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Dear David

## **RESPONSE TO GB CUSC AND GRID CODE TRANSITION**

### **1. Purpose of this letter**

- 1.1 We have reviewed the Ofgem/DTI Consultation Paper entitled "Provisions for the transition to the GB CUSC, the GB Grid Code and the GB connection and use of system agreements under BETTA; including associated licence conditions for NGC and for generation, distribution and supply licensees; changes to the CUSC Framework Agreement; and transitional drafting for the GB CUSC and GB Grid Code" (Document 152/04) dated July 2004 and set out our Response below.

### **2. Amendments to the core industry documents**

The near final version of the GB CUSC was published on 30 April 2004. Since then, the Authority has approved a number of amendments to the CUSC. Ofgem have not consulted on all of these amendments. As we understand it, Ofgem intend to issue a mini-consultation in respect of **all** of those amendments which have not yet been consulted upon. This is a necessary pre-condition for due process to be followed.

### **3. Transition Period – CUSC Licence Condition and Grid Code Licence Condition**

- 3.1 Again as we understand it, it is intended that both the CUSC and Grid Code licence conditions in NGC's Licence will provide for the Authority, during the transitional period, to amend the CUSC and Grid Code (respectively)<sup>1</sup> in order to take account of matters emerging from the results of the testing and trialling of computer systems and processes and/or to correct any inconsistencies between the systems and processes provided for in the CUSC/Grid Code (as applicable), STC and BSC<sup>2</sup>; to make changes to the GB CUSC and the

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<sup>1</sup> See paragraph 8 of NGC's CUSC licence condition (Ofgem Document 152/04 Appendix 1) and paragraph 7 of NGC's Grid Code licence condition (Ofgem Document 152/04 Appendix 2).

<sup>2</sup> Paragraph 8(a) of Appendix 1 and 7(a) of Appendix 2.

GB Grid Code that are consequent upon changes that need to be made to the STC<sup>3</sup>; and to correct any inconsistency between different provisions of the CUSC, between any provision of the CUSC and any provision of the NGC licence/the BSC/Grid Code and/or STC<sup>4</sup>.

- 3.2 These provisions are inconsistent with the proposition that the STC will not be able to drive changes to the BSC, CUSC and Grid Code. Please refer to our recent response to the STC July Consultation Paper (which includes alternative drafting to the relevant provision of the BSC Licence Condition) for BRG members' views on the correct approach here.
- 3.3 BRG members are keen to ensure that the STC does not drive changes to the User Facing Codes, and furthermore, that NGC remains responsible for avoiding inconsistencies. For example, BRG members would not want to see provisions in the STC similar to those in clause 1.6.2 (Relationship with other documents) of Section H of the BSC. Clause 1.6.2 provides that in the event of any conflict between the provisions of the Grid Code and the provisions of the BSC, a BSC Party (e.g. NGC) will not be liable under either the BSC or the Grid Code as a result of complying with its obligations under the BSC or Grid Code, provided that each Party shall take such steps within its power as may be necessary to resolve such conflict as soon as possible.
- 3.4 Both the CUSC and Grid Code licence conditions will require NGC to give effect to changes to the CUSC/Grid Code (both transitional and enduring) designated by the Secretary of State.<sup>5</sup> Whilst there is logic behind the Secretary of State needing such powers, BRG members would like to ensure that such powers are exercised only for the narrow purpose of properly implementing BETTA, and are time limited.

#### **4. Transition Provisions - CUSC and Grid Code**

- 4.1 The provisions for transition to the GB CUSC are set out in the new Section 12 of the GB CUSC (see Appendix 9 of Ofgem Document 152/04) and the provisions for transition to the GB Grid Code are set out in new GC 14 of the GB Grid Code (see Appendix 10 of Ofgem Document 152/04).
- 4.2 The process for amending these provisions is contained within the CUSC and Grid Code licence conditions in Appendices 1 and 2 of Ofgem Document 152/04 - these provisions will not be subject to amendment pursuant to the GB CUSC and GB Grid Code amendments process.
- 4.3 BRG members would like to see the transitional provisions within the CUSC and the Grid Code time limited so that at the end of this period, the parties to the CUSC and Grid Code will revert to the normal consultation arrangements provided for under those codes.

#### **5. Uncompleted enduring requirements**

- 5.1 We note Ofgem/DTI's statement that they are intending to consult in the near future on proposals for the treatment of embedded exemptable large power stations under BETTA and that the outcome of such consultation may lead to amendments to the GB CUSC. Ofgem/DTI say it may be necessary to place a transitional obligation on such generators and/or associated obligations on the operators of the networks to which such generators are connected, to enter into agreements with NGC.
- 5.2 BRG members would like an assurance that although these powers are reserved under the transitional arrangements, they would not be used to circumvent the continuing consultations

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<sup>3</sup> Paragraph 8(f) of Appendix 1 and paragraph 7(f) of Appendix 2.

<sup>4</sup> Paragraph 8(b) of Appendix 1 and paragraph 7(b) of Appendix 2.

<sup>5</sup> Paragraph 7(b) of Appendix 1 and paragraph 6 of Appendix 2.

on these issues.

6. Please do not hesitate to contact me, David Birchall, on 020 7246 7380 if you have any queries regarding any of the points raised in this Response.

Yours sincerely

**David Birchall**