CUSC Alternative Form

CMP398: GC0156 Cost Recovery mechanism for CUSC Parties

Overview:

- A one month claims windows would open each September after the modification is implemented, until a final claims window ends 30th September 2026, just ahead of full compliance with GC0156, with no further claims then being possible after this point.
- Approved claims to be paid out as a flat monthly payment across 12 months, 1/12th of claim value paid per month, across the 12 months from the following April after approval of a successful claim. If a September claim is not processed by the following 31st March, then the payments would be made on a uniform basis per month across a lesser span than 12 months, still ending in March.
- Claims to be submitted to and assessed by the ESO. Thus, this variant does not feature the claims committee of the Original Proposal.
- This variant only features ex-post claims for capital expenditure that has actually been spent on complying with GC0156, with sufficient evidence being required of why the investment was necessary. It does not feature any form of Opex allowance or associated Opex claim, such as ongoing maintenance of backup generation, rates, human resources, or any other ongoing Opex costs, unlike the Original Proposal.
- New generators that first sign a BCA (bilateral connection agreement) after Ofgem's decision to approve GC0156 (assuming that this is Ofgem's decision), cannot submit a claim
- The following text is a feature of this alternative proposal: "Claimant party shall use reasonable endeavours, exercising good industry practice, to identify if compliance with the GC0156 requirement could be achieved at a materially lower cost by meeting a lesser technical requirement (such as by providing resilience for less than 72 hours) and if so, then they shall provide the details to the ESO. If the ESO advises it as appropriate, they shall seek a derogation from Ofgem on that basis."

Proposer: Paul Mott, NG-ESO

Contents

What is the proposed alternative solution?

- This alternative proposal is considered to be better than the original proposal, but worse than baseline.
- A one month claims windows would open each September after the mod is passed (September 2024 at earliest; September 2023 is not to be possible, whenever the mod is passed), until a final claims window ends 31st December 2026, the date from which full compliance with GC0156 commences, then no more claims are possible.
- 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, or across a lesser span than 12 months, still ending in March, payments being as a uniform monthly payment per month across the span if a September (or December 2026, in that final year) claim is not processed by the following **31st** March.
- Claims to be submitted to and assessed by the ESO. Thus, this variant does not feature the claims committee of the Original proposal.
- This variant only features ex-post claims for capital expenditure that has actually 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, unlike the Original proposal.
- This variant does not feature the claims committee of the Original proposal. The ESO assesses claims.
- New generators that first sign a BCA (bilateral connection agreement) after Ofgem's decision to pass GC0156 (assuming that this is Ofgem's decision), cannot submit a claim

What is the difference between this and the Original Proposal?

The original 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. The proposed variant has the features outlined above.

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:** we consider that the proposed variant is neutral in its effect. The GC0156 obligations come into force regardless of this CUSC mod. However, the fact the original doesn't have an end date, and has an automatic annual opex allowance that doesn't require documented claims, doesn't sound very effective in facilitating effective competition. Moreover, the uncertainty created in BSUoS costings by the Original proposal is damaging as it may undo the CMP361 "fix" and create uncertainty for Suppliers who will be paying BSUoS; the proposed variant avoids that harm.
(b) Facilitating effective	**Positive:** The proposed variant may be marginally beneficial, in that

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*;*	generators which tender successfully to be providers of system restoration services or the related category of anchor service providers, can be viewed via the tender revenue they then receive, as receiving funding towards the costs of the equipment they added at their site to enable provision of system restoration services or anchor provider services. Whilst the tenders do not feature explicit funding for these new costs, the tenderer can be viewed as having embedded the costs in their tendered price. There is a potential issue of discrimination between the two baskets of generators. On the other hand, another effect in competition for balancing services contracts is that the new kit such as new high spec diesels fitted by non-restoration CUSC party generators to comply with GC0156, and funded under 398 if passed (together with funding for its annual maintenance under the opex claim heading), could then be used for other commercial purposes – various forms of balancing services provision, perhaps even securing a restoration contract. These generators with 398-funded improvements could then compete with demand side, storage, and other non-398-funded-generator solutions, and could have an advantage via the 398 funding for the provision and maintenance of relevant capabilities. There is also a risk of discrimination with an adverse effect on competition if the mod is passed, in a sense which could mean that the proposal worse facilitates (b) than baseline, in that some generators have already invested in resilience and are already compliant with GC0156 due to prudent past expenditure; they would not be reimbursed under CMP398 for this past expenditure whereas their less-prudent peers, would be reimbursed for new investment needed to comply. Overall, taking account of the effects described above, we believe that baseline better facilitates CAO (b) than the CMP398 proposed variant. The fact the Original doesn't have an end date, and has an automatic annual opex allowance that doesn't require documented claims, seems less cost-reflective than the proposed variant which drops these undesirable features of the Original.
(c) Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency *; and	**None:** The proposal is neutral
(d) Promoting efficiency in the implementation and administration of the CUSC arrangements	**Positive:** The proposed variant is negative, and less effectively facilitates this objective than baseline. We believe that the cost of compliance with new regulations should be met by industry, and not consumers. Both 398 Original and this proposed variant will impose a new administrative burden on the ESO, in administering the CUSC, that is unwarranted and unnecessary results in costs falling on consumers that should be met by generators. However, this proposed variant has fewer harmful features than the Original proposal.

*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.	

When will this change take place?

Implementation date:

10 Business Days after an Authority decision

Implementation approach:

No special measures are required. There is no claims panel to set up.

Acronyms, key terms and reference material

Acronym / key term	Meaning
BCA	Bilateral Connection Agreement)
CUSC	Connection and Use of System Code
ESO	Electricity System Operator
EU	European Union
SI	Statutory Instruments

Reference material:

None