

Final Self-Governance Modification Report

CM092: Schedule 9: TO Construction Terms Updates

Overview: Updates to the terms contained in Schedule 9 to more accurately reflect current working practices with NGENSO and to avoid any potential for misinterpretation.

Modification process & timetable



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

Have 20 minutes? Read the full [Final SG Modification Report](#)

Have 30 minutes? Read the full Final SG Modification Report and Annexes.

Status summary: The Final SG Modification Report has been submitted to Panel to check Votes.

Panel recommendation: The Panel met on the 25 October 2023 to carry out their determination vote.

This modification is expected to have a: **Low impact**
NGESO; Onshore Transmission Owners

Governance route Self-Governance modification which proceeded straight to Code Administrator Consultation

Who can I talk to about the change?

Proposer:
Sam Grant
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07970373193

Code Administrator Contact:

Deborah Spencer
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Appeals window

If you want to appeal this decision, please send your [appeals form](#) and relevant documentary evidence to industrycodes@ofgem.gov.uk by 5pm on 24 November 2023 and inform the Code Administrator by emailing stcteam@nationalgrideso.com that an appeal has been submitted.

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Executive summary

CM092 is seeking to make updates to the terms contained in Schedule 9 to reflect current working practices more accurately with NGENSO and to avoid any potential for misinterpretation.

What is the issue?

The Baseline is not clear and there is potential for ambiguity.

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

Proposer's solution:

In the Proposer's view the changes to the TO Construction Terms can be summarised as:

1. A change to make clear the best endeavours obligations on Transmission Owners (TO) to obtain Consents does not extend to circumstances where a User is obtaining those Consents on behalf of a TO, in which case NGENSO shall use best endeavours to ensure that the User shall obtain those specific Consents for the TO.
2. A change to clarify that when Schedule 9 confirms "all dates...are subject to ... obtaining Consents" this allows each Transmission Owner to make changes to the charges and dates in the Construction Programme to reflect any delays, as well as the Transmission Construction Works (the TCW variation rights are already specifically called out in the text). This realigns the position with what is understood to already be in the NGENSO Construction Agreements.
3. A change to make clear that whilst a Transmission Owner will be the "client" under the Construction (Design and Management) Regulations 2015 when that TO is carrying out the Transmission Construction Works itself, if the User elects to carry out some of these works under the contestability / user self-build principles, the User will then be the "client" under CDM for the purposes of these works.

Implementation date:

As soon as possible.

Panel recommendation:

The Panel met on 25 October 2023 to carry out their determination vote.

What is the impact if this change is made?

The impact of the change will set a better standard for contracting for connections between NGENSO and Onshore TOs and remove any potential for ambiguity in the baseline.

Interactions

This is some interaction with the Construction Agreements under CUSC, however as it is understood that most / all changes above are already included in the Construction Agreements so no further changes would be needed.

What is the issue?

Why change?

In the Proposer's view the change will reflect the existing position under the contracts in practice and/or to reflect the perceived intent behind certain terms and/or to reflect the position under the NGESO Construction Agreements to confirm flow-through / mirroring of terms.

What is the solution?

Proposer's solution

The changes to the TO Construction Terms can be summarised as:

1. A change to make clear the best endeavours obligations on Transmission Owners (TO) to obtain Consents does not extend to circumstances where a User is obtaining those Consents on behalf of a TO, in which case NGESO shall use best endeavours to ensure that the User shall obtain those specific Consents for the TO.
2. A change to clarify that when Schedule 9 confirms "all dates...are subject to ... obtaining Consents" this allows each Transmission Owner to make changes to the charges and dates in the Construction Programme to reflect any delays, as well as the Transmission Construction Works (the TCW variation rights are already specifically called out in the text). This realigns the position with what is understood to already be in the NGESO Construction Agreements.
3. A change to make clear that whilst a Transmission Owner will be the "client" under the Construction (Design and Management) Regulations 2015 when that TO is carrying out the Transmission Construction Works itself, if the User elects to carry out some of these works under the contestability / user self-build principles, the User will then be the "client" under CDM for the purposes of these works.

Legal text

Please see Annex 3

What is the impact of this change?

The proposed solution of CM092 will set a better standard for contracting for connections between NGESO and Onshore TOs and remove potential for ambiguity in the baseline.

Proposer's assessment against the Applicable Objectives

Proposer's assessment against STC Objectives

Relevant Objective	Identified impact
(a) efficient discharge of the obligations imposed upon transmission licensees by transmission licences and the Act	Positive Sets a better standard for contracting for connections



	between NGESO and Onshore TOs.
(b) development, maintenance, and operation of an efficient, economical and coordinated system of electricity transmission	Neutral N/A
(c) facilitating effective competition in the generation and supply of electricity, and (so far as consistent therewith) facilitating such competition in the distribution of electricity	Neutral N/A
(d) protection of the security and quality of supply and safe operation of the national electricity transmission system insofar as it relates to interactions between transmission licensees	Neutral N/A
(e) promotion of good industry practice and efficiency in the implementation and administration of the arrangements described in the STC	Positive Removes potential for ambiguity in the baseline
(f) facilitation of access to the national electricity transmission system for generation not yet connected to the national electricity transmission system or distribution system;	Neutral N/A
(g) compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency.	Neutral N/A

Code Administrator Consultation Summary

The Code Administrator Consultation was issued on the 07 September 2023 closed on 27 September 2023 and received no responses.

Panel Determination Vote

The Panel met on the 25 October 2023 to carry out their determination vote. They have assessed whether a change should be made to the STC after assessing the proposed change.

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

Panel Member: **Terry Baldwin - NGESO**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Better facilitates AO (f)?	Better facilitates AO (g)?	Overall (Y/N)
Original	Yes	Neutral	Neutral	Neutral	yes	Neutral	Neutral	Yes
Voting Statement								
Point 1 and 3 we feel are fairly self-evident however have no issues with the proposal if it makes things clearer.								
Point 2 clarifies a gap that was recognised a while back and aligns with CUSC and so we support this change.								
Overall, we believe the change is better than the baseline and so we would support the proposal in line with our vote at the panel.								

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

Panel Member: **Michelle MacDonald Sandison - Scottish Hydro Electric Transmission plc. (SHET)**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Better facilitates AO (f)?	Better facilitates AO (g)?	Overall (Y/N)
Original	Yes	Neutral	Neutral	Neutral	Yes	Neutral	Neutral	Yes
Voting Statement								
Not received.								

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

Panel Member: **Gareth Williams - Scottish Power Transmission (SPT)**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Better facilitates AO (f)?	Better facilitates AO (g)?	Overall (Y/N)
Original	Yes	Neutral	Neutral	Neutral	Yes	Neutral	Neutral	Yes
Voting Statement								
Happy for Original to be implemented.								

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

Panel Member: **Joel Matthews, Offshore Transmission Owner (OFTO)**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Better facilitates AO (f)?	Better facilitates AO (g)?	Overall (Y/N)
Original	Yes	Neutral	Neutral	Neutral	Yes	Yes	Neutral	Yes
Voting Statement								
Not received.								

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

Panel Member: **Richard Woodward**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Better facilitates AO (f)?	Better facilitates AO (g)?	Overall (Y/N)
Original	Yes	Neutral	Neutral	Neutral	Yes	Neutral	Neutral	Yes
Voting Statement								
This proposal ensures the STC reflects prevailing best practice for contracting for User connections between ESO and Onshore TOs. It sets a better standard for contracting for connections and removes any potential ambiguity between ESO and Onshore TOs.								

Vote 2 – Which option is the best?

Panel Member	BEST Option?	Which objectives does this option better
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		facilitate? (If baseline not applicable).
Terry Baldwin	Original	A E
Michelle MacDonald Sandison	Original	A E
Gareth Williams	Original	A E
Joel Matthews	Original	A E F
Richard Woodward	Original	A E

Panel conclusion

Panel met on the 25 October 2023 to carry out their determination vote and unanimously agreed the Original solution better facilitates the objectives than the Baseline.

When will this change take place?

Implementation date

1 December 2023

Date decision required by

N/A

Implementation approach

N/A

Interactions

- Grid Code BSC CUSC SQSS
 European Other Other
 Network Codes modifications

There is some interaction with the Construction Agreements under CUSC, however as detailed above it is understood that most / all changes above are already included in the Construction Agreements so no further changes would be needed.

Acronyms, key terms and reference material

Acronym / key term	Meaning
BSC	Balancing and Settlement Code
CDM	Construction Design and Management
CM	Code Modification
CUSC	Connection and Use of System Code
NGESO	National Grid Electricity System Operator
STC	System Operator Transmission Owner Code
SQSS	Security and Quality of Supply Standards
TCW	Transmission Construction Works
TO	Transmission Owner

Annexes

Annex	Information
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ESO

Annex 1	Proposal form
Annex 2	Self-Governance Statement
Annex 3	Legal Text