

Trisha McAuley OBE  
Independent Chair  
CUSC & Grid Code Panel

Nadir Hafeez  
Ofgem  
**By email**

16 August 2022

Dear Nadir

Connection and Use of System Code (CUSC) Modification Panel Request for Urgency and Recommended Timetable for **CMP395: Cap BSUoS costs and Defer payment to 2023/24 to protect GB customers**

On 11 August 2022, **Saltend Cogeneration Company Ltd** raised **CMP395**. The Proposer sent a request to the CUSC Panel Secretary for this modification to be treated as urgent.

CMP395 seeks to:

- Cap BSUoS (proposed to be set at £10/MWh) per Settlement Period from 1 October 2022 to 31 March 2023;
- Recoup the money in charging year 2023/24 to protect GB energy customers this winter; and
- Cap the liability to be carried by the ESO at £500m.

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/cmp395-cap-bsuos>

The CUSC Modifications Panel ("the Panel") on 16 August 2022, considered **CMP395** 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) and (b), which is as follows:

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

*The 'significant commercial impact' arises for both Suppliers and Generators (as well as customers who directly - or indirectly - pay BSUoS) as they could not have forecasted or expected such surges in BSUoS. Under the status quo arrangements those parties who pay BSUoS for the most part will be unable to immediately recover the amount concerned via retail tariff changes (for Suppliers) given price caps (which will defer the October- December 2022 BSUoS costs, based on data up to August 2022, to January-March 2023 and so on) and fixed price contracting etc., or via wholesale price increases (for*

*Generators). These parties (and customers who directly pay BSUoS) face a significant commercial impact from this current issue (whilst customers who pay indirectly, for example, via the retail price cap face paying the higher BSUoS cost from October-December 2022 in January-March 2023 – so still this winter or in spring for the January-March period).*

*The ‘significant commercial impact’ on customers is most keenly seen on industrial customers who often see BSUoS as a pass through and many of whom compete in international markets. In some of those markets’ energy prices are being capped. For them anything that reduces prices must be helping their competitive position in their own markets. Further lowering costs to sectors such as food manufacturing will also help to marginally ease the inflationary pressure the whole economy is witnessing.*

**b) A significant impact on the safety and security of the electricity and/or gas systems**

*The ‘significant impact on the safety and security’ of electricity arises, in particular for generators in GB, as they are faced with these sudden and substantial additional costs which they are unable to fully recover in the wholesale market given forward trading timescales. This, in turn, could threaten the commercial viability of some of those generators who, in these times of significant system management issues for the ESO (hence the highly abnormal additional BSUoS costs), could cease trading / operating which, could impact on the security of the GB electricity system.*

*Those generators who are active in the Balancing Mechanism will be forced to “assume the worst” and price in BSUoS risks. Given concerns that NGENSO will need most available generation over winter in some periods, this will significantly add to BSUoS costs in itself, potentially creating an inflationary impact on BSUoS on top of the wider market pressures.*

## 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 **CMP395 does meet** Ofgem's Urgency criteria<sup>1</sup>. Therefore, the recommendation of the Panel is that **CMP395 should** be treated as an Urgent CUSC Modification Proposal.

Panel members set out their rationale behind this decision:

- All Panel Members agreed that this is an imminent issue that has a *significant commercial impact on parties and consumers* and therefore met Ofgem's Urgency criteria (a). They noted the current BSUoS volatility and the well documented current high energy prices and one Panel Member argued that if non-domestic customers can benefit from lower costs these can ease the burden on consumers both directly and indirectly.
- 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). However, it was noted that there is no current evidence that Generators would cease trading / operating.

## Procedure and Timetable

The Panel discussed an appropriate timetable for **CMP395** in the instance that urgency is granted.

The Panel agreed that **CMP395** 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.

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;
- 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.

---

<sup>1</sup> 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.

A Panel Member noted that Ofgem is due to announce the autumn price cap (which is to apply from 1 October 2022 to 31 December 2022) on 26 August 2022 and enquired as to whether or not Ofgem could make a decision on CMP395 ahead of this announcement. Panel agreed that a decision ahead of or by 26 August 2022 was not feasible and would not allow sufficient industry scrutiny to be applied to CMP395.

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

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	11 August 2022
Panel consideration of Urgency	16 August 2022
Workgroup Nominations	16 August 2022 (12pm) to 19 August 2022 (5pm)
Ofgem decision on Urgency	19 August 2022 (by 5pm)
Workgroup 1	22 August 2022
Workgroup 2	24 August 2022
Workgroup Consultation	26 August 2022 to 1 September (5pm)
Workgroup 3	5 September 2022
Workgroup 4	8 September 2022
Workgroup Report issued to Panel	12 September 2022
Workgroup Report presented to Panel	13 September 2022
Code Administrator Consultation	13 September 2022 (12pm) to 16 September 2022 (5pm)
Draft Final Modification Report issued to Panel and Industry	20 September 2022
Draft Final Modification Report presented to Panel / Panel Recommendation Vote	21 September 2022
Final Modification Report issued to Panel to check votes recorded correctly	21 September 2022 (2pm to 4pm)
Submit Final Modification Report to Authority	21 September 2022 (4pm)
Authority Decision	28 September 2022 (by 5pm)
Date of Implementation	30 September 2022

## Appendix 2 – Standard Timeline

Modification Stage	Date
Workgroup Nominations	16 August 2022 to 7 September 2022 (5pm)
Workgroup 1	29 September 2022
Workgroup 2	18 October 2022
Workgroup Consultation	28 October 2022 to 18 November 2022 (5pm)
Workgroup 3	29 November 2022
Workgroup 4	15 December 2022
Workgroup Report issued to Panel	19 January 2023
Workgroup Report presented to Panel	27 January 2023
Code Administrator Consultation	1 February 2023 to 22 February 2023 (5pm)
Draft Final Modification Report issued to Panel and Industry	23 March 2023
Draft Final Modification Report presented to Panel / Panel Recommendation Vote	31 March 2023
Final Modification Report issued to Panel to check votes recorded correctly	4 April 2023
Submit Final Modification Report to Authority	12 April 2023
Authority Decision	TBC
Date of Implementation	TBC

## Appendix 3 – Panel Urgency Vote

See separate attachment