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12 June 2009

Dear Alison,

Standard condition C14 (Grid Code) ('SLC C14') of the electricity transmission licence of National Grid Electricity Transmission plc ('NGET')

I am writing in response to NGET's request of 4 June 2009 for an extension to an existing Grid Code derogation ('the existing derogation') in relation to National Grid Grain LNG's ('NG GLNG') non-embedded customer site at Grain ('the site'). The existing derogation is in respect of the obligation under SLC C14 to comply with Operating Code ('OC') 6.6 of the Grid Code, and in particular OC 6.6.6.

The existing derogation expires on 12 June 2009. We are extremely concerned at the late request for an extension, particularly in view of the fact that the original derogation for the site was granted (in November 2008) also following submission of a late request to Ofgem from NGET, only days before the site was due to be commissioned. We have decided, in this case, that granting the derogation extension is appropriate. However, we expect NGET to provide a written account of why the request for an extension was submitted late and expect the report to set out the actions that NGET is taking to avoid such late requests in the future.

This letter sets out the background to this issue and the reasons for the Authority's decision to grant an extension to the existing derogation until 30 November 2009.

Background

Grid Code OC 6.6 requires that users install the necessary equipment to enable automatic low frequency demand disconnection ('LFDD') in order to limit the consequences of a major loss of generation or an event on the system. OC 6.6.6 sets out the relevant obligations for non-embedded customers.

On 3 November 2008, NGET requested a derogation against the obligation to comply with OC 6.6 in this instance because automatic LFDD capability had not been provided at the site, a 100MW demand connection with a commissioning date of 9 November 2008.

NGET requested a time-limited derogation on the basis that it intended to work with NG GLNG ahead of engineering week 24 of 2009 (week commencing 8 June 2009) to identify any options under which NG GLNG may be able to operate whilst meeting Grid Code obligations in respect of providing automatic LFDD capability.

On 11 November 2008, the Authority advised NGET of its decision to grant the derogation to expire on the earlier of 12 June 2009 and the date, if any, upon which the Authority exercised its right to revoke the derogation. A copy of the existing derogation, together with the letter setting out the Authority's reasons for its decision, is available on Ofgem's electronic public register (ePR)².

In granting the derogation, the Authority noted from the information provided that:

- NGET does not consider that a time limited derogation would have an operational impact on the transmission system; and
- NGET does not consider that the lack of automatic LFDD when NG GLNG is first connected is inconsistent with NGET's broader application of LFDD services from users.

Further we noted that this electricity supply is required to provide power to support the expansion at the Isle of Grain LNG terminal, and considered that a delay in connecting NG GLNG could have a significant impact on security of gas supply and ultimately therefore on consumers.

However, the Authority also noted that, in the time available, it had not been able to satisfy itself fully that it would be appropriate to issue a derogation on an unconditional basis for the time period sought in this case. For example, we had not been able to satisfy ourselves, in the time available, that NGET's request for a derogation in this circumstance is consistent with SLC C7 (Prohibition on discriminating between users) of NGET's transmission licence. (In this regard, we note that the non-embedded customer in question is within the same corporate group as NGET). We are also aware that there are other issues relevant to the request, such as potential commercial advantage, which we had not been able to assess fully.

The Authority decided to grant the derogation, and in parallel undertake a consultation concerning the grant of this derogation with a view to determining if there is any reason to revoke or not extend the derogation should a more enduring derogation be applied for.

We issued this consultation on 18 December 2008¹. We received four responses, which are available on Ofgem's website². No concerns were raised in responses with respect to the granting of the time limited derogation.

The Authority also made the derogation conditional upon NGET completing a review of the LFDD provisions within the Grid Code to ensure that they properly reflect system requirements. The Authority notes that NGET informed the Grid Code Review Panel ('GCRP') on 5 February 2009 that this review had been completed and that it considered the provisions are appropriate, taking account of the need to ensure secure and economic operation of the GB Transmission System together with equitable treatment of all users.

¹ <http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=24&refer=Networks/Techn/TechStandds>

² Follow link in footnote above.

NGET acknowledged that the existing wording of OC.6.6.6 may benefit from additional clarification such that the intent of the provisions is made clearer and more concise. The Authority understands that NGET is currently considering the appropriate changes to the existing wording and will report back to the GCRP (with the proposed amendment) in due course.

Request for extension

On 4 June 2009, NGET requested an extension to the existing derogation until 30 November 2009. NGET has advised that

- NGET and NG GLNG have, as a result of further discussions with NG GLNG's contractor, confirmed an approach to installation of LFDD equipment that will not expose the NG GLNG site to hazard.
- Given the extent and complexity of the LFDD equipment (coupled with the extent of outages within the user system required to install it), completion of these works will extend beyond the current time limited derogation expiry date of 12 June 2009. However, these works are expected to complete within the next 4 months and no later than by the end of November 2009.
- NGET has discussed this issue with National Grid Gas and is not aware of any systemic impact to the gas transmission system that would result from any potential loss of export from the site.

The Authority's decision

The Authority notes that NGET has sought an extension to the existing derogation in advance of that derogation expiring. However, as set out above, we are concerned with the timescales within which this request has been submitted. The request for extension was submitted on 4 June 2009, and the existing derogation expires on 12 June. Whilst we understand that NGET has had regular compliance meetings with NG GLNG to resolve this issue, and also understand that this issue has arisen at a late stage in the process as a result of the complexity of the system involved, we remain concerned about the robustness of the internal compliance processes which have resulted in this late request. We expect NGET to provide as soon as is reasonably practicable, and in any event within 3 weeks a written explanation as to why this request was submitted in these timescales, and a written statement of the actions NGET is taking to avoid this in future.

Having considered all the relevant information before us, and having regard to the Authority's principal objective and general duties, and notwithstanding our ongoing concern at NGET's internal compliance process that has resulted in this late request, the Authority has decided, in this instance, to grant an extension to the existing derogation from the requirement to implement and comply with OC 6.6.6 of the Grid Code in relation to the site for the period, on the conditions and subject to the rights of revocation described below. The Authority's Direction is set out in appendix 1 to this letter.

This derogation will expire on the earlier of 30 November 2009 and the date, if any, upon which the Authority exercises its right to revoke this derogation in accordance with the terms below.

Whilst the Authority is satisfied in this instance that it is appropriate to grant the extension, despite the late submission of the request by NGET, the Authority may not in future be in a position to reach a decision in these timescales. In those circumstances, we would need to consider an appropriate response and what, if any, enforcement action may be appropriate.

Rights of revocation

If the Authority:

(a) considers that the existence or continued existence of this derogation is inconsistent or incompatible with any requirement or condition imposed on NGET by its licence or applicable legislation; or

(b) considers that the continued existence of this derogation is inconsistent or incompatible with the Authority's principal objective or statutory duties,

it may, following consultation with the licensee, revoke this derogation. Where the revocation is made on the basis of (a) above, the Authority will also consider whether any enforcement action is necessary or appropriate.

Conditions of grant

We are granting a time limited derogation until 30 November 2009, which is conditional upon the issue being resolved by that date. For the avoidance of doubt, this means that either compliance should be achieved, or where NGET has identified reasons why Grid Code compliance is not appropriate or required on a more enduring basis, we expect NGET to take all reasonable steps to secure an appropriate derogation by that date.

The derogation is also conditional upon NGET providing monthly progress reports on the status of the works required to achieve compliance.

This letter constitutes notice for the purposes of section 49A of the Electricity Act 1989 in relation to the Direction.

Yours sincerely



Stuart Cook
Director, Transmission

Appendix 1 – Direction to NGET



The Company Secretary
National Grid Electricity Transmission plc
National Grid Transco House
Warwick Technology Park
Gallows Hill
Warwick
CV34 6DA

*Promoting choice and
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Direction issued to National Grid Electricity Transmission plc ("NGET") by the Gas and Electricity Markets Authority pursuant to paragraph 11 of standard condition C14 (Grid Code) of NGET's electricity transmission licence

1. This Direction is issued by the Gas and Electricity Markets Authority (the "Authority") pursuant to paragraph 11 of standard condition C14 ("SLC C14") of the electricity transmission licence (the "Licence"), granted or treated as granted under section 6(1)(b) of the Electricity Act 1989 (the "Act") to NGET (the "Licensee").
2. Paragraph 11 of SLC C14 of the Licence provides that the Authority may (following consultation with the Licensee) issue directions relieving the Licensee of its obligations to implement or comply with the Grid Code in respect of such parts of the GB transmission system and/or to such extent as may be specified in the directions.
3. The Authority hereby directs pursuant to paragraph 11 of SLC C14 that the Licensee is relieved of its obligations under paragraph 1 of SLC C14 of the Licence to the extent and for the period specified below.
4. The Authority hereby directs that the Licensee is relieved of its obligation to implement and comply with Operating Code (OC) 6.6.6 of the Grid Code in respect of the non-embedded customer connection for National Grid Grain LNG at the Grain substation.
5. This Direction shall have immediate effect and shall expire on the earlier of 30 November 2009 and the date, if any, upon which the Authority exercises its right to revoke this Direction in accordance with paragraph 6 below.
6. The Authority may, following consultation with the Licensee, revoke this Direction if it considers that the existence or continued existence of this Direction:
 - (a) is inconsistent or incompatible with any requirement or condition imposed upon the Licensee by the Licence or any applicable legislation; or
 - (b) is inconsistent or incompatible with the Authority's principal objective or statutory duties.
7. This Direction is conditional upon the Licensee
 - (i) resolving the non-compliance referred to in paragraphs 3 and 4 above by 30 November 2009, and
 - (ii) providing the Authority with monthly reports on its progress to resolving the non-compliance.
8. Where the Licensee has identified reasons why Grid Code compliance is not appropriate or required on a more enduring basis, the Licensee shall take all

reasonable steps to secure an appropriate derogation by the date that this Direction ceases to be in effect.

Dated: 12 June 2009

A handwritten signature in black ink, appearing to read 'Stuart Cook', with a long horizontal line extending to the right from the end of the signature.

**SIGNED on behalf of the Authority by
Stuart Cook,
Director, Transmission**

Authorised for that purpose by the Authority