

Modification proposal:	Balancing and Settlement Code (BSC) P242: Treatment of exemptable generation connected to embedded transmission networks (P242)		
Decision:	The Authority ¹ has decided to reject this proposal		
Target audience:	National Grid Electricity Transmission Plc (NGET), Parties to the BSC and other interested parties		
Date of publication:	21 January 2010	Implementation Date:	n/a

Background to the modification proposal

Offshore electricity transmission

Electricity generated from offshore renewable energy sources is expected to make an important contribution to the achievement of the UK's share of the EU's target of generating 20 percent of energy from renewable sources by 2020. It is therefore necessary that fit for purpose offshore electricity transmission infrastructure is developed to transfer the electricity generated offshore to the onshore network and ultimately to consumers, and that the regulatory regime for offshore electricity transmission provides a stable framework for all parties.

Over the last four years Ofgem and the Department of Energy and Climate Change (DECC) have worked together to develop and establish the regulatory regime for Offshore Electricity Transmission. This has involved extensive consultation with industry stakeholders on the changes to the regulatory regime required to facilitate the development of offshore generation.

The legal framework

On 27 November 2003 the Energy Bill was introduced to Parliament. On 22 July 2004, the Energy Act 2004² (EA04) received Royal Assent. The EA04 defined offshore transmission as lines which are of a nominal voltage of 132kV or more (section 180) and extended the prohibition on the transmission of electricity without a licence to offshore waters (section 89). The definition of transmission and the associated prohibition on the activity of transmission in offshore waters will come into effect when the Secretary of State commences these sections of the EA04, expected in June 2010 (the proposed Go Live date).

On 24 June 2009 (the Go Active date) the Government introduced a new regulatory regime for offshore electricity transmission through the commencement of section 90³ of the EA04. The Government made a number of changes to industry codes as a consequence to facilitate the introduction of the offshore transmission regime.

Embedded benefits

National Grid Electricity Transmission (NGET) is required under its electricity transmission licence to have in place charging methodologies which facilitate the achievement of

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 The Energy Bill became the Energy Act 2004 on receiving Royal Assent.

³ Section 90 of the Energy Act 2004 enables the Secretary of State to make changes to the licences and industry codes to introduce the offshore transmission regime.

certain relevant objectives⁴. Under the current transmission use of system charging methodology the following generators are liable for generation transmission use of system charges:

- Generators with a maximum export capacity of greater than 100MW, and
- Any generator directly connected to the transmission network.

Licence exempt⁵ generators (which must have a maximum export capacity of under 100MW) that are directly connected to a distribution network do not face a liability for transmission charges but instead are treated as negative demand.

Embedded benefits is the collective term for various savings in transmission related costs borne by a licence exempt generator connected directly to a distribution network compared to that borne by a generator situated in the same area but connected directly to the transmission network. These include the effect of avoiding the generation transmission charges as well as being levied the negative demand transmission charges. In addition, due to the current market rules set out within the Balancing and Settlement Code (BSC), they also include relative savings relating to transmission losses and the avoidance of certain Elexon and trading charges⁶.

Transmission treatment (including charging arrangements) of distributed generation is a long-standing topic of industry discussion, with important issues yet to be resolved. During the development of the British Electricity Transmission and Trading Arrangements (BETTA) which were implemented in April 2005, parties raised a number of issues relating to the cost-reflectivity of the use of system charging methodology as applied to smaller (sub 100MW) generators and the incentives created by embedded benefits. Whilst noting the need to further review the overall transmission charging and contractual arrangements for distributed generation, Ofgem introduced an interim measure⁷ to address the differences in treatment for generators smaller than 100MW connected to 132kV in Scotland (where lines of 132kV (or more) are defined as transmission) and in England and Wales (where 132kV is defined as distribution). This interim measure was through a licence obligation⁸ on NGET to require that NGET's charging methodology includes a "small generator discount" for relevant generators in Scotland for an initial three year period.

The wider review process on the overall transmission treatment of distributed generation was initiated in September 2005. This has resulted in a number of consultation documents from Ofgem as well as discussion in an industry working group known as the Transmission Arrangements for Distributed Generation (TADG)⁹ Working Group, which met between July 2006 and April 2007 to explore these issues. After the publication of

⁴ Set out in Standard Condition C5 (Use of system charging methodology) and C6 (Connection charging methodology) of NGET's electricity Transmission Licence:

http://epr.ofgem.gov.uk/document_fetch.php?documentid=4151

⁵ Generators with an installed capacity of under 100MW can request an exemption from holding a generation licence. Licence exempt generators are not required to enter into a bilateral contract with NGET. These arrangements were determined by Ofgem / DECC following consultation.

⁶ Including Residual Cash-Flow Reallocation Charges.

⁷ As outlined at: www.ofgem.gov.uk/Networks/Trans/ElecTransPolicy/TADG/Pages/TADG.aspx

⁸ As set out in Standard Condition C13 of NGET's Transmission Licence, see:

http://epr.ofgem.gov.uk/document_fetch.php?documentid=4151

⁹ Further information is available from the Ofgem website -

<http://www.ofgem.gov.uk/Networks/Trans/ElecTransPolicy/TADG/Pages/TADG.aspx>

<http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=57&refer=Networks/Trans/ElecTransPolicy/TADG>

the group's report on 30 July 2007, Ofgem noted that it was for market participants to consider the report's outcomes and raise changes to industry codes as they saw fit.

In January 2009, recognising the lack of progress of enduring arrangements for distributed generation, Ofgem decided to extend the interim measure of small generation discount to 31 March 2011. In the decision document¹⁰, Ofgem reiterated its concern regarding the cost-reflectivity of the overall charging arrangements for distributed generation, and called for further work to be carried out by NGET. In the subsequently issued revision to NGET's licence condition¹¹ to effect the extension of the small generation discount, Ofgem included a provision for NGET to make best endeavours to develop and implement charging for all 132kV connected generators by 1 April 2011. On 15 January 2010 NGET published a pre-consultation document on transmission arrangements for distributed generation¹².

Changes to industry codes to introduce the offshore electricity transmission regime

At Go Live, 132kV connected licence exempt offshore generators that are connected to an onshore distribution system (known as 'Offshore Exemptable Generation' for the purposes of P242) will be treated as being connected to the National Electricity Transmission System (NETS) and will be liable for charges to use the NETS (TNUoS) and potentially charges to use the distribution system (Distribution Use of System, or DUoS, charges). In addition, this type of generator will no longer be eligible for embedded benefits.

The modification proposal

The perceived defect

Modification P242 was raised in July 2009. The proposer of P242 (E.ON UK) considered that the change in the status of an offshore exemptible generator as of the Go-Live date which results from the Secretary of State's decision to determine that any connection located in offshore waters at a voltage of 132kV (or more) will be classed as transmission gives rise to undue discrimination against Offshore Exemptible Generators. In particular, the proposer asserted that this undue discrimination is caused by a change in liability for charges and loss of embedded benefits which the changes introduce.

Intention of P242

P242 therefore seeks to allow Offshore Exemptable Generation to continue to be treated in the same manner as licence exempt onshore generators connected to an onshore distribution system after Go Live (except for the allocation of losses for the offshore network that will be allocated to the offshore generator) where that Offshore Exemptable Generator has 'sole use'¹³ of an offshore transmission system.

¹⁰ The decision document is available on the Ofgem website:
http://www.ofgem.gov.uk/Networks/Trans/ElecTransPolicy/TADG/Documents1/230109_Small%20generator%20letter.pdf

¹¹ See footnote 10.

¹² The document is available at: <http://www.nationalgrid.com/NR/rdonlyres/B630B1A6-679B-4D13-8BF8-B597189DB6A1/39333/GBECM23TransmissionArrangementsforDistributedGener.pdf>

¹³ 'Sole use' refers to an offshore generating station that is the only generating station connected to that offshore transmission system.

Proposed changes to the BSC

P242 proposes to introduce the following changes into the BSC:

- Create a deemed Onshore Boundary Point to enable the Offshore Generator to be:
 - o treated as an Embedded Generator
 - o responsible for the Metering at the deemed Boundary Point and
 - o responsible for the Transmission Losses on the Embedded Transmission assets they use.
- Allow both Central Meter Registration Service (CMRS) and Supplier Meter Registration Service (SMRS) registration through the creation of a new Embedded Transmission BM Unit configuration, and
- Limit Offshore Exemptible Embedded Generation status to generators connected to a Distribution System via Embedded Transmission that is only used by them ('sole use' connections).

BSC Panel¹⁴ recommendation

The BSC Panel considered the draft Final Modification Report (FMR) for P242 at its meeting on 10 December 2009. The Panel unanimously agreed that P242 would better meet Applicable BSC Objective (c) and to a lesser extent Objective (a) and therefore recommended approval of P242. The FMR provides details of the Panel's views.

The Authority's decision

The Authority has considered the issues raised by the modification proposal and FMR dated 14 December 2009. The Authority has considered and taken into account the responses to Elexon's¹⁵ consultation on the modification proposal which are attached to the FMR¹⁶.

The Authority has concluded that implementation of the modification proposal will not better facilitate the achievement of the Applicable Objectives of the BSC¹⁷.

Issues relevant to this modification

We note that the issues raised by this modification span many aspects of the regulatory framework, including decisions taken and consulted on by Government and decisions made by Ofgem or Ofgem's policy in relation to distribution and transmission charging. While recognising the complexity and interrelated nature of these issues, we also note that, in some cases, the arguments that have been presented as justification for the proposal appears to relate to a perceived defect which is outside the scope of the BSC.

Our assessment of the proposal has considered the modification:

- against the current BSC baseline, introduced by the Secretary of State at Go Active
- with regard to the Applicable BSC Objectives, and
- our principal objective and wider statutory duties¹⁸.

¹⁴ The BSC Panel is established and constituted pursuant and in accordance with Section B of the BSC.

¹⁵ The role and powers, functions and responsibilities of Elexon are set out in Section C of the BSC.

¹⁶ BSC modification proposals, modification reports and representations can be viewed on the Elexon website at www.elexon.com

¹⁷ As set out in Standard Condition C3(3) of NGET's Transmission Licence, see: http://epr.ofgem.gov.uk/document_fetch.php?documentid=4151

¹⁸ 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.

As such, where issues are outside the scope of the BSC, we have not considered them as part of our assessment.

Assessment against the relevant objectives

We consider that the proposal has either limited or no impact when assessed against Applicable Objectives (b) and (d).

Objective (a) – the efficient discharge by the transmission company of the obligations imposed upon it by the transmission licensee

We acknowledged in our Offshore Transmission Policy Updates¹⁹, that the changes to the classification of lines of a voltage of 132kV (or more) as offshore circuits at Go Live²⁰ will have a direct impact on 132kV connected offshore generators that are exempt from the requirement to hold a generation licence and are currently connected to an onshore distribution system. We also acknowledged that unlicensed embedded generators do not have automatic liability for transmission charges but that this liability applies to all transmission connected generators, licensed or unlicensed.

We noted comments by respondents to our Policy Updates (on the development of a regulatory framework for offshore electricity transmission) that licence exempt offshore generators that are connected to an onshore distribution system should continue to receive embedded benefits²¹. We responded that we did not consider that there was justification to introduce a class of transmission connected generation that was not liable for transmission charges or to introduce different treatment within the category of transmission connected generation.

Recognising that the Secretary of State has determined that offshore assets operated at a voltage of 132kV (or more) should be classified as transmission, we continue to consider that it would be inappropriate to introduce different treatment within the category of transmission connected generation.

We also note that parties which support the proposal suggested that it would promote efficient network design solutions by removing a disincentive to connect via embedded transmission even where this would be the most efficient solution. We note that both transmission and distribution licensees face incentives to operate in an economic, efficient and coordinated manner. We would therefore, in all cases when considering a connection application, expect licensees to identify connection designs which fulfil these obligations. As such, we are not convinced that the proposal would provide an incremental benefit compared to the existing arrangements.

In addition, we note that the proposed treatment of sole use assets means that substantively similar offshore generators could be dealt with in a different manner because of their connection design. We consider that this is unlikely to lead to the

¹⁹ A copy of our Policy Updates and responses can be found on our website at: <http://www.ofgem.gov.uk/Networks/offtrans/pdc/cdr/Pages/cdr.aspx>

²⁰ Go-Live, the commencement of sections 89 and 180 of Energy Act 2004 and section 44(3) of Energy Act 2008, will introduce a prohibition on the transmission of electricity at 132kV or more in offshore waters without a licence. Go Live is planned for June 2010.

²¹ Smaller generators which are not connected to the transmission network but to a distribution network and are not signatories to the BSC, are not subject to BSC charges or Transmission Network use of System Charges (TNUoS). These benefits from being embedded in the distribution network are known as 'embedded benefits'.

efficient, economic and coordinated development of the network in line with the efficient discharge by licensees of their obligations.

As such, we do not consider that the proposal better facilitates the achievement of Applicable Objective (a).

Objective (c) – the promotion of effective competition in the generation and supply of electricity, and (so far as consistent therewith) promoting such competition in the sale and purchase of electricity

As identified above, the change in legislation (to define transmission offshore as 132kV or more) has been widely consulted on and there has been an expectation that it will be implemented for a number of years. We consequently consider that generators planning and constructing offshore generating stations would have had opportunities to consider the consequences of the change in making decisions in relation to their projects.

We disagree that P242 will enhance regulatory certainty. Ofgem/DECC undertook an extensive consultation process, which led to the Government using its powers under the EA04 to introduce changes to facilitate the offshore regime. We consider that the changes introduced at Go Active specify a clear and consistent approach to the treatment of all transmission connected generation. We therefore consider that seeking to amend arrangements set out in law would arguably decrease regulatory certainty and hinder effective competition.

We note that the FMR asserts that removing the “double charging” of offshore generators and ensuring that the correct costs are targeted at Offshore Exemptable Generation will promote competition in generation and remove undue discrimination. While recognising that this is not an issue relevant to the BSC, we do not consider that the fact that a party faces two charges implies that a regime is necessarily unduly discriminatory. We also note that under existing charging arrangements parties which make use of the transmission and distribution system pay both DUoS and TNUoS charges.

We further note that Ofgem has consistently advocated, and sought to work with the industry to develop, cost reflective charges for transmission and distribution. The efficient and economic development of the transmission and distribution networks is, in our view, more likely to be facilitated if parties face charges which reflect the costs of any assets they use, irrespective of the size or technology of the generator. However, any discussions regarding the cost reflectivity of charges are issues to progress with NGET and/or distribution licensees and are not an issue for the BSC.

As such, we do not consider that the proposal better facilitates the achievement of Applicable Objective (c).

The Authority's wider statutory duties

We have also considered the impact of the proposal in light of the Authority's wider statutory duties and our duty to contribute to the achievement of sustainable development. We have also had regard to the Secretary of State's recently revised Social and Environmental Guidance to the Authority.

The Authority recognises the contribution that offshore generation can make to the achievement of the UK's share of the EU renewable energy target and in decarbonising the UK energy sector. The Authority also recognises the need to create a regulatory

regime that provides certainty for investors and market participants, including generation project developers, and promotes the economic and efficient development of the onshore and offshore transmission network in order to ensure this contribution is maximised. As such, we are committed to transparent and non-discriminatory arrangements. In our view, P242 fails to better facilitate these objectives.

Decision Notice

The Authority has concluded that implementation of modification proposal BSC P242: 'Treatment of exemptable generation connected to embedded transmission networks' will not better facilitate the achievement of the Applicable Objectives of the BSC²².

Robert Hull
Managing Director, Commercial

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

²² As set out in Standard Condition C3(3) of NGET's Transmission Licence, see:
http://epr.ofgem.gov.uk/document_fetch.php?documentid=4151