CUSC Modification Proposal Form

CMP402:
Introduction of Anticipatory Investment (AI) principles within the User Commitment Arrangements

Overview:

In response to Ofgem's final decision on AI dated 18 October 2022, changes to the current User Commitment provisions as detailed within CUSC Section 15 are required to introduce the AI principles for offshore generators connecting at different times to non-radial offshore transmission network.

Modification process & timetable

1. **Proposal Form** — 10 November 2022
2. **Workgroup Consultation** — 2 May 2023 to 24 May 2023
3. **Workgroup Report** — 20 July 2023
4. **Code Administrator Consultation** — 2 August 2023 to 31 August 2023
5. **Draft Final Modification Report** — 21 September 2023
6. **Final Modification Report** — 10 October 2023
7. **Implementation** — 5 January 2024

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

ESO, Offshore Generators, Offshore Transmission Owners, Consumers

Proposer's recommendation of governance route	Standard Governance modification with assessment by a Workgroup	
Who can I talk to about the change?	**Proposer:** David Witherspoon David Witherspoon@nationalgrideso.com 07774 197450	**Code Administrator Contact:** Paul Mullen Paul.j.mullen@nationalgrideso.com 07794537028

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What is the issue?

As part of the Offshore Transmission Network Review, Ofgem reviewed the current AI arrangements and recognised that there is a need for change to incentivise AI for further investment in offshore transmission. Specifically, to support the later connection of a specific offshore development or developments, as well as to recognise the fact that two offshore generators will be connecting at different times.

Within their final decision entitled "Anticipatory Investment and implementation of policy changes"[1], Ofgem:

- Outlined the introduction of an Early-Stage Assessment process; and
- Outlined the extension of User Commitment arrangements in CUSC Section 15 to non-radial offshore transmission to allow for a calculation of an AI cost for new offshore transmission assets in which future generator(s) (or, 'later users' within that decision) will be liable for up to the point in which they start paying Transmission Network Use of System (TNUoS) charges. The extension of these liabilities for the later user(s) is to mitigate the allocation of AI risk on consumers.

User Commitment arrangements currently cover the concept of radial offshore connections for offshore generators only to the extent that they define the liabilities and securities for each generator for the relevant transmission works onshore (as with onshore connections) as part of the connection. Offshore transmission works are currently 'self-secured' and these arrangements are not included within the CUSC. As offshore transmission assets are being progressed under generator build arrangements (and so at generator's risk), any cancellation charge in respect of these works under Section 15 of the CUSC does not include these self-secured works, nor is there any security associated with these self-secured works. Therefore, to protect consumers, there is a need to extend User Commitment arrangements to incorporate the AI cost to generator(s) who will be benefiting from shared offshore assets that are being developed and built by the initial generator as part of a non-radial offshore connection.

Why change?

The current approach to AI for offshore generators has been reviewed because generators have not been incentivised to undertake AI for future projects. Therefore, Ofgem has introduced a new AI concept to increase coordination between generator projects and mitigate the allocation of AI risk to consumers. To enable the change, there will be a requirement to define new terms such as the initial user and later users, as well as the Early-Stage Assessment which will be carried out by Ofgem on receipt of an application from the relevant user(s) for AI cost to be determined.

What is the proposer's solution?

The Proposer seeks to introduce the principle of AI into the User Commitment arrangements, via a new Part 5 in CUSC Section 15. Ofgem has noted that "the extension of user commitment arrangements to offshore transmission assets to cover any potential later user of offshore transmission assets funded by AI is intended to demonstrate commitment from the potential later user and demonstrates seriousness of purpose". And "for the avoidance of doubt, [Ofgem] do not contemplate any extension of user commitment arrangements to the original user or to the non-AI element of any offshore transmission infrastructure".

At the 23 August 2022 workshop, the Proposer presented a number of options as to how the liabilities could be calculated and passed onto the later user(s), here being referred to as 'G2', noting this term could also potentially include any future subsequent generator(s) for the purpose of this code modification.

The potential options put forward/discussed at that time were:

- Option 1: Utilising the existing User Commitment arrangements, AI liabilities would be proportioned using a Local Asset Reuse Factor (LARF) and Strategic Investment Factor (SIF), resulting in G2 only being liable for a proportion of the liability rather than the full AI cost liability. Challenges as to how and who would propose the LARF and SIF calculations were presented, as currently the Transmission Owners state what the calculations would be for the onshore transmission works.
- Option 2: The LARF and SIF factors would be constantly set as 1, and therefore G2 would be liable for the whole of the AI cost up until the point of connection.

[1] Decision on Anticipatory Investment and Implementation of Policy Changes

- Option 3: Seeking an alternative option for the pathway to 2030 projects and not utilising the proposed AI User Commitment arrangements for Early Opportunity projects.

Following this feedback and discussion, the Proposer is now seeking to implement a new option based upon further consideration and workshop discussions, which would mean that G2 is only liable for the proportion of the AI cost. However, the Proposer considers that it prudent for discussion at workgroup to further consider an appropriate means to consistently calculate a suitable proportion (as well as the suitable percentage of that liability which is then secured) to adequately balances risk between G2 and consumers, as well as to acknowledge the concerns of how much liability is required by G2 ahead of its Financial Investment Decision (FID).

Areas which will need to be addressed with support of workgroup as part of this modification proposal are:

- What is the appropriate sharing factor that should be applied to the AI cost pre and post G2 FID? For the purposes of this code modification, the Proposer suggests a sharing factor of 33% Pre-FID and 67% Post-FID i.e. G2 being liable for these percentages of the AI value(s), identified via the Early-Stage Assessment process, in those timescales. We will also need to further consider whether it could be appropriate to include an ability to replace these defined percentages with a split directed by Ofgem via the Early-Stage Assessment process, to provide flexibility in relation to AI liabilities
    - Will we need to consider if and how the sharing factor will change in the event that there is more than one generator dependent upon the AI being provided by the original generator?

- Should the current User Commitment principles for secured amounts against liability apply in the same way for AI liability i.e. 100% pre-trigger date, 42% post trigger date and 10% consented?
    - Logically the Proposer does not see why the existing onshore approach to security – both in terms of the value and the acceptable forms - could not be extended ‘as is’ offshore for non-radial transmission connected generation i.e. the above security percentages and their link to the trigger date could remain the same for the AI cost component, as the risk of termination is not expected to be any greater or lesser for G2, solely due to the existence of AI. Therefore, it is considered by the Proposer that the security can remain ‘as is’ once the liability has been calculated.

- If and when should the AI component be eligible for inclusion within a fixed cancellation charge?
    - The Proposer does not believe that the AI component should be fixable prior to the value and profile being provided by Ofgem (as it could be fixed at zero) but the value and profile should be fixable from that point onwards i.e. from the first fixed cancellation charge statement which includes the AI cost, as is the principles for onshore attributable works.

- In the potential scenario where some of the AI is considered to be for the purpose of wider system benefit (e.g. to reduce identified boundary constraints) rather than specific to the subsequent developer(s), it is important to ensure that the subsequent generator(s) is/are only liable for their proportion of the AI liability, with any AI liability associated with wider system benefit not directly filtering through to the subsequent generator(s). As Transmission Owners are not liable for user commitment there will be the requirement to separately ensure that any such AI liability is correctly accounted for in the final sums’ arrangements.

The proposed principles for the extension to the User Commitment arrangements to incorporate the AI cost liability are as follows based on current assumptions:

- The initial AI cost value (and its spend profile) will be derived at an Early-Stage Assessment, or the (subject to an Ofgem decision) gateway assessment in the context of the Holistic Network Design recommendation process undertaken by Ofgem on receipt of an application by the generator(s) seeking to develop coordinated infrastructure which would require any AI.
- The AI cost and profile that we expect will be provided to the ESO by Ofgem once the Early-Stage Assessment process has concluded will then be used to allow the ESO to calculate the Cancellation Charge and Secured Amount Statement, including the new AI liability for G2 through the User Commitment principles. This will be in addition to the values currently calculated in accordance with Section 15 of CUSC and then provided to generators via the MM1-MM3 documentation with contract offers and/or every six months. The AI liability that is applied to G2 is proposed to be 33% of the AI value set via the Early-Stage Assessment process Pre-FID, rising to 67% Post-FID. It is proposed that G2 can only fix the AI liability at the point at which the value is presented within the statements thus ensuring that the AI liability cannot be fixed at £0.
- It is assumed that from the point of contract signature for G2 until the point that the AI cost has been agreed and submitted to the ESO, that the AI liability will be £0[2]. It is important to note, the existing User Commitment liabilities would continue to apply for G2 for onshore transmission works required as part of their connection to the transmission system.
- G2 will be liable for the AI cost until their connection date, at which point will then pay TNUoS charges. Should G2 reduce its Transmission Entry Capacity (or terminate) ahead of connection, then the current User Commitment arrangements will be applied in respect of onshore transmission along with the proposed amended User Commitment arrangements in respect of non-radial offshore transmission to ensure the appropriate liability costs are recovered, including via security, to the extent it is available.

The Proposer has also identified the need for a related Charging Modification “Incorporation of the Anticipatory Investment (AI) Cost Gap”, which will be raised once details have been finalised.~~,~~

Draft legal text

To be developed by the workgroup.

What is the impact of this change?

Proposer’s assessment against CUSC Non-Charging Objectives	
Relevant Objective	**Identified impact**
(a) The efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission Licence;	**Positive** The code modification is being raised at the request of Ofgem to implement the decision on AI.
(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;	**Positive** This code modification helps to provide efficient and coordinated competition in the generation and supply of electricity as it will

[2] The risk here is deemed to be low as we anticipate that the initial user will trigger the commencement of the Early-Stage Assessment prior to any significant spend. However, it is important to note that we should seek further clarity from Ofgem here.

	provide clarity and certainty for the future development of AI and offshore coordination.
(c) Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency *; and	**Neutral** This code modification is not related to any compliance issues hence the neutrality.
(d) Promoting efficiency in the implementation and administration of the CUSC arrangements.	**Positive** This code modification will help to provide clarity for future offshore developments and the associated liabilities ahead of connecting to the transmission system where non-radial offshore transmission.
*The Electricity Regulation referred to in objective (c) is Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (recast) as it has effect immediately before IP completion day as read with the modifications set out in the SI 2020/1006.	

Proposer's assessment of the impact of the modification on the stakeholder / consumer benefit categories	
Stakeholder / consumer benefit categories	**Identified impact**
Improved safety and reliability of the system	**Neutral** This will not impact the operation of the transmission system.
Lower bills than would otherwise be the case	**Positive** The clarity provided (by this methodology) should provide offshore generators with greater confidence on what the applicable liabilities will be and so reduce investment risk and lower consumer impacts in the event of later user capacity reduction or termination.
Benefits for society as a whole	**Positive** This facilitates development of an integrated offshore network and the associated consumer benefits compared to radial connections.
Reduced environmental damage	**Positive** This facilitates the development of an integrated offshore network and the associated benefits towards achieving Net Zero.
Improved quality of service	**Neutral** Quality of service is not expected to be improved as a result of this code modification.

When will this change take place?

Implementation date
5 January 2024

This will be required to allow changes to be implemented into the January 2024 Cancellation Charge Statements process. There is recognition that the AI cost could still be £0 for relevant projects at this point as the Early-Stage Assessment process could take place after the January 2024 statements are issued. Therefore, reopener clauses may be required within generators Construction Agreements to acknowledge.

This date is proposed as relevant generators will need to know the methodology and requirements as soon as possible, to be built into their business plan for investment decisions.

Date decision required by
30 November 2022

Generators are looking for a decision as soon as possible as this will affect their business plan and investment decisions.

Implementation approach
Update CUSC legal text with a possible inclusion of a new Part 5 within CUSC Section 15. Implementation required within 10 working days after a decision from the Authority, prior to the above implementation date.

Proposer's justification for governance route
Governance route: Standard Governance code modification with assessment by a Workgroup.

Given the materiality, this will need a decision by Ofgem so Standard Governance is appropriate.

Given the extent of the possible solutions, a Workgroup is appropriate.

Interactions

☐Grid Code ☐European Network Codes	☐BSC ☐ EBR Article 18 T&Cs[3]	☐STC ☐Other modifications	☐SQSS ☐Other

There is also an existing code modification (CMP385) in progress which is reviewing the existing User Commitment arrangements. However, CMP385 does not interact with CMP402 as CMP402 is to incorporate AI into the User Commitment

Acronym / key term	Meaning
AI	Anticipatory Investment
BSC	Balancing and Settlement Code
CMP	CUSC Modification Proposal
CUSC	Connection and Use of System Code
EBR	Electricity Balancing Regulation
ESO	Electricity System Operator
LARF	Local Asset Reuse Factor
OTNR	Offshore Transmission Network Review
SIF	Strategic Investment Factor
STC	System Operator Transmission Owner Code
SQSS	Security and Quality of Supply Standards
T&Cs	Terms and Conditions
TNUoS	Transmission Network Use of System Charges

Reference material

- ESO's "Pathway 2030 – The Industry Code, Standard and Licence Recommendation Report" published in July 2022: https://www.nationalgrideso.com/electricity-transmission/future-energy/the-pathway-2030-holistic-network-design

- Ofgem's Consultation "Offshore Coordination – Early Opportunities: Consultation on our Minded-to Decision on Anticipatory Investment and Implementation of Policy Changes" published in April 2022: https://www.ofgem.gov.uk/publications/offshore-coordination-early-opportunities-consultation-our-minded-decision-anticipatory-investment-and-implementation-policy-changes

- Offshore Transmission Network Review https://www.gov.uk/government/groups/offshore-transmission-network-review

- Ofgem's decision on Anticipatory Investment and Policy Changes published in October 2022: Decision on Anticipatory Investment and Implementation of Policy Changes | Ofgem

[3] 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.