ElecLink Limited
4 Kingdom Street
London
W2 6BD

Milly Lewis,
National Grid Electricity System Operator
Faraday House
Gallows Hill
Warwick
CV34 6DA
cusc.team@nationalgrideso.com

BY EMAIL ONLY

13 November 2023

Dear Milly,

CMP396: Re-introduction of BSUoS on Interconnector Lead Parties

ElecLink Limited ("**ElecLink**") welcome the opportunity to respond to the Code Administrator Consultation in relation to proposed Connection and Use of System Code (CUSC) modification CMP396.

ElecLink is a 1000MW HVDC electricity interconnector between Great Britain and France, which commenced full commercial operations in May 2022. ElecLink have responded to the individual questions raised in the consultation paper in the pro forma provided, included below.

If you have any questions on any of the contents of this consultation response, please contact the ElecLink Regulation team - regulation@eleclink.co.uk.

Yours sincerely,

Patrick Murphy

Regulatory Advisor

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:	Patrick Murphy	
Company name:	ElecLink Limited	
Email address:	patrick.murphy@eleclink.co.uk	
Phone number:	+44 (0)20 3934 8203	
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
		It is ElecLink's view that code modification CMP396 cannot be assessed against the CUSC objectives at this time. Prior to any assessment being conducted, industry participants require certainty on the legality of the proposed change. As set out in the response to question 3, ElecLink are of the view that the proposed code modification is unlawful and should be rejected by the Authority.	
2	Do you support the proposed implementation approach?	☐Yes ☒No	
		In the event that the Authority deem the proposed code modification as lawful, and compliant with applicable Articles under Regulation (EU) 2019/943 and the EU and the UK Trade and Cooperation Agreement, it is ElecLink's view that the Authority will need to take the decision to send the modification back through the code change process, in order to enable work group discussion. Due to independent legal advice being sought prior to work group discussions taking place, no formal discourse has been conducted on the (de)merits of the proposed change.	
3	Do you have any other comments?	ElecLink do not support the proposed code modification. Following the independent legal review conducted by CMS Cameron McKenna Nabarro Olswang LLP ("CMS"), ElecLink are of the view that the proposed code	

		modification is unlawful, and if implemented, would be non-compliant with Article 18 of Regulation (EU) 2019/943 (charges for access to networks, use of networks and reinforcement). In accordance with Article 18(6) it is a requirement that "*there shall be no specific network charge on individual transactions for cross-zonal trading of electricity*". If the code modification was ultimately approved and implemented – which ElecLink believe would be unlawful and non-compliant – the code modification would act as a barrier to cross-border trade, by reintroducing BSUoS charges on users of the transmission system exporting electricity from GB to a linked third country. It is ElecLink's view that a supplementary charge of this nature would artificially raise the price for exporting power from GB, resulting in scenarios that may affect security of supply. For example, artificially higher power prices could (i) make it uneconomic to flow power, reducing, or halting power flows altogether in some circumstances; and/or (ii) result in market distortions such as flows against the price difference – which is uneconomic and may affect price signals and deter future investments in GB infrastructure.