



All stakeholders

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Dear Colleague

**Derogation requests to facilitate earlier connection of generation - consultation on information required to facilitate Ofgem's assessment and proposed amendments to guidance**

The purpose of this open letter is to invite views on:

- Ofgem's proposals on the information we require to inform our assessment of derogation requests from transmission licensees. Such requests include requests for derogation from the obligation for transmission licensees to comply with the GB Security and Quality of Supply Standard ('GB SQSS'). We consider that GB SQSS derogations could facilitate the earlier connection of certain new generation.
- Ofgem's proposed revised guidance to electricity licensees more generally, in respect of requests for derogation from licence obligations to comply with certain technical codes and/or standards.

**Background**

Electricity generation, transmission, distribution and supply licensees are obliged to comply with certain technical codes and standards. Compliance with technical codes and standards is in the interests of electricity consumers as a failure to comply can have a direct and adverse impact on the security and quality of electricity supplied and may have health and safety implications.

Unless the Authority directs otherwise, electricity generation, transmission<sup>1</sup>, distribution and supply licensees are required to comply with the Distribution Code and the Grid Code. In addition, distribution licensees must comply with the Engineering Recommendation P2/6 and transmission licensees must comply with the GB SQSS when planning their respective systems. Further, transmission licensees are required to comply with the System Owner – Transmission Owner Code ('SO-TO Code', or 'STC').

However, there may be occasions when a licensee assesses that it is not in a position to comply with a particular code or standard, or that the requirements placed upon it by a code or standard may result in an inefficient outcome either in the short or longer term.

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<sup>1</sup> This applies only to a transmission licensee with section C (System operator conditions) in force in its licence. In practice therefore this applies only to one of the electricity transmission licensees, National Grid Electricity Transmission plc (NGET).

In these circumstances, a licensee may submit a request to Ofgem for a derogation from the licence requirements to comply with a particular obligation in a code or standard.

### **Request for derogations to facilitate earlier connection of generation**

In June 2008, Ofgem published its final report on the Transmission Access Review ('TAR')<sup>2</sup>. Under TAR, Ofgem identified a number of measures which may in the short term facilitate faster connection of some generation and establish enduring access arrangements in the longer term that will facilitate the achievement of the government's 2020 targets for renewable energy.

The final TAR report noted that, in order to facilitate the earlier connection of some new generation in the short term, transmission licensees would be working to identify opportunities to use derogations from minimum standards in the GB SQSS. The TAR final report also noted that Ofgem's assessment of derogation requests will take into account the Authority's statutory duties and will consider appropriate costs and benefits including the benefits of reduced carbon emissions.

Where the transmission licensees have identified a potential case for a derogation, we expect their derogation request to include a detailed assessment of the impacts of the potential derogation, including a quantification of the costs associated with granting a derogation (such as constraints costs) compared to potential environmental benefits such as a reduction in carbon emissions. We would expect this assessment to be undertaken for a number of scenarios, with the transmission licensees clearly identifying the assumptions they have taken into account, in order to identify the likely range of costs and benefits.

To assist the transmission licensees in taking this forward, and to ensure we are provided with appropriate information to inform our assessment of derogation requests, we have set out in appendix 1 to this letter the type of information we would expect to be provided in requests for derogations to facilitate earlier connection of new generation.

### **Proposed revised derogations guidance**

We consider it is appropriate to update our guidance on derogations in the light of recent developments. We have published proposed revised guidance along with this letter<sup>3</sup>.

#### *Ofgem's role with regard to sustainable development*

We first issued our derogations guidance in 2003<sup>4</sup>. The guidance summarises the process for applying for derogation from technical codes and standards set out in electricity generation, transmission, distribution and supply licences. It also sets out the criteria Ofgem will take into account when considering a derogation request, and the process we will follow.

The guidance sets out that in making any decision on a request for a derogation Ofgem will take into account, amongst other things, its statutory duties, including those related to the environment. There have been a number of recent developments in this area and we consider it may be appropriate to update the derogations guidance to clarify how we take sustainable development and the environment, including the cost of carbon, into account in making a decision on a derogation request.

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<sup>2</sup>[http://www.ofgem.gov.uk/Networks/Trans/ElecTransPolicy/tar/Documents1/080626\\_TAR%20Final%20Report\\_FI\\_NAL.pdf](http://www.ofgem.gov.uk/Networks/Trans/ElecTransPolicy/tar/Documents1/080626_TAR%20Final%20Report_FI_NAL.pdf)

<sup>3</sup>[http://www.ofgem.gov.uk/Licensing/Work/Documents1/081021\\_DerogationsGuidance\\_LN.pdf](http://www.ofgem.gov.uk/Licensing/Work/Documents1/081021_DerogationsGuidance_LN.pdf)

<sup>4</sup>[http://ofgem2.ulcc.ac.uk/temp/ofgem/cache/cmsattach/4888\\_Derogation\\_Guidance\\_Note\\_21oct03.pdf?wtfrom=/ofgem/work/index.jsp&section=/areasofwork/assetriskmanagement](http://ofgem2.ulcc.ac.uk/temp/ofgem/cache/cmsattach/4888_Derogation_Guidance_Note_21oct03.pdf?wtfrom=/ofgem/work/index.jsp&section=/areasofwork/assetriskmanagement)

In this context, we note that in March 2008, Ofgem issued revised guidance on impact assessments<sup>5</sup> to take account of best practice as it has developed, amongst other things in relation to sustainable development.

In addition, in June 2008, Ofgem issued guidance to industry<sup>6</sup> on the treatment of carbon costs within the existing code governance framework, in parallel to undertaking a broader code governance review which will consider, amongst other things, if it is appropriate to amend the code framework to align it more closely with the Authority's statutory objectives in relation to the environment.

We therefore consider it is appropriate to update the guidance on derogations to clarify that amongst other things, in reaching its decision on a derogation request, the Authority will take into account Ofgem's obligations in respect of sustainable development and where appropriate will consider the potential impact of a derogation on carbon emissions.

#### *Codes and standards to which the guidance applies*

We note that transmission standard licence condition B12 (System Operator – Transmission Owner Code) provides for the Authority to grant relief against the requirement to comply with the obligations in the STC. The STC defines the interaction between the transmission licensees. We are proposing to include the STC as one of the codes to which the derogation guidance applies, as we note the original guidance was issued prior to the introduction of the British Electricity Trading and Transmission Arrangements ('BETTA'). BETTA was implemented in April 2005 using the Energy Act provisions, which amongst other things provided the Secretary of State with the powers to designate the STC.

We also note that distribution standard licence condition 24 (Distribution System planning standard and quality of performance reporting) provides for the Authority to give a direction (a derogation) to a distribution licensee that relieves it of its obligations under Engineering Recommendation P2/6. We note that the guidance currently applies to requests from distribution licensees for derogation against the requirements of P2/6 and we seek views on whether it is appropriate for the same guidance to continue to apply to derogations from P2/6 as it does to other derogation requests.

On 5 March 2007 we issued a direction to distribution network operators ('DNOs') which allows them to "self-certify" derogations from P2/6 for load groups less than 60 MW, where specified criteria are satisfied; such as the licensee not reasonably being able to predict the change to group demand and taking reasonable steps to mitigate the impact. We explained that we would review this after 2 years and consider whether it would be appropriate to extend this approach to load groups between 60 and 100MW.

We are now considering whether it would be appropriate to allow for self-certification under a wider range of circumstances and require DNOs to produce an annual compliance report against P2/6 including: cases where their demand sub-groups or groups are close to the P2/6 limits, where they are using self-derogation or have applied for a derogation from Ofgem, the reasons why these circumstances have arisen and how any risks are being managed. We consider that this approach could provide the Authority with a wider view of P2/6 compliance and therefore greater confidence that customers are not being put at risk. We are interested in views on what circumstances could be considered for such "self certification" and how, in these cases the Authority could be satisfied that it remains in a position to fulfil its statutory obligations, in particular in respect of security of supply.

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<sup>5</sup><http://www.ofgem.gov.uk/About%20us/BetterReg/IA/Documents1/GUIDANCE%20ON%20IMPACT%20ASSESSMENTS.pdf>

<sup>6</sup> <http://www.ofgem.gov.uk/Licensing/IndCodes/Governance/Documents1/Open%20letter%20response-%20final%20version%20of%20letter%2030%20June.pdf>

We have not included proposed criteria in the revised guidance as we are seeking views on our initial thoughts only at this stage. We would expect to undertake more detailed consultation should we consider it appropriate to develop such an approach.

#### *Other changes*

We are also proposing to update the guidance to take forward a number of housekeeping changes, for example to refer to correct licence condition numbers as these have changed since the guidance was first issued.

#### **Way forward**

We would welcome comments on the proposed revised guidance on derogations which has been published along with this letter. In particular:

- Question 1 – Do you consider the information that we would expect to be provided in requests for derogations to facilitate earlier connection of new generation to be appropriate? If not, what additional information should be sought?
- Question 2 – Do you have any comments on our proposal to include the STC as one of the codes to which the derogation guidance applies?
- Question 3 – We would welcome views on whether it is appropriate for the same guidance to continue to apply to derogations from P2/6 as it does to other derogation requests.
- Question 4 - We are interested in views on what circumstances could be considered for such "self certification" by the DNOs against P2/6 and how, in these cases, the Authority could be satisfied that it remains in a position to fulfil its statutory obligations, in particular in respect of security of supply.

Please address responses by email to [lesley.nugent@ofgem.gov.uk](mailto:lesley.nugent@ofgem.gov.uk), or by post to 70 West Regent Street, Glasgow, G2 2QZ. We would welcome responses by 18 November 2008.

In addition, as set out in the TAR final Report, the transmission licensees are working to identify opportunities to use derogations to facilitate earlier connection of new generation, and we expect that, where appropriate, the licensees will submit requests containing the information we have identified in appendix 1.

Yours sincerely



**Stuart Cook**  
**Director, Transmission**

## Appendix 1 – Requests for derogations to facilitate earlier connection of renewable generation

1.1. Ofgem expects requests for derogation to be raised after a thorough assessment of the relevant impacts. We also expect that derogation requests will be presented in a coherent and coordinated manner. For example, licensees may consider submitting a single request for a derogation relating to the connection of a number of generation projects.

1.2. The request should include:

- i. a **clear description of the non-compliance**, setting out
  - a. the specific obligations in the GB SQSS that the licensee would not comply with
  - b. the performance required by the specific obligation
  - c. the existing capability of the system
- ii. a **comprehensive, and wherever possible, quantitative assessment** of the impacts of the derogation, including the impact on carbon emissions. We would expect this assessment to be **scenario-based** in order to identify the likely **range of costs and benefits**. The request should **clearly identify the assumptions the licensee has taken into account** and identify for each scenario considered:
  - a. the profile of connected capacity with and without the derogation
  - b. the volume of expected reductions in carbon emissions based on the type of plant connecting if a derogation is granted, its thermal efficiency, load factor and intended output, and taking account of the likely impact on the generation patterns of other plant
  - c. the value of carbon savings, applying DEFRA's Shadow Price of carbon and/or forecast EU ETS carbon prices
  - d. the incidence, volume and associated cost of transmission constraints arising in the period for which the derogation is requested
  - e. the impact on consumers
  - f. the impact on competition
  - g. the impact on other parties such as operational restrictions on other generators
  - h. the impact on health and safety
- iii. Requested **duration** of the derogation

- iv. A description of the **proposal for restoring compliance** including details of actions to:
  - a. mitigate risks to customers or other authorised electricity operators while the non-compliance exists
  - b. restore compliance where appropriate (including timetable of works)
- v. A description of the reasonable **alternative actions** that have been considered

1.3. Ofgem may grant a derogation which is subject to certain conditions being satisfied, either by the licensee to which the derogation applies or in respect of the wider system