

System Operator – Transmission Owner Code (STC)

20 February 2008

Governance - Policy Recommendations

Purpose of this Paper

This paper aims to set out the key recommendations of the Offshore STC Working Group regarding the changes to Section B – Governance of the STC. The areas it examines and puts forward policy proposals on are as follows:

- STC Committee Membership and Introduction of Alternates
- Appointment of the STC Committee Chairperson
- Appointment of STC Committee Members
- Arrangements for the Resignation / Replacement of Committee Members
- Attendance by persons at the STC Committee
- Quorum arrangements
- Voting arrangements for matters put before the STC Committee including STCP Amendment Proposals
- Revised process for the assessment of STC Amendment Proposals

Detailed Policy Proposals

STC Committee Membership

The recommendation of the Offshore STC Working Group is that the STC Committee be reconstituted as follows:

- An Independent Chair
- 2 Representatives of National Grid Electricity Transmission plc
- 2 Representatives of SP Transmission Ltd
- 2 Representatives Scottish Hydro Electric Transmission Ltd
- 2 Representatives of Offshore Transmission Owners
- A Committee Secretary to be provided by National Grid Electricity Transmission

The above effectively represents the existing STC Committee membership with the addition of two further members for Offshore Transmission Owners (OFTOs). The representatives of NGET SPT and SHETL will continue to be through nominations from each company while the OFTO Representatives will be elected through a more formal election amongst OFTO Parties to the STC.

In tandem to the above reconstitution of the STC Committee it is proposed that each of NGET, SPT, SHETL and the OFTOs each have up to 2 Alternate members upon which to call should one or both of their Committee representatives be unable to attend a meeting of the STC Committee. The reason for this more formal approach is linked into the voting changes below that extend the 1 Party, 1 vote principle within the existing STC to 1 committee representative, 1 vote in this policy recommendation.

Appointment of STC Committee Chair

The Committee Chair is currently appointed “annually and with the agreement of all the Parties” clearly under the Offshore regime this will be difficult to ensure given the larger numbers of parties to the STC that are anticipated. Therefore the policy recommendation is that rather than appoint the Chair through the agreement of all the STC Parties, the

Chair will be appointed by the representatives of the STC Committee. This will be through an annual agreement or if needed vote at the appropriate STC Committee meeting. Any informal agreement such as the one currently in place at the STC Committee that sees the Chair rotate between the existing parties each year could still be made by the Committee.

Appointment of STC Committee Members and Alternates

The STC Committee members are now recommended to be appointed through two routes. The Committee Members and Alternates for the existing Onshore Parties, SHETL, SPT and NGET will continue to be appointed through nominations from each company to the STC Committee Secretary. The positions for Committee Representatives for the OFTOs will however be filled through elections.

The election process to be held annually will mirror that process for the CUSC (which is contained in Annex 8A to the CUSC). A similar process is to be codified within an annex to section B of the STC with the following key aspects:

- The STC Committee Secretary shall draw up a list of candidates (who have put forward themselves for election as an OFTO representative)
- The STC Committee Secretary shall then send out voting forms to all eligible OFTO parties to the STC.
- OFTO Parties shall if they vote return their forms indicating their first, second and third preference votes for the candidates for OFTO Committee representative.
- There shall be three voting rounds and candidates exceeding the threshold number of votes in each round shall be elected until the 2 OFTO representative posts have been filled. The two Alternate Committee representatives shall then be the candidates receiving the next two highest numbers of votes in the election.
- NB If there are either one or two nominations for the 2 OFTO representatives then those nominated shall automatically be appointed as the OFTO representative(s) and in those circumstances there will be no Alternate OFTO Representatives.

Arrangements for the Resignation and Replacement of STC Committee Members

It is recommended that section B, paragraph 6 will require additional provisions to deal with the resignation/removal of Committee Members. Due to the differing nature of election to the committee between representatives there will also be differences between the methods of replacement of Committee representatives.

- Members appointed by National Grid, SPT or SHETL may be removed by their nominating company at any time by giving notice to the Committee Secretary
- Members representing Offshore Transmission Licensees shall cease to be a Committee member if any of the following circumstances arise (list adapted from CUSC 8.5.1):
 - (a) upon expiry of his term of office unless re-appointed;
 - (b) if he:
 - (i) resigns from office by notice delivered to the Committee Secretary;
 - (ii) becomes bankrupt or makes any arrangement or composition with his creditors generally;
 - (iii) is or may be suffering from mental disorder and either is admitted to hospital in pursuance of an application under the Mental Health Act 1983 or the Mental Health (Scotland) Act 1960 or an order is made by a court having jurisdiction in matters concerning mental disorder for his detention or for

- the appointment of a receiver, *curator bonis* or other person with respect to his property or affairs;
- (iv) becomes prohibited by law from being a director of a company under the Companies Act 1985;
 - (v) dies; or
 - (vi) is convicted on an indictable offence; or
- (c) should the member change employer and not provide to the STC Committee Secretary within 60 days a letter from his new employer confirming that his employer agrees that they may act as a Committee Member
 - (d) if the STC Committee resolves (and the Authority does not veto such resolution by notice in writing to the Committee Secretary within 15 Business Days) that he should cease to hold office on grounds of his serious misconduct;
 - (e) if the STC Committee resolves (and the Authority does not veto such resolution by notice in writing to the Committee Secretary within 15 Business Days) that he should cease to hold office due to a change in employer notwithstanding the fact that the new employer may have given their permission for that Committee Member to continue as a Committee Member.

In the event that a Committee Member representing offshore transmission licensees ceases to become a member then new candidates for the vacancy will be sought and elections held if more than six months of his term of office remain, otherwise the vacancy will be filled at the next annual election.

Attendance at Meetings

In line with the precedent established at other representative Panels it is proposed that section B paragraph 6.1.6 be amended to allow a single representative of any STC Party to have the same rights to attend (but not vote at, or be considered a Party Representative at) any STC Committee meeting.

Quorum Arrangements

The provisions for establishing a quorum at STC Committee meetings shall be amended such that a quorum exists where:

- At least one person representing NGET is present either in person or by teleconference
- At least one person representing Onshore Transmission Licensees is present either in person or by teleconference
- At least one person representing Offshore Transmission Licensees is present either in person or by teleconference

A quorum can still be established where the matters to be discussed at a committee meeting do not materially affect a group of parties and the committee members representing those parties notify the committee secretary that they do not wish to attend the committee meeting. In such cases provided at least one person representing the remaining groups of parties is present a quorum will be established.

Likewise in the scenario where there are no representatives appointed / elected to represent NGET and/or Onshore TOs and/or Offshore Transmission Licensees a quorum can still be formed provided at least one person from each of the other categories attends in person or by teleconference (subject of course to the above caveat that persons need not attend if the matters put to the STC Committee do not materially affect them).

Voting arrangements for matters put before the STC Committee including STCP Amendment Proposals

The recommendation of the STC Working group is that the existing process for putting matters to a vote at a STC Committee meeting be enhanced to include a mechanism for getting the views of all STC Parties.

The existing voting mechanism within the STC states that a matter put to the vote will be approved if there is a unanimous view in favour of it amongst all the STC parties (all of whom currently have a representative(s) at the STC Committee); the most common matter that is put to a vote at an STC Committee meeting being the approval (or otherwise) of proposed amendments to the STCPs.

It is proposed to replace this with mechanism with one that still allows the STC Committee the opportunity to unanimously approve a motion put to a vote but also allow, either where unanimous approval is not forthcoming or where the STC Committee believe it would be better to seek the views of all STC Parties to put the matter out to a more encompassing vote.

The voting mechanism would therefore proceed according to the following key steps:

Step 1: STC Committee members decide which Parties or “Party Categories” are affected by the matter being put to the vote. A Party Category can be one or more from:

- The GBSO
- Onshore TOs
- Offshore TOs

Step 2: Once the Affected Parties/Party Categories are identified then the STC Committee may decide to either

- (a) vote on the matter at that Committee Meeting
- (b) put the matter straight out to a wider vote amongst STC Parties

Step 3a: In the event that the STC Committee decides that the matter is to be voted upon at the Committee, all Committee representatives present who represent either the STC Party(s) or Party Categories affected by the matter being voted upon shall cast one vote each. The matter which is being voted upon shall be deemed approved if there is a unanimous approval of the motion (for the avoidance of doubt any abstention shall be taken as a vote to approve the matter being voted upon). Otherwise the matter shall be deemed rejected.

Step 3b: Should the STC Committee decide that a matter should proceed to a wider vote amongst STC Parties or if the STC Committee Representatives having voted on a matter and not reached unanimous agreement then the following voting process (based upon the DCUSA voting process) shall be invoked:

As per the model in the DCUSA, parties with similar interests are grouped into Party Categories. For the STC under an Offshore Transmission regulatory framework it is proposed to establish the following Party Categories – i.e.

1. NGET
2. Onshore TOs
3. Offshore TOs

Within a Party Category individual Parties who are affiliated within the same corporate group will be classified as a single “Group” for the purposes of the voting and will receive a single vote for the corporate group again in a similar manner to that under DCUSA governance.

For matters put to a vote the following principles would then apply:

1. Where a matter is put to a vote, the STC Committee will decide which Party Categories are affected by the matter being voted upon – i.e. the “Affected Party Categories”. In the absence of any such agreement Ofgem would be asked to decide the Affected Party Categories.
2. Each Group within an Affected Party Category will be sent a voting form setting out the decision to be taken
3. Each Group would have a number of days (as determined by the STC Committee and set out on the voting form) to return its vote.
4. Each Affected Party Category would approve the matter being voted upon if more than 65%¹ of the Groups who vote² within an Affected Party Category, vote to approve the matter, otherwise the Party Category will be deemed to reject the proposal.
5. The matter being voted upon will be deemed to be approved if **all** Affected Party Categories vote to approve the changes, otherwise it shall be deemed rejected.

Alongside the above provisions an additional provision within the DCUSA is also proposed to be adopted and adapted for use within the STC. This provision states where all Groups within an affected Party Category decline to vote then the overall decision on whether to approve or reject a matter is made solely by reference to those Party Categories where votes were received. Although it is felt unlikely that any of the three constituencies would not vote on an issue affecting them this mechanism has been included in the proposal to effectively provide a safety net.

Characteristics of the Proposed Voting Mechanism

The above mechanism would have the following characteristics:

- It would ensure that all OFTOs remain enfranchised by the voting process, overcoming one of the concerns voiced at the STC Working group that if the representatives of OFTOs at the STC Committee were to vote for a STCP Amendment (for example) this could be against the wishes of a number of other OFTOs (in theory possibly a majority of OFTOs).
- By grouping Parties according to corporate group it removes the likelihood that one company winning several OFTO tenders finds itself in the position where it has absolute voting control over the decision of the OFTO Party Category due to the fact it owns more than 65% of the STC Parties in the OFTO Party Category.
- Both National Grid and the Onshore TOs (assuming their number remains at 2) would retain their existing voting rights and so their views on future matters would not be diluted even where there may be significantly larger numbers of OFTOs.
- The above mechanism could be adapted to provide recommendations for amendments to the STC should the STC ever become one of the designated

¹ Note that the 65% threshold mirrors that for Part 2 matters in the DCUSA. The DCUSA voting process also contains a threshold for Part 1 matters of 50%. The 65% figure has been chosen for the STC as all matters put before a vote are those for which the STC has sole jurisdiction, for example the approval of amendments to STCPs. Therefore such matters are analogous to Part 2 matters in the DCUSA.

² Note here that if a Party does not vote then they are not included in the consideration of whether a motion put before a vote is passed or otherwise. For the avoidance of doubt there is no such concept of a non-vote being counted either as a vote for or a vote against the proposal. It is effectively an abstention.

codes where Authority decisions on amendments can be referred to the Competition Commission for review.

Revised process for the assessment of STC Amendment Proposals

The STC Amendment process set out in the STC places a reliance on the joint assessment of the proposed amendment by all STC Parties; a diagram representing the existing process is attached at Appendix A to this paper.

Moving forward into an offshore transmission context with increasing numbers of STC parties the STC Amendment process is likely to become increasingly unmanageable if a joint assessment involving every STC Party is required for each STC Amendment. To manage this, a more consultative process will be employed one that is closer in nature to that within the CUSC.

To this end the following key changes to the assessment process for STC Amendment Proposals are recommended by the Offshore STC Working Group:

Evaluation Phase

The existing provisions allow for each STC Party in a Working Group to propose an Alternative Amendment. This will be amended to allow each Working Group member to propose an Alternative Amendment if they wish to.

Assessment and Report Phase

At present the Committee is obliged to commission from each STC Party and analysis and impact assessment of the impact of the proposed amendment on its transmission system and other systems. These are then included in the Draft Amendment Report circulated to authorised electricity operators for consultation. Moving forward it is recommended that the Proposed Amendment Report contain any analysis and impact assessment undertaken by a Working Group established through the Evaluation Phase and one of the following:

- (a) Each STC Committee representative shall have the opportunity but not the obligation to put forward its analysis and impact assessment. In practice it would be envisaged that this would result in an assessment from each of NGET, SPT, SHETL and the Offshore Transmission Owner Representatives, or,
- (b) The STC Committee could invite all STC Parties via a short informal consultation to provide their individual analysis and impact assessments, prior to the consultation undertaken with the wider industry (and all STC Parties) on the Proposed Amendment Report.

In the final Amendment Report that is submitted to the Authority for decision, the responses received through the industry consultation will continue to be included (as they are now) in effect allowing STC Parties a further opportunity to express their views on an amendment proposal.

STC Committee Recommendation

The STC Committee is also obliged to place with the Amendment Report submitted to the Authority either its collective recommendation on whether the proposed amendment should be made or if it cannot agree the recommendation of each Party. Again it is proposed that instead of each Party putting forward its recommendation (which each Party can do through its formal response to the wider industry consultation or indeed through its analysis and impact assessment) instead each Committee Representative

can put forward their recommendation. Again in practice it would be envisaged that this would result in a recommendation from each of NGET, SPT, SHETL and the Offshore Transmission Owner Representatives.

Appendix A

