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9 February 2004

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Dear David,

**The Connection and Use of System Code under BETTA
December 2003**

Thank you for the opportunity to respond to this consultation. This response is submitted on behalf of ScottishPower UK Division, which includes the UK energy businesses of ScottishPower, namely ScottishPower Energy Management Ltd, ScottishPower Generation Ltd and ScottishPower Energy Retail Ltd.

There is a particularly strong interaction between the CUSC and the STC and we are concerned that the staggered consultation periods for each of these documents reduces the time available for parallel study. Both the CUSC, particularly in respect of small generator issues, and the STC are still subject to further development; it is imperative that sufficient time is scheduled during the BETTA development process to allow the industry to scrutinise these documents as a complete set.

I hope that you find these comments useful. Should you have any queries on the points raised, please feel free to contact us.

Yours sincerely,

Mike Harrison

Commercial Manager, Trading Arrangements
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THE CONNECTION AND USE OF SYSTEM CODE UNDER BETTA

SCOTTISHPOWER UK DIVISION RESPONSE

1 General observations

- 1.1 ScottishPower UK Division is pleased to note Ofgem/DTI's recognition of the interrelationship of the various documents which are currently under separate development. There is a particularly strong interaction between the CUSC and the STC and we are concerned that the staggered consultation periods for each of these documents reduces the time available for parallel study. It also makes for greater complexity and difficulties in comparing proposals in what are interdependent documents. While Ofgem/DTI clearly intend that there should be a full legal review of the draft codes we believe it is imperative that sufficient time is scheduled during the development process to allow the industry to scrutinise these documents as a complete set.
- 1.2 We also note the emphasis placed on this being a consultation on the enduring arrangements. Transition to these arrangements will not be simple but, as yet, there has been no consultation on how this transition might be handled. Visibility of transition arrangements is urgently required by the industry.
- 1.3 ScottishPower UK Division has recently responded to the consultation on small generator issues under BETTA. In that response we expressed concern about the proposed treatment of small generators connected at 132kV in Scotland and the effect of the proposals on the competitive position of those generators relative to similar generators in England and Wales. Whilst accepting that the CUSC consultation was drafted without full knowledge of the treatment of small generators and that amendments will be made as necessary, nothing in this response should be taken as indicating a change to the views we expressed in the small generator response.

2 Issues raised in the consultation paper

Governance of the CUSC

- 2.1 Accepting that work on the STC is continuing, we still have concerns regarding the arrangements for liability and disputes and the need to ensure that the codes are mutually consistent in this regard. Governance arrangements will need to be such as to prevent the contractual chain between the Scottish user and the TO from being broken by changes to one of the codes in the chain.

Election of Panel members

- 2.2 We believe that an election should be held for the GB CUSC Panel in order to reflect the wider constituency of users.

Principles of ownership

- 2.3 We believe that the current ownership boundaries at our generation sites in Scotland can be accommodated within the exception at section 2.12.1. However, we do have concerns regarding the interface agreements and these are discussed below.

Mandatory ancillary services

- 2.4 ScottishPower UK Division has responded to consultations on both the Grid Code and small generator issues and has opposed the extension of the mandatory ancillary service requirements to small generators. In light of the outcome of those consultations, section 4 of the CUSC may need to be changed.

“Transfer Date” under the CUSC

- 2.5 We support the position adopted by Ofgem/DTI regarding the Transfer Date under the CUSC. We agree that there should be no obligation to provide security cover in respect of termination amounts and that the issue of technical facilities provided by users should be considered on a case-by-case basis.
- 2.6 Regarding a “BETTA Date”, we believe that such a date is necessary to facilitate differential treatment where necessary. We do not believe that this is a transition issue, rather that it should appear on the face of the code. We look forward to a suitable provision appearing in the next draft.

Transitional issues

- 2.7 As noted above, we seek early sight of Ofgem/DTI’s thoughts on transitional arrangements.
- 2.8 The indicative transmission charges recently published by the GBSO would lead to significant increases in charges for some users. Should a charging methodology finally be adopted which leads to such large changes we believe that it will be necessary to have a phased transition to the new charges to avoid disproportionate effects on generators, particularly in Scotland.
- 2.9 ScottishPower UK Division is concerned at the stance being taken by Ofgem/DTI with regard to the transmission access rights held by parties in Scotland. We believe that it is vitally important to give assurance of access to the GB transmission network not only to those generators who are currently connected to or using the transmission system, but also to those renewable generation projects which have already accepted offers for connection to the transmission network in Scotland, have signed connection agreements and are proceeding to develop their projects.

Approved CUSC amendments

- 2.10 We note Ofgem/DTI’s proposals regarding CAP012 and CAP043.

Comments on legal drafting

- 2.11 We support Ofgem/DTI's conclusions regarding responsibility for maintenance of assets. This is another example of the need for users to be able to examine all the interdependent documents at the same time.

3 New issues for the GB CUSC

CAP044

- 3.1 We see no reason why CAP044 should not be incorporated into the GB CUSC.

Scots law issues

- 3.2 ScottishPower UK Division recognises the need for certain parts of the CUSC to recognise and take account of the difference between English and Scots law. This need is most apparent in Appendix O, Interface Agreements. We are not convinced that the changes which have been introduced into the standard form of interface agreement are sufficient to ensure that these standard agreements are satisfactory for use in Scotland.
- 3.3 Furthermore, we do not believe that it is appropriate to use standard form agreements to record interface arrangements which have taken many years to develop to their current form and which are already recorded in legally binding agreements between the generator and the TO. Our preferred approach is modify the current agreements, rather than trying to rewrite them in a different form. This seems to us to be more consistent with the philosophy of minimum change for BETTA.

4 Proposed draft text for the GB CUSC

Generic changes

- 4.1 ScottishPower UK Division disagrees strongly with Ofgem/DTI's decision to reinstate the references to NGC instead of GBSO. This seems to us to be a fundamental error in that it confuses the role which is being played with the party which is discharging that role. We have consistently argued that the relationship between the GBSO and each of the TOs should be equitable and open to, at the very least, regulatory scrutiny. To use the same company name in the CUSC when referring to each of these very different roles will make that separation even harder to see, let alone to scrutinise. It will confuse users, NGC staff and, we believe, Ofgem. We deplore this decision and would ask that it be reversed.

Exhibit B – Connection Application

- 4.2 We note that the exhibit states that it may be necessary to consult with the TO. We believe that it would always be necessary to consult the TO. The exhibit goes on to state that the cost of such consultation will be recharged to the applicant. Given the

complex route by which connection applications are now to be handled we seek assurance from Ofgem/DTI that these costs will be kept to a minimum.

Exhibit D – UoS Application

- 4.3 Comments as per Exhibit B.

Exhibit J – Modification Offer

- 4.4 We believe paragraph 3 should specify, for the avoidance of doubt, who the interface agreement will be with.

Exhibit O – Interface Agreements – Part 1

- 4.5 We would prefer that the company name was used, rather than “RTL”.
- 4.6 “NGC” will need to be a defined term if it is not party to the agreement.
- 4.7 The definition of “Transmission Licence” is incorrect as it retains a reference to NGC.
- 4.8 The reference in 4.2 is out of date; the 1988 Regulations have been replaced by the ESQ&C Regulations 2002.
- 4.9 Given that the TO is not a party to either the CUSC or the bilateral agreement it is not clear how paragraph 6.1 will work. There appears to be text missing from 6.2.
- 4.10 The definition of services required to be provided (8.2) seems very vague.
- 4.11 “Line Manager” (10.1) does not appear to be defined. There is an incorrect reference in 10.2.
- 4.12 It is not clear that 10.4 – 10.6 are still required given that the reference clause no longer exists.
- 4.13 The reference to “NGC or the RTL” in 12.1.6 should be “[NGC\the RTL]”, and all after “authorised” can be deleted.
- 4.14 The Monopolies and Mergers Commission has been replaced by the Competition Commission.
- 4.15 As we have noted above, we believe it will be better to modify the existing ScottishPower interface agreements than use the draft standard agreement. The “Entire Agreement” may therefore need to include a reference to existing interface agreements.
- 4.16 Use of “Common Seal” (Schedule 6) is out of date and unnecessary.

Exhibit O – Interface Agreements – Part 2

- 4.17 To the extent that Parts 1 and 2 use common text, many of the comments on Part 1 apply equally to Part 2.
- 4.18 It is not clear in clause 6.3 why the user needs to give notice to the TO of notice of termination from NGC.
- 4.19 Clause 12.1.6 retains the word “Main” which should be deleted.
- 4.20 We doubt that “distress execution” has a meaning in Scotland.