

Trisha McAuley OBE
Independent Chair
CUSC & Grid Code Panel

Nadir Hafeez
Ofgem
By email

17 December 2021

Dear Nadir

The Connection and Use of System Code (CUSC) Modification Panel Request for Urgency and Recommended Timetable for **CMP381: Defer exceptionally high Winter 2021/22 BSUoS costs to 2022/2023**

On 16 December 2021, EDF Energy raised CMP381. The Proposer sent a request to the CUSC Panel Secretary for this modification to be treated as urgent.

CMP381 seeks to set a £10/MWh cap on BSUoS from 1st January 2022 until 31st 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.

All documentation for this modification can be located via the following link:

<https://www.nationalgrideso.com/industry-information/codes/connection-and-use-system-code-cusc-old/modifications/cmp381-defer>

The CUSC Modifications Panel ("the Panel") 17 December 2021, considered CMP381 and the associated request for urgency. This letter sets out the views of the Panel on the request for urgent treatment and the procedure and timetable that the Panel recommends.

The Proposer set out their rationale for Urgency against Ofgem's Urgency criteria (a) which is as follows:

a) A significant commercial impact on parties, consumers, or other stakeholder(s).

"The Proposer considers that this modification does have a significant commercial impact on parties and consumers as 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.”

Panel Consideration of the Request for Urgency

The Panel considered the request for urgency with reference to [Ofgem Guidance on Code Modification Urgency Criteria](#). The unanimous view of the Panel is that **CMP381 does meet** Ofgem’s Urgency criteria¹. Therefore, the recommendation of the Panel is that **CMP381 should** be treated as an Urgent CUSC Modification Proposal. Panel’s vote on this request for urgency is reflected in Appendix 3 of this letter.

Panel members set out their rationale behind this decision:

- Panel Members agreed that this is imminent issue that has a *significant commercial impact on parties and consumers* and therefore met Ofgem’s Urgency criteria (a). They agreed that the level of cost that could be deferred in a short period of time from Q1 2021 means that affected parties will be significantly commercially impacted if they don’t receive clarity quickly on whether this change will be approved or not.
- Some Panel Members also argued that this is an imminent issue that has a ***significant impact on the safety and security of the electricity and/or gas systems*** and therefore meets Ofgem’s Urgency criteria (b). Generators in GB are faced with these sudden and substantial additional costs which they are unable to fully recover in the wholesale market given forward trading timescale and therefore could cease trading / operating which, could impact on the security of the electricity system. Another Panel Member added that further supplier failures would place unprecedented pressure on different parts of the industry and so could have unforeseen whole-system consequences.

Panel noted that if urgency is required, there would be;

- A Workgroup Consultation period of less than 15 working days;
- Code Administrator Consultation period of less than 15 working days;

¹ Ofgem’s current view is that an urgent modification should be linked to an imminent issue or a current issue that if not urgently addressed may cause:

- a) A significant commercial impact on parties, consumers or other stakeholder(s); or
- b) A significant impact on the safety and security of the electricity and/or gas systems; or
- c) A party to be in breach of any relevant legal requirements.

- There would be less than 5 clear working days between publication of the Draft Final Modification Report and Panel's recommendation; and
- There would be less than 5 clear working days for Panel to check that their Recommendation Vote had been recorded correctly.

Under CUSC Section 8.24.4, we are now consulting the Authority as to whether this Modification is an Urgent CUSC Modification Proposal.

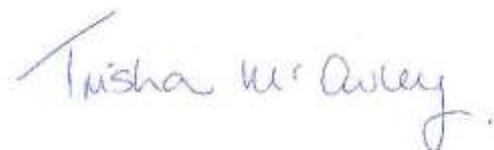
Procedure and Timetable

The Panel discussed an appropriate timetable for CMP381 in the instance that urgency is granted.

The Panel agreed that CMP381 subject to Ofgem's decision on Urgency should follow the attached Code Administrator's proposed timetable (Appendix 1 **Urgent recommendation**). In Appendix 2 of this letter, the Code Administrator has also provided the timeline if this follows standard timescales with the assumption that Panel prioritise this high in the prioritisation stack and this is progressed without the need for Special Panels.

Please do not hesitate to contact me if you have any questions on this letter or the proposed process and timetable. I look forward to receiving your response.

Yours sincerely



Trisha McAuley OBE
Independent Chair of the CUSC and Grid Code Panel

Appendix 1– Urgent Timeline

Modification Stage	Date
Request for Urgency Received	16 December 2021
Panel consideration of Urgency	17 December 2021
Ofgem decision on Urgency	20 December 2021
Workgroup Nominations	17 December 2021 – 5pm on 20 December 2021
Workgroup 1	21 December 2021 (9am – 2pm)
Workgroup Consultation (3 working days)	23 December 2021 (9am) to 29 December 2021 (5pm)
Workgroup 2	31 December 2021
Workgroup Report issued to Panel	5 January 2022
Workgroup Report presented to Panel	6 January 2022 (12pm)
Code Administrator Consultation (2 working days)	6 January 2022 (5pm) to 10 January 2022 (5pm)

Draft Final Modification Report issued to Panel and Industry	11 January 2022 (5pm)
Draft Final Modification Report presented to Panel / Panel Recommendation Vote	12 January 2022 (11am)
Final Modification Report issued to Panel to check votes recorded correctly (1 working day)	12 January 2022 (1pm)
Submit Final Modification Report to Authority	12 January 2022 (3pm)
Authority Decision	14 January 2022 (5pm)
Date of Implementation	17 January 2022

Appendix 2 – Standard Timeline

Modification Stage	Date
Workgroup Nominations (15 working days)	17 December 2021 – 5pm on 14 January 2022
Workgroup 1	24 January 2022
Workgroup Consultation (15 working days)	7 February 2022 to 5pm on 28 February 2022
Workgroup 2	8 March 2022
Workgroup Report issued to Panel (5 working days)	17 March 2022
Workgroup Report presented to Panel	25 March 2022
Code Administrator Consultation (15 working days)	25 March 2022 to 5pm on 19 April 2022
Draft Final Modification Report issued to Panel and Industry	21 April 2022
Draft Final Modification Report presented to Panel / Panel Recommendation Vote	29 April 2022
Final Modification Report issued to Panel to check votes recorded correctly (5 working days)	3 May 2022
Submit Final Modification Report to Authority	11 May 2022
Authority Decision	TBC
Date of Implementation	TBC

Appendix 3 – Panel Urgency Vote

See separate attachment