CUSC Code Administrator Consultation Response Proforma

CMP317 - Identification and exclusion of Assets Required for Connection when setting Generator Transmission Network Use of System (TNUoS) charges; and CMP327 - Removing Generator Residual Charges from TNUoS (TCR)

Industry parties are invited to respond to this consultation expressing their views and supplying the rationale for those views, particularly in respect of any specific questions detailed below.

Please send your responses to cusc.team@nationalgrideso.com by **5pm** on **20 July 2020**. Please note that any responses received after the deadline or sent to a different email address may not receive due consideration by the Panel.

If you have any queries on the content of this consultation, please contact Joe Henry joseph.henry2@nationalgrideso.com or cusc.team@nationalgrideso.com.

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For reference the applicable CUSC objectives are:

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;*

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);*

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;*

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*

e. *Promoting efficiency in the implementation and administration of the CUSC arrangements.*

**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).*

Please express your views in the right-hand side of the table below, including your rationale.

Standard Code Administrator Consultation questions		
1	Do you believe that the CMP317/327 Original solution, or any WACMs better facilitate the Applicable CUSC Objectives?	**Overall View:** Below, we offer our views on the various modules which has informed our assessment of the Original and 83 WACMs. For the reasons set out below, we consider that the **Original** better facilitates applicable objectives (a), (b), (c) and (e). **WACM's 7** and **14** differ from the Original only in the definition of assets. Therefore, they have aspects which better facilitate objectives (a), (b), (c) and (e). They also have aspects which perform negatively against objectives (c) and (e). Overall, whilst we consider they would need further refinement in the future, we believe they better facilitate the applicable objectives. All of the other WACM's have negative aspects which outweigh any positive aspects and we do not believe they better facilitate the objectives overall. **Definition of Assets:** We consider that the connection exclusion in Regulation 838/2010 is not easily translated to standardised industry terms. Therefore, any definition which seeks to translate it to standard terms will need to be kept under review by industry to ensure that the correct application of the exclusion is maintained as the transmission system or the charging methodology develops. We believe that the definition that facilitates compliance with regulation 838/2010 is to exclude "**All Local Circuits and Substations**". This simple definition most closely matches the need to exclude all "*charges paid by producers for physical assets required for connection to the system or the upgrade of the connection",* and therefore better facilitates objective (c) by properly taking account of developments in the licensee's business. This definition is also the most future proof, therefore better facilitating objective (e). However, even this definition will need to be kept under review to ensure the correct application of the exclusion is maintained over time. Whilst the "**Generation Only Spurs**" definition will capture assets that are within the exclusion, it will not capture charges for *all* relevant assets. We do not agree with the proposed principle that should a generation only spur become a shared asset, charges for it would cease

		to be within the exclusion. The CMA made clear that "*connecting equipment does not cease to be an asset required for connection, following the initial act of connecting*" and it follows that it also does not cease to be an asset required for connection following the act of a subsequent connection which makes the asset a shared asset. Therefore, a Generation Only Spur definition performs negatively against objective (c), because it does not *properly* take account of developments in the licensee's business, and also against objective (e) since it will be much more likely to require further amendment in the future. The definition "**All local circuits & local substations except for pre-existing assets and shared assets**" performs negatively against objectives (c) and (e) for the same reasons. **Target Level:** The '**No Target**' option better facilitates objectives (a), (b) and (c). It better facilitates objective (a) since a negative Transmission Generation Residual (TGR), or equivalent adjustment, is not conducive to the effective functioning of the wholesale market and creates a distortion between transmission and distribution connected generation. The no target options minimise the need for a compliance adjustment (which acts in an identical manner to a negative TGR). The No Target option better facilitates objective (b) because a negative TGR (or other adjustment with the same effect) distorts the cost reflective element of the TNUoS tariff. Removing it to the extent possible will help to ensure Generators face the full cost reflective charge. The No Target option better facilitates objective (c) because the modification has a dual objective which is to achieve legal compliance and deliver the TCR decision (to remove the negative residual and charge Generators <u>all applicable charges</u>). Only options which do not have a target deliver the TCR decision, by delivering both elements, and ensure a compliant regime and so better facilitate objective (c). All of the options which include a target, ranging between €0/MWh to €1.25/MWh, do not deliver the TCR decision as they do not ensure Generators are charged all applicable charges, and therefore do not better facilitate

		objective (c). They will also maintain a much larger than necessary distortion between transmission and distribution connected generation and prevent Generators from facing the full cost reflective charge. **Error Margin:** We believe an error margin without targeting an amount within the allowed range will deliver the dual objective of compliance with 838/2010 whilst charging generators all applicable charges and therefore better facilitates objectives (a), (b) and (c) for the same reasons as above. Since the options that do not include an error margin also include a target which, by design, will make it much more likely (potentially inevitable) that generators do not face all applicable charges, they fail to deliver the TCR decision and perform negatively against objective (c). **Phasing:** Full implementation from 1 April 2021 is required by the TCR decision and CUSC Direction. Although, given this clarity, parties' views are of limited relevance we confirm we support full implementation from 1 April 2021. Full implementation in April 2021 will also reduce the distortion between transmission and distribution connected generators sooner (although we note it will not remove it) and will improve the cost reflectivity of the resulting charges. Therefore, options with no phasing better facilitate objectives (a), (b) and (c). We do not support phased/transitional arrangements as these would be inconsistent with the TCR Decision and CUSC Direction and therefore perform negatively against objective (c) and objective (a). Ofgem has clearly signalled its intent to remove the negative TGR for a number of years (see answer to question 2 for further details) and expressly ruled out transitional arrangements in its minded-to decision for the TCR*. Therefore, to implement the TCR decision in a phased manner at this point would significantly undermine the regulatory predictability which market participants rely on, damaging competition, and would also increase consumer costs by c. £500m** compared to a 2021 implementation.

		* paragraphs 7.10 – 7.19 TCR Minded-to Decision ** See Table 15 TCR Final Decision **BSC costs and Congestion Costs:** These costs are not relevant to the setting of TNUoS charges and therefore options which incorporate them do not better facilitate objective (b), by distorting cost reflectivity, and objective (e) by adding additional complexity to the TNUoS methodology. **2 Step process:** We do not understand the rationale for the 2 step process and do not support it since it is only applicable with options which include a target within the €0 - €2.50/MWh range. We consider it performs negatively against objective (e).
2	Do you support the proposed implementation approach?	Only 2021 implementation in full is consistent with the TCR decision and market participant expectations. As set out above, Ofgem has clearly signalled its intent to remove the negative TGR for a number of years and expressly ruled out transitional arrangements in its minded-to decision for the TCR. Market participants, relying on the principle of regulatory predictability, will have made significant commercial decisions assuming that Ofgem will follow through with its intention, and now decision, to remove this distortion. Any delay to the TCR decision to remove the negative generation residual in full from April 2021 will not only increase consumer costs by c. £500m/yr, but will also damage the principle of regulatory predictability upon which market participants rely, ultimately to the further detriment of consumers. We do not believe that the comments in the workgroup report which suggest that maintaining a similar revenue recovery from transmission connected generators as we see today "*would be within the limits of reasonable forecast uncertainty"* are credible. Similarly, we do not believe the rationale for transitional approaches which are based on "*the prior expected residual tariff*" in Charging Years 21/22 or 22/23 are credible. Ofgem has been clear about its intentions to remove the generation residual and market participants will have relied on this and factored it into their forecasts and commercial

		decisions. As Ofgem set out in its TCR decision: "*We would expect that prudent investors are expecting or anticipating that such changes could be introduced, and will have factored them into their decision making.*" Below we set out the instances where Ofgem have signalled to the market about the removal of the Negative Generation Transmission Residual: July 2016: Open letter: Charging arrangements for embedded generation August 2016: CMP255 Decision December 2016: Update on charging arrangements for Embedded Generation March 2017: Targeted Charging Review: a consultation August 2017: Targeted Charging Review - Significant Code Review launch statement November 2017: Targeted Charging Review: Update on approach to reviewing residual charging arrangements November 2017: CMP261 Decision May 2018: Open letter following Ofgem's decision to reject CMP261 November 2018: Targeted charging review: minded to decision and draft impact assessment May 2019: Update on timing and next steps on Future Charging and Access reforms November 2019: Targeted charging review: decision and impact assessment
3	Do you have any other comments?	It would be ill-advised to make fundamental changes to the Transmission Charging methodology with relation to the range, that go beyond what is required for compliance, given the uncertainty surrounding how long the €0 – 2.50/MWh range will endure. **Uncertainty over the €0 – 2.50/MWh range** The €0 – 2.50/MWh range was initially intended to cover the period to the end of 2014 and the Regulation explicitly required ACER to recommend to the Commission new ranges that should apply after 1 January 2015. ACER's Opinion No 09/2014 published in April 2014 provided this recommendation: • *Different levels of power-based G-charges (€/MW) or of lump-sum G-charges, as long as they reflect the costs of providing transmission infrastructure*

		services to generators, can be used to give appropriate and harmonised locational signals for efficient investments in generation, e.g. to promote locations close to load centers or where the existing grid can accommodate the additional generation capacity with no or minimal additional investments. • *The Agency therefore considers it unnecessary to propose restrictions on cost reflective power-based G-charges and on lump-sum G-charges.* ACER reaffirmed this position in its December 2015 paper on tariff structure harmonisation: • *The existing policies and regulations, supported by the amendment to Commission Regulation (EU) No 838/2010 in line with Agency's Opinion No 09/2014, are currently sufficient to prevent potential negative effects.* Whilst the Commission has yet to amend regulation 838/2010 in line with the ACER recommendation, neither has it rejected it and the Opinion remains ACER's latest view on the appropriate restrictions for transmission charges. Considering this uncertainty surrounding the lifespan for the current range, it would be ill-advised to make significant and fundamental changes to the Transmission Charging methodology, that go beyond what is required for compliance, by specifically targeting a level within the range or, as has been considered in the workgroup report, by making changes to the reference node with the sole aim of achieving a level of generation revenue within the current range.