

Workgroup Consultation Response Proforma**CMP392: Transparency and legal certainty as to the calculation of TNUoS in conformance with the Limiting Regulation**

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 **5 May 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 terri.puddefoot@nationalgrideso.com or cusc.team@nationalgrideso.com

Respondent details	Please enter your details
Respondent name:	Garth Graham
Company name:	SSE Generation
Email address:	Garth.graham@sse.com
Phone number:	01738 456000

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 (charging) Objectives are:

- a. *That compliance with the use of system charging methodology facilitates effective competition in the generation and supply of electricity and (so far as is consistent therewith) facilitates competition in the sale, distribution and purchase of electricity;*
- b. *That compliance with the use of system charging methodology results in charges which reflect, as far as is reasonably practicable, the costs (excluding any payments between transmission licensees which are made under and accordance with the STC) incurred by transmission licensees in their transmission businesses and which are compatible with standard licence condition C26 requirements of a connect and manage connection);*
- c. *That, so far as is consistent with sub-paragraphs (a) and (b), the use of system charging methodology, as far as is reasonably practicable, properly takes account of the developments in transmission licensees' transmission businesses;*
- d. *Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency *; and*

- e. *Promoting efficiency in the implementation and administration of the system charging methodology.*

**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.*

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

Standard Workgroup Consultation questions		
1	Do you believe that CMP392 Original Proposal better facilitates the Applicable Objectives?	<p>Mark the Objectives which you believe the Original solution better facilitates:</p> <p>Original <input checked="" type="checkbox"/>A <input checked="" type="checkbox"/>B <input type="checkbox"/>C <input checked="" type="checkbox"/>D <input checked="" type="checkbox"/>E</p> <p>As the proposer, the rationale for why this proposal better meets applicable CUSC Objectives (a), (b), (d) and (e); whilst being neutral in terms of (c); is as set out on pages 11-12 of this consultation document (as well as in the proposal form) which, for the sake of brevity, we avoid repeating here.</p>
2	Do you support the proposed implementation approach?	<p><input checked="" type="checkbox"/>Yes <input type="checkbox"/>No</p> <p>Click or tap here to enter text.</p>
3	Do you have any other comments?	<p>Not at this time. As proposer we have, via the Workgroup deliberations, provided detailed comments to date (as set out in the consultation document) and look forward to continuing to do so after this consultation.</p>
4	Do you wish to raise a Workgroup Consultation Alternative Request for the Workgroup to consider?	<p><input type="checkbox"/>Yes <input checked="" type="checkbox"/>No</p> <p>Click or tap here to enter text.</p>

Specific Workgroup Consultation questions		
5	Do you agree that the proposed methodology and data should be published in full?	<p>Yes. As has been noted in the Workgroup deliberations, the joint Government / Authority Energy Data Taskforce recommendations from 2019 has already determined the benefits to stakeholders and end consumers of the publication of this (and other) energy data.</p> <p>Given this independent evidence, and the resulting presumption in favour of publication, we can see no reason for why the ESO takes a contrary view (and thus, it would seem, seeks to reduce the clear benefits to</p>

	<p>stakeholders and end consumers from the publication of the data).</p> <p>Furthermore, as noted in the proposal form:</p> <p><i>“If the calculation process remains opaque, a generator will not be able to ascertain whether or not the calculation has been conducted correctly. That has an adverse, negative impact on its ability effectively to enforce its legal rights.</i></p> <p><i>As a matter of legal certainty, an entity which is or might well be adversely affected by a public law decision ought to be entitled to know the reasons for that decision, so that it can consider its options for seeking a legal review of the decision. Otherwise the legal rights are not capable of effective or meaningful enforcement. Publication of the method of calculation to be used (and the case by case results) in giving effect to the Connection Exclusion (as properly construed) is therefore an important aspect of ensuring that the rule of law is observed.”</i></p>
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