

**Code Administrator Consultation Response Proforma**

**CMP414: CMP330/CMP374 Consequential Modification**

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](mailto:cusc.team@nationalgrideso.com) by **5pm on 29 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](mailto:Milly.Lewis@nationalgrideso.com) or [cusc.team@nationalgrideso.com](mailto:cusc.team@nationalgrideso.com)

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<b>Which best describes your organisation?</b>	<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 checked="" type="checkbox"/> Transmission Owner <input type="checkbox"/> Virtual Lead Party <input type="checkbox"/> Other

**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:**

- a) *The efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission Licence;*
- 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;*
- c) *Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency \*; and*
- d) *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	<p>Please provide your assessment for the proposed solution(s) against the Applicable Objectives?</p>					
	<p>Mark the Objectives which you believe the proposed solution(s) better facilitates:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20%;">Original</td> <td style="width: 15%; text-align: center;"><input type="checkbox"/> A</td> <td style="width: 15%; text-align: center;"><input type="checkbox"/> B</td> <td style="width: 15%; text-align: center;"><input type="checkbox"/> C</td> <td style="width: 15%; text-align: center;"><input type="checkbox"/> D</td> </tr> </table> <p><b>This response provides our assessment across all three modifications (CMP330/374/414) – with focus on CMP414 which is now the primary component of the proposer’s overall solution.</b></p> <p>NGET support initiatives seeking to expedite connection of generation and demand projects to the transmission system. We think increasing competition through extending the scope of contestability arrangements may have a role to play in this.</p> <p>We accept that CMP414 could give Users an opportunity to deliver infrastructure assets quicker and cheaper. However, we believe that the proposal has not been fully developed. Without specific issues (outlined further in this response) being addressed it is likely to increase costs for consumers and have adverse impacts on existing and future Users.</p> <p>We have used our assessment of CMP414 (as it stands) against the applicable objectives to clarify these areas.</p> <p>As with our contributions throughout the workgroup process, we hope that these give the proposal the best chance to be implemented in due course and realise the benefits the proposer intended.</p> <p><b><u>a) Efficient discharge of transmission licence obligations - Negative</u></b></p> <p><u>Impact on undertaking strategic investments</u></p> <p>As we look ahead to what will be required to decarbonise the electricity network by 2035 and deliver net zero by 2050 cost effectively, we believe it is vital that investments (including connections) are progressed strategically and consistently with regional plans.</p> <p>We are concerned that the current proposal will make this more difficult, as customers could make applications intended solely to allow them to undertake contestable work. However, this will either unwind or limit the benefit of strategic investments that fit within a coherent regional</p>	Original	<input type="checkbox"/> A	<input type="checkbox"/> B	<input type="checkbox"/> C	<input type="checkbox"/> D
Original	<input type="checkbox"/> A	<input type="checkbox"/> B	<input type="checkbox"/> C	<input type="checkbox"/> D		

investment plan. This will lead to additional costs being incurred by consumers through, for example, additional constraints driven by additional outages, fewer opportunities for Users to share assets, reducing opportunities for bulk procurement, and the need to manage a larger number of concurrent projects. This would not be in consumers' interest. We believe further work is needed to identify ways to mitigate this risk.

#### Safety and enduring asset risks

The revised contestability arrangements are heavily reliant on Adoption Agreements being agreed and their terms adhered to throughout the project.

We foresee two related risk areas in the proposed CMP414 solution that need to be addressed.

First, the scope of the contestable activities is unclear and should be clarified. For example, it is not clear whether Users can undertake design assurance or undertake consenting and the negotiation of easements or wayleaves. It is hard to fully assess the amendment and its implications where this is not clearly defined. We would have concerns if either of these roles were within scope because of the implications to network and public safety or our ability to work consistently with grantors.

Second, the proposal has limited safeguards and no implicit or explicit incentive for Users to adhere to the Adoption Agreement (unlike the current arrangements where the User is solely and directly exposed to its actions). We are concerned there may be times the User could unilaterally (and potentially unknowingly) cut corners to reduce cost and / or speed up work on infrastructure assets rather than adhering to agreed design and delivery standards, and completing 'snagging' work. Without this, consumers and other users would ultimately be exposed to potential risks that could include factors such as: invalidated warranties; impaired asset lives; technical limitations, or sterilisation of parts of substations if there is a safety risk. These risks are managed in other forms of competition where the party undertaking the work retains ownership and accountability for the assets it has designed and built.

#### **b) Facilitating effective competition – Potentially Negative**

We understand that by connecting more generation competition in the supply of energy is enhanced, and we support this. However, the proposal does not sufficiently

		<p>mitigate the risks to third parties that that arise from the actions of a User undertaking contestable activities.</p> <p>Negative impacts could arise from events such as the User delaying their own connection; not completing agreed work on time; not managing the supply chain effectively leading to cost increases (that would be socialised); or even a financial default. These types of events will increase costs to other Users (and ultimately consumers) and may delay the connection of third parties which would reduce competition.</p> <p>We note that such issues do not arise under the current contestability arrangements because scope is deliberately limited to not affect third parties. We believe similar safeguards are needed to avoid adverse impacts for connection timescales for other Users. We would prefer this to be codified in the CUSC rather than being left to the discretion of the ESO (in co-ordination with the TOs).</p> <p><b><u>c) Compliance with Electricity Regulation – No Impact</u></b></p> <p><b>d) Promoting efficiency in the implementation and administration of CUSC arrangements – <u>Neutral / Negative</u></b></p> <p>The proposed CMP414 legal text contains guidance on what should be included in the Adoption Agreement that is only entered in to by a TO and the User. We understand why the proposer sought to include this, however, where such an agreement cannot be agreed, there is a risk that the ESO (which is not a party to the Adoption Agreement) would be drawn into a dispute if the User felt the CUSC had not been complied with by the TO – a non CUSC party.</p> <p>There is also similar ambiguity where ESO and TO may not agree on exercising the right to intervene to prevent or stop contestability in a specific circumstance (despite the TOs bearing most of the risks), and how this is satisfactorily resolved.</p> <p>Whilst both issues may be resolved through amendments to the SO-TO Code, the proposal predominantly specifying these matters in CUSC is likely to lead to more complex dispute management arrangements.</p>
2	Do you support the proposed	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

	<p>implementation approach?</p>	<p>We believe that implementing the CMP330/374/414 modifications merit a longer implementation period; at the very least the six months specified by the proposer.</p> <p>This will not only enable the TOs and ESO to establish revised or new ways of working (e.g. connection application, offer and intervention processes), but for TOs to work with Ofgem to ensure enduring licence compliance and consideration of consequential impacts on the Price Control. As these sit outside the CUSC, we would welcome a separate conversation with Ofgem about this.</p> <p>We could also use this time to co-develop arrangements with Users to support them undertake contestable activities, noting working at transmission voltages is materially different to working at lower voltages on a distribution network.</p>
<p>3</p>	<p>Do you have any other comments?</p>	<p>We believe the phrase ‘shared works’ in the proposed CMP414 legal text (clause 2.23.4b) is too vague and could be interpreted in multiple ways. Replacing the word ‘works’ with ‘assets’ resolves any confusion as it more explicitly ties the ‘shared’ concept back to specific components, whereas the word ‘works’ could be a catch-all for various different delivery schemes/projects:</p> <p><i>Where the proposed <b>Contestable Assets</b> will be, or can reasonably be foreseen to be, <b>shared assets</b> with other <b>Users</b>, or;</i></p>