

Code Administrator Consultation Response Proforma**CMP371: Assessing CUSC Modification Proposals against charging and standard objectives**

Industry parties are invited to respond to this consultation expressing their views and supplying the rationale for those views, particularly in respect of any specific questions detailed below.

Please send your responses to cusc.team@nationalgrideso.com by **5pm on 2 June 2021**. Please note that any responses received after the deadline or sent to a different email address may not receive due consideration.

If you have any queries on the content of this consultation, please contact Ren Walker Lurrentia.walker@nationalgrideso.com or cusc.team@nationalgrideso.com

Respondent details	Please enter your details
Respondent name:	Garth Graham
Company name:	SSE Generation
Email address:	garth.graham@sse.com
Phone number:	01738 456000

I wish my response to be:
(Please mark the relevant box)

Non-Confidential Confidential

Note: A confidential response will be disclosed to the Authority in full but, unless agreed otherwise, will not be shared with the Panel or the industry and may therefore not influence the debate to the same extent as a non-confidential response.

For reference the Applicable CUSC (non-charging) Objectives are:

- a) *The efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission Licence;*
- 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;*
- c) *Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency *; and*
- d) *Promoting efficiency in the implementation and administration of the CUSC arrangements.*

**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).*

Please express your views in the right-hand side of the table below, including your rationale.

Standard Code Administrator Consultation questions		
1	Do you believe that the CMP371 Original Proposal better facilitates the Applicable Objectives?	<p>This proposal is neutral with respect to Applicable Objectives (a), (b) and (c).</p> <p>This proposal does not better facilitate Applicable Objective (d) for the three reason we detail in our answer to Question 3 below.</p>
2	Do you support the proposed implementation approach?	We support the proposed implementation approach.
3	Do you have any other comments?	<p>Whilst, in principle, we can see the merit of this proposal, we have three serious reservations as regards its operation, if approved, in practice.</p> <p><u>Firstly</u>, we 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.</p> <p>We did expressly raise this need; for reassurance from Ofgem for stakeholders; with the ESO at the TCMF meetings where this proposal was discussed. This response is therefore made on the basis of that the ESO is expressly warranting that this proposal is, according to Ofgem, legally compliant with the Transmission Licence.</p> <p><u>Secondly</u>, we have cause for serious concern that if implemented, as proposed, this proposal sees at least three and possible up to five occasions for 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)) the component element of which are similar, but materially different, in wording but not labelling.</p> <p>This would occur on three occasions with a Code Administrator, Panel Recommendation Vote and Authority Decision and on a further two occasions (making five overall) with a Workgroup Consultation and Workgroup vote.</p>

We had suggested to the ESO a simple, practical, solution, which was to relabel one of the two sets of objectives with Roman numerals – in this way it will be clear to all when the three (or five) assessments against the Applicable Objectives were being undertaken as to which are being referred to.

The simplest change would be to (re)label the non-charging Applicable Objectives (a)-(d) as (i)-(iv) leaving the other, charging, Applicable Objectives as they are; (a)-(e); as there is across reference in (c) to (a) and (b).

Having examined both conditions C5 and C10 in the Transmission Licence (from where the two sets of respective Applicable Objectives come from) we can find no reason that prevents this simple label change: the associated wording would remain the same.

We would therefore suggest that Ofgem sends back this CMP371 proposal and seeks to make this simple change to avoid legal uncertainty, in the future, as to which Applicable Objectives was used for each of the three (or five) assessments for a future Modification (and, potentially, any associated WACMs).

Thirdly, in the event of a Panel vote for a future Modification (and, potentially, any associated WACMs) an issue may arise as to what is the *actual* Panel's Recommendation Vote if a majority of the Panel vote, for example, positively in terms of the non-charging Applicable Objectives whilst there is no similar majority (in the positive) for the charging objectives – or vice versa.

The CUSC defines this vote as:

“the vote of Panel Members undertaken by the Panel Chairman in accordance with Paragraph 8.23.4 as to whether in their view they believe each CUSC Modification Proposal, or Workgroup Alternative CUSC Modification would better facilitate achievement of the Applicable CUSC Objective(s) and so should be made”
[emphasis added]

Currently, as there are two Modifications there are two separate votes against the two, separate, sets of Applicable Objectives.

In the future, if CMP371 was approved (as currently drafted) then confusion could arise as to what, exactly, was the Panel Recommendation Vote, as the vote would (as per the underlined wording in the quote from the CUSC above) be against all the Applicable Objectives.

This is perhaps best illustrated by showing the nine Panel member votes in tabular form for three simple scenarios for a future Modification (and possible WACM(s)) vote.

Objective	Positive	Negative
A-D [i-iv]	5	4
A-E	4	5
Total	9	9
Split vote so no Panel majority Recommendation?		

Objective	Positive	Negative
A-D [i-iv]	5	4
A-E	3	6
Total	8	10
Panel majority Recommend Mod/WACM is not better against AOs?		

Objective	Positive	Negative
A-D [i-iv]	4	5
A-E	6	3
Total	10	8
Panel majority Recommend Mod/WACM is better against AOs?		

Notwithstanding the above, if these three concerns can be addressed then (in that situation only) we could see that this proposal would better facilitate Applicable Objective (d).