

**Before the Competition and Markets Authority**

**3 May 2018**

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**Appeal under Section 173 of the Energy Act 2004**

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**(1) EDF Energy (Thermal Generation) Limited**

**(2) SSE Generation Limited**

**(3) The Entities listed in Schedule 1 to the Grounds of appeal**

Appellants

**-and-**

**The Gas and Electricity Markets Authority**

Respondent

**-and-**

**National Grid Transmission Plc**

Intervener

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**COSTS ORDER**

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UPON EDF Energy (Thermal Generation Limited) (EDF), SSE Generation Limited (SSE) and the entities listed in Schedule 1 to the Grounds of appeal applying for permission on 6 December 2017 to appeal under section 173(4) of the Energy Act 2004 (the Act) the decision dated 16 November 2017 of the Gas and Electricity Markets Authority (GEMA), to reject the Connection and Use of System Code Modification Proposal (CMP) 261: *Ensuring the TNUoS paid by Generatros in GB in Charging Year 2015/16 is in compliance with the €2.5/MWh annual average limit set in EU Regulation 838/2010 Part B(3)*.

AND UPON the CMA granting permission to appeal on 19 December 2017.

AND UPON the CMA granting National Grid Electricity Transmission plc permission to be an intervener in the appeal.

AND UPON considering the submissions made, and hearing the appeal, in the above proceedings, the CMA having made a determination and Order on 26 February 2018 in accordance with section 175 of the Act, that the appeal is dismissed and GEMA's Decision rejecting CUSC CMP261 is confirmed.

AND UPON considering the submissions made on the matter of costs incurred in connection with the appeal, including submissions on the CMA's provisional determination on costs, including *inter partes* costs, and the CMA having made a final determination on costs on 03 May 2018 ('Costs Determination').

IT IS HEREBY ORDERED THAT:

1. SSE and EDF pay £217,453 to the CMA in respect of costs incurred by the CMA in connection with the appeal.
2. SSE and EDF pay [~~£~~] to GEMA in respect of costs incurred by GEMA in connection with the appeal.
3. SSE and EDF are jointly and severally liable for the payments in 1 and 2 above.
4. A person required by this Order to make a payment of costs must do so before the end of the period of 28 days beginning with the day after this Order is made.
5. In default of payment within the period prescribed in paragraph 4 of this Order, interest shall be payable on the sums unpaid at one percentage point above the Bank of England's base rate from time to time in force.

John Wotton  
CMA Group Chairman  
Made: 3 May 2018