

## Workgroup Consultation Response Proforma

**CMP381: Defer exceptionally high Winter 2021/22 BSUoS costs to 2022/2023**

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](mailto:cusc.team@nationalgrideso.com) by **5pm** on **29 December 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 Paul Mullen [paul.j.mullen@nationalgrideso.com](mailto:paul.j.mullen@nationalgrideso.com) or [cusc.team@nationalgrideso.com](mailto:cusc.team@nationalgrideso.com)

Respondent details	Please enter your details
Respondent name:	Sally Cox
Company name:	Bryt Energy Ltd
Email address:	Sally.cox@brytenergy.co.uk
Phone number:	0121 726 7524

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 (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 in the right-hand side of the table below, including your rationale.

Standard Workgroup Consultation questions		
1	Do you believe that the Original Proposal or any of the potential alternative solutions better facilitates the Applicable Objectives?	<p>No</p> <p>We believe the Proposal damages the Applicable Objectives and has an adverse impact on the competitiveness and efficiency of the charging mechanisms.</p>
2	Do you support the proposed implementation approach?	No
3	Do you have any other comments?	<p>We wish to express our strong dissatisfaction with the timescale attached to CMP381: documents published on Thursday 23<sup>rd</sup> December required a response by close of business on Wednesday 29<sup>th</sup> December, effectively giving only 2 full working days over the holiday period. This is an excessively short response timescale and does not give us a reasonable opportunity to assess the impact of the proposal, nor to form alternative proposals. As a smaller supplier, we do not have a large staff and therefore have low coverage over this key holiday period.</p> <p>As a growing supplier, we are adversely impacted by the deferral of charges to future periods since our charging base will be larger in future periods, however many contracts are already signed for those future periods and therefore prices have already been fixed with customers. Bryt Energy has already been negatively impacted by previous deferrals of this nature and we require sufficient opportunity to properly assess this proposal and express any objections.</p> <p>Urgent and rapid interventions into well-established industry processes, whilst well-intentioned, have</p>

		<p>unintended consequences and create distortions in the market.</p> <p>It is not the role of the CUSC to address fundamental issues with the energy market, in particular the distorting impact of the domestic price cap and the financial contagion that has impacted dual fuel energy suppliers in large part due to issues in the gas market. The proposal form makes frequent reference to the potential for further supplier failures when a very significant factor in current market difficulties has been with gas supplies. Electricity-only, and/or business-only suppliers, should not be adversely affected by code modifications aimed at domestic or dual fuel suppliers. Solutions need to be more targeted to the true root cause issues and avoid distorting the electricity supply market.</p>
4	Do you wish to raise a Workgroup Consultation Alternative Request for the Workgroup to consider?	<p>No, there has been insufficient time to prepare an alternative. The current Proposal is, we believe, seeking to address two separate concerns:</p> <ol style="list-style-type: none"> <li>1. Cashflow concerns relating to the potential for high BSUoS costs in Q1 2022.</li> <li>2. Cost recovery via the domestic price cap, given that BSUoS costs are exceeding previous forecasts and likely to continue to do so through the remaining period of the current price cap</li> </ol> <p>With regards point (1) above, in its current form, the Proposal goes further than address a purely cashflow timing issue by suggesting that charges are capped in Q1 and levied against future demand. An alternative approach could seek to address purely the cashflow impacts, without distorting the application of charges and ultimate liability.</p> <p>And in relation to point (2) above, we do not believe that it is appropriate for CUSC modifications to seek to address issues with the price cap. Nor is it helpful to impact the entire market rather than just domestic electricity suppliers in addressing that issue.</p>

Specific Workgroup Consultation questions		
5	The CMP381 Original proposes to set a £10/MWh cap on	No, it is not appropriate to set a cap on BSUoS costs.

	<p>BSUoS. Do you think it is appropriate to set a BSUoS cap and if so to what value? Please provide the rationale for your response including any supporting analysis.</p>	<p>Regulator intervention into well-established industry mechanisms distorts the market and has unintended consequences (in direct opposition to objective (a)).</p> <p>Intervention due solely to fundamental energy market conditions sets a dangerous precedent and contrasts with initial interventions in 2020 due to the global pandemic which was, in its origination, entirely unrelated to the energy market but had a severe impact. Intervention does not allow market economics to freely respond and adjust. In future, how would we define the boundary between “normal” market volatility and “extreme” volatility that justifies intervention?</p> <p>The arguments around possible future supplier failures are unsupported since no specific data has been provided to indicate that this measure would make the difference between solvency or insolvency for any individual supplier. Given that data of that nature would not be publicly available anyway it’s an assertion that can’t be proved either way and is therefore unhelpful and potentially misleading.</p> <p>If BSUoS costs do continue to be as high as has been seen recently, or higher, then this would be driven by high wholesale commodity prices which would impact any industry parties at financial risk to an even greater degree than the related BSUoS costs. Therefore, we believe that this measure alone would be unlikely to succeed in its objective of avoiding further supplier failures.</p> <p>It is not an appropriate aim for a code modification to protect vulnerable Suppliers, or other parties. If protection is deemed necessary then this should not be done via the CUSC but through other, more transparent measures that directly target the true root concern without creating distortions on other parts of the market, for example business-only suppliers who are not impacted by the price cap.</p> <p>Since BSUoS costs are linked to wholesale commodity prices, future price levels are unknown and it is entirely possible that the market remains high, or increases even further, in Apr-22 compliance year. Therefore, the effect of the delayed BSUoS costs could be to worsen continued market volatility next winter.</p>
6	<p>The CMP381 Original seeks to limit the additional BSUoS costs that would be</p>	<p>N/A</p>

	<p>deferred to £300m. Do you think it is appropriate to introduce a limit and if so to what value? Please provide the rationale for your response.</p>	<p>We don't agree with the basic principle of the Original proposal and if there is no cost deferral then there is no requirement for a limit.</p>
7	<p>The CMP381 Original seeks to defer the additional BSUoS costs above the cap to the 2022/23 charging year. Recovery of the deferred costs is proposed to commence from 1 April 2022. Do you agree with this approach? Please provide rationale for your response.</p>	<p>No</p> <p>It distorts competition by deferring costs which otherwise would be recovered through competitive pricing in future contracts (to recover past costs that exceeded forecasts through higher margin aspirations, where competition allows).</p> <p>The proposed cost deferral and recovery would benefit Suppliers with either a stable or declining customer base. Suppliers with a growing portfolio will be negatively impacted, as the recovery of "deferred" charges will be higher than those avoided in the capped period. Each Supplier's mix of contract types, business/domestic, fixed/pass-through, will also influence how they are impacted by this Proposal. This skewed impact cannot be seen as facilitating effective competition, where successful, growing businesses are penalised and therefore Objective (a) stated above is not met.</p> <p>Suppliers to business customers will have fixed supply contracts already in place for future start dates that do not reflect these higher costs in future periods. Under this Proposal, either Suppliers will incur higher costs and reduced margins on these contracts, or Customers will incur unexpected increased prices (dependent on change of law/code clauses within contract terms and Supplier decisions).</p> <p>A sizeable sales round takes place in the business supply segment in April, and many supply contracts will be negotiated and agreed during Q1 of 2022, including a substantial proportion of fixed contracts especially in the SME sector. At that time, the extent of any cost deferrals into the period from April 2022 onwards will not be known, making it difficult for Suppliers to accurately price those periods and increasing cost forecast risk into the future period.</p> <p>The total cost recovery pot will not be known until the SF settlement run for Mar-22 which will occur after the beginning of the recovery period. Therefore, it will not be</p>

		<p>possible for B2B suppliers to factor this effect in correctly when contracting with customers.</p> <p>Deferral of BSUoS costs is clearly aimed at ensuring that the increased costs can be factored into the calculation of a future default price cap. We agree with the opinions that some of the Panel stated against CMP373, that issues with the price cap should be addressed outside the CUSC.</p> <p>In the CMP373 decision, Ofgem were required to address issues that related to whether suppliers were affected due to contract type with the objective of not disadvantaging one type over any other. In our opinion, by far the best way of achieving this is to not intervene in the first place.</p> <p>If the decision is that BSUoS costs should be capped, then the mechanism for recovery of the deferred costs should ensure that individual suppliers are not disadvantaged, and that no supplier incurs higher costs than they would otherwise have done.</p>
8	<p>What reporting frequency and end of CMP381 BSUoS Support Scheme notification would be of most use to you? Please provide justification for your response.</p>	<p>The earliest and clearest visibility possible would support Suppliers in ongoing pricing and contracting activities, especially given the April sales round as described above.</p>
9	<p>CMP381 Original would apply to BSUoS prices with effect from 1 January 2022. Do you have any concerns with this approach? Please provide rationale for your response.</p>	<p>Yes. The change timescale is extremely compressed with implementation planned only two days after consultation close giving very little time for suppliers to adapt contract pricing to reflect the changes.</p>

10	<p>Does the CMP381 Original Proposal or any of the potential alternative solutions impact your business and/or end consumers. If so, how?</p> <p><i>Confidential Information can be shared with Ofgem directly particularly where it relates to Ofgem's Urgency Criteria.</i></p>	<p>We have fixed supply contracts already in place for future starts that do not reflect these higher costs in future periods.</p> <p>The April sales round described above means there is a high likelihood of volume moving inter-supplier between point of cost capping and later recovery. This will have a distorting effect by giving benefit to one party while applying detriment to another, in a manner which neither party could have foreseen nor taken action based on.</p> <p>The tight timescale for this consultation means we have been unable to consult with our larger customers on pass-through contracts.</p>
----	---	---