

Code Administrator Meeting Summary

Meeting Name: CMP376 Workgroup 8

9 January 2023

Contact Details

Chair: Paul Mullen, National Grid ESO Paul.J.Mullen@nationalgrideso.com

Proposer: Rein de Loor, National Grid ESO rein.deLoor@nationalgrideso.com

Key areas of discussion

- CMP376 seeks to implement the queue management process into CUSC including introducing a right for the Electricity System Operator (ESO) to terminate contracted projects which are not progressing against agreed milestones.
- The Chair provided an overall summary of the 30 non-confidential Workgroup Consultation responses received. Although there was general agreement with the principle of queue management, the prevailing view was that, whilst recognising the work done to date, aspects of the Original need to be further developed and suggestions were made to Milestone Durations, Evidence and Exceptions. Workgroup need to work through these specific comments. More fundamentally:
 - Concerns were raised with the one size fits all approach and there were arguments that the durations don't work for some projects (notably Offshore, Solar and Battery Energy Storage).
 - Many respondents believe ESO should have the "right" to terminate on the ESO where milestones are missed, instead of termination being automatic and better to move non-progressing projects down the queue and/or soften the evidence requirements to instead allow evidence of progression and/or widen the exceptions.
 - General call for flexibility to be applied to the later Milestones with the argument that consented projects that fail to reach the later Milestones should not be terminated if they can demonstrate that the project is actively being progressed. There was some support to only define Milestones M1 to M3 at time of offer (and the later Milestones are defined after the project has planning consent) and terminate projects that do not

meet these Milestones (subject to the exceptions) and define the later Milestones after the project has obtained planning consent.

- Appeals process should be clearly defined and timebound in order to minimise the impact to parties in circumstances of a successful appeal. Funding is also an important consideration. The ESO need to consider what their Original will be and we need to understand what role Ofgem will have in this process.
- On the question as to whether Works should continue for a terminated User, it was previously noted that legally they can't. However, there was some preference expressed that the "terminated" User's works continue until the appeals process has been exhausted and/or that the suspension of works should be at the Users' discretion.
- On Implementation, whilst many supported the proposed approach in the Original, further thinking done has been done on how this can be applied to all existing parties in the queue.
- The Proposer advised on changes to their Original, which in some cases addressed the points above. The "Will terminate" is to be changed to a right to terminate for the post consent milestones (M5 to M8), there were some changes to the Milestone Durations and the Appeals process will be in line with the "Other Disputes" process in CUSC Section 7 with an additional ESO internal escalation process before any formal Appeals process is initiated.
- The Workgroup established 7 potential alternative components, which were:
 - Milestone M6 to say "submit" rather than "agree";
 - Milestone M3 to have a blanket 3 months after offer acceptance for all columns;
 - Milestone M7 and M8 to be bilaterally negotiated;
 - Milestones M5 to M8 inclusive to be bilaterally negotiated;
 - Proportionate Milestones (where the time between Offer sent and Completion Date is between columns on the Milestone Duration table, the actual milestone duration is calculated proportionately between the 2 column values;
 - Implementation - end-date for all parties in the "queue" to move over to new arrangements; and
 - Dynamic Queue Management (i.e. parties who are consented and then miss a later milestone are put at back of "queue" rather than terminated and someone else is invited to take their place in the "queue".
- Owners and deadlines for these to be drafted were agreed and it was noted there could be alternatives that have more than 1 of these components and also there may be further alternatives predominantly re: the list of exceptions depending on what changes the ESO make to the list of exceptions¹.

¹ if certain exceptions are not included namely "Government/Political decision changes", "3rd Party delays/uncontrollable delays", expanding on the planning exception to include submission, delays by Planning Authority" and possibly one where people who fail to be awarded a CfD (because they failed to be awarded a CfD in a competitive auction) get one more opportunity before termination.

- No changes were made to the timeline (Workgroup Report to February 2023 Panel) although there was acceptance this is ambitious (but still achievable).

Actions Log

Action Number	Owner	Action	Due by	Status
1	ESO	Confirm Evidence requirements to be included in the Original	13 January 2023	Open
2	ESO	Confirm list of Exceptions to be included in the Original	13 January 2023	Open
3	ESO	Confirm that CMP376 does not apply to DNOs (or iDNOs) that are applying for new or modified connections to meet any customer requirements re: Distributed Generation	13 January 2023	Open
4	ESO	Confirm that if a termination right is enacted, works legally must stop (note that if this is not the case, there could be alternatives in this space where Users could also Transmission Owners to carry on works until appeal has concluded)	13 January 2023	Open
5	ESO	Confirm if wish to amend their implementation approach so it covers all parties in the “queue”	13 January 2023	Open
6	ESO	Provided updated legal text for the Original	19 January 2023	Open
7	Various (separate email issued to leads)	Develop the 7 draft Workgroup Alternatives	19 January 2023	Open
8	Workgroup	Based on ESO answers to questions 1-5 inclusive, confirm if wish to propose any other Workgroup Alternatives	19 January 2023	Open
9	ESO	Provided updated legal text for the draft Workgroup Alternatives	26 January 2023	Open

Next steps

- Next Workgroup will be on 26 January 2023 at which we will review and finalise solutions (including legal text) and hold the vote on which solutions will be carried forward as formal Workgroup Alternative CUSC Modifications (WACMs).