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value for all customers*

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Date: 10 December 2007

Dear Nigel,

Request for extension to period for issuing offers to a number of applicants in the south east of England: consent pursuant to standard licence condition C8 (Requirement to offer terms) ("SLC C8")

Background

National Grid Electricity Transmission plc ("the Licensee") holds a licence treated as granted, under section 6(1)(b) of the Electricity Act 1989 to transmit electricity ("the Licence").

Pursuant to paragraph 3 of SLC C8 of the Licence, the Licensee is required, on application made on or after 1 April 2005 (the British Electricity Trading and Transmission Arrangements ("BETTA") go-live date) by any person, to offer to enter into a bilateral agreement and/or a construction agreement relating to connection or modification to an existing connection. Paragraph 5 of SLC C8 requires the Licensee to offer terms in accordance with paragraph 3 as soon as practicable and (except where the Authority consents to a longer period) not longer than the periods set out in paragraph 7:

- (a) in the case of persons seeking use of system only, 28 days, and
- (b) in the case of persons seeking a bilateral connection agreement or a construction agreement, 3 months.

Request for consent

On 1 November 2007 the Licensee requested that the Authority exercise its powers to consent as provided for in paragraph 5 of SLC C8 to an extension to the period referred to in paragraph 7(b) of SLC C8 in respect of offers that the Licensee is required to make to the following applicants who have applied for connection in the south east of England and who may be interactive with each other and other applicants in the area to varying degrees:

- i) Applicant A – offer due 9 November 2007 ("Applicant A")
- ii) Applicant B – offer due 20 December 2007 ("Applicant B")
- iii) Applicant C – offer due 18 January 2008 ("Applicant C")

The Licensee initially requested an extension such that the offers are made by 9 March 2008. Following discussions with Ofgem with regard to the timescales proposed, in subsequent correspondence the Licensee requested an extension such that the offers should be made by 12 January 2008. The consent is therefore no longer requested in respect of Applicant C's offer (which is due to be made by 18 January 2008).

On 8 November 2007 Ofgem contacted the Licensee to advise that the Authority was considering the Licensee's request for a consent, and would issue its decision in due course. In the meantime, Ofgem confirmed that as the Authority's decision would not be issued before the deadline for making the offer due to be issued by 9 November 2007, we did not expect the Licensee to issue the offer within these timescales. We also confirmed that the Authority would direct an alternative date by which this offer is required to be made when it makes its decision in respect of the requested consent.

On 21 November 2007, the Licensee requested that in addition to the offers referred to above, the Authority also consents to an extension to the timescales within which an offer is required to be made to Applicant D (offer currently due to be made by 3 January 2008) ("Applicant D") such that this offer should also be made by 12 January 2008.

Background

In its request of 1 November 2007, the Licensee advised that it was in the process of re-issuing a number of offers to two applicants, Applicant E ("Applicant E") and Applicant D, whose offers were withdrawn as a result of a third party, with whom these applicants were interactive, signing its offer. The Licensee advised that Applicant E's offers had been reissued, and have subsequently been accepted. The Licensee also advised that further design work was required to be undertaken before Applicant D's offer can be reissued.

The Applicants D and E applied for connection in the south east of England in advance of applicants A and B¹ ("the Later Applicants") and could potentially be (or have been in the case of Applicant E) interactive with the Later Applicants.

The Licensee has stated that if it makes offers to the Later Applicants in the timescales required by the Licence, as a result of the degree of interactivity in the area this will result in the Later Applicants receiving (and potentially signing) offers in advance of Applicant D who applied before them. The Licensee does not consider this to be equitable and considers that Applicant D should have a reasonable opportunity to accept its offer².

The Licensee stated in its request of 1 November that if the consent was not granted, it would have been required to make the first of the offers to the Later Applicants by 9 November 2007 (in advance of the offer to the Applicant D) and deal with the increasing interactivity process as each additional offer is issued. The Licensee has stated that whilst managing this level of interactivity may be achievable, it may result in less favourable terms being offered.

The Licensee has also stated that it would require significant resource to manage the interactivity of all of these offers, as extensive design work must be undertaken to assess each iteration and scenario. The Licensee does not consider this to be an efficient use of resource and that this would place a significant additional burden on it at a time when unprecedented levels of generation are seeking connection.

¹ Applicants D and E also applied in advance of Applicant C. However, the Licensee no longer wishes to request a consent in respect of Applicant C's offer as the Licensee anticipates issuing this offer within the period specified in the Licence.

² At the time of the Licensee submitting the request of 1 November 2007, Applicant E had received but had not signed its offers and the Licensee's request was made on the basis that both Applicants D and E should have a reasonable opportunity to accept their offers. Applicant E accepted their offer following the submission of the request by the Licensee.

The Licensee has advised that making the offers to Applicant D and the Later Applicants by 12 January 2008 will provide all parties with a reasonable opportunity to accept an offer. This is because the new interactivity process discussed at recent industry seminars and to apply from January 2008, means that where offers are interactive with each other the parties will be given 5 working days to consider the offer that has been provided before any party involved in the interactivity is able to sign. At the point at which any interactive parties are able to sign their offers, where two or more interactive parties sign on the same day, the earlier applicant(s) take precedence over later applicant(s). As such, the Licensee considers that all affected applicants are provided with a reasonable opportunity to consider their offer and earlier applicants will not lose out to later applicants if they sign same on the same day.

The Authority's decision

The Authority has considered the Licensee's request in accordance with its principal objective and general duties and in light of the following advice from the Licensee:

- in accordance with paragraph 7(b) of SLC C8 and unless the Authority consents to a longer period, the Licensee is currently required to make two offers to Later Applicants in advance of the offer to Applicant D being ready
- if no consent is granted by the Authority, the Later Applicants may receive (and/or sign) offers in advance of the Applicant D
- the Licensee does not consider this to be equitable and considers Applicant D should have a reasonable opportunity to accept its offer
- consenting to an extension to the timescales for issuing the offers (including the offer to the Applicant D) will reduce the level of interactivity, which may otherwise result in inefficient design work being undertaken
- the Licensee has informed the affected applicants that they may not receive their offers in the timescales set out in the Licence, and
- the period of the extension requested is to 12 January 2008, however the Licensee intends to issue the offers as soon as is reasonably practicable.

The Authority has decided to consent to an extension of the timescales set out in paragraph 7(b) of SLC C8 within which the Licensee is required to make the offers to Applicant D and the Later Applicants such that the offers are made as soon as is reasonably practicable and in any event (except where the Authority consents to a longer period) no later than 12 January 2008.

The Authority notes that concerns have been raised by some of the affected applicants that the Licensee did not communicate adequately the fact that the Licensee intended to request an extension and reasons behind the Licensee's request. The Authority considers it is important that, where appropriate, the Licensee keeps applicants informed in a timely manner of any issues that may impact on their offers. We expect the Licensee to ensure this is the case going forward.

The Authority also notes that some applicants have indicated concerns that a delay could impact on an applicant's competitive position or may result in increased interactivity. The Authority notes that the delay changes the timescales within which applicants would have otherwise received offers, but considers that the process the Licensee intends to follow should provide applicants with a reasonable opportunity to accept an offer in advance of applicants that applied after them, even where there may be interactivity between offers.

Consent

Annex 1 to this letter contains the Authority's consent pursuant to paragraph 5 of SLC C8 of the Licence to extend the timescales within which the Licensee is required to issue the Offers to the Applicants.

This letter constitutes notice pursuant to section 49A of the Electricity Act 1989

Unless the context otherwise requires, words and expressions used in the Licence shall bear the same meaning in this letter and the annex to it.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Robert Hull', with a horizontal line underneath.

Robert Hull
Director, Transmission

Signed on behalf of the Authority and authorised for that purpose

Annex 1

Consent pursuant to paragraph 5 of standard licence condition C8 of the licence treated as granted to National Grid Electricity Transmission plc ("the Licensee") under section 6(1)(b) of the Electricity Act 1989 to transmit electricity ("the Licence") to the extension of the timescales within which the Licensee must issue offers under standard licence condition C8

In exercise of the power conferred upon it by paragraph 5 of standard licence condition C8 of the Licence, the Authority hereby grants its consent to the Licensee such that the Licensee shall make offers to the following applicants:

- i) Applicant A,
- ii) Applicant B and
- iii) Applicant D

in accordance with paragraph 3 of standard licence condition C8 of the Licence as soon as reasonably practicable and in any event (except where the Authority consents to a longer period) no later than 12 January 2008.

This Consent shall take effect from 7 December 2007 and shall continue until revoked, amended or replaced by the Authority.

Signed



Robert Hull
7 December 2007
Director, Transmission

Signed on behalf of the Authority and authorised for that purpose