

## CUSC Modification Proposal Form

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

**Overview:** To set a £10/MWh cap on BSUoS from 1<sup>st</sup> January 2022 until 31<sup>st</sup> March 2022, due, in the view of the Proposer, to exceptional market conditions making BSUoS much higher than industry parties could reasonably have expected. The additional BSUoS costs above the cap would be deferred to the 2022/23 charging year, using the same mechanism approved under CMP345 and CMP350.

## Modification process &amp; timetable

**Status summary:**

The Proposer has raised a modification and is seeking a decision from the Panel on the governance route to be taken, requesting that it be treated as urgent and should proceed as such under a timetable agreed with the Authority.

**This modification is expected to have a: High impact**

High Impact: Consumers, Suppliers and Generators

Medium Impact: National Grid ESO

**Proposer's recommendation of governance route**

Urgent modification to proceed under a timetable agreed by the Authority (with an Authority decision)

**Who can I talk to about the change?**

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## What is the issue?

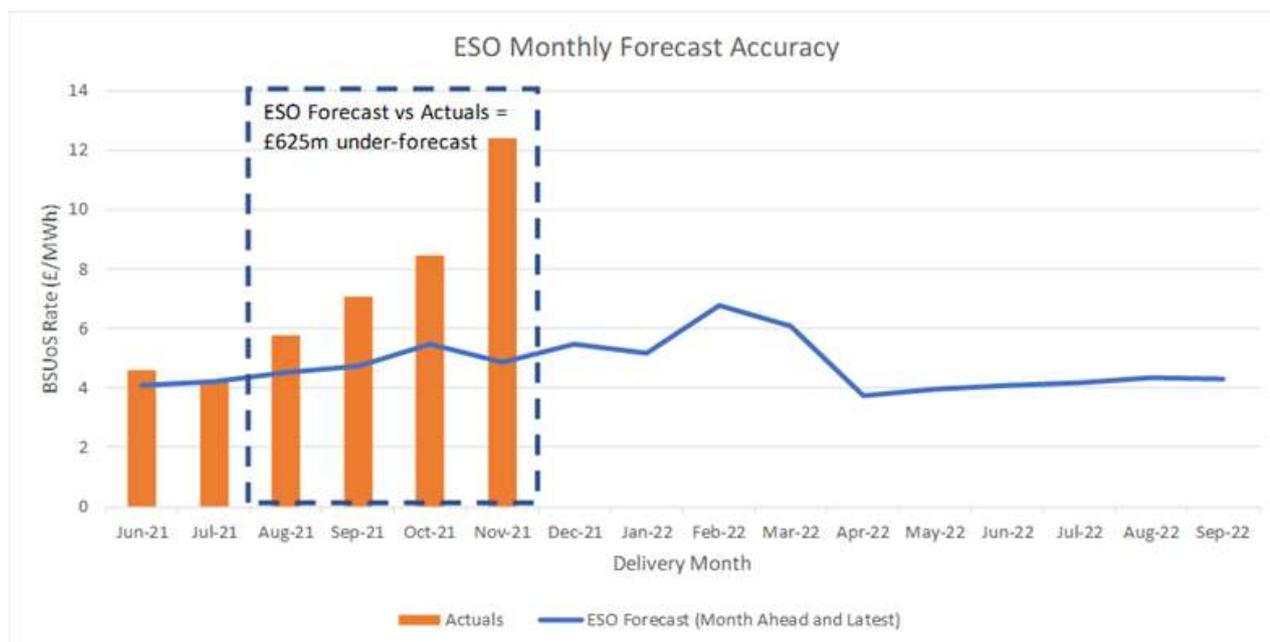
BSUoS costs are significantly higher than the ESO forecasts so far this winter as a result of exceptional market conditions and are therefore much higher than consumers and industry parties could reasonably have expected or will have budgeted for.

This problem will continue over the remainder of this winter, possibly even longer, so propose a BSUoS cap, using a similar mechanism previously approved under CMP345 and CMP350.

## Why change?

The bulk of BSUoS cost is from National Grid ESO accepting 'bid' and 'offer' actions in the Balancing Mechanism and these have both risen significantly as wholesale costs have risen.

The chart below shows the recent variance to the ESO BSUoS forecast, with the outturn being £625m higher across the last 4 months.



Our analysis demonstrates that the latest ESO BSUoS forecast will be inaccurate to a similar degree and that as a result both industry and consumers will not be prepared or able to tolerate the actual extreme prices that will outturn next year. It is absolutely critical to protect consumers, and prevent further insolvency contagion to suppliers and generators, that a half-hourly £10/MWh cap should be put in place. This is consistent with the mechanism approved under CMP345 and CMP350 to protect against extreme BSUoS costs in 2020 due to COVID. If BSUoS costs are not addressed in this way, the consequences for the stability of the UK energy industry could be devastating.

## What is the Proposer's solution?

- **Set a £10/MWh cap on BSUoS from 1<sup>st</sup> January 2022 until 31<sup>st</sup> March 2022.**
- **Defer the additional BSUoS costs above the cap to the 2022/23 charging year**, using a similar mechanism approved under CMP345 and CMP350.
- **Cap the additional BSUoS costs that would be deferred to £300m.** As there is a limit to the amount of liquidity that could be provided by the ESO the total costs which can be deferred are to be limited to £300m (which effectively means the impact of the inaccuracy of forecast is being shared across ESO and industry). In effect the scheme will end if the £300m limit has been reached. This is consistent with the proven approach adopted for CMP345 and CMP350, but updated to reflect the extreme prices now being seen in the market.

## Draft Legal Text

Our suggested legal text changes are set out below:

### 14.30.11

As a result of the exceptional market conditions, The Company will make specific and time-limited changes to the BSUoS methodology in this Section 2 to support those Users identified in 14.29.4. This will consist of deferring the BSUoS costs associated with the exceptional market conditions (“Exceptional Costs”) from the calculation in 14.30.5 to a later date as described in 14.30.13 and 14.30.14 (the “Exceptional Costs Support Scheme”).

### 14.30.12

Exceptional Costs shall be calculated as;

If  $BSUoS_{TOTj} \leq EXCCAPTOTj$ , then  $BSUOSEXCj = \text{£}0$

Or  $BSUoS_{TOTj} > EXCCAPTOTj$ , then  $BSUOSEXCj = BSUoS_{TOTj} - EXCCAPTOTj$

Where;  $EXCCAPTOTj$  is calculated as;

From 1<sup>st</sup> January 2022 to 31<sup>st</sup> March 2022:  $\text{£}10/\text{MWh} \times [\text{current formula}]$

### 14.30.13

Exceptional Costs ( $BSUOSEXC_{jd}$ ) for Settlement Period  $j$  in Settlement Day  $d$  are removed as follows;  $BSUoS_{TOTjd} = BSUOSEXT_{jd} + BSUoS_{INTjd} - BSUOSEXC_{jd}$

The Exceptional Costs Support Scheme End Date shall be the earlier of:

- The 31<sup>st</sup> March 2022; or,
- The day after the cumulative total for  $BSUOSEXC_{jd}$  exceeds  $\text{£}300\text{m}$

### 14.30.14

During the Financial Year 2021/22, the formula in 14.30.5 shall be updated so that Exceptional Costs ( $BSUOSEXC_{jd}$ ) for Settlement Period  $j$  in Settlement Day  $d$  are added as follows;

$BSUoS_{TOTjd} = BSUOSEXT_{jd} + BSUoS_{INTjd} + BSUOSEXC_{jd}$

Where  $BSUOSEXC_{jd}$ , is the cumulative total Exceptional Costs of the Exceptional Costs Support Scheme (including any administrative or financing cost borne by The Company, as agreed by The Authority) recovered equally from each Settlement Period in the Financial Year.

Outside of the date ranges listed in 14.30.13 and 14.30.14, the formula in 14.30.5 shall be unchanged and in effect.

### 14.30.15

The Company shall provide weekly updates to notify industry of the total Exceptional Costs removed under paragraphs 14.30.12 and 14.30.13.

## What is the impact of this change?

### Proposer's assessment against CUSC Charging Objectives

Relevant Objective	Identified impact
<p>(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;</p>	<p><b>Positive</b></p> <p>We believe this proposal will have a positive impact on consumers as it spreads the recovery of a portion of the exceptional BSUoS costs over a longer period, providing time for consumers to budget for these exceptional costs at a time of already extreme power prices. Further it reduces the risk of further destabilisation of industry participants, to mitigate against further insolvencies that would simply lead to greater costs for consumers, and further disruption of the market.</p>
<p>(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);</p>	<p><b>Positive</b></p> <p>This enables all costs incurred by transmission licensees to be recovered, but over a period of time that is more manageable and will drive greater payment from industry participants. Paradoxically, seeking to recover costs in a shorter period (i.e. by not introducing this modification) could ultimately result in less cost being recovered by transmission licensees due to the risk of driving further industry insolvency and non-payment leading to stranded costs.</p>
<p>(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</p>	<p><b>Positive</b></p>

developments in transmission licensees' transmission businesses;	This is fully consistent with para (a), similar in approach to previous modifications that have been approved and adopted successfully.
(d) Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency *; and	<b>Neutral</b>
(e) Promoting efficiency in the implementation and administration of the system charging methodology.	<b>Neutral</b> There should be little, if any, system impact as the change can use the processes introduced by CMP345 and CMP350.
*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).	

### Proposer's assessment of the impact of the modification on the stakeholder / consumer benefit categories

Stakeholder / consumer benefit categories	Identified impact
Improved safety and reliability of the system	<b>Neutral</b>
Lower bills than would otherwise be the case	<p><b>Positive</b></p> <p>We believe this proposal will have a positive impact on consumers as it enables the recovery a greater portion of the exceptional BSUoS costs, reducing the adverse impacts on competition of significant losses related to balancing costs that could not have reasonably anticipated.</p> <p>Consumers on direct pass through contracts, or contracts that can be reopened by Suppliers to pass on these costs, face a significant commercial impact from this current issue.</p>
Benefits for society as a whole	<p><b>Positive</b></p> <p>Without this modification we will see further industry insolvencies that will increase further the risks to the system regarding safety and reliability. We consider this modification to be one of many critical actions that are required urgently to stabilise the energy sector during a period of unprecedented crisis. Protecting the sector, and ensuring it is able to operate through and beyond this crisis period, will bring benefits to society as a whole who are dependent on a stable energy market to function.</p>
Reduced environmental damage	<b>Neutral</b>
Improved quality of service	<b>Neutral</b>

## When will this change take place?

### Implementation date

1<sup>st</sup> January 2022, or if the Authority Decision to approve is later than 31<sup>st</sup> December 2021 then one Day after that decision.

For clarity, we do not seek retrospective implementation.

### Date decision required by

31<sup>st</sup> December 2021

### Implementation approach

This proposal will impact the CUSC (Section 14) and the processes of calculating and billing BSUoS. There should be little, if any, system impact as the change can use the processes introduced by CMP345 and CMP350.

Finally, we note that Ofgem are minded-to approve CMP308 with effective implementation from April 2023. CMP308, alongside the recommendations from the BSUoS taskforce to provide an ex ante fixed BSUoS costs (currently being taken forward through code modifications CMP361 and CMP362), will deliver an enduring framework for BSUoS from April 2023. This proposed modification is a short-term solution to address the current exceptional market conditions and does not impact, nor overlap with, these other BSUoS modifications which continue to be critical and need to be delivered

### Proposer's justification for governance route

Governance route: Urgent modification to proceed under a timetable agreed by the Authority (with an Authority decision)

In seeking urgency, we are mindful of Ofgem's Urgency Criteria

In our view, exceptional and substantial additional BSUoS costs that could not be reasonably forecast by the ESO or market participants. It is "**a current issue that if not urgently addressed**" will have "**a significant commercial impact on parties, consumers or other stakeholder(s)**".

The '**significant commercial impact**' arises for both Suppliers and Generators as they could not have forecasted or expected such surges in BSUoS – not least because forecasts provided by ESO have consistently and materially under forecasted the correct position. Under the status quo arrangements those parties who pay BSUoS for the most part will be unable to recover the amount concerned via retail tariff changes (for Suppliers) given price caps and fixed price contracting etc., or via wholesale price increases (for Generators). These parties, and consumers on direct pass through contracts (or contracts that can be reopened by Suppliers to pass on these costs), face a significant commercial impact from this current issue.

Without this change further insolvencies seem inevitable, leading to further costs and then in turn potential further insolvencies – driving a systemic contagion that could critically disrupt the sector. Urgent action to stabilise the market is needed now and this cannot be delayed.

## Interactions

- |  |  |   |                                |
|--|--|---|--------------------------------|
| <input type="checkbox"/> Grid Code                 | <input type="checkbox"/> BSC                                 | <input type="checkbox"/> STC                    | <input type="checkbox"/> SQSS  |
| <input type="checkbox"/> European<br>Network Codes | <input type="checkbox"/> EBR Article 18<br>T&Cs <sup>1</sup> | <input type="checkbox"/> Other<br>modifications | <input type="checkbox"/> Other |

No interactions identified

## Acronyms, key terms, and reference material

Acronym / key term	Meaning
BSC	Balancing and Settlement Code
BSUoS	Balancing Services Use of System Charge
CMP	CUSC Modification Proposal
CUSC	Connection and Use of System Code
EBR	Electricity Balancing Regulation
ESO	Electricity System Operator
STC	System Operator Transmission Owner Code
SQSS	Security and Quality of Supply Standards
T&Cs	Terms and Conditions

### Reference material

- None

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<sup>1</sup> 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 Electricity Balancing Guideline (EBR – 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.