

CUSC Workgroup 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 the Generator Residual from TNUoS Charges (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 by **5pm** on **12 March 2020** to cusc.team@nationalgrideso.com. Please note that any responses received after the deadline or sent to a different email address may not receive due consideration by the Workgroup.

Any queries on the content of the consultation should be addressed to Paul Mullen at paul.j.mullen@nationalgrideso.com or cusc.team@nationalgrideso.com.

Respondent:	<i>Simon Vicary (simon.vicary@edfenergy.com)</i>
Company Name:	<i>EDF Energy Customers Limited</i>
Please express your views regarding the Workgroup Consultation, including rationale. (Please include any issues, suggestions or queries)	

Standard Workgroup Consultation questions

Q	Question	Response
1	<i>Do you believe that CMP317/CMP327 Original Proposals better facilitates the Applicable CUSC Objectives?</i>	<p>The CMP317/327 Original does not attempt to address key issues that clearly do need to be addressed based on the TCR Direction, the CMP261 determination and subsequent CMP261 CMA Appeal decision.</p> <p>The NGESO proposes an 'assets required for connection' approach which will incorrectly exclude both shared and pre-existing local assets from the Limiting Regulation compliance calculation. The term "pre-existing system" was first used by Ofgem in its CMP261 Decision document, and was used</p>

subsequently by the CMA in its decision, at paragraph 5.94, on the Appeal of CMP261: *“It seems to us that ‘the system’ here must mean the system as it exists at the point that a new Generator wishes to be connected to it. Any assets that are then required by that new Generator for connection to that pre-existing system (such as Offshore GOS in the case of a new windfarm) are ones that fall within the Connection Exclusion, and such assets continue to be required by that Generator for connection to the pre-existing system even once the Generator is operational..”* The CMA went on to state in

5.82 : *“The parties agreed that the interpretation of an EU instrument could not ordinarily depend on the approach taken in domestic law. We were referred to the Monsanto judgment of the CJEU, in which it was said that: The need for the uniform application of Community law and the principle of equality require that the terms of a provision of Community law which...makes no express reference to the law of the Member States for the purpose of determining its meaning and scope must normally be given an autonomous and uniform interpretation throughout the Community, which must take into account the context of that provision and the purpose of the legislation in question.”* We believe this reinforces the need for the development of a robust compliant solution rather than one that just appears to be based on a simplistic overlay with the current structure of domestic regulations.

It is on this basis that we have considered facilitation of the Applicable CUSC Objectives.

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;*

No, although this change proposal is intended to remove distortions between transmission and distribution connected generations in GB the erroneous definition of what’s included and excluded from the controlled amount, will differ from the overseas European interpretations of the

		<p>same instrument, so that the original would damage competition between generators across the EU through an incorrect interpretation.</p> <p>b) <i>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);</i></p> <p>Marginally, no. Although the cost reflective locational charges are themselves unchanged, the erroneous definition of what's included and excluded from the controlled amount, risks a misinterpretation of what is transmission so that charges are not correct in terms of the EC limiting regulation</p> <p>c) <i>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;</i></p> <p>No, because the erroneous definition in the Original of what's included and excluded from the EC controlled amount, would create a misinterpretation of what is transmission</p> <p>d) <i>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</i></p> <p>No, because the erroneous definition of what's included and excluded from the controlled amount, will differ from the overseas European interpretations of the same instrument, so that the original would damage competition across the EU through an incorrect interpretation</p> <p>e) <i>Promoting efficiency in the implementation and administration of the CUSC</i></p>
--	--	--

		<p><i>arrangements.</i></p> <p>No, because the erroneous definition of what's included and excluded from the controlled amount, would represent inefficient maladministration</p> <p><i>*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).</i></p>
2	Do you support the proposed implementation approach?	<p>No. Ofgem provided industry with a range of possible implementation dates and therefore it was impossible to reflect this uncertainty within commercial arrangements, specifically Capacity Market Auction bids. The proposed implementation date of 1st April 2021 was given in Ofgem's November 2019 TCR Decision. This notice was too late for generators that had already been successful in the Capacity Market auction for the 2021/22 delivery year. We believe that an implementation date of 1st April 2022 is more appropriate, as this would better align with the auctions for the 2022/23 taking place after the TCR decision was published.</p> <p>A delay to April 2022 is also more likely to align with the implementation of further BSUoS reform following conclusion of the second Task Force, which is expected to align charges between Transmission-connected and Distribution-connected generation.</p>
3	Do you have any other comments?	Please note that we attach a lot of weight to our reply to question 11.
4	Do you wish to raise a Workgroup Consultation Alternative Request for the Workgroup to consider?	Not at this time.

Specific CMP317/327 questions

Q	Question	Response
5	<p><u>Definition of physical assets required for connection to the system</u></p> <p>a) Do you agree with the three options identified in Section 4,</p>	<p>As stated in our answer to question 1, we believe that the only correct definition of physical assets required for connection includes both shared and pre-existing local assets in the Limiting Regulation compliance calculation.</p> <p>In January 2020 the UK Government announced that</p>

	<p>Paragraphs 2.1-2.4? If so, which do you prefer, and why?</p> <p>b) Is there another option you think should be considered, and why? Please provide evidence if possible.</p>	<p>they are considering various changes to ensure the CfD scheme is able to support the increase in ambition needed to deliver the government’s 2050 net zero target.</p> <p>https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/869778/cfd-ar4-proposed-amendments-consultation.pdf</p> <p>Following this Ofgem published their Decarbonisation Programme Action Plan in February stating in it that “To achieve net zero will require a huge increase in renewable and low carbon electricity, especially to meet new sources of demand such as electric vehicles”. They go on to say “The current frameworks relating to developing and connecting offshore wind generation need to be reviewed in light of the government’s expectations for offshore wind. In 2019, the government stated its ambition of achieving a significant increase in offshore wind capacity by 2030 from the level of around 10GW currently. We do not consider that individual radial offshore transmission links for this amount of offshore generation are likely to be economical, sensible or acceptable for consumers and local communities. We are therefore working with government and industry to review the frameworks for connecting offshore wind generation and will explore whether a more coordinated offshore transmission system could reduce both financial and environmental costs”.</p> <p>https://www.ofgem.gov.uk/system/files/docs/2020/02/ofg1190_decarbonisation_action_plan_revised.pdf</p> <p>This indicates that the materiality of failing to use the correct definition of physical assets required for connection is due to be very significant in future so the CMP317/327 solution must include both shared and pre-existing local assets in the Limiting Regulation compliance calculation.</p>
6	<p><u>Amount targeted (G average)</u></p> <p>a) Do you agree with the four options highlighted in section 4, paragraph 3 for where in the range set out by the Limiting Regulation should be targeted? If so, which do you prefer and why?</p>	<p>The ESO, in their original solution, have put forward that there should be no targeting within the range. However, the workgroup has also considered alternative targets, based on an interpretation that the ability to use an alternative negative adjustment, instead of a negative TGR, allows these to be within scope.</p> <p>If the requirement is for TGR=0 with the minimum negative adjustment for compliance, then there should be no targeting within the range. This would be consistent with 7.14 (g) of the CMA decision that Ofgem (GEMA) had stated that “€2.5/MWh is a cap,</p>

	<p>b) Is there another option you think should be considered, and why? Please provide evidence if possible.</p>	<p><i>rather than a target. GEMA does not have a policy of imposing the maximum transmission charges possible under the Regulation. GEMA submitted that it had been seeking to prevent a breach of the Cap rather than aim for a charge of €2.5/MWh.</i></p> <p>However, there is a clear argument that targeting €0/MWh would achieve comparability with the approach taken to transmission charging in other electricity markets across the European Union.</p> <p><i>On this basis it seems that there is insufficient clarity in the Ofgem TCR decision documents to clearly guide the workgroup so it would be helpful if Ofgem could provide direct guidance on this matter.</i></p>
7	<p><u>Error Margin</u></p> <p>a) Do you agree with the two options highlighted in section 4, paragraph 4 in regards to the inclusion of an error margin?</p> <p>b) Is there another way to calculate the methodology for an Error margin? Please provide evidence if possible.</p>	<p>Both error margin options seem reasonable using the most appropriate options put forward as workgroup alternatives. For example, an error margin would not be required when targeting either €0.00/MWh, €0.50/MWh or €1.25/MWh but would be necessary for the NGESO Original approach.</p>
8	<p><u>Implementation</u></p> <p>The workgroup has identified a phased implementation approach may be preferable. Do you agree with this position or not, and if so, why? Please provide evidence if possible.</p>	<p>We consider it appropriate to phase the implementation of this very material change, which is consistent to other material network charging reforms such as CMP264/5. Ofgem stated in their decision letter for CMP264/5 that <i>“Allowing a phased introduction of this significant change will provide time for investors and generators to adapt their despatch and business models.”</i></p> <p>There is also credible evidence from respectable trade/industry commentators that clearly shows participants failed to correctly understand Ofgem’s determination to set TGR=0. This has led to underestimating the potential impact on generators.</p>
9	<p><u>Modules</u></p> <p>The workgroup have identified a number of permutations in Section 4, Paragraph 8 that could work as possible alternative solutions.</p>	<p>The permutations all seem reasonable. However, we would prefer options that have a phased implementation approach in a similar way as was used for CMP264/5 where Ofgem stated in their decision letter that <i>“Allowing a phased introduction of this significant change will provide time for investors and generators to adapt their despatch and business</i></p>

	<p>a) Do you think any of the modular combinations are incompatible?</p> <p>b) Is there an additional module combination that you think should be considered? If so, please provide justification.</p>	<p><i>models.”</i></p>
10	<p>In section 4 paragraph 2.2.6 and 2.5.3, the workgroup has identified its proposed approaches to island links. Do you agree or disagree with any of these suggested approaches? Please provide justification.</p>	<p>The expected Scottish Island links are all, if constructed, to be shared, not sole use. They also are most likely to be connected so as to serve demand, not just generation, and are certainly not for the purpose of a sole connected generator. The workgroup approach appears to conflict with the approach agreed at the CMA. It is incontrovertibly the case that the cost of local circuit charges related to these island links must be included in the Limiting Regulation compliance calculation.</p> <p>We believe that the correct definition of physical assets required for connection is that which includes the charges for both shared and pre-existing local assets in the Limiting Regulation compliance calculation (i.e. shared and pre-existing local assets are not part of the Connection Exclusion). This means that the charges for local circuits and substations in respect of island links, or other physical assets, used by demand, or other Generators, must fall within the scope of the amount controlled by the Limiting Regulation.</p> <p>Regardless of any estimate of the current materiality it is necessary for the solution to be fully compliant, rather than an expedient, non-compliant solution based on a simplistic overlay onto the current structure of domestic regulations.</p>
11	<p>In section 4 paragraph 6, the workgroup has identified its consideration of the Reference Node.</p> <p>a) Do you have any evidence that would support solutions which include the Reference Node?</p>	<p>In our view these modifications will deliver a sub-optimal solution, and may not be necessary for compliance with the EU limiting regulation, if the work planned under the review of access and forward-looking charges (RAFLC) to review the reference node is not taken forward to the same timeframe.</p> <p>The solution envisaged as part of the RAFLC review, would mean changing the ‘demand-weighted average reference node’ to a ‘generation-weighted average reference node’, on an annual basis. This is due to be investigated as part of the significant code review core of RAFLC, yet if that is not taken forward on an</p>

<p>b) Do you have any views on the Workgroup progressing this work alongside the Access and Forward Looking Charges SCR?</p>	<p>appropriate timeframe, there is a risk of two changes in a short period of time – CMP327 and then the change of reference node – causing big swing impacts on parties that could have been avoided had the change of reference node work been taken forward on a compatible and suitably-paced timeframe. This would avoid damaging and avoidable effects on investor certainty, as shifting the average reference node further ‘north’ in the GB charging model by way of a generation-weighted approach, would reduce locational generator tariffs on average, and make locational demand tariffs more positive. If the reference node change was taken forward alongside CMP327, the outcome of the two together would far better address the defect of a negative TGR not accessible to distribution connected, in a way that was much less disruptive. Deferral of the implementation date of CMP327 by one year would help in this highly desirable alignment.</p> <p>This represents the only available means of enabling TGR=0 to be met on a sustainable, enduring, stable basis, that does not require a new, material, increasingly negative adjustment, or other changes in future years, which is otherwise an inevitable consequence of CMP327.</p> <p>It would ensure fair, level and efficient competition between generators transmission and distribution connected generators, those in the EU and GB, with consumers benefiting as whole-system costs will be minimised, and competition maximised.</p> <p>Timely work on the reference node at a timeframe that is compatible with CMP327 would avoid a step change in charges to either side of the market, as opposed to an undesirable outcome where material CMP327 changes are quite quickly “unwound” by subsequent RAFLC SCR changes to the choice of reference node.</p> <p>Additionally, we believe that it would resolve the negative demand locational tariff issue which occurs due to the TCR decision on TDR.</p>
--	---