

CMP351

Mod Title: Financial Securities – Timescales for Provision of Cash Deposit into Escrow

01	Proposal Form
02	Workgroup Consultation
03	Workgroup Report
04	Code Administrator Consultation
05	Draft CUSC Modification Report
06	Final CUSC Modification Report

Purpose of Modification: The purpose of this Modification is to change the timescales by which Cash Deposits need to be provided to National Grid ESO through the bi-annual financial securities process.

	<p>The Proposer recommends that this modification should be:</p> <ul style="list-style-type: none"> Proceed straight to Code Administrator Consultation <p>This modification was raised <i>10 September 2020</i> and will be presented by the Proposer to the Panel on <i>25 September 2020</i>. The Panel will consider the Proposer’s recommendation and determine the appropriate route.</p>
	<p>High Impact: <i>The proposal will have a positive impact for those Parties with a Construction Agreement providing financial securities under the bi-annual securities process by means of a cash deposit into a National Grid ESO managed Escrow Account.</i></p>
	<p>Medium Impact – None perceived</p>
	<p>Low Impact The proposal will have little or no impact of National Grid ESO fulfilling its obligation to ensure Developers are providing the correct level of security against commitments under Construction Agreements.</p>

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Timetable		
The Code Administrator recommends the following timetable:		
Code Administrator Consultation	12 October 2020 to 5pm 2 November 2020	 paul.j.mullen@nationalgrideso.com
Draft Final Modification Report presented to Panel	19 November 2020	 077794537028
Modification Panel decision	27 November 2020	Proposer: Mark Pearce
Final Modification Report issued to the Authority	9 December 2020	 mark.pearce@neuconnect.eu
Decision implemented in CUSC	15 February 2021	 07979708604
		National Grid ESO Representative: Grahame Neale
		 grahame.neale@nationalgrideso.com
		 07787 261242

Proposer Details

Details of Proposer: (Organisation Name)	NeuConnect Britain Limited
Capacity in which the CUSC Modification Proposal is being proposed: (i.e. CUSC Party, BSC Party or "National Consumer Council")	CUSC Party
Details of Proposer's Representative: Name: Organisation: Telephone Number: Email Address:	Mark Pearce NeuConnect Britain Limited +44 (0) 797 9708604 mark.pearce@neuconnect.eu
Details of Representative's Alternate: Name: Organisation: Telephone Number: Email Address:	Phil Pryor NeuConnect Britain Limited +44 (0) 7795641431 phil.pryor@neuconnect.eu
Attachments (Yes/No): Yes – Copy of slides presented to TCMF dated 3rd September 2020 (3 slides, 1 x Title Slide & 2 x Content Slides)	

Impact on Core Industry Documentation.

Please mark the relevant boxes with an "x" and provide any supporting information

CUSC

Grid Code

STC

EBGL Article 18 T & C

Other

X

1 Summary

Glossary of terms used in this document

Acronym	Description
LoC	Letter of Credit
PCG / CG	Parent Company Guarantee / Company Guarantee
PB	Performance Bond

Defect

Financial Securities can be provided in the form of an LoC, PCG / CG, PB or a Cash Deposit.

Documentary forms of Security (LoC, PCG/CG and PB) typically have a Commencement and Expiry Date whilst a Cash Deposit is held in a National Grid ESO managed Escrow Account and has no such timeframes. To enable National Grid ESO to manage exposure it is necessary to require CUSC Parties to put in place revised Securities 45 calendar days prior to the start of the next Security Period. In the case of Documentary Securities they can be pre-dated to the commencement of the next Security Period whilst cash deposits are effective from the date they are provided. This penalises CUSC Parties securing by cash deposit by 45 days compared with CUSC Parties securing by Documentary forms of Security and has the effect of CUSC Parties securing by Cash Deposit over securing for the 45 days of the present Securities Period.

What

The timescales for CUSC Parties providing Security by a Cash Deposit should be reduced to a less onerous timescale whilst taking cognisance of the Event of Default process National Grid ESO must follow to manage Connection Agreements and associated Securities effectively.

This Proposal suggests a timescale of 21 calendar days before is more appropriate for Cash Deposits. This timeframe allows National Grid ESO to issue its first and subsequent Event of Default Letters after which Termination of the Construction Agreement and associated Bilateral Connection Agreement can be notified to the CUSC Party concerned and to the respective Transmission Owner to cease further works associated with that project.

Why

The Proposer believes that the Proposal will encourage competition by not inadvertently penalising Parties wishing to provide Cash as a means of Security into an account managed and controlled by National Grid ESO.

How

The Proposer believes that a relaxation of timescales for cash deposits from 45 calendar days to 21 Calendar Days addresses and balances this inadvertent disparity between CUSC Party and National Grid ESO's obligations to the wider industry.

The Proposer has considered different Security Scenarios and notes these below with requisite timescale considerations

Scenario	Present	Proposed
Cash Deposit Only	45 Calendar Days	21 Calendar Days
Mix of Security type	45 Calendar Days	45 Calendar Days for CG / LoC / PB 21 Calendar Days for Cash
CG / LoC / PB Security	45 Calendar Days	No Change
Change from Cash to solely CG/LoC/PB	45 Calendar Days	21 Calendar Days
Change from solely CG / LoC / PB to Cash	45 Calendar Days	45 Calendar Days

2 Governance

Justification for Normal Procedures

Whilst the Proposal does not meet the criteria for Urgent, Self-Governance or Fast Track Self Governance and must therefore be classed for Normal Governance the Proposer asks if it might be possible to consider a process that will allow the proposed modification (if approved) to be implemented in time for the April – September 2021 Securities cycle i.e. by no later than 15 February 2021.

Requested Next Steps

This modification should proceed straight to Code Administrator Consultation :

Since presenting this proposed Modification to the Transmission Charging Methodology Forum further discussions have been held with National Grid ESO to develop this Proposal. During these discussions it has been suggested that a change of timescales to 21 Calendar Days will have no impact on National Grid ESO's procedures.

Consequentially the Proposer believes this Proposal could be considered for Code Administrator Consultation. Such a process will give the Modification Proposal every opportunity to be implemented by 15th February and effective for the next Financial Securities Period.

3 Why Change?

The Proposer believes that the prevailing CUSC provisions inadvertently discriminate between CUSC Parties providing documentary financial instruments and those providing cash deposits. It is the belief that if the change is not made CUSC Parties providing cash as a form of Security are unduly being discriminated against.

4 Code Specific Matters

Technical Skillsets

The Proposer believes that National Grid ESO, as managers of the Securities Process have the requisite skills and knowledge to consider this Proposed Modification including the drafting of the Sections of CUSC dealing with this matter.

Reference Documents

None

5 Solution

Relax the timescales for cash deposits for Financial Securities from 45 calendar days to 21 Calendar Days.

6 Impacts & Other Considerations

The only impact is believed to be that of an impact on National Grid ESO Securities management process – discussions have been held with National Grid ESO to consider these and the proposal has been amended to take account of these considerations prior to submission of the Modification Proposal. No residual impacts are believed to remain.

Does this modification impact a Significant Code Review (SCR) or other significant industry change projects, if so, how?

No

Consumer Impacts

This Modification Proposal seeks to change the timescales for the provision for a Cash Deposit in respect of the Financial Securities process. In proposing such a Modification the Proposer believes that Consumer interests remain protected insofar as the proposed timescales respect the necessity for National Grid ESO to manage Connection Agreements efficiently and effectively whilst ensuring those Parties affected to not be unduly burdened with providing Financial Security sooner than is absolutely necessary.

7 Relevant Objectives

Impact of the modification on the Applicable CUSC Objectives (Standard):

Relevant Objective	Identified impact
(a) The efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission Licence;	None
(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;	Positive
(c) Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency *; and	None
(d) Promoting efficiency in the implementation and administration of the CUSC arrangements.	Positive

*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).

The Proposer believes this Proposal promotes efficiency in the implementation and administration of the CUSC arrangements by addressing an existing inefficiency requiring parties providing Financial Security by means of a Cash Deposit into an Escrow account to provide it presently 45 days prior to the Security Period in question. Reducing this specific timescale down from 45 calendar days to 21 calendar days means the Party concerned is minimising the period for which it is over whilst still allowing National Grid ESO to ensure Securities are provided in a timely manner and Event of Default situations can continue to be managed efficiently and effectively by National Grid ESO.

To a lesser extent the Modification facilitates Competition in the Generation and Supply of Electricity facilitating such competition in the sale, distribution and purchase of electricity insofar as Developers only have to provide Security in timescales appropriate to the form of Security being provided and not being burdened by the most onerous form of Cash Deposit.

8 Implementation

The Proposer notes that a decision is needed from the Authority by 15 February 2021, to allow for the Modification to be effective for the April – September 2021 Securities Period.

9 Legal Text

The following changes are proposed to the following legal text within CUSC Section 15– the changes are shown in red text:

6.2.4.2 If the amount of the **Cancellation Charge Secured Amount** to be secured from the start of each **Security Period** is an amount greater than the amount then secured, the **User's** cash deposit in the **Bank Account** in respect of the **Security Amount** shall be increased by the **User** to such greater amount on the date which is ~~45-21~~ calendar days before the start of the given **Security Period**.

6.2.4.2a The value of any cash deposit to be provided by the **User** under 6.2.4.2 shall be notified to **The Company** in writing on or before 45 calendar days before the start of the given **Security Period**.

6.3.4 Where the **User** provides securities to **The Company** in multiple types as per paragraph 6.1, the provisions of paragraph 6.2.3 and 6.2.4 shall apply respectively to each type of security.

The full Section 15 legal text (incorporating these proposed changes) is attached in Annex 1.

10 Recommendations

Proposer's Recommendation to Panel

Panel is asked to:

Agree that Normal governance procedures should apply and that this Modification Proposal proceed straight to Code Administrator Consultation.

11 Annex 1 CMP351 Legal Text

See attachment