

Workgroup Consultation Response Proforma**CMP368 & CMP369**

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 July 2021**. Please note that any responses received after the deadline or sent to a different email address may not receive due consideration by the Workgroup.

If you have any queries on the content of this consultation, please contact Jennifer Groome Jennifer.Groome@nationalgrideso.com or cusc.team@nationalgrideso.com

Respondent details	Please enter your details
Respondent name:	Joe Dunn
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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, the Workgroup or the industry and may therefore not influence the debate to the same extent as a non-confidential response.

CMP368**For reference the Applicable CUSC (non-charging) Objectives are:**

- The efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission Licence;*
- 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;*
- Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency *; and*
- 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).*

CMP369**For reference the Applicable CUSC (charging) Objectives are:**

- a. *That compliance with the use of system charging methodology facilitates effective competition in the generation and supply of electricity and (so far as is consistent therewith) facilitates competition in the sale, distribution and purchase of electricity;*
- b. *That compliance with the use of system charging methodology results in charges which reflect, as far as is reasonably practicable, the costs (excluding any payments between transmission licensees which are made under and accordance with the STC) incurred by transmission licensees in their transmission businesses and which are compatible with standard licence condition C26 requirements of a connect and manage connection);*
- c. *That, so far as is consistent with sub-paragraphs (a) and (b), the use of system charging methodology, as far as is reasonably practicable, properly takes account of the developments in transmission licensees' transmission businesses;*
- d. *Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency; and*
- e. *Promoting efficiency in the implementation and administration of the system charging methodology.*

**Objective (d) 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 regarding the Workgroup Consultation in the right-hand side of the table below, including your rationale.

CMP368 Standard Workgroup Consultation questions		
1	Do you believe that the CMP368 Original Proposal better facilitates the Applicable Objectives?	I am undecided – While appreciative of the need for ESO to carry out Ofgem’s direction, it is not clear from the WG Consultation that the proposal better meets the ACOs. Various WG members’ challenges suggest that the solution may be sub-optimal, and perhaps more investigation is required.
2	Do you support the proposed implementation approach?	No – for the reasons above
3	Do you have any other comments?	<p>The WG Consultation is hugely complex and, in hindsight, a dedicated legal resource would be required to consider in order to provide meaningful response on the areas in question. Therefore, I have chosen not to respond to many of the questions in the proforma.</p> <p>Notwithstanding, I would make 3 points which I hope are taken into account in the next stages of the workgroup:</p> <ol style="list-style-type: none"> 1) Legal interpretation: It would seem that the WG is being asked to conclude on a very legal matter with limited direction from the Authority. I would urge that, even with Ofgem’s suggested guidance, the WG seek an impartial legal view to ensure that their recommendations are made with the right skillset. 2) Transparency: From my understanding of the comments in the consultation, there is a lack of transparency around what is included or excluded in the limiting regulation calculation. This is to the point that the impact of this proposal could be negligible in contrast to other potential components that should/should not be included. 3) Access SCR and FCF: In view of recommendations to Ofgem, this proposal should now take cognisance of Ofgem’s Minded-to-Position on the Access SCR where they state, for example (with respect to TNUoS):

		<p><i>“...benefit in undertaking a more holistic review of charges to ensure they are fit-for-purpose ...”, and</i></p> <p><i>“...a wider review is needed ...”</i></p> <p>While not within the ToR of 368/9, I would suggest the final report acknowledges the MtP comments.</p>
4	Do you wish to raise a Workgroup Consultation Alternative Request for the Workgroup to consider?	No. However, some of the alternatives are interesting particularly considering the TO's cost splits which could be a better and more appropriate proxy. Data and information on this would be required.

CMP369 Standard Workgroup Consultation questions

5	Do you believe that the CMP369 Original Proposal better facilitates the Applicable Objectives?	No – for the reasons above
6	Do you support the proposed implementation approach?	No – for the reasons above
7	Do you have any other comments?	See 3 above
8	Do you wish to raise a Workgroup Consultation Alternative Request for the Workgroup to consider?	See 4 above

CMP368 & CMP369 Modification Specific Workgroup Consultation questions

9	The Proposer is proposing that the both the volumes <u>and</u> charges of Large Distributed Generators are excluded in the compliance calculation, whereas the potential alternative proposes that only the volumes are excluded. Which option do you support and why?	Based on the available information, I am unable to support either.
10	Station demand charges (TNUoS Triad charges on power station demand) would, with the original, be excluded, however the	It seems from the WG consultation member feedback (I refer in particular to Annex 4), that this requires careful legal consideration.

	potential alternative would include them. Which option do you support and why?	I am therefore unable to support the original or a potential alternative.
11	The Original proposal would not change the current treatment of transmission charges or the associated volumes relating to storage when assessing compliance with the Limiting Regulation. Do you agree with this approach, and if so why?	I believe this should be considered in view of external legal interpretation.
12	Do you believe that both generation charges and volumes of storage assets should be included in the compliance calculation (page 11)? Does this depend on whether the storage is transmission or distribution connected? Please provide your rationale.	I believe this should be considered in view of external legal interpretation.
13	What do you think is the appropriate time stamp for defining whether a network asset is “pre-existing” (page 11)? E.g. when a generator wished to connect, was the network asset: <ul style="list-style-type: none"> a. Already planned to be built b. Already committed to be built c. Already under construction d. Finished construction e. Commissioned and fully operational 	No comment
14	Do you consider there to be any specific changes to a BCA that may trigger the reclassification of assets? If	Yes – Just as any other connections (/contracts) alter charging, the same should be in place for asset reclassification.

	so, please provide your rationale.	
15	Do you think an obligation should be placed on the ESO to publish the outturn value and transparently show the working for calculating the average transmission charge paid by generators (page 15)? Please explain your rationale.	Yes The reason is simply that 317/27 and 368/9 has highlighted that it is unclear as to what is included/excluded in the limiting calculation and therefore any ability for CUSC parties to meaningfully contribute to a proposal (such as 368/9) is diminished.
16	How should charges be treated relating to upgrades to local assets? Please explain your rationale. <ul style="list-style-type: none"> a. Only exclude charges for new upgrades that are paid by a new generator. b. Exclude charges paid for the new upgrades that are paid by both existing and new generators. c. Do not exclude any cost related to new upgrades because the upgrade to pre-existing assets was not required to connect the new generator. d. Other 	No comment
17	Four different options are given on page 22 of the Workgroup Consultation, two of which demonstrate different interpretations of “interconnectedness”. that the CMA identified. Figures 8-11 provide simple examples to help define what network assets should have their charges captured within the Connection Exclusion. Which of the two options (1 or 2) for “sufficient	No comment

	interconnectedness” do you agree with, and why?	
18	Option 3 (page 22) notes that the CMA says there may be other relevant factors - do you think any other factors should be taken into account, and if so, what?	I believe this is a question for a lawyer.
19	The Proposer is considering a potential alternative to utilise data that already exists within the onshore TOs' Price Control Finance Models (PCFM) (page 25-26), attached in Annex 5. This based on the assumption that a portion of total onshore local charges is associated with non pre-existing assets, and that this portion can be derived by comparing the Generation Connections Volume Driver with the total revenue across all three onshore TOs. Do you support this option? Why?	I would support this being considered to see how the data compares to the alternative.
20	Do you agree with the proposed definitions of non pre-existing assets 'NPEA' and pre-existing assets 'PEA'?	I am of the opinion that any definitions should be born from legal advice, impartial and external to the WG, ESO, the CMA or Ofgem.
21	Do you agree that the legal definitions in the Original Proposal should be limited to TNUoS charges only or include all transmission charges?	I believe transmission charges is more aligned with the regulation but that this too should require the input from impartial legal advice.
22	Do you agree that the legal text delivers the intent of the Original Proposal?	No comment