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Dear Julian

EDF Energy Response to Urgent UNC Modification Proposals 169 and 169a: “Transfer and Trading of capacity between ASEPs”

EDF Energy welcomes the opportunity to respond to this consultation. We fully support 169 and offer qualified support to implementation of 169a. We have a preference for mod 169.

We believe that the issues identified with 156a and 163 apply to mods 169 and 169a respectively, and we refer you to our responses to those, appended here for reference.

We strongly support the inclusion of a two round auction that both mods propose and the arguments for it clearly set out in mod 169. This approach also seems much more consistent with wider capacity auction principles and we feel it delivers a proportionate amount of transparency given the practicalities involved in implementation.

We note that the scope of mod 169a relating to priority being given to ASEP users ahead of the trade and transfer process includes both the sold and unsold capacity. This is something we have supported in our response to mod 163 and is therefore something we welcome. Furthermore we recognise and support the intention to discourage the speculative trading of capacity. However, the overall effect of the mod appears to be to reopen a previously closed auction for further bidding. Whilst it has been argued that the purpose for doing so here has potential benefits for some users, we note the precedent of doing this would be significant. It would also appear that this mod is inconsistent with the principle of price discovery and the economic rationalisation of a scarce resource. We feel this part of mod 169a is therefore a divergence from the purpose of the trade and transfer process and not something we support.

I hope you find these comment useful, however please contact me or my colleague Stefan Leedham (0207 752 2145) should you wish to discuss these further.

Yours sincerely

Adam Walker
Senior Analyst – Bilateral Contracts

Appendix A: EDF Energy Response to UNC Modification 0156 & 156A “Transfer and Trading of Capacity between ASEPs”

EDF Energy welcomes the opportunity to respond to this consultation, and support implementation of modification proposals 156 & 156A as a short term solution for this winter only. In terms of preference we prefer proposal 156A to proposal 156.

For clarity we believe that there are flaws with these proposals, however it is important that a solution is implemented ahead of this winter to ensure that the constraints at certain ASEPs are relieved and the UK’s security of supply position is not threatened. We believe that any enduring proposals will require a significant amount of development by both NGG and the industry to address these flaws, to ensure that the transfer and trade process operates as intended.

We are however concerned with the process and lead times that have led to the raising of these proposals. We are concerned that changing the entry capacity baselines in April 2007 with little foresight or consultation on these adjustments has created a significant regulatory risk to the industry. We believe that this action alone will push Users into procuring long term entry capacity in an attempt to mitigate the risk from the regulator that baselines will be significantly changed again at the next Transmission Price Control Review (TPCR). Combined with the proposed substitution of entry capacity it appears that this will mean that there is no requirement for the trading and transfer of entry capacity, and that there will be no spare capacity to facilitate whatever requirements there may be. We would note that combined all of these proposed changes could significantly reduce the size of the short term entry capacity market, which does not appear consistent with the EC Directives to ensure access to prompt markets are not compromised and remain competitive.

The issues associated with these proposals have been further exasperated by the delay in producing and enacting the licence conditions that will require the facilitation of a trade and transfer mechanism. This uncertainty has created a significant regulatory (and financial) risk for NGG and Shippers. This risk could have been mitigated by producing the licence conditions earlier and by engaging with the industry at an earlier stage. We therefore welcome the work that NGG has undertaken in an attempt to mitigate this risk and hope that an enduring solution for this issue can be developed along with the rest of the industry.

In relation to the particular proposals we believe that these proposals will:

- Provide some clarity and comfort to Users that additional capacity is released at ASEPs for this winter where it is required.
- Ensure that import facilities such as Rough and Excelerate are not artificially constrained and thereby improving the UK’s security of supply position
- Ensure that no advantage is provided to particular classes of Users, as all Users will be treated equally, regardless of their entry capacity portfolio.
- Provide a reasonably transparent process that will encourage the trading of unsold capacity between ASEPs
- Facilitate the efficient and economic operation of the pipeline system by ensuring that un-utilised capacity at an ASEP is not sterilised at that ASEP. This should therefore avoid gas being stranded offshore.
- Enable the efficient discharge of a licensee’s obligations under its licence as it facilitates the transfer and trade of capacity within the constrained period.

In addition we believe that modification proposal 156A will:

- Secure effective competition between Users by introducing a two round auction process. This would enable price transparency and therefore price discovery. This will ensure that capacity is allocated to those that value it most and ensure that the value attached to it is based on economic fundamentals.

We would however question the volume of capacity that Users would surrender into this process, and the complexity and risk associated with it. In particular we note that both proposals essentially require a User to surrender capacity that they would then have to re-bid for if they wished to acquire it at an alternate ASEP. We believe that this would limit the amount of capacity that Users may wish to surrender, especially as they would have no certainty regarding the price that they would receive for it. We would further note that whilst the within zone allocation methods are reasonably simple and transparent, the out of zone allocation methods is both complex and opaque, especially when combined with the within zone method. Whilst we appreciate that this is essentially a quick fix for this winter, we believe that this could further discourage participation within this process.

We are also disappointed that the methodology statement required to support these proposals has also not been issued for consultation at the same time. These proposals are reliant on the acceptance of the methodology statement by Ofgem, which will determine the amount of capacity that is released by these proposals. It would appear that following the UNC Transmission Workstream on 19 July 2007 that the amount of capacity that will be available will be based on the maximum zonal capabilities and not the obligated baselines. This therefore suggests that these proposals will not facilitate the trading of unsold capacity, but will facilitate the trading of available capacity. It would further appear that the zonal maximum capacities are designed to ensure that NGG's buy back risk is maintained. This appears in contradiction to Ofgem's open letter on this issue, however we are not able to comment on this at this stage as the methodology statement is still not available.

EDF Energy however remains convinced that it is appropriate to have a trade and transfer process in place for this winter as a potential solution to any capacity constraints that may occur. We believe that despite the concerns associated with this proposal this should help to mitigate these constraints and so improve the UK's security of supply condition. We therefore remain supportive of these proposals but would encourage NGG to start developing an enduring regime with the industry to ensure that these concerns are addressed.

Appendix B: EDF Energy Response to Urgent UNC Modification Proposal 163: "Offering Capacity at Donor ASEP in Trades & Transfers Process"

EDF Energy welcomes the opportunity to respond to this consultation however we only provide qualified support to its implementation.

We believe the proposal has some merit in trying to allow Users another chance to purchase firm NTS Entry Capacity rights at the terminal where they need it most before it is transferred or traded away from that ASEP. However, after Scottish Power confirmed in their presentation of their modification at the Transmission meeting on the 2nd August that it would only be "sold" capacity from the previous AMSEC auction that would be offered, we believe this limits somewhat the amount of capacity that could be accessed at the required entry point at which it was purchased before being traded or transferred to another ASEP.

We believe that Unsold Entry capacity from the AMSEC should also be included as this would be in line with the intent of modification 163 and better facilitate the relevant objectives. For these reasons we can only provide qualified support but would rather a new modification be raised offering both Sold and Unsold rather than having this modification implemented and then having to raise another separate proposal to include Unsold capacity.