







CUSC Modification Proposal Form	At what stage is this document in the process?												
<h1>CMP312:</h1> <p>Mod Title: Correcting erroneous legal text in Section 14 following implementation of CMPs 264/5 (consequential)</p>	<table border="1"> <tr> <td>01</td> <td>Proposal Form</td> </tr> <tr> <td>02</td> <td>Workgroup Consultation</td> </tr> <tr> <td>03</td> <td>Workgroup Report</td> </tr> <tr> <td>04</td> <td>Code Administrator Consultation</td> </tr> <tr> <td>05</td> <td>Draft CUSC Modification Report</td> </tr> <tr> <td>06</td> <td>Final CUSC Modification Report</td> </tr> </table>	01	Proposal Form	02	Workgroup Consultation	03	Workgroup Report	04	Code Administrator Consultation	05	Draft CUSC Modification Report	06	Final CUSC Modification Report
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06	Final CUSC Modification Report												


Purpose of Modification: To address the issue caused to Generator Users liable for demand TNUoS charges which has been created through a clear error in the approved legal text for CMPs 264/5.


	<p>The Proposer recommends that this modification should:</p> <ul style="list-style-type: none"> • proceed to Consultation; and • be treated as urgent and should proceed as such under a timetable agreed with the Authority <p>This modification was raised 22 February 2019 and will be presented by the Proposer to the Panel on 25 February 2019. The Panel will consider the Proposer's recommendation and determine the appropriate route.</p>
	<p>High Impact: Generator Users liable for Demand TNUoS</p>
	<p>Medium Impact</p>
	<p>Low Impact</p>

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 Any questions?


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Timetable

The Code Administrator recommends the following timetable:

Request for Urgency Received	22 February 2019
Panel consideration of Urgency	25 February 2019
Ofgem decision on Urgency	26 February 2019
Publish Code Administrator Consultation (5WDs)	27 February 2019
Code Administrator Consultation closing date	06 March 2019
Draft Modification Report to CUSC Review Panel and Industry (3 WDs)	08 March 2019
CUSC Review Panel Recommendation Vote	14 March 2019
Submit Final Modification Report to Authority	18 March 2019
Authority Decision (7WDs)	28 March 2019
Date of Implementation	29 March 2019

Proposer Details

Details of Proposer: (Organisation Name)	National Grid (Electricity System Operator)
Capacity in which the CUSC Modification Proposal is being proposed: (i.e. CUSC Party, BSC Party or "National Consumer Council")	CUSC Party
Details of Proposer's Representative: Name: Organisation: Telephone Number: Email Address:	Harriet Harmon National Grid (ESO) 07970 458456 Harriet.harmon@nationalgrid.com
Details of Representative's Alternate: Name: Organisation: Telephone Number: Email Address:	Jon Wisdom National Grid (ESO) 07929 375010 jon.wisdom@nationalgrid.com
Attachments (Yes/No): Yes, 1, "Grosstonet DLT.pdf", 1page	

Impact on Core Industry Documentation.

Please mark the relevant boxes with an "x" and provide any supporting information

BSC	<input type="checkbox"/>
Grid Code	<input type="checkbox"/>
STC	<input type="checkbox"/>
Other	<input type="checkbox"/>

We do not consider there to be any cross-code impacts

1 Summary

Defect

An unintended consequence of the text introduced by WACM 4 of CMPs 264/5 is gross charging arrangements being applied to Licensable Power Stations under a BEGA, and Power Stations under a BCA (for the purposes of this CUSC Modification Proposal, “relevant Generators”). The CUSC should be updated to reflect that this was not the intention of CMPs 264/5, is a clear error in the approved legal text and is not a solution to the defect noted under the approved modification(s).

What

This CUSC Modification Proposal only affects TNUoS charging for relevant Generators (as defined in the Defect). No other Parties’ charges are affected by this CUSC Modification Proposal. The Company does not intend to recalculate any tariffs should this modification be approved.

14.17.14 of CUSC should be updated, retrospectively with an implementation date of 1st April 2018, to reflect that for relevant Generators the Chargeable Demand Capacity will be, as previously, based on the average of the **net** import of the relevant BMUs. Retrospective amendment is required to prevent the relevant Generators being subject to gross charges for 2018/19. As demand TNUoS liabilities are incurred at the point of triad, without a retrospective change to the charging methodology, for the year 2018/19, relevant Generators will be charged at a gross level.

Why

Following Authority approval of WACM 4 of CMPs 264/265 in June 2017, the CUSC was updated to reflect a move to gross rather than net TNUoS charging arrangements for demand at Supplier BMUs. The purpose of this modification was to prevent embedded generators being paid by Suppliers for reducing TNUoS liabilities, with such payments being subsidised by consumers.

The Final Modification Report for CMPs 264/5, the Authority Consultation on those modifications, and BSC changes P348/9 speak solely of the effect of these modifications on embedded generation and Supplier demand charges. There is no indication that it was expected that the purpose or outcome of these modifications was that relevant Generators would be charged at a gross level.

This CUSC Modification does not take a position as to the merits of charging relevant Generators at a gross level. It is the Proposer’s opinion that the move to gross charging for all demand was not intended by CMPs 264/5 and is a material change which should itself be the subject of a separate and focused modification, rather than something which happens as a consequence of changes to other arrangements.

An early, indicative view of the financial impact of the gross charging arrangement is a total of c.£30m being charged to relevant Generators, rather than the c.£3m which they would have been liable for under the former net regime. These numbers will be updated over the course of this modification as further data becomes available.

How

Draft legal text has been appended to this Modification Proposal Form but it is intended to replace the reference to 'gross import' within 14.17.14 of CUSC with 'net import' so as to preserve the charging arrangements pre-implementation of CMP264/265 for relevant Generators.

2 Governance

Justification for Urgent & Code Administrator Consultation Procedures

This CUSC Modification Proposal should not be subject to Self-Governance as it has a material financial bearing on the relevant Generators. Owing to the binary nature of the solution – either the Authority approve the modification in which case charges revert to net for relevant Generators, or they reject it in which case charges across all demand are based on gross data – this modification proposal can proceed without a Workgroup, as no WACMs are anticipated. On that basis, it is requested that this CUSC Modification Proposal proceed directly to Code Administrator Consultation.

Urgency has been requested as, whilst CMPs 264/5 were approved in 2017, this is the first year in which reconciliation of all Parties' charges will be based on the new gross methodology and it is the view of the Proposer that no industry party expected the new gross arrangements to apply to the relevant Generators. Without this change, relevant Generators will be subject to additional TNUoS charges for which we believe they have not prepared – this is likely to constitute a windfall loss to those Parties. Given the circumstances at Triad these will be in the order of c.£30m.

Requested Next Steps

This modification should:

- proceed to Consultation
- be treated as urgent and should proceed as such under a timetable agreed with the Authority

A decision on this modification is requested before the 1st April 2019 to ensure The Company can bill affected relevant Generators in the way it is believed was always intended.

3 Why Change?

Following Authority approval of WACM 4 of CMPs 264/265 in June 2017, the CUSC was updated to reflect a move to gross rather than net TNUoS charging arrangements for demand at Supplier BMUs. The purpose of this modification was to prevent embedded generators being paid by Suppliers for reducing TNUoS liabilities, with such payments being subsidised by consumers.

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An early, indicative view of the financial impact of the gross charging arrangement is a total of c.£30m being charged to relevant Generators, rather than the c.£3m which they would have been liable for under the former net regime. These numbers will be updated over the course of this modification as further data becomes available.

4 Code Specific Matters

Technical Skillsets

No Workgroup is anticipated

Reference Documents

Section 14 of CUSC and FMR - CMPs 264/5, Ofgem's Impact Assessment Consultation of the same

5 Solution

14.17.14 of CUSC should be updated to reflect that for relevant Generators, the Chargeable Demand Capacity will be based on the average of the **net** import of the relevant BMUs.

6 Impacts & Other Considerations

Does this modification impact a Significant Code Review (SCR) or other significant industry change projects, if so, how?

This modification is not in scope of either the SCR of residual charging, nor that of access/forward-looking charges. It is not expected to be contingent on any other work, nor is it anticipated being a dependency in any other piece of work.

Consumer Impacts

This CUSC Modification Proposal seeks to revert to the charging methodology pre-implementation of CMPs 264/5 in respect of relevant Generators in order to correct a clear error in the legal text. It is not in the interests of current or future consumers for industry Parties to face unexpected charges as a result of unintended changes to legal text.

7 Relevant Objectives

It is felt that this modification is positive against objective a) and e).

Although the relevant legal text was approved in June 2017, The Proposer believes that Parties are likely only to monitor and review changes to CUSC which will affect their own commercial or legal positions. The relevant Generators may not have been aware of the unintended changes that CMPs 264/5 brought about to their own charging regimes given that this was not the purpose of WACM4 of CMPs 264/5. It is likely that those Parties will not have considered their new TNUoS liabilities in their business plans and that these charges would constitute a windfall loss, distorting competition. On this basis, this CUSC Modification Proposal is positive against objective a).

It is important that the CUSC is changed according to the relevant governance processes and that Parties are aware of changes that affect their businesses. It is equally important that legal text errors where found are addressed. As the implementation of WACM4 of CMPs 264/5 carried an unintended consequence to non-Supplier BMU it is appropriate to rectify the legal text within the CUSC. Gross charging for the relevant Generators was not the focus of any prior consultation either by the Code Administrator or The Authority and is considered to be an erroneous and unintended change. Ensuring that changes managed through the CUSC process are clear to all Parties and that errors are corrected when identified better facilitates objective e).

Impact of the modification on the Applicable CUSC Objectives (Charging):

Relevant Objective	Identified impact
(a) That compliance with the use of system charging methodology facilitates effective competition in the generation and supply of electricity and (so far as is consistent therewith) facilitates competition in the sale, distribution and purchase of electricity;	Positive
(b) That compliance with the use of system charging methodology results in charges which reflect, as far as is reasonably practicable, the costs (excluding any payments between transmission licensees which are made under and accordance with the STC) incurred by transmission licensees in their transmission businesses and which are compatible with standard licence condition C26 requirements of a connect and manage connection);	None
(c) That, so far as is consistent with sub-paragraphs (a) and (b), the use of system charging methodology, as far as is reasonably practicable, properly takes account of the developments in transmission licensees' transmission businesses;	None

(d) Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency. These are defined within the National Grid Electricity Transmission plc Licence under Standard Condition C10, paragraph 1 *; and	None
(e) Promoting efficiency in the implementation and administration of the CUSC arrangements.	Positive
*Objective (d) refers specifically to European Regulation 2009/714/EC. Reference to the Agency is to the Agency for the Cooperation of Energy Regulators (ACER).	

8 Implementation

In order to ensure that relevant Generators are not charged at a gross level for the 2018/19 Charging Year, approval of this CUSC Modification Proposal would need to take place prior to 1st April 2019 and have an implementation date of 1st April 2018. Liability for demand TNUoS takes effect at the point of triad and as such it is not possible to avoid charging under the current methodology unless this change takes effect retrospectively. The Proposer recognises that retrospective changes to charging arrangements are undesirable, however it is necessary in this particular case, in The Proposer's view owing to the exceptional circumstances.

If this CUSC Modification Proposal is not approved with a retrospective implementation date but is otherwise approved for the 2019/20 Charging Year and any subsequent years, The Company requires a decision before, and an implementation date of 1st April 2019.

9 Legal Text

Attached – removes one instance of, “gross”, and replaces one instance of, “gross” with, “net” in 14.17.14

10 Recommendations

Proposer's Recommendation to Panel

Panel is asked to request that this CUSC Modification Proposal is treated as Urgent and agree to issue this modification directly to Code Administrator Consultation.