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8<sup>th</sup> March 2004

Dear Patrick,

**Provision of User OC2 Data to Transmission Owners: Mini Consultation Response**

Thank you for the opportunity to comment on this mini consultation. We have previously provided responses in relation to earlier STC consultations in June, October and December 2003 consultations.

We note that the STC drafting remains incomplete and therefore reserve our position on a number of technical issues until more complete drafting becomes available when the nature and extent of the STC, its defined rights and obligations, together with associated user-facing codes/interface agreements, are more fully defined.

In addition, we have previously expressed our concern with the STC development process and consider that the STEG information available in the public domain via the Ofgem website remains inadequate.

We continue to believe that a shallower SO role consistent with the tried and tested SO role in England & Wales remains the most appropriate model to adopt. The extent to which this is defined will have an impact on the drafting of the STC.

We remain firmly of the opinion that there should be a provision for affected Users to be able to propose amendments to the STC and actively participate in the amendment process.

The creation of a separate GBSO under BETTA means that arrangements for the Nuclear Site Licence Provisions Agreements (NSLPA and its scottish equivalent, the SNSLPA) will need to be included under the STC given that it relies on the actions of the SO and TOs. We still await the, as yet unpublished, Section G3 of the Code.

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### **Key Comments:-**

- **On balance we support the provision of relevant OC2 data to TO's by the GBSO, provided that there is a robust condition in the transmission licences as a safeguard to ensure robust and effective separation and wholly independent operation of the transmission business.**
- **To ensure that efficiency benefits are attained TO's should produce the first iteration of the draft outage plan for their in-area assets incorporating OC2 data supplied by the GBSO.**

### **Detailed Comments:-**

We note that section 4.7 highlights that NGC may share information provided by Generators with Network Operators if it considers that the outage proposal may have an impact on that Network Operator's network. Within the (E&W) Grid Code, the **Network Operator** is defined as:-

**“ A person with a **User System** directly connected to the **NGC Transmission System** to which **Customers** and/or **Power Stations** (not forming part of the **User System**) are connected, acting in its capacity as an operator of the **User System**, but shall not include a person acting in the capacity of an **Externally Interconnected System Operator**.”**

A Transmission (asset) Owner, or TO, is not a defined entity in current Grid Codes, and this definition precludes the transfer of data to such a third party. However, it would seem perverse (and discriminatory?) under BETTA for (Distribution) Network Operators to have access to such information from NGC (as the GBSO) whilst the TO's would not.

Therefore whilst noting Ofgem's concerns in relation to the 'eight criteria' outlined in section 5.1, and specifically criterion (1b) :-

“access to confidential data, which may reveal the intentions of participants in market based activities, should be available only to those that do not have affiliated interests in those same market-based activities.”

then arguably the same breach of this criterion is currently occurring within existing E&W market activities with regard to affiliated interests.

It is worth noting here that application of a 'shallow' GBSO model, that we continue to advocate, would preclude the need for the GBSO to be embroiled in the world of outage planning. We would also note that Ofgem's concerns seem to reinforce the case for either business separation or, as a minimum, robust and effective 'chinese walls' between the affiliate organisations.

It is clear that full business separation of all those parties with affiliated interests will not occur. The principal question therefore is to consider whether, to overcome market related concerns, there is a case for all outage data to be made available to everyone or whether no outage data should be made available to anyone. This consultation only considers some subsets of these two extreme positions.



Subject to resolution of the concerns of ensuring effective confidentiality of such market information, which we note will be addressed within the transmission licences, then, as a pragmatic way forward, it would seem sensible for TO's to have the same right currently conferred on Network Operators in the E&W market, and should receive outage related data as it impacts their transmission asset area, to inform their outage planning process.

It follows naturally from this position that in order to ensure full advantage is received from the increased efficiencies outlined in the consultation, that TO's should produce the first iteration of the draft outage plan for their in-area assets.

In terms of potential 'process' issues, we offer some observations:-

We note the issue of 'dispute resolution' and that it is "based loosely on that contained in Part 7.3.1 CUSC in respect of charging disputes." However, in section 5.16 of the consultation, we note that "at 4 weeks ahead of the outage plan becoming effective, the Final Outage Plan will be considered 'firm'.....[and] there will be a formal change management process to handle requests for changes and a dispute resolution process." We have previously commented on 'disputes' but would seek some assurance of the process to be adopted to resolve a dispute which arises within the 4-week ahead stage.

In relation to BE's specific circumstances with respect to the Nuclear Site Licence Provisions Agreement(s) in E&W and Scotland, there are a number of liaison requirements which stem primarily from the NSLPAs. In order to continue to satisfy the nuclear regulator (NII) these should be retained as a minimum and we await clarification within the STC. We would be happy to supply details of the specific liaison activities undertaken (with the 'TO's) under separate cover.

If you wish to discuss any of the above issues please do not hesitate to contact me

Yours faithfully,

**Steve Phillips**

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