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Date: 5 May 2021

Dear Trisha,

**Authority decision to send back CUSC Modification Proposal CMP344 'Clarification of Transmission Licensee revenue recovery and the treatment of revenue adjustments in the Charging Methodology'**

**1. Purpose of this document**

The purpose of this document is to explain our reasons for sending back the CMP344 ("the Proposal") Final Modification Report (FMR) and to direct the CUSC Panel to revise and resubmit the FMR. We have decided that we cannot form an opinion on CMP344 based on the submitted FMR and therefore we should send it back for further work.

**2. Context**

The FMR for CMP344 'Clarification of Transmission Licensee revenue recovery and the treatment of revenue adjustments in the Charging Methodology' lacks clarity. We further outline our detailed reasons for this send back in section 3 below. We note that the Proposal is intended to provide greater clarity of the CUSC arrangements, greater clarity being a principle we support. However, it is clear that the modification goes well beyond providing greater clarity, and is seeking to change some substantive aspects of policy regarding offshore charging arrangements, whether just for Income Adjusting Events ("IAEs") or for any 'unforeseen or unforeseeable event' in the Offshore Transmission Owner ("OFTO") licence.

We would like to make it clear that consideration will be given to the offshore regime in the Summer of this year in the Offshore Transmission Network Review being carried out by us and BEIS. This work will consider what changes, if any, are needed to reach the increased target of 40GW of offshore wind by 2030, as set out in the Prime Minister's Ten Point Plan.

We suggest that the Workgroup considers whether this review might provide a better forum to propose any changes to the charging arrangements for participants in the OFTO regime.

### 3. Reason for send back

The submitted FMR has the following deficiencies, which means that we are unable to form an opinion:

- a. It is not clear from the FMR which OFTO costs the Proposal applies to;
- b. It is not clear from the legal text which OFTO costs the Proposal applies to; and
- c. There is therefore no quantitative information regarding how the change impacts each set of network users

Although the FMR refers to 'unforeseen and unforeseeable events', it does not explain *which* unforeseen or unforeseeable events it is seeking to change liability for. Instead, it states that further changes in Section 14 of the CUSC are needed 'to allow the pass through of revenue adjustment through the demand residual'.<sup>1</sup> It provides IAEs as an *example* of revenue adjusting events, which implies that other costs in other circumstances would also be affected. This means we are unable to determine from the information provided whether the proposed change would impact:

- all unforeseen or unforeseeable events in the OFTO license, which would include amongst others, charges for Exceptional Events, set out in Amended Standard Condition E12-J4,
- all unforeseen or unforeseeable events in Amended Standard Condition E12-J3, or
- some unforeseen or unforeseeable events in Amended Standard Condition E12-J3, as defined in the IAE condition.

The legal text also uses the phrase 'unforeseen and unforeseeable events, such as Income Adjusting Events' which again suggests that the proposal would cover other costs or events under the licence.<sup>2</sup> There are unforeseen and unforeseeable events throughout the OFTO Licence to which this change might refer. The FMR does narrow down the events and associated costs to those listed in Standard Amended Condition E12-J3 of the OFTO Licence but provides no greater detail as to whether this Proposal relates to the treatment of costs associated to Exceptional Events, IAEs etc.

We note that in respect of Exceptional Events, the ESO has identified the potential additional costs to demand consumers.<sup>3</sup> We note that this quantitative information was not

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<sup>1</sup> <https://www.nationalgrideso.com/document/184221/download>

<sup>2</sup> See Annex 3 of [CMP344 'Clarification of Transmission Licensee revenue recovery and the treatment of revenue adjustments in the Charging Methodology' | National Grid ESO](#)

<sup>3</sup> See Annex 5 of [CMP344 'Clarification of Transmission Licensee revenue recovery and the treatment of revenue adjustments in the Charging Methodology' | National Grid ESO](#)

used in the Workgroup consultation because the Workgroup did not wait for it to become available as set out under 'Post Workgroup Consultation Considerations of p9 of the FMR'.<sup>4</sup>

Without clarity as to the specific costs which – under this Proposal - would be transferred into the transmission Demand residual we are unable to form an opinion on the merits of this Proposal.

These deficiencies are summarised in the following table:

OFTO licence <sup>5</sup>	FMR <sup>6</sup>	Legal Text <sup>7</sup>	Our interpretation
There is a specific IAE condition.	Uses IAEs as an <i>example</i> of charges affected and refers specifically to the paragraphs of the OFTO licence containing the IAE condition.	Uses IAEs as an example of charges affected.	This change must be intended to impact more than solely IAEs.
Standard Amended Condition E12-J3 contains a number of 'pass-through' costs including the IAE condition.	Refers to Standard Amended Condition E12-J3 which contains 'pass-through' costs.	Refers to 'unforeseen or unforeseeable events such as an Income Adjusting Event'.	E12-J3 contains a number of 'Pass-through' costs which may be considered to be adjustments to income which could also be described as unforeseen or unforeseeable. However, there are other similarly unforeseen or unforeseeable costs in the OFTO licence to which this change could apply.
Unforeseen and Unforeseeable Costs occur beyond the Amended Standard Condition E12-J3.	Although the FMR seems to suggest it is referring to Amended Standard Condition E12-J3, as there is no specification as to the affected charges this is not clear. Like the legal text it also uses the term, unforeseen or unforeseeable.	Refers to 'unforeseen or unforeseeable events such as an Income Adjusting Event'.	There is nothing in the FMR or legal text which enable us to determine which specific costs this change would affect, nor any quantitative evidence as to the magnitude of the change, other than the ESO tariff analysis. It is unclear from the ESO's analysis whether the increase in demand charges is resultant of Income Adjusting Events alone, or any potential 'unforeseen and unforeseeable' event.

#### 4. Our expectations

We therefore direct that further work is undertaken to address these deficiencies, including:

1. The costs and/or events affected by this Proposal clearly set out, with reasoning;
2. Analysis of the impact of the reforms on affected parties – to the extent that this Proposal represents a policy change, some indication of the magnitude of change should be presented once the parameters in (1.) above have been set; and
3. Legal text which clearly sets out the exact methodology the ESO should follow – in our view the current iteration of the legal text is not capable of being implemented as it is particularly unclear when ESO would be required to move costs into the

<sup>4</sup> <https://www.nationalgrideso.com/document/184221/download>

<sup>5</sup> [https://www.ofgem.gov.uk/system/files/docs/2019/07/generic\\_ofto\\_licence\\_tr6\\_v1\\_change\\_marked\\_for\\_publication.pdf](https://www.ofgem.gov.uk/system/files/docs/2019/07/generic_ofto_licence_tr6_v1_change_marked_for_publication.pdf)

<sup>6</sup> [download \(nationalgrideso.com\)](https://www.nationalgrideso.com/download)

<sup>7</sup> [CMP344 'Clarification of Transmission Licensee revenue recovery and the treatment of revenue adjustments in the Charging Methodology' | National Grid ESO](#)

demand residual. We also expect to see improved consistency between the legal text and FMR.

## **5. Conclusions**

In view of these deficiencies in the FMR and associated annexes we cannot properly form an opinion on this Proposal. We require the revised FMR to be very clear about what changes are being made, to explain the impacts on all affected parties and to ensure that the FMR and legal text are consistent. After addressing these issues and revising the FMR accordingly, the CUSC Panel should re-submit it to us for decision as soon as practicable.

Yours sincerely,

**Harriet Harmon**

**Head of Electricity Network Charging, Energy Systems Management and Security**

Duly authorised on behalf of the Authority