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Modification proposal:	**Connection and Use of System Code (CUSC) CMP259: 'Clarification of decrease in TEC as a Modification'**		
Decision:	The Authority[1] has decided to reject[2] this modification		
Target audience:	National Grid Electricity Transmission PLC (NGET), Parties to the CUSC, the CUSC Panel and other interested parties		
Date of publication:	18 November 2016	Implementation date:	n/a

Background

Transmission network users ('users') may not require all of their contracted transmission entry capacity (TEC) for a period of time, for example while doing major refurbishment works or mothballing a generating unit. They may therefore wish to lower their TEC level for one or more Charging Years to minimise their Transmission Network Use of System (TNUoS) charges, and subsequently increase their TEC again.

Under the current CUSC arrangements, users may reduce their TEC by submitting a *notice* to National Grid (in their role as system operator). If users wish to increase their TEC again in future, they would do so via a *modification application*. Although these separate provisions exist within the CUSC framework to relinquish or obtain TEC, there are no specific terms to deal with an application for a single modification comprising a TEC reduction followed by a subsequent TEC increase.

CMP259 would amend the CUSC to enable users to request both a TEC reduction and a subsequent TEC increase in the form of a single modification application to National Grid.

The modification proposal

CMP259 was raised by RWE Generation UK (the 'proposer') and submitted to the CUSC Modifications Panel (the 'Panel') for consideration in January 2016. The defect identified by the proposer was that when submitting a notice to reduce TEC, users would also be irrevocably committed to an enduring TEC reduction with no certainty that desired TEC would be restored at a later date, after submitting a modification application.

Due to this risk, users may decide not to reduce their TEC and continue to pay the accompanying TNUoS charge (despite not using their full level of TEC). The proposer highlighted that in this case, the level of transmission capacity associated with the TEC would remain unused and not available for use by National Grid in their planning process or for allocation to other users (e.g. for the early connection of new generation or for temporary TEC).

In treating a TEC reduction and a subsequent TEC increase as a single variation to the Bilateral Agreement, users would be able to commit to both changes simultaneously and minimise their risk by ensuring continuity of their contracted TEC.

One Workgroup member considered that some features of the original proposal could lead to adverse effects for network users because these features created uncertainty about network availability. Therefore the Workgroup developed a 'Workgroup Alternative CUSC Modification' proposal, 'WACM' 1, to reduce these uncertainties. WACM 1 proposes to place limitations on the length of time of the TEC break and level of regained TEC, and would prevent extending the TEC break.

[1] References to the "Authority", "Ofgem", "we" and "our" are used interchangeably in this document. The Authority refers to GEMA, the Gas and Electricity Markets Authority. The Office of Gas and Electricity Markets (Ofgem) supports GEMA in their day to day work. This decision is made by or on behalf of GEMA.
[2] This document is notice of the reasons for this decision as required by section 49A of the Electricity Act 1989.

CUSC Panel[3] recommendation

At the CUSC Panel meeting on 30 September 2016, a majority of the CUSC Panel considered that neither the original CMP259 proposal nor WACM1 would better facilitate the CUSC objectives, and the Panel therefore did not recommend the approval of either. In particular, all those Panel members who rejected both options agreed that neither would better facilitate objective (b).

The views of Panel members are in the Final Modification Report (FMR)[4].

Our decision

We have considered the issues raised by the modification proposal and the FMR dated 14 October 2016. We have considered and taken into account the responses to the industry consultation on the modification proposal which are included in the FMR. We have concluded that implementing the original CMP259 proposal or WACM1 would not better achieve the applicable objectives of the CUSC[5], and that directing that the modification be made would not be consistent with our principal objective and statutory duties.[6]

Reasons for our decision

CUSC Objectives

We consider that neither the original nor WACM1 better facilitate the achievement of the applicable CUSC Objectives. We do not consider that the evidence provided demonstrates that either proposal better facilitates objective (a), and we consider that both have a negative impact on objective (b).

(a) the efficient discharge by the licensee of the obligations imposed upon it under the Act and by this licence

The proposer argued that under current arrangements, users may hold on to their full TEC during periods when they don't require part or all of it. Because of this, the transmission capacity associated with the TEC remains unused and is not available to the system operator for allocating to other users (e.g. for the early connection of new generation, or for temporary TEC requests). Nor is the system operator able to take reduced capacity requirements into consideration in their network planning. The proposer argued that CMP259 would enable the licensee to carry out their duties better with regard to network connections and network planning.

On these points, we have considered the views of National Grid as well as the Scottish transmission owners (the transmission network companies) because we consider that together, they are well placed to identify any advantages of CMP259 in relation to system operation and network planning.

With regard to the *short/medium term*, they considered that in principle, temporary reallocation of transmission capacity is desirable if there is demand for it. However, it was also their view that demand for temporary TEC is low and confined to a limited set of

[3] The CUSC Panel is established and constituted from time to time pursuant to and in accordance with section 8 of the CUSC.
[4] CUSC modification proposals, consultations and the Final Modification Reports can be viewed on the National Grid website at http://www2.nationalgrid.com/uk/industry-information/electricity-codes/cusc/Modifications/
[5] As set out in Standard Condition C3(3) of NGET's Transmission Licence, available at: http://epr.ofgem.gov.uk
[6] 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.

users.

Whilst we recognise that there may be circumstances where CMP259 might result in a more efficient outcome (e.g. where there is demand for temporary capacity), there may also be other circumstances when the outcome would be less efficient. A generator who under current arrangements would close down for good, might under CMP259 reduce capacity temporarily since this is a low-cost option. If they decide at the end of their break to close down after all, this might have prevented others gaining access to this capacity during that period, which is a less efficient outcome than under current arrangements.

We don't consider that a clear case has been presented to us either way with regard to the benefits (or disbenefits) of facilitating temporary allocation of transmission capacity in the circumstances the proposal seeks to address.

The proposer argued that CMP259 would result in more efficient network planning, thereby also providing a *long-term* benefit. CMP259 is aimed to help users who want to reduce their TEC for a limited period of time, for example while doing major refurbishment works or mothballing a generating unit. The transmission network companies commented that this was likely to involve timeframes for releasing capacity (e.g. one to three years) which were too short to benefit network investment decision-making which has to take into account the longer term requirements for the network. For example, CMP259 might not avoid inefficient decision-making by the transmission network companies if users temporarily reduce their TEC after network investment had been committed.

The proposer also argued that CMP259 would facilitate objective (a) by simplifying the administrative process and reducing the administrative burden on users who want to reduce and subsequently increase their TEC. One other Workgroup member considered that marginally this could be the case. However, no stakeholder provided information clearly demonstrating how the new process would be more efficient compared to the current arrangements.

Overall, in light of the issues discussed above, we don't consider we have been provided with sufficient evidence to demonstrate that CMP259 will better facilitate this objective.

(b) facilitating effective competition in the generation and supply of electricity, and (so far as consistent therewith) facilitating such competition in the sale, distribution and purchase of electricity

The proposer considered that CMP259 would facilitate effective competition by releasing unused network capacity for other users. However, as set out under objective (a), feedback from the transmission network companies about lack of demand for temporary TEC indicates that benefits to competition would be small if any.

The proposer also considered that CMP259 would reduce risk for users by creating certainty around increasing their TEC after a temporary TEC reduction, resulting in more efficient investment and operational decisions for them. However, other stakeholders considered that CMP259 could lead to the incumbent user blocking capacity, for instance in the case of interactive offers, because the TEC may not be available for reallocation (unlike under the current process). Those stakeholders considered that this could result in the incumbent being preferentially treated over new entrants, which they considered would adversely impact competition.

CMP259 has been put forward as an administrative change. However, in our view, it would also have an impact on the allocation of network costs. In areas where there is no

demand for the freed-up network capacity, under the current charging methodology CMP259 would lead to transmission costs being recovered from a temporarily reduced charging base while a user was taking a break from TNUoS. The transmission network companies expressed the view that this wasn't reasonable.

We consider that the certainty that CMP259 would give users in regaining TEC at a time of their choice after a scheduled break constitutes a benefit to them. If there is no demand for the temporarily released TEC, and network costs are therefore recovered from a reduced charging base, then this benefit to the user is effectively being provided to them at the expense of other users. We consider that the benefiting user, rather than the reduced charging base, should pay for this benefit. Otherwise a distortion would be created which would adversely affect competition between network users. We consider this to be a key negative of the CMP259 proposal.

We consider that on balance, neither option under CMP259 better facilitates meeting objective (b). We consider that the adverse effect on competition resulting from the reallocation of network charges and potential detriments to new entrants outweigh any potential benefits to competition resulting from limited and temporary reallocation of network capacity.

Conclusion

We consider that neither the original nor WACM1 better facilitate the achievement of the applicable CUSC Objectives. We have not been provided with sufficient evidence that they better facilitate objective (a), and we consider that both have a negative impact on objective (b).

We also consider that approving the proposal would be inconsistent with the overall intention of the charging framework to recover costs fairly which is in line with our principal objective of protecting the interests of existing and future consumers.

Decision notice

In accordance with Standard Condition C10 of NGET's Transmission Licence, the Authority has decided that modification proposal CUSC CMP259: *'Clarification of decrease in TEC as a Modification'* should not be made.

Frances Warburton
Partner, Energy Systems
Signed on behalf of the Authority and authorised for that purpose