

Draft Final Modification Report

CMP398: GC0156 Cost Recovery mechanism for CUSC Parties

Overview: The GC0156 proposal will place new obligations, within the Grid Code, upon CUSC Parties who are not contracted with the ESO as Restoration Service Providers. Therefore, a codified cost recovery mechanism is required to prevent the affected parties being commercially disadvantaged by the implementation of the new obligations.



Have 5 minutes? Read our [Executive summary](#)

Have 45 minutes? Read the full [Draft Final Modification Report](#)

Have 90 minutes? Read the full Draft Final Modification Report and Annexes.

Status summary: The Draft Final Modification Report has been prepared for the recommendation vote at Panel.

Panel recommendation: The Panel will hold their recommendation vote on 30 June 2023.

This modification is expected to have a:

High impact: Suppliers and Generators

Governance route Standard Governance modification with assessment by a Workgroup

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Executive summary

What is the issue?

Aspects of the [GC0156](#) proposal requires existing and future sites¹ which do not have a contract, between the CUSC Party and the ESO, for the provision of Restoration Services² from the site (which the ESO has indicated is the vast majority of sites) will have an obligation (applied prospectively³ and retrospectively⁴) to have 72 hours resilience onsite for their plant & apparatus (plus associated Communications infrastructure). Without an express cost recovery mechanism, new or further obligations, arising from ESRS / GC0156, will place those parties at a commercial disadvantage as they will have costs arising from ESRS / GC0156, but no route to recover their associated CAPEX costs incurred / to be incurred or an allowance for their OPEX costs incurred / to be incurred.

What is the solution and when will it come into effect?

Proposer's solution: A cost recovery mechanism in place for CUSC parties will prevent them from being in a commercially disadvantaged position and enable them to recover costs through BSUoS (based on the principle in Article 8 of ERNC that those costs are reasonable, efficient and proportionate).

Implementation date: The date Ofgem nominates as the implementation date of the GC0156 Grid Code change.

Summary of potential alternative solution(s) and implementation date(s):

2 formal alternatives have been raised as part of this modification.

Workgroup Conclusions: The Workgroup by majority concluded that WACM2 better facilitated the Applicable CUSC Objectives than the Baseline.

Panel recommendation: To be updated after the 30 June 2023 CUSC Panel.

What is the impact if this change is made?

This modification will affect:

- Generators
- Suppliers

The Proposer believes that this change will have a positive impact on CUSC Parties (that are not contracted Restoration Service Providers) by preventing them from being in a commercially disadvantaged position with the implementation of the new obligations arising from ESRS.

Interactions

There is an interaction with GC0156 (as set out above) as well as in relation to compliance with ERNC.

¹ At Transmission and, in terms of a BEGA or BELLA, at Distribution.

² The ESO's indication to the GC0156 Workgroup is that the number of CUSC Party sites it anticipates contract with for RSP is a small (below 15%) subset of the total.

³ To new sites going forward.

⁴ To existing sites, if GC0156 is approved.

What is the issue?

As part of its [GC0156](#) proposal, the ESO is proposing that for existing and future sites⁵ which do not have a contract, between the CUSC Party and the ESO for the provision of Restoration Services⁶ from the site (which the ESO has indicated is the vast majority of sites), will carry an obligation (applied prospectively⁷ and retrospectively⁸) to have 72 hours resilience onsite for their plant & apparatus (plus associated Communications infrastructure).

The ESO's high level current thinking, to the late August GC0156 Assurance sub-group, about what the obligation would be is that:

“ESRS will need the users/generators to be able to operate once auxiliary supplies are returned from the system. CUSC Parties will be required to assure their plant and apparatus for a resilience period of up to 72 hours such that when supplies are restored their plant and apparatus can be returned to service in an equivalent time scale that would be expected from a cold plant (had there not been a supply interruption).”

Their plant and apparatus should be such that their plant can be shut down in a safe manner in a Partial or Total Shutdown such that it does not pose a risk to plant or personnel without supplies for up to 72 hours so there is some assurance that the plant will not have to be subject to major component replacement thereafter.”

The merits or otherwise of such an obligation (in the GC0156 Modification) is not strictly relevant for this (CUSC) Modification: which is just focused on an approach to cost recovery that arises from such an obligation.

The GC0156 Markets and Funding sub-group carried out an extensive review of all stakeholders impacted by the proposals of GC0156, such as the proposal mentioned above, and identified that non-contracted CUSC parties have no existing funding mechanism. As such, the sub-group proposed for a CUSC Modification to be raised to address this issue ensuring no party is commercially disadvantaged.

In the case of the ESO, TOs and DNOs it will be via their existing price control (and associated re-openers) as prescribed by law⁹. This allows those parties to recover their associated capital expenditure (CAPEX¹⁰) costs incurred / to be incurred and an allowance for their operational expenditure (OPEX¹¹) costs incurred / to be incurred.

In the case of contracted Restoration Services Providers¹² (CUSC Parties or non-CUSC Parties) this will be via the tender(s) / contract(s) that the ESO will undertake / enter into

⁵ At Transmission and, in terms of a BEGA or BELLA, at Distribution.

⁶ The ESO's indication to the GC0156 Workgroup is that the number of CUSC Party sites it anticipates contract with for RSP is a small (below 15%) subset of the total.

⁷ To new sites going forward.

⁸ To existing sites, if GC0156 is approved.

⁹ [Commission Regulation \(EU\) 2017/2196 of 24 November 2017 establishing a network code on electricity emergency and restoration \(Text with EEA relevance\) \(legislation.gov.uk\)](#)

¹⁰ Also known as capital expenses, capital expenditures can include the purchase of items such as new equipment, machinery, plant, land, buildings, business vehicles, software and intangible assets such as a patent or license.

¹¹ Examples of operating expenses include rent, depreciation, supplies, materials, insurance, repairs and maintenance expenses, utility expenses, rates, staff costs, travel costs, commodities, fuel and overheads.

¹² This is based on the ESO's view that a RSP is limited to those who have a contract with them to provide, going forward, an Anchor or Top-Up Service (as per GC0156).

which allows those parties to recover their associated CAPEX costs incurred / to be incurred and an allowance for their OPEX costs to be incurred.

It is relevant to note that the UK Government policy, when introducing the new 'Electricity System Restoration Standard'¹³ (ESRS) in April 2021, stated that:

"All parties have been supportive of the establishment of a new Electricity System Restoration Standard, so long as it is implemented in a way which does not commercially disadvantage individual parties."

"In the interim, Ofgem would put in place processes to monitor the implementation of the new Standard to ensure that the ESO remains on track with meeting this provision as part of its licence obligations and that any new services will not commercially disadvantage individual parties."

In the Absence of an express cost recovery mechanism for CUSC Parties (which are not contracted Restoration Service Providers) then any new or further obligations, arising from ESRS / GC0156, will place those parties at a commercial disadvantage as they alone; amongst all the obligated parties; will have costs arising, from ESRS / GC0156, but no route to recover their associated CAPEX costs incurred / to be incurred or an allowance for their OPEX costs incurred / to be incurred.

To address the defect, the Proposer believes that by allowing for a case-by-case assessment of bona fide CAPEX costs incurred and adopting the ESO's ALoMCP¹⁴ allowance approach for ongoing generic OPEX costs this will ensure that the relevant parties are not out of pocket and are not, therefore, placed at any commercial disadvantage.

Why change?

In order to comply with UK Government policy and ensure that non-contracted CUSC Parties; who have new or further obligations, prospectively or retrospectively, to support the Electricity System Restoration Standard (currently, as per GC0156); are not commercially disadvantaged, it is necessary to enable them to recover their bona fide (case-by-case) CAPEX costs and an allowance for ongoing OPEX costs. Therefore, a mechanism is required to be introduced into the CUSC for that purpose: hence this Modification.

Furthermore, as the ESO set out in its GC0156 proposal¹⁵, when considering Applicable (Grid Code) Objective (a) as being positive, it stated that this was because it *"Provides a level playing field for Restoration Service Providers and CUSC Parties..."*. Without this (CUSC) Modification that would not be the case as contracted RSPs would be able to recover their costs whilst non-contracted CUSC Parties would not.

¹³ [Introducing a new 'Electricity System Restoration Standard': policy statement - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/policies/introducing-a-new-electricity-system-restoration-standard)

¹⁴ [The Accelerated Loss of Mains Change Programme \(ALoMCP\) | National Grid ESO](https://www.nationalgrideso.com/accelerated-loss-of-mains-change-programme)

¹⁵ [download \(nationalgrideso.com\)](https://www.nationalgrideso.com/download)

What is the solution and when will it come into effect?

Proposer's solution

Claims Principles

- To be based on the principle set out in Article 8¹⁶ (Cost Recovery)¹⁷ of ERNC.
- The costs borne by CUSC Parties stemming from the obligations laid down in GC0156 shall be assessed and those costs assessed as reasonable, efficient and proportionate shall be recovered via BSUoS.

Items to be claimed for

- As per previous list of CAPEX cost items shared with DESNZ¹⁸, Ofgem, ESRS groups and GC0156 workgroup (and sub-groups) namely:
 - (i) *design an on-site solution to that Grid Code approved obligation;*
 - (ii) *identify costed solutions;*
 - (iii) *seek and obtain the necessary planning permission(s) and associated other permits etc.;*
 - (iv) *procure;*
 - (v) *construct;*
 - (vi) *commission¹⁹; and*
 - (vii) *train the necessary staff (as well as possibly recruit more staff); plus*
 - (viii) *Ongoing annual OPEX costs.*

Process to be followed

- Follow the process principles already established in the BSC²⁰ (Ofgem and DESNZ approved²¹) for Generators to make *ex post* claims for costs²² that arise under the Fuel Security Code²³ which, at a high level, would include:
 - CUSC Panel appoints committee of independent experts²⁴ (no CUSC Parties, or ESO, on the committee, Ofgem can observe) to assess claims.

¹⁶ See Footnote (9) above for link.

¹⁷ (1) “The costs borne by system operators subject to network tariff regulation and stemming from the obligations laid down in this Regulation shall be assessed by the relevant regulatory authorities in accordance with Article 37 of Directive 2009/72/EC. Costs assessed as reasonable, efficient and proportionate shall be recovered through network tariffs or other appropriate mechanisms.”

¹⁸ When CMP398 was raised the relevant UK Government department was known as ‘BEIS’; however, this was later changed to ‘DESNZ’.

¹⁹ Including any assurance testing etc., arising from GC0156

²⁰ Section G of the BSC provides further details – see footnotes below for links to a summary of Section G as well as to the section itself.

²¹ And therefore considered as simple and efficient (as they would not support a complex and inefficient approach).

²² Known, in respect of the Fuel Security Code, as ‘Exceptional Costs’.

²³ [Fuel Security Code \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

²⁴ It may be appropriate / efficient to have a subset of experts to consider one or more of the items (i)-(viii) who report back to the committee.

- Claims submitted directly to the committee.
- Claims include all requisite information / justification needed by the committee (who can ask for further information if needed).
- *Ex ante* pre-expenditure approval requests (as can occur with Networks) can be submitted to the committee for CAPEX items in excess of £100k as well as *ex post*²⁵ claims.
- *Ex ante*²⁶ allowance for OPEX costs set by committee.

Payment

- Claims for CAPEX costs incurred or to be incurred (including requests for pre-approval of expenditure) assessed by the committee to be *reasonable, efficient and proportionate*²⁷ shall be paid by the ESO within one month of the committee validated claim or pre-approved expenditure request.
- In the case of a pre-approved expenditure request, this can include an option for the payment (or stage payment), by the ESO, of the contractor / sub-contractor directly.
- For OPEX, the claims committee to set out, after consultation with stakeholders, an annual²⁸ allowance (inflated²⁹); which maybe based on technology types / types of claimants and asset size; for such items as, for example, staff costs³⁰, ongoing training³¹, assurance activities³², fuel³³, maintenance, rates³⁴, permit renewals, statutory equipment testing etc., etc.

Avoidable Costs (AvCo)

As has been noted in the early September GC0156 Markets & Funding sub-group meeting, Section G³⁵ of the BSC³⁶ covers just those costs that arise during³⁷ (but not before³⁸) any actual Total or Partial System Shutdown (a 'Black Start' event). These costs are limited to 'Avoidable Costs'³⁹ and do not cover either initial (or replacement) CAPEX or OPEX that arise out with a 'Black Start' event.

²⁵ But there can be no 'double dipping' / 'double payment' / 'double recovery' in terms of *ex ante* and *ex post* - although an *ex ante* claim, say, of £100k could be extended, via an *ex post* claim, by, say, £20k if the total cost comes in at £120k (but could not be £100k *ex ante* and £100k *ex post*). This additional, *ex post*, cost might, for example, arise where a contractor incurs subsequent additional (bona fide) costs.

²⁶ The suggestion would be to cover the period from 1st April to 31st March.

²⁷ Based on the legal standard set out in Article 8 ERNC as retained UK law.

²⁸ It may be appropriate for these payments to be made monthly.

²⁹ Such as by using CPI-H or the one set, for the TOs, by GEMA in the relevant price control.

³⁰ Such as overtime (if testing etc., needs to occur out with normal hours) or for additional staff.

³¹ Both as determined by the equipment provider but also the training needs arising from GC0156 (as currently being discussed in the GC0156 Assurance sub-group).

³² Including any assurance testing etc., arising from GC0156.

³³ Such as for testing purposes and for 'cycling' (as the fuel in the tank degrades over time and is replaced).

³⁴ Installing the additional equipment to meet the GC0156 obligation may give rise to a higher business rates charge.

³⁵ [Simple Guide to BSC Section G: Contingencies \(elexon.co.uk\)](https://www.elexon.co.uk/BSC/SectionG/Contingencies)

³⁶ [BSC Section G: Contingencies \(elexon.co.uk\)](https://www.elexon.co.uk/BSC/SectionG/Contingencies)

³⁷ Therefore, if no 'Black Start' event occurs, no 'Avoidable Cost' claims are able to be made under the BSC.

³⁸ Or indeed after.

³⁹ As defined in Section G of the BSC.

The Proposer suggests that within the solution for this (CUSC) Modification, wording is included to make clear that any party who is claiming, under this solution, funds for CAPEX (and the OPEX allowance) cannot subsequently seek to claim for those same costs under any (BSC) Section G claims (if it arises) – there can be no ‘double dipping’/ ‘double payment’ / ‘double recovery’.

Therefore, the intent would be to include wording, in the (CUSC) solution, that permits the documentation / information / submission(s) made by any party to the (CUSC) claims committee set up for this Modifications’ purpose to be subsequently shared with any BSC appointed (Section G) Claims Committee that is considering ‘Avoidable Cost’ claims.

Workgroup considerations

The Workgroup convened 5 times to discuss the perceived issue, detail the scope of the proposed defect, devise potential solutions and assess the proposal in terms of the Applicable Code Objectives.

At the first workgroup meeting, the Proposer delivered a presentation outlining the proposed solution and its benefits. The discussions on various aspects of the modification proposal are detailed below:

Cost Recovery Mechanism

The issue of recovery of the cost was discussed, and it was agreed that this would be via BSUoS. Some Workgroup members were interested to know how the costs of the claims could fit in with the potential fixed annual BSUoS that [CMP361](#) could introduce. The ESO representative noted that under the current baseline approach, the underlying costs that drive BSUoS are passed on as BSUoS charges as they are incurred. Supposing CMP361 or one of its variants is implemented, some degree of fixing of a flat forecast BSUoS charge would need to be done by the ESO.

Claims committee

In terms of the process of recovering costs, the proposed approach is to follow the process principles already set out in the BSC for generators to make *ex post* claims under the Fuel Security Code (FSC). To this regard, the CUSC Panel will appoint a committee of independent experts to assess claims excluding members from CUSC Parties or ESO (Ofgem may observe). A Workgroup member felt that including the ESO in the claims committee might be more reasonable although the Proposer’s rationale against this is to prevent issues of commercial confidentiality and conflict of interest. Also, the Proposer felt the ESO may face the issue of resource constraint or lack of required expertise such as power station operations experts. The ESO representative suggested that the ESO does have *ex post* power station staff, and that if the settlements department lacked expertise consultancy support could be sought.

Proposed Payment Process

The proposed approach for payments would be that claims for CAPEX costs incurred or requests for pre-approved expenditure assessed by the committee should be reasonable, efficient, and proportionate and shall be paid by the ESO within one month of the claim or pre-approved expenditure request. For OPEX, the claims committee would set out, after consultation with stakeholders, an annual allowance (inflated) which will be based on

technology types/types of claimants and asset for size; costs for staff; ongoing training; fuel etc.

A Workgroup member asked how the ESO will estimate the annual total cost of claims. The ESO representative advised the Workgroup that the ESO view at the October CUSC Panel meeting was that the Workgroup would assess cost estimates as it may be difficult for the ESO to do as the ESO won't have the required information. On this basis, item (f) was included in the Workgroup's Terms of Reference: "*Use reasonable endeavours to consider the cost impacts and benefits on consumers*". In response, there was a comment that the cost would be low, and the benefit would be an avoided power cut.

ESO response to Proposal Requirements

The ESO representative felt that the measures set out in the modification proposal would have been considerably different if the cost would have been borne by the generator and that the ESO believed that many generators were compliant with the new GC0156 obligations. The majority of the Workgroup disagreed and supported that funding is necessary.

The ESO representative expressed the concern that the claims assessment committee could be appointed by Panellists who might nominate consultants known to them and this could have a negative effect on neutrality and outcomes. Also, it was not clear from the proposed solution who would arrange the claims committee's meetings or keep track of productivity.

The Proposer suggested that by including into the solution that, rather than the CUSC Panel making the appointment as initially suggested in the proposed solution, the President of the Chartered Institute of Arbitrators could be asked to appoint the members of the claims assessment committee.

Legal text

Legal text is provided in Annex 3.

Note that the implementation date as specified in the legal text means the nominated implementation date for GC0156 and not the date when the ESRS 72 hour resilience obligations (on Generators) in GC0156 is expected to go live '31 December 2026'.

Workgroup Consultation Summary

The Workgroup held its Workgroup Consultation between 03 January 2023 and 24 January 2023 and received 7 responses, none of which were confidential. A summary of the responses and the full responses can be found in Annexes 5 and 6 respectively.

The Workgroup met to discuss and consider all the responses received and noted the following trends and key points within the industry's responses:

- 3 out of 7 respondents support that the original proposal better facilitate some of the CUSC objectives.
- 4 out of 7 respondents were supportive of the implementation approach.

- Regarding the implementation approach, unsupportive respondents felt that:
 - It will have uncontrolled and unpredictable effects on BSUoS that could prejudice market stability and the efficacy of the BSUoS fixed tariff.
 - Allowing explicit pass-through of costs incurred by generators for compliance with an obligation placed on them through the Grid Code will deter market forces to determine the efficient cost of complying with such an obligation.
 - Clarity needed on whether CAPEX and/or OPEX cost recovery is only allowable for plant connected prior to implementation of GC0156, or if any elements would be allowable for all future plant.
 - The introduction of a committee of independent experts will add further inefficiency and cost to the CUSC.
- Most respondents believe that requests for derogation requests will be high because applying 72 hr resilience retrospectively will have significant cost and time impact on existing sites.
- It was suggested that the £100k ex ante pre approval should be reviewed based on actual assessment of applying 72 hrs at large with all CUSC parties and transmission connected and embedded sites.
- Clarity needed on whether CAPEX and/or OPEX cost recovery is only allowable for plant connected prior to implementation of GC0156, or if any elements would be allowable for all future plant.
- The introduction of a committee of independent experts will add further inefficiency and cost to the CUSC.

The ESO representative noted the following:

- Undue advantage could result as funds claimed under CMP398 to comply with GC0156, together with funding for its annual maintenance under the OPEX claim heading, if approved could be used for other commercial purposes.
- CMP398 would set a precedent whereby in this sector, uniquely compared to the wider business environment, costs of complying with changes in regulations would not have to be met by industry participants, but funded by end consumers.
- No clarity as to who would determine the costs and remuneration of the proposed claims assessment panel, how many panellists would be appointed, and who completes assessment? If all of this is left to an independent arbitrator, there seems to be a lack of electricity industry control of these matters.

Post Consultation Workgroup Discussions

The key points and discussions around the themes of consultation questions are noted below:

Implementation approach

- The Proposer confirmed that the claims process would be controlled through the Claims Committee, which would be modelled on similar existing industry claims committees (e.g. BSC, the TO/DNO price control) and that, were the GC0156 WAGCM1 approved (does not require retrospective changes to assets) there would not be any requirement for CAPEX claims.

Inherent resilience when generators are requesting funding

- The Proposer confirmed that the intent was for obligated parties to be able to claim for the costs which have been incurred to meet the proposed 72 hour resilience (e.g. to move from 48 hours to 72 hours).

Cost impacts / analysis

- The Workgroup discussed whether or not there should be an end date for CAPEX as there may be circumstances where projects have incurred additional costs due to no knowledge of the obligations in design phase; or if a party had had their derogation request rejected.
- The Workgroup discussed that as the Electricity System Restoration Standard (ESRS) was a government directive for the benefit of the end consumer, it was reasonable that the beneficiaries covered the costs.
- The Workgroup agreed that there was no requirement to complete a CBA within CMP398 as one was undertaken by Ofgem for ESRS.

Draft Legal Text

Workgroup discussed changes to draft legal text which was updated live within the meeting including:

- Updating terminology to align with GC0156 draft legal text (e.g. 'Restoration Contractors' from 'Restoration Service Providers').
- Clarifying which costs would fall under the ex ante pre-approval.
- Adding a clause around requesting derogations.
- Agreeing that it was clear that Ofgem could choose to attend the Claims Committee meetings where decisions around assessing claims were to be made but should not be able to overturn decisions if they had not attended.

Terms of Reference

At meeting 4, the Workgroup talked through the Workgroup objectives within the Terms of Reference and agreed that all elements had been considered and addressed. The Workgroup agreed that all the Workgroup Terms of References had been met.

Workgroup Alternatives

Two Workgroup alternative solution was raised post Workgroup Consultation. The Workgroup debated it and agreed that they were within the scope of the defect.

Workgroup Alternative Vote

On 10 March 2023, the Workgroup voted as to whether or not the proposed Request for Alternatives 1 and 2 should become a Workgroup Alternative CUSC Modification (WACM).

The Workgroup unanimously voted that Alternatives 1 and 2 better facilitate the CUSC Objectives than the Baseline, and that they should be taken forward as a Workgroup Alternative CUSC Modifications (WACM). The full results from this vote are set out in Annex 7.

A summary of the requirements of WACM 1 and 2 are outlined below and the WACM1 and WACM2 proposal documents are available in Annex 6.

WACM1 (ESO):

The original proposal uses a claims committee to assess claims submitted at any time, that may include OPEX (it proposes, also, an automatic annual OPEX allowance by technology, which all receive unless they opt out), with a pre-approval process for claims above £100k, and does not have any end time, nor does it exclude claims by new generators signing a BCA after it is passed. WACM1 has the following modified requirements:

- Claims would be submitted to and assessed by the ESO.
- The first new generators that sign a Bilateral connection agreement (BCA) after Ofgem's decision to pass GC0156, cannot submit a claim.
- A one month claims windows would open each September after the modification is passed (September 2024 at the earliest), until a final claims window ends 31st December 2026, the date from which full compliance with GC0156 commences.
- Approved claims to be paid out as a flat monthly payment across 12 months, with claims being paid out as a flat monthly payment, 1/12th of claim value paid per month, across the 12 months from the following April after approval of a successful claim.
- Ex-post claims for capital expenditure that has been spent on complying with GC0156, with good evidence of why the investment was necessary. It does not feature any form of OPEX allowance or OPEX claim, such as ongoing maintenance, rates, maintenance, or any other OPEX.

WACM2 (Cornwall Insight):

This alternative modification proposal is similar to the Original except that it is proposing that: New Users that first sign a bilateral connection agreement with The Company after the date of implementation of GC0156 will not be permitted to submit a claim. This is to allow those users who did not have sufficient time (at the design, construction and commissioning stages) to accommodate the requirements in the most cost-effective manner - had they had sufficient notice.

What is the impact of this change?

CUSC Parties (that are not contracted Restoration Service Providers⁴⁰) from being in a commercially disadvantaged position by the implementation of the new obligations arising from ESRS.

Proposer’s assessment against Code Objectives

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 Provide assurance that the new licence obligation issued in Oct 2021 can be satisfied and discharged in a non-discriminatory way.
(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 By ensuring that CUSC Parties who are obligated by the Grid Code (but do not have a relevant contract with the ESO) to undertake activities required for ESRS are able to recover their bona fide costs this will facilitate effective competition in the generation and supply of electricity.
(c) Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency *; and	Neutral
(d) Promoting efficiency in the implementation and administration of the CUSC arrangements.	Positive By having a simple and efficient procedure for any bona fide costs to be recoverable this will promote efficiency in the administration of the CUSC arrangements.

⁴⁰ The GC0156 solution has developed as CMP398 has progressed and, as at the time of writing in March 2023, GC0156 now refers to such parties as ‘Restoration Contractor(s)’ rather than ‘Restoration Service Provider(s)’.

*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.

Workgroup Vote

The Workgroup met on 10 March (and 14 March) 2023 to carry out their Workgroup Vote for CMP398. The full Workgroup vote can be found in Annex 7. The tables below provide:

- a summary of how many Workgroup members believed the Original for CMP398 and WACM1 and WACM2 were better than the Baseline (the current CUSC); and
- a summary of the Workgroup Members views on the best option to implement CMP398.

Assessment of the Original vs Baseline

The Workgroup concluded by majority that WACM2 better facilitated the applicable CUSC Objectives than the Baseline.

Option	Number of voters that voted this option as better than the Baseline
Original	5
WACM1	5
WACM2	5
Baseline	0

Best Option

Workgroup Member	Company	BEST Option?	Which objective(s) does the change better facilitate? (if baseline not applicable)
Garth Graham	SSE	Original	a, b, d
Paul Mott	ESO	Baseline	a, b, c, d
Paul Youngman	Drax	WACM2	a, b
Priyanka Mohapatra	Scottish Power Renewables	WACM2	a, b
Robert Longden	Eneco Energy Trade BV	WACM2	a, b
Sean Gauton	Uniper Energy	-	-

Code Administrator Consultation Summary

The Code Administrator Consultation was issued on the 02 May 2023 and closed on 09 June 2023 and received 4 non-confidential responses including 2 late responses. A summary of the responses can be found in Annex 8, and the full responses can be found in Annex 9.

Code Administrator Consultation summary	
Question	
Do you believe that the CMP398 Original Proposal, WACM1 or WACM2 better facilitates the Applicable CUSC Objectives?	<p>3 out of the 4 respondents felt that both the Original and WACM1 <u>did not</u> better facilitate the applicable CUSC Objectives. 2 respondents agreed that WACM2 better facilitated the applicable CUSC Objectives (a) and (b).</p> <p>Half the respondents (2 out of 4) preferred the baseline, 1 respondent supported the Original and WACM2.</p>
Do you support the proposed implementation approach?	Half the respondents (2 out of 4) supported the implementation approach.
Do you have any other comments?	<p>The following key points were raised:</p> <ul style="list-style-type: none"> - One respondent felt that the implementation approach for the Original and WACM2 would have uncontrolled and unpredictable effects on BSUoS that could prejudice market stability and the efficacy of the BSUoS fixed tariff. WACM1 was better as it had an annual claims window, the earliest being September 2024, and a delayed, spread-out approach to the recovery of approved claims. - One respondent was disappointed around the lack of a CBA or impact assessment on the costs to parties through higher BSUoS costs. - One Respondent felt that this could set a precedent, so that the costs of complying with changes to the Grid Code are funded in the first instance by the consumer, rather than the industry. - One respondent felt that under the Original solution there was a lack of industry control over the appointment of the claims assessment panel, management of its ongoing work or setting of its remuneration, - Two respondents supported having a cost recovery mechanism for implementing GC0156 resilience requirements, so that individual parties were not commercially disadvantaged. - One respondent supported WACM2 as it would allow new generators who did not have sufficient time

	between GC0156 implementation and BCA signing to make a design change to submit a claim.
Legal text issues raised in the consultation	
No Legal Text issues were raised.	
EBR issues raised in the consultation	
No EBR issues were raised.	

Panel Recommendation Vote

The Panel will meet on the 30 June 2023 to carry out their recommendation vote.

They will assess whether a change should be made to the CUSC by assessing the proposed change and any alternatives against the Applicable Objectives.

Vote 1: Does the Original, WACM1 or WACM2 facilitate the objectives better than the Baseline?

Panel Member: **Andrew Enzor**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Overall (Y/N)
Original					
WACM1					
WACM2					
Voting Statement					

Panel Member: **Andy Pace**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Overall (Y/N)
Original					
WACM1					
WACM2					
Voting Statement					

Panel Member: **Binoy Dharsi**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Overall (Y/N)
Original					
WACM1					
WACM2					
Voting Statement					

Panel Member: **Cem Suleyman**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Overall (Y/N)
Original					
WACM1					
WACM2					
Voting Statement					

Panel Member: **Claire Huxley (On behalf of Karen Thompson – Lilley)**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Overall (Y/N)
Original					
WACM1					
WACM2					
Voting Statement					

Panel Member: **Garth Graham**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Overall (Y/N)
Original					
WACM1					
WACM2					
Voting Statement					

Panel Member: **Grace March**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Overall (Y/N)
Original					
WACM1					
WACM2					
Voting Statement					

Panel Member: **Joseph Dunn**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Overall (Y/N)
Original					
WACM1					
WACM2					

Voting Statement

Vote 2 – Which option is the best?

Panel Member	BEST Option?	Which objectives does this option better facilitate? (If baseline not applicable).
Andrew Enzor		
Andy Pace		
Binoy Dharsi		
Cem Suleyman		
Claire Huxley		
Garth Graham		
Grace March		
Joseph Dunn		

Panel conclusion

To be added after the Panel recommendation vote on 30 June 2023.

When will this change take place?

Implementation date

This will be the date Ofgem nominates as the implementation date of the GC0156 Grid Code change.

Date decision required by

Q4 - 2023

Implementation approach

It will be necessary, once approved, for the CUSC Panel to appoint a claims committee to assess (CAPEX) claims and consider the (OPEX) allowance.

Interactions

- Grid Code
- BSC
- STC
- SQSS
- European Network Codes
- EBR Article 18 T&Cs⁴¹
- Other modifications
- Other

There is an interaction with GC0156 (as set out above) as well as in relation to compliance with ERNC. However, the proposed solution for this modification will have no impact on the Electricity Balancing Regulation (EBR).

⁴¹ 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.

Acronyms and key terms

Acronym / key term	Meaning
ALoMCP	Accelerated Loss of Mains Change Programme (see footnote 10)
BEGA	Bilateral Embedded Generation Agreement
BEIS	(UK Govt Dept of) Business, Energy & Industrial Strategy
BELLA	Bilateral Embedded Licence exemptable Large power station Agreement
BSC	Balancing and Settlement Code
CAPEX	Capital Expenditure (see footnote 6)
CMP	CUSC Modification Proposal
CUSC	Connection and Use of System Code
DESNZ	Department for Energy Security & Net Zero
EBR	Electricity Balancing Regulation
ERNC	Emergency & Restoration Network Code ⁴²
ESO	Electricity System Operator (aka "The Company")
FSC	Fuel Security Code
ESRS	Electricity System Restoration Standard (see footnote 9)
GEMA	Gas and Electricity Markets Authority (aka "The Authority")
OPEX	Operational Expenditure (see footnote 7)
RSPs	Restoration Service Providers
STC	System Operator Transmission Owner Code
SQSS	Security and Quality of Supply Standards
T&Cs	Terms and Conditions
WACM	Workgroup Alternative CUSC Modification

Annexes

Annex	Information
Annex 1	Original Proposal
Annex 2	Terms of reference
Annex 3	Legal Text
Annex 4	Workgroup Consultation responses summary
Annex 5	Workgroup Consultation responses
Annex 6	Alternative Proposals
Annex 7	Workgroup Vote
Annex 8	Code Administrator Consultation Responses Summary
Annex 9	Code Administrator Consultation Responses

⁴² [Commission Regulation \(EU\) 2017/2196 of 24 November 2017 establishing a network code on electricity emergency and restoration \(Text with EEA relevance\) \(legislation.gov.uk\)](https://eur-lex.europa.eu/eli/reg/2017/2196/oj)