

## CUSC Modification Proposal Form

# CMP406: Allowing consideration of a reduced BSUoS fund for Fixed BSUoS implementation

**Overview:** As per Ofgem's latest CMP361/2 consultation, this modification is being raised to provide an option for an ex ante fixed BSUoS tariff with a 12 month fixed period, 3 month notice period, and a P85 level BSUoS fund.

## 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**

Final Demand Users, Suppliers, Electricity System Operator

<b>Proposer's recommendation of governance route</b>	Urgent modification to proceed under a timetable agreed by the Authority (with an Authority decision)
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<b>Who can I talk to about the change?</b>	<p><b>Proposer:</b> Naomi De Silva <a href="mailto:Naomi.DeSilva@nationalgrideso.com">Naomi.DeSilva@nationalgrideso.com</a> 07812787290</p>	<p><b>Code Administrator Contact:</b> Banke John-Okwesa <a href="mailto:Banke.john-okwesa@nationalgrideso.com">Banke.john-okwesa@nationalgrideso.com</a> 07929716301</p>
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## What is the issue?

BSUoS charges are the means by which the ESO recovers the costs associated with balancing the electricity system. [CMP361 and CMP362](#) were raised to implement the recommendation of the second Balancing Services Task Force to recover BSUoS charges as a flat volumetric charge set on an ex-ante basis. This is in addition to [CMP308](#), which, following its approval in April 2022,<sup>1</sup> will move BSUoS charges to final demand only. All have an implementation date of 01 April 2023.

In October 2022, Ofgem consulted on their position for CMP361 and CMP362. Ofgem were minded to approve WACM5 for CMP361 and the original proposal for CMP362. WACM5 has a fixed tariff period of 1 year, with 3 months notice, and provides the ESO with a fund to better manage the resulting cash flow impacts.

Ofgem received consultation responses indicating some uncertainty and misunderstanding about the size of the BSUoS fund and how it works. In addition, the ESO have also received feedback that BSUoS certainty is important, particularly avoiding mid-period tariff resets.

Ofgem is concerned the size of the fund is reducing the potential consumer benefits of the overall recommendations of the BSUoS taskforce and their original impact assessments. The ESO agree that there is a need to appropriately manage the trade off between certainty for suppliers and costs to consumers. The assessment of costs and benefits undertaken by Frontier found that the benefits of fixed BSUoS come about by moving risk from suppliers to the ESO as the ESO has a lower cost of capital than suppliers. However, a large industry fund is underpinned by the cost of capital of suppliers, and potentially consumers. This has the potential to erode the benefits of fixing BSUoS, particularly at higher Probability (P) levels. It is important to mitigate the impact on consumers bills given the increases in inflation and cost of living currently being experienced in GB.

The ESO has been asked to raise this urgent CUSC modification by Ofgem to address this specific concern. This is a different proposal from that of CMP361 and has a substantially different effect because it is focused on a solution around the size of the industry fund and the effect this has on Suppliers and consumers. Also, the ESO will be raising a separate modification, CMP407, to update definitions to Section 11 to ensure alignment between the definitions in Section 14 and Section 11.

The ESO will appreciate views from across industry on the impact and cost of different Probability (P) levels. We welcome engagement throughout the workgroup to ensure that the proposal is fit-for-purpose and protects consumers. In addition, we emphasize that a key part of this proposal is to find the balance that is needed between the cost of protecting consumers from the risk of tariff resets and setting a P level (and therefore by extension a fund) that provides certainty and stability.

## Why change?

Since the CMP361/CMP362 workgroup finished in summer 2021, BSUoS costs have been much higher and more volatile. This has implications for the size of industry BSUoS fund required to support an ex ante fixed BSUoS price. The ESO agrees that it is beneficial to consider whether a lower P level is more appropriate. The BSUoS industry fund would be held in a separate ESO ringfenced account, considered in the control of the ESO and available only for use as directed within the CUSC (i.e. for BSUoS). The fund would only be used for the specific purpose to cover balancing services costs in the event the ESO

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<sup>1</sup> <https://www.ofgem.gov.uk/publications/cmp308-removal-bsuos-charges-generation>

has not recovered sufficient revenue from the BSUoS tariff and the ESO's working capital facility for BSUoS has been exhausted.

The BSUoS fund requirements will naturally change each year as the fund tariff changes based on the expected costs being forecasted and scenarios modelled. If the fund reaches a point where it exceeds that of the P level (in this case P85), then it will be adjusted downwards accordingly.

The following table from the latest consultation is reproduced here showing the ESO's forecast of the total capital requirement required to manage BSUoS risk above the Main Tariff Recovery (MTR) for 2023/24 charging year. It outlines the various elements of the total fund size at varying P levels. For example for a P90 level, the fund size would be £1.3bn made up of £300m of the working capital fund, and £1bn of the industry fund. If recovered over a two year period, £500m would be recovered from industry each year, whereas if recovered over a five year period, £200m would be recovered.

Table 1: Estimated size of Capital Requirements and BSUoS fund required for different certainty levels (£million)

P Level	Total capital requirement above MTR	ESO WCF <sup>2</sup>	Fund size	Annual cost of the Fund (over 2 years)	Annual cost of the Fund (over 5 years)
P70	£500m	£300m	£200m	£100m	£40m
P75	£700m	£300m	£400m	£200m	£80m
P80	£900m	£300m	£600m	£300m	£120m
P85	£1100m	£300m	£800m	£400m	£160m
P90	£1300m	£300m	£1000m	£500m	£200m
P95	£1700m	£300m	£1400m	£700m	£280m
P99	£2400m	£300m	£2100m	£1050m	£420m

To support WACM5 CMP361/CMP362 with a P level of P99, the industry fund would need to be c.£2.1bn, and, if recovered over 5 years would be c.£420m/year recovered from consumers via suppliers.

This table shows that the smaller the P level, the smaller the industry fund. In addition, the longer the period of recovery, the smaller the fund level at the end of each year. Whilst a smaller fund has a smaller impact on consumers as it means a smaller uplift in the tariff, it is coupled with a higher risk that the ESO will be required to reset tariffs.

## What is the proposer's solution?

On balance we consider that a lower level of fund should be considered. Our proposed solution has the following features:

- £/MWh BSUoS rate fixed for a 12 month period.
- 3 month notice period i.e. final tariff published by 1 January each year.
- Industry fund built up over 2 years via a £/MWh fund levy element incorporated into the BSUoS tariff rate.
- The industry fund is in addition to the ESO's c.£300m of working capital.
- A P85 fund level leading to an assumption that it may be breached every 6.6 years under the modelled scenarios.
- The BSUoS industry fund requirements will be reassessed each year when the tariff is set. If the fund is exceeding that of its P level on the modelling at that time

<sup>2</sup> The ESO has c.£300m of working capital ringfenced to support ex ante fixed BSUoS

(in this case P85) it will be adjusted downwards to reflect this, and the surplus will be returned to BSUoS payers through the tariff setting process.

### **Draft legal text**

CUSC Sections 14.29, 14.30 and 14.31 would need to be updated to implement this modification to incorporate the proposed way of BSUoS cost recovery, including the presence of an industry BSUoS fund.

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

### **Proposer's assessment against CUSC Charging Objectives**

<b>Relevant Objective</b>	<b>Identified impact</b>
(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>Positive</b> The proposal removes the need for suppliers to include risk premiums in their cost forecasting for BSUoS for the fixed tariff period, therefore supporting retail tariff offerings and competition between suppliers. In seeking a better trade off between certainty of the fixed rate (P level) and the size of the fund, it considers the implications on tariff setting of the size of the fund levy rate.
(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);	<b>Positive</b> The proposal improves cost reflective charging from the perspective of removing potentially distortive signals. Half hourly charges may be more granular than the ESO actions driving the costs and so create distortive signals in periods where volume is low. These may not be beneficial from an overall energy system perspective.
(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	<b>Positive</b> The proposal supports implementation of the recommendations of the

developments in transmission licensees' transmission businesses;	second Balancing Services Task Force by addressing industry concerns around unpredictability of BSUoS charges and the way a BSUoS industry fund works.
(d) 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
(e) Promoting efficiency in the implementation and administration of the system charging methodology.	<b>Positive</b> The proposal simplifies the methodology by moving to a single fixed rate while providing an option for a fund size at a lower P level.
**The Electricity Regulation referred to in objective (d) 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	<b>Neutral</b> No impact
Lower bills than would otherwise be the case	<b>Positive</b> A fixed ex ante BSUoS tariff should bring about overall cost reductions as enables suppliers to remove risk premia from their tariff setting over the fixed period. For any given forecast, a lower P level means a lower fund levy rate that is recovered via consumer bills.
Benefits for society as a whole	<b>Neutral</b> No impact
Reduced environmental damage	<b>Neutral</b> No impact
Improved quality of service	<b>Positive</b> BSUoS charges will no longer vary by half hour and will have a single rate for the fixed period, which includes the fund levy rate. This simplification supports an improved quality of service, as well

	as facilitating the principles of the second Balancing Services Task Force.
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## When will this change take place?

### Implementation date

01 April 2023 – alongside implementation of CMP308. A single implementation date simplifies implementation for industry and reflects the work undertaken by ESO to date on the new billing system.

### Date decision required by

An Ofgem decision is required by mid December 2022 to support effective implementation and allow ESO teams time to publish a final tariff under the approved methodology before 01 January 2023. If this is not possible, we expect the ESO will require flexibility to publish a final tariff as soon as possible after 01 January 2023.

### Implementation approach

Limited IT changes are required prior to the implementation date.

### Proposer's justification for governance route

Governance route: Urgent modification to proceed under a timetable agreed by the Authority (with an Authority decision)

In the ESO's view, it is "**a current issue that if not urgently addressed**" will have "**a significant commercial impact on parties, consumers or other stakeholder(s)**" and therefore meets Ofgem's Urgency Criteria (a). The Proposer's view against this criteria is as follows:

### Ofgem Urgency Criteria (a)

- There is a significant impact on parties if we cannot publish a final tariff allowing parties to price their contracts. In addition, there is a knock-on impact to consumer costs with a high BSUoS industry fund.
- It is important that as much notice as possible is given to BSUoS payers as to the likely tariff from April 2023. The ESO also recognises that even under an Urgent timeline there is a risk that it will not be possible to produce a fixed tariff by the end of December, as such the ESO will commit to produce the tariff as soon as practicable following the decision by Ofgem on the final version of a Fixed BSUoS tariff.
- An Ofgem decision is required by mid December 2022 to support effective implementation and allow ESO teams time to publish a final tariff under the approved methodology before 01 January 2023. Publication of a final tariff as soon as possible is required to support suppliers cost forecasting and tariff setting.

Guidance on governance routes		
Timescales	Route	Who makes the decision (Governance type)
Normal	Proceed to Code Administrator Consultation*	Authority (Standard Governance) or Panel (Self-Governance)
	Assessment by a Workgroup**	
Urgent	Proceed to Code Administrator Consultation	Authority (Standard Governance)
	Assessment by a Workgroup	

Fast-track	Straight to appeals window, then implementation	Panel (Self-Governance)
<p>* This route is for modifications which have a fully developed solution and therefore don't need to be considered by a Workgroup.  ** For modifications which need further input from industry to develop the solution.</p>		
<p><b>Self-Governance Criteria</b></p> <p>It depends on the material effect of the modification as to whether it should be subject to Standard or Self-Governance. If you are proposing that your modification should be subject to Self-Governance, you must explain how it meets the below criteria.  The modification is unlikely to discriminate between different CUSC Parties and is unlikely to have a material effect on:</p> <ul style="list-style-type: none"> <li>Existing or future electricity customers;</li> <li>Competition in the generation, distribution, or supply of electricity or any commercial activities connected with the generation, distribution or supply of electricity,</li> <li>The operation of the National Electricity Transmission System</li> <li>Matters relating to sustainable development, safety or security of supply, or the management of market or network emergencies</li> <li>The CUSC Panel's governance procedures or the CUSC Panel's modification procedures</li> </ul>		
<p><b>Urgency Criteria</b></p> <p>If you are proposing that your modification is Urgent, you must explain how it meets Ofgem's Urgent criteria (below). When modifications are granted Urgency, this enables the us to shorten the standard timescales for industry consultations. Note that the we (Code Admin) must seek Authority approval for this option.  Ofgem's current guidance states that an urgent modification should be linked to an imminent issue or a current issue that if not urgently addressed may cause:</p> <ul style="list-style-type: none"> <li>A significant commercial impact on parties, consumers or other stakeholder(s); or</li> <li>A significant impact on the safety and security of the electricity and/or gas systems; or</li> <li>A party to be in breach of any relevant legal requirements.</li> </ul>		
<p><b>Fast-Track Self-Governance Criteria</b></p> <p>This route is for modifications which are minimal changes to the code. E.g. Typos within the codes. If you are proposing that your modification should be subject to Fast-Track Self-Governance, you must explain how it meets the below criteria.  The modification is a housekeeping modification required as a result of an error or factual change, such as:</p> <ul style="list-style-type: none"> <li>Updating names or addresses listed in the CUSC;</li> <li>Correcting minor typographical errors;</li> <li>Correcting formatting and consistency errors, such as paragraph numbering, or;</li> <li>Updating out of date references to other documents or paragraphs.</li> </ul>		

## Interactions

- |   |   |   |                                |
|---|---|---|--------------------------------|
| <input type="checkbox"/> Grid Code              | <input type="checkbox"/> BSC                              | <input type="checkbox"/> STC                            | <input type="checkbox"/> SQSS  |
| <input type="checkbox"/> European Network Codes | <input type="checkbox"/> EBR Article 18 T&Cs <sup>3</sup> | <input checked="" type="checkbox"/> Other modifications | <input type="checkbox"/> Other |

Ofgem have asked the ESO to bring forward a modification with a different effect to those which are currently available under CMP361. The ESO will therefore be raising CMP407

<sup>3</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.



to update Section 11 to reflect the required definitions as created by CMP406 so there will naturally be interactions with this modification.

## Acronyms, key terms and reference material

Acronym / key term	Meaning
BSC	Balancing and Settlement Code
BSUoS	Balancing Services Use of System
CMP	CUSC Modification Proposal
CUSC	Connection and Use of System Code
EBR	Electricity Balancing Regulation
ESO	Electricity System Operator
MTR	Main Tariff Recovery
P (level)	Probability
STC	System Operator Transmission Owner Code
SQSS	Security and Quality of Supply Standards
T&Cs	Terms and Conditions
WACM	Workgroup Alternative Code Modification
WCF	Working Capital Fund

## Reference material

- [CMP 361/362 – Minded to decision and draft impact assessment](#)
- [CMP361/362 – Second Ofgem Consultation](#)
- [Ofgem response to publication of the final report of the second BSUoS Task Force](#)
- [Final Report – Second Balancing Services Charges Task Force](#)
- [Targeted Charging Review: Decision and Impact Assessment](#)

## Annexes

Annex	Information
Annex 1	Draft legal text