



Making a positive difference
for energy consumers

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Dear Rob,

Decision on CUSC Modification Panel's recommendation for CMP383 'Updating recovery of CMP381 deferred costs from 1 April 2022' to be treated as an Urgent CUSC Modification Proposal

On 7 February 2022, National Grid Electricity System Operator (the 'Proposer') raised Connection and Use of System Code (CUSC) Modification Proposal CMP383.¹ This proposal seeks to give industry visibility of the dates over which costs deferred under CMP381 will be recovered in charging year 2022/23.² The Proposer requested that CMP383 be treated as an Urgent CUSC Modification Proposal.

The CUSC Modification Panel (the 'Panel') considered the Proposer's urgency request at its meeting on 9 February 2022. On the same day, the Panel wrote to inform us³ of its unanimous view that CMP383 should be treated as urgent because they considered CMP383 to have met Ofgem's Urgency criteria.⁴

We have considered both the Panel's and the Proposer's arguments and have decided that CMP383 should be progressed on an urgent basis. We have set out our reasoning below.

¹ [CMP383 : Updating recovery of CMP381 deferred costs from 1 April 2022 | National Grid ESO](#)

² CMP381 was approved on 14 January 2022: [Decision on CMP381 | Ofgem](#)

³ References to the "Authority", "Ofgem", "we", "us" and "our" are used interchangeably in this document. The Authority refers to GEMA, the Gas and Electricity Markets Authority. The Office of Gas and Electricity Markets (Ofgem) supports GEMA in its day-to-day work.

⁴ https://www.ofgem.gov.uk/system/files/docs/2016/02/urgency_criteria.pdf

Background

Balancing Use of System (BSUoS) charges are used by National Grid Electricity System Operator (NGESO) to recover the costs of balancing the system. These are recovered from demand and generation users in £/MWh per half hourly period based on the MWh of energy imported or exported onto the transmission system.

We directed the NGESO to implement WACM4⁵ of CMP381, which applies a cap on the BSUoS price at £20/MWh to all settlement periods from 17 January 2022 to 31 March 2022. Any costs deferred under this cap are to be recovered in the charging year 2022/23.

We are currently consulting on a licence change to modify the special conditions of the electricity transmission licence held by the NGESO⁶, which is due to close on 25 February 2022.⁷ This proposed change, if approved, would take effect 56 days after our decision, allowing NGESO to recover the deferred costs from that date.

The proposal

The Proposer claims that industry's expectation was that NGESO would recover the CMP381 deferred costs from 1 April 2022. Subsequently, recognising that this is not possible before the pending licence change decision, this modification seeks to modify the CUSC to provide industry with visibility of the dates over which the deferred costs will be recovered.

The Proposer suggests that, in the event the associated licence change is approved by the Authority, recovery of the CMP381 deferred costs begins from the working day after the licence change comes into effect. As the licence change process is ongoing, an exact date has not been provided in the legal text, but the intention is to provide clarification of this start date during the code modification process.

The end date for recovery will remain unchanged as 31 March 2023.

Panel discussion - urgency

The CUSC Panel considered the request for urgency by reference to Ofgem's Guidance on Code Modification Urgency Criteria.⁸ The Panel's unanimous view was that CMP383 does

⁵ WACM stands for Workgroup Alternative CUSC Modifications.

⁶ [Statutory consultation on a proposal to modify the licence held by the Electricity System Operator | Ofgem](#)

⁷ Please note that nothing in this letter in any way fetters our discretion in respect of the proposed licence change abovementioned.

⁸ https://www.ofgem.gov.uk/system/files/docs/2016/02/urgency_criteria.pdf

meet Ofgem's criteria for urgency and therefore recommended the urgency request to Ofgem.

The Panel members agreed by majority that this is an imminent or current issue that if not urgently addressed may cause a **significant commercial impact** on parties and consumers or other stakeholders, therefore satisfying urgency criteria (a). The Panel considered the issue would have a significant impact on BSUoS payers and it was important for stakeholders to know the date from when the BSUoS costs deferred under CMP381 would be recovered.

The Panel members also agreed by majority that urgency criteria (c) of the urgency criteria was satisfied, in that this issue may cause a party to be in breach of any relevant **legal requirements**. This was based on the Panel's view that NGENSO's current licence does not allow the recovery of costs deferred under CMP381 from 1 April 2022.

Our view

We have considered the proposal and the Panel's views on urgency. We have assessed the request against the urgency criteria set out in our published guidance.

We are satisfied that the progression of this modification proposal is related to 'a current issue that if not urgently addressed may cause a significant commercial impact on parties, consumers, or other stakeholders(s)'. We think that this proposal is intrinsically linked to urgent code modification CMP381, and has identified a current issue regarding the recovery timeframe for the CMP381 deferred costs. We recognise that there is a discrepancy between industry's expectation and the intended recovery period planned by NGENSO. Further, we acknowledge that this modification is intended to give industry visibility and notice of the dates over which deferred costs will be recovered. We consider that the recovery of deferred costs, and any confusion surrounding the timing of this, has the potential to cause 'a significant commercial impact' on BSUoS liable users, particularly in the current climate. We therefore agree that the modification should follow an urgent timetable.

For completeness, we have also considered whether this proposal is related to a current issue that may cause 'a party to be in breach of any relevant legal requirements'. We recognise that there is ambiguity as to the operation of the current CUSC legal text, and its interaction with the related licence conditions, which could cause confusion as to the legal requirements placed on NGENSO. Whilst we consider it unlikely that NGENSO would be placed

in breach of any legal requirement as a result, we agree that such confusion could be mitigated by the urgent progression of this modification.

For the avoidance of doubt, in granting this request for urgency, we have made no assessment of the merits of the proposal and nothing in this letter in any way fetters our discretion in respect of this proposal.

Yours sincerely,

Andrew Malley

Head of Electricity Network Charging

Duly authorised on behalf of the Authority