

Workgroup Consultation Response Proforma**CMP288/289: Explicit charging arrangements for customer delays and backfeeds (CMP288) and consequential change (CMP289)**

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 by **5pm on 27 April 2022**. 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 Jennie Groome Jennifer.Groome@nationalgrideso.com or cusc.team@nationalgrideso.com

Respondent details	Please enter your details
Respondent name:	Joshua Logan
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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 (non-charging) Objectives are:

- The efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission Licence;*
- 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;*
- Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency *; and*
- Promoting efficiency in the implementation and administration of the CUSC arrangements.*

**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).*

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 - CMP288		
1	Do you believe that the Original Proposal better facilitates the Applicable Objectives?	<p>Mark the Objectives which you believe the Original solution better facilitates:</p> <p>Original <input type="checkbox"/>A <input type="checkbox"/>B <input type="checkbox"/>C <input type="checkbox"/>D <input type="checkbox"/>E</p> <p><u>Relevant Objectives (a) , (b) , (c) & (e) – Negative</u></p> <p>We do not believe the CMP288 Original Proposal better facilitates the Applicable Objectives. Our concerns are detailed below.</p> <p>Lack of Evidence</p> <p>Many developers, including ourselves, have been subject to delay charges already. Such charges are not transparent and are often unknown to the developer until they mod app to delay.an issue is identified.</p> <p>We remain unconvinced on how and what charges a TO actually incurs when a user delays. The TO's have not presented sufficient evidence of the charges that are incurred or costs that may be included. In particular, for financing costs, it should be clearly detailed how such costs arise and the materiality as part of this modification, and in the CUSC legal text.</p>

	<p>The proposal suggests that delay costs would be recovered through TNUoS should they not be targeted at the delaying party. We have seen no evidence highlighting what the materiality of these costs are across the network and by how much this would reduce TNUoS.</p> <p>Lack of Transparency</p> <p>Any methodology for calculating delay charges should be set out in the CUSC Section 14 “Charging Methodologies”. It is not appropriate for the delay charge methodology to be set out in the TO charging statements as proposed by CMP288. The Charging Statements are not subject to the Industry Code Governance arrangements and can be changed by the TO’s with no industry consultation.</p> <p>Furthermore, each TO has their own charging statement and they are inconsistent on their treatment and methodology for calculating delay charges. This introduces an additional complexity and lack of clarity for developers. Should Ofgem approve the original and deem it appropriate for the methodology to be set out in the charging statements, as a minimum, we would expect the TO’s to work together, in consultation with industry, to develop a consistent set of arrangements.</p> <p>Without a clear methodology, developers are unable to appropriately assess the cost of delaying their connection date and will continue to receive unforecastable costs. The lack of transparency is concerning for developers of new generation and represents a material risk. This has a negative impact on competition.</p> <p>Misalignment with market arrangements and net zero ambitions</p> <p>Given the current market arrangements and the interactions with the connection applications process, we are not convinced delay charges send a useful signal to generators. Due to the timescales associated with getting connected to the network, a developer often has to start the connections process prior to successfully obtaining a CM or CfD agreement. Since a Final Investment Decision is usually dependent on securing an agreement, projects have no choice but to delay their connection if they are unsuccessful in the CM/CfD auctions. Therefore, to a certain extent, delay charges are unavoidable and do not send a useful signal to generators which they can respond to. This is negative against CUSC Objective (b).</p>
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		<p>Delay charges are penal costs which are often and largely unavoidable in for developers of renewable generation. This additional risk of potential delay charges could act as another barrier to investment in renewable generation, and could lead to higher bids in CfD auctions which increases the cost for end consumers.</p> <p>Risk Asymmetry</p> <p>This modification significantly alters the allocation of risk between transmission network monopolies and developers. CMP288 places all the delay risk with the developer and removes any delay risk from the TO's and places this on generation developers. The risk should be shared more appropriately and TO's should be liaising more closely with developers to manage developments.</p> <p>In addition to this, we understand there have been instances where customer connections have been delayed by the TO. If this modification were to be approved there would need to be equivalent measures in place to ensure that developers would be sufficiently compensated. This should include any lost revenues as a direct result of the TO initiated delay.</p> <p>Disincentives communication between TO and Developer</p> <p>Communication between the developer and TO throughout the connection process is critical and should mitigate any need for delay charges. TO's should consult with developers before reaching a significant investment point in transmission works or where project spend is envisaged to ramp up. We believe this modification disincentives co-ordination and communication, it gives the TO an automatic right to recover any delay costs. Focus should instead be on encouraging open and transparent communication, which encourages the TO's and developers to progress works concurrently.</p> <p>We would welcome a codified commitment from the TO's to provide quarterly updates on project spend, setting out what the delay charge would be at those intervals should the developer delay their final connection date.</p>
2	Do you support the proposed implementation approach?	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p> <p>We are deeply concerned that delay charges are already being included in contracts and levied prior to the approval of this modification. Fundamentally, this undermines the CUSC governance arrangements and falls below our expectations of the TO's and ESO.</p>

		<p>We are unclear on what legal grounds the ESO/TO's are able currently recover such costs from developers. We do not believe delay charges should have been levied prior to this modification receiving an Ofgem decision.</p> <p>Should Ofgem reject CMP28, it would be appropriate to remove delay charge clauses from existing agreements and any delay charges already paid may need to be reimbursed.</p> <p>Notwithstanding the above, should CMP288 be approved, we believe it should only apply to new contracts entered into after the implementation date. It should not be applied to current contracts which Mod App. Developers may have chosen a different connection date in their original application should they have been aware of this commercial risk.</p>
3	Do you have any other comments?	N/A
4	Do you wish to raise a Workgroup Consultation Alternative Request for the Workgroup to consider?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No N/A

Specific Workgroup Consultation questions – CMP288/289

1	Are there other supporting commercial processes (either codified or not) which could impact successfully applying delay charges/backfeed charges which the Workgroup have not considered? Please explain how CMP288 may impact them.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No N/A
2	Do you have any comments in respect	This is important and requires more development by the workgroup to thoroughly assess the different options.

	of the options set out for Shared Works?	
3	<p>Do you think the CMP289 modification is required? If so, please provide your justification.</p> <p><i>If you think CMP289 is required, please continue to answer the CMP289 Workgroup consultation questions.</i></p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>We do not support the implementation of CMP288 in its current form, as such, we do not believe CMP289 is required.</p>

Standard Workgroup Consultation questions – CMP289

1	Do you believe that the Original Proposal and WACM1/WAGCM1 better facilitates the Applicable Objectives?	<p>Mark the Objectives which you believe the Original solution better facilitates:</p> <p>Original <input type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> E</p> <p><u>Relevant Objectives (a) , (b) , (c) & (e) – Negative</u></p> <p>CMP289 is a facilitating modification supporting CMP288. Consequently, we do not believe CMP289 better facilitates the Applicable CUSC Objectives for the reasoning set out in our responses the CMP288 consultation above.</p>
2	Do you support the proposed implementation approach?	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Please see our responses above to the CMP288 consultation.</p>
3	Do you have any other comments?	N/A
4	Do you wish to raise a Workgroup Consultation Alternative Request for the Workgroup to consider?	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>N/A</p>