

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	<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 or any of the CMP 317/327 alternatives better facilitate any of relevant charging objectives for the reasons outlined below:</p> <p><u>Objective a.</u></p> <p>We do not believe the original or any of its alternatives better facilitate this objective. The proposals are likely to lead to a wider gap in TNUoS tariff between different types of generators. Additionally, it will lead to a less competitive position of GB generators vis-à-vis EU competitors.</p> <p>We believe this modification will have an adverse effect on competition in generation and supply of electricity in GB as it will exacerbate the difference in charge paid by Tx connected and Dx connected generators. In this regard, we note ACER's remark from its Commission Regulation (EU) No 838/2010 Monitoring report 2018¹ which notes that '<i>Member States should ensure that their tariff design does not create discrimination between production connected at the distribution level and at the transmission level.</i>'</p> <p>More importantly, as we have stated in our WG consultation response, the proposed changes will have a significant adverse effect on renewable generation in Scotland. This will worsen the competitive disadvantage of renewable generation vis-à-vis thermal generation based in more favourable TNUoS regions and will delay the transition to Net Zero. In light of the government's announcement of the upcoming review into the existing offshore transmission regime to address the barriers it presents to further significant deployment of offshore wind, we believe it is critical to postpone</p>

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http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Publication/ACER%20Market%20Monitoring%20Report%202018%20-%20Electricity%20Wholesale%20Markets%20Volume.pdf

any changes until the outcome and the findings of the review.

Objective b.

None of the proposals facilitate this objective better. NG ESO and TOs recovers all their allowed revenue irrespective of whether certain items are included in either TNUoS charges or connection charges. The NRA approves the allowed revenue ex-ante. Additionally, there is a reconciliation processes which allows the ESO to recover any missing money.

Objective c

None of the proposals facilitate this objective better.

Objective d

None of the proposals facilitate this objective better. We believe that NG ESO and GB in general are compliant with all relevant EU regulations, in particular regulation EU 838/2010.

The above-mentioned ACER Monitoring report notes that all MSs were compliant with the legal range set out in EU 838/2010 apart from Romania, and there is no indication or notes on non-compliance with calculation methodology or underlying elements of the G-charge. The report says *'From the data ACER gathered on the annual average G-charges were calculated, ACER notes that all G-charges, except one instance, are respecting their legal limit, set in the Annex Part B(3) of Commission Regulation 838/2010, as can be seen in the Table 30 in 2013, in Romania the annual average transmission charges paid by producers seemingly exceeded the legal limit.'* We do not believe that any further compliance requirements need to be considered by the ESO or GB NRA. With regards to specific definitions of 'connection charges' vs 'G-charges' the exact connection charging regime and each element included in the calculation methodology have been

		<p>carefully considered by ACER and EU Commission at the time of making their final decision on EU838/2010. Subsequently, the €0-2.50/MWh range has been established on the basis of connection charge and TNUoS charge methodologies. Should the treatment of 'connection charges' change as proposed by this modification, we believe it is the NRA's responsibility to notify ACER of the relevant significant amendments and seek changes to the actual legal limits set in Annex B of EU838/2010.</p> <p>We do not believe that GB will be in breach of this legislation in future if adequate adjustment factors will be in place. We do not consider it necessary to artificially interfere with the cost elements included in the Transmission tariff on the basis of assumed future breach. Instead, we believe an appropriate adjustment mechanism should be in place to ensure there is no breach of either the lower or the upper limit of the range.</p> <p><u>Objective e</u></p> <p>None of the modifications better facilitate this objective. In fact, they may have an adverse effect on administration of CUSC as they introduce additional complexities with charging methodologies and compliance monitoring, both ex-ante and ex-post.</p>
2	Do you support the proposed implementation approach?	<p>No, we do not support the proposed implementation approach.</p> <p><u>Insufficient analysis and compliance assessment</u></p> <p>While we do not object to the removal of TGR as it is directed under an SCR, we are concerned that CMP317 part of the modification has considered a broad range of issues that should not be decided upon in short and limited SCR timelines. Instead, the range of issues considered by the WG and specific elements of proposals put forward should be given due consideration with regards to legal, regulatory and policy compliance. More importantly, we believe changes proposed by the original and all of the WACMs have a material impact on all industry stakeholders and should have given sufficient time</p>

for all interested parties to analyse the matters concerned and make a decision on a detailed and firm baseline.

We also note Ofgem's response to CMP 320 modification, which highlights the complexity and additionality of information put forward by two alternatives. In the response Ofgem concluded that the industry had not been given sufficient time to explore the issues raised by WACM1 and WACM2 so Ofgem was "*unable to fully assess these proposals for the purpose of the decision*". We note that in the context of CMP 317/327 the range of issues discussed and the wide context of the WG's ToR make it extremely difficult to assess any of the proposals or compare them on a like for like basis. Furthermore, similar to CMP 320, many alternatives in CMP 317/327 WG process are out of scope of the original alleged defect which makes comparison and analysis more difficult. We do not think the industry has been given sufficient time and resources to consider impacts of all proposals on competition, on decarbonisation strategy or to identify any unintended consequences that may arise in the future. Making a decision on the basis of such limited analysis would mean that good regulatory standards are not adhered to.

Uncertainty with the baseline and IA

Furthermore, as mentioned in our WG consultation response, we see a high risk and uncertainty for existing generators as well as potential investments, specifically those located in the zones most likely to be impacted by the proposed changes. This risk arises around the lack of a firm baseline to use as the basis for IA given that there are many concurrent modifications (CMP324/325, CMP 280) as well as a transition to RIIO-2 regime which will introduce new network parameters to be used for charging. It would be more prudent to wait for final determinations on these and other relevant modifications and to incorporate them fully into the CMP 317/327 analysis.

Changes proposed are beyond CUSC remit and should follow due processes with regards to EU legislation

Any changes to the underlying charging methodology or treatment of any element of TNUoS charges need to be notified to and consulted with ACER. Proposed changes not only impact the underlying baseline information that the EU Commission used as the basis for the original limiting range, but will also have an effect on cross-border trade and harmonisation objectives of the relevant EU regulation.

While the original proposal and all of its WACM suggest simply changing the relevant section of CUSC to introduce new terminology and identify specific elements that are excluded for calculation of EU 838/2010 legal range compliance, we believe it is a more complex issue that requires a holistic review to the legal limit set out in that relevant regulation. Specifically, the legal limit and range applicable to GB and Ireland was set on the basis of 'shallow' connection charging approach and a certain (current) structure of the TNUoS tariffs. The range set out in the regulation provides sufficient room for any additional assets required for connection that are not covered by the first connection charge and allows for any locational differentiation, which is reported to be the highest in GB, Ireland and NI, to be included in the legal range. Changing that initial and original basis for setting the range requires a complete review of the EU838/2010 determination and should follow necessary procedures set out in ACER and EU Commission guidelines. While this mod is being progressed through CUSC, the impacts and knock-on effects it may have on the wider industry, competition and EU policies with regards to integration of energy markets are significant and should be consulted and implemented with due care.

More importantly, any changes in the charging methodology need to be assessed against EU cross-border trade and competition objectives as they may have an impact on Ireland and NI as countries with the same limiting range.

ACER, in its Opinion No 09/2014 considered that the monitoring activity should be based on NRAs' reports regarding the level and the structure of G-charges and the average G-charge value in each year as well as on NRAs' notifications on any proposal or decision

		<p>taken to amend the national G-charging methodology, submitting relevant information <u>such as a detailed reasoning and evidence of cost reflectivity.</u> We expect Ofgem to follow these processes adequately and provide detailed reasoning for why these changes are being progressed.</p> <p><u>We note from the latest ACER report that Ofgem notified the agency of the number of material changes to GB Transmission charging methodology, including TNUoS re-zoning and change to the G:L split. However, there is no notification of a change in treatment of local elements of TNUoS charges as Connection assets.</u></p> <p><u>Significant simultaneous increase in consumer costs</u></p> <p>The proposed implementation approach will create an increased risk of generators building in a risk premium into forward contracts due to uncertainty and wide range of proposals and their impacts. This risk is likely to be recovered from 2021 forward contracts.</p> <p>If changes are implemented in April 2021 they will coincide with a potential recovery of higher BSUoS costs which generators have been exposed to due to Covid-19. Overall, a significant increase in both charges that may occur due to implementation of several cost deferral changes, CMP 345 and potentially CMP 317/217 will have a significant simultaneous impact on generator costs which will translate into prices for end consumers.</p>
3	Do you have any other comments?	<p><u>Setting the target within the range</u></p> <p>We support setting a target within the prescribed range, if it is deemed compliant with EU regulation.</p> <p>We expect Ofgem to confirm whether this solution will require any formal requests or notifications to be submitted from GB side for EU approval. We would also expect a compliance analysis and detailed reasoning for any decisions around alternatives that are based on setting a target within the range.</p>

Therefore, should Ofgem find 'setting the target' non-compliant or requiring further approvals, CMP 317/327 should be rejected altogether and a new modification with clearer ToR and distinct definitions should be raised.

Interpretation of EU 838/2010

Following the WG consultation, the WG discussed and concluded that no further definitions of the EU regulation are required. However, Term B of the WG ToR asks the WG to explore specific paragraphs or EU Reg and discuss Ofgem's interpretations in the CMP 261 decision. It is also our view that many market and policy developments can be noted since CMP 261 Ofgem and CMA decisions. With regards to such complex mater, more clarification should have been sought from EU regulatory bodies and any updated publications should also have been used.

As stated in our response to CMP 317/327 consultation we do not believe the interpretation used by the WG (i.e. CMP 261 Ofgem's interpretation) is conclusive and correct. Moreover, given the recent policy changes around decarbonisation and interconnection, it would be prudent for Ofgem to publish an updated interpretation or legal assessment of the applicable legislation.

To reiterate our view that NG ESO and GB NRA are already compliant with EU838/2010, we note again that all relevant EU documents refer to connection charges as 'first connection charges'. In particular, we note that **ENTSO-E Overview of Transmission Tariffs in Europe: Synthesis 2018²** which calculates the average Unit Transmission Tariffs across MSs. The report explains that first connection costs are not included in the Unit Transmission Tariffs, and defines these as follows:

First Connection charges

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https://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKewipibPwur3qAhUOaRUIHR-ZC1cQFjAAegQIBRAB&url=https%3A%2F%2Fdocstore.entsoe.eu%2FDocuments%2FMC%2520documents%2FTTO_Synthesis_2018.pdf&usg=AOvVaw1810YhUCov3D0e8OLicmi6

Charges borne by new grid users (producer or consumer) aiming to connect to the transmission grid, consisting of TSO's costs for the build of the transmission facility to enable the connection.

Appendix 7 'First Connection Charges' of the same report notes the following in connection to GB connection charging regime: *'this applies to both generation and load and means that connection charges relate only to the costs of assets installed solely for, and only capable of use by, an individual user. All other assets are assumed to be shared and their costs are included in the wider locational transmission tariff.'*

ACER EU 838/2010 compliance monitoring report 2018 also analyses average injection charges paid by generators across EU and implies the following definition of connection charges: *'Injection charge means all transmission charges paid by producers, except for charges for physical assets required for connection to the system or the upgrade of the connection (i.e. connection charges), but including other non-connection charges (such as charges related to ancillary services and system losses). The term "injection charge" is different from the term "Gcharge", whose annual average value is capped by Commission Regulation (EU) No 838/2010 and refers to the transmission charges paid by producers, excluding connection charges, charges related to ancillary services and specific system loss charges.*

The report provides overview of connection charging regimes and notes the following in "Annex 2: Brief overview of connection charges":

'Connection charges are typically one-off charges covering the costs (or part of the costs) of connecting new users to the transmission system. Since the reinforcement of the network due to new connections can also benefit the other grid users, part of those costs may be covered by transmission tariffs, instead of the connection charges, as there is a connection between these regulatory charges.

Annex B of Commission Regulation (EU) No 838/2010 sets the legal ranges of the annual average transmission charges paid by producers, excluding charges paid for physical assets required for connection to the system or the upgrade of the connection, charges paid related to ancillary services

and specific system loss charges, in each Member States.

Congestion charges:

As outlined above, we believe that ‘transmission charges’ referred to in the EU Reg 838/2010 represent a much broader category of network access charges. We do support the view of some WG members that congestion charges should be included in the calculation of this network access tariff which is subject to the Limiting Regulation.

In that regard, we note the latest *ACER Practice Report on Transmission charging methodologies*³ (Dec 2019), which notes the following:

*“ACER differentiates the following major cost categories, which **may be recovered by transmission tariffs:***

- *“capital expenditure costs” (depreciation and return on capital) of transmission investments;*
- *“operational expenditure costs” of transmission investments;*
- *“cost of losses”;*
- *“infrastructure-related compensations or other monetary transfers”;*
- *“cost of ancillary services and system balancing (energy)”;*
- *“costs of congestion management”;*
- *“non-TSO costs”, which are costs not directly related to transmission or system*
- *services (i.e. typical TSO activities), such as costs of stranded assets, costs of various*
- *support schemes including those for renewables, for cogeneration of heat and power, for fossil fuels, for security of supply, etc.”*

with an exception of ‘ancillary services charges’ and ‘cost of losses’ we can expect that all other charges fall into the ‘transmission tariff’ referred to in Reg

838/2010, irrespective of whether they are recovered through TNUoS or BSUoS as per the extract below:

The costs may be recovered fully or partially by:

- *a (single) tariff (covering both transmission costs and costs for system services); or*
- ***a primary transmission tariff and additional or complementary charges levied on network users (referred to as “other charges” in this Report).***

The report then provides an overview of GB frameworks which summarises it as follows:

*“The operational expenditures are also recovered only by a single or primary transmission tariff, according to the relevant regulatory framework, except in **Great Britain, where the recovery of the operational expenditures is split up between two different tariffs levied on network users, i.e. the costs of system operation are recovered through Balancing Services Use of System charge (BSUoS), and the costs for operation and maintenance are recovered for the Transmission network Owners via Transmission Network Use of System charge (TNUoS).**”*

Therefore, we believe these arguments and interpretations have not been adequately considered within the WG. As stated above, we expect a holistic review of the Limiting Regulation and its requirements. We do not support a disjointed approach to interpreting this regulation and believe that a new compliance framework needs to be developed in an evidenced and transparent manner.