



Making a positive difference
for energy consumers

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Dear Trisha,

Decision on CUSC Modification Panel's recommendation for CMP395 'Cap BSUoS costs and Defer payment to 2023/24 to protect GB customers' to be treated as an Urgent CUSC Modification Proposal

On 11 August 2022, Saltend Cogeneration Company Ltd (the 'Proposer') raised Connection and Use of System Code (CUSC) Modification Proposal CMP395.¹ This proposal seeks to cap Balancing Services Use of System (BSUoS) charges per settlement period to £10/MWh from 1 October 2022 to 31 March 2023 and recoup the money in charging year 2023/24, capping the total deferred sum to £500m. The Proposer considers that this change will protect GB energy consumers this winter when high BSUoS charges are expected.

The CUSC Modifications Panel (the 'Panel') considered the Proposer's urgency request at its meeting on 16 August 2022. On the same day, the Panel wrote to inform us of its unanimous view that CMP395 should be treated as urgent. The Panel considered that there could be a significant commercial impact on parties, consumers or other stakeholder(s) if the proposal is not treated as urgent. Some Panel members also suggested that there could be a significant impact on the safety and security of the electricity system.

We have considered both the Panel and the Proposer's arguments and have decided that CMP395 should be progressed on an urgent basis. We have set out our reasoning below.

¹ [CMP395: Cap BSUoS costs and Defer payment to 2023/24 to protect GB customers | National Grid ESO](#)

Background

BSUoS charges are the means by which National Grid Electricity System Operator (NGESO) recovers the costs associated with balancing the electricity transmission system. BSUoS charges are currently recovered from demand customers and large generators (either Transmission connected generators, or distribution connected generators above 100MW capacity), based on the amount of energy imported or exported onto the network (£/MWh) within each half-hour period.² The value varies in each half-hourly settlement period, reflecting the different costs incurred by NGESO in each period.

Current high energy prices, driven by a number of factors, are contributing to higher BSUoS charges. The proposer expects this situation to continue throughout winter and suggests using established mechanisms for capping and deferring BSUoS charges to protect consumers from high and volatile BSUoS charges over winter.³

The proposal

The Proposer argues that as a result of exceptional market conditions, BSUoS costs are significantly higher than expected, due to factors largely out of NGESO's control. They consider these cost drivers were not forecastable by industry parties. The Proposer also notes that volatility has been high, citing a broad range of BSUoS prices. These factors, the Proposer suggests, have led parties to add significant risk premiums into their commercial activities. To reduce the need for such risk premiums, the Proposer suggests a further BSUoS cap be implemented this winter, with charges above the cap deferred to the 2023/24 charging year.

Urgency

In its urgency request, the Proposer explained why it was requesting urgency, highlighting two of the three urgency criteria: *a) a significant commercial impact on parties, consumers or other stakeholder(s)* and *b) a significant impact on the safety and security of the electricity and/or gas systems*.

For criterion (a), the Proposer considers that the potential 'significant commercial impact' arises for suppliers and generators. They suggest that high BSUoS costs could not be expected, nor immediately passed through, due to market arrangements such as the domestic default tariff cap. They suggest the impact is also notable for industrial consumers who are liable for BSUoS directly. Some of these users face international competition.

For criterion (b), the Proposer considers that the potential 'significant impact on the safety and security' of electricity arises in particular for generators, as they may be faced with sudden and

² As a result of our decision on CMP308 ([CMP308: Removal of BSUoS charges from Generation | Ofgem](#)), from April 2023, BSUoS charges will be recovered solely from 'Final Demand' consumers, and not generators.

³ Previous schemes to cap and defer BSUoS costs were implemented in mid-2020 to address higher costs associated with the COVID-19 pandemic (CMP345 and CMP350), and in late 2021, associated with higher wholesale costs (CMP381)

substantial additional costs which they cannot recover in the wholesale market given forward trading timescales. The Proposer suggests that this could threaten the commercial viability of some of those generators, and that this in turn could impact on the security of the GB electricity system if these generators were to be unavailable at relevant times.

Panel discussion - urgency

The CUSC Panel considered the request for urgency by reference to Ofgem's Guidance on Code Modification Urgency Criteria.⁴ At the Panel meeting on 16 August 2022, the Panel unanimously agreed to recommend to Ofgem that CMP395 should be progressed as an Urgent CUSC Modification Proposal. The arguments for urgent treatment are set out in the letter from the Panel.

All Panel members were of the view that this is an imminent issue that if not urgently addressed may cause a *significant commercial impact on parties and consumers or other stakeholders* and therefore meets Ofgem's Urgency criteria (a). In their reasoning, they noted the current BSUoS volatility and the "well documented current high energy prices". One Panel member suggested lower costs for non-domestic customers would indirectly ease cost burdens on consumers.

Some Panel members also agreed with the Proposer that the proposal also met criteria (b), in that, if not addressed urgently, it had the potential to have a *significant impact on the safety and security of the electricity and/or gas systems*. However, it was noted that there is no current evidence that generators would cease trading or operating.

Our views

In reaching our decision on urgency, we have considered the details within the proposal, the justification for requesting urgency, and the views of the Panel. We have considered the Proposer and the Panel's views on urgency. We have assessed the request against the urgency criteria set out in our published guidance.

A request for urgency should be accompanied by evidence and a fully articulated rationale. This should include evidence relating to the satisfaction of the Authority's Urgency Criteria. In this case, the proposal sets out a basic rationale but does not include significant evidence in the request. On balance and having considered the request, the issue at hand and the wider context, we are satisfied that the progression of this modification proposal satisfies criteria (a) and therefore is related to a current issue that if not urgently addressed may cause a significant commercial impact on parties, consumers, or other stakeholders(s). The actual extent of that impact is still uncertain. In future, we expect industry parties to provide fuller evidence and commentary alongside any request.

We do not agree with the Proposer that this proposal meets urgency criteria (b). We recognise that generators who are active in the Balancing Mechanism will have to price in BSUoS risks into their costs, however, the impact on the commercial viability of generators is not yet known as the BSUoS

⁴ [Ofgem Urgency Criteria Guidance - August 2022](#)

price is based on forecasts. We agree with the Panel that there is no current evidence that generators would cease trading or operating, and we therefore consider that there is no evidence of an imminent issue that has a *significant impact on the safety and security of the electricity and/or gas systems*.

The short timeframe between now and the proposed implementation date means a non-urgent modification is unlikely to be effective, even if otherwise suitable for implementation. Industry parties should not assume that a modification raised at such a late stage will be approved, even if the timeframe means a non-urgent modification would not be possible. In this particular case, we agree that the modification should follow the urgent timetable as set out by the Panel. As with previous modifications dealing with similar issues, we think it is important that industry consider carefully what level of BSUoS costs constitute exceptional levels.

All possible efforts will have to be made to ensure that the Workgroup time is constructive and efficient, and that stakeholders who might otherwise experience difficulty engaging in the consultation are proactively approached. In particular, we would like end-user impacts to be considered and represented, and for the Workgroup to have regard to the impacts on users that face BSUoS directly, and on consumers generally. We expect to see sufficient exploration of the potential impacts of any deferred revenues on future consumers and on industry arrangements such as the default tariff cap.

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. We will evaluate the proposal on a holistic basis and would expect any analysis undertaken by the workgroup to take into account the potential impact on consumers, as well as different categories of market participants. This will likely form an important part of our assessment of the modification against (i) the relevant Code Objectives⁵ and (ii) our Principal Objective⁶ of protecting the interests of existing and future energy consumers.

Yours sincerely,

Andrew Malley

Head of Electricity Network Charging

Duly authorised on behalf of the Authority

⁵ Applicable Charging Objectives are defined in paragraph 5 of SLC C5 of NGENSO's Transmission Licence.

⁶ As set out in Section 3A of the Electricity Act 1989.