

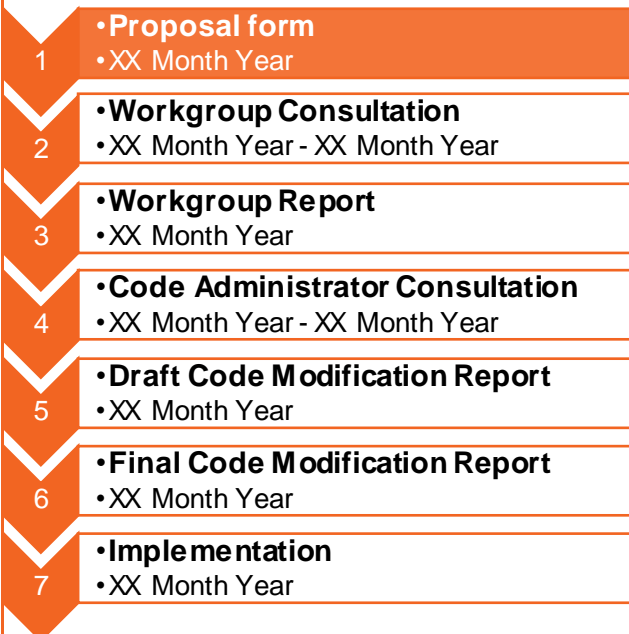
## CUSC Modification Proposal Form

## CMP310

## CUSC changes in the event the UK leaves the EU without an agreement

**Overview:** The proposed modification aims to ensure that retained EU law will function effectively in the context of the CUSC. In the event the United Kingdom leaves the European Union without an agreement, it will ensure that the CUSC takes into account the provisions in the relevant Statutory Instruments that have been prepared under the European Union (Withdrawal) Act 2018 as well as relevant consequential licence modifications.

## Modification process &amp;



**Status summary:** subject to self-governance.

This modification was raised 15 February 2019 and will be presented by the Proposer to the Panel on 25 February 2019. The Panel will consider the Proposer's recommendation and determine the appropriate route.

**This modification is expected to have a:** no impact

**Proposer's recommendation of governance route**

This modification will proceed straight to Code Administrator Consultation and the Panel/Ofgem will make the decision on whether it should be implemented.

**Who can I talk to about the change?**

**Proposer:** [Katharina Birkner (National Grid ESO)]

[Katharina.birkner@nationalgrid.com](mailto:Katharina.birkner@nationalgrid.com)

Phone: 07773647025

**Code Administrator Chair: Name**

[email@nationalgrideso.com](mailto:email@nationalgrideso.com)

Phone: 07xxxxxxx

## Contents

- What is the issue?

- What is the solution?
- What is the impact of this change?
- When will the change take place?
- Interactions
- Acronyms, key terms and reference material

## What is the issue?

In the event the UK leaves the EU without an agreement, the CUSC needs to be amended to ensure the provisions in the relevant Statutory Instruments that have been prepared under the European Union (Withdrawal) Act 2018, as well as relevant consequential licence modifications, will function effectively in the context of the CUSC section 14.

The CUSC contains a small number of references to EU Regulation and EU entities that require revision. The proposed modifications will ensure that the CUSC section 14 is aligned with retained EU law and licence obligations, in the event of 'no deal' and from 'Exit Day'.

### Why change?

Following the outcome of a referendum on UK membership of the EU on 23 June 2016, the UK government notified its intention to leave the EU in March 2017 (as permitted by Article 50 of the Treaty on European Union). This departure will become effective on 'Exit Day' (~~currently legislated for 23:00 on 29 March 2019~~) IP completion day (currently legislated for 23:00 on 31<sup>st</sup> December 2020). From ~~Exit Day~~ IP completion day, EU Regulations will no longer be directly applicable in the UK and EU entities will no longer have a part to play in the creation of UK policy and legislation.

However, the approach specified in the European Union (Withdrawal) Act 2018 (as amended by the European Union (Withdrawal Agreement) Act 2020) is to incorporate EU law into UK law (where possible) and the UK Government has published statutory instruments with the aim of correcting or removing inoperable provisions of EU Regulations **and amending them**, relevant to the electricity industry, such that they reflect the UK no longer being an EU Member State. The Authority is also proceeding with a statutory consultation on consequential licence modifications.

As a consequence, the CUSC needs to be changed so that the references appropriately reflect this change in approach.

## What is the proposer's solution?

It is proposed to modify existing references to EU Regulations with appropriate references so that the references appropriately reflect the change in status to Retained EU law as foreseen in the European Union (Withdrawal) Act 2018 and the relevant Statutory Instruments that have been prepared under it

## Draft legal text

CUSC - SECTION 14 – CHARGING METHODOLOGIES

14.14.5 In April 2004 The Company introduced a DC Loadflow (DCLF) ICRP based transport model for the England and Wales charging methodology. The DCLF model has been extended to incorporate Scottish network data with existing England and Wales network data to form the GB network in the model. In April 2005, the GB charging methodology implemented the following proposals: [...]

v.) The application of a Transmission Network Use of System Revenue split between generation and demand where the proportion of the total revenue paid by generation, for the purposes of tariff setting for a charging year  $n$ , is  $x$  times the total revenue, where  $x$  is:

1. Whilst ~~Retained EU Law European Commission Regulation 838/2010 Part B paragraph 3~~ (or any subsequent regulation specifying such a limit on annual average transmission charge payable by generation) is in effect (a "Limiting Regulation") then  $x_n = [...]$

2. Where there is no Limiting Regulation, then  $x$  for charging year  $n$  is set as the value of  $x$  used in the last charging year for which there was a Limiting Regulation.

## What is the impact of this change?

Proposer's Assessment against CUSC Charging Objectives	
Relevant Objective	Identified impact
(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>Positive, as it ensures the CUSC is accurate to avoid confusion</b>
(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);	<b>None</b>
(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;	<b>None</b>
(d) Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency *; and	<b>None</b>

(e) Promoting efficiency in the implementation and administration of the system charging methodology.	<b>None</b>
*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).	

<b>Proposer's Assessment against CUSC Non-Charging Objectives</b>	
<b>Relevant Objective</b>	<b>Identified impact</b>
(a) The efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission Licence;	<b>Positive, as it ensures the CUSC is accurate to avoid confusion</b>
(b) Facilitating effective competition in the generation and supply of electricity, and (so far as consistent therewith) facilitating such competition in the sale, distribution and purchase of electricity;	<b>None</b>
(c) Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency *; and	<b>None</b>
(d) Promoting efficiency in the implementation and administration of the CUSC arrangements.	<b>Positive, as it ensures the CUSC is accurate to avoid confusion</b>
*Objective (c) refers specifically to European Regulation 2009/714/EC. Reference to the Agency is to the Agency for the Cooperation of Energy Regulators (ACER).	

<b>Impact of the modification on the stakeholder / consumer benefit categories</b>	
<b>Proposer's assessment:</b>	
<b>Stakeholder / consumer benefit categories</b>	<b>Identified impact</b>
Improved safety and reliability of the system	<b>None</b>
Lower bills than would otherwise be the case	<b>None</b>
Benefits for society as a whole	<b>None</b>
Reduced environmental damage	<b>None</b>
Improved quality of service	<b>None</b>

## When will this change take place?

### Implementation date:

No implementation timescales are proposed, although implementation of this Modification would be sought as soon as practicable following the end of the transition period. However, implementation is specifically dependent upon the implementation of the relevant Statutory Instruments that have been prepared under the European Union (Withdrawal) Act 2018 as well as relevant consequential licence modifications and so implementation of this proposal should align with the Statutory Instruments and licence modifications.

### Date decision required by:

Dec 2020 CUSC panel

### Implementation approach:

No implementation costs are associated with this Modification.

## Interactions

## Acronyms, key terms and reference material

Acronym / key term	Meaning
Brexit	UK leaving the European Union following result of 2016 EU exit referendum
<u>IP completion day</u>	<u>Implementation Period completion day, which is</u> expected to be the <u>31 December 2020.</u>
European Union Withdrawal Act 2018	European Union Withdrawal Act 2018 (as amended by the European Union (Withdrawal Agreement) Act 2020)

### Reference material:

[European Union \(Withdrawal\) Act 2018](#)

[The Electricity and Gas etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019](#)

[The Electricity Network Codes and Guidelines \(Markets and Trading\) \(Amendment\) \(EU Exit\) Regulations 2019](#)

[The Electricity Network Codes and Guidelines \(System Operation and Connection\) \(Amendment etc.\) \(EU Exit\) Regulations 2019](#)

[The Electricity and Gas \(Market Integrity and Transparency\) \(Amendment\) \(EU Exit\) Regulations 2019](#)

[Statutory Consultation on licence modification in the event the UK leaves the EU without a deal](#)

## Guidance on governance routes

[Section to be removed by Code Admin following submission]

### Self-Governance

The modification is unlikely to discriminate between different CUSC Parties and is unlikely to have a material effect on:

- i. Existing or future electricity customers;
- ii. Competition in the generation, distribution, or supply of electricity or any commercial activities connected with the generation, distribution or supply of electricity,
- iii. The operation of the National Electricity Transmission System
- iv. Matters relating to sustainable development, safety or security of supply, or the management of market or network emergencies
- v. The CUSC Panel's governance procedures or the CUSC Panel's modification procedures

### Fast Track Self-Governance

The modification is a housekeeping modification required as a result of an error or factual change, such as:

- i. Updating names or addresses listed in the CUSC;
- ii. Correcting minor typographical errors;
- iii. Correcting formatting and consistency errors, such as paragraph numbering, or;
- iv. Updating out of date references to other documents or paragraphs.

### Urgency

Ofgem's current guidance states that an urgent modification should be linked to an imminent issue or a current issue that if not urgently addressed may cause:

- i. A significant commercial impact on parties, consumers or other stakeholder(s); or
- ii. A significant impact on the safety and security of the electricity and/or gas systems; or
- iii. A party to be in breach of any relevant legal requirements.