

Code Administrator Consultation Response Proforma

CMP398: GC0156 Cost Recovery mechanism for CUSC Parties

Industry parties are invited to respond to this consultation expressing their views and supplying the rationale for those views, particularly in respect of any specific questions detailed below.

Please send your responses to cusc.team@nationalgrideso.com by **5pm** on **09 June 2023**. Please note that any responses received after the deadline or sent to a different email address may not receive due consideration.

If you have any queries on the content of this consultation, please contact Milly Lewis Milly.Lewis@nationalgrideso.com or cusc.team@nationalgrideso.com

Respondent details	Please enter your details	
Respondent name:	Paul Mott	
Company name:	National Grid ESO	
Email address:	Paul.Mott1@nationalgrideso.com	
Phone number:	07752 987992	
Which best describes your organisation?	<input type="checkbox"/> Consumer body <input type="checkbox"/> Demand <input type="checkbox"/> Distribution Network Operator <input type="checkbox"/> Generator <input type="checkbox"/> Industry body	<input type="checkbox"/> Interconnector <input type="checkbox"/> Storage <input type="checkbox"/> Supplier <input type="checkbox"/> Transmission Owner <input type="checkbox"/> Virtual Lead Party <input checked="" type="checkbox"/> ESO

I wish my response to be:

(Please mark the relevant box)

☒ Non-Confidential

☐ Confidential

Note: A confidential response will be disclosed to the Authority in full but, unless agreed otherwise, will not be shared with the Panel or the industry and may therefore not influence the debate to the same extent as a non-confidential response.

For reference the Applicable CUSC (non-charging) Objectives are:

- The efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission Licence;*
- 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;*
- Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency *; and*
- Promoting efficiency in the implementation and administration of the CUSC arrangements.*

**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.*

Please express your views in the right-hand side of the table below, including your rationale.

Standard Code Administrator Consultation questions																	
1	Please provide your assessment for the proposed solution(s) against the Applicable Objectives?	<p>Mark the Objectives which you believe each solution better facilitates:</p> <table border="1"> <tr> <td>Original</td> <td><input type="checkbox"/>A</td> <td><input type="checkbox"/>B</td> <td><input type="checkbox"/>C</td> <td><input type="checkbox"/>D</td> </tr> <tr> <td>WACM1</td> <td><input type="checkbox"/>A</td> <td><input type="checkbox"/>B</td> <td><input type="checkbox"/>C</td> <td><input type="checkbox"/>D</td> </tr> <tr> <td>WACM2</td> <td><input type="checkbox"/>A</td> <td><input type="checkbox"/>B</td> <td><input type="checkbox"/>C</td> <td><input type="checkbox"/>D</td> </tr> </table> <p>Overall, we consider that none of these variants better facilitates any of the objectives than the current baseline. However, WACM1 does to a degree better facilitate the objectives when compared against the Original, and still more so than WACM2.</p>	Original	<input type="checkbox"/> A	<input type="checkbox"/> B	<input type="checkbox"/> C	<input type="checkbox"/> D	WACM1	<input type="checkbox"/> A	<input type="checkbox"/> B	<input type="checkbox"/> C	<input type="checkbox"/> D	WACM2	<input type="checkbox"/> A	<input type="checkbox"/> B	<input type="checkbox"/> C	<input type="checkbox"/> D
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WACM2	<input type="checkbox"/> A	<input type="checkbox"/> B	<input type="checkbox"/> C	<input type="checkbox"/> D													
2	Do you have a preferred proposed solution?	<p> <input type="checkbox"/>Original <input checked="" type="checkbox"/>WACM1 <input type="checkbox"/>WACM2 <input type="checkbox"/>No preference </p> <p>We consider baseline (no change) to be the best approach, but among the choices for change listed here, WACM1 is the best of the three proposals. Our reply to question 3 below informs as to why WACM1 is better in terms of the certainty of the BSUoS fix, and the 7th paragraph of our reply to question 4 is also relevant : the Original proposal features neither CUSC Panel nor ESO involvement in the appointment of its proposed claims assessment panel or management of its ongoing work or setting its remuneration. There would be a lack of any electricity industry control of these matters.</p>															
3	Do you support the proposed implementation approach?	<p> <input type="checkbox"/>Yes <input checked="" type="checkbox"/>No </p> <p>The effective implementation approach in terms of when claims might first be submitted, varies between these options. The implementation approach proposed for the Original and WACM2 will have uncontrolled and unpredictable effects on BSUoS that could prejudice market stability and the efficacy of the BSUoS fixed tariff. It may in its original form go against the industry need for fixed BSUoS (and predictability) by undermining that recent change, as it could potentially increase the chance of mid-fixed-tariff changes. WACM1 is better in having the annual claims windows, the earliest being September 2024, and a delayed, spread-out approach to the recovery of approved claims, so as to reduce the short notice and sudden potential impact on payments that lay behind fixed</p>															

		BSUoS, which implementation of the Original and WACM2 would bring.
4	Do you have any other comments?	<p>WACM2 would allow generators that signed their bilateral agreement after the implementation of GC0156, to still submit a claim on the basis they had designed their plant (before reaching FID and signing the bilateral agreement, which would normally happen at the same time) against today's Grid Code. The words used to describe WACM2, "<i>without undue delay [but] taking into account the complexity needed for the development and implementation of a technical solution to meet the GC0156 requirements on a case by case basis</i>", do not do a good job of providing the necessary clarity in terms of time-bounding when these late claims might come in, which could in some cases be years later. This causes concern around uncertainty in BSUoS paid by demand users. For this reason, the ESO views WACM2 as the least-favoured option.</p> <p>We consider the Proposal(s) in any form will be negative in relation to Applicable Objective (d), Promoting efficiency in the implementation and administration of the CUSC arrangements, and less effectively facilitates this objective than the current baseline. This is because we believe that the cost of compliance with new regulations should be met by industry, and not consumers and these proposals would impose additional and unnecessary administrative burden on the ESO, in administering the CUSC, which will also result in costs falling on consumers that we consider should be met by generators.</p> <p>Implementing CMP398 would set a precedent that 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. This is not consistent with normal practice; for example, in our sector, when the large combustion plant directive required coal plant to fit flue gas desulphurisation (FGD), at a cost of £200m per site, generators simply had to fund it.</p> <p>The supporters of the modification and its WACMs make the comparison with the Accelerated Loss of Mains Protection programme (ALOMCP) and suggest that this has already set a precedent. However, there are significant differences between the very numerous smaller embedded ALOMCP generators, and the generators that this proposed modification would impact that justify different treatment – including sitting at a somewhat different point on the cost-benefit scale. If this modification was approved, this would be at risk of being viewed as setting an undesirable precedent that the costs of complying with changes</p>

	<p>of Grid Code or other regulations should in the first instance be consumer-funded.</p> <p>It seems a fairly obvious point that costs / assessment of what's needed to comply could differ depending on who is paying; if the consumer is paying, this may result in inefficient investments by generators as the cost of being compliant would not be subject to the usual competitive pressures.</p> <p>A merit of CMP398 could be argued to be the transparency that it would give to the costs of GC0156 compliance, however the costs of compliance of each generator (successful claims) will not be published, and it will not be evident which generators were already compliant with GC0156 ahead of it coming into effect (and therefore did not claim).</p> <p>The Original Proposal (and WACM2) allows the President of the arbitration association to determine the costs and remuneration of the proposed claims assessment panel, and how many panellists would be appointed. Once the panel has been initiated, nobody has responsibility for making sure the assessments are completed efficiently, as the proposal features neither CUSC Panel nor ESO involvement in their appointment or ongoing work. There would be a lack of any electricity industry control of these matters; the claims assessment panel could be paid any amount of money and take any amount of time. They could be consultants that have done work previously for generating companies that are now claimants.</p> <p>As a point of principle we consider, contrary to the Original and WACM2, that ESO should (as under WACM1) be the assessor of claims if a modification of this nature is approved as, notwithstanding our views that baseline (no change) is best. It is the ESO that holds a key role in considering the economic and efficient expenditure of consumer money for balancing service type activity; CMP398 would appear to fall within this space.</p>
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