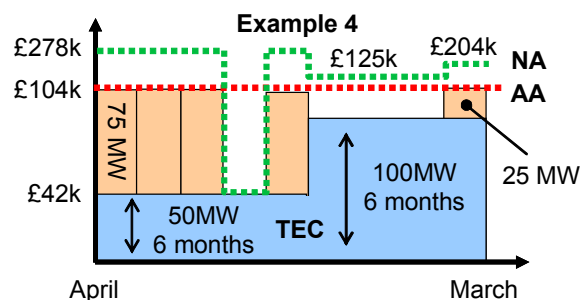
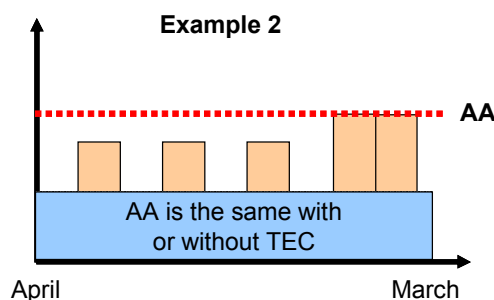
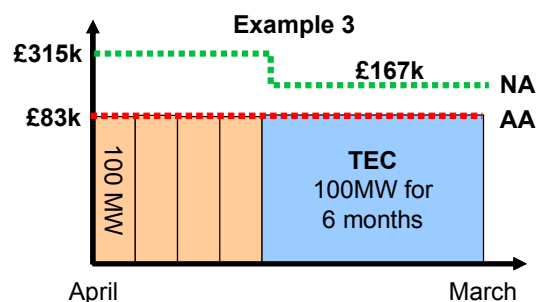
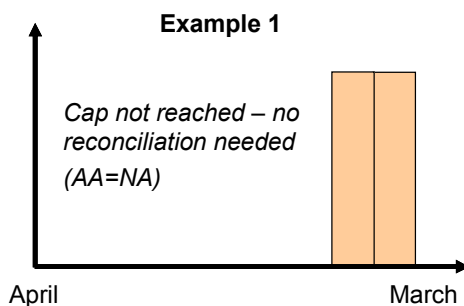


- Revised reconciliation process in CUSC needs to cater for any ad-hoc payments of STTEC Charges made throughout year. Need clarity in
  - how TEC and STTEC payments will be treated
  - definition of Actual Amount and Notional Amount
  - the Actual Amount (what should have paid) if the cap is exceeded
- 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 6 – Relevant Extracts from CUSC & Statement of UoS Charging Methodology

### A. Extracts from CUSC

#### 3.13 RECONCILIATION STATEMENTS

##### Calculation of Initial Reconciliation

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) that would have been payable by the **User** during each month during the preceding **Financial Year (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) paid each month during the preceding **Financial Year** by the **User** (the “**Notional Amount**”).

##### Generation Reconciliation

3.13.2 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 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.

3.13.3 Together with the **Generation Reconciliation Statement**, **NGC** shall issue a credit note in relation to any sums shown by the **Generation Reconciliation Statement** to be due to the **User** or an invoice in respect of sums due to **NGC** and in each case interest thereon calculated pursuant to Paragraph 3.13.6 below.

##### Initial Demand Reconciliation Statement

3.13.4 As soon as reasonably practicable and in any event by 30 June in each **Financial Year** **NGC** shall then prepare an initial **Demand** reconciliation statement (the “**Initial Demand Reconciliation Statement**”) in respect of **Demand** 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 **Demand** 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.

3.13.5 Together with the **Initial Demand Reconciliation Statement** **NGC** shall issue a credit note in relation to any sum shown by the **Initial Demand Reconciliation Statement** to be due to the **User** or an invoice in respect of sums due to **NGC** and in each case interest thereon calculated pursuant to Paragraph 3.13.6.

##### 3.13.6 General Provisions



- (a) Invoices issued under paragraphs 3.13.3 and 3.13.5 above and 3.13.8 (b) below shall be payable within 30 days of the date of the invoice.
- (b) Interest on all amounts due under this Paragraph 3.13 shall be payable by the paying **CUSC Party** to the other on such amounts from the date of payment applicable to the month concerned until the date of actual payment of such amounts and such interest shall be calculated on a daily basis at a rate equal to the **Base Rate** during such period.

3.13.7 Final Reconciliation Statement

- (a) **NGC** shall as soon as reasonably practicable following receipt by it of the **Final Reconciliation Settlement Run** or **Final Reconciliation Volume Allocation Run** as appropriate in respect of the last **Settlement Day** in each **Financial Year** issue a further **Demand** reconciliation statement (the "**Final Demand Reconciliation Statement**") in respect of **Demand** related **Transmission Network Use of System Charges** payable in respect of each month of that **Financial Year** showing:-
  - (i) any change in the **Demand** related **Transmission Network Use of System Charges** from those specified in the **Initial Demand Reconciliation Statement** provided in accordance with Paragraph 3.13.4;
  - (ii) whether the change represents a reconciliation payment owing by **NGC** to a **User** or by a **User** to **NGC**;
  - (iii) the amount of interest determined in accordance with Paragraph 3.13.6 above; and
  - (iv) the information from which the amounts in (i) above are derived and the manner of their calculation.
- (b) Together with the **Final Demand Reconciliation Statement** **NGC** shall issue a credit note in relation to any sum shown in the **Final Demand Reconciliation Statement** to be due to the **User** or an invoice in respect of sums due to **NGC** and in each case interest thereon calculated pursuant to Paragraph 3.13.6.
- (c) Payment of any invoice issued pursuant to Paragraph 3.13.7(b) above or the application of any credit note issued pursuant to that paragraph against any liability of the **User** to **NGC** for **Demand** related **Transmission Network Use of System Charges** will be in full and final settlement of all **Demand** related **Transmission Network Use of System Charges** for the **Financial Year** to which the invoice or credit note relates provided that nothing in this Paragraph 3.13.8(c) shall affect the rights of the parties under the provisions of Paragraph 7.3.5.

3.13.8 The right to submit **Generation Reconciliation Statements**, **Initial Demand Reconciliation Statements** and **Final Demand Reconciliation Statements** and the consequential invoices and/or credit notes shall survive the termination of the **User's** rights under the **CUSC** and the parties agree that the provisions contained in Paragraphs 3.13 and 3.14 shall continue to bind them after such termination (the version in existence at the date of termination being the applicable version in the case of any amendments).

## 6.6 PAYMENT

6.6.1 **NGC** will invoice **Users** for **Connection Charges** and/or **Use of System Charges** due under the **CUSC** and/or each **Bilateral Agreement** and/or as notified to the **User** where there is no **Bilateral Agreement**, in accordance with the **CUSC** and/or the **Charging Statements** in the following manner:

- (a) in the case of recurrent monthly charges identified in the relevant **Charging Statements** **NGC** shall despatch an invoice on or before the 15th day of the month for the charges due in relation to that month;
- (b) in the case of the **STTEC Charge** **NGC** shall invoice the **User** on or before the 15th day of the month for the full **STTEC Charge**;
- (c) unless otherwise specified in the **CUSC** where charges are payable other than monthly **NGC** shall despatch an invoice not less than 30 days prior to the due date for payment.

6.6.2 **Users** shall pay **Connection Charges** and/or **Use of System Charges** due to **NGC** under the **CUSC** and/or each **Bilateral Agreement** and/or as otherwise notified to the **User** where there is no **Bilateral Agreement**, in accordance with the **CUSC** and/or the **Charging Statements** in the following manner:

- (a) in the case of recurrent monthly charges and the **STTEC Charge** on the 15th day of the month in which **NGC's** invoice therefor was despatched (if despatched on the first day of that month) or, in all other cases, on the 15th day of the month following the month in which **NGC's** invoice therefor was despatched unless, in any such case, the said date is not a **Business Day** in which case payment shall be made on the next **Business Day**;
- (b) unless otherwise specified in the **CUSC** where charges are payable other than monthly within 30 days of the date of **NGC's** invoice therefor.

6.6.3 All payments under this Paragraph 6.6 shall be made by the variable direct debit method or such other form of bankers automated payment as shall be approved by **NGC** to the account number, bank and branch as **NGC** or a **User** may from time to time notify in writing to the other.

6.6.4 All sums payable by one **CUSC Party** to the other pursuant to this **CUSC**, the **Bilateral Agreements** and/or the **Mandatory Services Agreements**, whether of charges, interest or otherwise shall (except to the extent otherwise required by law) be paid in full, free and clear of and without deduction set off or deferment in respect of sums the subject of any disputes or claims whatsoever save for sums the subject of a final award or judgement (after exhaustion of all appeals if this opportunity is taken) or which by agreement between **NGC** and those **CUSC Parties** may be so deducted or set-off.

6.6.5 Subject to Section 4, if any **CUSC Party** fails to pay on the due date any amount properly due under the **CUSC** or any **Bilateral Agreement** such **CUSC Party** shall pay to the **CUSC Party** to whom such amount is due interest on such overdue amount from and including the date of such failure to (but excluding) the date of actual payment (as well after as before judgement) at the rate of 4% over

**Base Rate** for the time being and from time to time. Interest shall accrue from day to day.

- 6.6.6 All amounts specified hereunder or under any **Bilateral Agreement** shall be exclusive of any **Value Added Tax** or other similar tax.

**B. Extract from The Statement of the Use of System Charging Methodology Monthly Charges**

- 5.14 Initial Transmission Network Use of System Generation Charges for each Financial Year will be based on the Power Station Transmission Entry Capacity (TEC) for each User as set out in their Bilateral Agreement. The charge is calculated taking the forecast Chargeable Capacity and multiplying it by the zonal £/kW tariff. This annual TNUoS generation charge is split evenly over the 12 months and charged on a monthly basis over the year. For positive charging zones, if TEC increases during the charging year, the party will be liable for the additional charge incurred for the **full** year, which will be recovered uniformly across the remaining chargeable months in the relevant charging year. An increase in monthly charges reflecting an increase in TEC during the charging year will result in interest being charged on the differential sum of the increased and previous TEC charge. The months liable for interest will be those preceding the TEC increase from April in year t. For negative charging zones, any increase in TEC during the year will lead to a recalculation of the monthly charges for the remaining chargeable months of the relevant charging year. However, as TEC decreases do not become effective until the start of the financial year following approval, no recalculation is necessary in these cases. As a result, if TEC increases, monthly payments to the generator will increase accordingly.

**Ad hoc Charges**

- 5.15 For each STTEC period successfully applied for, a charge will be calculated by multiplying the STTEC by the tariff calculated in accordance with Paragraph 3.3. NGC will invoice Users for the STTEC charge once the application for STTEC is approved.

**Reconciliation of Generation Charges**

- 5.16 The reconciliation process is set out in the CUSC and in line with 5.14 above.