

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

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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:**

- 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).*

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	<p>Do you believe that the CMP368 Original Proposal better facilitates the Applicable Objectives?</p> <p>No.</p> <p>NGESO has been instructed by Ofgem to raise a mod which Ofgem intends should deliver two distinct changes. In my view the second change is not legally compliant.</p> <p>It appears common ground within the Workgroup and for Ofgem that producer in the Limiting Directive and Generator in the CUSC are the same thing. Specifically a Generator is a legal person or company. It is not a plant, site or asset. It is someone or a company who generates electricity (using physical generation units, but these are not Generators).</p> <p>A producer does not need to be producing to be captured by the Limiting Directive. Nor is the definition of transmission charges within the Limiting Directive associated only with the act of generation. All transmission charges paid by producers are to be included. It follows that legally any and all transmission charges paid to NGESO by a legal entity that owns active GB generation are captured by the wording in the Limiting Directive (p9 of the con doc). Charges for transmission connected station demand are certainly included if paid directly by a producer.</p> <p>More critically, in my view Ofgem is wrong to assert that producers need to directly inject energy to the transmission system for their volumes to be captured. <u>Networks transport electricity, they do not legally own it.</u> A network cannot inject or consume power from another network. It is the legal entity that owns the electricity that injects or consumes that electricity from a network and ownership of (or contractual responsibility for) that electricity does not necessarily change at a network boundary.</p> <p>A Large Distributed Generator that is responsible for causing the injection of electrical energy to the transmission system is therefore captured by the wording in the Limiting Directive in both charges and volumes. The fact that it has a BEGA and that this includes TEC demonstrably evidences that it injects energy to the transmission system. The requirement of the Limiting</p>

Directive is that its net volumes are included only (i.e. not its station gate output; only the amount of energy reaching the transmission system is relevant and there may be distribution losses). In my view if it sells some to third party demand on the local distribution network, such that it reduces the generated volumes reaching the transmission system, this would be not be netted off, as contractually the generator would be centrally settled and deemed to have exported to the transmission system only with demand importing from the transmission system.

Furthermore, volumes from smaller embedded generation are also captured where the legal entity responsible for the energy reaching the transmission system is a producer.

If energy has been sold to a Supplier, trader or other intermediary that does not itself own generating assets, the injection of that energy to the transmission system is not performed by a producer. Transmission charges on the Supplier are therefore not included, even if these are caused by or passed back to owners of generation.

It therefore appears to me there may be a defect in the existing CUSC but Ofgem has wrongly identified what that is. Ofgem's instruction to NGENSO makes matters worse, not better and therefore this second part of the mod should be rejected.

There seems a clear definition already available to determine whether a person or company is or is acting as a producer. If the company owns assets in BMUs which are generation BMUs (prefix T or E) then the company is a Generator or producer who injects power to the transmission system. Volumes and transmission charges of non-directly connected electricity producers who may not be large but nevertheless operate through producer (Generator) BMUs in my view therefore should be included. If the BMUs are Supplier BMUs, then the company or person responsible for those BMUs is not a producer even if such BMUs contain purchases from embedded generation.

In summary the regulatory and contractual framework in GB makes it very clear who is a producer. If a BMU is out of balance with its energy delivery it is assessed in terms of imbalance on the transmission system. A generation side BMU must perforce have injected that energy to the transmission system and the company or person responsible for that BMU is a producer.

		Given the clear restrictions imposed on the issue/defect definition in this mod, a new mod may be needed to be brought forward to correctly address this definitional point and make the CUSC legally compliant with the requirement of the Limiting Directive.
2	Do you support the proposed implementation approach?	No. The Original should not be implemented.
3	Do you have any other comments?	Click or tap here to enter text.
4	Do you wish to raise a Workgroup Consultation Alternative Request for the Workgroup to consider?	I suggest the Workgroup consider offering Ofgem an alternative which does not implement the second part of Ofgem's direction, on the basis that Ofgem has directed a change be made which is not legally compliant.

CMP369 Standard Workgroup Consultation questions

5	Do you believe that the CMP369 Original Proposal better facilitates the Applicable Objectives?	No for reason given above.
6	Do you support the proposed implementation approach?	No for the reason given above.
7	Do you have any other comments?	Click or tap here to enter text.
8	Do you wish to raise a Workgroup Consultation Alternative Request for the Workgroup to consider?	Click or tap here to enter text.

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?	Neither. See above.
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10	Station demand charges (TNUoS Triad charges on power station demand) would, with the original, be excluded, however the potential alternative would include them. Which option do you support and why?	Station demand charges as defined here should be included if they are paid by the Generator. If they are paid by a Supplier (even if passed back to the station via a tariff) they should be excluded, as the transmission charges themselves would be paid by a Supplier.
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?	Ofgem is quoted in the con doc p10/11 as defining storage as generation. The same principles therefore should apply. Where storage operates through generation BMUs then all its transmission charges (demand and injection) and volumes (injection only) should be included. If storage is embedded and is not party to a BEGA, it follows that it operates through a Supplier BMU and is therefore not a producer paying transmission charges or injecting volumes to the transmission system.
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.	See answer to Q11 above.
13	<p>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:</p> <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 	b.

14	Do you consider there to be any specific changes to a BCA that may trigger the reclassification of assets? If so, please provide your rationale.	A change of producer (legal entity) would make any of the existing network pre-existing for the new producer regardless of its treatment for the prior producer.
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. There have been occasions where errors have been made in the NGESO calculations leading to retrospective adjustments. Greater transparency would enable such errors to be identified earlier and should lead to more accurate charges and more efficient implementation of the charges overall.
16	<p>How should charges be treated relating to upgrades to local assets? Please explain your rationale.</p> <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 	
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	Figure 8 does not show sufficient interconnectedness even if demand connects at A. It is connected, not interconnected. Similarly demand connected anywhere at A, B C or D in Figures 9 and 10 is not interconnected. IN my view interconnected means more than one route into the network. Figure 11 shows how a network can become interconnected.

	network assets should have their charges captured within the Connection Exclusion. Which of the two options (1 or 2) for “sufficient 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?	
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?	No I do not think an approximation is sufficiently legally compliant.
20	Do you agree with the proposed definitions of non pre-existing assets 'NPEA' and pre-existing assets 'PEA'?	
21	Do you agree that the legal definitions in the Original Proposal should be limited to TNUoS charges only or include all transmission charges?	

22	Do you agree that the legal text delivers the intent of the Original Proposal?	
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