

## Workgroup Terms of Reference and Membership

### TERMS OF REFERENCE FOR CMP317 WORKGROUP

#### **CMP317: Identification and exclusion of Assets Required for Connection when setting Generator Transmission Network Use of System (TNUoS) charges**

#### **Responsibilities**

1. The Workgroup is responsible for assisting the CUSC Modifications Panel in the evaluation of CUSC Modification Proposal **CMP317: Identification and exclusion of Assets Required for Connection when setting Generator Transmission Network Use of System (TNUoS) charges**
2. The proposal must be evaluated to consider whether it better facilitates achievement of the Applicable CUSC Objectives. These can be summarised as follows:

#### **Non-Standard (Charging) Objectives**

- (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.

3. It should be noted that additional provisions apply where it is proposed to modify the CUSC Modification provisions, and generally reference should be made to the Transmission Licence for the full definition of the term.

### Scope of work

4. The Workgroup must consider the issues raised by the Modification Proposal and consider if the proposal identified better facilitates achievement of the Applicable CUSC Objectives.
5. In addition to the overriding requirement of paragraph 4, the Workgroup shall consider and report on the following specific issues:

- a) to determine a clear definition and understanding of the range as specified in the EUK Regulation
  - b) Provide an interpretation of the Ofgem “but for” and “required for” test, consideration of the CMP261 and CMA decision i.e. an assessment of what should and should not be excluded. [rather than it being assumed that it has been settled by CMP261 - which did not address this point in the FMR]. For example, consideration of:
    - o European precedents and lessons from other Member States, including the Belgium case referenced by the CMA.
    - o UK Government Energy policy implementation – why were OFTOs classified as “transmission” not “connection”
    - o Interpretation of Generator Only Spurs (GOSs) as transmission – exploration of the definitional use of connection and transmission within the legislative and regulatory regime.
    - o Definition of the individual elements of paragraph 2 (1) of Commission Regulation 838/2010 Part B

Anything else) Consider the most appropriate target. For example, considering statements made by Ofgem in relation to CMA appeal of CMP261

d) Clearly define the methodology of exclusion of assets for the purpose of Commission Regulation 838/2010 Part B e.g. What are the practical issues with the regulatory exclusions:

- o what is the objective test for categorising an asset cost as “connection”,
- o what about where the asset has greater capacity than the connecting generators’ TEC – how is excluded cost determined in that case,
- o what happens if an Offshore generator terminates their TEC and their OFTO agreement falls away,
- o what happens in the case of circuit becoming shared or has demand added,
- o what does “pre-existing” mean in the context of the CMA decision.

- e) Assessment of the impact on TNUoS Tariffs
- f) Recital 36, 2009/72 “National regulatory authorities should be able to fix or approve tariffs, or the methodologies underlying the calculation of the tariffs, on the basis of a proposal by the transmission system operator or distribution system operator(s), or on the basis of a proposal agreed between those operator(s) and the users of the network. In carrying out those tasks, national regulatory authorities should ensure that transmission and distribution tariffs are non-discriminatory and cost-reflective, and should take account of the long-term, marginal, avoided network costs from distributed generation and demand-side management measures.
- g) Consider the Authority’s TCR SCR Direction to the Company and any associated implications for this Modification.

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6. The Workgroup is responsible for the formulation and evaluation of any Workgroup Alternative CUSC Modifications (WACMs) arising from Group discussions which would, as compared with the Modification Proposal or the current version of the CUSC, better facilitate achieving the Applicable CUSC Objectives in relation to the issue or defect identified.
7. The Workgroup should become conversant with the definition of Workgroup Alternative CUSC Modification which appears in Section 11 (Interpretation and Definitions) of the CUSC. The definition entitles the Group and/or an individual member of the Workgroup to put forward a WACM if the member(s) genuinely believes the WACM would better facilitate the achievement of the Applicable CUSC Objectives, as compared with the Modification Proposal or the current version of the CUSC. The extent of the support for the Modification Proposal or any WACM arising from the Workgroup’s discussions should be clearly described in the final Workgroup Report to the CUSC Modifications Panel.
8. Workgroup members should be mindful of efficiency and propose the fewest number of WACMs possible.
9. All proposed WACMs should include the Proposer(s)'s details within the final Workgroup report, for the avoidance of doubt this includes WACMs which are proposed by the entire Workgroup or subset of members.
10. There is an obligation on the Workgroup to undertake a period of Consultation in accordance with CUSC 8.20. The Workgroup Consultation period shall be for a period of **15 working days** as determined by the Modifications Panel.
11. Following the Consultation period the Workgroup is required to consider all responses including any WG Consultation Alternative Requests. In undertaking an assessment of any WG Consultation Alternative Request, the Workgroup should consider whether it better facilitates the Applicable CUSC Objectives than the current version of the CUSC.

As appropriate, the Workgroup will be required to undertake any further analysis and update the original Modification Proposal and/or WACMs. All responses including any WG Consultation Alternative Requests shall be included within the final report including a summary of the Workgroup's deliberations and conclusions. The report should make it clear where and why the Workgroup chairman has exercised his right under the CUSC to progress a WG Consultation Alternative Request or a WACM against the majority views

of Workgroup members. It should also be explicitly stated where, under these circumstances, the Workgroup chairman is employed by the same organisation who submitted the WG Consultation Alternative Request.

12. The Workgroup is to submit its final report to the Modifications Panel Secretary on 18 June 2020 for circulation to Panel Members. The final report conclusions will be presented to the CUSC Modifications Panel meeting on **26 June 2020**.

## Membership

13. It is recommended that the Workgroup has the following members:

Role	Name	Representing
Chairman	Rob Marshall	National Grid ESO
Technical Secretary	Joe Henry	National Grid ESO
National Grid ESO Representative (Proposer)	Jon Wisdom	National Grid ESO
Industry Representative	Garth Graham	SSE Generation
Industry Representative	John Tindal	Keadby Generation
Industry Representative	Grace March	Sembcorp
Industry Representative	Simon Vicary	EDF
Industry Representative	Joseph Dunn	Scottish Power Renewables
Industry Representative	Robert Longden	Cornwall Insight
Industry Representative	Paul Jones	Uniper
Industry Representative	Daniel Hickman	NPower
Industry Representative	John Harmer	Waters Wye Associates
Industry Representative	Bill Reed	RWE Supply and Tradin
Industry Representative	Paul Youngman	Drax
Industry Representative	Alan Currie	Ventient
Industry Representative	Elizabeth Allkins	Ovo
Authority Representatives	Kayt Button	Ofgem
Industry Representative	Dennis Gowland	Neven Point Wind for EMEC
Observers	John Leahy	ESB
Observers	Chi Nwagaju	Orsted

NB: A Workgroup must comprise at least 5 members (who may be Panel Members). The roles identified with an asterisk in the table above contribute toward the required quorum, determined in accordance with paragraph 14 below.

14. The chairman of the Workgroup and the Modifications Panel Chairman must agree a number that will be quorum for each Workgroup meeting. The agreed figure for CMP315 is that at least 5 Workgroup members must participate in a meeting for quorum to be met.
15. A vote is to take place by all eligible Workgroup members on the Modification Proposal and each WACM. The vote shall be decided by simple majority of those present at the meeting at which the vote takes place (whether in person or by teleconference). The Workgroup chairman shall not have a vote, casting or otherwise]. There may be up to three rounds of voting, as follows:

- Vote 1: whether each proposal better facilitates the Applicable CUSC Objectives;
- Vote 2: where one or more WACMs exist, whether each WACM better facilitates the Applicable CUSC Objectives than the original Modification Proposal;
- Vote 3: which option is considered to BEST facilitate achievement of the Applicable CUSC Objectives. For the avoidance of doubt, this vote should include the existing CUSC baseline as an option.

The results from the vote and the reasons for such voting shall be recorded in the Workgroup report in as much detail as practicable.

16. It is expected that Workgroup members would only abstain from voting under limited circumstances, for example where a member feels that a proposal has been insufficiently developed. Where a member has such concerns, they should raise these with the Workgroup chairman at the earliest possible opportunity and certainly before the Workgroup vote takes place. Where abstention occurs, the reason should be recorded in the Workgroup report.
17. Workgroup members or their appointed alternate are required to attend a minimum of 50% of the Workgroup meetings to be eligible to participate in the Workgroup vote.
18. The Technical Secretary shall keep an Attendance Record for the Workgroup meetings and circulate the Attendance Record with the Action Notes after each meeting. This will be attached to the final Workgroup report.
19. The Workgroup membership can be amended from time to time by the CUSC Modifications Panel.

