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Email: Harriet.Harmon@ofgem.gov.uk

Date: 23 April 2021

Dear Trisha,

### **CMP373 'Deferral of BSUoS billing error adjustment' – decision on urgency**

On 20 April 2021 EDF (the 'Proposer') raised Connection and System Use of System Code (CUSC) Modification Proposal CMP373 (the 'Proposal').<sup>1</sup> It has recently come to light that the Electricity System Operator (ESO) have under-billed industry parties for Balancing Services Use of System (BSUoS) charges for £44m of costs incurred in the 2020/21 charging year. The baseline CUSC does not outline the specific process by which such under-billing will be rectified, although the ESO has stated it intends to recover c.£10m of the under-billed value over all Settlement Periods in 2021/22, and the rest in the RF run for the relevant September - March 2020/21 Settlement Periods (as the CUSC does require that charges levied should reflect the Settlement Periods in which they were incurred). This modification seeks to collect this additional revenue through the Settlement Final (SF) run in the current charging year (2021/22), rather than the Reconciliation Final (RF) run for the charging year in which these costs were incurred (2020/21).<sup>2</sup>

The CUSC Modifications Panel (the 'Panel') considered the Proposer's urgency request at its meeting on 21 April 2021. The Panel agreed unanimously that CMP373 does meet Ofgem's Code Modification Urgency Criteria<sup>3</sup> and so recommend that CMP373 should be treated as

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<sup>1</sup> <https://www.nationalgrideso.com/document/190416/download>

<sup>2</sup> The proposal includes the II, SF and RF runs, there are no invoices raised for the II run. More information on BSUoS billing is available at [PowerPoint Presentation \(nationalgrideso.com\)](https://www.nationalgrideso.com). The underbilling occurred in the 2020/21 SF run and it is the 2020/21 RF run which was initially proposed for all outstanding revenue to be collected although the ESO have since suggested other potential options. More information is available at <https://www.nationalgrideso.com/document/190426/download>

<sup>3</sup> Ofgem (2016) Guidance on Code Modification Urgency Criteria: <https://www.ofgem.gov.uk/publications-and-updates/ofgem-guidance-code-modification-urgency-criteria-0>

an Urgent CUSC Modification Proposal. Following the Panel meeting, we received the request that CMP373 be treated as an Urgent Modification Proposal.<sup>4</sup>

We have considered both the Panel and the Proposer's arguments. We have decided that CMP373 should be progressed on an urgent basis. We have set out our reasoning below.

## **Background**

BSUoS charges are currently paid by Generators and Suppliers for services carried out by the ESO to keep supply and demand in balance on the electricity system in real time. The ESO collects the revenue through the SF run. Any changes which need to be made after the SF run to ensure that all market participants are made whole is undertaken through the RF run. These charges are ultimately passed through to consumers.

Market participants were made aware that they had been undercharged on 8 April at a Transmission Charging Methodology Forum (TCMF) meeting which was followed up on 9 April.<sup>5</sup> ESO have quantified the error as:

- (i) £34m relating to trading activities, caused by a formatting change which meant the data was not correctly recorded in the master file, and therefore impacted BSUoS invoicing; and
- (ii) £10m attributable to the Accelerated Loss of Mains Change Programme for which the ESO failed to restart recovery in early 2021.<sup>6</sup>

The ESO proposes to collect this revenue beginning on 26 May 2021.

## **The Proposal**

Whilst the ESO has proposed ways in which they could recover these charges, EDF has raised this modification to consider options through the CUSC industry process.

The Proposer has identified that, in the latest two charging years for which data is available, 2017/18 and 2018/19, the additional charges between the SF and RF runs have been £5.5m and £9.1m respectively. Whilst market participants would expect there to be a difference between the SF and RF runs for charging year 2020/21, additional charges through the RF run would, the Proposer believes, be expected to be of a similar magnitude to previous years. The Proposer explained that recovering in excess of £44m through the

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<sup>4</sup> References to the "Authority", "Ofgem", "we", and "our" are used interchangeable in this document. The Authority refers to GEMA, the Gas and Electricity Markets Authority. The Office of Gas and Electricity Markets (Ofgem) supports GEMA in its day-to-day work. This decision is made by or on behalf of GEMA.

<sup>5</sup> <https://www.nationalgrideso.com/document/190426/download>

<sup>6</sup> *IBID*

RF run would significantly increase the total revenue to be collected in this way and cause significant financial impacts to Suppliers, Generators and consumers. Additionally, collecting this sum through the RF run would not allow Suppliers to pass through the costs into the price cap (unless changes were made to the price cap mechanism itself) because the data used in the calculation of the price cap is from the SF run.

The Proposer considers this modification meets the urgency criteria because it will have a significant commercial impact on Generators, Suppliers and consumers. They have also stated that recovery of at least some of these charges would begin to be recovered on 24 May 2021 and have asked that it be treated as urgent so that a solution can be in place prior to this date. We note that in the webinar held by ESO on 19 April 2021, ESO stated an intention to begin recovery on 26 May 2021. This difference of two Settlement Days is, in our view, *de minimis* and is not material to our assessment of the request for urgency we have received.

## **Panel View**

The Panel considered the request for urgency using Ofgem's Guidance on Code Modification Urgency Criteria.<sup>7</sup> At its Panel meeting on 21 April 2021, the Panel unanimously voted that this modification should be progressed as an Urgent CUSC Modification Proposal and recommended that the Authority should grant urgency. Two timetables were provided showing the different timelines dependent upon whether the Authority granted urgency or not, with timings associated with the nomination, consultation and Authority decision periods being truncated if urgency is granted. The arguments for and against urgency are set out in the letter sent to us on 21 April 2021 with a recommended implementation date of 24 May 2021 under the proposed urgent timetable.

## **Our decision**

In reaching our decision on urgency, we have considered the Proposal and the views of the Panel, including the caveat raised by a Panel member who suggested the ESO is providing more notice of the increased charges than the Proposal suggests. We have assessed the request against the urgency criteria set out in our published guidance,<sup>8</sup> and in particular, whether the Proposal is linked to an imminent or current issue that, if not urgently addressed, may cause a significant commercial impact on parties, consumers or other stakeholders.

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<sup>7</sup> [https://www.ofgem.gov.uk/system/files/docs/2016/02/urgency\\_criteria.pdf](https://www.ofgem.gov.uk/system/files/docs/2016/02/urgency_criteria.pdf)

<sup>8</sup> *IBID*

We are satisfied that CMP373 meets Ofgem's Urgency Criteria (a) as, if not urgently addressed, recovery of the significant costs related to this ESO error in billing may be recovered from affected parties from late May 2021. Treating this modification as urgent will enable exploration of potential solutions which may be implemented before ESO issues invoices in late May, maximising the opportunity to consider how best to address this error prior to these unbilled charges being levied on market participants.

For the avoidance of doubt, in granting the request for urgency, we have made no assessment of the merits of the proposal and nothing in this letter in any way fetters our discretion in respect of the Proposal.

Yours sincerely,

**Harriet Harmon**

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

Duly authorised on behalf of the Authority