

## CUSC Modification Proposal Form

# CMP385: Improvements to Securities and Liabilities provisions within CUSC

**Overview:** CUSC Section 15 is in need of a review and the Energy Networks Association have identified a number of issues that may have an impact on securities and liabilities for Generators and Demand Users

## Modification process & timetable



**Status summary:** The Proposer has raised a modification and is seeking a decision from the Panel on the governance route to be taken.

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

Generators and Demand Users connecting to the National Electricity Transmission System, Distribution Network Operators, ESO

**Medium Impact** on Transmission Owners

#### Proposer's recommendation of governance route

Standard Governance modification with assessment by a Workgroup

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

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## What is the issue?

CMP192 was incorporated into CUSC (CUSC Section 15) in April 2013. Since then, industry has gone through significant change and a review of CUSC Section 15 is required to ensure its fit for purpose.

16 issues have been identified within CUSC, mainly surrounding CUSC Section 15 but all having an impact on securities and liabilities for Generators and Demand Users. These issues have been raised in the working group formed through the ENA Open Networks product and consulted upon with various stakeholders engaged through an open consultation through the ENA.

The following issues were raised:

### **Trigger Date not reflective of actual project development**

- 1- Currently, the trigger date is the 1<sup>st</sup> April, 3 financial years prior to the financial year of the connection date. Pre trigger the securities would be 100% of the liability profile, whereas post trigger this reduces, dependent on whether the User is consented or not and whether they are Embedded or connected at Transmission level. (Embedded- 45% non-consented and 26% consented. Transmission- 42% non-consented and 10% consented).

Where TOs incur significant expenditure prior to the trigger date, Users would incur a higher security percentage. Consider reviewing the trigger period to ensure still commensurate with average length of periods Transmission works are incurring significant expenditure

- 2- The trigger date can be delayed where a scheme delays their connection date. However, if the TO proceeds with the construction, expenditure would continue to increase but as the User has not breached the trigger date, this means security would be 100% of the expenditure. Need to consider if this should still be 100%?
- 3- The April 1<sup>st</sup> trigger date doesn't reflect the timing of completion of most connection schemes which occur around October-December following summer outage periods. Need to consider if 1 April trigger date is still appropriate.
- 4- Consented schemes reduce percentage of security only when they have breached the trigger date. Consented schemes reduce the risk of termination irrespective of when consenting has been achieved. Need to consider a review of the security percentage reduction for a consented scheme
- 5- Wider works cancellation charge commences when a scheme reaches the trigger date. Generally, schemes which aren't ready to connect, delay their connection date just prior to this commencing due to the fact that wider works cancellation is a mandatory termination charge. Delaying the commencement of the wider works cancellation charge may have a positive effect of reduced modification applications.
- 6- The wider cancellation charge increases in 25% increments once trigger date has been reached but a review of these should be undertaken to ensure these percentages are relevant. E.g. a customer is more likely to proceed to connection within 2 years of connection so need to consider a high level of percentage closer to the connection (e.g. 90% and 100%) but further out from the connection date, lower the percentage (e.g. 10% and 30%).
- 7- Does the evidence show the £/KW rates when a scheme is on a fixed liability prior to the trigger date are reasonable amounts?

**Wider cancellation charge does not always seem reflective of existing works**

- 1- A wider cancellation charge is applicable irrespective of when the wider works have commenced and so a wider fee does not always seem reflective if a scheme is contracted years after the commencement and therefore need to consider if the £/MW level is reasonable?

**Changing from fixed to variable liability**

- 1- Once a scheme has chosen a fixed liability, there is no option to become variable again but there are circumstances where the TO drastically change the scope of works. Need to assess the option to change from fixed under specific circumstances.

**Securities for the Transmission Impact Assessment (TIA) (subject to approval of CMP298)**

- 1- Considerations required on how to implement securities into TIA e.g. will there be a cooling off period where, after a customer is allocated onto the Bilateral Agreement Appendix G, they can terminate without incurring termination fees?
- 2- Where there are multiple schemes allocated to Bilateral Agreement Appendix G which has a single reinforcement required for a Grid Supply Point (GSP), how are termination fees determined where schemes have terminated? Should it be a last man standing principle?

**Scope and applicability of User Commitment**

- 1- Security provisions occur bi-annually. Could this be moved to annual to provide more stability for the customer?
- 2- Main Interconnected Transmission System (MITS) node/Attributable Securities for attributable works are only for works up to and including the MITS node. Where there are GSPs that are only single circuit and Transformer, these will not be classed as MITS nodes and the MITS nodes can be far beyond the GSPs for Developers to securitise which creates a distortion for Embedded schemes
- 3- Where the TO delays reinforcement of the network is it fair to enforce cancellation charges to the Users if that delay makes their project unviable?
- 4- There are occasions where wider transmission enabling works have been completed prior to the connection of the scheme but as the works are attributable the scheme would still incur a liability due to the potential of stranded assets. Many wider assets have multiple Users connecting to them and would therefore not cause stranded assets - therefore can there be a way of reducing/removing liability for these Users?
- 5- Demand Users are still not subject to CUSC Section 15 and are still providing securities via the Final Sums Methodology, which creates a distortion.

## **Why change?**

The securities and liabilities process has been in place since the implementation of CMP192 in 2013. The industry has changed significantly and it would be beneficial to review CUSC Section 15 and associated impacted CUSC sections in light of this.

## **What is the proposer's solution?**

Proposed solution will depend on the analysis of evidence by the Workgroup; however the potential codes that will require changing are CUSC sections 11 and 15

Solutions for each issue as follows:

### **Trigger Date not reflective of actual project development**

- 1- From analysis of 34 schemes in the 2020/2021 Final Sums submission by SSEN Transmission all of which had connection dates out with the trigger period, 24 of those schemes had incurred TO expenditure. Therefore those schemes would be incurring 100% securities for these expenditures. By incorporating a pre trigger percentage reduction to 75% (non-cancellation charge triggering) for connections between 5 years prior to the financial year of connection to 3 years prior to the financial year of connection, this would reduce up front securities during periods of increased TO expenditure.
- 2- This is partially linked to solution for issue 1 above. If the customer delays but is still within 3-5 financial years of connection date then this will be 75% instead of 100%. See also solution to issue 4 whereby where consented schemes would have their securities reduced on conclusion on full consent prior to trigger date, this would further alleviate the issue.
- 3- Move the trigger date to 1<sup>st</sup> October from the 1<sup>st</sup> April which would align with the beginning of the outage seasons for connection.
- 4- Allow consented schemes to reduce securities to their current post trigger percentages on conclusion of satisfactory consenting conditions.
- 5- Move the wider cancellation charge trigger to 2 years prior to the financial year of connection.
- 6- If the solution to issue 5 is agreed to, there will be only 3 up to the financial year of connection. Suggest 20% for Y-2, 60% for Y-1, 100% for Y.
- 7- The following are the current fixed £/kW amounts in the Fixed Security Profile:
  - Completion year -4 £3/kW
  - Completion year -5 £2/kW
  - Completion year -6 £1/kWHowever, as stated above for the solution to issue 1, there is an increase in expenditure in the early years of connection which may have an effect on the £/kW rates stated above. Propose a nominal increase of £1 for each of these,.

Regardless of the increase in expenditure, inflation rates applied to these figures over the last 9 years should be accounted for.

### **Wider cancellation charge does not always seem reflective of existing works**

- 1- To be discussed within the Workgroup. Potentially a percentage reduction based on how many wider works have commenced over a certain number of years prior to the User being contracted.

### **Changing from fixed to variable liability**

- 1- A User can move from fixed to variable under the following circumstances:
  - I. Where the TO amends total expenditure more than 50% from the original expenditure; or
  - II. Where the TO solution for Transmission Connection Assets/Sole Use enabling works changes by more than 50%

### **Securities for TIA (subject to approval of CMP298)**

- 1- There would need to be a cooling off period from when the User is allocated to Appendix G to when they would receive the Security statements and able to provide securities. The wider works cancellation charge would be known up front but their enabling works would need to be considered by the TO before provided to the ESO and then through to the User. Would require ~ 14 calendar days' notice. The User would then require a certain time frame in order to get the securities in place. Understand that Users currently have approximately a month following provision of the Security statements and would be suitable to allow similar times to this. Also requires a period to allow the User to choose fixed or variable. The timeframes above should account for this.
- 2- Where there are multiple parties allocated to Appendix G, if a single person terminates, there should be a period of liability following their termination whereby if the reinforcement is no longer required through lack of Users to make it economic and efficient to proceed, then the liability can be drawn upon within that time period. Would suggest utilising the time frames for second comer applicability for this (believe this is currently 7 years) e.g. if there are 3 Users with the same attributable reinforcement and User 1 terminated in year 1 but the reinforcement would still be efficient for the other 2 Users then no fee would be charged at that point. If User 2 terminated in year 3, making the reinforcement uneconomical to proceed, then termination fees would be liable to both User 1 and 2

### **Scope and applicability of User Commitment**

- 1- Amend the annual submission of the security statements to bi-annual
- 2- Amend the definition of MITS nodes for GSPs to any GSP.
- 3- There should be key criteria that would allow a User to terminate when a reinforcement that is delayed, makes their scheme unviable e.g. where the delay exceeds the date where the User can reasonably obtain a route to market (e.g. Contracts for Difference)

- 4- Where the TO has determined the assets that are attributable would no longer be stranded, the liabilities for these should be removed from the Users security statements.
- 5- Incorporate Demand Users into CUSC Section 15

### **Draft legal text**

To be developed by the Workgroup.

## **What is the impact of this change?**

<b>Proposer's assessment against CUSC Non-Charging Objectives</b>	
<b>Relevant Objective</b>	<b>Identified impact</b>
(a) The efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission Licence;	<b>Neutral</b> No impact on the obligations of Act or 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;	<b>Positive</b> There is at least one of the issues which relates to balancing the differential between Transmission and Distribution securities more effectively.
(c) Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency *; and	<b>Neutral</b> No impact to compliance with Electricity regulation
(d) Promoting efficiency in the implementation and administration of the CUSC arrangements.	<b>Positive</b> If CMP298 is implemented this will ensure securities/liabilities can be implemented effectively.
*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).	



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

Stakeholder / consumer benefit categories	<p><b><u>Fairness across Distribution and Transmission connected schemes-</u></b> Security provisions are currently lower for Transmission than Distribution and rebalancing this would improve equality. Also by incorporating Demand Users into CUSC Section 15, this will also ensure equal treatment.</p> <p><b><u>Cost reflectivity-</u></b> By aligning securities with TO expenditure more appropriately, this would ensure the costs are more reflective than current process.</p> <p><b><u>Aligning with User construction timings-</u></b> By amending wider cancellation charge percentages to be more proportional with generator build timeframes, this will help their financial investment decisions.</p> <p><b><u>Reduction in requirement for mod apps-</u></b> By delaying the wider cancellation charge to closer to the connection date, this may have a positive effect on a reduction in mod apps and therefore costs to the User</p> <p><b><u>Reduction in security provisions-</u></b> By allowing a reduction in security percentage to consented schemes and amending the dates for provisions to less than bi annual, this should reduce administration and security amounts</p> <p><b><u>Stability-</u></b> Aligning all GSPs as MITS nodes would ensure Distribution scheme developers are aware exactly what works they would be securing up to.</p>
Improved safety and reliability of the system	<p><b>Neutral</b></p> <p>There would be no impact to safety and reliability of the system as this mod deals with pre-connection financial security provisions</p>
Lower bills than would otherwise be the case	<p><b>Positive</b></p> <p>This may have a positive impact on the wider GB User where improving cost reflectivity for Generators providing securities would reduce the likelihood of termination. Users only pay a proportion of the total liability of the assets that are aborted. The remaining costs for those assets would be borne by the wider GB User.</p>



Benefits for society as a whole	<b>Neutral</b>  [As these changes are only affecting security provisions by the Generator, this would have no impact on any wider benefits other than the point above]
Reduced environmental damage	<b>Neutral</b>  No impact on the environment
Improved quality of service	<b>Positive</b>  By reducing security provisions this would reduce likelihood of terminations and would therefore ensure more renewable energy is connected to the network, helping towards a successful end goal of Net Zero

## When will this change take place?

### Implementation date

10 Working days following Authority decision. However, transitional arrangements may be needed - Workgroup to consider.

### Date decision required by

No specific timeline.

### Implementation approach

Updates to CUSC Section 15 process needed

There would likely be some transitional arrangements e.g. where the change in provision of trigger date to October from April occurs.

There will be requirements to update contracts and incorporate into existing systems - any changes would apply to any existing contracted parties as well as new contracted parties.

Updates also needed to Transmission Impact Assessment process (if CMP298 is approved) and the Transmission Owners' Final Sums data provision process.

### Proposer's justification for governance route

Governance route: Standard Governance modification with assessment by a Workgroup

There is no defined solution at present to the issues raised and will therefore need to be assessed by a Workgroup to determine the best solution to resolve the issues raised. This will likely include analysis of historical evidence.

## Interactions

- |  |  |   |                                |
|--|--|---|--------------------------------|
| <input type="checkbox"/> Grid Code                 | <input type="checkbox"/> BSC                                 | <input checked="" 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 |

One of the issues relates to frequency of Final Sums provisions which will impact the STC

## Acronyms, key terms and reference material

Acronym / key term	Meaning
BSC	Balancing and Settlement Code
CMP	CUSC Modification Proposal
CUSC	Connection and Use of System Code
DNO	Distribution Network Operator
EBR	Electricity Balancing Regulation
ENA	Energy Networks Association
ESO	Electricity System Operator
GSP	Grid Supply Point
NETS	National Electricity Transmission System
STC	System Operator Transmission Owner Code
SQSS	Security and Quality of Supply Standards
T&Cs	Terms and Conditions
TIA	Transmission Impact Assessment

## Reference material

ENA WS2 product 5 stakeholder summary – see Appendix 1

<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.