



**TEESSIDE POWER**

**Teesside Power Limited**

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Robert Hull  
Director of Transmission  
Ofgem  
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31 July 2007

Dear sir

**ZONAL TRANSMISSION LOSSES – THE AUTHORITY’S ‘MINDED-TO’ DECISIONS**

Teesside Power Limited welcomes the opportunity to respond to the consultation document on the Authority’s ‘minded-to’ decisions on the four modification proposals, P198, P200, P203 and P204, and the associated Alternatives, to the Balancing and Settlement Code to alter the rules for the allocation of transmission losses published on 26 June 2007.

We have set out below our response to each of the questions in the document. There are, however, a number of further comments which we would wish to address first.

As Ofgem is aware, NERA has prepared independent expert reports for Teesside Power Limited ('TPL') throughout the zonal transmission losses charging modification proposal process. TPL understands that, in order to gain a fuller appreciation of the matters considered by Ofgem and the Authority, NERA has made several requests to Ofgem for information under the Freedom of Information Act 2000. NERA has communicated to TPL that some of Ofgem's responses to these requests have been unhelpful. For example, on 30 May 2007 NERA requested, amongst other things, information prepared for the purposes of GEMA's meeting on 24 May 2007 and information provided to those present prior to or at that meeting. Ofgem responded to NERA's request on 22 June 2007 to the effect that an exemption in the Freedom of Information Act provisions meant that it did not have to comply with NERA's request since it would be too time consuming to gather all of the information being sought. It is disappointing that Ofgem waited until the end of the 20 working day period allowed for responses to advise that this was its position. NERA subsequently replied to Ofgem on 27 June 2007 making the point that Ofgem must be capable of quickly gathering together a pack information which it had already prepared for the purposes of GEMA's meeting on 24 May 2007 and provided to those who attended the meeting either prior to or at that meeting. NERA therefore requested that the information be provided by return. Ofgem responded six working days later, on 5 July, to ask if NERA wanted its letter of 27 June to be treated as a narrower request. NERA replied that it did on 10 July. Ofgem then waited until 25 July to invoke, for the first time, another exemption, and on that basis to refuse to provide any of the information requested. It is hard to see why such delay was

necessary, and it is regrettable that despite the delay the requested information has not been provided. Teesside considers that Ofgem's approach to NERA's Freedom of Information Act requests has not been in accordance with the intended transparent nature of the process and is not consistent with good regulatory practice.

In our earlier response on the impact assessment consultation, we highlighted what we considered to be inaccurate and misleading statements in that document. There does not appear to have been any recognition of the need to correct those statements.

In our response to the impact assessment consultation, we also provided a number of comments on the section dealing with "Accuracy of allocation of losses". The present consultation document includes the broad statement in paragraph 2.3 that The Authority "has taken all views into account in considering these proposals and in reaching its minded to decisions as described in this document". We are unable to find any evidence in the minded-to consultation that these comments were considered.

Finally, particularly given the substantial amounts of money which would be transferred between market participants as a result of an Authority decision to approve any of the modification proposals other than P200 and P200 Alternate, we would expect the Authority members to be provided with full copies of all responses to both the impact assessment consultation and the minded-to consultation before reaching any final decisions on the respective proposals. We also consider it appropriate for Ofgem to confirm that this has been the case when the final decisions on the proposals are announced.

Yours sincerely

A handwritten signature in blue ink, reading "Keith Miller".

Keith Miller  
Director