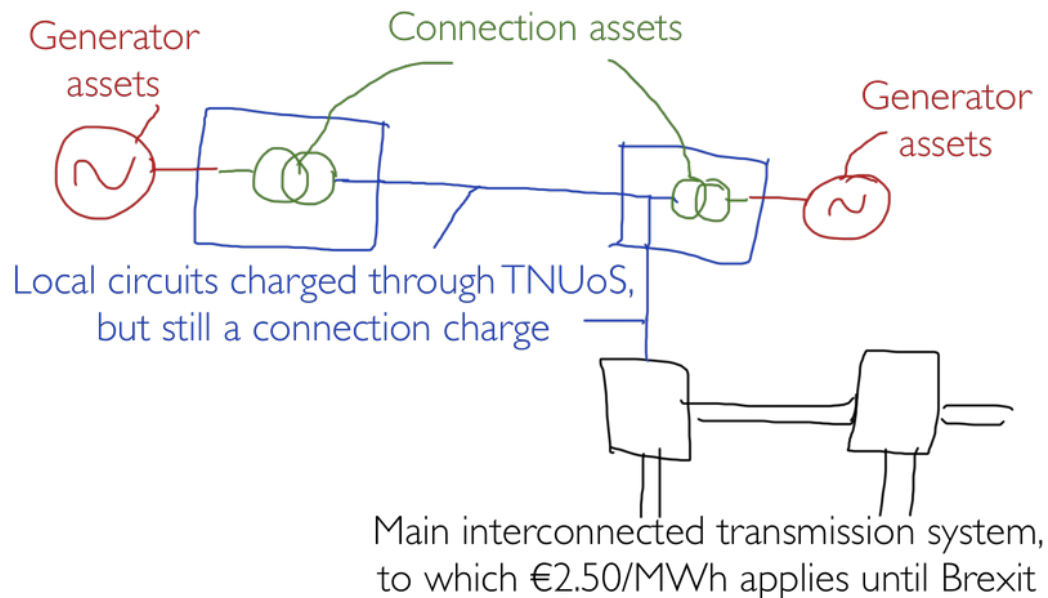


Ofgem rejects CMP261: TNUoS local charges are like connection charges

16 November 2017, Franck Latrémolière, Reckon LLP



1. Large generators pay for their use of the transmission system in England, Wales and Scotland through three categories of charges:
 - (a) “Connection charges” are charges for the rental of transmission assets that are dedicated to the connection.
 - (b) “Transmission Network Use of System charges” (TNUoS) are charges for the use of the rest of the transmission system.
 - (c) “Balancing Services Use of System charges” (BSUoS) are for the recovery of costs incurred by the system operator. Currently these do not include any significant charges for transmission capacity, although I think that they should.
2. Transmission Network Use of System charges have, in turn, three main components:
 - (a) A local charge for use of “the infrastructure circuits that connect the node to the transmission system” (CUSC section 14, paragraph 14.15.32).
 - (b) A wider locational charge for capacity on the main interconnected transmission system, defined in CUSC section 14 as the system connecting transmission nodes which have at least four circuits, or two transmission circuits and a distribution system serving demand. This captures the network which is planned to “N-2” security standards, i.e. where capability is maintained even if two circuits are out of use.

- (c) A non-locational negative residual designed to ensure that, on average, generators do not pay more than EUR2.5/MWh in transmission charges. That figure is enshrined in EU Commission Regulation 838/2010 and is specific to the UK and Ireland; lower limits apply in other EU countries.
3. A debate has arisen as to whether the limit in the EU regulation applies to all Transmission Network Use of System charges, or only to the difference between wider locational charges and the residual (i.e. excluding the local charge). The EU regulation says that the relevant transmission charges “shall exclude: (1) charges paid by producers for physical assets required for connection to the system or the upgrade of the connection; (2) charges paid by producers related to ancillary services; (3) specific system loss charges paid by producers”.
 4. That debate was crystallised in CMP261, a methodology change proposal put forward by SSE aimed at refunding generators for an alleged breach of the EU regulation limit in 2015/2016 (which seems to have been caused by exchange rate movements).
 5. After a somewhat convoluted process, Ofgem has today rejected CMP261, determining that the EU regulation applies to wider locational charges net of the residual only, and that local charges (or at least the ones related to offshore windfarm connections) were excluded from the scope of the EU regulation cap on the same basis as connection charges.
 6. As the CUSC Panel had been in favour of CMP261, there might be a right to appeal Ofgem’s decision to the Competition and Markets Authority. And any affected party could seek a judicial review.
 7. Will Ofgem’s decision withstand scrutiny? The document does refer to the characterisation of local circuits as physical assets required for connection to the main interconnected transmission system, as part of its explanation of why local charges are connection charges for the purposes of the EU regulation. There are nits to pick: for example the logic police must have been absent when someone was writing the part of the Ofgem decision document that points to four similarities between local charges and connection charges, and then says “accordingly, there is no reasonable justification for treating most, if not all, local charges differently from” connection charges. But enough for a successful challenge? I doubt it.