

CUSC Modification Proposal Form		At what stage is this document in the process?												
<h1 style="color: #00a651;">CMP342</h1> <h2>Clarification of VAT for Securities in the CUSC</h2>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center; width: 30px;">01</td> <td style="background-color: #00a651; color: white; text-align: center;">Proposal Form</td> </tr> <tr> <td style="text-align: center;">02</td> <td style="text-align: center;">Workgroup Consultation</td> </tr> <tr> <td style="text-align: center;">03</td> <td style="text-align: center;">Workgroup Report</td> </tr> <tr> <td style="text-align: center;">04</td> <td style="text-align: center;">Code Administrator Consultation</td> </tr> <tr> <td style="text-align: center;">05</td> <td style="text-align: center;">Draft CUSC Modification Report</td> </tr> <tr> <td style="text-align: center;">06</td> <td style="text-align: center;">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> This modification seeks to clarify, and confirm the position that NGESO has always applied, that when calculating the amount Users are required to secure under the CUSC, the amount of applicable Value Added Tax is to be included.</p>														
	<p><b>The Proposer recommends that this modification should be:</b></p> <ul style="list-style-type: none"> <li>subject to Self-Governance</li> <li>proceed to Code Administrator Consultation</li> </ul> <p>This modification was raised 13 May 2020 and will be presented by the Proposer to the Panel on 29 May 2020. The Panel will consider the Proposer’s recommendation and determine the appropriate route.</p>													
	<p><b>Low Impact All Users</b></p>													

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6	Impacts & Other Considerations	5	 07973 915455
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8	Implementation	6	 <a href="mailto:jon.wisdom@nationalgrideso.com">jon.wisdom@nationalgrideso.com</a>
9	Legal Text	6	 07929 375010
10	Recommendations	7	 <a href="mailto:jon.wisdom@nationalgrideso.com">jon.wisdom@nationalgrideso.com</a>
			 07929 375010
Timetable			
<b>The Code Administrator recommends the following timetable:</b>			
Code Administrator Consultation	5 to 26 June 2020		
Draft Final Modification Report presented to Panel	23 July 2020		
Modification Panel decision	31 July 2020		
Final Modification Report issued to Panel to check votes have been recorded correctly	4 August 2020		
Appeals Window (15 working days)	12 August 2020 to 3 September 2020		
Decision implemented in CUSC	4 September 2020		

**Proposer Details**

<b>Details of Proposer:</b> (Organisation Name)	Nick George, National Grid ESO
Capacity in which the CUSC Modification Proposal is being proposed: (i.e. CUSC Party, BSC Party or "National Consumer Council")	Electricity System Operator
<b>Details of Proposer's Representative:</b>  Name: Organisation: Telephone Number: Email Address:	Nick George National Grid ESO 07973 915455 nick.george@nationalgrideso.com
<b>Details of Representative's Alternate:</b>  Name: Organisation: Telephone Number: Email Address:	Greg Hunt National Grid ESO 07790 946535 gregory.hunt@nationalgrideso.com
<b>Attachments (Yes/No):</b> No	
<b>If Yes, Title and No. of pages of each Attachment:</b> N/A	

**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"/>

(Please specify)

No other Codes anticipated to be impacted

## 1 Summary

### Defect

CUSC includes requirements for Users to provide security for certain charges. The intention and practise is that NGESO includes the applicable VAT when calculating the amount to be secured, as the amount payable by a User to NGESO includes payment of VAT. A User has queried NGESO's right to request security for the VAT element of the charges. To ensure current and future parties fully understand their obligations, NGESO believe a modification to the code to clarify this provision is appropriate.

### What

The relevant provisions of code that need amending are:

- Section 2, Part III - security for Terminations Amounts, relating to Connection Charges
- Section 3, Part III – security for BSUOS and TNUOS Demand Charges
- Section 15, Part Three – security for Cancellation Charges for generators terminating pre-connection
- Schedule 2, Exhibit 3 – security for Final Sums for demand customers terminating pre-connection

### Why

The security requirements provide financial security from Users for all or a proportion of charges, reducing the financial risk on all other Users from a User defaulting on payment obligations. In the event of a User defaulting, the VAT must still be paid to HMRC, and therefore it is important when calculating the amount a customer secures that it includes the applicable VAT. This has always been NGESO's practice (for the avoidance of doubt, including its predecessor, National Grid Electricity Transmission plc).

### How

CUSC already makes it clear that charges are subject to VAT. The relevant sections above will have wording included to make it clear that the security calculation is based on the relevant charge including the applicable VAT.

## 2 Governance

### Justification for Self-Governance Procedure

As the modification proposal clarifies current practise and does not change existing liabilities for Users the Proposer believes that self-governance is the most appropriate route.

### Requested Next Steps

This modification should:

- be subject to self-governance
- proceed to Code Administrator Consultation

### 3 Why Change?

This modification clarifies the position on VAT and securities, confirming the approach that NGESO has always taken when calculating the amount to be secured. A User has queried NGESO’s right to request security for the VAT element. This modification proposal will ensure that there is no ambiguity possible when interpreting the CUSC in relation to calculating the amount to be secured and VAT.

### 4 Code Specific Matters

#### Technical Skillsets

None

#### Reference Documents

None

### 5 Solution

The changes set out in Section 9, Legal Text, are made to clarify that the amounts Users are required to secure shall include the applicable VAT.

### 6 Impacts & Other Considerations

None

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

No

#### Consumer Impacts

None – it confirms the current position on securities, which are in place to ultimately protect consumers.

### 7 Relevant Objectives

#### Impact of the modification on the Applicable CUSC Objectives (Standard):

Relevant Objective	Identified impact
(a) The efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission Licence;	Positive

(b) Facilitating effective competition in the generation and supply of electricity, and (so far as consistent therewith) facilitating such competition in the sale, distribution and purchase of electricity;	Positive
(c) Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency *; and	None
(d) Promoting efficiency in the implementation and administration of the CUSC arrangements.	Positive
*Objective (c) refers specifically to European Regulation 2009/714/EC. Reference to the Agency is to the Agency for the Cooperation of Energy Regulators (ACER).	

This modification clarifies the position on securities, allowing NGESO to efficiently administer the securities processes and ensure all Users secure on a consistent basis, protecting other Users, and ultimately consumers.

## 8 Implementation

NGESO seeks implementation of the modification as soon as possible, to ensure that there is no ambiguity possible when interpreting the CUSC and it can take prompt action where a User defaults in providing the required security amount, including for any applicable VAT.

## 9 Legal Text

The proposed revised legal text is as follows:

- In paragraph 2.21.2(a), insert “(inclusive of any applicable **Value Added Tax** that would be due)” immediately after “in respect of **Termination Amounts**”
- In paragraph 3.23.2, insert a new sub-paragraph (e):
  - “(e) any applicable **Value Added Tax** that would be due on the amounts referred to in this Paragraph 3.23.2”
- In Section 15, Part 3, insert new paragraph 3.4:
  - “3.4 The **Cancellation Charge Secured Amount** shall be calculated using the **Cancellation Charge** inclusive of any applicable **Value Added Tax** that would be due.”
- In Schedule 2, Exhibit 3, Part 2:
  - In Clause 9A.1.4, insert “(inclusive of any applicable **Value Added Tax** that would be due)” immediately after “The security to be provided shall be in an amount not greater than such sums payable on termination”
  - In Clause 9B.2.1, insert “(inclusive of any applicable **Value Added Tax** that would be due)” immediately after “in respect of **Final Sums** and **The Company Engineering Charges** and other expenses in relation to seeking **Consents** referred to in Clause 2.4 of this **Construction Agreement**”

## 10 Recommendations

### Proposer's Recommendation to Panel

Panel is asked to:

- Agree that Self Governance procedures should apply
- Issue this modification directly to Code Administrator Consultation