

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.

Respondent details	Please enter your details
Respondent name:	Paul Youngman
Company name:	Drax
Email address:	paul.youngman@drax.com
Phone number:	07738802266

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	<p>Do you believe that the CMP317/327 Original solution, or any WACMs better facilitate the Applicable CUSC Objectives?</p> <p>We do not believe that the original CMP317/327 solution is better than the baseline arrangements or other WACMs that have been developed by the workgroup.</p> <p>We support WACM73 which facilitates applicable objectives D, A and B and we believe fulfils the overall objective of this CUSC modification to ensure compliance with EU legislation. This includes the electricity directive and recast¹ thereof (2019/944) and the limiting regulation EU838/2010². This regulation defines the lawful range of average generation charges that can be applied to GB generators (€0 - 2.50/MWh).</p> <p>The objective of the EU legislation is to reduce barriers to competition between member states and ensure that there is movement towards common price ranges for network charges applicable between generators. To accomplish this, it is more desirable for lower price ranges to apply equally to GB as they do more commonly in the EU. Common target prices should also be beneficial (or less harmful) to competition compared to the baseline relevant objective (A) and cost reflectivity relevant objective (B).</p> <p>During the workgroup a number of WACMs were developed. We have analysed the original against the applicable objectives as well as the properties of our preferred options.</p> <p><u>Impact on applicable CUSC objectives – Original Proposal</u></p> <p>The original proposal from National Grid ESO has a negative overall impact on the CUSC Objectives:</p> <ul style="list-style-type: none"> • D – Negative – The original and majority of WACMs are not fully compliant with the recast of the electricity directive and the limiting regulation EU838/2010. This topic has led to two additional sets of WACMs being developed to ensure compliant solutions can be placed before Ofgem. <p>Ofgem concluded in their decision for BSC modification P396 that BSC costs are identified as</p>

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019L0944&from=EN>

² <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:250:0005:0011:EN:PDF>

		<p><i>'charges for access to networks'</i> following the recast of the electricity directive. It should follow that the calculation of average generation charges as described in EU838/2010 should be altered to reflect this decision. The workgroup thoroughly examined the recast of the electricity directive including the definition of congestion charges³. It also reviewed the impact of these changes on the average generation charges as calculated under the limiting regulation EU838/2010. We conclude that only modifications that consistently apply these definitions, binding rules and decisions should be supported. We reject options that do not address BSC charges or congestion charges. These should not be implemented as they are non-compliant.</p> <ul style="list-style-type: none">• A - Negative - The methodology proposed by National Grid ESO in practice targets the higher end of the (€0 - 2.50/MWh) range by default. This has the effect of setting and targeting the highest possible charge that could be incurred by GB Generators. We do not believe this facilitates effective domestic competition nor does it reduce the distortion between GB-based generators and those in the EU. <p>We support proposals that target an average generation charge of between €0 - 0.50 in common with most countries in the EU. This should be applied in the methodology to set the initial target. This should reduce the distortions that exist between GB-based generators and those in the EU whilst not adversely impacting domestic competition.</p> <ul style="list-style-type: none">• B - Negative - The original methodology does not appropriately determine the cost that should be applied under the exclusion. The original proposes that local assets should be excluded from the calculation of average generation charges. This goes wider than the CMA decision that identified Generator Only Spurs (GOS) as assets that should be excluded from the calculation of average generation charges <p>We support proposals that apply a minimum implementation approach by excluding GOS in line with the CMA decision. Excluding GOS from the calculation of average generation charges is, in our</p>
--	--	--

³ Section 9 of the code administrator report and Annex 14 <https://www.nationalgrideso.com/industry-information/codes/connection-and-use-system-code-cusc-old/modifications/cmp317-cmp327>

		<p>view the optimum option with the clearest legal basis following the CMA decision. Adoption of this approach would reduce the risk of further legal challenge.</p> <ul style="list-style-type: none"> • C - Neutral • E - Neutral <p><u>Impact on applicable CUSC objectives – Preferred WACM</u></p> <p>There are several modifications that we support; WACM72, WACM 73, WACM 79 and WACM 80 all offer a compliant solution while positively impacting several of the applicable objectives:</p> <ul style="list-style-type: none"> • D - Positive - Compliant with the regulations by applying the definitions that are included in the recast of the electricity directive and EU 838/2010. Ofgem has already determined that BSC charges are network access charges in their decision for P396. • A - Positive - Facilitates competition domestically and between GB generators and EU generators by applying a target value more in line with the range of charges that apply to EU competitors. • B - Positive - Options that exclude the generation only spur cost from the calculation of average generation charges are more reflective of the costs on the system and in line with the ruling from the CMA. <p>Our overall preference is for WACM 73.</p>
2	Do you support the proposed implementation approach?	<p>The implementation approach was discussed at the workgroup leading to separate proposals to reflect different timescales. We agree that these may have merit for options where there are large potential variations in the charges applied following removal of the TGR. If Ofgem conclude a phased approach is beneficial then WACM's are available that provide the option to apply the changes in a phased approach over two or three years. We would particularly agree with such an approach where there are large changes in charges. More time for implementation could also lead to a more legally robust and compliant outcome.</p> <p>More generally, it may be advisable to pause implementation until April 2022 regardless of which WACM Ofgem choose to implement. There are two</p>

		<p>reasons for this. The first is that Ofgem has already pragmatically delayed implementation of some aspects of the TCR following the impact of COVID 19, recognising that implementation of complex changes currently is an additional (and avoidable) burden on parties. The second reason is that a pause would enable Ofgem to fully consider the future arrangements in light of the compliance issues highlighted within the workgroup. These issues were prompted by Ofgem's decision on P396 which showed the impact of the electricity directive recast on other EU legislation, including 838/2010.</p>
3	Do you have any other comments?	We have no further comment.