

# CAP 157 - Extension of Qualified Company Definition

*CUSC Panel*  
*27 July 2007*



**ScottishPower**

# CAP 157 – Overview

- CAP 157 proposes to amend the CUSC to widen the definition of “Qualified Company” or “Qualifying Company” to enable an affiliate of a User to provide security, rather than limiting this role to a company’s shareholders or immediate holding companies.
- Benefits:
  - Removes barrier to Users with complex group structures.
  - Allows a User to provide the most economic and efficient form of security available to it.

# CAP 157 – Issue/Defect

- Users are required under Paragraph 2.22.1 of the CUSC to procure security from its own shareholders or immediate holding companies.
- Users with complex group structures can find this unduly restrictive and cause them problems (e.g. if they cannot get security from a parent they must find it elsewhere, such as by letter of credit or cash in escrow which can be significantly more expensive).
- Security from banks is already accepted by NGET where there is no nexus between the bank and the relevant User.

# CAP 157 - Impact

- Amendment required to definition of “Qualified Company” and “Qualifying Company” in Section 11 of the CUSC.
- Amendment required to definition of “Qualified Company” and/or “Qualifying Company” in Appendix M to the standard form Construction Agreement appended at Schedule 2 Exhibit 3 to the CUSC.
- Amendment to Appendix M of relevant Construction Agreements.
- Not envisaged to be any impact on computer systems and processes used by CUSC Parties or other Industry Codes, however NGET to confirm.

# CAP 157 - Justification

- Facilitation of better achievement of the CUSC Objectives:
  - *a) the efficient discharge by the licensee of the obligations imposed upon it under the Act and by this licence.*
  - The proposal would:
    - aid an efficient and economic operation of the GB Transmission System by ensuring that Users do not incur extra costs to connection which they would otherwise be able to avoid;
    - improve competition among generators, particularly developers of new generating stations by allowing them to meet security requirements under their agreements with The Company more easily;
    - ensure that Users which are members of a more complex corporate group structure than other Users are not unfairly discriminated against by reason of this structure (which may have been put in place for other group reasons such as tax or efficiency);
    - update the CUSC to reflect the more modern innovative group company arrangements being employed by CUSC Participants; and
    - not lead to any increase in risk on the part of The Company.

# CAP 157 - Justification

- Facilitation of better achievement of the CUSC Objectives:
  - *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 ability and cost to Users related to the provision of security is a significant barrier to entry for new generation and the proposal would remove an element of this barrier as well as simplifying the issue for Users that are part of complicated group structures.