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Tuesday 23rd February 2010

Dear Lesley,

CAP170: Current thinking and further consultation on competition issues – reference number 11/10

Thank you for the opportunity to respond to the above consultation. This response is on behalf of E.ON UK, and should be read in conjunction with our responses to previous CAP170 consultations.

E.ON UK continues not to support the implementation of CAP170.

We firstly address the areas of current thinking set out by the Authority.

Longevity

We agree (without prejudice to our opposition to the implementation of CAP 170) that if it were to be implemented it should be time limited so as to apply only for the duration of the perceived issue being addressed. We note that there is nothing in the legal drafting as presented to achieve this, and presume that reliance is placed therefore on the expiry of the derogation to the NETS SQSS. We would prefer to see the time duration limitation contained within the legal drafting.

Urgency

It is poor code management and regulatory practice for a change deemed 'urgent' to be rapidly approaching its first birthday. If this change had been allowed to progress through the normal Working Group process, it would have been developed as a more collaborative effort than is possible through

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a series of written consultations and responses. We understand that there came a point last year where the change would have had little effect. We believe it to be regrettable that the CAP was not passed back into non urgent industry change processes at that point and developed.

Competition

We do not agree that intertrips (of whatever category) should be considered as a substitute for actions in the Balancing Mechanism. We understand and acknowledge that the installation of an intertrip allows infrastructure to operate under greater power loads thus transferring more power. In that sense, the use of an intertrip enables greater volumes of Offers to be accepted in the Balancing Mechanism.

The case may arise whereby NGET has to accept Bids against submitted Physical Notifications in order to reduce the loading of a line. In this instance it may be possible to arm an intertrip instead, and potentially allow the transmission assets to become stressed.

The intertrip will do nothing unless the transmission line becomes overloaded. Dependent on the technical nature of the intertrip, it will respond after a certain time by tripping the selected generating unit. This avoids the necessity for the System Operator to accept Bids in order to restore the technically appropriate operating conditions for the transmission line. The energy has been reduced regardless. In a commercial sense the same effect has been achieved.

However, in the physical world, the two methods of achieving the desired end are very different. Bid Acceptances are issued in a controlled manner within the operational limits of infrastructure. The intertrip relies on the stressing of the infrastructure to operate – and as yet no details for the operating conditions of the relevant circuits have been presented to the industry, which is therefore unable to assess the likelihood of trip or the effect of repeatedly stressing the infrastructure. This issue of infrastructure stress is quite apart from the technical stresses on the tripping generating unit.

The physical effect on a generating unit of a trip is very different from that of a planned load change. The potential for plant damage (other than normal wear and tear) is far lower when the unit is being operated within its normal parameters because temperature gradients, pressure changes and other technical limitations can be controlled. We believe this technical

difference of physical control is an important reason why an intertrip should not be considered as a substitute for BOAs.

Remuneration

As a member of the CAP076 Working Group I wish to be clear about the considerations and deliberations of that group. At no point was tripping of nuclear plant or wind farms considered. The information we gathered and used as the basis of discussion was, according to my personal meeting notes, all related to CCGTs and Coal fired generating units. The CAP076 Working Group Report notes that:

“3.43 These figures for tripping fees will include the costs per EOH, wear and tear on ancillary plant, and also the start-up fuel required to bring the unit back. The Working Group considered a range of tripping fees from £100k for a gas generating unit to £400k for a coal generating unit. It was suggested that if a single figure was to be included in the CUSC then the figure should be that at the top of the range (i.e. £400k per generating unit per trip) so as to ensure all generators are incentivised to have their intertrips armed.”

The expectation of the Authority that commercial intertrips should “be priced at or near avoidable cost” is perfectly economically rational. It does not allow for the fact that calculating the avoidable cost is very difficult – the same issue that the CAP076 Working Group faced.

Indeed, the Working Group received a paper:

NGC GB System Operator from April 2005 Initial Consultation Document

NGT Response dated 27/10/04

“In particular, we are concerned that there may be an increased requirement for the use of intertrips in Scotland in order to manage the system. Under present market arrangements, where the operation of an intertrip would result in a deemed bid/offer acceptance, up to a potential cost of £99999/MWh, the risk of incurring such costs could increase significantly. NGC has recently raised modifications **CAP076** and **P177** in order to provide appropriate compensation for the operation of such intertrips. If approved, these would significantly mitigate this risk.”

It would appear that NGET believed that the intertrip Categories and remuneration contained in CAP076 were appropriate, and did not raise the issue of technologies other than CCGT and coal.

The examples presented for CAP170 consequential changes to other documents indicate that NGET expect to apply CAP170 to other technologies. We are unable to conclude whether the CAP076 remuneration is appropriate for CAP170 as the analysis has never been done.

Other issues

It would be of interest to know the Authority's current thinking on several of the other issues raised in the consultations to date.

It would be particularly helpful if the Authority could provide an opinion on the proposal for NGET unilaterally to alter Bilateral Connection Agreements. The very fact that additional clauses have to be introduced into the CUSC to make this possible highlights the level of precedent that is being set. We stress again that allowing NGET to insert clauses which alter the commercial effects of contracts is wrong. Undermining a stable regulatory framework does not encourage investment in replacement generating capacity of any technology.

It would also be helpful to understand the Authority's views on the changes proposed to the Balancing Principles Statement and the Procurement Guidelines. We continue to believe that the proposed changes in no way aid transparency in understanding how providers are selected for the imposition and installation of a Category 5 intertrip, nor how arm's length decisions are taken.

Further Analysis

We turn now to the further analysis presented in Appendix 1.

The analysis presented in this consultation appears to be aimed at illustrating the defect within the CUSC that CAP170 seeks to address. However, the analysis actually presents the difficulties associated with the commercial management of constraints in Scotland. Although we have concerns about Scottish constraint costs, it is unclear why such a wide ranging solution as CAP170 has been proposed – CAP170 has strong physical impacts on infrastructure and generating units, and is potentially

affects far more plant than that behind the Cheviot constraint.

No analysis of the expected physical impact on the transmission has been presented. It is therefore unclear whether the lifetime of the transmission assets will be shortened by repeated stressing, how often an intertrip is expected to operate, and what the return to service times of infrastructure and generator are expected to be.

We remain of the opinion that CAP170 has not been proven to be an appropriate response to the suggested defect, and therefore do not support its implementation.

If you have any queries, please do not hesitate to contact me on the above number.

Yours sincerely

Claire Maxim
Trading Arrangements