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16 April 2009

Dear Lesley Nugent

**Derogations to facilitate earlier connection of generation – proposed interim approach**

EDF Energy welcomes the opportunity to respond to Ofgem's "minded-to" position set out in the note of 19 March 2009.

We note the good work undertaken by National Grid Electricity Transmission plc (NGET), SP Transmission Limited (SPTL) and Scottish Hydro-electric Transmission Limited (SHETL) to identify scope to advance the connection dates of 450MW of Scottish renewable generation. Such advancement is essential to facilitate investment in renewable generation to satisfy the Government commitment to reducing Carbon emissions.

In principle EDF Energy can support the early connection of these generators we are concerned that this 'minded to' decision has been taken based on a set of proposals that have been rushed into industry processes without due consideration rather than against the existing set of commercial and market arrangements. Furthermore we would wish for Ofgem to provide some certainty of the duration of these arrangements when considered against the more enduring arrangements proposed by CAP164 Alternative (WGAA1).

Please contact Paul Mott on 0203 1262314 should you need clarification on any of our comments.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Seb Eyre'.

**Sebastian Eyre**

## Executive Summary

- We recognise the need to facilitate early connection – however, we are concerned by the potential impacts on consumers of the costs of constraint resolution – costs which are already at a very high level.
- Ofgem have already noted that constraint costs, caused by the granting of new transmission constraint resolution rights to Scottish (in practice, fossil) generators in the introduction of BETTA, are high.
- Ofgem note that NG has raised proposals which Ofgem feels may address these costs. However, these proposals have yet to complete their progress through the industry change process and therefore it remains uncertain as to whether these proposals will be approved by the Authority.
- Ofgem restates in the consultation its erroneous belief that existing generators do not have enduring transmission access rights.
- Ofgem states that additional constraint costs may not arise from new renewables, depending on what generation they displace (there appears to be an assumption they are never themselves constrained-off – this is unlikely to be valid), although it states this is dependent on an assumption that there is no abuse of market power.
  - We do not consider that Ofgem should be making a determination on early connection taking into account future possible changes such as CAP 164 and its Alternative, as well as CAP148, that await a regulatory impact assessment (the RIA was re-published today for consultation in relation to CAP148) – let alone a final Decision.
  - Ofgem should take care not to fetter its discretion when making future determinations on those proposals on the basis of regulatory impact assessments not yet carried out.
  - The proposals in the 19 March note, have not been raised in a manner that allows for adequate review by Industry – indeed the note itself does not even feature on the “Consultations” part of Ofgem’s web site, but rather under the heavily-populated “Publications” page (and then, for some weeks now, only on the “archived” part).
- Ofgem refer to TEC reductions by existing plant in a negative manner, whereas we suggest this could enable early connection.

We would have concerns on any additional derogations from the GB SQSS in relation to any more boundaries than the already-derogated “B6”. Our more detailed points now follow :

## Principles of early connection

We would express our support for pragmatic solutions to facilitate the early connection of such generation, such as the Alternative Amendment within CAP164 for which the publication of an impact assessment of the costs-benefits and other dimensions, is pending. We supported this amendment in the relevant consultation response submitted by British Energy last year. However, we are concerned that the specific approach proposed in the 19 March note may levy undue costs on existing Users of the Transmission system; it is unclear that there would be any cost-benefit test or limit on the “over-selling” that could take place in the approach set out in the note. The note that has been published perhaps maps much more closely to CAP164 original, therefore (which neither EDF Energy nor British Energy have ever supported), than to its superior alternative form. There is a loose implication that the approach within the note is to be interim or time-limited (which would represent a difference from CAP164 original), but the question of quite how long the proposed approach would endure for is left very vague within the 19 March note, as is the matter of how further generators, beyond the un-named 454 MW that have already been identified by Grid as suitable for early connection, would be identified as suitable for further over-allocation, or what ultimate limit might be placed (the loose implication appears to be – none) on this further over-allocation to limit the maximum ultimate cost to consumers.

This solution is a variant of Connect & Manage and so sits alongside CUSC amendment Proposal CAP164 and its alternative (and also the related CAP number 148, where a final decision by the Authority is still awaited). It is inappropriate for Ofgem to raise a new variant (if such it be) of CAP164 by the proposed interim approach. Given the potential increase in costs this approach may cause, we are concerned that it has been decided that this consultation should only run for 4 weeks. This is of particular concern when considering the manner in which the two proposals – one a CUSC amendment which Ofgem reference in this consultation, have been raised by National Grid to target constraint costs. CAP170 was subject to a severely-truncated Industry review program (*with no industry meetings to discuss it; CUSC panellists who had voted for urgency noted at a later meeting that, in the light of the very truncated process actually adopted by Grid and Ofgem, they regretted voting for urgency status for this CAP*) and Locational BSUoS ECM18 has not been discussed with industry at the Transmission Charging Methodology Forum (TCMF) prior to publication. National Grid themselves said at a CUSC panel meeting (30/3/9) in relation to CAP170 that the normal [urgent type] process had been stretched almost to breaking point in relation to this modification (170). We do not consider these to be “normal industry processes” as Ofgem assert in this document. We would also note that Industry was almost unanimous in its rejection of one of these proposals (CAP170).

We would also note that we do not consider that Ofgem should be making decisions in regard to early connection, based on potential Industry changes that exist as formal change proposals which have not as yet been decided upon.

### **Implications of BETTA and constraint costs**

Ofgem refer to BETTA as giving new constraint compensation rights to Scottish generators and providing access rights on a non-discriminatory basis. In practice any constraint compensation is of benefit only to fossil generators there, as the type of nuclear units there are relatively very inflexible, and never

constrained off. Further EDF Energy noted at the time that additional analysis was required to better understand the cost implications of this decision

The assumption by Ofgem that there is likely to be an “absence of abuse of market power” remains untested as Ofgem has neither mounted a formal investigation itself – as it did so clearly and swiftly in 1992 in relation to conduct at Fawley, Hamms Hall and Ferrybridge B power stations – nor taken the alternative route of making a reference to the Competition Commission. The stated assumption that there will not be any constraining-off of renewable plant (perhaps taking the proposals outlined in the note, by implication, closer to the original form of CAP148, namely CAP147) is not justified. Over time, as the quantum of connected renewable generation north of the B6 boundary grows, it seems inevitable that on occasions renewable generation will be constrained. Furthermore, the bid prices submitted by such renewable generation are likely to be very onerous from Grid’s and consumers’ points of view. The bid prices will reflect the lost renewable subsidies whenever the subsidised plant is constrained off as the subsidy that is implicit within the renewable obligation, arises only in relation to actual generation, and is lost whenever they are “constrained off”.

### **Potential Impact of New Connections on costs**

CAP164 working group alternative A (WGAA1) proposed by Scottish renewables made connect and manage there subject to a cost-benefit assessment and targeted the additional costs of managing the network to those that would cause them. This was a laudable compromise – the 19 March note seems to have dropped that and may allow for unlimited further connect-and-manage type connections at least until “TAR”, which is not defined<sup>1</sup>, is deemed to be in force. The temporal limitation, or interim nature, of the approach is not at all clearly set out in the note.

### **TEC relinquishment by existing Users (Benefit to connection not indication of lack of right)**

We are disappointed to find that Ofgem refer to TEC reductions by existing users in a negative manner. We consider such TEC reductions can be beneficial to new transmission users, and ultimately competition, particularly on a constrained system provided that the capacity is relinquished in a timely manner by the system operator.

### **Conclusion**

Whilst in principle EDF Energy can support the early connection of these generators we are concerned that this ‘minded to’ decision has been taken based on a set of proposals that have been rushed into industry processes without due consideration rather than against the existing set of commercial and market arrangements. Furthermore we would wish for Ofgem to provide

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<sup>1</sup> For example, if CUSC amendment proposal(s) 161/2/3 which seem to enjoy almost universal support as beneficial parts of the solution, were to be passed, and appeared to be functioning alongside real transmission investments going in (on the basis of forecast need for these investments), many might say that “TAR” is complete; others however, might not. The end-point for the proposed interim arrangement is thus left effectively undefined.

some certainty of the duration of these arrangements when considered against the more enduring arrangements proposed by CAP164 Alternative (WGAA1).

