





CUSC Modification Proposal Form		At what stage is this document in the process?												
<h1 style="color: #00a651;">CMP317:</h1> <p><b>Mod Title:</b> Identification and exclusion of Assets Required for Connection when setting Generator Transmission Network Use of System (TNUoS) charges</p>	<table border="1" style="width: 100%; text-align: center;"> <tr> <td style="background-color: #00a651; color: white;">01</td> <td style="background-color: #00a651; color: white;">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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<p><b>Purpose of Modification:</b> To define, for the purposes of EU regulation 838/2010, which specific elements of generator TNUoS pertain to assets required for connection, which specific elements should therefore be excluded when considering whether generator TNUoS charges fall within the stipulated range of €0-2.50/MWh and to establish a methodology for maintaining compliance in charge setting on an ex ante and an ex post basis. This is necessary as the application of section 14.14.5 (v) of the CUSC no longer ensures compliance with the €0 - €2.5/MWh charge range in future years.</p>														
	<p><b>The Proposer recommends that this modification should be</b> assessed by a Workgroup</p> <p>This modification was raised 21 May 2019 and will be presented by the Proposer to the Panel on 31 May 2019. The Panel will consider the Proposer's recommendation and determine the appropriate route.</p>													
	<p><b>High Impact:</b> Users liable for Generator TNUoS charges, The Company</p>													

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 Any questions?


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## Timetable

*To be updated following CUSC Panel discussions.*

The Code Administrator recommends the following timetable:	
Initial consideration by Workgroup	dd month year
Workgroup Consultation issued to the Industry	dd month year
Modification concluded by Workgroup	dd month year
Workgroup Report presented to Panel	dd month year
Code Administration Consultation Report issued to the Industry	dd month year
Draft Final Modification Report presented to Panel	dd month year
Modification Panel decision	dd month year
Final Modification Report issued the Authority	dd month year
Decision implemented in CUSC	dd month year

**Proposer Details**

<b>Details of Proposer:</b> (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
<b>Details of Proposer's Representative:</b>  Name: Organisation: Telephone Number: Email Address:	Harriet Harmon National Grid (ESO) 07971180392 Harriet.harmon@nationalgrideso.com
<b>Details of Representative's Alternate:</b>  Name: Organisation: Telephone Number: Email Address:	Jon Wisdom National Grid (ESO) 07929 375010 <a href="mailto:Jon.wisdom@nationalgrideso.com">Jon.wisdom@nationalgrideso.com</a>
<b>Attachments (Yes/No): No</b>	

**Impact on Core Industry Documentation.**

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

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

# 1 Summary

## Defect

In accordance with EU regulation 838/2010 (the Limiting Regulation), the average annual transmission charge for all generators must be within a range of €0-2.50/MWh. In establishing the average annual transmission charge for the purposes of this calculation, charges relating to the 'assets required for connection' should be excluded. These are both the assets provided for a connection, and the assets required for the upgrade of a connection. The scope of assets to be excluded has now been established following Ofgem's decision on CUSC Modification Proposal (CMP) 261 and the outcome of the appeal to the CMA of the same decision. This CMP seeks to resolve the following issues:

- The CUSC does not identify which assets should be excluded when considering whether TNUoS charges fall within the stipulated range. The CUSC needs to be updated to establish a methodology by which The Company can determine which assets are to be included, and which are to be excluded, when assessing compliance with the €0-2.50/MWh range;
- Under the current methodology, the total amount to be recovered from Generator Users is calculated, and the residual used to bring charges in line with that total amount; if, for example, solely Offshore Local Tariff revenue is deducted from consideration of the range, the total value to be recovered through Generation TNUoS falls below the lower limit of the Limiting Regulation. The CUSC should therefore also be updated such that the 'residual' element (or any other element having the same effect) of Generator TNUoS charges is calculated after the costs of the assets required for connection have been calculated and removed from the calculation in 14.14.15(v); and
- There is no mechanism within the CUSC for The Company to provide ex-post adjustments to costs in the unlikely event that tariffs are set outside of the range in the Limiting Regulation. This change is needed to allow The Company to set tariffs on an ex ante basis now (using an adjustment factor or generator residual) and in the future preserving predictability for Users. This will need to be considered and created as part of this modification to provide further certainty to Users of how these unlikely events would be administered.

It is not necessary, for the purposes of ensuring The Company's ongoing compliance with the Limiting Regulation, to levy charges to Generator Users which would constitute a significantly greater proportion of total TNUoS recovery than that levied today. Whilst the solution should be determined by the Workgroup, the Proposer is of the view – and has raised this CMP with the intent that - Generator Users should not, through this CMP, be charged more than is necessary to ensure compliance.

## What

Following the Authority's<sup>1</sup> decision in November 2017 to reject CMP261, later upheld by the Competition and Markets Authority<sup>2</sup>, the definition of 'assets required for connection' is broader than those assets classed as transmission connection assets in the GB framework. As a consequence, revenues for offshore radial circuits that feed only generation (sometimes referred to as 'Generator-only spurs' or 'GOS') also need to be excluded from consideration of the applicable range.

The CUSC does not currently identify the assets to be classed as "assets required for connection". The CUSC must now be updated to provide, within Section 14, the criteria by which 'assets required for connection' will be defined. At a minimum, The Company expects this to be Offshore GOS although excluding these, given the relative value of expected additional investment in offshore and onshore transmission, will not in itself maintain ongoing compliance over time with the Limiting Regulation. The Workgroup for this modification will therefore need to consider the most appropriate mechanisms to ensure compliance on an ongoing basis.

Introducing the concept of "assets required for connection", may increase costs to Generator Users as the compliance issue identified by The Company is primarily concerned with the lower end of the range. This is because the scale of investment in offshore circuits in the near term is outweighing the revenue recovered through other means (i.e. charges for onshore) resulting in an average annual charge that is negative when considered against the interpretation established by the Authority Decision and appeal to the Competition and Markets Authority (CMA). The Workgroup should consider a methodology by which Generator charges should be adjusted (through the generator residual or any other adjustment factor) to ensure that compliance is maintained.

## Why

The Company needs to be compliant with the Limiting Regulation when setting and levying transmission tariffs. Changes to the CUSC are required to adopt the interpretation established by the Authority's decision and appeal to the CMA so that The Company can continue to set tariffs in a manner that is compliant with the range within the Limiting Regulation on both an ex ante and ex post basis. Following the CMA appeal the intention of The Company was to allow changes to happen as part of the Targeted Charging Review (TCR), however, The Company now considers that its compliance with the Limiting Regulation is a concern which needs to be addressed within timescales that would not be feasible under the TCR and therefore change is needed now.

## How

Under this CUSC Modification Proposal removal of revenue linked to the definition of "assets required for connection" will be added to the calculation of Maximum Allowed

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<sup>1</sup> [https://www.ofgem.gov.uk/system/files/docs/2017/11/cmp261\\_decision.pdf](https://www.ofgem.gov.uk/system/files/docs/2017/11/cmp261_decision.pdf)

<sup>2</sup> <https://assets.publishing.service.gov.uk/media/5a95295de5274a5b849d3ad0/EDF-SEE-decision-and-order.pdf>

Revenue (MAR) under 14.14.15(v). This will align the CUSC to the broader interpretation of these assets in the Limiting Regulation in accordance with the Authority's decision. This will lead to changes in the manner in which the generator and demand residual charges are calculated. For the avoidance of doubt The Company intends to maintain compliance on an ex ante basis as today. However, the solution will also need to incorporate an "if-needed" process to adjust charges on an ex post basis should the tariffs set on an ex ante basis be non-compliant with the Limiting Regulation when the actual values are used. This is necessary as the ex ante approach contains an error margin but forecasting errors, movement in exchange rates and generator output can all affect the outturn compliance. This error margin will need to be applied to both the upper and lower ends of the range.

## 2 Governance

### Justification for Normal Procedure

This CUSC Modification Proposal will have a material effect on Users' charges and it is therefore inappropriate for it to follow Self-Governance procedures. Owing to the nature of the change, previous history detailed further below and the likely cross-section of views on how The Company can maintain compliance, a Workgroup should be established to further discuss and develop this CMP.

### Requested Next Steps

This modification should: be assessed by a Workgroup under the normal Procedure.

## 3 Why Change?

Until recently, the CUSC has adopted a narrow interpretation of excluded assets for the purposes of 14.14.5(v). This is consistent with The Authority's determination at the point of CMP224 approval. A view on the correct interpretation of the connection exclusion in this Limiting Regulation was not required at the point of CMP224 approval.

In 2016, CMP261 was raised by SSE to address what it perceived to be non-compliance by The Company in respect of the upper limit of the Limiting Regulation. CMP261 alleged that in the Charging Year 2015/16, Generator Users paid c.£120m more than the upper limit of €2.50/MWh permitted. The Authority rejected CMP261 in November 2017 on the grounds that revenue from some offshore local circuits could be excluded from the calculation. Two CUSC Parties, EdF and SSE, referred The Authority's decision to the Competition and Markets Authority (CMA), seeking ultimately to have that decision overturned. The CMA upheld The Authority's original decision. Both the Authority and the CMA confirmed that the correct interpretation of the Limiting Regulation is broad, such that the costs of some generator-only assets (currently in Local Circuit charges) should also be excluded from consideration of the generator charges which fall within the €0-2.50/MWh range.

Per the Authority decision to reject CMP261, some assets are required for the purposes of connection after the initial point of connection - this concept does not currently exist in the CUSC.

In May 2018, The Authority published an open letter<sup>3</sup>, following the conclusion of the CMA hearings, in which the following was noted:

*“We do not think a change to the CUSC charging methodology is needed as an immediate consequence of the CMP261 decision, as long as the current formulae at section 14.14.5 (v) of the CUSC ensures compliance with the €0 - €2.5/MWh charge range. We think that it makes sense to consider and decide on any changes to the CUSC charging methodology alongside the ongoing review of residual electricity network charging, as discussed below.”*

The Company considers that the current formulae at 14.14.5(v) no longer ensures compliance with the range in future years and as such it is appropriate to bring change forward now.

The Company has previously indicated that it would raise a CMP to reflect the interpretation of connection exclusion in accordance with the Authority’s decision in the CUSC. In its open letter of May 2018<sup>4</sup> The Company stated:

*“We will take forward changes to the charging methodology with a view to implementing change by April 2020 and aim to do this in the Autumn once we have Ofgem’s minded to position on the TCR”*

As the Authority’s minded-to position on the TCR was published in November 2018 providing more clarity on the direction of travel The Company feels that it is now in a position to bring forward changes to 14.14.5(v) and assure its compliance more broadly on an ongoing basis.

Whilst, from a timing perspective, aligning changes with the outcomes of the TCR has been considered and would in most cases be preferable, it should be noted that this CMP pertains to a compliance issue faced by The Company which may not be satisfactorily resolved through, and would be present irrespective of, the TCR. The Company therefore considers that raising this now is the correct approach.

This CMP does not seek to address any of the issues noted in the current Significant Code Reviews; either the TCR or the work within Access and Forward Looking Charges.

## 4 Code Specific Matters

### Technical Skillsets

Familiarity with the correct interpretation of EU Regulation 282/2010 (Part B)

Working knowledge of charging arrangements for Generator Users

### Reference Documents

CMP224 FMR: <https://www.nationalgrideso.com/document/6951/download>

CMP261 FMR: <https://www.nationalgrideso.com/document/8801/download>

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<sup>3</sup> [https://www.ofgem.gov.uk/system/files/docs/2018/05/cmp261\\_update\\_letter\\_3\\_may.pdf](https://www.ofgem.gov.uk/system/files/docs/2018/05/cmp261_update_letter_3_may.pdf)

<sup>4</sup> <https://www.nationalgrideso.com/document/115801/download>

Authority decision 261

[https://www.ofgem.gov.uk/system/files/docs/2017/11/cmp261\\_decision.pdf](https://www.ofgem.gov.uk/system/files/docs/2017/11/cmp261_decision.pdf)

Authority open letter:

[https://www.ofgem.gov.uk/system/files/docs/2018/05/cmp261\\_update\\_letter\\_3\\_may.pdf](https://www.ofgem.gov.uk/system/files/docs/2018/05/cmp261_update_letter_3_may.pdf)

The Company open letter <https://www.nationalgrideso.com/document/115801/download>

## 5 Solution

Section 14 of CUSC needs to provide a set of criteria, or a methodology for the assignment of assets as being either in or out of scope of the Limiting Regulation. This will then allow the MAR to be adjusted in the calculation in 14.14.5 (v) and charges re-calculated for User's appropriately to allow The Company to maintain compliance with the regulation. Additionally, the modification should consider how The Company can maintain compliance both through the ex ante charge setting process and through ex post adjustments if necessary in the unlikely event of generation tariffs that are set outside the range specified in the Limiting Regulation.

Whereas CMP224 targeted compliance with the upper limit of the regulation The Company does not need to take this approach once assets required for connection have been removed and therefore moving generator charges significantly is not a required element of this solution.

## Impacts & Other Considerations

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

There is an interaction between this CUSC Modification Proposal and Ofgem's Targeted Charging Review, under which the current (at time of drafting) minded-to position is for a £0 Generator Residual charge. The Proposer considers that as the residual charge is not the Defect to be addressed by this Proposal, it is appropriate to raise this change now as continued compliance with the Limiting Regulation is crucial to The Company and an area of particular interest and uncertainty within the market.

### **Consumer Impacts**

Consumer TNUoS values may be affected as where Generator TNUoS increases/decreases there is a commensurate decrease/increase in Demand TNUoS. However, this is not expected to translate into an immediate consumer impact as the Proposer's intention is for a minimal change and appropriate notice and/or staggered implementation approach of these changes to be given to all Parties allowing consideration of these costs within Users' businesses.



## 7 Relevant Objectives

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;	None
(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;	Positive
(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	Positive
(e) Promoting efficiency in the implementation and administration of the CUSC arrangements.	None
*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).	

This CUSC Modification Proposal ensures that the CUSC takes proper account of the Limiting Regulation by removing revenues associated with assets which are required for connection from the calculation in 14.14.5 (v). This takes account of developments in the licensee's business and is better than the baseline in terms of ensuring compliance with the Limiting Regulation on an ongoing basis. Ensuring the ex ante charge setting arrangements continue to allow The Company to maintain compliance and the introduction of an ex post mechanism for corrections to be made if charges are set

outside of the range will further take account of developments in the licensee's business.

## 8 Implementation

Due to the impact on Users liable for Generator TNUoS charges, The Proposer considers that implementation timescales should be carefully considered by the Workgroup and therefore proffers no particular date. As with CMPs 264&265, which materially affected credits for embedded generators, a phased implementation approach for the solution of this CMP may be preferable, in order to provide Generator Users sufficient time for business readiness.

## 9 Legal Text

The Proposer believes it is likely that this CUSC Modification Proposal will develop over time such that there are various alternatives/WACMs and as such has not included draft legal text at this time.

## 10 Recommendations

### Proposer's Recommendation to Panel

Panel is asked to refer this proposal to a Workgroup for assessment.