

Ofgem
9 Millbank
London SW1P 3GE

Att.: Vanja Munerati

YOUR REF./DATE:

OUR REF.:

PLACE/DATE:

Oslo, 12.03.2012

--- POSTAL ADDRESS:
Statkraft UK Ltd
4th Floor, 41 Moorgate
London EC2R 6PP, UK

--- VISITING ADDRESS:
4th Floor
41 Moorgate
London EC2R 6PP

--- PHONE:
+44 (0)20 74488200

--- FAX:
+44 (0)20 74488241

--- INTERNET:
www.statkraft.com

E-MAIL:
uk-post@statkraft.com

--- VAT REG.NO.: UK-05742795

IMPACT ASSESSMENT CMP192: ENDURING USER COMMITMENT - CONSULTATION RESPONSE

Statkraft is a major new entrant generator in the GB electricity market. Most notably we are currently commissioning the Sheringham Shoal Round 2 offshore wind scheme, and we have a significant interest in the Dogger Bank Round 3 offshore wind project. We welcome the opportunity to provide views on this important consultation.

This cover letter sets out high-level comments on the impact assessment consultation dated 13 February. Generally speaking we support codification of the user commitment rules through CMP192, and a lot of good work has been done by National Grid, the working group and Ofgem in progressing this matter over the past year. However in our opinion the proposals identified by Ofgem are "not there yet" and a number of aspects of the current proposals should be addressed further.

We consider:

- insufficient account has been taken of the effect of the change proposals on generators continuing exposure to high cancellation liabilities and the negative impact this will have on competition in the generation market and new entry;
- we disagree that the basic methodology allocates liabilities in a manner reflective of the risk projects pose to efficient transmission investment, and stranded asset risk should be shared more equitably between the developer and National Grid (on behalf of customers) if the proposals are not to create unnecessary barriers to new generation;
- in particular the proposed decision on wider works imposes disproportionate costs on developers;
- it is fundamental that grandfathering options should be available to developers to eliminate unnecessary regulatory risk arising from implementation of the changes; and

- we would like to see explicit requirements on the TOs to ensure accurate and timely cost estimates to developers throughout the user commitment process and for this information to be reflected in the security calculation.

Of the various options submitted by National Grid we consider that Alternative 12 remains the most appropriate in terms of achieving the applicable code objectives that National Grid is subject to. It achieves balanced risk sharing while not distorting competition, and as such it would therefore best promote the interests of consumers.

Fuller rationale for these headline views is set out below.

CUSC governance

We support the work to formalise user commitment arrangements within the CUSC as this should provide greater certainty of the arrangements going forwards and establish appropriate governance arrangements of the rules. We also welcome Ofgem's recognition that there is an objective basis for pre- and post-commissioning generators can be treated differently.

Overall we consider that the proposals err on the side of imposing disproportionate risk and costs on the existing and future generation developers, while National Grid is in effect derisked. The impact assessment fails to adequately factor in the adverse impacts this could have on investment and new entry, and consequently the proposed decision would not achieve the best CUSC baseline.

Liability exposure

We are concerned that under the proposals the liabilities imposed on pre-commissioning generators (as opposed to securities) will remain at very high levels, despite a welcome reduction in security requirements. Unfortunately the information has not been provided to test the impacts on a scheme-by-scheme basis, and this gap in the assessment must be corrected urgently. It is the liability (not the securitised amounts) that is the key user commitment issue for all developers in obtaining funding for projects.

The impact assessment does not adequately recognise this as an issue for pre-commissioning generators, but rather focuses on the proposals for reducing security. We do not agree (as the impact assessment suggests) that reducing the security by itself will have a significant impact in reducing barriers to entry for new generators.

Treatment of wider works

Wider works should be excluded from the calculation of pre-commissioning generators' liabilities. These are related to reinforcements that benefit all grid users in the future and as such represent excessive and inappropriate liabilities for individual new generators. Liability for wider works represents a significant barrier to entry for generation investment. The current interim Final Sums Liability methodology, which does not include wider works, is a precedent in this respect.

Given the inclusion of security requirements for wider works, we do not support Ofgem's initial view that it is appropriate to place a four-year liability on pre-commissioning generators; a two year window is more consistent with the underpinning concept of the connect-and-manage regime and the low risk of asset stranding observed to date. Conversely, a four year period for wide works would clearly increase the commitment period and cost to developers without delivering any real risk mitigation.

Again the impact assessment fails to factor in the adverse impacts this inappropriate cost allocation could have on investment and new entry.

Grandfathering

We are very concerned that Ofgem's view is not to introduce grandfathering arrangements. The argument in support of this position—the additional burden it would place on National Grid—is weak, and we question whether this burden in reality would be significant. In contrast the costs the recommended solution will place on pre-commissioning generators are significant, as they may even need to obtain new approvals, including from funders. This unnecessarily, in our view, materially increases risks for projects individually but more generally could also undermine investment confidence.

A decision not to grandfather would send a very dangerous signal about regulatory risk in generation investment. For generation plant under development, investment decisions have been made to date on the basis of the existing regulatory arrangements. Not to allow pre-commissioning plant to have the option to continue on this basis could be very damaging for investor confidence and could have negative impacts on some schemes going forwards.

National Grids forecasts

One important area not addressed by the proposal or considered in the impact assessment is any requirement on National Grid to provide accurate and timely forecasts for likely liabilities and securities under any new arrangements. A transparent calculation and an orderly communication and update process should be included in the CUSC, and consideration should be given to linking it as an output in the emerging RIIO transmission price control arrangements. This enhancement is essential if the revised arrangements are to work efficiently.

Detailed responses to consultation questions are set out in the attachment.

If you would like further comment or wish to discuss this response further please do not hesitate to contact me.

Yours sincerely,



Ejørn Drangsholt
MD of Statkraft UK Ltd.