

Amendment proposal:	Connection and Use of System Code (CUSC) CAP140: Change to BSC Party Obligation.		
Decision:	The Authority¹ directs that this proposal be made²		
Target audience:	National Grid Electricity Transmission PLC (The Company), Parties to the CUSC and other interested parties		
Date of publication:	24 May 2007	Implementation Date:	08 June 2007

Background to the Proposed Amendment

The CUSC requires Parties to accede to the BSC unless they fall within one of a number of exemptions listed in 6.29 of the CUSC. One of these exemptions means that an exempt transmission connected power station, whose power export is dealt with by another party for the purposes of the BSC, need not sign the BSC, whilst a similar power station connected to the distribution system would need to do so. It was suggested that this may be discriminatory and therefore militate against the facilitation of Applicable CUSC Objective (b).

The Amendment Proposal

CAP140 proposed to amend the CUSC such that licence exempt power stations are treated in the same way (in terms of the obligation to accede to the BSC) irrespective of whether they are connected to the transmission or distribution network. The amendment raised a number of issues with the existing regime focussing on the potential for differential treatment between generators which were directly connected and those which are embedded, as well as between generators of different sizes connecting in England and Scotland.

The Working Group which considered CAP140 did not share the proposer's interpretation of the defect and questioned why a User would want to hold Transmission Entry Capacity (TEC) but not trade in the BSC. After further discussion the group agreed that a defect could be perceived to the extent that transmission connected generation was treated differently from distribution connected generation.

One member of the group questioned whether TEC would be "sterilised" as a result of the change, but NGET (The Company) confirmed that as a User would secure its own access rights rather than doing this through the DNO, the capacity of the generator would be taken into account in the same way irrespective of the contractual route used by the User. The Company also undertook some analysis on the question of the number of parties which would be covered by the proposed exclusion, concluding that the numbers were minimal. The Company did not believe that CAP140 would provide an incentive for Embedded Exempt and Exemptable Users to become CUSC Parties and acquire TEC.

Working Group Alternative Amendment (WGAA)

There was some concern that the original Amendment Proposal would change the provisions introduced to the CUSC at the time of BETTA GoLive relating to Embedded Exemptable Large Power Stations. It was felt that undertaking a full assessment into

¹ The terms 'the Authority', 'Ofgem' and 'we' are used interchangeably in this document. Ofgem is the Office of the Gas and Electricity Markets Authority.

² This document is notice of the reasons for this decision as required by section 49A of the Electricity Act 1989.

the impacts of the original drafting would be disproportionate to the defect identified, given that an alternative could be developed which would achieve the same intention, but without affecting the other exemptions. A WGAA was developed on this basis, which simply removes the reference to *transmission system* from the CUSC. This has the effect of ensuring that an Exempt Power Station whose output is dealt with by another Party for the purposes of the BSC, need not accede to the BSC due to an obligation under the CUSC.

Recommendation of the CUSC Amendments Panel³

The CUSC Panel recommended that the WGAA for CAP140 should be implemented. The implementation date for the amendment was suggested as 10 Business Days following an Authority decision.

The Authority's decision

The Authority has considered the issues raised by CAP140 and the final Amendment Report (AR) dated 19 April 2007. The Authority has considered and taken into account the responses to NGET's consultation on CAP140 which are attached to the AR⁴. The Authority has concluded that:

1. Implementation of WGAA140 will better facilitate achievement of the Applicable CUSC Objectives;⁵ and
2. Directing that WGAA140 be made is consistent with the Authority's principal objective and general duties.⁶

Reasons for the Authority's decision

Recent developments to the CUSC have provided mechanisms through which generators with licence exempt embedded small and medium power stations are not required to have a direct contractual agreement with the Company if their proposed connection triggers transmission system reinforcement works. Under the current arrangements, such issues are generally managed as part of the contractual relationship between the Company and the relevant distribution licensee. However, the generator may choose to have a direct contractual relationship with the Company and accede to the CUSC.

The CUSC defines circumstances where a generator who is a signatory to the CUSC, may choose to nominate another party to take responsibility for its exports of electricity for the purposes of the BSC. The CUSC sets out that generators who have directly connected exempt power stations may exercise this choice and not become a BSC signatory. This relaxation does not extend to generators who have exempt embedded power stations and have chosen to accede to the CUSC. We consider that the current CUSC arrangements constitute differential treatment without good justification. Accordingly, Ofgem considers it would be appropriate to amend the CUSC such that the provisions applying to particular types of generator on the transmission and distribution

³ The CUSC Panel is established and constituted from time to time pursuant to and in accordance with the section 8 of the CUSC.

⁴ CUSC amendment proposals, amendment reports and representations can be viewed on NGET's website at <http://www.nationalgrid.com/uk/Electricity/Codes/systemcode/amendments/>

⁵ As set out in Standard Condition C10(1) of NGET's Transmission Licence, see: http://62.173.69.60/document_fetch.php?documentid=5327

⁶ The Authority's statutory duties are wider than matters which the Panel must take into consideration and are detailed mainly in the Electricity Act 1989.

network are consistent and that doing so will better facilitate achievement of Applicable CUSC Objective (b).

Both the original Amendment Proposal and the WGAA would deliver this intention. Of the two changes Ofgem considers that the WGAA better facilitates the Applicable CUSC Objectives on the basis that it provides a solution which will not be wider than that intended by the amendment proposal. The original Amendment Proposal would cover all Exemptable plant, which can include plants which meet the exemption criteria but are operated under a licence. We note that plant which meet the exemption criteria, but which still hold a licence would still be required to comply with the CUSC. Further, a generator that holds a licence would be required to accede to and comply with the BSC as part of that licence. Whilst this is the case, we consider that in terms of the Applicable CUSC Objectives the WGAA is preferable to the original solution as its application is restricted to exempted plant rather than a broader category that includes licence holders. Also, in terms of Ofgem's statutory duties, we consider that the WGAA is also a more proportionate solution as it addresses the defect identified without introducing legal text which might alter the arrangements in unexpected ways that were not specifically identified by the working group.

Decision notice

In accordance with Standard Condition C10 of NGET's Transmission Licence, the Authority, hereby directs that the WGAA for CAP140: Change to BSC Party Obligation be made, and that it shall be implemented on 08 June 2007.



Mark Feather
Associate Director, Industry Codes and Licensing

Signed on behalf of the Authority and authorised for that purpose.