

## CAP140 Working Group

Meeting Name	CAP140 Working Group
Meeting No.	1
Date of Meeting	14 <sup>th</sup> December 2006
Time	11:00am – 02:00pm
Venue	Room D3.1, National Grid Offices, Warwick

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This note outlines the key action points from the first meeting of the CAP140 Working Group.

### 1. Introductions/Apologies for Absence

1. Apologies for absence were received from BS (E.On).

### 2. Working Group Terms of reference

2. The Chairman suggested that the Group needed to address the following questions in order to progress CAP140 and report back to the CUSC Panel:

- what was the size of the population of Users affected by CAP140 and the consequences of the implementation of CAP140?
- was there a defect/issue highlighted by CAP140?
- if there is a defect/issue, does CAP140 capture it adequately?
- if there is a defect/issue was there an alternative to CAP140 that better facilitated the Applicable CUSC Objectives?
- what are the consequences of the change envisaged in CAP140 for the BSC?

3. After discussion of these questions the Group agreed the standard format for TORs and agreed that the following items should be included in paragraph 5 of the TORs:

- the current and potential population of exempt or exemptable Users acting as an embedded small power station or embedded medium power station that have sought a BEGA in order to obtain TEC and thus are required to be BSC Parties under CUSC 6.29;
- the potential impact of such Users obtaining TEC in the context of potential "sterilisation" of TEC;
- whether the implementation of CAP140 itself might lead to an increase in the number of such Users;
- the consequences of such Users not becoming BSC Parties should CAP140 be implemented.

4. The Secretary would incorporate these items into the Terms of Reference and arrange for them to be considered by the CUSC Panel on 15<sup>th</sup> December.

**Action: RD**

### Working Group Internal Procedures

5. The Secretary circulated proposed Internal Working Procedures for the Group as required under paragraph 13 of the TORs and these Procedures were agreed.

### 3. Background to and Overview of CAP140 Proposals

6. The Proposer explained that CUSC originally exempted non-embedded customers from BSC membership. However, Mods for BETTA introduced new exemptions in Paragraph 6.29 of the CUSC – for directly connected power stations and for Exemptable, Embedded Large Power Stations provided another BSC Party was responsible for the import or export from the station.

7. The inadvertent effect of Paragraph 6.29 of the CUSC was that an Exempt or Exemptable User acting as an Embedded Small Power Station or Embedded Medium Power Station was required to accede to the BSC, even if another party was responsible for its export under the BSC. The situation was exacerbated for generators in England and Wales because the requirement did not apply to an Embedded Exemptable generator of more than 10MW connecting in the North of Scotland or of more than 30MW connecting in the South of Scotland, whereas in England and Wales the applicable capacity was 100MW. The Proposer therefore considered this situation was undue discrimination for small and medium Embedded Exemptable generators in England and Wales. It also seemed inappropriate that the CUSC should be placing an obligation on this class of generator to become a BSC Party. The Proposer indicated that that this was an issue since hitherto parties joining the CUSC voluntarily also wanted to trade through the BSC but at least one Embedded Exemptable generator in England and Wales (his client) saw commercial advantage in contracting directly with NGET but did not want to trade through the BSC. The generator wished to contract direct with National Grid via a BEGA and obtain a TEC but under Paragraph 6.29 of the CUSC was also required to become a BSC party. The generator did not wish to become a BSC Party. The legal drafting included with CAP140 was designed to remove this anomaly.
8. During discussion of CAP140 Group Members found it difficult to understand why the client generator of the Proposer should wish to hold a TEC but not trade in the BSC when this committed them to pay TNUoS charges. If the client generator was not trading these would appear to be additional costs which were not remunerated. The Proposer indicated that his client considered that this was commercially confidential information and could not comment further.
9. One Member was unconvinced that the defect described in CAP140 existed. The difference in treatment of generators in England and Wales compared to Scotland may have arisen because there were actually more onerous requirements on generators in Scotland. To a certain extent the differences in treatment of generation in Scotland and in England and Wales stemmed from the Secretary of State's decision to designate 132kV as transmission in Scotland as clearly more smaller and medium sized generation could be connected at this level than to the 275kV or 400kV system in England and Wales. The only commercial driver that the Member could think of for this situation was that the generator was sited in a negative charging zone and was attracted by the income from TNUoS that would result from having a TEC. The Member was also concerned that the implementation of CAP140 could lead to the "sterilisation" of TEC on the system which would discourage competition in generation.
10. Two other Members were also unconvinced that there was a defect as it was not possible to understand why this one generator wanted a TEC but did not want to trade. All other Embedded Exemptable generators seemed to recognise that it was best for them to avoid a contractual relationship with National Grid via the CUSC after all the careful work that had been undertaken through CAP097 and LEEMPS. These Members were also concerned that changes that tinkered with the mechanism designed to ensure non-involvement of small and medium sized generators could upset the equilibrium created by CAP097 and LEEMPS. However, One Member suggested that Paragraph 6.29.3 of the CUSC could be amended to include Small and Medium Embedded Exemptable Power Stations which should achieve the same result as the proposed legal drafting for CAP140 whilst not disturbing the CAP097 and LEEMPS wording significantly.
11. KC noted that the Proposer's client could end up in breach of the CUSC if it did not become a BSC Party. The BSC states that any BSC Party which does not 'trade' within 6 months of accession and has no licence requirement to be a Party is automatically withdrawn from the BSC, unless the BSC Panel agrees to extend its membership for another 6 months. An exempt embedded generator which had nominated another existing BSC Party to be responsible for its Export would not be counted as 'trading';

therefore it would be difficult to enforce the CUSC obligation on them to be a BSC Party. KC believed that these implications suggested that the CUSC obligation for BSC membership may need to be reconsidered.

12. The Proposer could still not accept that the CUSC should require a User like his client to become a BSC Party – CUSC should be concerned with connection to and use of the transmission system not requiring certain Users to become BSC Parties. He was however prepared to accept the more simplified legal drafting suggested by another Member provided this did mean that there were no circumstances in which small and medium Embedded Exemptable Power Stations were required to become BSC Parties.
13. National Grid accepted the argument that in the case of a small or medium Embedded Exemptable generator that obtained a BEGA, such generators were effectively using the transmission system. National Grid sympathised with the Proposer's concern expressed in CAP140 but confirmed that National Grid's legal advice was that it was not possible to correct this situation in the BEGA since these agreements needed to follow the main provisions of the CUSC. There was also no concept of a derogation in the CUSC as there was in the Grid Code so this option was not available.

#### 4. Next Steps

14. The Group agreed that National Grid would undertake the following research:
  - Identify the numbers of small and medium exempt and exemptable generators who are CUSC Parties and the number of such Users that might request a BEGA if the change proposed in CAP140 was adopted;
  - The number of such Users who are a CUSC Party but who are not a BSC Party;
  - assess the impact of such Users obtaining TEC (i.e. any "sterilisation" effect);

National Grid would provide this information to the Working Group for the next meeting.

**Action: EC**

#### 5. Date of Next Meeting

15. The next Working Group meeting will be held on Monday 15<sup>th</sup> January 2007 in Room B1.1 at National Grid offices in Warwick. The meeting will commence at 10.30am.

# CAP140 Working Group

## Appendix 1 – Working Group Attendance

### Members Present:

Rob Smith	RS	Chairman
Emma Carr	EC	National Grid
Garth Graham	GG	Scottish and Southern
Tony Cotton	TC	ETCS Ltd (Proposer of CAP140)
John Norbury	JN	RWE Npower
David Scott	DS	EDF Energy

### In Attendance:

Kathryn Coffin	KC	Elexon
Richard Dunn	RD	Secretary
Steve Mackay	SM	Ofgem

### Apologies:

Ben Sheehy	BS	E.ON
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