



Infinis Energy Services Limited
First Floor, 500 Pavilion Drive
Northampton Business Park
Northampton NN4 7YJ

T +44 (0)1604 662400
F +44 (0)1604 662468

www.infinis.com

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Dear Sirs,

Consultation on Impact Assessment on CMP192 Enduring Generator User Commitment

Infinis is a substantial and growing generator of renewable power in the UK. In the year to March 2011 we generated around 10% of the UK's renewable power of 2.2TWh. We operate a portfolio of around 140 renewable generation sites across the UK and are in the process of developing many more, with a particular growth focus on onshore wind and hydro schemes.

We welcome the opportunity to comment on this consultation, and have set out our high-level comments in this covering letter; detailed responses to the consultation questions are attached.

We support the codification of the rules on generator user commitment within the CUSC. This move will deliver greater certainty to the governance of these arrangements and will ensure code signatories can participate properly in this. However, we have some concerns about Ofgem's initial view and the supporting assessment. Above all we are very concerned about the failure to show clearly the impacts on developers with existing agreements.

The key points of this response are:

- **grandfathering of existing arrangements is essential—not providing this option imposes unreasonable risks on developers and costs as agreements with funders may need to be revisited. Mandating change when agreements are already in place creates a further unattractive example of regulatory risk for investors in new generation.**

We are very concerned that Ofgem's initial view is not to introduce grandfathering arrangements. It opts for this position on the grounds of the additional burden it would place on National Grid. We think this burden is negligible if it exists at all. In contrast the costs the recommended solution will place on pre-commissioning generators are significant. We have three plants currently in development which have connection agreements, and there are significant impacts of having to change the security and liability arrangements for them and obtaining the necessary funder approvals. Furthermore, there is insufficient information available to allow us to assess how these projects individually will be impacted.



A decision not to allow grandfathering would send a very dangerous signal about the extent of regulatory risk in generation investment. For generation plant under development, investment decisions were made on the basis of the regulatory environment as it exists today. Not to allow pre-commissioning plant to have the option to continue on this basis could be extremely damaging for investor confidence.

- **the impact assessment does not recognise it is the total liability that remains relevant in obtaining financial approvals and securing funds, not simply the level of security which must be provided.**

Under the proposals the liabilities imposed on pre-commissioning generators—as distinct from the securities for those liabilities they are required to provide—remain broadly unchanged. While the security requirements would be reduced in aggregate and for many (though judging by Table 5, not necessarily for all), what matters to developers and lenders in obtaining approvals and securing funds is the total liability that will sit in the balance sheet.

The impact assessment does not adequately recognise this key issue. As a consequence we do not believe that by itself reducing the requirements for security will have a significant impact in reducing barriers to entry for new generators, and many of the assessed benefits may not materialise. Indeed, by unilaterally changing existing arrangements, it could imperil some projects.

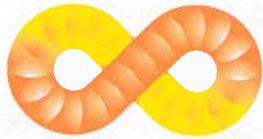
- **the proposed decision for a four year liability based on 50% of costs of wider works imposes excessive costs on developers. We believe the liability for wider works should be limited to two years.**

Both the original proposal and the working group alternatives propose that pre-commissioning generators should have a significant liability for wider works. The current interim Final Sums Liability methodology, which does not include wider works, has set a precedent in this respect, and no case seems to have been made for why this should be replaced. It has been acknowledged by the working group that there is negligible risk of asset stranding, so the allocation of liabilities under the change proposals is not proportionate. The impact assessment does not consider the detrimental effects of the change on investment and new entry.

Liabilities should reflect the risk of stranded investment costs. In this context we are not aware that there have been any stranded electricity transmission assets triggered by developer actions, and we also do not consider that the proposed liabilities reflect realistic levels of stranding to which the transmission owners are exposed.

In the event that Ofgem decides that pre-commissioning generators should be liable for wider works, we believe that the notice periods for pre-commissioning generators should be two years for wider works and four years notice for attributable works as set out in Workgroup Alternatives 9 to 12.

- **the assessment does not seem to properly consider the potential impacts of the proposals on embedded generation, in particular the ways in which new liabilities and charges may be passed through by distribution network operators (DNOs) to generators.**



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The impact assessment does not consider the potential impacts on embedded generation, although the implications were considered by the working group. The working group agreed that it was a matter for the DNO and embedded generator how these transmission liabilities would be divided up and the level of financial securities required. The workgroup recognised that the embedded generator would not necessarily benefit from the proposed decrease in securities unless the DNO chose to reflect these in the securities it required from the generator.

We believe that any charges which are being passed through in this way need to be fully justified and transparent so that embedded generators can understand their exposure.

- **a requirement should be placed on the transmission owners to ensure accurate cost estimates are provided as part of the process, with developers able to achieve timely reconciliation of securities against estimated project costs.**

The proposal and the impact assessment do not consider any requirement on National Grid to provide accurate and timely forecasts for likely liabilities and securities under any new arrangements. A transparent calculation and update process should be included in the CUSC as this will help minimise the risk for developers. All developers should be able to reconcile security levels against actual works at their option.

Please let me know if I can provide further comment or if you wish to discuss any aspect of this response.

Yours Sincerely

Steven Hardman
Commercial Director
Director of Wind and Major Projects



**Consultation on Impact Assessment on CMP192 Enduring Generator User
Commitment
Infinis response**

Question 1: We welcome stakeholders' views on whether we have identified all the relevant impacts of CMP192.

The Impact Assessment (IA) does not consider the effects on market entry of excluding grandfathering arrangements and of the impact of transition arrangements for pre-commissioning generators. The focus is exclusively on the impact on National Grid and on benefit to generators from the lower security proposed under CMP192. This is a significant issue for generators such as ourselves with projects in the pre-commissioning stage and should be addressed further.

If there are to be no grandfathering arrangements then the transition process needs to be determined in detail at an early stage in order to minimise the risks and costs that pre-commissioning generators are exposed to.

We think there is a further serious deficiency in the IA as it under-estimates the importance of the total level of liabilities, as opposed to securities, in acting as a barrier to entry for new generation. The total level of liabilities remains broadly the same under this proposal, although there are redistribution effects, and the impact of this on the ability of new generation to secure finance should be specific addressed.

The IA does not address any impacts on embedded generation, in particular the size and clarity of any pass-through charges related to securitisation of transmission assets by DNOs to generators. Although these arrangements are outside the scope of the CUSC, we consider that the effects should be considered by Ofgem as, if any reductions in securities are not passed on, this could provide an additional barrier to entry for new generation.

The assessment is also deficient in that it is impossible to tell from the paperwork what the impacts will be for developers with existing agreements, even at a high level. The information is highly averaged and inadequate basis for developers to form a judgement.

Question 2: Do stakeholders agree with our assessment of the potential environmental impacts of the proposal?

We agree that the proposal could impact the environment through either increasing or reducing the rate at which new generation connections to the transmission system and through existing generation opting to reduce TEC rather than assume the new liabilities. However, the extent of these impacts will depend on the final form of the modification chosen, and there is limited discussion of the impact of the different Alternatives.

Question 3: We seek stakeholders' views on the potential implications of the potential perverse incentives, and views as to how they may be mitigated.

We note the perverse incentives.

Question 4: Do stakeholders agree with our summary of the impact of the CMP192 original proposal on pre-commissioning generation?

Yes, although the assessment is defective in its failure to address the lack of change in the overall liability amounts. As noted, we disagree with the comments on the case for retaining a grandfathering option.

Question 5: Do stakeholders agree with our current thinking that placing a four-year liability for wider works on pre-commissioning generators is appropriate?



No, we do not support the imposition of a liability for pre-commissioning generators for wider works and we do not support a four-year liability if a liability is to be imposed. We believe that liability for wider works should be excluded entirely on the grounds that the reinforcements will benefit all grid users in the future. As such they represent an unwarranted and disproportionate liability for new generators and a significant barrier to new entry.

It is relevant that under the current interim Final Sums Liabilities arrangements liabilities, and therefore security, for wider transmission investment works are not sought. National Grid considered that the risk of stranded assets was low and that this approach would facilitate competition and assist in meeting government environmental targets. We do not consider that an adequate case has been made by National Grid or Ofgem for changing this approach.

If generators are required to secure wider works, then we consider that a two year, rather than a four year approach should be adopted as advocated by Alternative 9-12.

Question 6: Do stakeholders agree with our view that the proposal to halve the liability on generators for local works that are designed to accommodate demand, either existing or in the future, is not appropriate (for the reasons set out)?

No, we think that this proposal, which is incorporated in several of the Alternatives, is broadly appropriate. Where there is a demand side as well as generator beneficiary to the local works, this should be taken account of in the arrangements.

Question 7: Do stakeholders agree with our view that the proposed credit cover arrangements are appropriate and provide valuable protection to consumers?

Yes, we think the credit arrangements are appropriate.

Questions 8: We seek stakeholder views on the extent to which asset health and the associated plant life assessment could hinder generators in providing four-year user commitment notice.

We have no comment.

Question 9: We would be interested to hear stakeholders' views on whether we appropriately identified all the relevant interactions with other policy developments, and potential impacts on user commitment arrangements in general and more specifically, our consideration of CMP 192 proposal.

We agree with Ofgem that there is not sufficient detail available at this stage to consider the interaction between CMP192 proposals and EMR. The current lack of certainty in both the shape of the user commitment arrangements and the EMR proposals is increasingly acting as a disincentive to investment and decisions need to be made promptly.

Question 10: Do stakeholders consider that a level of uncertainty associated with policies currently being developed in greater detail could hinder generators in providing four-year user commitment notice.

We have no comment.

Question 11: We welcome stakeholders' views on the analysis presented in this section (7) and, where available, any additional information and/or analysis in relation to the impact of CMP 192 on the efficiency of network investment.

The analysis provides a basis for looking at the benefits to network investment of the new generator user commitment arrangements in terms of investment efficiency. But it takes no account of anticipatory investment or of the other information which National Grid may have available.



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Question 12: We seek stakeholders' views on the approach to risk adopted in National Grid's analysis and on the potential alternatives to assessing the risk.
We agree with Ofgem that the analysis may over-state the benefits of a longer regime because of the assumption that National Grid has no information on the likelihood of the investment being commissioned over time.

Question 13: Taking into account various factors discussed in this document that may have an impact on generators' ability to provide four-year notice and National Grid's analysis presented in this chapter (7), we seek stakeholders' views on the most appropriate length of the notice period for post-commissioning generators.
We have no comment.
