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:	Stephen Dale	
Company name:	NG ESO	
Email address:	Stephen.dale1@nationalgrideso.com	
Phone number:	07586 757045	
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
		The assumption within the modification is that the UK consumer is subsidising the provision of electricity to European partners and the objective of the modification is to address this. It is our view that when considering the proposed modification, against the CUSC charging objectives the proposal would not be an improvement to current charging principles. In terms of consumer benefits, the proposal were it to be lawful and implemented, would be neutral at best and detrimental to consumer interests in most cases.	
2	Do you support the proposed implementation approach?	☐Yes ☒No	
		The proposal makes some statements with regards the allocation of costs relating to the use of interconnectors and impacts on consumers. The review of the relevant agreements and analysis conducted by the ESO using the charging model would not support the statements made and therefore we would not view the modification as an improvement to the current baseline in terms of consumer benefit.	
3	Do you have any other comments?	We have a number of areas of concern with the CMP396 Modification proposal.	

		1. Consumer Impacts - CMP396 suggests that changes in the energy market since CMP202 was implemented has resulted in UK exports of power to Europe being a form of subsidy funded by the UK consumer. The purpose of CMP202 was to remove a barrier to cross-border trade, improve access to other EU markets and provide greater competition which could lead to lower prices. The UK participation in cross border trading benefits the UK consumer in a number of ways including extending options to the UK System Operator for cost effective network balancing. A significant amount of UK supply is sourced via interconnectors as a component in the goal of a secure, cost-effective network. The proposer has not provided any quantitative evidence to support their statements, so we are unable to validate their assertions of the benefit it would provide to consumers. 2. Costs – CMP396 claims to champion the consumer by recovering costs that benefit European users. This is counter to the ESO experience of working with European network partners or modelling undertaken by our teams. Although no longer a member of the EU, the UK has retained inclusion in the provisions of the ITC agreement. Interconnector network charges for a member of this agreement are levied centrally after all flows in and out of the UK have been netted off. The resulting network costs are passed on to UK customers as nominal cost as part of the TNUoS charges. If the UK was not a member of the ITC all trades would be traded on the basis of an external ITC trading partner resulting in increased costs to the consumer. 3. European partners – The European members of the ITC agreement have agreed to the UK remaining a signatory to the agreement and retaining the beneficial network charging position provided despite the decision to leave the EU. This position was not without challenge by some members of the agreement. Applying additional cost to energy moving across borders would at best result in similar charges being levied on UK imports and likely membership of the ITC being reviewed. This could lead to membership being revoked, which in turn could lead to a less competitive model as a result of CMP396 and is unlikely to reduce costs for UK consumers as forecast. In addition, if implemented, it is likely to affect relationships with our European counterparts including within the context of concluding enduring cross-border trading arrangements under the UK-EU Trade and Cooperation Agreement. 4. Legality of proposals – CMP396 was assessed as conflicting with current legislation and needed further legal review. At the request of the workgroup ESO referred the proposal for external legal advice, which assessed the proposal as being unlawful for implementation. This view was acquired at a not insignificant cost which will ultimately be passed back to the consumer.

		Is it therefore the ESO position that this proposal should be withdrawn to reduce wasting industry and regulator time, and ultimately consumer cost on something that cannot be legally implemented given current legislation. 5. Principle of Open governance – The aim of Code governance is to allow all participants in the industry who sign up to the code to have an opportunity to improve the efficiency and stability of the energy supply industry for the benefit of and participants and ultimately the consumer. The ESO as the Code Administrator has an obligation to progress modification proposals through the review and consultation process without bias or prejudice to ensure all receive fair consideration and treatment. The costs incurred by the ESO in fulfilling its obligations get passed back to the consumer and so the ESO seek to limit these costs whilst maintaining due diligence and where necessary prioritising work. It is disappointing therefore when participants utilise this process to progress changes that are neither lawful or beneficial to UK consumers in pursuit of special interests that will not further the code baseline or the interests of consumers. 6. Responsibilities of participants –we have a significant level of change that is progressing through the various approval panels that all draw upon a limited number of resources. The increasing decentralisation of generation providers, diversity in technologies and demands of the network in terms of balancing and stability all place demands on these limited resources. As a code administrator it is not our role to sit in judgement on the suitability of code change proposals and we seek to draw upon the knowledge and expertise of experts from the industry to be objective and challenging in the goal of arriving at the most suitable, cost-effective solutions for the consumer. This places a responsibility on participants to act in a reasonable and responsible manner and when a modification is deemed to be inappropriate, non-value adding or unlawful to act in the interests of the industry and consumer and focus their time and that of the ESO resources on progressing other more valuable modifications. ESO considers that in this instance that the progression of this change after it was judged at some expense to be unlawful and potentially costly for consumers was not an effective use of either the proposer or the ESO resources and would ask all participants to be responsible in their use of the governance process and the voice it provides to all the industry participants.