

CUSC Modification Proposal Form

CMP368: Updating Charges for the Physical Assets Required for Connection, Generation Output and Generator charges for the purpose of maintaining compliance with the Limiting Regulation

Overview: This modification has been raised to give effect to the Authority determination within the CMP317/327 decision published on the 17 December 2020 to amend the definition of Assets Required for Connection, create new definitions of 'GB Generation Output' and define Generator charges for use in the Limiting Regulation range calculation.

Modification process & timetable

1	• Proposal form • 14 April 2021
2	• Workgroup Consultation • 7 May 2021 - 17 May 2021 (5pm)
3	• Workgroup Report • 26 May 2021 (9am)
4	• Code Administrator Consultation • 1 June 2021 - 14 June 2021 (5pm)
5	• Draft Code Modification Report • 17 June 2021
6	• Final Code Modification Report • 30 June 2021
7	• Implementation • 1 April 2022

Status summary: The Proposer has raised a modification and is seeking a decision from the Panel on the governance route to be taken.

This modification is expected to have a: **High impact on those CUSC Users who pay TNUoS charges**

Proposer's recommendation of governance route

This modification should be treated as Urgent and be assessed by a Workgroup jointly held with CMP369 under a timetable agreed with the Authority, who will make the decision on whether it should be implemented.

The Proposer considers that this issue if not urgently addressed may cause a party to be in breach of any relevant legal requirements and therefore meets Ofgem's Urgency Criteria (c) i.e. NGENSO, for the purpose of assessing compliance with the Limiting Regulation in the context of setting limits on the annual charges paid by Generators must use the correct definition of Generation Output and Generator charges within the calculation and ensure that the correct definition of

	<p>Charges for Physical Assets Required for Connection is used in all charge setting calculations.</p> <p>Additionally, in Ofgem’s decision to approve CMP317/327 they specified that changes to the CUSC should be brought forward and allow implementation in April 2022. To enable this NGESO require a decision by 31 August 2021 in order to use the correct components within the calculation to allow draft tariffs to be produced for the 2022/23 charging year. Clarity of the components within the calculation is also important to give confidence to industry of NGESO’s ongoing compliance with the Limiting Regulation and an appropriate corrective mechanism.</p> <p>NGESO considers it unlikely that this date can be met without the proposal following an Urgent timeline.</p> <p>It is necessary for this modification to progress and be approved alongside CMP369 which will update the charging methodologies to align to this modification Proposal.</p>	
<p>Who can I talk to about the change?</p>	<p>Proposer: James Stone, National Grid ESO</p> <p>James.Stone@nationalgrideso.com</p> <p>Phone: 07971002704</p>	<p>Code Administrator Chair: Paul Mullen</p> <p>Paul.j.mullen@nationalgrideso.com</p> <p>Phone: 07794537028</p>

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What is the issue?

To maintain compliance with Regulation 838/2010 (the Limiting Regulation), NGESO perform a compliance assessment to ensure that the average annual transmission charge for all Generators is set within a range of €0-2.50/MWh when setting tariffs and that if this is not met an ex-post reconciliation process is performed to amend charges for Generators.

The Limiting Regulation specifies that “Charges for Physical Assets Required for Connection” (amongst others) are excluded when assessing compliance. These are currently expressed within the “Charges for Physical Assets Required for Connection” (the ‘Connection Exclusion’) definition in Section 11 of the CUSC.

The definition within the CMP317/327 Original Proposal approved by the Authority on 17 December 2020, excludes all local charges for local circuits and local substations paid by

Generators when assessing compliance with the range in the Limiting Regulation. However, as part of their decision¹ the Authority stated, “We consider that charges paid by generators in relation to Local Assets which existed at the point at which such generator(s) wished to connect to the NETS do not fall within the Connection Exclusion”.

In the decision, the Authority made it clear that they expected NGESO to bring forward a modification proposal to include, in the assessment of compliance with the range, local charges in respect of local assets (i.e. local substations and local circuits) to the extent that such assets were pre-existing at the time the Generator paying those charges wished to connect to the National Electricity Transmission System (NETS).

In addition, the Authority also expected any CUSC modification proposal(s) to remove from the calculation determining compliance with the range the TNUoS Charges payable by ‘Large Distributed Generators’ and their associated volumes (MWh).

Why change?

Following the Authority’s approval of CMP317/327 ‘Original Proposal’, changes to the CUSC TNUoS charging methodology from 1 April 2022 are now required to ensure alignment with the Authority’s decision to include, in the assessment of compliance with the range, local charges in respect of local assets to the extent that such assets were pre-existing at the time the generator paying those charges wished to connect to the NETS. This interpretation was reinforced following the CMA decision regarding the recent ‘SSE Code Modifications Appeal 2021²’ whereby the CMA clarified (within paragraphs 6.91) the principles governing the correct interpretation of the “Connection Exclusion”, stating:

“6.91 (d) The reference in the Connection Exclusion to ‘the system’ means the transmission system as it exists at the point that a new Generator wishes to be connected to it. We also note the following:

- (i) For the purposes of the application of the ITC Regulation in GB, ‘the system’ is ‘the transmission system of Great Britain’.*
- (ii) Currently, the entire GB transmission system comprises the NETS. For so long as that remains the case, treating the NETS as ‘the system’ is correct (see paragraph 2.8).*
- (iii) In terms of the relevant point in time at which the determination should be made as to which Local Assets are considered ‘pre-existing’ (that is, part of the NETS), we note that GEMA’s initial view was that the date of execution of the contracts between NGESO and the relevant Generator would be a reasonable proxy as to when a Generator wished to connect. This initial view was not specifically challenged in the present appeal and therefore we do not need to decide this point.*

(e) When deciding whether or not a charge falls within the Connection Exclusion, it is necessary to ask whether the physical asset to which it relates is ‘required for connection’ by the Generator in question to ‘the system’ as it exists at that point. That is the same as asking whether, ‘but-for’ the asset, the Generator would be connected to the system.

¹ https://www.ofgem.gov.uk/system/files/docs/2020/12/cmp317327_decision_171220.pdf

² https://assets.publishing.service.gov.uk/media/60632cd6d3bf7f0c8c97d9f2/SSE_v_GEMA____-.pdf

(f) The physical assets which are determined to fall within the Connection Exclusion for a Generator continue to be required by that Generator for connection to the pre-existing system even once the Generator is operational. Put another way, connecting equipment for a Generator continues after the initial act of connecting to be 'required for connection to the system'. For the purposes of a Generator, the ambit of 'the transmission system' does not widen immediately upon the act of connecting that Generator.

In the decision above the CMA specify that the "system" for the purposes of the Limiting Regulation is the NETS and that charges for connections to this system should be considered "Charges for Physical Assets Required for Connection". However, it is also clear that the system should be considered at the point that a Generator wishes to connect. This aligns with the direction given in Ofgem's CMP317/327 decision letter and means that charges for local assets which existed at the point at which such Generator(s) wished to connect to the NETS do not fall within the Connection Exclusion.

A further change to the CUSC is also required to facilitate the Authority's decision to remove charges and volumes associated with 'Large Distributed Generators' from the calculation determining compliance with the range. NGENSO consider that in practice this means that TNUoS charges and volumes associated with TNUoS-liable Distributed Generators who are party to a Bilateral Embedded Generation Agreement and are Licensable Generation should not be considered when calculating compliance with the Limiting Regulation.

What is the proposer's solution?

CMP368 seeks to:

- Amend the definition of "Charges for Physical Assets Required for Connection" (which determines the scope of the "Connection Exclusion") to exclude local charges for pre-existing assets, and;
- Exclude TNUoS Charges and volumes associated with TNUoS-liable Distributed Generators who are party to a Bilateral Embedded Generation Agreement and are Licensable Generation.

Amend the definition of "Charges for Physical Assets Required for Connection"

A change to Section 11 of the CUSC is required to exclude from the definition of "Charges for Physical Assets Required for Connection" charges for those assets that were pre-existing at the time the generator wished to connect. This will reflect the Authority interpretation that charges paid by generators in relation to local assets which existed at the point at which such generator(s) wished to connect to the NETS do not fall within the Connection Exclusion, thus allowing NGENSO to include local charges related to such pre-existing assets, in the assessment of compliance with the Limiting Regulation range.

It is proposed that those assets which should be regarded as 'pre-existing' local assets would be determined by reference to the assets that existed as at the date of the Bilateral Connection Agreement for those generators who wished to connect to the National Electricity Transmission System. This will then allow the timestamping of assets to the associated Generator and/or TEC values (for Onshore) to be identified.

In terms of assessing which assets are physical assets required for connection and to facilitate the Authority's CMP317/327 decision and translate its interpretation into the CUSC definition of the Connection Exclusion, it is proposed that the solution should consider, amongst other elements suggested via any Workgroup discussion:

- TNUoS local charges with respect to transmission infrastructure assets which were built (or upgraded) as “enabling works” for the relevant generator(s);
- The treatment of local charges for offshore assets and specifically the treatment of offshore interlinks;
- Trigger events such as increases in TEC; reduction in TEC or closure of a generating unit(s);
- Clusters of generators for the purpose of upgrades to the system and associated local circuits and substations;
- Generator “splits” whereby part of a generation unit is sold or transferred to another party and subsequently requires a new Bilateral Connection Agreement between NGESO and the Generator; and
- The treatment of negative local circuit tariffs.

Note: the proposed solution does not currently consider potential changes to the local charging methodology driven by future integrated offshore networks given that there remains significant uncertainty regarding how this regime may work. As such it is proposed that this will be dealt with via a separate modification as and when required.

Any definition should preclude ‘shared/shareable’ local assets as the Authority interpretation already considers charges relating to such assets to be included within the Connection Exclusion. However, the Workgroup should consider both energisation status and asset redundancy and the appropriate way to include this in the assessment of compliance.

Exclude TNUoS Charges and volumes associated with TNUoS-liable Distributed Generators who are party to a Bilateral Embedded Generation Agreement and are Licensable Generation

In addition to updating the definition of “Charges for Physical Assets Required for Connection”, a further change to Section 11 of the CUSC is also required to define the ‘Generation Output’ element used within the charging methodology calculation to determine compliance with the range. It is proposed that this definition would be total Output of GB generation liable for the TNUoS generation charge, excluding the associated volumes (MWh) relating to TNUoS-liable Distributed Generators who are party to a Bilateral Embedded Generation Agreement and are Licensable Generation.

Furthermore, Section 11 of the CUSC will also require a change to define the forecast generator revenue and actual charge elements used within the charging methodology calculation specifically ensuring that Large Distributed Generator Charges are not considered as per Ofgem’s CMP317/327 decision.

Draft legal text

Changes to Section 11 of the CUSC as follows (the changes are shown in red text):

GB Generation Output: total Output of GB generation liable for the TNUoS generation charge, excluding the associated volumes (MWh) relating to TNUoS-liable distributed generators who are party to a Bilateral Embedded Generation Agreement and are Licensable Generation.

Forecast Transmission Generator TNUoS Charges: The total forecast TNUoS charges to be recovered from Generators in the charging year minus Charges for Physical Assets Required for Connection and excluding TNUoS Charges payable by TNUoS-liable distributed generators who are party to a Bilateral Embedded Generation Agreement and are Licensable Generation.

Actual Transmission Generator TNUoS Charges: Actual TNUoS charges to Generators in the previous charging year minus Charges for Physical Assets Required for Connection and excluding TNUoS Charges payable by TNUoS-liable distributed generators who are party to a Bilateral Embedded Generation Agreement and are Licensable Generation.

Charges for Physical Assets Required for Connection: ~~Connection Charges and~~ TNUoS charges in respect of an Onshore local circuit, Onshore local substation, Offshore local circuit and Offshore local substation (whether shared / shareable or otherwise) that were required to connect the Generator in question to the NETS excluding charges paid by Generators relating to pre-existing assets. Pre-existing Assets by reference to a specific Generator are an Onshore local circuit and/or Onshore local substation and/or Offshore local circuit and/or Offshore local substation that existed prior to the connection of that Generator to the NETS. What is pre-existing is determined by reference to the local assets that existed as at the dates the relevant Bilateral Connection Agreements for those Generators were executed with The Company.

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;	Positive: updates the definition of Physical Assets Required for Connection (the 'Connection Exclusion') and clearly defines 'GB 'Generation Output' and Generator charges used within the calculation determining compliance with the Limiting Regulation range to ensure alignment with the Authority interpretation
(b) Facilitating effective competition in the generation and supply of electricity, and (so far as consistent	None

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	Positive: better provides for the GB alignment with European legislation
(d) Promoting efficiency in the implementation and administration of the CUSC arrangements.	None
*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).	

Impact of the modification on the stakeholder / consumer benefit categories	
Proposer's assessment:	
Stakeholder / consumer benefit categories	Identified impact
Improved safety and reliability of the system	None
Lower bills than would otherwise be the case	None
Benefits for society as a whole	None
Reduced environmental damage	None
Improved quality of service	None

When will this change take place?

Implementation date:

This modification should be implemented on the 1 April 2022.

Date decision required by:

A decision is required by 31 August 2021 as this will allow the definitions proposed within this modification to be adopted by NGENSO when setting tariffs for the 2022/23 charge year and for use in the ex-post reconciliation methodology to reconcile charges for charging year 2021/22 in 2022/23 if required.

Implementation approach:

NGESO will use the definitions created by this modification proposal to amend charges thereby altering the amount that the Adjustment Tariff for Generators and residual charge for Suppliers recovers from 1 April 2022.

Interactions

This modification and its proposed definition changes has an interaction with CMP369 which is being proposed alongside this modification and that updates Section 14 of the CUSC to align the charging methodologies to the updated definitions. As such we recommend that these Proposals progress alongside each other to ensure alignment in terms of the definitions used within the calculations.

This modification is not expected to impact on the EBGL Article 18 T&Cs³

Acronyms, key terms and reference material

Acronym / key term	Meaning
CMA	Competition and Markets Authority
CUSC	Connection and Use of System Code
EBGL	Electricity Balancing Guideline
NETS	National Electricity Transmission System
NGESO	National Grid Electricity System Operator
TNUoS	Transmission Network Use of System
TEC	Transmission Entry Capacity

Reference material:

https://www.ofgem.gov.uk/system/files/docs/2020/12/cmp317327_decision_171220.pdf

³ 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.