

Amendment proposal:	System Operator ("SO") – Transmission Owner ("TO") Code ("STC") CA038: Transitional Election Arrangements for Offshore Transmission Owners		
Decision:	The Authority ¹ has decided to approve this proposal ²		
Target audience:	National Grid Electricity Transmission PLC (NGET), Parties to the STC and other interested parties		
Date of publication:	01 November 2010	Implementation Date:	08 November 2010

Background to the amendment proposal

The introduction of an offshore transmission regime (Offshore Go Active) on 24 June 2009 will result in a new category of STC Party, namely, the Offshore Transmission Owner (OFTO). The STC provides, in Section B, that a Party wishing to accede to the STC should enter into the STC Framework Agreement. Some OFTOs have now acceded, or have applied to accede, to the STC after being appointed through the tender process.

The STC (Section B Paragraph 6) provides for the establishment of a STC Committee to administer the STC governance arrangements, composed of representatives from the STC Parties appointed as follows (Paragraph 6.1.2):

- NGET may appoint up to two representatives
- the other Onshore Transmission Owners may each appoint up to two representatives
- OFTOs may collectively appoint up to two representatives by election

The STC Committee performs the role under the STC of the code panel under other industry codes, including making recommendations on STC amendment proposals to the Authority as well as considering wider code-related issues.

The process to elect the OFTO representative(s) is set out in Annex B1 of the STC. A representative(s) elected in accordance with the process would take their seat(s) on the STC Committee from 1 April in the year they are elected. As some OFTOs will have acceded to the STC before 20 December 2010 when the election process for appointments from 1 April 2011 would begin, interim arrangements are needed to allow acceding OFTOs to appoint up to two representatives for the period up to 31 March 2011. Acceding OFTOs would then have a voice on the STC Committee before 1 April 2011.

The proposed Amendment

The proposer (NGET) raised CA038 to introduce an interim arrangement for acceding OFTOs to appoint up to two representatives to the STC Committee for the period up to 31 March 2011 by which time the formal election process outlined in Annex B1 will establish the OFTOs' appointed representatives. The proposal would allow OFTOs to have representation on the STC Committee as soon as they accede as STC Parties. The interim arrangement would be set out in amendments to Section B Paragraph 6.1.2.

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 This document is notice of the reasons for this decision as required by section 49A of the Electricity Act 1989.

In the proposer's view, CA038 would better meet a number of the STC Applicable Objectives, namely:

- the efficient discharge of their licences by transmission licensees (Applicable Objective (a))
- development of an efficient and economical transmission system (Applicable Objective (b))
- facilitating effective competition in generation and supply (Applicable Objective (c))
- protection of security and quality of supply and safe operation of the transmission system (Applicable Objective (d)) and
- promotion of good industry practice and efficiency in the implementation and administration of the STC arrangements (Applicable Objective (e)).

The proposer considered that a lack of representation for OFTOs on the STC Committee once they become STC Parties, given the role the STC Committee plays in administering the STC, could affect different aspects of the STC's effectiveness – delivery of efficiency, effective competition, protection of security and quality of supply and efficient administration.

Responses to the STC Committee consultation

The STC Committee undertook an Assessment and Report consultation on CA038. All the existing STC Parties responded indicating that there would be no impact on their systems and no cost would be involved in implementing CA038. There were four responses to the consultation from other parties all supporting the proposal, with additional comments provided in the case of two respondents.

STC Committee³ recommendation

The STC Committee recommended that CA038 should be implemented with an implementation date five business days after the Authority's decision. The Committee agreed with the proposer that CA038 would better facilitate STC Applicable Objectives (a), (b), (c), (d) and (e).

The Authority's decision

The Authority has considered the final Amendment Report for CA038, including the proposed legal text, submitted on 29 September 2010. The Authority has also taken into account the views of respondents to the STC Committee's Assessment and Report consultation which are included in the final Amendment Report.

The Authority has concluded that implementation of the amendment proposal would better facilitate the achievement of the STC Applicable Objectives⁴.

Reasons for the Authority's decision

Applicable Objective e (promotion of good industry practice and efficiency in the implementation and administration of the arrangements described in the STC)

In our view, the principal benefit of CA038 is to ensure the appropriate participation of the OFTOs once they accede to the STC as STC Parties.

³ The STC Committee is established and constituted from time to time pursuant to and in accordance with section B6 of the STC.

⁴ The Applicable Objectives are set out in Standard Licence Condition B12 of the Transmission Licence.

We agree with the STC Committee's view that it would not be good industry practice to exclude a STC Party from having representation on the main body (the STC Committee) that administers the STC governance arrangements. It would be inappropriate to wait until the first formal election process takes place and is completed to allow the OFTOs to appoint appropriate representation as the Committee could be taking decisions or making recommendations in the interim that affect the OFTOs as STC Parties but without their participation.

Efficient administration of the STC requires inclusivity and accessibility to all STC Parties of the governing code body. We agree that an interim arrangement that allows the OFTOs to appoint up to two representatives to the STC Committee does better meet Applicable Objective (e).

The proposal would also better meet the other Applicable Objectives but we do not agree that this is the primary benefit. Any STC amendment proposals raised in the period before 1 April 2011 which affect the efficiency, safety and security of the transmission system or which affect competition in generation and supply would need to be assessed and consulted upon. The assessment and consultation would be undertaken with a wide group of parties including those OFTOs which accede as STC Parties. Their views would need to be considered by the STC Committee in coming to any recommendations and do not necessarily require representation on the STC Committee to underpin this process. However, it is more beneficial to overall good administration of the STC for the OFTOs to be represented.

We note the additional views of two consultation respondents regarding the proposal.

One respondent commented that each of the three OFTOs selected through the recent tender process should have one representative to provide them with experience of the STC Committee arrangements in the interim before the conclusion of the first election process. In our view, it is for STC Parties to decide whether to raise STC amendment proposals regarding any further changes to the existing governance arrangements that would better meet the Applicable Objectives.

A further comment was received regarding whether the STC provisions in the proposal could be clarified regarding the need for OFTOs to agree on up to two representatives during the interim and the process if agreement is not possible. In our view, this is also a matter for STC Parties to consider and address through the STC governance process.

Decision notice

The Authority has decided to direct that Proposed Amendment STC CA038 '*Transitional Election Arrangements for Offshore Transmission Owners*' should be approved.

Mark Cox

Associate Partner, Smarter Grids and Governance

Signed on behalf of the Authority and authorised for that purpose