Code Administrator Consultation Response Proforma

CMP396: Re-introduction Of BSUoS on Interconnector Lead 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 **17 November 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:	Scott Keen	
Company name:	Saltend Cogeneration Company Ltd	
Email address:	scott.keen@tritonpower.co.uk	
Phone number:	07522 214676	
Which best describes your organisation?	☐Consumer body ☐Demand ☐Distribution Network Operator ☒Generator ☐Industry body	☐Interconnector ☐Storage ☐Supplier ☐Transmission Owner ☐Virtual Lead Party ☐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 (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 Code Administrator Consultation questions			
1	Please provide your assessment for the proposed CMP396 solution against the Applicable Objectives?	Mark the Objectives which you believe the proposed CMP396 solution better facilitates:	
		Original	☒A ☒B ☒C ☒D ☒E
		As the proposer our views against the applicable objectives have not changed. While we acknowledge the legal issues raised, we still believe that it would be better for competition and more equitable for all customers if non-GB customers are charged the costs of delivering power to them, rather than GB customers cross-subsidising them. As the charges stand they distort competition in Supply and competition between users in their own markets (why does a car maker in GB pay BSUoS, but not one in France on imported power?). This change would better fulfil objective (a). By BSUoS not being levied on non-GB customers means the charges cannot be said to be cost reflective, so a change would fulfil (b). The GB energy market has seen a change in energy flows since the start of the Ukraine war in February 2022, with the flows seen that go from Norway through to France in a way not seen before. So the change would better fulfil objective (c) in terms of better reflecting the change in the transmission flows and the resulting change in the way those flows have to be managed. While we have seen the legal opinion and not taken any further legal advice, we still do not feel that BSUoS is an	

		access change and the fundamental point about the mod is to make cross border trade more equitable between GB and EU customers, therefore the mod would better fulfil objective (d). Ofgem should escalate to HMG the need to overcome any legal hurdles, it they agree that those exist. The Electricity Regulation which presents the hurdle to this modification was created by European law makers and retained in UK law when Brexit occurred. This is a clear example where this EU originated law is opposed to the best interests of GM consumers therefore the legislation should be reviewed and changed accordingly. Finally, NGESO should be trying to bill all customers equitably under the charging methodology, so the mod would also be positive against objective (e).
2	Do you support the proposed implementation approach?	☐Yes ☒No
		We would like to see the implementation in April 2024. This distortion of competition has been ongoing for a number of years and Ofgem will only be able to fulfil it legal obligations to protect the interests of customers by righting this wrong as quickly as possible.
3	Do you have any other comments?	Saltend wants to reiterate it has no commercial interest in this rule change, our goal is to eliminate inequalities and promote a level playing field for all which should assist Ofgem in their primary responsibility – to protect GB energy consumers. Ofgem and DESNZ had indicated in their Code Governance Review that they were concerned incumbent parties do not act in the wider interest of the market. Given the cost of living crisis, Saltend raised both this mod and P443 to benefit customers. While neither change may be approved, this process has been insightful in illustrating how difficult it is for parties to try to "do the right thing" by customers. Saltend very much hopes that Ofgem and DESNZ will take these lessons onboard when considering legislative and process changes. Saltend would like to highlight that there remain no meeting notes relating to CUSC Panel discussions on this proposal on the NGESO website, despite us raising this a number of times. NGESO should ensure it is fulfilling its duties as Code Administrator, irrespective of its own views as ESO, and make all information available to the market to enable informed comments and support decisions to be made – sadly any adherence to due

		process now will be too late to inform responses to this consultation.