

CUSC Alternative and Workgroup Vote

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

Please note: To participate in any votes, Workgroup members need to have attended at least 50% of meetings.

Stage 1 - Alternative Vote

If Workgroup Alternative Requests have been made, vote on whether they should become Workgroup Alternative CUSC Modifications (WACMs).

Stage 2 - Workgroup Vote

2a) Assess the original and WACMs (if there are any) against the CUSC objectives compared to the baseline (the current CUSC).

2b) If WACMs exist, vote on whether each WACM better facilitates the Applicable CUSC Objectives better than the Original Modification Proposal.

2c) Vote on which of the options is best.

Terms used in this document

Term	Meaning
Baseline	The current CUSC (if voting for the Baseline, you believe no modification should be made)
Original	The solution which was firstly proposed by the Proposer of the modification
WACM	Workgroup Alternative CUSC Modification (an Alternative Solution which has been developed by the Workgroup)

The applicable CUSC 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).

Workgroup Vote

Stage 1 – Alternative Vote

Vote on Workgroup Alternative Requests to become Workgroup Alternative CUSC Modifications.

The Alternative vote is carried out to identify the level of Workgroup support there is for any potential alternative options that have been brought forward by either any member of the Workgroup OR an Industry Participant as part of the Workgroup Consultation.

Should the majority of the Workgroup OR the Chairman believe that the potential alternative solution would better facilitate the CUSC objectives (against Baseline or the Original) then the potential alternative will be fully developed by the Workgroup with legal text to form a Workgroup Alternative CUSC modification (WACM) and submitted to the Panel and Authority alongside the Original solution for the Panel Recommendation vote and the Authority decision.

“Y” = Yes

“N” = No

“-“ = Neutral

Workgroup Member	A1	A2	A3	A4	A5	A6	A7	A8	A9	A10	A11	A12	A13	A14	A15	A16	A17	A18	A19	A20	A21	A22
Garth Graham	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Grace March	N	N	N	Y	N	N	N	Y	N	N	N	Y	N	N	N	Y	N	N	N	Y	N	N
James Stone	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
John Harmer	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
John Tindal	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Kamila Nugumanova	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Lauren Jauss	N	Y	Y	N	N	Y	Y	N	N	Y	Y	N	N	Y	Y	N	N	Y	Y	Y	Y	Y
Paul Jones	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	Y	N	N
Paul Youngman	Y	N	N	N	N	N	N	Y	Y	N	N	N	N	N	N	N	N	N	N	Y	Y	N
Simon Vicary	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
WACM?	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19			

Stage 2a – Assessment against objectives

To assess the original and WACMs against the CUSC objectives compared to the baseline (the current CUSC).

You will also be asked to provide a statement to be added to the Workgroup Report alongside your vote to assist the reader in understanding the rationale for your vote.

ACO = Applicable CUSC Objective

Workgroup Member	Better facilitates ACO (a)	Better facilitates ACO (b)	Better facilitates ACO (c)	Better facilitates ACO (d)	Overall (Y/N)
	Garth Graham – SSE Generation Limited				
Original	-	Y	Y	N	Y
WACM 1	-	Y	Y	Y	Y
WACM 2	-	Y	Y	Y	Y
WACM 3	-	Y	Y	Y	Y
WACM 4	-	Y	Y	Y	Y
WACM 5	-	Y	Y	Y	Y
WACM 6	-	Y	Y	Y	Y
WACM 7	-	Y	Y	Y	Y
WACM 8	-	Y	Y	Y	Y
WACM 9	-	Y	Y	Y	Y
WACM 10	-	Y	Y	Y	Y
WACM 11	-	Y	Y	Y	Y
WACM 12	-	Y	Y	Y	Y
WACM 13	-	Y	Y	Y	Y
WACM 14	-	Y	Y	Y	Y
WACM 15	-	Y	Y	Y	Y

WACM 16	-	Y	Y	Y	Y
WACM 17	-	Y	Y	Y	Y
WACM 18	-	Y	Y	Y	Y
WACM 19	-	Y	Y	Y	Y

Voting Statement:

In voting for CMP368 and its associated WACMs (along with the ‘sister’ Modification CMP369) I have been mindful of the need, in particular, to ensure compliance with the Limiting Regulation which, in the context of the CUSC Applicable (non-charging) Objectives is (c).

In my view CMP368 Original; which deals with changes to the definition (set out in Section 11) of certain items that are used in Section 14 (which is the subject matter of the CMP369 modification); does not, when compared to the WACMs, provide the legal certainty necessary to ensure that compliance with the Limiting Regulation and as such it is not better in terms of Applicable Objective (c). If therefore follows that not being better in terms of legal compliance (which to me is the primary consideration in this case) it is not better in terms of discharging compliance with the Licence, facilitating competition or the efficiency of the Code arrangements.

The various WACMs are all, to a greater or lesser extent, better at facilitating the Applicable Objectives than the Original and this is by virtue of them having features (or rather component elements whose composition is better in terms of compliance with the Limiting Regulation) that are an improvement in terms of legal compliance, with the Limiting Regulation, than the Original.

Workgroup Member	Better facilitates ACO (a)	Better facilitates ACO (b)	Better facilitates ACO (c)	Better facilitates ACO (d)	Overall (Y/N)
	Grace March – Sembcorp				
Original	Y	-	Y	-	Y
WACM 1	Y	-	N	-	N
WACM 2	-	-	N	-	N
WACM 3	-	-	N	-	N
WACM 4	Y	-	Y	-	Y

WACM 5	-	-	N	-	N
WACM 6	-	-	N	-	N
WACM 7	Y	-	Y	-	Y
WACM 8	Y	-	N	-	N
WACM 9	-	-	N	-	N
WACM 10	-	-	N	-	N
WACM 11	Y	-	Y	-	Y
WACM 12	-	-	N	-	N
WACM 13	-	-	N	-	N
WACM 14	Y	-	Y	-	Y
WACM 15	-	-	N	-	N
WACM 16	-	-	N	-	N
WACM 17	-	-	Y	-	Y
WACM 18	-	-	N	-	N
WACM 19	-	-	N	-	N

Voting Statement:

Any WACM that treats Volumes and Charges paid by embedded generation separately is not a correct interpretation of the 838/20 10 (the Limiting Regulation) as the Limiting Regulation is measured in £/MWh and therefore the charges and volumes are connected to the same set of producers. Since the purpose of this Modification is to improve the interpretation of the Limiting Regulation within the CUSC, this is negative against ACO c) and negative overall. Including both volumes and charges from embedded generation could be seen as an improvement on the baseline, as it means the calculation does not treat generators differently based on size or connection level, and could still be a valid interpretation of the Limiting Regulation, so neutral against ACO c) (excluding other factors, such as station demand), but Ofgem consider excluding embedded generation to be the “correct” interpretation, and so solutions which exclude both volumes and charges from embedded generation are positive against ACO c) (excluding other factors). Should embedded generation start paying TNUoS as a result of the Access and Forward Looking Charges SCR, and therefore be affected by any adjustment required to stay within the Limiting Regulation, the Authority (and industry) may wish to review this position.

Any WACM that includes Station Demand is negative against ACO c) and negative overall, as it is clear that the Limiting Regulation is based on generation charges and volumes and, as the limit on average charges is defined as £/MWh, the two must be connected. Station demand will incur demand charges where appropriate, but demand charges paid by generators (including storage) should not be included in the Limiting Regulation.

Interconnectedness is not necessary for a valid interpretation of the Limiting Regulation (as the baseline), so using the MITS is neutral against ACO c) (excluding other factors). Where a WACM considers interconnectedness, a GOS solution has already been rejected as part of CMP317/327, and so is negative against ACO c). WACM 4, which follows the Authority's direction with regards to embedded generation, but not interconnectedness, is on balance positive against ACO c). Since there is already a decision on the most correct interpretation of the Limiting Regulation, WACM 4 is not the most correct interpretation of the Regulation, but is an improvement on the Baseline. Solutions which use more than one route to the MITS as a measure of interconnectedness are an improvement on the baseline, as it suggests those assets are there for more than just the connection, the 'but-for' test that featured in the CMA's decision on CMP317/327. WACMs with that definition of interconnectedness should therefore be considered positive against ACO c), except where station demand is included in the calculation and embedded generators' charges and volumes are treated differently, as those are fundamentally not compliant with 838/2010.

Both options for a 'timestamp' for pre-existing assets are an improvement on the Baseline, but I believe works that were already featured in ETYS or approved by the Authority should be considered pre-existing, since there was clearly an anticipated need for those assets before the individual generator required a connection.

Solutions that align with the Authority's request to the ESO to update the definition of physical assets required for connection to include pre-existing and non pre-existing assets and remove volumes and charges associated with Large Distributed generators are positive against ACO a). All other options are neutral.

As any adjustment to bring average charges to within the appropriate range will affect all generators who pay generation TNUoS equally and therefore will have no impact on competition compared to the baseline. Embedded generation do not currently benefit from any reduction that may be needed as they do not currently pay generation TNUoS charges and this will not be changed by any solution. All solutions are therefore neutral against ACO b).

All options are neutral against ACO d) compared to the Baseline.

With the above in mind, the most correct interpretation of the Limiting Regulation is therefore WACM11, which excludes volumes and charges from Embedded generation, excludes station demand from the calculation, uses the ETYS/Authority's approval as a sensible definition of pre-existing assets and takes interconnectedness into account as to the purpose of the asset, and therefore its category.

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Workgroup Member	Better facilitates ACO (a)	Better facilitates ACO (b)	Better facilitates ACO (c)	Better facilitates ACO (d)	Overall (Y/N)
	James Stone – National Grid ESO				
Original	Y	-	Y	-	Y
WACM 1	N	-	N	N	N
WACM 2	N	-	Y	N	N
WACM 3	N	-	N	N	N
WACM 4	N	-	N	N	N
WACM 5	N	-	N	N	N
WACM 6	N	-	N	N	N
WACM 7	N	-	N	N	N
WACM 8	N	-	N	N	N
WACM 9	N	-	N	N	N
WACM 10	N	-	N	N	N
WACM 11	N	-	N	N	N
WACM 12	N	-	N	N	N
WACM 13	N	-	N	N	N
WACM 14	N	-	Y	N	N
WACM 15	N	-	Y	N	N
WACM 16	N	-	N	N	N
WACM 17	N	-	Y	N	N
WACM 18	N	-	N	N	N
WACM 19	N	-	N	N	N
Voting Statement:					

The ESO considers that the Original Proposal is positive with regards to ACO (a). This is because it in the assessment of compliance with the Limiting Regulation range will;

- a) update the definition of Physical Assets Required for Connection (the 'Connection Exclusion') and the CUSC charging methodology so as 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 System ('NETS'); and
- b) Remove from the calculation determining compliance with the range the TNUoS Charges payable by 'Large Distributed Generators' and their associated volumes. In this way the Original Proposal meets the request made of NGESO by the Authority in its decision on CMP317/327.

However, the ESO considers all other alternatives to be negative in relation to ACO (a) as contrary to the request by the Authority to NGESO in decision CMP317/327 they either disregard the request to remove 'Large Distributed Generators' (volumes and charges) or they seek to treat volumes and/or corresponding charges in an inconsistent way (for example to include some charges but not the corresponding volumes) and in a manner which is in direct conflict with the terms of the CMP317/327 decision. This is contrary to the Authority's guidance not provided to the Workgroup at the start of this modification process which states "we expect proposals developed by the Workgroup to be consistent, and not conflict with, the terms of our CMP317/327 Decision".

The ESO considers that all the solutions are neutral to ACO (b).

The ESO considers that the Original Proposal and those alternatives which adopt the Main Interconnected Transmission System (MITS) definition as a 'sufficient' level of 'interconnectedness' are positive in relation to ACO (c). This is because adopting such an approach will mean any asset and related charges considered part of the MITS will fall out of the connection exclusion (as they would no longer attract local charges) with those generators connected at a non-MITS node then requiring asset classification for the purpose of the compliance assessment. This will better provide for GB alignment with the Limiting Regulation by implementing the Authority's 'correct interpretation' of the connection exclusion as per the terms of the CMP317/327 decision. Those alternatives which consider the connection exclusion to only encompass that of a 'Generator Only Spur' (GOS) are considered negative in relation to ACO (c) as the concept of 'GOS' as the definition of the Connection Exclusion was already ruled out as part of the CMP317/327 decision where the Authority clearly stated that; "this option involves an under-inclusive approach to which charges should fall within the Connection Exclusion, to the extent that it assumes that charges in respect of Local Assets that are shared cannot fall within the Connection Exclusion".

Those alternative solutions which look to include Station Demand charges within the compliance assessment would also be negative in terms of ACO (c). This is because the Limiting Regulation clearly states “energy injected” annually to the transmission system. Therefore, any solution which considers energy related to Station Demand i.e. energy taken from and not injected to the system (and its associated charges) would not align with the intent of the Limiting Regulation. The ESO also considers that as the intent of Limiting Regulation was also, by helping harmonisation of charges for access, around improved competition between Generators in terms of cross border exports (i.e. generation) it is unclear why Station Demand charges should be considered when assessing compliance with the regulation.

The ESO considers that all alternative solutions are negative with regards to ACO (d). This is because these alternatives look to provide a solution with the aim of pre-empting a future decision by the Authority in relation to the Access & Forward-Looking Charges Significant Code Review (SCR) by adopting the terminology of ‘Embedded Generators’ for use in the compliance assessment. This review is at present only at the stage of a minded-to policy position, which is not certain, and which does not have a proposed implementation date. It is also unclear as to what contractual framework is to be adopted for such generators as part of the SCR i.e. they may have something other than CUSC liabilities depending on the eventual decision. As such the ESO considers that any alternative which aims to take account of a minded-to position and pre-empt a policy decision, would be inefficient in terms of the implementation and administration of the CUSC arrangements. It should also be noted that any change required in the future could be easily facilitated as and when any policy decision is in fact made.

Workgroup Member	Better facilitates ACO (a)	Better facilitates ACO (b)	Better facilitates ACO (c)	Better facilitates ACO (d)	Overall (Y/N)
	John Harmer – Waters Wye				
Original	-	-	N	N	N
WACM 1	Abstain	Abstain	Abstain	Abstain	Abstain
WACM 2	Abstain	Abstain	Abstain	Abstain	Abstain
WACM 3	Abstain	Abstain	Abstain	Abstain	Abstain
WACM 4	Abstain	Abstain	Abstain	Abstain	Abstain
WACM 5	Abstain	Abstain	Abstain	Abstain	Abstain
WACM 6	Abstain	Abstain	Abstain	Abstain	Abstain
WACM 7	Abstain	Abstain	Abstain	Abstain	Abstain
WACM 8	Abstain	Abstain	Abstain	Abstain	Abstain

WACM 9	Abstain	Abstain	Abstain	Abstain	Abstain
WACM 10	Abstain	Abstain	Abstain	Abstain	Abstain
WACM 11	Abstain	Abstain	Abstain	Abstain	Abstain
WACM 12	Abstain	Abstain	Abstain	Abstain	Abstain
WACM 13	Abstain	Abstain	Abstain	Abstain	Abstain
WACM 14	Abstain	Abstain	Abstain	Abstain	Abstain
WACM 15	Abstain	Abstain	Abstain	Abstain	Abstain
WACM 16	Abstain	Abstain	Abstain	Abstain	Abstain
WACM 17	Abstain	Abstain	Abstain	Abstain	Abstain
WACM 18	Abstain	Abstain	Abstain	Abstain	Abstain
WACM 19	-	-	Y	N	Y

Voting Statement:

I am at this point in the position of being the proposer of a Workgroup Alternative/WACM that I find I cannot vote for. I do not wish to register a vote for any of the alternatives that modify the Baseline position in respect of the definition of the Connection Exclusion. This is not because I believe the Baseline is correct, but because I do not know whether or which of the other options available, or indeed others not tabled during the Workgroup phase, may be the correct detailed interpretation of Ofgem's intended position on the Connection Exclusion and I therefore cannot justify moving from the Baseline at this point.

For the second time, i.e. following CMP317/327, in this mod I feel the Workgroup has been left floundering as it has struggled to interpret "pre-existing system" as conceived by Ofgem and upheld by the CMA. The simple two examples given by Ofgem on p19 of its CMP317/327 decision letter, as referenced by Ofgem in its open letter to the Workgroup, are trivial and do not deal with the many other real life complexities identified both within this Workgroup and during the CMP317/327 Workgroup. "Pre-existing system" is a concept not found in the Limiting Regulation. I find it challenging to the point of impossible to believe that those drafting the Limiting Regulation envisaged the ambiguity and complexity to which Ofgem and the CMA have led GB industry with respect to this compliance calculation.

Even in its one example Ofgem refers to Generator 1 and Generator 2 connecting "at the same time". Yet the "same time" is not defined: is it the same nano-second, the same day, the same month, the same year? In its sweeping generalisation "same time" seems obvious and reasonable, but once into the detail it is not. Ofgem helpfully suggests the signing of a BCA is the time stamp of a producer connection. Whilst that may suggest the same time is the same day, does that lead to potential gaming by Generator 2 withholding its signature by a day to create a case where its charges are not included because Generator 1 has created a new pre-existing system by its BCA signature? Does this change if both Generator 1 and Generator 2 are the same legal entity?

Indeed the Workgroup has highlighted a change of legal owner and an Agreement To Vary as circumstances where the concept of pre-existing system would be tested. Ofgem has declined to help define how these circumstances may or would affect whether local charges associated would move in or out of the Connection Exclusion. Some Workgroup members have suggested pragmatic interpretations of the legal position, but I believe these are fabricating some wish lists of what they wish the legal text of the Limiting Directive would say rather than implementing what it does say. During the Workgroup SSE referred to a paragraph in the CMA decision.

“The ITC Regulation does not rule out the possibility that assets required by individual Generators for connection to the system could become assets deployed in the system for different purposes.... However, these matters are complex and call for highly specialist technical expertise and the exercise of judgement by reference to the particular facts of the case.” (CMA decision p139-140 (6.99 C)

It does not seem reasonable to me that those drafting the Limiting Regulation intended that subjective judgement and highly specialist technical expertise should be called upon each year of tariff setting to determine the amount of the Connection Exclusion, nor that charges should move in and out of the calculation owing to a time stamp of connection. Although NGESO has made a valiant attempt to set out some business rules that could mechanistically be applied, it has confirmed to the Workgroup that this exercise is laborious and ultimately depends on some subjective judgement. Specifically I accept there is an argument that the suite of WACMs that depend on Ofgem and the CMA reversing their position on Generator Only Spurs appear reasonable alternatives given other statements regarding interconnectedness made by the CMA in its appeal decision.

One Workgroup consultee responded by suggesting that the definition of the Connection Exclusion should be determined using specialist independent legal advice. In the circumstances we are in I agree. Two Workgroups have spent enough time debating its definition without any conclusive consensus emerging. Both Ofgem and the CMA have left half definitions hanging and in my view have tasked industry via this mod and its Workgroup with achieving the impossible in seeking to complete definitions they have used given the overly simplistic guidance both have provided so far.

In its CMP317/327 decision Ofgem identified that the magnitude of the error of the now Baseline was unlikely to cause an issue of compliance until the 2024/5 Charging Year (p22 and in Summary p 24 item 4). It is therefore not clear why the haste imposed on NGESO and the Workgroup to find an enduring robust solution by 1 April 2022.

That said after sitting through hours of Workgroup debate on this I am not seeing this robust solution emerging from industry without more fully detailed guidance. A scattergun attempt to find it via multiple WACMs is hopelessly inefficient and may in this case quite probably be fruitless as CMP317/327 apparently was. The time would be better spent giving a solution of comprehensive fully detailed legally compliant business rules to a Workgroup to critique and it is my hope this outcome results from Ofgem's decision on this mod.

I therefore believe the Original should be rejected and the Baseline definition of the Connection Exclusion retained until a more comprehensively detailed, pragmatically and economically implementable and legally defensible statement is made by Ofgem on its concept of “pre-existing system” and its consequences.

The only change I can support is a WACM that retains the Baseline definition of Connection Exclusion for now, but then expands the “producer” in the Limiting Regulation to include all Embedded Generators and to include demand charges paid by producers within the compliance calculation. I believe that latter will be negligible if demand locational charges continue to be charged at Triad but legally these are transmission charges paid by producers and should be included. The logic proffered by some Workgroup members that demand charges should not be included because the energy associated with them is not included appears to me faulty. The charging base for demand charges is not associated import energy but based on capacity, and the costs add to the cost base of a generator and are thus reasonably expected to need recovery via revenue. The position is directly analogous to that adopted in recovery of the Transmission Demand Residual which is levied on final demand only. If storage is a generator, as appears to be common ground, then all its transmission charges are to be included in the compliance calculation.

The expansion of producer to all Embedded Generators is currently not relevant but would become so were Ofgem to proceed with its minded-to position (released on 30/06/2021) on charging transmission generator charges to all Embedded Generators. I have noted para 5.8 “All generation make a similar contribution to system flows and growth in SDG means it is starting to have a sufficient effect on the transmission system that it is important that the ESO has visibility of it...” and 5.11 “The growth in SDG meaning that, in theory, generation of all sizes could be (or start) contributing to network costs...” Above all, given that energy balance is centrally settled it appears very clear to me that Embedded Generation is indirectly injecting to the transmission system; its energy would be carried by the distribution system onto the transmission system but for the existence of demand at the relevant GSP.

Therefore the only change I can support at this time resulting from this mod proposal is WACM19.

Workgroup Member	Better facilitates ACO (a)	Better facilitates ACO (b)	Better facilitates ACO (c)	Better facilitates ACO (d)	Overall (Y/N)
John Tindal – Keadby Generation Ltd					
Original	-	Y	Y	N	Y
WACM 1	-	Y	Y	Y	Y
WACM 2	-	Y	Y	Y	Y
WACM 3	-	Y	Y	Y	Y
WACM 4	-	Y	Y	Y	Y
WACM 5	-	Y	Y	Y	Y
WACM 6	-	Y	Y	Y	Y

WACM 7	-	Y	Y	Y	Y
WACM 8	-	Y	Y	Y	Y
WACM 9	-	Y	Y	Y	Y
WACM 10	-	Y	Y	Y	Y
WACM 11	-	Y	Y	Y	Y
WACM 12	-	Y	Y	Y	Y
WACM 13	-	Y	Y	Y	Y
WACM 14	-	Y	Y	Y	Y
WACM 15	-	Y	Y	Y	Y
WACM 16	-	Y	Y	Y	Y
WACM 17	-	Y	Y	Y	Y
WACM 18	-	Y	Y	Y	Y
WACM 19	-	Y	Y	Y	Y

Voting Statement:

It is the purpose of CMP368/369 to implement the correct treatment of the Limiting Regulation. Therefore any alternative that uses a correct definition is better in that regard than one that does not. It is my view that several features are relevant. These are present to different degrees in each of the WACMs. Some WACMs may be better in some aspects, but worse in others, so I have taken a weighted view of the different elements.

To correctly interpret the Limiting Regulation, it is important to have in mind the text of the regulation 838/2010:

“Annual average transmission charges paid by producers is annual total transmission tariff charges paid by producers divided by the total measured energy injected annually by producers to the transmission system of a Member State.” (emphasis added)

My view on each element is summarised below:

Definition to use: “SDG” versus “Embedded”

It would better future proof the CUSC to use the term “Embedded” rather than “SDG” with regards to potential changes from Ofgem’s Access and Forward Looking Charges SCR, or other potential future changes. In this regard any WACM that uses “Embedded” is better than Baseline with regards to ACO “d” of efficiency in the implementation and administration.

By contrast, the Original does not include this feature, so Original is not better than Baseline with regards to objective “d”.

Include/exclude charges for embedded generators

It is clear to me, and confirmed by Ofgem representative at a workgroup meeting that it is Ofgem’s view as well, that TNUoS charges paid by embedded generators are transmission charges paid by producers. It is therefore clear that TNUoS charges paid by embedded generators should properly be included for compliance with the Limiting Regulation. Any WACM that includes TNUoS charges paid by embedded generators is as good as Baseline with regards to ACO “c” in this regard, because Baseline already includes this feature.

Inclusion of this feature would also appropriately tend to result in lower total TNUoS charges paid by GB generators, so would also be as good as Baseline with regards to ACO “b” of effective competition regarding competition between GB generators and generators in other markets.

By contrast, the Original does not include TNUoS charges paid by embedded generators, so the Original is worse than Baseline with regards to this feature for both ACO “c” and ACO “b”.

Several WACMs use the same approach as the Original of excluding TNUoS charges paid by embedded generators, but I consider these WACMs to be still better than Baseline and Better than Original due to their treatment of other features.

Include/exclude volumes for embedded generators

I agree with Ofgem’s decision document for CMP317/327 and the Original proposal that the generation volumes from embedded generators should be excluded from compliance with the Limiting Regulation. The Limiting Regulation defines the appropriate measure of volume to use as: “...total measured energy injected annually by producers to the transmission system of a Member State.”

Electricity generated by embedded generators does not qualify as “measured energy injected...to the transmission system.” so any such volumes should not be part of the compliance calculation.

Alternatives, including the Original, that exclude volumes from embedded generators are therefore better the Baseline with regards to ACO “c” because they use a correct interpretation of the Limiting Regulation. They are also better with regards to ACO “b” because they would tend to reduce total TNUoS charges paid by GB generators, so better facilitate effective competition compared with generators in other markets.

Fine to use different treatment of embedded charges and volumes

There is no reason why the TNUoS charges paid by embedded generators and the volumes they generate must be treated the same as each other with regards to being included, or excluded. The question of whether or not a producer exports onto the transmission system is entirely different from the question of whether or not they are a producer that pays transmission charges. It is my view, and Ofgem Representative in a Workgroup meeting agreed, that charges paid by a transmission connected generator should be included, even if that generator does not generate, or inject any electricity onto the transmission system in the relevant year. It is therefore clear that the question of whether or not a producer injects measured energy onto the transmission system is a different question from whether or not they pay transmission charges.

Station demand included in the calculation

It is my view that TNUoS demand charges paid by generators does meet the Limiting Regulation definition of being “transmission tariff charges paid by producers”. They should therefore be included with regards to calculating compliance.

Alternatives, that include demand TNUoS charges paid by producers are therefore better than Baseline with regards to ACO “c” because they use a correct interpretation of the Limiting Regulation. They are also better with regards to ACO “b” because they would tend to reduce total TNUoS charges paid by GB generators, so better facilitate effective competition compared with generators in other markets.

By contrast, the Original does not include demand TNUoS charges paid by producers, so is not better than the Baseline in this regard with regards to ACO “c”, or “b”.

Definition of interconnectedness

As described in the alternative proposal forms, a correct interpretation of connection exclusion would include a correct treatment of “interconnectedness”. Without this correct treatment, the interpretation of the connection exclusion would fail to have an objective, or autonomous definition and therefore could not be the correct legal interpretation.

It is my view that the “not GOS” definition is the correct legal definition, so any alternatives that use this approach are better than both Baseline and Original in this regard with respect to ACO “c”. They would also tend to result in lower total TNUoS charges paid by generators, so would also be better with regards to ACO “b” of effective competition compared with generators in other markets.

Regarding the “more than one route” feature, I do not believe this is the correct interpretation of the connection exclusion. However, I appreciate that it could be viewed as a valid interpretation, on the rationale that it could still provide an objective autonomous interpretation of the connection

exclusion. Any alternatives that use this approach are better than both Baseline and Original in this regard with respect to ACO “c”. They would also tend to result in lower total TNUoS charges paid by generators, so would also be better with regards to ACO “b” of effective competition compared with generators in other markets.

By contrast, the Original uses the MITS definition as a measure of sufficient interconnectedness. The MITS definition is subjective and subject to change dependent on variations in domestic regulations. This means that reliance on MITS is not objective and it does not provide an autonomous legal definition, so it cannot be the correct interpretation of the Limiting Regulation. This means that the Original is not better than Baseline in this regard.

Timestamp for “pre-existing”

The use of BCA enabling works as a feature to define what is not a pre-existing asset is better than Baseline. Therefore the Original and all WACMs are better than Baseline for this feature with regards to ACO “c” and “b”.

However, the use of BCA enabling works only provides part of the solution, so it is even better to also take account of whether relevant network assets identified in the BCA had already been planned and approved by Ofgem. This is because if a network asset had already been planned and approved before a generator wishes to connect, then that network asset was planned for a different purpose and is not required for connecting that generator, so not be part of the connection exclusion. Therefore, alternatives that include this “already planned and approved” feature are even better with regards to ACO “c” and “d”.

The feature of “already planned and approved” is not required for alternatives that use the “not GOS” definition of interconnectedness. This is because only radial circuits used by a single generator would be under consideration for being an asset required for connection, so if the assets are listed in the BCA, then it is unlikely such a network asset is being built for any other user.

Workgroup Member	Better facilitates ACO (a)	Better facilitates ACO (b)	Better facilitates ACO (c)	Better facilitates ACO (d)	Overall (Y/N)
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	Lauren Jauss – RWE				
Original	-	-	-	N	N
WACM 1	-	-	-	N	N
WACM 2	-	-	-	N	N
WACM 3	-	-	-	N	N
WACM 4	-	-	-	-	N
WACM 5	-	-	-	-	N
WACM 6	-	-	-	-	N
WACM 7	-	-	-	-	N
WACM 8	-	-	-	-	N
WACM 9	-	-	-	-	N
WACM 10	-	-	-	-	N
WACM 11	-	-	-	-	N
WACM 12	-	-	-	-	N
WACM 13	-	-	-	-	N
WACM 14	-	-	-	N	N
WACM 15	-	-	-	N	N
WACM 16	-	-	-	N	N
WACM 17	-	-	-	N	N
WACM 18	-	Y	Y	N	Y
WACM 19	-	Y	Y	-	Y

Voting Statement:

The charges paid by producers must very clearly be included in the calculation in order to comply with the literal interpretation of the ITC. The intent appears to be to determine an average charge and therefore it would be appropriate to apply a consistent treatment to volumes and charges.

However, if Ofgem's interpretation is correct that only volumes that are injected onto the transmission system should be included, then there is an inconsistency between the literal interpretation and intent of the ITC when applied to GB and hence any change in the treatment of embedded generators' charges or volumes is difficult to assess against the objectives.

The inclusion of Demand charges is much clearer because it is consistent with both the literal interpretation and the intent of the ITC. The intent appears to be to calculate total transmission charges incurred divided by total power delivered. The particular way in which the GB methodology charges generators doesn't override the aim of getting to an average total charge.

The level of interconnectedness has been highlighted by the CMA as potentially relevant. This could be when assets become part of the MITS, but this would assume that the definition of the MITS precisely aligns with the intent of the Regulation. Therefore we consider that the WACMs with a clear definition of the relevant level of interconnectedness better facilitate objective d since a clear definition will promote efficiency in the application of charges by avoiding potential disputes or differing interpretations. However, whilst the treatment of upgrades on local circuits in the Original is an improvement in complying with the ITC (objective c) and facilitating competition (objective b) versus the baseline, implementation of this solution will be highly complex and subjective and has a negative impact against objective d.

It is difficult to assess each of the Original and Alternatives against objectives b and c in particular where a proposal includes several distinct code changes which in many cases have offsetting positive and negative impacts each of uncertain magnitude and therefore it may be appropriate to give these changes further consideration.

Therefore the only proposals that can be identified as improvements versus the baseline at this stage are WACM18 and WACM19, where WACM19 is preferred.

Workgroup Member	Better facilitates ACO (a)	Better facilitates ACO (b)	Better facilitates ACO (c)	Better facilitates ACO (d)	Overall (Y/N)
	Paul Jones – Uniper				
Original	-	-	N	-	N
WACM 1	-	-	N	-	N
WACM 2	-	-	N	-	N
WACM 3	-	-	N	-	N
WACM 4	-	-	N	-	N
WACM 5	-	-	N	-	N
WACM 6	-	-	N	-	N
WACM 7	-	-	N	-	N

WACM 8	-	-	N	-	N
WACM 9	-	-	N	-	N
WACM 10	-	-	N	-	N
WACM 11	-	-	N	-	N
WACM 12	-	-	N	-	N
WACM 13	-	-	N	-	N
WACM 14	-	-	N	-	N
WACM 15	-	-	N	-	N
WACM 16	-	-	N	-	N
WACM 17	-	-	Y	-	Y
WACM 18	-	-	N	-	N
WACM 19	-	-	N	-	N

Voting Statement:

I do not believe that it is correct for volumes and charges to be treated differently. Therefore, I do not believe any alternatives with that feature are better than the baseline. Similarly, I do not feel that alternatives which include station load charges are correct. There is an associated complication here about how to treat embedded site load. I believe that including all embedded generation charges related to Generation TNUoS is correct. Embedded generation can influence flows on the transmission network and if it is charged TNUoS it is correct it is included. This should include volumes too of course. I have sympathy with the interconnectedness argument, but this has already been ruled on as part of CMP317. Therefore, it does not seem correct to pursue options with this in it. MITS has been deemed the limit to where the interconnectedness argument holds through CMP317. If assets are in the enabling works for a BCA/construction agreement, it is reasonable to interpret that as signalling they are needed for the connection of that plant. Just because assets have been planned strategically before the generation has applied to use them, does not exclude them as being necessary for connection.

Workgroup Member	Better facilitates ACO (a)	Better facilitates ACO (b)	Better facilitates ACO (c)	Better facilitates ACO (d)	Overall (Y/N)
	Paul Youngman – Drax				

Original	-	N	N	-	N
WACM 1	-	-	Y	-	Y
WACM 2	-	-	N	-	N
WACM 3	-	-	N	-	N
WACM 4	-	-	N	-	N
WACM 5	-	-	N	-	N
WACM 6	-	-	N	-	N
WACM 7	-	-	Y	-	Y
WACM 8	-	-	Y	-	Y
WACM 9	-	-	N	-	N
WACM 10	-	-	N	-	N
WACM 11	-	-	N	-	N
WACM 12	-	-	N	-	N
WACM 13	-	-	N	-	N
WACM 14	-	-	N	-	N
WACM 15	-	-	N	-	N
WACM 16	-	-	N	-	N
WACM 17	-	-	Y	-	Y
WACM 18	-	Y	Y	-	Y
WACM 19	-	-	-	-	N

Voting Statement:

The WACMs that I have supported provide for a more consistent and clearer application of the definitions as they apply in the limiting regulation and relevant EU directives that have been transposed into UK law.(relevant objective c) I have not supported proposals that apply definitions inconsistently and also believe that the original proposal would be negative against objective b) as it does not facilitate competition when compared to baseline arrangements. I have considered that WACM 18 is positive against objective b) and may improve competition as it has the clearest application of the definitions.

We also note that the ESO did agree to include transparency requirements within the finalised legal text. Our understanding is that these obligations would apply across all WACM's.

Workgroup Member	Better facilitates ACO (a)	Better facilitates ACO (b)	Better facilitates ACO (c)	Better facilitates ACO (d)	Overall (Y/N)
	Simon Vicary – EDF Energy				
Original	-	Y	Y	-	Y
WACM 1	-	Y	Y	-	Y
WACM 2	-	Y	Y	-	Y
WACM 3	-	Y	Y	-	Y
WACM 4	-	Y	Y	-	Y
WACM 5	-	Y	Y	-	Y
WACM 6	-	Y	Y	-	Y
WACM 7	-	Y	Y	-	Y
WACM 8	-	Y	Y	-	Y
WACM 9	-	Y	Y	-	Y
WACM 10	-	Y	Y	-	Y
WACM 11	-	Y	Y	-	Y
WACM 12	-	Y	Y	-	Y
WACM 13	-	Y	Y	-	Y
WACM 14	-	Y	Y	-	Y
WACM 15	-	Y	Y	-	Y
WACM 16	-	Y	Y	-	Y
WACM 17	-	Y	Y	-	Y
WACM 18	-	Y	Y	-	Y
WACM 19	-	Y	Y	-	Y
<p>Voting Statement:</p> <p>All of the options better facilitate applicable CUSC objectives (b) and (c). It is essential that the legal definitions in the Limiting Regulation are complied with and WACM17, raised by EDF, best achieves this.</p>					

Stage 2b – WACM Vote (If required)

Where one or more WACMs exist, does each WACM better facilitate the Applicable CUSC Objectives than the Original Modification Proposal?

Workgroup Member	Company	WACM1	WACM2	WACM3	WACM4	WACM5	WACM6	WACM7	WACM8	WACM9	WACM10	WACM11	WACM12	WACM13	WACM14	WACM15	WACM16	WACM17	WACM18	WACM19
Garth Graham	SSE Generation Ltd	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Grace March	Sembcorp	N	N	N	N	N	N	Y	N	N	N	Y	N	N	Y	N	N	N	N	N
James Stone	National Grid ESO	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
John Harmer	Waters Wye	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
John Tindal	Keadby Generation Ltd	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Lauren Jauss	RWE	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Paul Jones	Uniper	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	Y	N	N
Paul Youngman	Drax	Y	N	N	Y	N	N	Y	Y	N	N	Y	N	N	Y	N	N	Y	Y	Y
Simon Vicary	EDF Energy	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

Stage 2c – Workgroup Vote

Which option is the best? (Baseline, Proposer solution (Original Proposal), WACM1, WACM 2, WACM3, WACM4, WACM5, WACM6, WACM7, WACM8, WACM9, WACM10, WACM11, WACM12, WACM13, WACM14, WACM15, WACM16, WACM17, WACM18, WACM19)

Workgroup Member	Company	BEST Option?	Which objective(s) does the change better facilitate? (if baseline not applicable)
Garth Graham	SSE Generation Ltd	WACM6	b), c), d)

Grace March	Sembcorp	WACM11	a), c)
James Stone	National Grid ESO	Original	a), c)
John Harmer	Waters Wye	WACM19	c)
John Tindal	Keadby Generation Ltd	WACM6	b), c), d)
Lauren Jauss	RWE	WACM19	b), c)
Paul Jones	Uniper	WACM17	c)
Paul Youngman	Drax	WACM18	b), (c)
Simon Vicary	EDF Energy	WACM17	b), c)

How many voters said this option was better than the Baseline.

Option	Number of voters that voted this option as better than the Baseline
Original	5
WACM1	4
WACM2	3
WACM3	3
WACM4	4
WACM5	3
WACM6	3
WACM7	5
WACM8	4
WACM9	3
WACM10	3
WACM11	4
WACM12	3

WACM13	3
WACM14	4
WACM15	3
WACM16	3
WACM17	6
WACM18	5
WACM19	5