

Final Modification Report

CMP371: Assessing CUSC Modification Proposals against charging and standard objectives

Overview: To update CUSC Section 8 such that it is possible, under one CUSC Modification Proposal, to change CUSC provisions relating to Connection Charges, and Use of System Charging Methodologies alongside non-charging provisions.

Modification process & timetable



Have 5 minutes? Read our [Executive summary](#)

Have 20 minutes? Read the full [Final Modification Report](#)

Have 30 minutes? Read the full Final Modification Report and Annexes.

Status summary: Final Modification Report. This Report has been submitted to the Authority for them to decide whether this change should happen.

Panel Recommendation Vote: The Panel held their recommendation vote on 25 June 2021. The CUSC Panel, by majority recommended that CMP371 should be implemented.

This modification is expected to have a: **Medium impact**

- For any person raising a CUSC Modification Proposal which would effect a change to CUSC Section 14; and
- Code Administrator.

Governance route CUSC Panel unanimously agreed that CMP371 should follow standard governance route and proceed straight to Code Administrator Consultation

Who can I talk to about the change?

Proposer:

Paul Mullen

Paul.j.mullen@nationalgrideso.com

Code Administrator Contact:

Lurentia Walker

Lurentia.walker@nationalgrideso.com

	07794 537 028	07976 940 855
--	---------------	---------------

Contents

Contents	2
What is the issue?	3
Why change?	3
What is the Proposer’s solution?	3
Legal text	4
What is the impact of this change?	5
Proposer’s assessment against CUSC Non-Charging Objectives	5
Proposer’s assessment of the impact of the modification on the stakeholder / consumer benefit categories.....	5
Code Administrator Consultation Summary	6
Panel recommendation	7
Panel conclusion	15
When will this change take place?	16
Implementation date.....	16
Date decision required by	16
Implementation approach	16
Proposer’s justification for governance route	16
Interactions	16
Acronyms, key terms and reference material	17
Reference material	17
Annexes	17

What is the issue?

Any CUSC Modification Proposal (CMP) will be assessed against either the Applicable CUSC Objectives that apply where the change relates to the Charging Methodologies (the CUSC Charging Objectives) or the Applicable CUSC Objectives that apply to other changes (the CUSC Non-Charging Objectives).

CUSC Section 8.16.2 means that a CMP that proposes a change to the Charging Methodologies set out in CUSC section 14 cannot also contain a proposal to modify any other section of CUSC. In practice, this means that where a CMP changes CUSC Section 14, that same CMP cannot change any other CUSC Section and conversely, where a CMP changes any non-charging provisions of the CUSC it cannot also alter CUSC Section 14.

In the majority of cases, changes to CUSC Section 14 result in the requirement for consequential changes to other parts of the CUSC (notably the definitions in CUSC Section 11) and a Proposer currently needs to raise two separate but associated CMPs.

The CUSC should be updated such that Charging and Non-Charging changes can be included in one CMP, but with such changes being judged against their respective Applicable CUSC Objectives, in order to remove the inefficient practice of raising multiple modifications to enact one related change.

Why change?

There are inefficiencies in the Modification process as a direct result of the requirement to raise two separate CMPs to enact a single change. There is potential to improve efficiencies in the delivery of the CUSC by allowing one CMP to change multiple CUSC provisions irrespective of the Applicable CUSC Objectives.

Over the past year, efficiencies have been built into the Modification process to allow e.g. a CUSC Section 14 and a CUSC Section 11 CMP to be progressed and considered together. These process efficiencies are (subject to Panel agreement):

- Assessment by a joint Workgroup including a combined Workgroup Consultation and Workgroup Report;
- Combined Code Administrator Consultation; and
- Combined Final Modification Report.

Importantly though, where a single change requires charging and non-charging changes, the Workgroup Report, all consultations and the Final Modification Report reflect that the charging elements of the change are being judged against the CUSC Charging Objectives, and that the non-charging elements are being judged against the CUSC Non-Charging Objectives.

What is the Proposer's solution?

Changes to CUSC Section 8.16.2 to allow one CMP (including both the Charging and Non-Charging changes for a proposal) to be raised.

The CMP for such a change will include an assessment by the Proposer of the respective elements of the proposal against the respective CUSC Charging Objectives and CUSC Non-Charging Objectives. The Proposal Form (and associated guidance) will be updated to provide for this assessment and differentiate which changes are related to CUSC Section 14 and which are non CUSC Section 14.

In making its decision on any proposal the Authority would still need to assess the respective components against the relevant Applicable CUSC Objectives. The Proposer notes that removing the distinction between and combining the objectives would need licence changes and is out of scope for a CUSC change. There are no plans to pursue this either.

Legal text

Legal Text is attached below with changes shown in red text:

~~8.16.2 A proposal to modify the Charging Methodologies must be made by means of a CUSC Modification Proposal, which may not contain any proposal to modify any other section of the CUSC, and must comply (as applicable) with paragraph 5 of standard condition C4 (Charges for use of system) and paragraph 4 and 10(b) of standard condition C6 (Connection charging methodology) of the Transmission Licence. When making a CUSC Modification Proposal in respect of the Charging Methodologies, the Proposer may make specific reference to any link with another CUSC Modification Proposal.~~

Any proposal to modify the **CUSC** must be made by means of a **CUSC Modification Proposal**. A **CUSC Modification Proposal** can contain a proposal to make changes to both the **Charging Methodologies** and other **CUSC** provisions but in that case the charging component of the proposal will be assessed against the **Applicable CUSC Objectives (Charging)** and the non-charging component against the **Applicable CUSC Objectives (Non-Charging)**.

Add the following new definitions to CUSC Section 11:

“Applicable CUSC Objectives (Charging)” the **Applicable CUSC Objectives** in relation to a proposed modification of the **Charging Methodologies**;

“Applicable CUSC Objectives (Non-Charging)” the **Applicable CUSC Objectives** in relation to a proposed modification of **CUSC** other than a modification of the **Charging Methodologies**;

What is the impact of this change?

Proposer's assessment against CUSC Non-Charging Objectives

Relevant Objective	Identified impact
(a) The efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission Licence;	Neutral
(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;	Neutral
(c) Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency *; and	Neutral
(d) Promoting efficiency in the implementation and administration of the CUSC arrangements.	Positive Proposers only need to raise one CMP and reduced administration for the Code Administrator notably re: Critical Friend and Panel processes

*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).

Proposer's assessment of the impact of the modification on the stakeholder / consumer benefit categories

Stakeholder / consumer benefit categories	Identified impact
Improved safety and reliability of the system	Neutral
Lower bills than would otherwise be the case	Neutral
Benefits for society as a whole	Neutral
Reduced environmental damage	Neutral
Improved quality of service	Neutral

Code Administrator Consultation Summary

The Code Administrator Consultation was issued on 11 May 2021 and closed at 5pm on 2 June 2021. Four responses were received with all of these being non-confidential. A summary of these responses can be found below, and the full responses can be found in Annex 2.

Code Administrator Consultation summary	
Question	
Do you believe that the CMP371 Original Proposal better facilitates the Applicable CUSC Objectives?	Three respondents agreed that CMP371 better facilitates Applicable Objective (d) noting the efficiencies that CMP371 provides. The other respondent sees merit in the CMP371 change but does not believe in it's current form that this better facilitates Applicable Objective (d).
Do you support the proposed implementation approach?	All respondents supported the implementation approach.
Do you have any other comments?	<p>One respondent raised two points that were previously raised and discussed at the 30 April 2021 Panel namely that:</p> <ul style="list-style-type: none"> • They understand from the ESO that they have been told by Ofgem that this proposal is legally compliant with the Transmission Licence: however, this is not stated within this consultation document; and • This could create "significant confusion" when assessing an individual proposal against two sets of Applicable Objectives that are both labelled as (a), (b), (c) and (d) (with one also having an additional label (e)) and reaffirms their stated desire for one set of Applicable Objectives to be labelled with roman numerals and does not believe there is anything in the licence that precludes this. On this point, another respondent noted that Code Admin will need to clearly articulate the differences between the two sets of Applicable Objectives , both in their Critical Friend Role and whilst chairing Workgroups to ensure members understand the voting process. However, they added that "<i>Since they already do this satisfactorily when helping proposers divide a Mod up into charging and non-charging, and during</i>

	<p><i>Workgroup votes, this is unlikely to be a problem”</i></p> <p>This respondent also raised a concern about how the Panel vote would work as they believe the CUSC wording suggests this is a vote against all Applicable Objectives and not two separate votes against the two separate sets of Applicable Objectives.</p>
Legal text issues raised in the consultation	
None raised specifically on the CUSC wording; however, a respondent re-iterated their previous suggestion for one set of Applicable Objectives to be labelled with roman numerals.	
EBGL issues raised in the consultation	
None raised	

Panel recommendation

The Panel met on the 25 June 2021 to carry out their recommendation vote.

They assessed whether a change should be made to the CUSC by assessing the proposed change and any alternatives against the Applicable Objectives.

Vote 1 - Does the Original facilitate the objectives better than the Baseline?

Panel Member: Andy Pace

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Overall (Y/N)
Original	Neutral	Neutral	Neutral	Yes	Yes
Voting Statement					
<p>This modification improves the efficiency of the governance arrangements for CUSC. The current requirement to have two modification proposals is inefficient and can be confusing for stakeholders. We note that other Codes do not need to have separate modification proposals even when the relevant objectives may be different. We therefore assess that this mod better meets applicable CUSC objective (d).</p>					

Panel Member: Cem Suleyman

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Overall (Y/N)
Original	Neutral	Neutral	Neutral	Yes	Yes
Voting Statement					
<p>On the assumption that the change is legally permissible, I believe that CMP371 better facilitates the Applicable CUSC Objectives for the same reasons as provided by the Proposer. I would have preferred it if the Roman numerals suggestion had been adopted, but it is not essential.</p>					

Panel Member: Garth Graham

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Overall (Y/N)
Original	No	Neutral	Neutral	No	No
Voting Statement					
<p>Before providing the rationale for my Panel vote on CMP371 I would like to set out (as I have done on numerous other public occasions) that I support the <i>principle</i> of this proposal, namely that rather than two separate CUSC modifications being raised for changes to the charging <u>and</u> non-charging aspects of the CUSC that, instead, a single Modification be raised.</p> <p>However, as I have also set out, for example, at a number of TCMF meetings as well as CUSC Panel meetings, this change has to be legally compliant with the Transmission Licence; issued by the Authority to the ESO; and it's on those ground alone that I believe this proposal is <u>not</u> better than Applicable Objective (a) as it would cause the ESO to be in breach of the Transmission Licence; which means that the ESO cannot efficiently discharge the obligations imposed on it by the Act and the Transmission Licence; and also that it is not better in terms of Applicable Objective (d) as it would, by applying an illegal approach, not promote efficiency in the implementation and administration of the CUSC. The modification is neutral with respect to Applicable Objectives (b) and (c).</p> <p>My rationale, which I detail below, is based on matters of legal certainty (including matter concerning statutory consultations and appeal rights), the precedence established by this change as well as the unintended consequences and financial implications for Users and consumers that would arise if CMP371 was approved by the Authority.</p> <p><u>Legality</u></p>					

As I set out in my email to the CUSC Panel Secretary (copied to the Panel and Ofgem) on 18th June 2021 CMP371 concerns the “Applicable CUSC Objectives”, the CUSC definition of which¹ refers to the Transmission Licence.

Therefore, it is necessary to look there (rather than the CUSC itself) for the definition of “Applicable CUSC Objectives”.

Having examined the Transmission Licence², it is relevant to focus on Condition C10 paragraph 15 (pages 217-218) and, in particular, the wording in sub-paragraphs (aa) and (b), namely:

“(aa) in relation to a proposed modification of the charging methodologies only, the objectives (as applicable) set out at:.....” [emphasis added]

“(b) in relation to any other proposed modification, the objectives set out in paragraph 1” [emphasis added]

My understanding is that the CMP371 solution would see (in the future) a ‘combined’ (single) CUSC modification proposal which permits both a “*modification of the charging methodologies*” and “*in relation to a proposed modification of CUSC other than a modification of the Charging Methodologies*” (as per the CMP371 legal text).

The view of the Legal Department of the ESO (shared with the CUSC Panel on the morning of the June Panel meeting) was that:

“In terms of the definition of “applicable CUSC objectives” (C10 para 15). I can see the view that you can only assess a “combined mod” against the non-charging objectives i.e. the “proposed modification” is a specific CMP and as it doesn’t only cater for changes to the charging methodology the non-charging objectives apply. [emphasis added]

[The ESO’s Legal Department provides further thoughts which I’ll come onto below.]

Based on my reading of the Transmission Licence wording; and noting the ESO’s Legal Department’s view; I therefore conclude that:

- 1) a future (post CMP371 implemented) combined (single) modification proposal would not be ‘*in relation to a proposed modification of the charging methodologies only*’;
- 2) therefore, such a combined (single) modification proposal would fall under C10 paragraph 15 sub-paragraph (b) and not sub-paragraph (aa);
- 3) thus, based on the Transmission Licence wording³, the charging Applicable Objectives would not apply to a future combined (single) modification that included changes to the charging methodologies⁴ (as set out in Section 14 of the CUSC); and
- 4) as a result, the Proposer, the Workgroup (if relevant), stakeholders responding to any consultation(s), the Panel and Ofgem could only

¹ In Section 11 of the CUSC.

² <https://epr.ofgem.gov.uk/Content/Documents/Electricity%20transmission%20full%20set%20of%20consolidated%20standard%20licence%20conditions%20-%20Current%20Version.pdf>

³ And as per the ESO’s Legal Department view.

⁴ As well as other parts of the CUSC as a ‘combined’ modification, which is the *raison d’être* of the approach introduced by CMP371.

consider that change against the non-charging Applicable Objectives, even though the combined (single) modification changes the charging methodologies in Section 14 (as well as other parts) of the CUSC.

I don't think this situation (arising from the approval of CMP371) has been widely understood or appreciated by the ESO, the Panel or the wider stakeholder community up until the CUSC Panel's very recent deliberations.

Statutory Consultation for Licence (rather than Code) changes

Notwithstanding the legality issues noted above, there is also the matter of changing the Transmission Licence (by not applying / ignoring the explicit wording in C10 (15) (aa) of the Licence itself) by way of a Code modification (in this case CMP371).

It was my understanding that any and all changes to the Transmission Licence; even if agreed by the Licensee and the Authority; have to be subjected to a statutory consultation process (which has not occurred in this case, with CMP371) over a defined period of time; which is longer than, for example, the 15 Working Days accorded to the CMP371 Code Administrator Consultation.

In addition, such Licence changes are generally preceded by a 'pre-consultation' on the part of the Authority as it seeks views on its minded to position to change a Licence – ahead of the formal statutory consultation process: that too has not happened with CMP371.

Statutory Appeal rights for Licence (rather than Code) changes

I also note, in passing, that allowing changes to the Transmission Licence by way; in the case of CMP371 and future modifications of its ilk; of not applying / ignoring the explicit wording in C10 (15) (aa) of the Licence itself, by way of a Code modification (in this case CMP371), would also remove the statutory appeal rights that a Licensee has to the CMA⁵ where the Authority changes the Licence that the Licensee operates too.

In this regard it is also important to recognise that those statutory appeal rights are *different*⁶ to those afforded under Section 173 of the Energy Act 2004 for appeals of Code modification decisions; where the Authority's decision is contrary to the Code Panel's recommendation vote: which, for the avoidance of doubt, would not apply in the case of CMP371 anyway (as the Panel majority was to recommend approval) if it was to be approved by the Authority.

Precedence

Notwithstanding the legal case made above if, nevertheless, the Authority was to approve CMP371 then it would (despite protestations to the contrary) set a very important legal precedence; namely that if the intent of a CUSC modification (or a modification to another Code that falls within the remit of the relevant Licence⁷) is

⁵ See, for example

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/655601/energy-licence-modification-appeals-rules.pdf

⁶ As they are constrained to a different part of the statutory framework compared with a Licensee's right to appeal, to the CMA, a Licence change.

⁷ For example, the Distribution Licence or the Supplier Licence or, as in the case of CMP371, the Transmission Licence.

to change the application of the Licence wording then it would be possible, in the future, for any CUSC (or other Code) party, who has a right to raise a Code modification, to do so likewise and for that modification to proceed to the Authority for a decision on the merits, or otherwise, of that proposed change.

The basis of this statement comes from the second part⁸ of the legal advice from the ESO to the CUSC Panel, namely:

“Alternatively, though, and in light of the intentions of CMP371 and that there is clear intent that there is to be a distinction in the objectives applied for the charging methodologies (C5 and C6), you could read the “only” by reference to the proposed modification as it applies to the charging methodologies i.e. it’s the modification of the charging methodology rather than the CMP as a whole. The CMP371 already reflects this alternative view by looking at the proposal in the charging/non charging components.”
[emphasis added]

To put it simply, **if** it is, in legal terms, procedurally correct for a Code modification; with the intent of changing⁹ a Licence; to (i) proceed through the Code change process and (ii) be approved (if its merits outweigh any demerits) then this is the case not just with the first such modification (CMP371) but the second or third, and so on, modification(s).

Conversely, if it is, procedurally, illegal for a second or third modification then it is illegal, procedurally, for the first modification (CMP371) or, as the saying goes, ‘*what’s sauce for the goose is sauce for the gander*’.

Unintended Consequence

Up until CMP371 it was my understanding that it was widely understood that any Code modification that came forward that was not in conformance with the Transmission Licence, let alone one (like CMP371) which sought to disapply/ignore the wording in the Licence itself was considered *ultra vires* and could not even be raised as a Code modification, let alone proceed to the Authority for a decision.

This is a point that the ESO has also strongly argued, in the past, when suggestions of Code modifications have started to ‘encroach’ onto areas covered in the Transmission Licence – and the ESO has said that a Licence change is first required (to change the relevant wording in the Transmission Licence) before a Code modification can be taken forward.

Given its support for CMP371, and the principle that it introduces, I look forward to the ESO’s full support for this approach when other Code parties bring forward future Code modifications that, like CMP371, seek to amend / overwrite / ignore / disapply the wording in the Transmission Licence (even if the ESO has concerns as to the merits, or otherwise, of the modification itself).

Notwithstanding the above, if the Authority was to approve CMP371 then a clear precedence would then be established not just for the CUSC but all other Codes¹⁰

⁸ The first part is covered under ‘Legality’ above.

⁹ By, for example, ignoring or disapplying or overwriting the wording in the Licence; such as C10 (15) (aa) of the Transmission Licence, as per CMP371.

¹⁰ Relevant aspects of which, like the CUSC, are contained within the ESO’s Transmission Licence.

including, but not limited to, the BSC, Grid Code, SO/TO Code and SQSS (as well as, presumably, other Codes, such as the Distribution Code and DCUSA that fall within the vires of other Licences issued by the Authority such as, in that case, the Distribution Licence).

In addition to the above unintended consequences, it is also important to note the effect of the principle; established by the approval of CMP371; would have in terms of doing away with the Statutory Consultation of Licence changes and the Statutory Rights of appeal that a Licensee has (where the Authority does change its Licence) which, as I've set out in more detail above, occurs with CMP371 (and future Code modifications of its ilk).

Financial impact on Users and Consumers

If, notwithstanding the points I've made above, the Authority was, nevertheless, to approve CMP371 and at a later date, perhaps years into the future, with many combined (single) modifications to both the CUSC charging and non-charging aspects having been raised, approved and implemented into the charging methodologies; contained within Section 14 of the CUSC; and it was found to be the case that the wording set out in Condition C10 paragraph 15 sub-paragraph (aa) of the Transmission Licence did in fact apply (contrary to the CMP371 approach) then all the combined (single) modifications; to the CUSC charging and non-charging aspects; that arose post the implementation of CMP371 could (or indeed would, as per the Tempus Energy case?) be determined as being *ultra vires*; as they had been based on a procedural flaw.

If this was the case then this could have profound implications for both TNUoS and / or BSUoS charges for Users and consumers as those charges would have been applied, by the ESO, in contravention of its Transmission Licence. This, in turn, could well necessitate emergency action needing to be taken to rectify the over / under charging that would have arisen.

Conclusion

Finally, a simple question:

As I states in the opening paragraph of this voting statement, I note the widespread support from stakeholders (including myself) to the *principle* that CMP371 is seeking to achieve – of allowing for a single CUSC Modification taking into account both the charging and non-charging Applicable Objectives – and given this support, from stakeholders, the ESO and Ofgem (if they are minded to support CMP371) then why can't Ofgem simply just change the Transmission Licence in accordance with the statutory process (rather than a Code modification in the form of CMP371)?

Panel Member: Grace March

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Overall (Y/N)
Original	Neutral	Neutral	Neutral	Yes	Yes
Voting Statement					

This modification will remove the need for two separate modifications which would be expected to be handled together in a joint Workgroup and thus is positive against ACO (d).

Panel Member: Joe Dunn

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Overall (Y/N)
Original	Neutral	Neutral	Neutral	Yes	Yes
Voting Statement					
Positive only to ACO (D), however, I would echo other CUSC member concern about the potential for confusion during workgroup votes and that the process will need to be clearly explained and defined well.					

Panel Member: Jon Wisdom

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Overall (Y/N)
Original	Neutral	Neutral	Neutral	Yes	Yes
Voting Statement					
The CUSC modification proposal arrangements will be simplified by the introduction of this modification proposal. Rather than raising two modification proposals for the purposes of considering the two different sets of objectives proposers, workgroups, respondents and Panel members will consider a single change and be able to assess it against all of the relevant objectives. As today Panel members will be able to take a balanced view and consider in the round whether any proposal or alternative does in fact better meet the overall objectives as laid out in the transmission licence. Therefore, this proposal better meets applicable objective (d).					

Panel Member: Mark Duffield

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Overall (Y/N)
Original	Neutral	Neutral	Neutral	Yes	Yes
Voting Statement					
By reducing the administration often involved with dual modifications when charging methodology changes are progressed, I believe that the amendment will better facilitate Relevant CUSC Objective d.					

In response to the query about whether the Transmission Licence permits, or otherwise the assessment of a single CUSC Modification Proposal that proposes amendment to both the Charging Methodologies and other areas of the CUSC with reference to both sets of Applicable Charging Objectives. I believe that because the Licence does not define the term "modification" it therefore can be interpreted as its broader definition of a "change or alteration", rather than a specific CUSC Modification Proposal. Therefore, the Licence would permit a single CUSC Modification Proposal that modifies both the Charging Methodology and non-Charging Methodologies and that the amendments to each area be assessed according to the relevant sets of Applicable CUSC Objectives.

Panel Member: Paul Jones

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Overall (Y/N)
Original	Neutral	Neutral	Neutral	Yes	Yes
Voting Statement					
<p>Improves efficiency of the change process. I believe it is consistent with the requirements of the transmission licence. It is noted what the definition of Applicable CUSC Objectives in para15(aa) of condition C10 says. Where it says, "in relation to a proposed modification of the charging methodologies only" the interpretation that has been put forward that this means "a CUSC Modification Proposal which only proposes modifications to the charging regime" seems too narrow and literal in the context of the rest of the licence.</p> <p>The following parts of the licence give such context. Condition C5 makes it clear that proposals to change the use of system charging methodology are to better achieve the "relevant objectives" which are those set out in para 5 of licence condition C5. Furthermore, condition C10 makes it clear that the objectives set out in para 1 of that condition do not apply to "standard conditions C14 (Grid Code) and C5 (Use of system charging methodology) to C9 (Functions of the Authority)".</p> <p>A combined CUSC Modification Proposal will contain proposals to modify the charging methodology and proposals to modify the rest of the CUSC. The "only" in C10 para 15(aa) seems simply to be saying that only changes to the methodology should be assessed against C5 and C6, and any other changes should be assessed against C10. I believe this is consistent with the legal advice provided by NGENSO which says, "you could read the "only" by reference to the proposed modification as it applies to the charging methodologies i.e. it's the modification of the charging methodology rather than the CMP as a whole".</p> <p>The alternative interpretation assumes that a CUSC Modification Proposal is exactly the same thing as a proposed modification, as referred to in the licence, which I do not believe is the case. One CMP can propose multiple modifications to the code.</p> <p>In the context of combined proposals to modify both charging and non-charging parts of the CUSC, it makes sense that the Panel would provide a single</p>					

recommendation on the CMP as a whole, against this combined set of nine applicable objectives.

Panel Member: Paul Mott

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Overall (Y/N)
Original	Neutral	Neutral	Neutral	Yes	Yes
Voting Statement					
<p>The proposal is beneficial against (d) efficient admin, as Proposers, if it is passed, will only need to raise one CMP for mods affecting section 14 AND section 11 (or other sections), with a result of reduced administration for the Code Administrator re: Critical Friend workgroup duties, a lower burden on workgroup members and fewer times a "parallel world" mod has to be clumsily launched part way through when the need for it becomes apparent, and a reduced burden on Panel; also increased comprehensibility of the arcane world of CUSC to CUSC parties who are not on the workgroup.</p>					

Vote 2 – Which option is the best?

Panel Member	BEST Option?	Which objectives does this option better facilitate? (If baseline not applicable).
Andy Pace	Original	d
Cem Suleyman	Original	d
Garth Graham	Baseline	n/a
Grace March	Original	d
Joe Dunn	Original	d
Jon Wisdom	Original	d
Mark Duffield	Original	d
Paul Jones	Original	d
Paul Mott	Original	d

Panel conclusion

The Panel, by majority recommended that the Proposer's solution should be implemented.

When will this change take place?

Implementation date

10 working days after Authority decision – no need to wait until the start of a Charging Year.

Date decision required by

As soon as reasonably practicable; however, ideally ahead of when Modifications will need to be raised in respect of the Access and Forward-Looking Charges Significant Code Review. The expectation here is that many CUSC Section 14 changes will be raised that will need consequential changes to non CUSC Section 14 parts of CUSC.

Implementation approach

Efficiencies have already been built into the Modification process; notably joint Workgroups, Reports and Consultations. However, the Proposal form (and guidance) will need to be tweaked to allow Proposers to include an assessment against both the CUSC Charging Objectives and CUSC Non-Charging Objectives and spell out which changes are related to CUSC Section 14 and which are non CUSC Section 14.

Proposer's justification for governance route

Governance route: Standard Governance modification to proceed to Code Administrator Consultation

This change should proceed directly to Code Administrator Consultation given the binary nature of the proposal. The Proposer does not believe that there are alternatives which would meet the defect of this proposed change, which could be derived by a Workgroup.

Modification does not meet the Self-Governance Criteria (a)(v) as this CMP has a material effect on CUSC governance processes.

Interactions

- | | | | |
|--|--|---|--------------------------------|
| <input type="checkbox"/> Grid Code | <input type="checkbox"/> BSC | <input type="checkbox"/> STC | <input type="checkbox"/> SQSS |
| <input type="checkbox"/> European
Network Codes | <input type="checkbox"/> EBGL Article 18
T&Cs ¹¹ | <input type="checkbox"/> Other
modifications | <input type="checkbox"/> Other |

No other interactions anticipated

¹¹ If your modification amends any of the clauses mapped out in Exhibit Y to the CUSC, it will change the Terms & Conditions relating to Balancing Service Providers. The modification will need to follow the process set out in Article 18 of the European Electricity Balancing Guideline (EBGL – EU Regulation 2017/2195) – the main aspect of this is that the modification will need to be consulted on for 1 month in the Code Administrator Consultation phase. N.B. This will also satisfy the requirements of the NCER process.

Acronyms, key terms and reference material

Acronym / key term	Meaning
BSC	Balancing and Settlement Code
CMP	CUSC Modification Proposal
CUSC	Connection and Use of System Code
EBGL	Electricity Balancing Guideline
STC	System Operator Transmission Owner Code
SQSS	Security and Quality of Supply Standards
T&Cs	Terms and Conditions

Reference material

- None

Annexes

Annex	Information
Annex 1	Proposal Form
Annex 2	Code Administrator Consultation Responses